

Differences in Chinese and English Legal Terminology Translation and Their Impact on Legal Practice

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Abstract

Legal terminology, intricately embedded in specific cultural, historical, and legal contexts, presents special obstacles in translation between Chinese and English. This study identifies significant inequalities in language and culture that may result in ambiguity, misinterpretation, and possible legal consequences in practice. This study identifies potential effects on legal practice arising from conflicts and discrepancies in translation, concluding with recommendations to enhance legal translation standards, essential for mitigating risks and promoting mutual understanding in international legal contexts.

Keywords

Legal terminology translation, Differences, Legal practice.

1. Introduction

As worldwide communication intensifies, the translation of legal terminology between Chinese and English has gained significance. The precision and dependability of legal terminology translation are fundamental to legal activity. The disparities in the translation of legal terminology between Chinese and English, together with their implications for legal practice, have not been thoroughly examined. This study seeks to examine the influence on legal practice by assessing the disparities in the translation of legal terminology between Chinese and English, and to propose recommendations for reducing these translation discrepancies.

2. Literature Review

The disparity in cultural connotation significantly influences the translation of legal terminology. Legal terminology frequently embodies particular cultural and historical contexts. Guo Junjun (2015), in his book *Exploration of Functional Equivalence in Translation of Legal Terms under the Influence of Legal Cultural Differences*, analyzes the operation of the legal system influenced by the legal cultural background of the United Kingdom and compares it with the legal culture of China. This research elucidates the significant impact of legal culture and national culture on the legal system. In his paper "Cultural Differences in Legal Terms Translation," Sun Xiaozhen (2012) elucidated the influence of cultural connotation disparities on the translation of legal terminology.

Examining the translation of legal terms between Chinese and English necessitates an understanding of the respective legal systems, as the disparities between these systems significantly contribute to variations in term translation. The legal systems and traditions of many countries dictate the meaning and prevalence of their legal terminology. Zou Guanxiu (2003) integrated British legal culture and legal system in the Legal Culture Tradition in British

Constitutionalism, examined their interrelationship, and provided readers with a more thorough understanding of the British legal system and legal culture.

Effective translation methods and techniques are crucial for addressing the disparities in the translation of legal terminology between Chinese and English. The translator must select either literal or free translation based on the unique context, making judgments informed by professional expertise and cultural experience to ensure the translation's accuracy and consistency. Xiong Demi (2011) articulated his comprehension of the definition of legal terminology in "Research on the Mutual Translation of Existing Legal Languages between English and Chinese Based on Language Comparison." He stated that legal terminology constitutes the foundation of legal language, and the translation of legal terms must be standardized to reduce discrepancies in translations across various countries and enhance the efficiency of legal practice. Furthermore, despite the enhancement of translation efficiency through technological advancements and machine translation, the precision and professionalism of legal terminology necessitate the integration of artificial intelligence and manual proofreading.

Enhancing the quality of legal translation necessitates prioritizing the translator's professional competence. Chiocchetti Elena (2023) elucidates the significance of terminology standards for legal interpreters, emphasizing that translators are integral to legal communication and practice. Consequently, translators require high professional standards and extensive expertise to address discrepancies in the translation of legal terminology. Hye Jeong Jeong (2020) stated in "Reflections on Some Korean Judicial Terms in Criminal Proceedings" that translators must continually enhance their professional knowledge regarding the legal interpretation and translation of Korean judicial terms into Spanish, as legal terminology is perpetually evolving, resulting in deeper connotations and significance. To mitigate discrepancies in the translation of legal terminology, translators must continuously engage in learning to remain abreast of the rapid evolution of legal terms.

3. Differences in Legal Terminology Translation

The translation of legal terminology between Chinese and English presents a range of challenges rooted in language. These differences significantly affect the accuracy and clarity of legal translations, influencing legal practice across both jurisdictions. To fully understand the complexities of legal terminology translation, it is essential to examine the specific factors contributing to these variations.

3.1. Language differences in legal terminology translation

One of the most prominent elements is language itself, which forms the foundation of legal communication. In the following section, we will explore how language differences manifest in legal terminology translation, focusing on aspects such as vocabulary, grammatical, and language style and expression habits.

3.1.1. Vocabulary differences

In the legal communication between China and Britain, both countries pursue the equivalent translation of legal terms, but the difference in legal terms becomes an obstacle in the communication. "It is estimated that 25% of legal English words have no equivalent legal Chinese words" (Linda Picard Wood 1996). The lexical differences between the two countries are due to the differences in the system and culture of the two countries. Therefore, in the legal communication, misunderstandings caused by the differences in legal vocabulary brings many difficulties to the communication between the two countries.

