

Teaching Legal Translation from Intercultural Communication Perspectives: Challenges and Proposed Recommendations

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Abstract

In the international integration era, intercultural communication has become an integral part fostering the globalization process. As a means of communication intermediary within different parts of the world, translation should not only communicate the original message but also support the understanding among partners. Teaching translation from intercultural communication perspectives, therefore, has attracted the attention of educators. This current study endeavors to ascertain the challenges of teaching translation in a context of a Vietnamese law school from the perspective of intercultural communication. Semi-structured interviews were conducted with seven lecturers of translation to clarify their views on teaching translation during the second semester of the academic year 2023-2024. Interestingly, the result acknowledges the obstacles concerning learners' insufficient knowledge, their neglect of culture and intercultural importance, teaching materials and teaching methods. Based on such findings, several recommendations in terms of raising learners' awareness, improving teaching content and materials as well as teaching methods were made with the hope of enhancing the teaching and learning translation process in the context of global intercultural communication.

1. INTRODUCTION

Undeniably, languages and cultures are indispensable as the formulation and development of languages are closely connected to that of cultures. Within the emergence of 4.0 technology revolution, the need for intercultural communication has become increasingly essential and strongly promoted. In such contexts, translation serves as a communication intermediary reinforcing the cultural exchange and integration process between countries. Translation, therefore, should not only focus on the use of languages in grammatical and lexical forms but also in other dimensions including semantics, pragmatics and cultures to convey the content and message of the source language to the target language the most effectively and precisely. In other words, translators are required to hold deep understanding of cultures of both source language and target language. This requisite is reasonable explained by the fact that in

the process of translating, translators do not simply transfer the original expression to its equivalence but shall grasp its intrinsic meanings.

In the current context of globalization and internationalization, the cooperation between states requires different types of legal documents to be translated. Legal translation is deemed as a useful guideline for future law enforcement officers to understand the nature of the legal documents they will be dealing with in their future career and develop English skills in legal vocabulary. It is undeniable that legal translation is a necessary skill as well as a potential profession for graduates. Including legal translation into the curriculum of law schools, therefore, is becoming of great importance.

Legal translation is distinctive from other types of technical and specific translation, which makes it the most challenging area. This indicates that both translation learners and teachers, either novice or experienced translators encounter difficulties in the process of learning and teaching legal translation. Such difficulties have attracted several scholars to conduct translation studies on law and its related courses (Camelia, 2014; Karjo, 2015; Kobyakova & Habenko, 2017).

At N Law university, legal translation has been integrated as a compulsory subject in legal English major training program since the academic year 2014-2015. Several obstacles have been recognized in the process of teaching, yet limited research covering such issues has been carried out. This current study is, therefore, motivated to be conducted to investigate the difficulties in teaching legal translation from intercultural perspectives.

2. THEORETICAL FRAMEWORK

2.1. Legal Translation

Legal translation is defined by Cao (2010) as the rendering of legal texts from the source language into the target language. Legal translation is said to be a complex process which requires special skills, knowledge, and experience on the part of the translator (Al-Tameemi & Farhan, 2016). This is due to the fact that legal translation involves both the knowledge of law, legal process and linguistic aspects.

Obviously, legal translation requires absolute accuracy for the reason that it is associated with law. Hence, the translators' responsibility is to reconstruct the structure and substance of the source text as closely as possible as Šarčević (1997) stated that "literal translation (the stricter the better) was the golden rule for legal texts" (p.127). Legal translation, nevertheless, is not a mere translation of a written text from one language into another but a transfer of legal aspects from to target text in which it might not be found. Therefore, Šarčević (1997) also held the view that translators cannot be always expected to produce parallel texts that are equal in meaning, yet they are expected to produce texts that are equal in legal effect. In other words, the translated legal texts are not understood linguistically but legally. To achieve such effect, legal translators are required to work not only between two languages but also between two legal systems and legal cultures. The translators need to bear in mind that legal system in source text is designed in the way that fits source text culture; as well as the readers of target language might adapt to the other legal system and its language which are

completely different from that in source text (Al-Tameemi & Farhan, 2016). Sarcevic (1997) also adds that “unlike other areas of special-purpose translation, the main goal of legal translators cannot be to produce a text with the same meaning as the message of the source text” (p.70).

