Back Translation in Legal English Teaching: 
A Chinese Classroom Approach

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Abstract. The study is an attempt to use back translation as a teaching method in classroom of legal English. It is found that back translation is an efficient way to call for awareness of inherent structural inequality in languages as well as to stress syntax features of legal English.

Introduction

Role of translation in language teaching has been under a lot of discussion. Yet the mention of back translation used as a pedagogical method designed to assist the student in improving his or her knowledge of the foreign language through reading comprehension exercises, contrastive analysis and reflection on written texts continues to be practiced. This continued practice has led to translation gradually regaining ground in language teaching, a development also in part due to the emergence and consolidation of Translation Studies in recent decades, together with changing ideas in Applied Linguistics.

The paper discusses an experimental approach to the training of specialized translators, through application of back translation method to text data. The use of back translation within the frame of translation and languages for special purposes (LSP) is nothing really new. In specialized translation, such as legal Chinese-English or English-Chinese translation, it proves especially powerful as it grans the translators the task of working as bilingual drafters instead of translators.

Theory and Method

A back translation can be defined as the translation of a target document back to the original source language. It is the procedure according to which a translator or team of professional translators interpret a document previously translated into another language back to the original language.[1] In professional area, back translations are specifically important when working with highly sensitive or high risk information and are used as “a means of checking accuracy”[2]. A back translation may also be legally required. For example, Institutional Review Boards (IRBs) and ethics committees often require a back translation and certificate of accuracy for the translation of pharmaceutical marketing or clinical trials materials. In a standard procedure, the back translation should be performed by a separate linguist with no knowledge of the original source content and it will help to identify any potential ambiguities or sensitive details that may have been overlooked or misunderstood in the translation. It also assures that any cross-cultural issues are addressed and ironed out before publication of the translated text. This will confirm that the text is conceptually and culturally appropriate for the target audience.[3]

Yet in LSP classroom, translation is not explicitly taught as an end in itself, but rather as a means to perfecting reading skills in a foreign language. It is, furthermore, conceived as an aid for consolidating writing and communication skills in the student’s second language and, therefore, as an important component in the undergraduate program. In this sense, back-translation, as used in this paper, involves taking a translated text which is in the trainee’s mother tongue and translating it as accurately as possible back into its source text - the accuracy of which depends on the language points
being illustrated previously by the trainer, whether it is morphological, syntactic or lexical for instance, as well as the trainee’s repository knowledge of the source text.

The classroom experience takes place at Department of Translation and Department of English in a prestigious law school of China. The students involved are undergraduates. They are in their third year of university study. At this stage they do not usually have any professional experience as translators. Yet they are trained, as full-time students, to translate from Chinese into English and from English into Chinese. Some of them even are studying a second major on Law. Being students of law school, most of them have a basic knowledge of general linguistics and Chinese law, but none of them being exposed to legal English in a true sense before the class.

The pedagogic objectives of the classroom attempt are:
1. To expose them to legal English environment as much as possible
2. To get them familiarize with features of legal English
3. To help them memorize formulaic expressions of legal English

The first object is more oriented towards reading tasks before the class while the second depends more on teacher’s classroom lectures on text analysis. The third object is mostly achieved by practice, part of which is back translation, as is the theme of this paper.

According to the author’s classroom experience, a piece of English reading material containing bilingual legal clauses will be provided to the students before the class in the first step. While understanding content and idea of it, the students may have the opportunity to look up all terms they don’t know and get themselves familiar with terminologies and expressions ahead of the class. That’s one indispensable part of the back translation training program, acquiring necessary background knowledge for later usage. Then, the trainer, i.e., the teacher, will produce a glossary of legal terms concerning this same text and provide analysis and elaboration on them, helping the trainees to learn knowledge of legal English better. The third step is to ask trainees to do back translation from Chinese to English, with the glossary as a reference. This is a test on how students can organize messages into a coherent passage in logical way. After the back translation is completed, the next step is to compare the back translation to the source text. With the aid of trainer, trainees will see whether they can spot any questionable areas and flag any concepts that have been misunderstood or language that leaves room for ambiguity and attempt to reconcile any obvious problem areas. Any problems identified will be noted downed by the trainer who will review students’ performances, address any ambiguities or seeming inconsistencies, and provide feedback to trainees. The objective is to teach students to identify language structure that best expresses the content in the original source text, as English is only their second language. Not all differences between the source text and the back translation are significant. Back translations are not a guarantee of accuracy, but they are a helpful way to identify any potential bumps in the road.[4]

