



Research Paper

Identification of Procedures Used in Translation Process of Legal Document

Roswani Siregar¹, Risnawaty², Ahmad Laut Hasibuan³, Asmara Sari Nasution⁴,
Dermawan Hutagaol⁵

¹ (Management Department, Universitas Al-Azhar Medan, Indonesia)

^{2,3} (English Literature Department, Universitas Muslim Nusantara Al Washliyah, Medan, Indonesia)

^{4,5} (Agriculture Department, Universitas Al-Azhar Medan, Medan, Indonesia)

ABSTRACT: This article reports the identification of translation procedure used by translator in translation process of legal documents. The pair of languages are English into Indonesian. This descriptive-qualitative study focuses on translation product analysis of legal documents. Data was elicited from the document in the form of words, phrase, clause, and sentences. Total sample of the study are five corpus of legal text (English and Indonesian). Data was tabulated and presented in tables. Further, the analysis was performed and description were added to continue further assessment of translation procedures used. Procedures used in translating legal texts from English into Indonesian, namely borrowing, loan (calque), literal translation, transposition, modulation, equivalence, adaptation, and shift were identified and explained.

KEYWORDS: translation, procedure, legal, documents, corpora

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I. INTRODUCTION

Nowadays, the movement of people around the world reflect the very process of translation. It resulted the translation product in the form of books, audios, films, etc. Language as a guide to social reality has become the medium of expression for the our society. However, there is no two languages are ever sufficiently similar to be considered as representing the same social reality. The translation works play the important roles, such as the source of knowledge about foreign cultures. In addition to its critical role in transfer of knowledge and information for nation building, Murtisari (2015) proposed that translation is paramount in the development of national languages by enlarging their capacities as a medium of communication, be it in vocabulary and organisation of ideas. As an act of mediated interlingual communication, however, translation is far beyond “a pure linguistic transfer”. With language manifested itself with social, political and cultural values, translation is often positioned at the very frontier in constant negotiation with the other.

Translation is central in shaping national identity (St-Pierre in Mutisari, 2015) translation plays an essential role in determining how a nation establishes its identity in terms of others, be this through opposition through foreign influences, through assimilation or “naturalization” of the foreign whereby differences are erased to as great a degree as possible, or through imitation of another, usually dominant culture. These are all different strategies of translation, becoming possibilities at different moments in history and underlining the various types of relations between nations which can exist. However, in its process, translation involving the ideology. The main reason is, that ideology is often coded in the linguistic expression, so translation that occurs in a transferring the text from one language into another language involves the use of ideology. Ideology in translation is a principal or belief about “right-wrong” or “good-bad” in translation, about what is the best translation to the target reader or what kind of translation that is fit and people are liked most. The concept of translation ideology was delivered by Lawrence Venuti. Ideology of which the translation is right, acceptable, and good for the target reader society is that if a translation work meets some conditions. In this case, Venuti (1995) suggests that there are two ideologies oriented to two different polar, i.e. domestication and foreignization.

People communicate in order to transfer information from him/herself to another person. In this mode, translation helps him/her communicate if they speak different languages. As a two-facet phenomenon, on the one hand, it is as the process of transferring information; on the other hand, it is the result of this process. By the result is meant a new text created in translating. As a whole, the communication involves several elements, i.e. : (1) text. (2) translator, and (3) source text and target text. A speaker or writer (an author) produces sentences called 'text' and addresses it to the listener, reader, or receptor, who understands the purport of the text and reacts to it. The translation situation doubles the elements of communication. In this case, the receptor of the original text in turn becomes a 'translator' who makes a translated text, or target text intended for the receptor speaking another language. The 'source text' is the text to be translated. The 'target text' is the end-product, the translated text. For the translation to be adequate and effective, the target text should be equivalent to the source text. The form of the target text is new but the purport and the content are very close to the original. Paradoxically, the better a translator's work, the less his/her work is observed. The translated text is attributed to the author speaking another language and this text is used everywhere as if it were the original.

