

Balancing Accuracy and Authority in Legal Terminology Translation Under the Functional Equivalence Theory

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Abstract

Legal translation serves as a means of cross-cultural communication and plays an indispensable role in the interaction and integration of different legal systems. With the continuous elevation of China's opening-up level, the demand for mutual translation between Chinese and English legal texts has been expanding. Consequently, a series of issues regarding the accuracy, uniformity and standardization of legal terminology translation have gradually become a focal point of common concern. Eugene Nida's Functional Equivalence Theory emphasizes that a target text should achieve equivalent effect with the source text in terms of informative function and communicative effect, rather than merely clinging to mechanical correspondence in linguistic forms. This theory provides an important approach to addressing problems such as legal system differences and cultural default in legal translation. However, legal texts possess mandatory binding force and high authority, which requires legal terminology translation to be not only conceptually precise but also formally standardized in expression. In practical translation, these two requirements are often difficult to be balanced simultaneously, leading to frequent tradeoffs. Based on the Functional Equivalence Theory and combined with typical examples of Chinese and English legal terms, this paper analyzes the specific manifestations and underlying causes of the imbalance between accuracy and authority, and finally proposes balancing methods that can take both into account. It aims to provide more practical references for legal translation practice and facilitate more standardized, efficient and precise cross-border legal communication.

Keywords

Functional Equivalence Theory; Legal Terminology Translation; Accuracy; Authority; Translation Strategies

1. Introduction

In contemporary society, with the in-depth development of economic globalization

and the internationalization of the rule of law, political, economic and cultural exchanges among countries have become increasingly frequent, resulting in a steady growth in the volume of legal document translation work. Yet, translating legal texts is far from a simple task, as it entails numerous stringent requirements and a cumbersome process. The translation of legal texts faces various challenges due to its inherent characteristics of rigor, standardization, accuracy and conciseness. As specialized vocabulary in the legal field, legal terms feature extremely high professionalism and demand absolute accuracy. Therefore, the quality of terminology translation directly determines whether legal texts can be accurately understood and strictly enforced.

Proposed by the renowned American translation theorist Eugene Nida, the Functional Equivalence Theory stresses that a target text should achieve equivalence with the source text in informative function and communicative effect, with a particular focus on cultural exchange and transmission. In the translation of legal English terms, this theory points out a clear direction for translators: it frees them from the shackles of mere formal linguistic equivalence and guides them to pay greater attention to the practical meanings and functions of legal terms in different legal systems, thereby achieving more accurate and effective translation. Nevertheless, this approach is not a panacea and is accompanied by practical difficulties. A pressing problem to be solved in the translation of legal English terms is how to maintain a balance between accuracy and authority. Under the guidance of the Functional Equivalence Theory, how to achieve such a balance constitutes the core research content of this paper.

2. Core Content of the Functional Equivalence Theory and Its Adaptability in Legal Translation

2.1. Basic Connotation of the Functional Equivalence Theory

The Functional Equivalence Theory, put forward by the American translation theorist Eugene Nida, was initially named Dynamic Equivalence and later officially renamed to be applicable to a wider range of translation scenarios. The core of this theory is that translation is not a simple word-for-word or structure-for-structure correspondence between the source text and the target text, but rather an endeavor to ensure that readers of the target text have a similar understanding and perception of the content as readers of the source text, that is, to pursue the "closest natural equivalence".

The essence of the Functional Equivalence Theory lies in the pursuit of equivalence between the target text and the source text in meaning and style. Nida divides translation into two types: formal equivalence and functional equivalence. Formal equivalence takes the source text as the primary criterion, emphasizing strict word-for-word and structural correspondence, with the main purpose of reproducing the linguistic form of the source text. This translation method is

suitable for texts with stringent formal requirements such as religious texts and scientific documents. However, in cross-cultural and cross-system translation contexts, it tends to render the target text stiff and unintelligible.

In contrast, functional equivalence centers on readers and translation effects, prioritizing meaning and function. It allows translators to make reasonable adjustments to the expression form based on the linguistic habits of the target language, local cultural background and the purpose of the text. This ensures that the core information remains intact while making the target text more readable and applicable. Nevertheless, functional equivalence does not amount to unrestricted free translation. It requires translators to ensure the naturalness of the target text and achieve equivalent communicative effects on the premise of adhering to the core information of the source text. It opposes both rigid literal translation and arbitrary addition, deletion or distortion of the source text meaning by translators. In short, it seeks a balance between faithfulness to the source text and readability of the target text.

2.2. Adaptability of the Functional Equivalence Theory in Legal Terminology Translation

Legal texts are normative and mandatory, which not only convey information but also clearly define rights and obligations. The Functional Equivalence Theory is highly compatible with these characteristics of legal texts.

Fundamentally, the Chinese legal system, rooted in the civil law system, differs entirely from the British legal system which belongs to the common law system. The two systems exhibit tremendous differences in historical development, legislative methods and conceptual systems, resulting in a lack of one-to-one correspondence between many Chinese and English legal terms. Some terms have only partial overlap, some are inclusive of one another, some intersect, and a few even have no corresponding equivalents at all. In such cases, literal translation fails to convey the true meaning of the terms and may even lead to ambiguity.

