

# *Introduction to Legal Translation*

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# *History of Legal Discourse*

## *In English..*

- French and Latin were the languages of education.
- Legal English began as a combination of English, French, and Latin.
- French became the language of law with Latin terms and word order being used to make legal language more complicated.
- A law was passed in 1731 for English to be used as the language of the law but the influence of French and Latin remained.
- Legal translation gained importance in the 20<sup>th</sup> century with globalization and the establishment of international organizations (e.g., the UN).

### *In Arabic...*

- With the rise of Islam, the Holy Qur'an set the laws for Muslims.
- The Prophet Peace be Upon Him and some of the Caliphates that followed him signed treaties with different peoples.

# *Legal Language*

- Specialized (LSP/LLP)
- Register
- May be incomprehensible
- Relevant to the legal system
- Specific and general features

# *Legal Texts*

1. Legislative texts (e.g., international treaties, laws produced by lawmaking authorities, constitutions)
2. Judicial texts (e.g., texts produced during judicial processes by judicial officers or legal authorities, cases, legal reports, court rulings or verdicts)
3. Legal scholarly texts (e.g., texts produced by academic lawyers or legal scholars)
4. Private legal texts (e.g., texts written by lawyers such as contracts, deeds, and wills; and also texts written by non-lawyers such as private agreements and witness statements – documents written for legal purposes)

# *Features of Legal Language*

## **1. Lexical Features**

- Special terminology/expressions
- Archaic words (e.g., hereby, thereby, aforesaid, hereof, said)
- Foreign words (e.g., lesser, lessee, bona fide, ipso facto, court, evidence, jury, property)
- Formal usage (e.g., shall, may, your honor, His Royal Highness, I solemnly swear....)
- Formulaic expressions
- Very specific and precise wording
- Binomial expressions/doublets and triplets
- Special use of capitalization

## 2. Syntactic Features

- Special syntactic features of legal language
- Long and complex sentences
- Nominalization – using a noun instead of its verb
- Passivization – to emphasize the formal impersonal style of legal writing



### 3. Pragmatic Features

- Performative in nature
- Performative models that express implicit speech acts (e.g., “may” for permission, “may not” for prohibition, “shall” for obligation, and “shall not” for prohibition)
- Performative verbs that express explicit speech acts (e.g., declare, announce, promise, undertake, enact, confer, amend, certify, confirm)

#### **4. Stylistic Features**

- Legal language is characterized by an impersonal, formal style
- Different types of legal language have their own characteristics of legal style
- Regional variations

## 5. Textual Features

- Texts are divided into sections and subsections with headings and subheadings
- Some types of legal texts include a section for definitions (i.e., contextual meaning is essential in such documents)
- Some cohesive devices are commonly used in legal language to avoid using pronouns if using them causes ambiguity. For example:
  - Repetition
  - Other words, such as hereunder, hereafter, herein, aforesaid, such, said

# *The Plain Language Movement*

The Plain Language Movement was a movement that aimed to make legal language more accessible to the layman. It called for:

- Replacing archaic, rarely used, and foreign words/terms/expressions with those closer to everyday use
- Removing unnecessary words and expressions
- Reducing sentence length
- Reducing the use of passive voice constructions
- Reducing the use of nominalization
- Ensuring the text is gender-neutral
- Replacing *shall* with *must*, the construction *is/are to* (e.g., There is to be a regulation....), or the present simple tense

# *Legal translation within translation*

## **Types of Translation**

- General Translation
- Literary Translation
- Specialized/Technical Translation
  
- *Legal Translation* →
  - Specialized/technical translation – LSP (language for special purpose “LLP”)

# *Legal Translation*

- Legal translation is the rendering of legal texts from the SL to the TL.
- It is the translation of texts used in law and legal settings