Culture embraces material or spiritual, it can roughly be divided into three categories: (1) material culture, which refers to all the products of manufacture, (2) institutional culture which refers to various systems and the theories that support them, such as social systems, religious systems, ritual systems, educational systems, kinship systems and language; and (3) mental culture, which refers to people's mentality and behaviors, their thought patterns, beliefs, conceptions of value, aesthetic tastes.

Because of translation is not only a linguistic act, it is also an act of communication across cultures. Nida (1964) saw translation as one of the major means of constructing representations of other cultures. He clearly recognized that translation always involves both different languages and different cultures simply because the two cannot be neatly separated. Thus, translation quality assessment means both retrospectively assessing the worth of a translation and prospectively ensuring its quality.

II. LITERATURE REVIEW

Etymologically, "translation is a "carrying across" or "bringing across": the Latin *translatio* derives from *trans* (trans = "across" + *ferre* = "to carry" or "to bring" (Finlay, 1971). Translation is a bilingual mediated process of communication which ordinarily aims at the production of a target language text that is functionally equivalent to a source language text. Generally, translation referring to the transfer of thoughts and ideas from one language to another, whether the languages are in written or oral form (Brislin, 1976). Translation consists of transferring the meaning of the first language into a second language form by paying attention to its semantic structure. Translation involves two languages, the source language (SL) and the target language (TL) and the act of translation is an action in reproducing the meaning of the message, statement, utterance and style of the SL text into TL text (Larson, 1984). According to Bell (1991) translation is the replacement of a representation of the same text in a second language. Texts in two different languages can be similar to different degrees.

Legal translation has a long history. Because legal translation deals with law, and especially as words containing law. In this regard, Tomagek (1990) argued that legal translation is a procedure based on a linguistic approach and a comparative legal approach'. Tomagek supports the view that translation must focus on the target language, and divides the translation process into intrasemiotic and intrasemiotic. Translation of legal texts is one of the topics of interest and discussion among scholars, for example Morris (1995), Šarčević (2002), Altay (2002), Siregar (2009), (Ramos, 2014).

Translation has a great contribution to the nation; therefore, the translator must be really realizing their works. Thus, before carrying out translation, it is necessary to choose the translation procedures or strategies that are necessary. To identify the transfer of meaning from a source language into target language, it is related to: words, word formations, and word sequences that form various units from the smallest units to the text as a whole (Siregar, 2017).

Vinay and Darbelnet (1989) proposed the procedures to deal with incompatibilities between SL and TL structures. They distinguishes two major methods of translation, i.e. direct translation and oblique translation. Vinay and Darbelnet (in Venuti, 2000) is used to identify and describe which procedure is adopted by the translator to establish the closest translation equivalent.

Direct Translation.

A direct translation which generally resembles word by word quotation of the original message in the target language, includes borrowing, calque and literal translation.

Borrowing is when words are taken from one language to another without any translation. This is seen in English frequently, when using words such menu as menu in bahasa Indonesia. Borrowing is also used when there is no word available in the target language to express the same idea; this can be seen when new concepts or technology are described.

A calque or loan translation (itself a calque of German *Lehnübersetzung*) is a phrase borrowed from another language and translated literally word-for-word. A calque is when an entire phrase is borrowed from another language and translated word-for-word instead of conceptually. Frequently, when various idioms, metaphors and phrases are translated from one language to another word-for-word, the original meaning of the sentence is completely lost.

Literal translation or word-for-word translation can be used in some languages and not others dependent on the sentence structure. A literal translation can be used between some languages but not others. Literal translation, although it seems like it, is not a word-for-word translation. It is only used when the structures and concepts of the language run parallel to each other, allowing the proper imagery and style to come through. And because one sentence can be translated literally across languages does not mean that all sentences can be translated literally.

Oblique Translation Techniques

Oblique used when the structural or conceptual elements of the source language cannot be directly translated without altering meaning or upsetting the grammatical and stylistics elements of the target language. In oblique translation, the translator interprets, elaborates or summarizes the explicit contents of the original. It embraces transposition, modulation, equivalence, and adaptation translation procedures.