There are examples of differences in legal terms in the book on *Legal Teaching from the Absence of Legal Words in China and English* written by Xiao Jun (2014). She takes "Gillick competence"

as an example to explain the differences in translation of legal words caused by different legal systems. “Gillick competence” is a legal concept introduced in British case law. The term comes from Family Law published by Cavendish Publishing Co., LTD. “Gillick competence” stems from *Gillick v West Norfolk and Wisbech Area Health Authority* and another case, In particular, the judgment and intelligence of minors in making decisions in medical treatment, which is used to determine whether minors (16 years of age and under) are able to consent to medical treatment by doctors without the permission or knowledge of their parents. This legal concept is also used in English medical law. The legal concept introduced by case law is incomprehensible to translators who do not understand English legal cases, and the corresponding concept or translation cannot be found in legal Chinese, so it is very likely that the term will be translated literally into “吉利克能力” after the translator understands the case. In fact, knowing the cause of this case, I also have an understanding of the concept of this word.

The main reason for the translation differences between Chinese and English legal terms is that the United Kingdom is based on case law, such as the legal concept of “Gillick competence”, while the statutory law of China's mainland does not recognize the legal concepts introduced by the case, which leads to many legal concepts between the two countries that are not interoperable and cannot be directly translated.

3.1.2. Grammatical differences

Lin Jing(2005) thinks that in British legal provisions, the relationship between clauses mostly presents the master-slave relationship, and “if”, “in the event” and “provided that” are frequently used. Because laws need to be logical and rigorous, to take into account different situations, but also to guard against accidents. In addition, English legal terms often use the passive voice to emphasize the objectivity of legal acts and the universality of legal effect. For example, “The contract shall be deemed to be terminated” (合同应被视为终止). In addition, in English legal terminology, the names of legal documents and regulations are often given with full names or official abbreviations, such as The United Kingdom Constitution Act 1988.

In Chinese legal articles, the legal structure is usually concise and clear. For example, in Chinese legal terminology, the names of legal documents and regulations usually use simplified names, such as *the Contract Law of the People's Republic of China*. Chinese legal terms also usually use the active voice, rather than the passive voice, to emphasize the responsibility of legal subjects and legal acts. For example, “the parties shall perform their contractual obligations” (当事人应当履行合同义务).

3.1.3. Language style and expression habits

Ways of expression in Chinese include metaphor and connotation, and abstract and extended concepts are frequently found in legal terms., such as the term “contract termination” used to indicate the termination of a contract. While in English, speakers focus on straightforwardness and clarity, English legal terms use specific and precise expressions, such as “Termination of Contract” to indicate the termination of the contract.

Chinese logical structure pays attention to induction and deduction, and the grammar of legal terms often adopts induction or deduction. Chinese legal terms often use concise and general language to express legal principles and provisions, such as “principle of freedom of contract”. The logical structure of English emphasizes analysis and synthesis, and the grammar of legal terms is more rigorous and systematic, such as “Principle of Freedom of Contract”.

3.2. Cultural differences in legal terminology translation

Legal terminology is deeply ingrained in each legal system's culture, hence cultural differences greatly impact translation. These differences impact legal comprehension and expression across languages. Legal culture shapes each legal system, whereas values and ethics shape society's view of justice and fairness. The linguistic environment in which legal terminology is

used and translated affects cross-cultural legal communication accuracy. We shall analyze how legal cultural backgrounds and the language environment affect legal terminology translation in the following subsections.

3.2.1. Legal cultural backgrounds

Western countries are based on Roman law and common law, which prioritizes judges and juries' independent judgments, while China is based on civil law, which prioritizes court decision-making. Translating legal language requires a clear understanding and expression of concepts and procedures relevant to different legal systems.