## **Types of legal translation:**

1. *Legal translation for normative purposes:* Both texts have equal legal force (e.g., legal texts in bilingual jurisdictions such as Canada and Hong Kong, multilingual legal instruments of the UN, multilingual laws of the EU)
2. *Legal translation for informative purposes:* Only the ST has legal force. (e.g., the translation of different legal documents for the purpose of informing target readers)
3. *Legal translation for general (judicial) purposes:* Translation of documents used in court proceeding or as evidence

# *Why is legal translation difficult?!*

1. Different legal systems have different laws
2. Linguistic differences between the SL and TL
3. Cultural differences between the cultures of the SL and TL

# *The Legal Translator*

1. Basic knowledge of the legal systems of both SL and TL
2. Familiarity with relevant legal terminology in SL and TL
3. Competence in TL legal writing style



# *Translating Legal Language*

- Shall
- May
- Here/there + preposition
- Anaphoric devices
- Proviso Clauses

# Shall

- تُستخدم للتعبير عن الإلزام وليس للتعبير عن المستقبل
- في النص القانوني يُترجم التركيب الفعلي الذي يبدأ بالفعل المساعد «shall» إلى اللغة العربية باستخدام صيغة المضارع
- من الممكن أن يحمل التركيب معنى الإلزام الصريح، وفي هذه الحالة يُترجم بما يفيد ذلك مثل: يتعين على أو على أو يلتزم أو غيرها من الصيغ العربية التي تدل على الإلزام مع مراعاة أن لا يُترجم التركيب الفعلي الذي يبدأ بالفعل المساعد «shall» الذي يدل على الإلزام الصريح إلى اللغة العربية باستخدام الفعل «يجب»
- وفي بعض السياقات لا يكون في معنى التركيب الفعلي الذي يبدأ بالفعل المساعد «shall» إلزاماً وفي هذه الحالة يُترجم باستخدام صيغة المضارع دون ما يدل على الإلزام

- The Company shall be exempted from all custom duties.

• تُعفى الشركة من كل الرسوم الجمركية.

- The Life Insured shall pay to the Insurance Company every subsequent premium in due time.

• على المؤمن عليه أن يدفع إلى شركة التأمين كل قسط تال في موعده المستحق.

# May

• يدل استخدام الفعل المساعد «may» على الجواز وعليه تُترجم باستخدام «يجوز»، كما تُترجم «may not» باستخدام «لا يجوز»

• وفي بعض حالات استخدام «may» يكون المعنى المقصود من السياق الإمكانية وليس الجواز، وفي هذه الحالات تُترجم بما يدل على ذلك مثل: قد أو من الممكن

- The Landlord may enter the property without the Tenant's consent in case of emergency.

• يجوز للمالك أن يدخل العقار بدون موافقة المستأجر في حالة الطوارئ.

- The Contractor may not assign the contract to a third party without the prior written consent of the Employer.

• لا يجوز أن يتنازل المقاول عن العقد لطرف ثالث دون موافقة خطية مُسبقة من صاحب العمل.

# *Here/There + Preposition*

- Using “here + preposition” is a feature of legal language. It functions like a demonstrative and refers to the document in which it occurs (e.g., contract, agreement, treaty).

→ Hereto, hereby, hereunder, hereof, herein, hereafter, hereinabove

- Mr. Ahmad hereinafter referred to as the First Party...

• السيد/ أحمد والمشار إليه فيما بعد في هذا العقد بالطرف الأول...

- Both parties hereby agree to the following:

• يتفق الطرفان بموجب هذا العقد على ما يلي:

- Using “there+ preposition” is a feature of legal language. It functions like a demonstrative and refers to the person, item, or situation just mentioned.

→ Thereto, thereof, thereby, therewith, therefor, therein

- The bank or any branch thereof

• البنك أو أي فرع من فروع

- The Agent shall have the right to open bank accounts and withdraw and deposit therein.