2.2. Intercultural communication

Pearson and Nelson (2000) defined communication as the sharing of understanding and meaning. Communication is constituted upon four key elements: the content, the characters, the means and the contexts of communication.

The notion of communication across cultures has formulated for years since communication is not among people within one country, one culture yet outside its boundaries. Until the year 1959, Hall published a book called “The silent language” mentioning the terms of intracultural communication and intercultural communication. Despite distinctions in defining intercultural communication, several scholars held similar viewpoints that intercultural communication can be construed as information exchange among those whose cultural differences are perceived (Baker, 2022; Baker, 2024; Barnett & Lee, 2002; Zhu, 2019). More specifically, intercultural communication is between different cultures and cultural communities with diversified ways of life and world views. This activity not only requires communicators to hold linguistic competence but also have an understanding of different cultures other than their own. Bennett, (2009) affirmed that in order for successful communication in other cultures, intercultural communication competence, defined as “individual’s ability to communicate and interact across cultural boundaries” (Byram, 1997, p.7) is of great necessity. Byram (1997) and Deardorff (2008) confirmed that intercultural communication competence is an effective interaction ability on the basis of three factors, including attitudes, knowledge, and skills which are expanded to the willing attitudes of communicators to be involved in intercultural contexts, sufficient cultural knowledge (Alred et al., 2002), and skills of interpreting, interacting and addressing cultures effectively (Sercu, 2005). Similarly, according to Nguyen (2016), knowledge refers to both linguistic and cultural knowledge, skills include the observing, evaluating, analyzing and criticizing skills when considering issues related to cultural meanings. Attitudes are attributed to the respects, appreciation for cultural diversity and willingness to learn and adopt different cultural elements.

Undeniably, languages and cultures have closely reciprocal relationships in intercultural communication as Baker (1992) denoted that language is not a neutral means of forming meanings and knowledge related to an independent world of objects outside the language, but the constituents of such meanings and knowledge. To be more specific, in intercultural communication, distinctive cultural resources and languages are taken advantages and negotiated to intersect cultural identities from low to high scales. By reason of its focus on linguistic and cultural practices, language learning and teaching is inevitably an intercultural process, whether or not it is explicitly recognized. Teaching a language in general and teaching translation in particular, accordingly, need to concentrate on developing learners’ intercultural communication competence.

Intercultural communication competence is an important factor directly affecting the ability to use a foreign language, the ability to communicate socially and adjust learners' attitudes and behaviors in the context of cross-cultural communication. Accordingly, the concept of "language teaching" is recently also known as "intercultural language teaching" to emphasize the role of cultural elements. Alternatively, learning and teaching a language focuses on within linguistic elements (phonetics, vocabulary, grammar) without outside-linguistic elements (cultures, society) leading to the gradual loss of learners' capacity to communicate interculturally.

Similarly, in the context of globalization, the role of translation is undeniable for its serve as an intermediary tool enhancing the cultural exchange and communication between countries. Newmark (1995) viewed translation as re-expression of the meaning of a text from one language into another as the meaning intended. Nida (1964) clarified that the intended meaning of a text depends on two factors, i.e., syntactic and cultural contents. Understandably, culture is the key to grasp text meaning. In relation to translation teaching, one important insight from intercultural communication research noted that translation requires the competence to interact across and through not only linguistic but also cultural borders (House, 2015). In fact, languages and cultures between countries and regions bear no similarities, or even differences. Therefore, a translator's solely linguistic knowledge without cultural knowledge does not ensure the most equivalent and accurate conveyance in target language. Teaching translation, obviously, requires the lectures' capacity to equip learners with knowledge, especially culture knowledge, translating skills and positive attitudes towards cultural non-equivalence.