Legal terminology translation is heavily influenced by legal culture's cognitive framework. Chinese and British observational and cognitive techniques differ, which is visible in legal language. Translators must account for cognitive gaps and use terminology that match the target language's culture. For instance, the British legal system, based on common law, relies heavily on precedent and case law, which means that many legal terms are rooted in centuries-old legal decisions. Terms like "equity" and "tort" carry specific legal implications that may not have direct equivalents in the Chinese legal system, which is based on civil law and influenced by Confucian values. In contrast, Chinese legal terminology reflects a mix of socialist law and traditional Chinese ethics, where terms like "guanxi" (relationships) can impact legal interpretations and decisions, but have no clear counterpart in British legal language. Another example is the concept of "harmony" in Chinese law, which emphasizes social stability and conflict resolution, differing from the adversarial nature of British law. Translating these culturally embedded terms requires careful consideration of their legal and social connotations in both systems to avoid misinterpretation and ensure the proper conveyance of legal meaning. The legal cultural differences between China and England have affected legal terminology translation. To accurately express and interpret legal terminology, translators must understand and respect these distinctions and use appropriate strategies and methods.

3.2.2. Language environment

Legal terminology in professional documents exhibits distinct variations between the linguistic contexts of the Chinese and English legal systems. The disparities are fundamentally entrenched in the cultural context of each nation's legal framework and the historical evolution of jurisprudence.

The English legal system prioritizes case law and judicial authority, resulting in legal terminology that is typically articulated in a plain and concrete manner, underscoring the significant role of judges in the development and interpretation of law. Terms like "precedent" and "judicial discretion" exemplify the impact and authority of judges in the evolution of law. In comparison, the civil law system favors codified statutes and legislative authority, but Chinese legal terminology tends to employ abstract and generic language, illustrating the authority and universality of legal provisions in legal documents. Terms like "code" and "legislature" underscore the broad applicability of the legislation and its authoritative source. Translators must comprehend cultural variations when translating legal words and select suitable procedures to ensure the accuracy of the translation and its alignment with the relevant legal reasoning and cultural context. Literal translation is typically employed in English legal terminology to preserve linguistic precision and convey precise meanings. The law of free translation prioritizes the legal conceptions and cultural significances of terms to guarantee the thoroughness and precision of translation outcomes within the frameworks of legal reasoning and cultural context.

4. The Impact of Differences in Translation of Legal Terminology

The differences in translating legal terminology between Chinese and English have far-reaching effects on legal practice, influencing how laws are interpreted, contracts enforced, and legal professionals trained. These translation gaps can lead to significant challenges in various legal domains, from miscommunication between parties to issues in upholding the terms of legal contracts. Moreover, these discrepancies extend beyond the courtroom, impacting the consistency of judicial decisions and the way legal professionals are educated and trained in international contexts.

4.1. Legal misinterpretation and miscommunication

The differences in translation between Chinese and English legal language might result in significant confusion and misunderstandings in the legal system. As a consequence of the fact that legal systems are founded on distinct cultural, linguistic, and social frameworks, legal phrases frequently lack clear analogies when translated. When it comes to Chinese legal documents, the term “调解” is typically translated as “mediation” in English. However, it is important to note that the social and cultural consequences of conflict resolution in China may differ from the more formalized mediation technique that is utilized in common law jurisdictions like Britain. The misreading of crucial legal terms as a result of translation errors can lead to conflicts and legal issues in international contracts or cross-border litigation. This is especially true when parties from different legal systems read the same contract phrase in a different way.

A commercial contract disagreement between a British company and a Chinese manufacturer is an example that demonstrates this issue. The dispute was between the United Kingdom and China. The Chinese expression that is referred to as “force majeure” (不可抗力) represents natural disasters or unforeseen circumstances that are beyond one’s control. However, the two sides have different interpretations of this expression. There was a disagreement in the legal system because the Chinese party interpreted the phrase as encompassing a wider range of circumstances, whilst the British firm maintained a more stringent interpretation. This exemplifies how differences in the translation of legal terminology can lead to varying interpretations, which in turn can lead to controversies in the practice of law.

4.2. Obstacles in the enforcement of legal contract

Inconsistencies in translation between Chinese and English legal language offer challenges when it comes to the execution of contracts. Due to the fact that contracts are typically written in a number of different languages, the legal terminology that is translated must correctly conform to the legal interpretations that are used in both countries when dealing with international business operations. On the other hand, there are frequently insufficient translations available for legal terms. In the realm of contract law, the concept of “consideration” holds significant importance, as it signifies the exchange of value. However, the Chinese phrase “对价” may not fully convey the wider legal implications that are linked with the common law tradition. This inconsistency has the potential to affect how a contract is interpreted and enforced in both of these distinct jurisdictions.

An example could be, in the contract, the phrase “liquidated damages” was improperly translated, which led to confusion over its legality under Chinese law. This is because Chinese law has different provisions on penalty clauses compared to the legal system in the United Kingdom. Not only did the translation error delay legal procedures, but it also made it more difficult to enforce the agreement. This highlights the fact that even slight discrepancies in legal terminology can have a significant impact on how a contract is interpreted and how it is carried out.

