

Translation Method, an Outdated or an Indispensable Method in Teaching Legal Language



Linguistics

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Abstract

The objective of this paper is to find out how important the translation of legal terms or legal texts is while teaching legal English to foreign students. English legal language is considered a language per se for English people, consider teaching it to foreign students. Translation of legal terms from English into Albanian poses a great challenge due to different factors (different legal systems, legal lacunae etc.) therefore this challenge is reflected in teaching legal English. It is very important not only to understand the term and the phenomena behind this term, but also to learn the equivalent term in Albanian. The methodology used in this paper is quantitative data research, questionnaires with mainly closed ended questions and a final open ended question. The sample of this research is students of Law Faculty. Research question: How important is translation as a method in teaching legal English to Albanian students? The main result is that translation is a key tool in teaching legal English not only to render the meaning of legal terms clear, but also to find the equivalent ones in Albanian.

1. Introduction

One of the classic methods of teaching a foreign language was the Grammar translation method, also called the classic method as it was used to teach the classic languages, old Greek and Latin. This method was very popular in the old times, probably also due to the fact that people learnt a foreign language mainly to get to know other cultures or literature, or areas of interest. Therefore, language skills to be developed were reading and writing and therefore grammar translation method was very suitable to these skills. Even with other languages learning, I think the main goal at early days might not have been communication due to low mobility and lack of means of communication. Teaching approaches changed with the passing of time, trying to make it easier for learners to acquire a foreign language and to serve communication purposes. Nowadays with everything being globalised, the need for communication, I would say, is a primary goal in learning a foreign language. I was raised with the approach of teaching English only through English explanation, paraphrasing, etc. all in English and no Albanian at all. I attended a foreign language high school, having about 12 English classes per week and the methodology used by different teachers was no translation method at all. We were asked to look up all the new words in an English dictionary, never had we been advised to use an English-Albanian dictionary. Even when tested, we had to provide an English explanation. I went to university, studying again English, where using only English method was still dominant and it was considered a heresy to use translation as a means of teaching. Apparently, this methodology was used not only in Albania, *“From the turn of the century onwards almost all influential theoretical works on language teaching have assumed without argument that a new language (L2) should be taught without reference to the student’s first language (L1).”* (Cook 1998). I was so much into this kind of methodology, that when I first started teaching at the university, I would follow in the steps of my own professors. In my 16 years of teaching experience at university, translation has become a natural method of teaching while trying to enhance comprehension. No matter how much I tried to explain certain issues or questions only in English, it still remained difficult for students to grasp the meaning of a particular question and therefore to answer. Trying to understand if it was a matter of not knowing the answer or non comprehension of the question, I was obliged to ask for the translation of that particular question. If I asked the meaning of individual words, the students knew the meaning, but when it came to the whole question, they could not understand the whole question and therefore they could not translate it into Albanian.

The Albanian tradition of teaching and testing knowledge is a lot based on memorization, which creates a big problem to students in analytical thinking and sometimes in reading comprehension. In my view, using translation as an additional teaching method is really indispensable, not only in creating translation skills, but also enhancing analytical thinking. When it comes to teaching English for special purposes, teaching legal English to the students at the Faculty of Law, I would say translation becomes even more indispensable for a lot of reasons. Besides personal experience with translation in teaching, there is an increased interest into including translation as a contemporary method into teaching English. Cook writes that recent years have seen the beginnings of a reappraisal of the role of translation in language learning, and a number of writers have expressed doubts about its banishment from the classroom (as cited in Cook 1999, Widdowson 1979, Howatt 1984, Duff 1989, Cook 1991, Stern 1992)

2. Difficulties encountered in teaching legal English

2. 1 Different Systems or culture

The texts mainly used to teach legal language to Albanian students at the Faculty of Law mainly talk about the British legal system and laws. Having two complete different systems; Albania using the civil law, the codified law, whereas Britain using common law, poses a great difficulty into understanding the system used in Britain and most difficult into making a comparison with the Albanian law. Taking also into consideration, that they are junior students, just getting to learn the legal world, making legal language comprehensible, sets the need for further efforts by the professor. The fact that the two systems used are quite different, it becomes very important to study and understand the differences between them.