Transposition is where the location of various parts of speech within a sentence are switched based on the particular language. In English sentences, the verb is often closer to the beginning of the sentence. Yet in Spanish sentences, the verb is often closer to the end of the sentence. In order to translate one to the other, the placement of the verb must be altered. It is also possible to change the word class without changing the overall meaning of the sentence.

Modulation consists of altering a phrase from one language to another to convey the same meaning. This is commonly used when the translation of a phrase from one language to another is awkward. For example, a translator may change "it is not complicated to learn how to eat" to "it is easy to learn how to eat". Although the two phrases mean the same thing, the latter suggests that learning how to eat is easy, as opposed to the former which suggests that it was initially thought to be a difficult task.

Equivalence is needed when translating difficult phrases such as idioms, the translator needs to understand the meaning behind the idiom (or cliché, or proverb, etc). There are phrases in some languages that simply cannot be expressed directly in other languages, which is where equivalence comes into play.

Adaptation is used when to convey an expression that is completely different way in another culture. This is often used when translating texts such as poetry or advertising, and is commonly seen in references to pop culture.

In translation process, sometimes the shifts cannot be avoided. The shift occurred due to differences in the structural systems of the two languages. What is meant by shift is a departure from formal correspondence in the process from source language to target language. Moreover, Catford in (Venuti, 2000) categorized shifts into two types, namely (1) shifts in the structure level and (2) shift in unit level.

Concerning the translation procedures, in legal translation, many scholars associate legal text with the extent to which the same 'legal effect' can be produced in the target text while maintaining fidelity to the source text. This technique, often referred to as functional equivalence as described by Newmark (1988) as a procedure that occupies a universal area between the source language and the target language. Newmark also recommends the use of functional equivalence for official translation purposes because it makes the target text well understood by the target reader and faithful to the original source text.

III. METHOD

This descriptive-qualitative study focuses on translation product analysis of legal text in Indonesian, and its translation version in English. The focus of this study is translation analysis, data was elicited from the document in the form of words, phrase, clause, and sentence. Total sample of the study are five corpus of legal text (English and Indonesian). Data was tabulated and presented in tables. Further, the analysis was performed and description were added to continue further assessment of translation procedures used in those corpus.

IV. FINDINGS

4.1 Identification of Legal Text

Identification of legal terms to determine and separate the business contract terms contained in the corpus, especially from other words or expressions. The technical terms contained in the corpus can be identified as referring more to terms used in the economic field (accounting, finance and management). The technical terms are then grouped into two parts, namely (1) technical terms which consist of one syllable and (2) technical terms which consist of two or more words (phrases). This separation is carried out to facilitate the identification and classification of these terms.

Several terms in Indonesian and its equivalents in English presented in the following tables.

Table 1. Terms consist of One syllable and their equivalents

English	Indonesian	English	Indonesian
engineering	<i>rekayasa</i>	under	<i>berdasarkan</i>
exhibit	<i>lampiran</i>	claim	<i>klaim</i>
premium	<i>premi</i>	paymaster	<i>petugas pembayar</i>
licence	<i>lisensi</i>	thereto	<i>dilekatkan</i>
party	<i>pihak</i>	elucidation	<i>penjelasan</i>
operation	<i>kegiatan</i>	executed	<i>salinan</i>
personnel	<i>personil</i>	payday	<i>pembayaran upah</i>
agreement	<i>perjanjian</i>	severance	<i>santunan</i>
condition	<i>syarat</i>	decree	<i>keputusan</i>
loss	<i>kerugian</i>	quotation	<i>permintaan</i>

Table 2. Terms consist of Phrases and their equivalents

English	Indonesian
the exhibits form	<i>lampiran-lampiran</i>
the payment of severance	<i>pembayaran atas santunan</i>
in the event of any conflict	<i>dalam hal terdapat pertentangan</i>
the most stringent term	<i>penafsiran yang paling menguntungkan</i>
applicable law	<i>hukum yang berlaku</i>
purported provision	<i>ketentuan yang bertentangan</i>
mutual promises	<i>perjanjian bersama</i>
issuance of revision	<i>dikeluarkannya revisi</i>
general term	<i>ketentuan umum</i>
billing procedure	<i>cara penagihan</i>

4.2 Translation Procedures

There are seven methods used in translating terms, namely borrowing, loan translation (calque), literal translation, transposition, modulation, equivalence, and adaptation. The following is a description of each of these procedures.

