

Translation Features of English Notarial Texts and Their Reflection in Practice

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ABSTRACT

This article studies the translation features of English notarial texts and their manifestation in practical translation. Notarial translation is identified as one of the most complex and responsible areas of legal translation, since any ambiguity may lead to serious legal consequences. The study highlights the main factors determining the specificity of English notarial discourse: its basis in the Anglo-Saxon common law system, the use of archaic terms, the presence of Latin and Anglo-Norman elements, and the phenomenon of lacunarity or lack of equivalence when transferring concepts into civil law systems. Relying on the theoretical foundations of Šarčević, Alcaraz & Hughes, Cao, Prieto Ramos and others, the article compares equivalence-oriented translation with functional equivalence. It divides terminological difficulties into three groups: (1) terms with functional equivalents, (2) partial equivalence, and (3) lack of equivalence, where transcription, calquing or explanatory notes are required. Syntactic difficulties — passive constructions, nominalization and modal verbs (must, shall, may) — are analyzed together with stylistic features such as binomial expressions and archaic performative formulas. Practical cases include the translation of powers of attorney, affidavits and wills. The findings show that successful notarial translation requires not only bilingual competence, but also comparative legal knowledge. The article concludes that the functional equivalence approach, together with interdisciplinary cooperation between translation theory and comparative law, is essential for ensuring legal validity and communicative accuracy in notarial practice.

Keywords: Notarial translation, legal equivalence, functional equivalence, English-Uzbek legal translation, terminological inconsistency, acts of execution.

INTRODUCTION

Translation of notarial texts is considered one of the most complex and responsible areas of translation studies. Since such texts have legal force, an error in the translation of every phrase, every grammatical construction and every term in them may lead to real legal consequences. Therefore, a system of specific principles and approaches distinguishing notarial translation from ordinary text translation has been formed. As Mavis Šarčević emphasizes, legal translation is a special field that serves as a bridge between different legal systems and requires not only linguistic knowledge but also knowledge of comparative law.

The specific complexity of translating English notarial texts is determined by several main factors. First, English notarial discourse has been formed on the basis of the Anglo-Saxon common law system, while the civil law of many states belongs to a different system. The conceptual differences between these systems are not limited only to terminology, but are connected with the fundamental difference in the structure of legal relations. Second, archaic expressions, Latin and Norman-French elements, and standardized formulas widely used in notarial texts require the translator to find an appropriate equivalent both in form and content. Third, each legal system has its own

conceptual categories, and these categories may not have a full equivalent in another system; this phenomenon is called “lacunarity” or “non-equivalence” in translation theory.

Translation of notarial texts, as a separate branch of legal translation studies, relies on a specific theoretical foundation. As Enrique Alcaraz Varo and Brian Hughes note, in legal translation, interlingual correspondence must be ensured not only at the lexical level, but also at the conceptual, pragmatic and textual levels.

In translation theory, there are two main approaches to notarial texts. The first approach is equivalence-oriented translation. In this approach, an attempt is made to preserve the form and content of the original text as fully as possible. This approach is a priority from the point of view of preserving legal effect, since the translation of a notarial text is often required to have equal force with the original document in court proceedings and official circulation. The second approach is functional equivalence. In this case, it is necessary to find correspondence in the context of the target language for the legal function performed by the notarial act in the original text. As Dao Cao notes, the functional equivalence approach is of particular practical importance in translation between different legal systems, since word-for-word correspondence may often be problematic.

Fernando Prieto Ramos proposed a “parametric model” in the analysis of legal translation, in which the text level, genre level and discourse level are analyzed separately. In notarial texts, these three levels are closely interconnected: lexical choice at the text level is connected with the typological requirements of the genre, while the genre is connected with the institutional context of discourse.

In her research, Šarčević substantiated the need to distinguish between the concepts of “legal equivalent” and “functional equivalent” in the translation of notarial and other legal texts. In her opinion, the translator must possess not only linguistic knowledge, but also deep knowledge in the field of comparative law, since most notarial terms are system-bound and may not have a full equivalent in another legal system.