2. 2. English legal language being a language per se

English legal language or legalese, known otherwise, is considered as a foreign language for the native speakers, due to a lot of factors, mainly having a long history, and all effects on it, a lot of borrowings, and also the fact that lawyers preferred to keep it a language belonging to the narrow circle of lawyers. (Mellinkoff, 1963). English legal language is very much connected to its history, the roman invasion, creating the so called “Law Latin” the invasion of the Normans for about 300 years, imposing Law French, meaning that the language of law was only French, therefore a lot of influences remained. (Tiersma 1999). The English legal language is very archaic, having very long sentences, repetition of a lot words, use of synonyms in some cases (last will and testament), a lot of Latin terms, making it really difficult to be understood. In Britain and USA, there has also been ongoing the Movement for Plain English (Tiersma, 1999) since the ‘70s , suggesting that they should simplify their own legal language, so that it can be understandable for non-professional people; meaning that there should first be an inter-lingual translation. In UK, there was also a draft bill in 2006, requested by the Minister for Constitutional Affairs, Mrs. Harman, requiring that each act of a bill had to be accompanied with their interpretation, so that they can be understood by non-lay people. When this language is so difficult for native speakers, learners of English would definitely encounter a lot of problems in trying to understand it and to make respective comparisons. Legal language, which is closely related to socio-historical context⁴, in Albania is not particularly difficult, mainly because the legal terminology in Albanian is not very old in particular⁵, does not contain archaisms like the English legalese, does not contain a lot of Latin terms, and most important, it does not stand as a different language like legal English.

⁴ Ferdinand de Saussure, (1857-1913) prominent linguist who laid the foundation for many important developments in linguistics and semiology in the 20th century. Saussure considers language as a social product.

⁵ The laws in Albania were in Turkish until 1912- 1914. Albania was proclaimed independent in 1912 and the Ministry of Justice ordered the use of laws in Albania ((Newspaper ‘Perlindja e Shqipenies, 1913), 100 years is not a long time, compared to British laws, the language of which has mainly been English, considering e.g. the Statute of Pleading 1362 that required that the laws be in English, no matter that the law itself was written in French, (Tiersma 1999)

3. Translation as an important method in teaching legal English

3.1. Overview

A questionnaire was distributed to 81 students, at the Faculty of Law and an interview was carried out with some professors teaching legal English at the Faculty of Law in relation to the importance and usefulness of translation as a practical teaching method. The questionnaire was distributed to 3 different groups at the Faculty of Law, being taught by three different teachers (one of them myself being the teacher, and using translation as a complementary/explanatory teaching method). One of the books that I personally used while teaching was “English for lawyers, Justice and Law in Britain” (C. D. Komarovskaja, 2000). The book contains vocabulary and word study as a specific section of each unit and each unit contains translation exercises which were quite helpful. (the vocabulary was in Russian) The books published in Albania on teaching legal English still continue with the tradition of having only English as the explanatory language, but for the future lawyers, it is very important not only to understand what one particular term or word group means but to know the equivalent in Albanian as well.

3.2 Questionnaire analysis

The first question was if a specific book on teaching legal English was used at the Faculty of Law, and the answer was yes. The second one was if there existed an English- Albanian vocabulary in the book, and the answer was no. Third question was related to the fact if translation of terms in the book was needed, and the answer was yes. The fourth question was: Was translation used a teaching method during class? The answer to this question was yes. When the students were asked if they found translation as a valid teaching method, 88 % found it as very valid, 9 % found it as a valid method and 3 % as not valid.

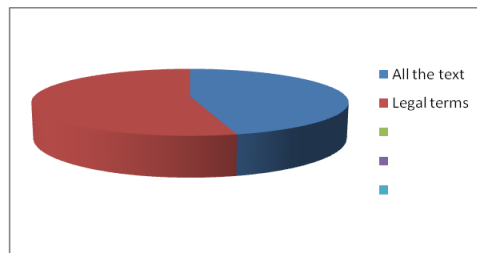


Chart 1. Question no. 6 Is translation used for: a) all the text or b) some legal terms?

