TRANSLATION OF COHESIVE DEVICES IN SELECTED LEGAL TEXT TYPES FROM ENGLISH INTO ARABIC

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TRANSLATION OF COHESIVE DEVICES IN SELECTED LEGAL TEXT TYPES FROM ENGLISH INTO ARABIC

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LIST OF ABBREVIATION

Adj	Adjective
ATT	Arabic Target Text
Det	Determiner
EST	English Source Text
LSP	Languages for Special Purposes
MA	Moroccan Arabic
SL	Source Language
SPSS	Statistical Package for Social Sciences
SA	Standard Arabic
TL	Target Language
UN	United Nations

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- Appendix 1: English Legal Source Texts
- Appendix 2 : Arabic Legal Target Texts

PENTERJEMAHAN ALAT KOHESIF (COHESIVE DEVICES) DALAM JENIS TEKS UNDANG-UNDANG TERPILIH DARIPADA BAHASA INGGERIS KE BAHASA ARAB

ABSTRAK

Terjemahan merupakan medium utama bagi memindahkan pengetahuan, budaya, agama, dan inovasi. Terjemahan juga menjadi saluran yang pasti untuk merapatkan jurang di antara kepelbagaian bahasa dan budaya. Dengan ciri-ciri spektrum yang luas, terjemahan bergantung kepada jenis teks untuk menentukan sifat, tingkahlaku, kefungsian atau aspek linguistik. Dalam terjemahan undang-undang, bahasa itu sendiri dan unsur-unsurnya seperti alat kohesif, dianggap sensitif; dan oleh itu ia menjadikan terjemahan satu tugas sensitif dan sukar. Justeru kajian akademik untuk menentukan kewujudan linguistik, khususnya alat kohesif menjadi penting untuk mendapatkan terjemahan teks undang-undang yang lebih baik. Kajian ini mengkaji alat kohesif pada tahap antara ayat (*inter-sentential*). Oleh yang demikian, kajian terkini mengambil kaedah campuran sebagai rekabentuk penyelidikan dan menggunakan teori-teori kukuh yang diketengahkan oleh Halliday dan Hasan (1976) berkenaan kohesi, Nida (1964) berkenaan teknik terjemahan dan Catford (1965) berkenaan perubahan terjemahan. Teks-teks yang dikaji adalah (a) teks undang-undang operatif yang terdiri daripada triti, perjanjian dan konvensyen, dan (b) buku panduan bertajuk, *Handbook on Nuclear Law.* Kajian menunjukkan bahawa kebanyakan alat kohesif yang dikenalpasti dalam teori Halliday dan Hasan wujud dalam teks undang-undang operatif dan buku undang-undang. Didapati juga bahawa alat kohesif, strategi terjemahan, perubahan terjemahan, frekuensi ditentukan oleh keunikan sesetengah bahasa dan pilihan norma beberapa bahasa dalam menterjemah teks undang-undang daripada Bahasa Inggeris kepada Bahasa Arab. Kajian ini mencadangkan supaya penyelidikan lain perlu diadakan ke atas kohesi dalaman dan kohesi luaran dalam teks undang-undang dan teks jenis lain. Pengkaji akan datang juga dinasihatkan supaya mengkaji penggantian dan ellipsis dalam teks teknikal berbeza untuk melihat sama ada mereka mempunyai dapatan yang sama atau berbeza.

TRANSLATION OF COHESIVE DEVICES IN SELECTED LEGAL TEXT TYPES FROM ENGLISH INTO ARABIC

ABSTRACT

Translation is a significant medium for transferring knowledge, culture, religion and innovations. It also becomes an inevitable channel to bridge the gap between a range of languages and cultures. With a wide spectrum of characteristics, translation depends on the text-type in order to determine the nature, behavior, characteristics and functionality of linguistic aspect. In legal translation, the language itself and its constituents such as cohesive devices are considered as sensitive and therefore make the translation a sensitive and difficult task which requires academic investigation to determine linguistic occurrences. This study handled the cohesive devices at the inter-sentential level. Thus, the present research adopts mixed method as a research design and it uses well-established theories of Halliday and Hasan (1976) on cohesion, Nida (1964) on translation techniques and Catford (1965) on translation shifts. The text-types examined are (a) operative legal texts: treaty, agreement and convention, and (b) handbook entitled, Handbook on Nuclear Law. The research reveals that most of the cohesive devices identified in the theory of Halliday and Hasan (1976) do occur in the operative legal texts and legal book. It is found that cohesive devices, translation techniques, translation shifts, frequency are determined by some language peculiarities and some language norm choices in translating legal texts from English language into Arabic language. The study recommends that other investigations should be done on the internal cohesion and external cohesion in legal text and other text-type. It is also advised future researches to examine substitution and ellipsis in different technical texts to see if they have similar or different findings.