The Functional Equivalence Theory, however, enables translators to take legal function as the criterion and select the closest expression with the same normative function in the target legal system, thus avoiding conceptual misalignment caused by formal correspondence. Legal terms are polysemous, with subtle semantic differences in different legal provisions or contexts. The Functional Equivalence Theory grants translators a certain degree of flexibility, allowing them to adjust translations according to the purpose and context of the text. This ensures that the terms fit the context appropriately and avoids overgeneralization caused by rigid translation methods.

3. Typical Cases of Imbalance Between Accuracy and Authority from the Perspective of Functional Equivalence

3.1 Cases of Insufficient Authority Caused by Rigid Literal Translation

Case 1

The term "consideration" is a core concept in Anglo-American contract law, referring to the legal value given by one party in exchange for the promise of the other party, a prerequisite for the formation of a contract. In early translations, many translators adopted formal equivalence and rendered it as "约因 (Yueyin)". From the perspective of literal meaning and conceptual origin, this translation is highly faithful to the original text and accurate. However, "约因" is not a commonly used expression in China's legal system and practice; its limited application in contract texts and judicial opinions significantly reduces the readability and authority of the texts, making it difficult to exert the legal guiding function effectively.

From the perspective of functional equivalence, the translation as "对价 (Duijia)" is more reasonable. This expression has become a universal and stable term in China's legal circle and cross-border practice, complying with the requirements of authoritative norms. Strictly speaking, however, "对价" is not completely equivalent to "consideration" in Anglo-American law. This means that translators have to compromise on minor aspects of accuracy to achieve authority and functional equivalence, a common balancing choice in legal translation.

Case 2

"Probation" is an important penalty execution system in the common law system, whose core is the supervision and inspection of offenders by specialized institutions for a specified period. If the offender abides by the relevant provisions during the period, the custodial sentence shall be exempted or mitigated; if the provisions are violated, the original custodial sentence shall be enforced. A rigid literal translation renders "probation" directly as "缓刑 (Huanxing)" in Chinese. The "缓刑" system in China's legal system is only applicable to criminals sentenced to criminal detention or fixed-term imprisonment of not more than three years, whose core is "suspension of penalty execution; the original sentence shall not be enforced if the offender abides by the provisions during the probation period". Moreover, there are obvious differences between China's "缓刑" and Anglo-American "probation" in terms of the supervision subject, application conditions and legal consequences during the probation period.

The rigid literal translation ignores the differences between the two systems in legal context. It not only fails to conform to the authoritative expression norms of Chinese legal terms but also confuses the core differences between "缓刑" and "probation", making it impossible for Chinese readers to accurately understand the complete connotation of "probation" in the common law system and resulting in the loss of authority of the target text. From the perspective of functional equivalence, the translation as "缓刑监督 (Huanxing Jiandu)" or "缓刑考验 (Huanxing Kaoyan)" is more appropriate. Such translations not only accurately convey the core function of

the term but also conform to the expression norms of Chinese legal terms, ensuring the authority of the target text in China's cross-border legal communication and aligning with the understanding habits in judicial practice.

3.2. Cases of Lost Accuracy Caused by Excessive Localization

Case 1

"Jury" is a core concept of the unique judicial system in the common law system, whose primary responsibility is to determine the facts of a case based on evidence presented in court. Judges are only responsible for interpreting the law and guiding the jury, and do not participate in fact-finding. Jury verdicts are independent and binding, and usually require unanimity or a majority vote. This system is an important embodiment of "judicial democracy" in the common law system, essentially different from the judicial trial organizations in the civil law system and China's legal system.

Some translations render "jury" directly as "合议庭 (Heyiting)", an inherent term in China's judicial system, in pursuit of "comprehensibility" and "local adaptability" for Chinese readers. This translation is unreasonable: the core responsibility of the "合议庭" in China's legal system is to determine both the facts and the application of the law in a case, and its members are all professional judicial personnel or people's assessors appointed in accordance with legal procedures. It is essentially different from the common law "jury" in core connotation, scope of responsibilities and composition methods.

Excessive localization in translating "jury" as "合议庭" conforms to the local expression habits of Chinese legal terms but completely deviates from the core connotation of "jury", concealing the unique attributes of the jury system in the common law system. It leads Chinese readers to fail to accurately understand the judicial logic of "the separation of fact-finding and law application" in the common law system and mistakenly equate the common law "jury" with China's "合议庭", resulting in serious confusion of legal concepts and total loss of translation accuracy. Such a translation seems to be "localized" but in fact violates the core requirement of legal terminology translation—accurately conveying the unique connotation of the source language concept.

From the perspective of functional equivalence, the translation as "陪审团 (Peishentuan)" is more reasonable, supplemented by a brief explanation of its core attributes, i.e., "(a fact-finding body composed of ordinary citizens in the common law system)". This translation not only accurately retains the core connotation of "jury" but also helps Chinese readers understand its differences from China's "合议庭" through appropriate supplementary explanations, achieving a balance between accuracy and authority.