The students answered: 45.6 % answered that translation of the text was used and 54.4% answered that translation was used only for specific terms.

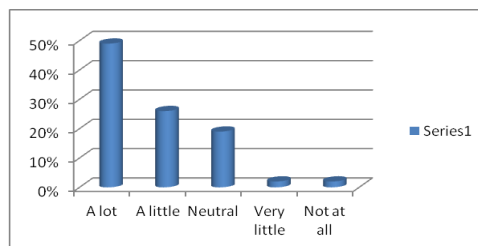


Chart 2. Question no. 7 If translation is used as a teaching method during explanation of new texts, is the translation used enough for good understanding?

49 % answered a lot, 26 % answered a little, 19 % neutral, 2 % very little, 2% not at all

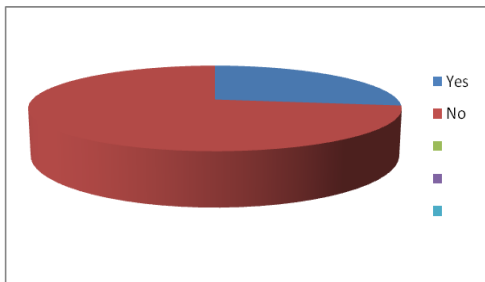


Chart 3. Question no. 8: Do you think that just the English - English explanation of terms is sufficient to understand them? 27 % answered yes, 72 % no

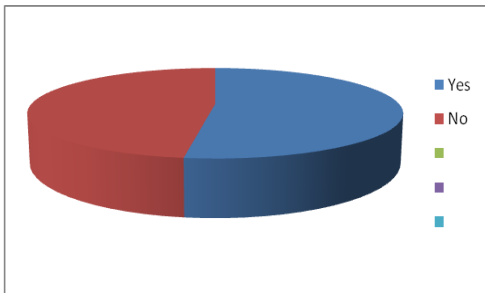


Chart 4. Question no. 9: If the above answer is 'yes', do you think you are capable of finding the equivalent term in Albanian? 36 % of the students answered yes, 33 % no

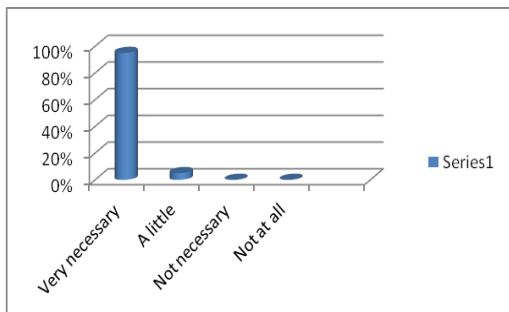


Chart 5. Question No. 10 What do you think, how important is translation as a teaching method? 95 % answered as very necessary, 5 % a little necessary, 0 % not necessary, 0 % not at all necessary

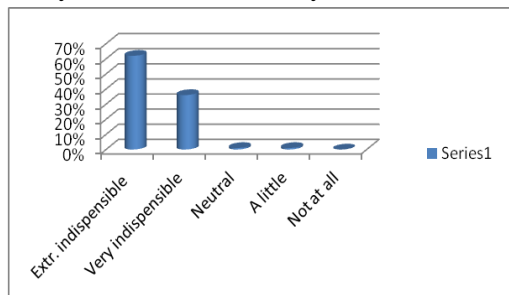


Chart 6. Question no. 11 How much do you think translation of legal texts or legal terms during class helps you to better comprehend the text explained to you? 62 % answered extremely indispensable, 36% very indispensable, 1% a bit, 1% neutral, 0 not at all

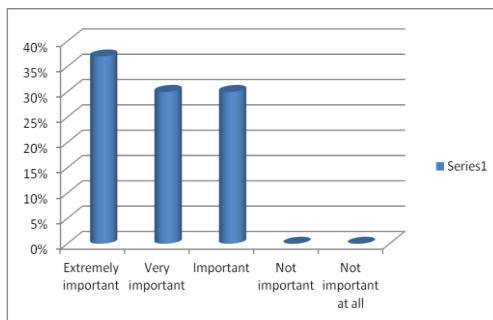


Chart 7. Question No. 12 How important do you think is translation used during class to facilitate your preparation after the explanation of the lesson? 37 % of the students answered extremely important, 33 % very important, 30 % important, 0 % not important, 0% not important at all