3. METHOD

3.1.Participants

This study utilized qualitative research design to investigate the challenges of translation lecturers from intercultural communication perspectives during the process of teaching translation for legal English majors at a Law University, Vietnam. Seven lecturers including four tenured lectures and three visiting lectures, aged from 33 to 42 years old, took part in the semi-structured interviews to share their viewpoints. All of them hold master degrees either in linguistic, teaching English methodology or translating majors and have more than three years of teaching translation. Moreover, it should be noted that at this Law university, legal English majors are required to study two compulsory translation courses, namely translation 1, translation 2 and one optional advanced translation course. Also, the participants take part in teaching all of the three named translation courses.

3.2.Data collection instrument

Semi-structured interview is the sole research instrument to delve into the participants' viewpoints on their challenges of teaching translation from intercultural communication perspectives. The interview consisted of three broad questions regarding the importance of cultures, the challenges and proposed solutions in the translation teaching process.

3.3.Data collection and data analysis

The interviews with teachers of translators were conducted during the second semester of academic year 2023-2024 at a Law University. The researcher contacted the lecturers for their consent of taking part in the interview. The interview with each lecturer was carried out in private, either face-to-face or virtually via Microsoft team in up-to 20-30 minutes. Note-takings and recordings with the approval of the interviewees were utilized to collect data for qualitative analysis. To ensure the clarity, all the interviews were conducted in the first language – Vietnamese. After that, the data was labelled from T#1 to T#7, then transcribed into English before categorizing into common theme to deeply explore teachers' views on the challenges of teaching translation from intercultural communication perspectives.

4. RESULTS AND DISCUSSION

The findings were presented in thematic analysis from teachers' perspectives in three aspects regarding obstacles they have during the process of teaching translation from intercultural communication perspectives.

4.1.Challenges related to learners' insufficient knowledge

The first challenge is mentioned concerning learners' insufficient knowledge, which includes both linguistic and culture aspects. The prior refers to the use of language ranging from word to sentence levels, which are affirmed by the majority of lecturers (6 out of 7).

"I have to say that many of the students have linguistic problems ranging from the word choice, to the use of words in each context. I have to spend time checking and providing words, phrases as well as explaining the use of archaic terms, borrowed words of legal terms that may be unfamiliar to the majority of students." (T#1)

Sharing the similar opinion, T#5 asserted that:

"Students have poor vocabulary sources when they are required to translate. I noticed that, learners' linguistic knowledge is not sufficient. Several even admitted that their mind goes blank every time they do translation tasks. Such problem leads to an ineffective lesson when teachers have to check and correct most of the time."

As noted, legal English itself is difficult even for English natives to understand for the reason that it includes a system of complex words used by experts such as legal terms of art, legalese and common terms with uncommon meaning (Veretina-Chiriak, 2012). Moreover, in legal language, the writing conventions are different in the sense that the structures of sentence are peculiar, Latin terms are used instead of common words or the use of unusual pronouns and unusual set phrases is found (Veretina-Chiriak, 2012). Therefore, learners' insufficient knowledge of legal English features made it difficult for teachers to teach effectively.

Beside the insufficient knowledge of legal English words or phrases, the view that *"learners usually make grammatical errors, especially when they use complex sentences despite their English majors"* received the agreement of 5 out of 7 lecturers.

“Long and complex sentences are one of the main features of legal English, which poses great obstacles to both learners and teachers. Undeniably, many students find it difficult to put ideas logically, clearly and in a target language. Therefore, students’ lack of linguistic resources is considered an issue affecting my lesson”. T#6

Yet, one much harder problem regards knowledge of legal culture and intercultural communication among learners. Due to the fact that legal translation involves law and legal process, the first arising problem is the differences between English and Vietnamese legal systems. Legal English links to the common-law system mainly based on the doctrine of precedent while the Vietnamese legal system follows civil law tradition based on legislation. Accordingly, regarding cultural aspects, all of the interviewed lecturers stated that learners’ deficiency of legal cultural knowledge constituted a barrier obstructing teaching and learning process. It came as no surprise that when teachers shared the opinion that a satisfactory translation of system-bound legal terms from source language to target language is non-understandable. This finding is consistent with Cao (2007) who affirmed that law is culturally and jurisdictionally specific to each country and legal tradition. Such culture-related barrier emerges significantly due to the disparity in the common law and civil law legal system as Šarčević (2000) denoted that the translation of a legal text from one system to the other does not mean a surface translation but a more complex “legal transposition”, especially in the days of intercultural communication.