CHAPTER 1

INTRODUCTION

1.1 Background of the Study

Translation has been defined as “the process of transferring a written text from source language (SL) to target language (TL)” (Hatim & Munday, 2004, p. 6). This role of translation outlines the ultimate goal of translation process, which is to transcend messages from one language to another. This process is one that is systematic due to its rules, procedures, and theories to support the process of communication in an accurate manner in terms of shortening the distance between varied languages, apart from filling the linguistic and cultural gap. The role of translation includes seeking a counterpart for newly-coined terms resulting from colonialism, globalisation, technology, or inventions. Due to its significant role, translation has become a crucial aspect across multiple communities (Pym, 2003; Shyiab, 2010).

In this diverse community, dependency on a sole language as a means of communication is hindered by a number of difficulties and constraints. Translation adopts the role of assisting a certain language to perform its function in a range of cases and to compensate the limitations of languages (Cronin, 2003; Hatim & Munday, 2004). In precise, the nature of translation reflects the process that entails clear understanding of the source text, mainly because it is the most crucial step for successful translation (Nida, 2001). Nida (2001) asserted that translation is a process of translating texts instead of words, while for the key roles of translation in different aspects of life, it is necessary to pay attention to the effect and role of translation at varied levels, such as individuals, communities, universities, institutes, governments, and international organisations (Munday, 2009).

In the past, the process in translation was given emphasis to be part of a popular movement in translation studies. This critical shift was linked to the emergence of descriptive translation studies that represented a movement that sparked in the 1980s to re-investigate and to evaluate several prescriptive theories or models of translation, apart from representing a move from the theoretical study of translation into a descriptive study that primarily focused on three branches, which are product-oriented, process-oriented, and function-oriented (Toury, 1995). Since early 20th century, studies concerning translation have been gradually treated as an independent entity, wherein descriptive translation studies have prodded towards such shift. Holmes (1988b) presented a comprehensive map for translation studies that incorporated a diagram adopted from Toury (1991), which displays the elements of descriptive translation (product-oriented, process-oriented, and function-oriented). Each element has its very own focus. For instance, the product-oriented aspect looks into the existing translation in terms of description or analysis of source and target text pairs or comparative analysis of the source text with one or more of its translation into other languages. Next, process-oriented focuses on determining what happens in the mind of a translator and this is closely linked with the decision-making process performed by the translators. Lastly, the function-oriented element emphasises on the function of translation that takes place in the reader's sociocultural scenario and for that reason, Holmes (ibid:177) asserted that function-oriented highlights the context, instead of mere text.

In order to investigate the variances between languages, a number of contrastive studies have conducted to identify the similarities and differences between the languages. The focus of contrastive studies is placed on both general and specific aspects of languages, particularly to comprehend at both levels of languages, general and specific, for the compared languages (Johansson & Hofland, 1994). With that being said, a substantial number of contrastive studies have assessed Arabic and English languages in the attempt of deciphering the various aspects of the two languages in terms of syntactic, lexical, morphological, semantic, and pragmatic similarities and differences (see Al-Ghamdi, 2016; Al-Khatib, 1998; Alsadi, 2017; Bakir, 1999; Fareh & Hamdan, 2000; Farghal & Shunaq, 1999; Khalil, 2000).