The main difficulty encountered in the translation of notarial texts is the problem of terminological incongruence. As Mellinkoff notes, many words in English legal language have a special meaning in legal texts that

differs fundamentally from ordinary language, which makes the translation process even more complex.

In practice, it is advisable to divide the terminological problems encountered in the translation of notarial texts into three groups.

The first group includes terms that have functional equivalents in the target language. For example, the English term “notary public” functionally corresponds to the Uzbek term “notarius”, since in both systems this person is authorized by the state and performs the function of certifying documents. As Garzone notes, in such cases the translator may directly replace the term with a functional equivalent; however, it is advisable to add a note or explanation clarifying the differences between the two systems.

The second group includes terms in a state of partial equivalence. In their empirical study on the translation of Greek notarial documents into English, Sosoni and O’Shea found that partial equivalence was observed in most property law terms. In particular, due to the absence of a single term fully corresponding to the English term “acknowledgment” in Uzbek notarial practice, it is necessary to resort to explanatory translation such as “confirmation by the signatory” or “recognition of the signature before a notary”.

The third group includes terms in a state of non-equivalence. This group includes concepts that are particularly characteristic of Anglo-Saxon law and are difficult to translate because there is no similar institution in the civil law system. For example, “jurat” is a certification formula performed under oath before a notary, and it does not exist in Uzbek notarial practice with exactly the same name and function. In such cases, as Cao recommends, the translator should use transcription, calque or explanatory translation and, when necessary, add an explanatory note.

Alcaraz Varo and Hughes emphasize that binomial expressions in English legal texts, such as “null and void”, “true and correct”, “right, title, and interest”, create specific difficulties in translation. The synonymic redundancy in these expressions performs the function of strengthening semantic accuracy in English legal language and combining terms used in different historical legal systems. In translation into Uzbek, there is a risk of losing this synonymy. To ensure the professional quality of

translation, it is recommended to preserve both components or, when necessary, add an explanation instead of finding a single generalized equivalent.

As shown in the stylistic analysis of English notarial texts (§ 2.3), archaic language units and standardized formulas are highly characteristic of these texts. In the translation process, these elements create a series of problems: as Ready notes, notarial formulas are not only linguistic units, but all of them are performative acts with legal force.

In particular, although the formula “Witness my hand and official seal” is an archaic expression not used in oral communication in modern English, it has been preserved in notarial certificates. The word-for-word translation of this formula into Uzbek — “I regard the signature and official seal as a witness” — may not sufficiently express the performative legal force of the original expression. Therefore, in practice, a functional equivalent such as “I certify with my signature and official seal” is often used. Šarčević emphasized that in such cases the task of the translator is to find an expression that is functionally, rather than formally, appropriate.

The standard parts in the structure of notarial certificates, such as “venue” (place), “date” (date), “identification clause” (part identifying the person), and “notarial clause” (notarial formula), may not correspond to the structure of certificates in Uzbek notarial practice. In such cases, as Terral recommends, the translator must take into account the comparison of both systems from the point of view of comparative law and form the structure in accordance with the normative requirements of the target language system.

The syntactic structure of English notarial texts differs fundamentally from the grammar of the Uzbek language. These differences create specific problems in the translation process, and the translator must take them into account. As Cao notes, in the translation of legal texts, great caution is required so that grammatical changes do not lead to a change in legal meaning.

The first major problem is connected with passive constructions. In English notarial texts, the passive voice is widely used, for example, “The document was acknowledged before me”; the agent is deliberately hidden and attention is focused on the process. The passive voice also exists in Uzbek, for example, “The document was certified before me”, and it is advisable to preserve this construction in translation. However, in some cases the

grammatical norms of the Uzbek language may require indicating a specific subject; in such cases, the translator resorts to grammatical adaptation while preserving the legal meaning.