Case Analysis

In specialized translation, translators often have to work as terminologists, as they have to deal with terms and their translation into the target language that are specific to law area that they may not know very well.[5] For undergraduate students, they are used to concern with terminology collection mainly when studying legal English and they are told to extract potential terms manually from e-tools. This is to help students become familiar with legal expressions and to use dictionary and web as a “mega-corpus”, browsing it for linguistic and encyclopedic information. Truth be told, all legal translators can now easily avail themselves of the internet and corpora tools available to search for terms candidates and their phraseology as “the great developments in recent years have been the result of a greater accessibility to electronic corpora and powerful personal computers”[5]. However, terms study does not guarantee quality of translation, especially in case of legal language. Take the following case for an example.

ST1: Any 2 justices of the peace to whom this subsection applies shall when sitting together have all the powers and jurisdiction conferred upon a special magistrate by this Ordinance:
Provided that such justices shall exercise their powers and discharge their duties in conformity with any direction given by the Chief Justice and under his general control and supervision.

TT1: 本款所适用的任何两名太平绅士，在联席裁判时拥有本条例赋予特委裁判官的一切权力及司法管辖权；但此等太平绅士须遵照首席大法官的指示，及在他的概括管辖及督导下，行使他们的权力以及执行他们的职责。

This example is selected from Hong Kong Law, Justice of the Peace Act. 1979, which is repealed in 1997. For students, upon reading it for the first time, only English terms such as “justices of the peace/subsection/jurisdiction/a special magistrate/Ordinance/the Chief Justice” would call their attention since the rest of the sentence does not pose any difficulty in term of understanding. The only legal phrase needs trainer’s explanation during class is “provided that”, which is labeled as “proviso”, referring to a transitional phrase introducing condition.

However, when students are asked to do back translation, the first problem they encounter are lots of legal terms in Chinese that they are not sure of their English counterparts. To be specific, terms such as “款(subsection)” “太平绅士(justice of the peace)” “联席裁判(when sitting together)” “特委裁判官(special magistrate)” “司法管辖权(jurisdiction)” “首席大法官(the Chief Justice)” “概括管辖(general control)” “督导(supervision)” “权力(powers)” “职责(duties)” in Chinese passage would all make them all hesitate a lot or even seek for trainer’s help. The reason lies in the difference of Chinese and English since concepts of legal English and even modern framework of law were introduced into China in 19th century. Since then, Chinese language has been undergoing course of development along with its law infrastructure and thus legal concepts gradually emerged in Chinese into specific phrases and expressions. For a native speaker of Chinese, it is relatively easy to tell concepts of law from common terms due to particular expression of language. However, for legal English, ordinary word may have special meaning. A common term may have dual meanings even multiple meanings. Take English expression of “general control” for example. It may seem common and ordinary as in many occasions, yet in such a legal context the term means something legally different and is used in a formal way. Comparatively speaking, its Chinese counterparts “概括管辖” manifests professionalism as a legal jargon. When doing back translation, it requires knowledge, and even courage of a translation student, to replace a legal jargon with a “common” term, and vice versa. By failing to do so occasionally in classroom practice, the trainees would be stimulated to memorize those formulaic expressions in bilingual form since then.