Table 3. Borrowing

Pure borrowing		Mix borrowing	
English	Indonesian	English	Indonesian
copy	<i>copy</i>	qualification requirement	<i>persyaratan kualifikasi</i>
check-up	<i>check-up</i>	contractor's general terms	<i>ketentuan umum kontraktor</i>
over head	<i>over head</i>	computerized personnel records	<i>catatan personil terkomputerisasi</i>
basis	<i>basis</i>	contract period	<i>masa kontrak</i>
operator	<i>operator</i>	sum of coloums	<i>jumlah kolom</i>
unit	<i>unit</i>	pay period	<i>periode pembayaran</i>
liter	<i>liter</i>	personnel files	<i>arsip personil</i>
profile	<i>profil</i>	administrative indifference	<i>kelalaian administrasi</i>

Pure borrowing process is using terms contained in source text directly in target text. The transferred words do not undergo affixation, abbreviation, reduplication and derivation processes. Mix borrowing use the terms in source text with undergo the morphological or orthographic adaptation. The adaptation can be in the form of affixation and derivation. Examples of pure and mix borrowing is shown in the Table 3.

Table 4. Calque

English	Indonesian
annual leave allowance	<i>tunjangan cuti tahunan</i>
written approval	<i>persetujuan (tertulis)</i>
date of quotation	<i>tanggal penawaran</i>
issuance of revision	<i>dikeluarkannya revisi-revisi</i>
acting in its capacity	<i>bertindak dalam kedudukannya</i>
contractor's cargo	<i>muatan kontraktor</i>
practice of dealing	<i>praktek-praktek transaksi</i>
contract value	<i>nilai kontrak</i>
legal fees and cost	<i>biaya dan ongkos penasehat hukum</i>
material used	<i>material terpakai</i>
contractor's bid bond	<i>jaminan kontraktor</i>

The calque procedure is used in translation of those terms phrases, where elements of the source text are converted into the target text by means of linear substitution. For example, the phrase contract value in English becomes *nilai kontrak* in Indonesian as shown in Table 4.

Table 5. Literal Translation

English	Indonesian
contractor's general terms	<i>ketentuan umum kontraktor</i>
each day delay	<i>setiap hari keterlambatan</i>
the second lowest bidder	<i>penawar terendah kedua</i>
applicable exhibit	<i>lampiran yang berlaku</i>
procurement goods/services	<i>pengadaan barang/jasa</i>
request for quotation	<i>permintaan untuk penawaran</i>
annual leave allowance	<i>tunjangan cuti tahunan</i>
compulsory insurance program	<i>program asuransi wajib</i>
qualification requirement	<i>persyaratan kualifikasi</i>
other justified reasons	<i>alasan-alasan lain yang diijinkan</i>
deducted from subsequent salary	<i>dipotong dari upah pekerja</i>
breakdown cost calculation	<i>rincian perhitungan harga</i>

Literal translation is a way of translating word for word and its syntactic structure is similar, both in number and elements (isomorphic). In the sentence level, this procedures also occurs in the translation of phrases as shown in Table 5.

Table 6. Transposition

English	Indonesia	Transposition form
<i>applicable exhibit</i>	lampiran yang berlaku	applicable (adjective) → <i>yang berlaku</i> (relative clause)
<i>marketable securities</i>	sekuritas yang dapat dipasarkan	marketable (adjective) → <i>yang dapat dipasarkan</i> (relative clause)
<i>any purported provision</i>	setiap ketentuan	purported provision (phrase) → <i>ketentuan</i> (noun)
<i>satisfactory performance</i>	pekerjaan yang memuaskan	satisfaction (adjective) → <i>yang memuaskan</i> (relative clause)
<i>stamp duty</i>	Materai	stamp duty (phrase) → <i>materai</i> (noun)
<i>income statement</i>	laporan laba rugi	income (noun) → <i>laba rugi</i> (phrase)

As shown in Table 6, transposition procedure involves shifting word classes. Two types of transposition are obligatory transposition is when target language has no other choice from the existing language system, for example income statement become *laporan laba rugi* in target language, (2) optional

transposition is related to structuring style as identified in phrase ‘any purported provision’ become *setiap ketentuan* in target text.