The overall translation process may be affected by the types of texts, as each text type has its own function, terminology, and style (Colina, 2003). Werlich (1976) categorised texts into descriptive, narrative, expository, argumentative, and instructional groups. Hatim and Mason (1990) adopted these text types based on the cognitive properties of the text, while de Beaugrande and Dressler (1981) classified texts into three types based on their functions, namely descriptive, narrative, and argumentative. As part of the descriptive text, a legal text is defined as pragmatic text that conveys information without aiming to produce esthetic effect (Melinda, 2011) and it has been described as one of the most precise, vague, and authoritative texts (Hiltunen, 1990). These features suggest that the task of translating legal text is more difficult because it is crucial to produce the same meaning and effect of the original text in the TL (Cao, 2007; Sarcevic, 1997). Legal language derives from the ordinary language, but with special use (Melinda, 2011) that has a tendency to use ordinary terms with special meaning because the terms typically share dual meanings (Cao, 2007). This means that a translator has to be alert and well-equipped with the necessary knowledge of legal language, legal translation, and cultures of source and target languages, while taking the decision to decide accurate and technical meaning in the legal context. As a result, legal translation has been considered as one of the most challenging translation types due to its special feature, which is the legal language (Botezat, 2012; Cao, 2007; Tiersma, 1999).

The analysis of legal texts undertaken in this study probed into the cohesive devices, translation techniques and the translation shifts that occur to the cohesive devices in the translation process for legal texts, wherein these cohesive devices are classified as vital components to form the text and to distinguish the text from non-text (Halliday & Hasan, 1976). Studying the usage of cohesive devices has occupied a large fraction of the literature, particularly those pertaining to cohesion, texture, coherence, text, text organisation, and text linguistics (Abu Ayyash, 2017, 2013; Bahaziq, 2016; Baker, 1992; de Beaugrand & Dressler, 1981; Hasan, 1984; Hoey, 1983; Leo, 2012; Widdowson, 1978). Findings have been reported and models have been proposed to tackle cohesion in discourses or texts. One of these models is that proposed by Halliday and Hasan (1976), which is composed of grammatical and lexical cohesive devices that form a network of relations between text elements. This study, hence, assessed the translatability of cohesive ties and the application of Catford model for translation shifts that may occur amidst cohesive devices.

1.2 Statement of the Problem

Translation is not a new field and there are several proofs in the history of translation that proves this notion. One of translation activity proofs is the Egyptian-Hittite Peace Treaty between two powers of Early Eurasian worlds, which is considered the oldest piece of legal translation dated back to 1271 B.C. (Masa'deh, 2003). In addition, the Rosetta (190 BC) is another proof in which Weisflog (1987), stated that Greek version of Rosetta was fully translated by the year 1803 into ancient Egyptian. Since then legal translation has not stopped and many legal publications have been done and many nations have engaged in numerous treaties, agreements or conventions with different countries and international organisations. In this respect, for Malmkjær and Windle (2011), the role of legal translation is to reproduce a text that will be interpreted and understood in the same way by legal specialists in the target legal system.

As for the Arab region, part of its treaties, agreements and conventions are written either in English or French; then they are translated into Arabic such as UN resolutions. In the colonial period, Arab affairs were issued in English or French language. The translating of legal documents into different languages may entail different interpretations or losing some elements of the source text. Mishandling legal meanings may lead to translationese and nonsense in the target language (Harvey, 2002). For instance, the Security Council's Resolution 242, which was issued after the Israeli war against the Arab nations in 1967, was issued with in two languages, as follows:

A: Withdrawal (of Israeli forces) from Arab occupied territories (English version)
B: Withdrawal (of Israeli forces) from the Arab occupied territories (French version)

In the above UN resolution, adding and dropping the definite article, ‘the’ have brought about more conflicts due to the two different versions. Since the English version omitted the definite article ‘the’ to imply the meaning of withdrawal from some Arab-occupied territories, Israel adopted this version. However, the French version that was adopted by the Arabs was interpreted as a withdrawal from all Arab-occupied territories due to the semantic function of the definite article ‘the’ in the text.

Although English and Arabic language are concrete languages, there are peculiarities that differentiate them in terms of the characteristics of repetition and prolixity in Arabic, on the one hand, and the characteristics of conciseness in English on the other hand. In this context, Hatim and Mason (1990: 161) argued that "behind the systematic linguistic choices we make, there is inevitably a prior classification of reality in ideological terms. The content of what we do with language reflects ideology at different levels: at the lexical-semantic level, and at the grammatical-syntactic level". Therefore, it is significant to examine the role of linguistic choices made by the translators in the translations of legal text.

