Features of Legal Language & Translation strategies

Legal Translation

Summer Term- Class 2

When translating a contract, it is crucial that the translator be acquainted with the local culture and have knowledge of legal texts of the countries involved.

Legal translation is often required to be certified:

I, _____, certified by the (state name) Administrative Office of the Courts for Spanish-English court interpreting and accredited by the American Translators Association for Spanish-English translation, do hereby declare that the attached birth certificate, identified with serial number _____, is a true and correct translation of the Spanish original.

Features of legal language

- Legal language is characterized by: accuracy-clarity – directness.

- Long complex sentences with intricate coordination and subordination:

Applications for membership shall be in writing, on forms provided for that purpose, and signed by the applicant. Election of members shall be by the affirmative vote of the majority of the Board of Directors at any meeting thereof. Any applicant so elected shall become a member upon payment of the regularly scheduled investment.

- Frequent repetition of particular words, expressions and structures, example:

Powers of vice- chair. Where

member of a Board is appointed to be **vice-chair** either by the Assembly or under regulation10, and

the **chair** of the Board has died or has ceased to hold office, or is unable to perform the duties of **chair** owing to illness, absence from England and Wales or any other cause, the **vice-chair** shall act as **chair** until a new **chair** is appointed or the existing **chair** resumes the duties of **chair**, as the case may be; and references to the **chair** in Schedule 3 shall, so long as there is no **chair** able to perform the duties of chair, be taken to include references to the **vice-chair**.

- **Use of conjoined phrases (and, or, by):**

  Any person, association, corporation or partnership having an interest in the objectives of the organization shall be eligible for membership.

- **Archaic or rarely used words and expressions such as**:
  - Be it enacted by the Queen’s most Excellent Majesty, aforesaid; hereinafter;

- **Use of Binomials:**
  - terms and conditions شروط و أحكام
  - keep and maintain يحافظ على
  - Null and void باطل ولاغ

- **Foreign words and Latinisms**
  - "If in case B, a court with power to overrule case A says that case A is overruled, the *ratio decidendi* of case A ceases altogether to have any authority so far as the doctrine of precedent is concerned." Another example is the phrase; *bona fide* which means "in good faith."
- **Nominalisation:** the use of the noun form rather than verb:
  - An amendment to the Constitution of Canada may be made by proclamation issued by the Governor General … No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law.
  - Discovery to discover
  - Agreement to agree
  - Management to manage

- **The use of the passive**,
  - The acronym EURES shall be used exclusively for activities within EURES. It shall be illustrated by a standard logo, defined by a graphic design scheme. The logo shall be registered as a Community trade mark at the Office for Harmonisation in the Internal Market (OHIM). It may be used by the EURES members and partners.

- **Impersonal style**,
  - No one may be subjected to slavery, servitude or forced labour. Everyone has the right of access to a) any information held by the state and b) any information that is held by another person and that is required for the exercise or protection of any rights.

- **Avoidance of pronouns and gender specific references:**
  - Tenant shall pay rent to the Landlord at (his) Landlord office.
  - Borrower shall comply with all of its covenants to Bank set forth in and arising from the Loan Agreement.
  - The use of the masculine gender herein shall be deemed to refer to the feminine and neuter gender, and the use of the singular shall be deemed to refer to the plural, and vice-versa, whenever the context so requires.

Translation strategies:

- **تستخدم صيغة "shall" بصفة رئيسية للتعبير عن**

الإلزام : obligation وتستخدم shall في هذا السياق بمعنى على فلان أن يفعل أو يجب على فلان أن يفعل، لا سيما، إذا كان الفاعل الذي يسبقها شخصًا سواء كان هذا الشخص طبيعيًا (physical person)أو معنويًا (juristic person) كأن يكون شركة، أو هيئة ..أو إلخ

على المستأجر دفع الأجرة في موعد غايته الخامس من كل شهر .

Tenant shall pay the rent no later than the fifth day of each month.

على العامل الالتزام بمواعيد العمل الرسمية .

Employee shall adhere to official working times.

على مراقب الحسابات أن يخطر البنك كتابةً عن أي خطًا أو مخالفة .

Auditor shall notify the bank in writing of any mistake or violation.

استخدام صيغة "may" أو :"may not"

تفيد كلمة "may" جواز حدوث الفعل is permitted to أو حرية الفاعل في أن يفعل أو لا يفعل has discretion to. لذا تترجم يجوز أو لفلان أن يفعل .