Another issue to be mentioned is identification of Theme in a sentence. According to Systemic Functional Grammar, Theme is the first constituent of the clause; it has to do with the particular angle one takes on the content of a text in its development. All the rest of the clause is simply labeled the Rheme [6]. Theme and Rheme are the realizations of how our experiential, logical, and interpersonal meanings are organized. Different organization of ideas in a clause influences its thematic meaning. For students, due to limit of language proficiency, even as the teacher has already provided aid of a glossary with all possible Chinese-English equivalents, they still lack confidence to organize all terms back into one English passage and show lack of experience when deciding Theme of a legal sentence. For example, an experienced translator would use “any 2 justices of the peace” as the subject of whole sentence by shifting the original position of the message “this subsection applies to” and turning it into an non-restrictive attributive clause. Yet Chinese students tend to be misled by their mother tongue instincts and follow the original order. Most of them would put down “This article applies to any 2 justices of peace who...” as the Theme, ignoring importance of balancing the sentence structure to achieve a better information flow. As they go on translating with rest of the clause complex, it becomes harder to insert more message with current sentence structure, that they would struggle between phrases, and some of them would even confess to the teacher that they want to give up and do it from all over again. Such an exercise gives students a chance to reflect on their study focus and helps them to realize that studying legal English is much more than learning of legal terms and phrases.
The use of back translation can be even more challenging in a longer clause complex. Here is another instance:

ST2: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

TT2: 无论何人，除非根据大陪审团的报告或起诉，不得受判处死罪或其他不名誉罪行之审判，唯发生在陆、海军中或发生在战时或出现公共危险时服现役的民兵中的案件，不在此限。任何人不得因同一罪行而两次遭受生命或身体的危害；不得在任何刑事案件中被迫自证其罪；不经正当法律程序，不得被剥夺生命、自由或财产；不给予公平赔偿，私有财产不得充作公用。

ST2 is Amendment V to the Constitution of United States. In this case, teaching back translation from TT2 to ST1 involves first checking whether all Chinese terms can be translated back by students. If this is the case, it leads to possible replacement of verbs under teacher’s guidance. Legal subject, legal action and legal conditions must be looked up to define the verb structures with which the whole passage can form a statement of legal clause. The realization of negation particularly calls for attention since the basic sentence structure goes as “无论和人，除非，……不得……。任何人不得……；……不得；不……，不得……；不……不得……”， displaying a typical linguistic structure of legal prohibition. For any non-native speaker of English and a Chinese translator, such a form is extremely hard to handle, yet from which they can learn a great deal.

To summarize, back translation challenges translation trainee’s ability to select the right terms for the legal concepts as well as their ability to apply proper syntax to express law information.

Discussion and Conclusion

English major students often have trouble with LSPs. Words commonly used in general English have a very different meaning in legal English. On the other hand, English or Chinese legal clauses that standardization organizations have published are results of bilingual drafting instead of translating. Because of the nature of language, students won’t be able to achieve a 100% identical result. It means the back-translation won’t ever be exactly the same as the original text, but it will help language learners to identify any errors, ambiguities or confusion that may arise from the nuances of language. Generally, back-translations are performed as close to original text as possible by trainees, ensuring an accurate depiction of the real meaning of the translation in the target language. Because of this, some back-translations may even be found unnaturally written, or artificial, as the translators don’t have photographic memories and may leave meaning gaps or even make syntax errors in the texts to be corrected later on.

Translator training involves various kinds of jobs, such as: terminology extraction, manipulating documents with parallel texts, building terminology glossary, technical writing and etc. Learning to study legal English with method of back translation gives language learners the technical skills to put terms and phrases together towards a coherent sentence complex, which is an ability not commonly existed among basic-level language learners, especially in technical translation. Verb structures are not widely described in LSPs although they play a most important role in legal language. Syntactic structures and possible arguments must also be listed among training objects of legal English teaching. Many problems arise concerning the verb structures and the types of arguments that are allowed in the different syntactic positions. Working with back translation practice gives the students a clearer picture of complex verb structures in English. Back translation gives students opportunity to determine differences that matter between the two legal languages, and to reconcile those differences
by making changes to their own translation and by memorizing officially equivalent legal language couplings that convey the same message.

The paper sets out to show how back translation can be introduced in translation training of English or Translation major students in China. Using back translation in LSPs helps to overcome problems of “awkwardness” in English expressions of legal content. Since the introduction of back translation in translator training changes the way students looked at language shifts, this also leads translation teachers to work on the development of a general methodological approach to introduce basic knowledge in linguistics and natural language processing and on how to use back translation in the fields of specialized translation and bilingual writing practice.

References