Due to the nature of cohesive devices that are widely used where there may be some problems that are related to frequency in translation. Thus, mishandling them may lead to different meanings and sometimes different messages or may distort the semantic connotations and denotations of the source text in the target legal language (Cheng & Sin, 2016). For this reason, the translation process should be carried out in light of the considerations of the source and target text and more attention has to be paid to one of the most important factors which convert the lexis or meanings into a text which is cohesion (Dickins, Hervey & Higgins, 2016). Cohesive devices are not restricted to simple and direct forms; instead, they are complex and not easy to be identified in many cases, such as some forms of collocations, which are part of lexical cohesion (Halliday & Hasan, 1976). Dealing with these cohesive devices in the legal text requires special treatment since they may look in most cases vague, archaic, formal, while some acquire new meanings as a part of legal text.

To encounter this problem, a translator has to be aware of all aspects of languages in order to reduce the possibility of mistranslation (Rahimi, 2003, cited in Yousofi, 2014). Accordingly, it is vital for the translator to pay more attention to the languages peculiarities and text types in general and legal text in particular. For this reason, de Groot (2006) points out that a translator of legal terminology has to do a comparison of a legal terminologies of the source and the target language to determine the convenient legal terms to be used in the target legal system and language and the cohesive ties that can cohere legal items and structures.

Some studies related to the cohesive devices, the translation strategies and translation shifts have been done by Chaalal (2018); Faraghal, (2017); Abu Ayyash (2016); Al-Kohlani (2010) and Al-Amri (2005). To put it more clearly, Chaalal (2018) evaluates the notion of cohesion at intra- and inter-sentential levels by assessing the cohesive devices found in UN documents, while Farghal (2017) examines the notion of textuality in general and cohesion in particular by assessing the usage of cohesive in a range of language genres. Abu Ayyash (2016) investigates the roles of cohesive devices in English and Arabic newspaper opinion editorials and the common patterns between the two languages regarding the use of cohesive devices. Meanwhile, Al-Kohlani (2010) investigates the function of cohesive e devices in form of connectives occurring at the level of sentence and paragraph in Arabic opinion newspaper articles. Also, the review shows that the study conducted by Al-Amri (2005) which discusses cohesive markers used in newspapers and the shifts that may occur as a result of the translation process.

However, the review of the related literature reveals that there is a gap of a knowledge concerning cohesion translatability and language peculiarities and text-type norms that determine the functionality of cohesive devices in translating legal text from English into Arabic .This problem of the translatability of cohesive devices can be solved through "the capacity of some kind of meaning to be transferred from one language to another without undergoing radical change" (Alpert, 2001: 273) .

Accordingly, there is a need for further studies to fill the gap of knowledge in translating cohesive devices in legal texts.

1.3 Research Objectives

This study has outlined the following objectives:

1. To **identify the cohesive devices and their frequencies in legal texts**
2. To determine the translation techniques and their frequency used to translate cohesive devices from English legal texts into Arabic legal texts
3. To determine the categories of translation shifts and their frequency resulted from using translation techniques in legal text.
4. To examine the significant difference between operative legal texts and a legal book in terms of using cohesive devices.

1.4 Research Questions

Based on the research objectives, the following research questions have been formulated:

1. What are the types of cohesive devices and their frequencies in legal text?
2. What are the translation techniques and their frequency used to translate cohesive devices from English legal texts into Arabic legal texts?
3. What are the categories of the translation shifts and their frequency resulted from using translation techniques in translating legal texts?
4. Is there a significant difference between operative legal texts and legal book in terms of the frequency of cohesive devices?

1.5 Hypotheses of the Study

This section presents the hypotheses developed in this study, which are classified as non-directional hypotheses because they suggest a difference between the two types of legal texts embedded in this study without linking this difference with the interest of any type of the corpus text. These hypotheses are related to reseach questions 2,3and 4.

H1: There is a significant difference concerning the mean of frequency of cohesive devices between English operative legal text and legal book.