4.3. Inconsistencies in legal precedents and judicial decisions

The adoption of legal precedents and the uniformity of judicial verdicts in foreign cases are two key domains that are significantly impacted by differences in legal terminology. Prior judicial decisions have a considerable impact on the common law system in Britain, which is characterized by the fact that subsequent verdicts are influenced by legal precedents. Because statutes are the primary source of authority in Chinese law, the influence of judicial decisions is significantly less significant than in other legal systems. Because of the differences in legal philosophy, it is possible that the interpretation of legal phrases that apply to precedent could lead to contradictions in the application of judicial decisions in cases that involve parties from both nations.

One particularly illustrative instance of this occurred in the course of an arbitration lawsuit that included a Chinese firm and a British investor. There was a lack of analogous significance in Chinese legal practice regarding the concept of “precedent” (先例), which led to doubt regarding the enforceability of previous rulings that established norms in situations that were similar. An incongruity in the law has been created as a result of the divergent significance that is attributed to judicial verdicts in China and Britain, which has consequently made the arbitration process more difficult. This case illustrates how differences in the translation of legal terms, particularly those that are linked with different legal systems, can result in contradicting judicial opinions that have an effect on legal practice on a global scale.

5. The Suggestions for Improving the Translation of Legal Terminology

To overcome legal terminology translation issues, explore a variety of approaches to improve accuracy and consistency. Standardizing legal terminology translation can assist ensure that legal principles are communicated clearly across languages. Standardization must be accompanied by professional development and intercultural communication skills for legal translators. This comprises a strong grasp of the source and target languages and their cultural and legal settings. A comprehensive database that serves as a legal terminology translation base and resource sharing platform is also needed to translate legal terminology efficiently and effectively.

5.1. Strengthen the standardization of legal terminology translation

In the article titled *A Study on the Mutual Translation of Existing Legal Languages between English and Chinese Based on Language Comparison*, Xiong Demi (2011) mentioned that the most notable characteristic of contemporary legal translation is its legality. This legality also determines that legal translation must accept legal supervision and guidance from the official, adhere to the relevant rules of legal translation of legislative documents, and achieve “legal” translation.

For this reason, it is essential to work toward the establishment of universal standards and rules for the translation of legal terminology. Developing clear rules on the translation of legal terminology should be a collaborative effort between national and international legal organizations. These guidelines should describe the meaning, the scope of application, and the preferred translation methods. This will help to limit the number of misunderstandings and conflicts that are generated by translations that are inconsistent. At the same time, the supervision and evaluation of translation quality should be strengthened in order to guarantee that the outcomes of translation are up to standards and that the severity and authority of legal terminology are preserved.

To address this, governments, academic institutions, and legal professionals should collaborate to create bilingual legal dictionaries and standardized translation protocols. Legal translation bodies, such as the *International Federation of Translators*, could work with local legal

institutions in both China and Britain to develop universally accepted terms. By harmonizing legal language in translation, practitioners will have access to more accurate resources, which can reduce ambiguity and improve communication in legal contexts. Additionally, the standardization of terms would provide a reliable reference for translators, law students, and legal professionals, ensuring more consistent and precise interpretations of legal texts across different languages and legal systems.

5.2. Improve the professional quality and intercultural communication ability of legal translators

According to Chiocchetti Elena (2023), legal interpreters and translators (LITs) play an essential part in ensuring that individuals inside the European Union are treated fairly and in promoting international movement. Due to the fact that the interpretation and application of legal documents are directly impacted by the accuracy and professionalism of the translation of legal words, the professional quality of the translator is of utmost importance to the practice of law. In order to select the proper translation words and expressions with greater precision, it is beneficial for the translator to possess a law degree or a relevant legal background. This allows the translator to have a more in-depth understanding of the legal concepts and logical relations that are present in the source text. Because of this professional experience, not only are the technical abilities of translation improved, but also the capacity to understand the cultural connotation of legal phrases is enhanced.

It is necessary for translators to possess a certain set of language skills as well as translation talents. It is essential for translators to possess strong bilingual or multilingual skills, as well as strong knowledge of legal terminology and the proper application of legal concepts. As part of the translation process, I am able to accurately comprehend the cultural differences that exist between the source language and the target language, as well as the impact that these differences have on the comprehension of legal terms. I am also able to avoid the misunderstandings that can arise from literal translation, and I am able to use free translation methods in a flexible manner to guarantee that the translated text is accurate and smooth.