“Different countries follow different legal traditions, which affects their legal languages. In other words, disparity in legal systems leads to the lack of equivalent terminologies when translating from a source language into a target one. In such cases, a teacher is required to provide learners with sufficient knowledge of law and legal culture to find the most suitable expression.” T#4

“Actually, there are many concepts existed in the U.S, UK legal traditions, for example, “equity”, yet no concept of “equity” is available in legal system in Vietnam as a source of law. When translating this term into Vietnamese, it is merely the way of linguistic translation, not for the legal effect if students have no legal culture knowledge of the source language”. T#3

“Students’ lack of legal culture knowledge of both source language and target language poses challenges on learning and teaching process. Take the legal culture system-bound term “Miranda Warning” in the US as an example. In this situation, I need to explain the origin of the term, which is bound by its legal cultural-related history. Without such background knowledge, learners are not able to grasp its meaning and comprehending.” T#6

In short, it can be concluded that inadequate learners’ knowledge including linguistic and cultural foundation knowledge of legal issues can be a significant barrier for both teachers and learners in the learning and teaching process, especially in the context of globalization when intercultural communication emphasizes its role.

4.2.Challenges related to translating skills and competence

Difficulties in teaching legal translation are not only attributed to learners' inadequate knowledge but also to their translating skills and competence.

All of the interviewed teachers agreed that a major part of learners have little experience in practicing legal translation resulting in lack of translating skills and competence. It, therefore, takes a lot of time for students to translate one text from one language into another. *"Even time for completing tasks in the book is not enough, no time for extra exercises for drilling."* Said T#4.

"I think that, a high number of students lack textual competence, the ability to carry out textual analysis to determine regularities and convention of texts, genres and text types. As a translator, having the ability to distinguish texts is important for the reason that it is closely related to how the texts are translated (Zainurrahman, 2010). In term of legal translation, this kind of competence is even more crucial because of the long and complex sentences used in legal context" T#1manifested.

Transfer competence is also mentioned as the most important and challenging that learners have to hold when dealing with legal translation, without which both learners and teachers have difficulty in teaching and learning process.

"The ultimate goal of translation is to render exactly the meaning of the source language to the target language. Transfer competence would help the translators precisely and entirely understand the meaning of source text and then transfer it to the targe language. Admittedly, even a bilingual person is unable to create a sufficient translation of a legal document without competence. Transfer competence is formulated and developed through learners' practice and experience. Yet, learners are inexperienced translators, and lack of transfer competence is definitely out of the question"- T#7

4.3.Challenges related to learners' neglect of the importance of culture and intercultural communication

Although there are either compulsory or optional culture subjects such as: American English Culture, intercultural communication in the curriculum of legal English majors training program at Hanoi Law University, learners themselves are not aware of the importance of culture in language learning in general and translation in particular as T#5 addressed:

"I notice that, learners do not realize the necessity of culture subjects in the training program. The majority of them seem to neglect its role or focus only on developing language skills without recognizing the effective ways relating to cultural aspects. As noted, in translation, cultural competence is a key element contributing to the success of transferring the meaning of a source language into a target one. Thus, such neglect of culture knowledge negatively affects their transfer competence, or in other words, their translation quality".

“Learners are not really serious in approaching the culture and intercultural communication subject and applying that knowledge in translation despite being informed about its importance, leading to not-open attitudes when accessing newly cultural terms in translated legal documents”. T#6

Clearly, apathetic attitude of learners towards the cultural elements in studying materials is a problematic concern affecting teaching and learning process, especially when cultures and languages are indispensable. Learners cannot deeply understand concepts and their meanings if the cultural knowledge is not grasped.

