

The Special Semantics and Translation Strategies of Legal English From the Perspective of Cognitive Linguistics

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Abstract

As an interdisciplinary study, legal English translation involves three fields: law, linguistics and translation. Accordingly, legal English research should adopt an interdisciplinary perspective, whereas the current domestic research often overemphasizes the external legal literacy and neglects the internal structure of legal language. Therefore, translators sometimes misinterpret the special semantics of legal English. From the perspective of cognitive linguistics, legal English's special semantics is mainly reflected in legal vocabulary and legal texts. Firstly, based on the metaphor theory of cognitive linguistics, the research will focus on the differences between the original domain and the target domain of legal English vocabulary, and analyze the metaphorical expression in legal language; secondly, based on the fuzzy phenomenon of cognitive linguistics, the research will interpret specific legal English texts to clarify the ambiguities; finally, the research will explore the legal English translation strategies through the cognitive interpretation of legal language.

Keywords: cognitive linguistics, legal English translation, metaphor theory, fuzzy phenomenon

1. The Metaphor Theory of Cognitive Linguistics in Legal Vocabulary

1.1 Introduction of the Original Domain and Target Domain

Originated from Lakoff and Johnson, conceptual metaphor theory is one of the most important theories in cognitive linguistics. The theory holds that metaphor is a systematic mapping from a specific conceptual domain (i.e., the original domain) to an abstract conceptual domain (i.e., the target domain). If the common semantics are regarded as the original domain, the special semantics of legal English can be regarded as a mapping to the target domain.

An extremely important linguistic feature of legal English is the presence of a large number of legal terminologies. In a narrow sense, legal terminology refers to those terms specific to the legal domain, such as infringement, bigamy, felony, etc. And in a broad sense, legal terminology also includes those common words that have been given special legal meanings, as shown in the table:

Table 1. Comparison of the original domain and target domain

Example words	Original Domain	Target Domain
Specialty	A subject that one knows a lot about	A legal agreement embodied in a sealed instrument
Limitation	The quality or state of being limited	A certain period limited by statute after which actions, suits, or prosecutions cannot be brought in the courts
Offer	Voluntarily give something to somebody	For the purpose of concluding a contract, one party puts forward the conditions of the contract to the other party

Award	A prize or certificate that a person is given for doing something well	A sum of money that a court decides should be given to someone
Party	A political organization	A person involved in legal proceedings
Satisfaction	A feeling of happiness with what one has	The payment of a debt or fulfillment of an obligation

1.2 Semantic Diversity of a Single Word in the Same Target Domain Due to Different Contexts

Western scholars expound the metaphorical expressions and metaphorical word extensions by applying Wittgenstein's Family Resemblance Theory, which holds that the target domain of the conceptual metaphor does not consist of metaphorical words in the same source domain, but in different source domains, linked by cross similarity. The mapping of different source domains often points to different contexts. When reading and translating legal vocabulary, finding the exact word meaning from multiple synchronic meaning items of the legal polysemy words according to the context has become a key concern.

In addition to the differences between the original and target domain shown in the table above, the legal vocabulary in the same target domain may also vary greatly in different contexts, for example, different branches of law, which may easily lead to ambiguity. In the context of contract law, "execution" is translated into "the act of arranging and settling an agreement with somebody formally and finally", and the original meaning of the word "execution" ("the act of doing a piece of work, performing a duty, or putting a plan into action") is expressed by another word, "performance"; while in the context of criminal law, the meaning of "execution" belongs to neither of the two meanings mentioned, but "the act of killing somebody as a legal punishment". In short, such words may produce ambiguity as long as they leave the specific contexts. When translating legal vocabulary, only by distinguishing the specific contexts can we avoid ambiguities and improve the accuracy of translation.

Here is another example: A criminal information was a proceeding in the Queen's Bench Division of the High Court brought at the suit of the Crown without a previous indictment.

The word "information" in this sentence refers to "prosecutor's indictment". There are three types of indictments against defendants in criminal cases in the common law system: first, "complaint", the legal instrument of accusation stating the facts of a crime submitted by a police officer or prosecutor to a magistrate judge or other local judicial officer based on probable causes; second, "indictment", the legal instrument of accusation which is first presented by a prosecutor to a grand jury, then reviewed and signed by the grand jury, and finally brought before the court formally; and third, "information", the legal instrument of accusation directly filed by the prosecutor in the name of the state or the nation without being examined by the grand jury. Obviously, the analysis of the above legal vocabulary requires the translator to have not only a clear understanding of the legal context of the vocabulary, but also a sufficient understanding of the common law system.