In addition, translators are required to have a professional ethics and the appropriate attitude while working. According to Hye Jeong Jeong (2020), in order to be competent interpreters or translators in the legal field, one must possess specialized knowledge in the legal area, which determines the appropriate use of legal language. This expertise is required in order to fulfill the requirements of the profession. When dealing with legal documents, translators should have a strong sense of responsibility and confidentiality, and they should carry out translation jobs in a manner that is in complete agreement with the norms of the law and the ethical guidelines that govern translating. It is important to adhere to the professional ethics of the translation industry in order to guarantee the objectivity and neutrality of the translated material. This can be accomplished by avoiding the addition of any personal interpretation or subjective coloration.

It is very crucial for the translator to continue their professional development and learning from experience. Additionally, translators are required to continually update their legal knowledge and translation skills by participating in professional training and engaging in continuous learning. This is because the use of legal terminology and the interpretation of those terms are subject to change as a result of the development of legislation and the change in judicial practice. Maintaining a state of learning is the only way for us to be able to deal with the obstacles of translating legal terms that are both complicated and subject to change, as well as increase the quality of translation and the level of service.

5.3. Establish a database for a legal terminology translation base and a resource sharing platform

In tandem with the ongoing evolution of legal practice, new legal terminology are constantly being

introduced one after the other. For the purpose of enhancing the effectiveness of translation and ensuring that translations are of high quality, the creation of a database of legal terms that is flawless is of major relevance.

A uniform database of legal terms should be built in order to record legal terms in many languages together with their accompanying translations. This would ensure that translations are accurate and consistent. In order for countries to be able to rely on authoritative resources during the process of translating legal documents, this database can be managed by an international organization that specializes in legal terminology standards. This will allow countries to avoid misunderstandings and legal risks that are caused by differences in terminology understanding.

Additionally, the establishment of the database contributes to the enhancement of the effectiveness of legal translation responsibilities. The legal terminology translation database gives translators access to tools that allow them to easily discover and check terms, which has the effect of saving a significant amount of time and money on translation work. Through the use of the database, translators are able to immediately discover the most effective translation plan and maintain consistency throughout the translation process, so boosting both the productivity of their labor and the quality of their translations. The construction of a worldwide platform for the sharing of legal terminology resources not only makes it easier for the legal systems of different nations to communicate with one another and work together, but it also encourages the integration of legal culture and the sharing of legal knowledge. The standardization and normalization of legal phrases not only make the legal texts of other countries simpler to comprehend and use, but they also create a more robust framework for the practice of international law.

Furthermore, the construction of a database of legal terminology has facilitated the development of technological innovations and the utilization of translation tools among individuals. Additionally, the legal term translation database has the capability to combine artificial intelligence and machine translation technologies in order to deliver translation services that are both more intelligent and more efficient. The database is able to automatically process and update terminology, give translators with more accurate translation ideas and auxiliary tools, and achieve an overall improvement in the efficiency and quality of translation thanks to the assistance of artificial intelligence.

In general, the development of global legal research and teaching has been facilitated by the completion of a database of legal terminology and the formation of a platform for the sharing of resources. The academic community has access to a wealth of resources and reference materials thanks to the translation database of legal words, which serves as an essential instrument for legal education and research. Experts in the field of law and academics have the opportunity to collaborate on research projects that span international borders, advance the development of legal theory and practice, and contribute to the overall advancement of the international legal system by utilizing the shared platform.

6. Conclusion

The study of translation differences between Chinese and English legal terminology has uncovered an intricate relationship between linguistic and cultural contexts. This study has offered recommendations to address the substantial issues encountered by legal practitioners and translators in achieving precise and consistent translations across linguistic boundaries through an examination of various legal terminologies.

The translation of legal terminology between Chinese and English is a hard process necessitating a comprehensive understanding of both languages and their respective legal systems. By acknowledging and tackling the obstacles presented by linguistic and cultural disparities, legal practitioners and translators can collaborate to guarantee the precise and efficient conveyance of legal concepts across language barriers. This will facilitate a more

harmonious and effective implementation of the law in both China and Western nations.

Note: This paper is financially supported by 2022 Talent Introduction and Research Start-up Fund Project at Suqian University on the topic *Research on the Portuguese Language Proficiency Assessment Industry from the Perspective of Language Economics*.

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