4.4.Challenges related to teaching materials

Teaching material issue is another challenge the participants mentioned in the interview as T#1 shared the views:

“Currently, the learning material used in teaching translation courses for legal English majors in this current study is the Legal Translation and Interpreting course book, which is considered the main, basic one covering various topics related to legal fields. However, the content of cultural awareness is still blurred and the orientation of intercultural communication is still unclear”

In addition to the compulsory learning and teaching materials, lecturers are also encouraged to utilize updated translated texts to enrich, diversify the existing teaching contents. Teachers, actually, also meet difficulties in choosing suitable supplementary materials.

“In the field of translation teaching methodology, there are different principles for selecting texts and learning materials, in which the text ensures its suitability in teaching method, authenticity, topic, level of difficulty, text type, text length, attractiveness and topicality. However, in practice, the learning materials in translation lessons are mainly newsletters, articles, and documents whose main function is informative. Undeniably, the texts utilized in translation lessons are still monotonous, which is no longer consistent with the extremely rich and diverse practice of translation. Thus, teachers still have difficulty choosing appropriate texts that both ensure lesson objectives, attractiveness, topicality, and exploit the cultural elements of the texts to enhance learners' intercultural communication skills”. T#3

4.5.Challenges related to teaching methodology

In terms of teaching methodology, four tenured lecturers admitted having troubles in teaching methodology as they are trained as lecturers of teaching English as a foreign language, without formal training as lecturers of teaching translation. Moreover, all of them have no experience in legal translation practice, thereby providing and sharing learners with appropriate translation tactics or strategies seemed to be problematic.

Obviously, lecturers of translation, in addition to being skillful at both the source and target languages, need to be formally trained in translation teaching methodology as translation is not simply a translation of words and terms, but requires the expression of cultural elements to accurately convey the meaning of the source text. In other words, in addition to linguistic competence, teachers are expected to hold other types of competence such as: contextual competency, cultural competency, specialized competency, and translation competency (Neubert, 2000) besides experiences in practicing translation.

5. PEDAGOGICAL RECOMMENDATIONS

Based on the findings of this current study, several pedagogical recommendations are proposed with the hope of enhancing teaching and learning translation process from intercultural communication perspectives.

5.1. Raising learners' awareness of the importance of linguistics and cultural aspects in language learning

Notably, translation skills cannot be enhanced without the development of linguistic and cultural knowledge. To be more effective in approaching translation from the intercultural communication perspectives, cultural orientation activities can be taken into consideration for raising students' awareness of its importance in translation for students to proactively and actively update cultural knowledge. Simultaneously, formulating their own learning plan which focuses on their enhancement of both language and culture knowledge in legal fields constitutes as the fundamental element fostering learning and teaching translation process.

5.2. Teaching content and materials

It can be noted that, in order to solve the problems in teaching translation, lecturers, acting as the facilitators of the lessons, also need to pay attention to the choice of teaching and learning materials to maximize learners' culture exposure. As mentioned, translation teaching materials include core and supplementary documents. The prior is provided to students with the purpose of supplying them with a solid and consistent background knowledge while the latter is selected by the lecturer creating the flexibility in teaching. It is advisory that instructors of translation should prioritize the selection of materials based on the specified topic and difficulty level, followed by current issues occurring at the time of teaching, and especially legal documents with standard source and target languages.

With the above status quos, in order to enhance students' intercultural translation capacity, the curriculum and teaching content need to put more emphasis on intercultural communication orientation in subject requirements, learning outcomes as well as assessment methods. Accordingly, teaching materials should be organized and arranged suitably. Cultural contents, especially legal cultures, accompanied by reasonable explanations, are recommended to be compiled into a set of supplementary documents introduced to learners. In addition, this cultural knowledge could be included in compulsory and prioritized content in foundational modules such as translation theory so that students can fully grasp the necessary knowledge.

Furthermore, a number of subjects on law and comparative legal systems are to be added to the curriculum in order that learners are likely to acquire background knowledge about legal culture, legal systems of other countries, serving for their legal translation practice.

5.3. Teaching methodology

To ensure the teaching quality of legal translation, a number of well-trained and experienced teachers of translation are necessitated to prioritize the development of students' translation capacity in languages and intercultural communications.