Analyzing the metaphorical expression in legal language from the perspective of conceptual metaphor theory and Wittgenstein's Family Resemblance Theory allows translators to better summarize the similarities between the synchronic meaning items, so as to enhance the accuracy of legal English translation.

2. The Fuzzy Phenomenon of Cognitive Linguistics in Legal Texts

2.1 The Ambiguity in Legal Texts and the Discretion of the Judge

The study of legal language from the perspective of cognition dictates that the ambiguity of legal texts is bound to be prominent, for cognitive linguistics is an explanatory description rather than the description of the binary opposition between right and wrong. Arthur Kaufmann argues that the accuracy and authority of law go hand in hand with the ambiguity of legal language. The ambiguity in legal texts is conducive to give full play to the discretion of the judge in the process of judicial application, so as to better protect the legitimate rights and interests of the parties, as well as achieve social justice.

For example, Article 22 of the Criminal Law of the People's Republic of China stipulates: "Compared with the accomplished offender, the preparatory offender may be given a lighter or mitigated punishment or be exempted from punishment." The phrase "given a lighter or mitigated punishment", in a fuzzy way of expression, gives the judge the discretion of sentencing according to the specific circumstances of the crime.

2.2 The Unclear Semantics Caused by Inappropriate or Excessive Use of Fuzzy Words

Undoubtedly, the positive impact of ambiguity is conducive to the effective implementation of the law. On the contrary, inappropriate or excessive use of fuzzy words will make the legislative intention unclear, thus bringing confusion to the law-abiding in daily life and to the judiciary in the process of law enforcement. Therefore, legislators sometimes clarify the ambiguities in legal texts through specific legal provisions or judicial interpretations. For example, the Interpretation of the Supreme People's Court on Several Issues Concerning the Specific Application of Law in the Trial of Fraud Cases defines the scope of "relatively large amount", "huge amount" and "especially huge amount" in the provisions on fraud cases in the Criminal Law, by giving a specific number range.

Legal English, as an interdisciplinary subject, is of great difficulty for translators to deal with. Translators should adopt different translation strategies for different fuzzy words, so as to make the fuzzy phenomenon in legal texts positively correlated with the accuracy of translation.

3. The Exploration of Translation Strategies of Legal English

3.1 Establishing an Integrated Mechanism of Translation Skills and Legal Literacy

Firstly, translators are supposed to establish an integrated service mechanism of translation skills and legal literacy. This requires the effective combination of legal English and jurisprudential knowledge, as well as the establishment of relevant corpora, thus the translators can have the platform to collect and integrate needed information, so as to achieve the effect of clear logical hierarchy, smooth semantic context, as well as meticulous and coherent conception in legal English translation work.

3.2 Clarifying the Differences Between Different Legal Systems

Secondly, translators need to clarify the differences between different legal systems. As one of the important bridges for legal culture exchanges between China and Western countries, legal English has played a significant role in the process of different legal systems learning from each other. In addition to a high level of English proficiency, legal English translators must improve their legal expertise and grasp the differences between different legal systems as well, so as to ensure the professionalism of legal English translation. For example, legal vocabulary such as "regulation" and "rule" can be frequently seen in the names of Chinese laws, while Western laws rarely use such vocabulary to name legal texts. Besides, the jury system has always existed in the common law system. However, since China has long been subject to the civil law system where no jury system exists, the word "verdict" cannot directly correspond to a certain legal word in the context of Chinese civil law system.

3.3 Adopting Explanatory Translation and Other Methods to Deal With Ambiguity

Thirdly, in response to the ambiguity in legal texts, translators can adopt explanatory translation and other methods to restore the original meaning of legal provisions to the maximum extent. In legal English translation, translators can choose to illustrate and explain the abstract and ambiguous legal expressions by referring to relevant specific judicial cases, so as to make the ambiguities in the legal texts more comprehensible and more positively correlated with the accuracy of translation. Additionally, translators also need to control the frequency of fuzzy words in legal English translation, such as "much", "a great deal of", "quantities of", "severely", etc. The proliferation of ambiguity or fuzzy words will lead to a void of law and undermine the effectiveness of law.

4. Conclusion

Compared with other types of English translation, legal English translation is more complex and have higher requirements for both English literacy and legal literacy for the purpose of achieving beneficial interdisciplinary research. The study of legal English from the perspective of cognitive linguistics can enable translators to have a clearer understanding of the semantic diversity of legal vocabulary in different or same domains, and to have targeted responses and translation countermeasures to the ambiguity of legal texts. Translators can improve the accuracy of legal English translation by establishing an integrated service mechanism covering both legal English and law specialties, clarifying the differences between various legal systems, and adopting explanatory translation and other methods. In this way, they are more likely to become qualified inter-disciplinary foreign language talents and overseas-related legal talents.

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