3.3. Cases of Dual Imbalance Caused by Contextual Differences

Case 1

The term "due diligence" has two core contextual connotations: one is in the context of cross-border investment and financing (a comprehensive pre-investment risk investigation by investors), and the other is in the context of lawyer practice (the obligation of lawyers to perform their duties with due diligence). Some translators uniformly render it as "适当努力 (Shidang Nuli)" or "审慎义务 (Shenshu Yiwu)". The former is a rigid literal translation, while the latter pursues excessive localization. Neither translation distinguishes between the two scenarios, deviating from the core connotation of the term in different contexts and failing to conform to the authoritative terminology norms of the corresponding fields. As a result, such translations are not recognized by the industry, leading to a dual imbalance of accuracy and authority.

From the perspective of functional equivalence, "due diligence" can be translated differently in different contexts: as "尽职调查 (Jinzhi Diaocha)" in the investment and financing context and as "勤勉尽责义务 (Qinmian Jinze Yiwu)" in the lawyer practice context. For ambiguous contexts, supplementary explanations should be provided to combine accuracy with authority.

Case 2

The core function of "estoppel" is to prevent a party from going back on its prior promises or conduct, with common types including promissory estoppel and proprietary estoppel. A uniform literal translation as "禁反言 (Jinfanyan)" is suitable for academic research texts but appears overly professional and obscure in other contexts such as commercial contracts and cross-border legal documents, making it incomprehensible to ordinary commercial subjects and resulting in insufficient authority and practicality. A simplified translation as "禁止反悔 (Jinzhifanghui)" is easy to understand but reduces legal rigor, leading to ambiguous term boundaries and decreased accuracy.

These two cases indicate that the translation of legal terms cannot adopt an either-or approach. Instead, under the overall framework of functional equivalence, translators should dynamically balance accuracy and authority based on text type, usage scenario and target readers.

4. Balancing Strategies for Accuracy and Authority Under the Functional Equivalence Theory

4.1. Establishing the General Principle of "Function as the Core, Accuracy as the Foundation, Authority as the Guideline"

In applying the Functional Equivalence Theory to legal terminology translation, a hierarchical principle must be clearly defined: taking legal functional equivalence as the core method to ensure that the target text achieves the same normative, binding and defining effects as the source text; regarding conceptual accuracy as an unbreakable bottom line, prohibiting the distortion, expansion or reduction of the

connotation of source terms; and taking the authoritative norms of the target legal jurisdiction as the value guideline, giving priority to universally accepted, officially recognized and stable translation methods in the industry. Functional equivalence is a means to achieve balance, accuracy is the foundation, and authority is the goal. The organic integration of the three fundamentally avoids extreme translation tendencies.

4.2. Constructing a Unified Terminology Database to Ensure Stability and Authority

The authority of legal terminology relies on consistency and stability. Before conducting translation work, translators should establish a text-specific terminology database with reference to official legal terminology comparison tables, authoritative legal dictionaries, translated judicial interpretations and common translation methods of large law firms. Consistent use of terms should be maintained in the same text and project to avoid inconsistent translation of the same term. Functional equivalence can be applied for local optimization within the framework of the terminology database, achieving adaptability in stability and standardization in flexibility, and improving the authority of the target text systemically.

4.3. Adhering to the Legal Register to Strengthen Authoritative Style

Legal language features a formal, rigorous, solemn and concise register. When adjusting expressions by applying functional equivalence, translators should strictly avoid colloquial, casual and internet-based expressions and always maintain the professional quality of legal documents. On the premise of ensuring accurate meaning, priority should be given to formal, standardized and highly professional expressions, supporting textual authority with register authority and preventing the weakening of legal solemnity due to excessive pursuit of fluency.

5. Conclusion

In cross-legal system communication, legal terminology translation is a crucial link. Accuracy and authority jointly underpin the professionalism and effectiveness of legal translations; they are complementary and indispensable. The Functional Equivalence Theory can achieve a balance between accuracy and authority, effectively breaking the outdated practice of clinging to formal equivalence and alleviating translation difficulties caused by institutional differences between different legal systems. However, due to the unique professional attributes and normative nature of legal texts, the Functional Equivalence Theory cannot be applied arbitrarily. It is not permissible to sacrifice accuracy or authority for the sake of functional equivalence. Therefore, the application of this theory must be bound by legal norms and translation ethics.

Under the guidance of the Functional Equivalence Theory, conceptual accuracy is the minimum requirement for legal terminology translation, functional equivalence is regarded as the method, and formal authoritative standardization is the ultimate goal. To enhance the accuracy and authority of legal terminology translation, translators can first classify different types of terms and adopt corresponding translation methods; then establish a unified terminology database for reference and application; flexibly adjust translations in combination with different scenarios; and at the same time, strictly adhere to the norms of the legal register. Through these strategies, a stable balance can be struck between faithfulness to the source text and adaptability to the target system, and between professional rigor and readability. Translations produced in this way can not only accurately convey legal concepts in the source language but also conform to the expression norms and authority requirements of the target legal context.

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