

CHALLENGES OF TRANSLATING LEGAL DOCUMENTS: THE DILEMMA OF TERMINOLOGY AND FUNCTIONAL EQUIVALENCE

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Abstract: This article explores the intricate challenges inherent in legal translation, focusing primarily on the conflict between rigid terminology and the search for functional equivalence. Legal systems are deeply rooted in specific national cultures and histories, making the transfer of concepts between disparate jurisdictions (e.g., Common Law vs. Civil Law) exceptionally complex. The study examines why literal translation often fails in a legal context and argues for a communicative approach that prioritizes legal effect over linguistic symmetry.

Annotatsiya: Ushbu maqolada yuridik tarjimaning o'ziga xos murakkab jihatlari, asosan, qat'iy terminologiya va funksional ekvivalentlik o'rtasidagi ziddiyatlar tahlil qilinadi. Huquq tizimlari muayyan milliy madaniyat va tarix bilan chambarchas bog'liq bo'lib, bu turli yurisdiksiyalar (masalan, Prezident huquqi va Kontinental huquq) o'rtasida tushunchalarni ko'chirishni nihoyatda qiyinlashtiradi. Tadqiqotda nima uchun so'zma-so'z tarjima huquqiy kontekstda samarasiz ekanligi o'rganiladi va lingvistik simmetriyadan ko'ra huquqiy natijani ustun qo'yuvchi kommunikativ yondashuv zarurligi asoslanadi.

Аннотация: В данной статье исследуются сложные проблемы, присущие юридическому переводу, с основным акцентом на конфликте между строгой терминологией и поиском функциональной эквивалентности. Правовые системы глубоко укоренены в конкретных национальных культурах и истории, что делает перенос понятий между различными юрисдикциями (например, общим и гражданским правом) исключительно сложным. В исследовании рассматривается, почему буквальный перевод часто оказывается несостоятельным в правовом

контексте, и обосновывается необходимость коммуникативного подхода, отдающего приоритет правовому эффекту перед лингвистической симметрией.

Introduction: Legal translation is widely regarded as one of the most demanding branches of professional linguistic mediation. Unlike technical or scientific translation, where terms often refer to universal physical realities (such as "molecule" or "voltage"), legal language is a system-bound phenomenon. Every legal term is a reflection of a specific socio-political history and a particular legislative framework. Consequently, the primary challenge for the legal translator is not merely linguistic, but conceptual. The difficulty lies in navigating the void between two different legal realities, where a "perfect" equivalent often does not exist.

The core obstacle in legal translation is that law is not a single, global entity. For instance, the English Common Law system and the French or German Civil Law systems categorize the world differently. This leads to what scholars call "systemic incongruity." When a translator encounters a term like "Equity" in an English contract, there is no direct equivalent in the Uzbek or Russian legal systems because those systems do not share the historical development of the English Court of Chancery. A literal translation would be misleading, and a descriptive translation might be too wordy for a formal document. This lack of direct correspondence forces the translator to function as a comparative jurist, identifying the closest functional substitute that will produce the same legal result in the target jurisdiction.

In legal contexts, "accuracy" is often misinterpreted as "literality." Beginners in the field frequently adhere strictly to the source text's syntax, fearing that any deviation will alter the legal meaning. However, this often results in "translationese"—a stilted, incomprehensible jargon that obscures the document's intent. The professional challenge is to achieve "Equivalence of Effect." The goal is for the reader of the translated document to understand their rights and obligations just as clearly as the reader of the original text. This requires a deep understanding of Legal Pragmatics. For example, the English phrase "null and void" is a traditional legal doublet. Translating both words separately into another

language might sound redundant and unprofessional; a single, powerful term meaning "invalid" is often more "accurate" in terms of legal function.

The theory of functional equivalence, popularized by scholars like Sager and Šarčević, suggests that a translator should focus on the function of the term within the legal system rather than its literal dictionary definition.

There are three main strategies used to bridge terminology gaps:

- **Functional Equivalent:** Using a term in the target legal system that performs a similar function (e.g., translating "Attorney-at-Law" as "Advokat").
- **Transcription or Neologism:** Keeping the original term or creating a new one when the concept is entirely foreign to the target culture (e.g., "Trust" or "Escrow").
- **Descriptive Translation (Paraphrase):** Explaining the concept in a footnote or within the text to ensure the legal meaning is preserved.

Each of these strategies carries risks. A functional equivalent might carry "extra baggage" from the target law that doesn't apply to the source, while a paraphrase might weaken the formal tone of the document.

Legal drafting is often a balance between extreme precision and intentional ambiguity. Lawyers sometimes use vague language to allow for future interpretation or to reach a compromise during negotiations. A translator must be sensitive enough to recognize when a term is meant to be precise and when it is meant to be broad. Mistakenly "clarifying" an intentionally vague clause is a common error that can lead to significant litigation risks for the parties involved.

Conclusion: Translating legal documents is an exercise in "comparative law." It requires more than bilingualism, it demands an intricate knowledge of two different legal cultures. The challenges of terminology and equivalence demonstrate that a translator is not a passive conduit for words, but an active architect of cross-border legal communication. As global trade and international litigation continue to expand, the demand for translators who can bridge these systemic gaps with functional precision will

only increase. Success in this field lies in the delicate balance of linguistic fidelity and legal functionality.

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