يجوز لوزير البترول أن يبرم اتفاقيات امتياز مع شركات أجنبية للبحث عن البترول.

The Petroleum Minister may enter into concession Agreements with foreign companies for petroleum exploration.

يجوز للمالك أن يدخل السكن بدون موافقة المستأجر في حالة وقوع حادث طارئ .

The Owner may enter the dwelling without the Tenant’s consent in case of emergency.

- **لا يجوز للمقاول التنازل عن العقد للغير بدون موافقة كتابية من صاحب العمل .**

The Contractor may not assign the Contract to a third party without a written consent from the Employer.

استخدام تركيبات من الكلمات "here" و "there"و + "where" كلمات شبيه بحروف الجر. ومن أمثلة ذلك .

Hereto, hereby, hereunder, herewith, herein, hereinafter, hereinabove, etc.

"here" تعني هذه الوثيقة فإذا كانت الوثيقة عقدًا تعني هذا العقد، وإذا كانت الوثيقة اتفاقية تعني هذه الاتفاقية .

- **السيد X المشار إليه فيما بعد بـ .....**
- Mr. X hereinafter referred to as .....

- **اتفق الطرفان بموجب هذا العقد على ما يلي:**
- Both parties hereby agree as follows:

The above preamble shall be deemed an integral part of this Agreement and the annexes attached to it.	**The above preamble shall be deemed an integral part of this Agreement and the annexes attached thereto.**

- **Punctuations, strictly follow.**

- **Abbreviations**
  - UAE: الامارات العربية المتحدة
  - UNRWA: منظمة الأونروا
  - If the acronym is not well-known in Arabic write in English and translate.

- **Capital letters**

Most common approach in legal translation

“The approach which seems to present itself most readily is ‘literal’ translation. Unless there is a good reason to do otherwise, translators must adhere to source text syntax (e.g. word order) and semantics (e.g. the succinct expression of what word denote).” (Hatim 1997:14)

Resources for translators

- Dictionaries and Encyclopedias.
- Thesaurus ! Beware
- Glossaries
  - **Riba** In Islamic finance, riba is commonly translated as interest rate or excess. The prohibition of riba is the cornerstone of Islamic finance.
  - **Misdemeanor** A criminal offense lesser than a felony and generally punishable by fine or by imprisonment other than in a penitentiary.

  - Online resources

Some useful references

- Asensio, Roberto. 2003. *Translating Official Documents.* Manchester: St. Jerome.
- Alcaraz, Varo Enrique & Hughes, Brian. 2002. *Legal Translation Explained.* Manchester: St. Jerome.

- صبره، محمود محمد علي. 2003. *ترجمة العقود الإدارية*. مصر: دار الكتب القانونية.
- الفاروقي، حارث سليمان.2000. *المعجم القانوني*. مكتبة لبنان ناشرون.

- Practice

- يقر المشتري بأنه قام على الوجه الأكمل على الطبيعة بالمعاينات المتعلقة باقتناء العقار، وبانه سيقتني العقار استنادا إلى هذه المعاينة.

- Buyer <u>represents and warrants</u> that Buyer has completed all physical examinations relating to the acquisition of the Property and will acquire the same solely on the basis of such examination.

- The Tenant shall pay all taxes regularly levied and assessed against the premises and keep the same in repair.

- يدفع المستأجر كل الضرائب التي تتم جمعها و تقديرها بشكل منتظم على العقار، و يحافظ على العقار بحالة جيدة.

Power of Attorney

- What is a power of attorney?

Power of attorney is granted to an “attorney-in-fact” or “agent” to give that individual the legal authority to make decisions for an incapacitated “principal.” The laws for creating a power of attorney vary from state to state, but there are certain general guidelines to follow. Before you or a loved one signs any documents, however, be sure to consult with an attorney concerning all applicable laws and regulations.

- There are multiple decisions that the attorney-in-fact can be given the power to make, including the power to:
  - Make financial decisions
  - Make gifts of money
  - Make health care decisions, including the ability to consent to giving, withholding, or stopping medical treatments, services, or diagnostic procedures. (Note: your loved one can also make a separate “health care power of attorney” to give only this power to an individual.)
  - Recommend a guardian

- There are different types of power of attorney:
  - General
  - Special