The second important problem is connected with the phenomenon of nominalization. In English notarial texts, verbs are often nominalized: “execute” — “execution”, “acknowledge” — “acknowledgment”, “certify” — “certification”. In translation into Uzbek, preserving such nominalized units or using corresponding nominal forms, such as “signing”, “certification”, and “testifying”, ensures the formality of the legal text style. As Garzone emphasizes, the stylistic function of nominalization in notarial texts, which is to make the text impersonal and objective, must also be preserved in translation.

The third problem is manifested in the translation of modal verbs. The English verbs “shall” (strict obligation), “must” (necessity), and “may” (permission) differ sharply from one another in terms of legal meaning. In translation into Uzbek, this difference can be expressed by means of modal constructions such as “must”, “should”, and “may”. As Alcaraz Varo emphasizes, even the slightest difference in the translation of modal verbs may lead to an incorrect interpretation of legal obligation or permission.

The translation features of notarial texts are not only theoretically significant, but are also directly manifested in practical notarial activity. As Šarčević notes, the practical aspect of notarial translation is reflected in three main directions: problems of terminological equivalence, textual-structural adaptation, and consideration of cultural-legal differences.

Let us consider the translation of a power of attorney as the first widely used practical case. In an English power of attorney, terms such as “principal”, “attorney-in-fact”, and “grant, bargain, and sell” are used. In translation into Uzbek, “principal” is translated as “the person granting the power of attorney” or “the person granting representation”, and “attorney-in-fact” as “representative” or “trusted person”. As Tiersma emphasizes, the main purpose in such translation is to express clearly the scope of legal authority, since incorrect translation of the intermediary’s rights and obligations may lead to the limitation or expansion of legal action.

The second widespread practical case is the translation of an affidavit. The formula “being duly sworn, depose and

say” in an English affidavit is a performative act expressing testimony given under oath. The translation of this formula into Uzbek must fully preserve the legal context: alternatives such as “having duly taken an oath, I make a statement” or “on the basis of a lawful oath, I state the following” may be used. As Cao emphasizes, in such statements the performative function is of primary importance, and this function must also be preserved in translation.

The third important practical case is the translation of a last will and testament. The formula “being of sound mind and memory” in an English will confirms the mental soundness and sound memory of the testator. In translation into Uzbek, an equivalent such as “being mentally sound and in full possession of my memory” is used. As Mellinkoff emphasizes, the most important issue in the translation of a will is the absolutely clear expression of the will and intention of the testator, since incorrect translation of this phrase may create grounds for inheritance disputes.

In order to ensure the quality of translation, specialists engaged in the translation of notarial texts in practice must observe several important principles. According to the parametric model developed by Prieto Ramos, a notarial translator must make decisions at three levels: lexical and grammatical adaptation at the text level, compliance with the requirements of notarial documents in the target language at the genre level, and consideration of the institutional context of both legal systems at the discourse level.

The analysis of the translation features of English notarial texts and their reflection in practice makes it possible to draw the following conclusions. First, the translation of notarial texts is one of the most complex areas of legal translation studies and requires the translator to have deep knowledge not only of two languages, but also of two legal systems. Second, in translating English notarial terminology based on the Anglo-Saxon common law system into Uzbek, which belongs to the civil law system, cases of terminological incongruence, partial equivalence and non-equivalence are regularly observed. Third, in translating notarial formulas, archaic expressions and passive constructions, word-for-word translation is not sufficient; it is necessary to rely on the principle of functional equivalence and, where necessary, to include explanatory additions. Fourth, since even the smallest error in the translation of modal verbs and nominalized units may lead to an incorrect interpretation of legal obligation

or permission, these elements must be approached with particular caution. Fifth, in practical notarial translation of documents such as powers of attorney and wills, both general principles and the specific requirements of each genre must be taken into account. It should be noted that the quality of translation of notarial texts directly affects the legality and effectiveness of legal relations; therefore, this field requires a joint interdisciplinary approach of translation theory and comparative law.

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