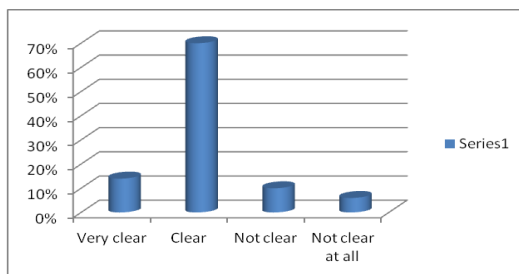


Chart 8. Question no. 13 How clear is translation of legal terminology from English into Albanian with the help of an English- Albanian dictionary? 14 % of the students answered very clear, 70 % clear, 10 % not clear, 6 % not clear at all

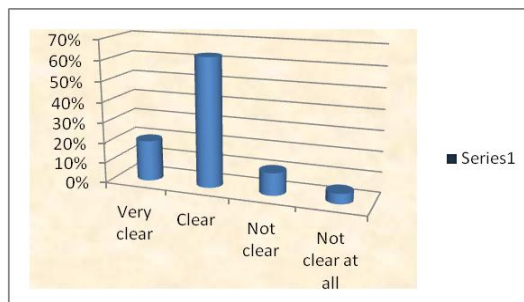


Chart 9. Question no. 14 How clear is translation of legal terminology from English into Albanian with the help of an English- Albanian dictionary? 20 % answered very clear, 63 % clear, 11 % not clear, 5 % not clear at all

The last question was an open ended question related to suggestions and how valid students found translation as a teaching method of legal English.

3. 3. Reporting the results

As we can see in the charts above, the students consider translation as a very important tool in teaching methods. In the last open ended question (Which would be your suggestions in relation to the use of translation of terms or legal texts, from English into Albanian during class as a teaching method. How much valid was this method to you?), students answered that they considered translation as being very valid. There was not a single who student who did not consider it as valid and important. They wrote that translation, especially translation of the whole text helped them to comprehend it better, to understand the system and legal terms specifically. They

felt more confident in understanding the text while having a full translation than just simply the translation of legal terms or explanation in English. All comments made emphasized the usefulness and the need for such a method.

Having had a discussion with some teachers, teaching legal English, they also deemed it as very important to use translation as a teaching method during class, which promoted the engagement of students and increased comprehension skills.

4. Conclusions

I think it's time to consider the grammar-translation method as two separate and distinctive methods; translation method being a complementary method to other language teaching methods, and it should also be considered as a contemporary method among others in teaching legal English. Translation should not only be used by the teacher, it should be an intertwined activity: teachers using it as a teaching method while explaining a new lesson and students being asked to translate English into Albanian and sometimes if possible Albanian into English, which of course is a more difficult exercise, but at least with certain terms or short sentences. Translation is an indispensable tool in teaching legal English to Albanian students. It does not only help them understand better legal language, but also it helps to understand the common law system, and helps them try to make comparisons of systems, terms and concepts, and grammar related issues, which makes them aware of making the distinction between languages and in this comparison, there is an opportunity to learn and remember better.

In my view, translation of the full text is a very important tool also to left behind students to catch up, it saves a lot of efforts and energy in trying to figure out particular legal terms, and repetition per se of translation of certain legal terms, while translating the full texts, enables a better comprehension and memorization of legal terms for the students. Translation of legal texts also raises confidence in students. Comprehension through translation is much higher; trying to articulate what can be understood simply in one's mind makes students think, understand better and express themselves at the same in the other language. Part of the career for future lawyers is also the capability to switch from one language into another, while reading or working with international law, translation of which from an early exposure would certainly help. Revitalisation of the translation method in teaching legal English, and not only legal language, should be strongly considered by teachers as a useful tool and method into a better system of teaching.

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