• يحق للوكيل فتح الحسابات البنكية والسحب من تلك الحسابات والإيداع فيها

# *Anaphoric Devices*

- Anaphoric devices are pronouns and demonstratives.
- Some strategies are followed to avoid using anaphoric devices because using them may cause ambiguity. Some of these strategies are:
  1. Repetition
  2. Using “which” + repeating the word
  3. Replacing the anaphoric device with such, said, or the same
  4. Using gender-free “it” instead of using a feminine or masculine pronoun
- If no ambiguity occurs, anaphoric devices may be used with care.



## 1. Repetition

- The Tenant shall pay to the Landlord at his office ...

• يدفع المستأجر إلى المؤجر في مكتبه ...

- The Tenant shall pay to the Landlord at the office of the Landlord ...

• يدفع المستأجر إلى المؤجر في مكتب المؤجر ...

## 2. Using “which” + repeating the word

- Any dispute between Aramco and the Company shall be settled by arbitration, which arbitration shall take place at the Department of Contracts in Aramco.

• يتم الفصل في أي نزاع بنشأ بين أرامكو والشركة عن طريق التحكيم على أن يتم التحكيم بإدارة العقود في أرامكو.

### 3. Replacing the anaphoric device with such, said, or the same

- Such and Said → to replace demonstratives
  - If the Contractor incurs any further costs, then the Employer shall take such costs into consideration.
- في حالة تحمل المقاول أي تكاليف إضافية، فعلى صاحب العمل أن يأخذ هذه التكاليف في الاعتبار.

- The same → to refer to a word/sentence previously mentioned in the text
  - The Tenant shall pay all the taxes regularly levied and assessed against the premises and keep the same in repair.

• على المستأجر أن يدفع كل الضرائب التي تتم جبايتها وتقديرها بشكل منتظم على العقار، ويحافظ على العقار بحالة جيدة.

#### **4. Using gender-free “it” instead of using a feminine or masculine pronoun**

- Borrower shall comply with all of its covenants to Bank set forth in and arising from the Loan Agreement.

• يلتزم المقترض بكل تعهداته للبنك التي يتم توضيحها في اتفاقية القرض والتي تنشأ عنها.

# *The Proviso Clause*

- The proviso clause is the expression “provided that” and it is a conditional.
- It is translated into Arabic using an expression that provides the same meaning of condition, such as:
  - بشرط أن
  - شريطة أن
  - على أن

The Landlord shall have the right, subject to the Tenant’s consent, to enter the dwelling to inspect the premises provided that the Landlord may enter the dwelling without the Tenant’s consent in case of emergency.

يحق للمالك بشرط موافقة المستأجر الدخول إلى المسكن لمعاينة العقار شريطة أنه يجوز للمالك الدخول للمسكن دون موافقة المستأجر في حالة الطوارئ.

# *Practice*

...

## *Translate the following:*

- Arbitration shall be held in Paris.
- The Renter shall be liable for any damage caused to the Owner by reason of any breach by the Renter of any stipulation herein contained.
- The Employer shall indemnify the Contractor against all claims, damages, costs, charges, and expenses resulting from any act or neglect on behalf of the Employer.



- The Minister of Petroleum may enter into concession agreements with foreign companies for petroleum exploration.
- The UN may hold fund, gold or currency of any kind.
- All persons born or naturalized in the USA and subject to jurisdiction thereof are citizens of the USA.
- The Labor Contract shall be made and written in clear language leaving no doubts or controversy regarding the rights and duties therein.

- No alterations in the terms and conditions of the contract or of the work to be performed thereunder shall release the Second Party from any liabilities hereunder.
- Both parties hereby agree to the following:
- If the Contractor suffers delay and/or incurs costs, then the Engineer shall take such delay into account.
- The First Party hereby grants, sells, and transfers unto the Second Party...

- The Agent shall have the power to sign any certificate of ownership, registration card, or any application thereof.
- So long as the Loan Agreement is in effect, the representations and warranties contained herein shall be true and correct and shall be deemed restated at the time each payment of principal and/or interest is required under the Loan Agreement.

# *Useful Links*

Please visit my website:

<http://fac.ksu.edu.sa/dsalamah>

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*Thank You!*