5.3.1. Instructing learners to compare and contrast legal traditions

Obviously, cultural knowledge can be improved by analyzing the text, comparing the source text with the target text during the translation process. In addition, creating activities such as discussions, group presentations or project-based learning is advisory for both learners and teachers to analyze meanings, compare cultures and come up with the most appropriate translation versions. Instructors can choose a number of texts with different topics and assign groups to self-study, discuss and present their translations to the class. Students' translation versions are, therefore, very diverse and maximize their ability to compare cultures as well as recreate communication messages into language.

5.3.2. Instructing learners to access and analyze legal documents from intercultural communication perspectives

In order to be able to adapt the text from the source language to the target language, the translated text requires translation equivalence. To achieve that, it is necessary that lecturers guide and provide learners with strategies to analyze source text from the vocabulary, sentence, to paragraph levels, followed by the semantic, pragmatic, and cultural levels.

Language level: vocabulary, sentences, paragraphs

Lecturers instruct learners to specifically analyze the meaning of key words and terms to grasp the meaning of the source text, and simultaneously focus on its meaning in different communication situations. Moreover, when translating sentences, intercultural communication elements are considered to convey in the translation, thereby guiding learners to access the source text and adapt it to the target text. Teachers should also instruct learners to read and analyze intra-text elements to comprehend communication content as well as identify communication characters, communication means and communication contexts in specific texts.

From semantics to pragmatics level

One of the semantic analysis activities is that the teacher can require learners to restate the meaning of phrases, sentences, and paragraphs to clarify the meaning of the source text. There are sentences that may be simple in form but carry deep inner pragmatic meaning. Translation, therefore, not only conveys the exact meaning of the sentence but also addresses the pragmatics and the author's intention. The translation teaching method allows students to practice evaluating pragmatics and translating to the target text.

5.3.3. Instructing learners to deal with distinctive features of cultures

Guidance on identifying non-equivalent issues and translation strategies

Cultures between countries are different. In other words, in translation, there are many cultural non-equivalencies between the source language and the target language. In such cases, the translator is required to take measures to ensure that the target text meets the requirements. For example, Vietnamese people often put the temporal component in the first clause while American/English people are more direct and mention the main content first. Accordingly, it is necessary for the translator to handle this non-equivalence by transposing the position between the source text and the target text.

Guidelines for managing the impact of the subject culture and the translator's personal emotions on cultural elements in the source text

Both teachers and learners are to be aware of cultural differences so as not to impose their own culture on the translation because this can change or even distort the meaning and intention of the source text. Translators, therefore, are recommended to comprehend the culture of the source and target languages to adapt appropriately, depending on each context to translate in the most appropriate way. For example, the term "college" in Vietnamese education often refers to the lower level of education than tertiary education. In the American education system, "college" is a specific field of "university". Most Americans use "college" instead of "university" to refer to university education. Translators need to be aware of this issue to express the source text most accurately.

6. CONCLUSION

Generally, in the current context of globalization, the need for intercultural communication becomes more urgent than ever. Communicators are expected to equip themselves with cultural knowledge and intercultural communication skills when communicating in other cultures and languages. Translation is an important tool, helping participants in intercultural communication to understand each other's communication messages. A satisfactory translation must not only be accurate or equivalent in language, content, and form, but must also be expressed in accordance with semantics, pragmatics, and appropriate to the recipient's culture. Therefore, in foreign language teaching in general and translation teaching in particular, providing learners with knowledge about the culture of both the source and target languages proves to be of great necessity.

Furthermore, to foster intercultural translation capacity for students, translation teaching methodology requires much attention to develop learners' necessary knowledge, skills and attitude in producing a translation conveying intercultural communication. Specifically, translation teaching activities in the classroom, as well as training programs, call for creating opportunities for students to compare cultures from the perspective of source and target readers. Students are also trained how to evaluate, and analyze elements of intercultural communication in the translation process, including analyzing and converting the meaning of the source text, as well as recreating its meaning into the target text through word, sentence, semantic and pragmatic levels.

Additionally, it is essential to equip students with a positive attitude when handling cultural differences in translation by identifying non-equivalent issues between the two cultures, managing and moderating subjective feelings during the translation process to create the most equivalent and accurate translation of the source text.

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