Table 7. Modulation

English	Indonesian
Contractor shall be responsible and liable do the payment of severance pay for its employee as required under the Applicable Law.	<i>Kontraktor harus bertanggung jawab terhadap pembayaran atas sannman pekerjaannya sebagaimana diisyaratkan di dalam Hukum yang berlaku. (Nominal phrase)</i>
The amount to be paid by the Company for the satisfactory performance of the work shall be stated in Exhibit C	<i>Jumlah yang akan dibayar oleh Perusahaan atas pelaksanaan pekerjaan yang memuaskan diatur di dalam Lampiran C. (Relative clause).</i>

As shown in Table 7, modulation is a variation in the form of a message obtained by changing the perspective of source text in target text. The change can be determined when the translation results are grammatically close to the correct speech but considered inaccurate in the target language.

Table 8. Equivalence

English	Indonesian
stamp duty	<i>materai</i>
amount of this invoice	<i>jumlah faktur ini</i>
any purported provision	<i>setiap ketentuan</i>
applicable exhibit	<i>lampiran yang berlaku</i>
total base cost	<i>jumlah biaya pokok</i>

As shown in Table 8, the equivalence is used in the simplification process, especially in the case of using completely different structures and meanings from the source text as long as the function of the communication situation is similar. This procedure usually used when the translator faces a text that is thick with idiomatic forms. For example, the word “base” has the equivalence of “*dasar*”, however in this translation, “base” is translated into *pokok*, the properly equivalence in legal translation.

Table 9. Adaptation

English	Indonesian
meal allowance	<i>bantuan biaya makan</i>
allowances	<i>biaya umum</i>
legal fees	<i>ongkos penasehat hukum</i>
total amount	<i>biaya pengeluaran seluruhnya</i>
cost and contribution	<i>biaya dan iuran</i>

As shown in Table the words ‘allowance’, ‘cost’, ‘fees’, and ‘expenditure’ are all translated with the word ‘*biaya*’ in the target language. This means that various words in the source language text were adapted and has the same equivalence, ‘*biaya*’.

Table 10. Shifts

Structural shift		Unit Shift	
English	Indonesian	English	Indoesian
<i>mutual promises</i>	perjanjian bersama	<i>applicable exhibit</i>	lampiran yang berlaku
<i>contractor's general terms</i>	ketentuan umum kontraktor	<i>marketable securities</i>	sekuritas yang dapat dipasarkan
<i>administrative indifference</i>	kelalaian administratif	<i>the applicable law</i>	hukum yang berlaku

As shown in Table 10, the structural shift is determined in the term ‘mutual promises’ that has an equivalent in the target language ‘*perjanjian bersama*’. Structurally ‘mutual’ is a modifier which is positioned

before the word ‘promises’ as the head, while the word ‘perjanjian bersama’ has the same position, namely modifier. The unit shift identified in source text which its adjective ending with the suffix *-able* that are generally translated with relative clause equivalents in target language as ‘*yang berlaku*’ or ‘*yang dapat*’.

V. CONCLUSION

Regarding the translation procedures uses in translating legal texts from English into Indonesian, there are namely eight procedures used in translating terms, namely borrowing, loan (calque), literal translation, transposition, modulation, equivalence, adaptation, and shift. From the five legal document corpora, there are 128 legal terms identified both in word and phrase. Thus, out of a total of 3177 words, 4.1% of them are technical terms for legal documents, where the most widely used translation procedures are literal and borrowing. It was concluded that when translating English legal documents into Indonesian, the procedures commonly used by translators were literal and borrowing. Apart from that, shifts and adaptations were found in the translation process. This is done so that the equivalent words can be accepted in the target language.

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