H2: There is a meaning gain of cohesive devices while translating from English legal texts into Arabic legal text.

H3: The legal text type requires indirect translation methods in translating cohesive devices from English into Arabic.

1.6 Scope and Limitations of the Study

This study identifies cohesive devices in the legal texts from English language into Arabic language and it examines the translation techniques and translation shifts used to deal with cohesive devices in the legal text. The area of the study is limited to study the cohesive devices: reference, ellipsis, substitution, conjunction and lexical cohesion based on the model suggested by Halliday and Hasan (1976). Furthermore, the study of cohesive devices is limited to be studied in the legal documents to identify the categories and frequencies of cohesive devices in corpus of the study, to determine the translation techniques and their frequencies based on the model of Nida (1964) and to translation shift that may occur to the cohesive devices while translating them from English into Arabic based on the model of Catford (196d). In this study, it aims at identifying cohesive devices at the level of text (inter-sentential level) rather than the level of sentence (intra-sentential level). There are a huge number of legal documents available in different resources but this studies is limited itself to two types of legal documents. The first is operative legal text which is represented in this by the following documents: Israel-Jordan Peace Treaty, Agreement between the Government of The Hashemite Kingdom of Jordan and The Government of The People's Republic of China on The Reciprocal Promotion and Protection of Investments and Social Security (Minimum Standards) Convention. The second is a legal book that is represented by Handbook on Nuclear Law. Also the study includes theses legal documents in their original legal language, English and their translation in Arabic as a target language. Also, the study limits its self to Maxqda analytical software and SPSS as research tools

1.7 Significance of the Study

This study is significant due to its role in unravelling how two languages employ cohesive devices in translating legal texts from one language to another. The study displays the different types of surface relations used in legal texts. Hence, those involved in the area of legal translation may benefit from this study by paying more attention to cohesiveness of legal texts in the translation process.

Legal documents are available in a vast range, such as agreements, treaties, bills, contracts, wills, and parliament acts. These forms are very sensitive in terms of accuracy, highly prepared, and designed information in a way that prevents misunderstanding or overlapping. Any study that deals with these forms and investigates them is supposed to be significant. This study is more significant for both national and international communities, since it addresses issues that concern the transfer of legal documents to another language by preserving both legalese and authoritative aspects in the target text.

This present study serves as a reference in the literature of cohesion and legal translation. This study is beneficial to translators in general and legal translators in particular by describing the occurrences of cohesive devices in legal translation that systematically illustrate the specificity of the languages concerned, along with their textuality. Therefore, a translator is bound to be aware of the implicit and explicit relations in the text and should be able to render them without affecting the intended meaning embedded in the legal text.

The study is deemed significant because it bridges the gap in the literature of cohesive devices, since most studies have focused mainly on one cohesive device; either grammatical or lexical cohesive devices, while this study concentrates on translating both grammatical and lexical cohesive devices at the level of inter-sentential in legal texts from English into Arabic. All in all, the study is significant as it contributes to training translation students, translators, and linguists by illustrating manifestation of cohesive devices in operative legal texts and legal book, apart from clarifying how cohesion is achieved in legal texts, and followed by stating the shifts that may occur to the cohesive devices.

1.8 Corpus of the Study

The corpus of the study refers to a collection of written or spoken texts or materials used for linguistic investigation in terms of frequencies and structure. According to Hunston (2002), the term of corpus refers to a collection of examples of languages that consist of any set of written texts or tape recordings which have been obtained for purpose of linguistic study. Baker (1995) claimed that corpus is any collection of writings and it is not necessary to be monolingual because it may involve two languages or more. Laviosa (2002) highlighted that the corpus could be monolingual, bilingual, and multilingual. Accordingly, the corpus for this study is bilingual as it involves two languages; English and Arabic. This study assessed legal texts that consisted of a treaty, an agreement, and a convention, while for comparison purpose, the corpus incorporates another related legal text in the form of a legal book entitled ‘Handbook on Nuclear Law’.

1.9 Definition of Terms

i. Texture is a feature of a text that distinguishes it from non-texts. Crane (1994) asserted that if the text lacks this feature, the text would be a group of isolated sentences. Schegloff and Sacks (1974:74) defined texture as “sequential implicativeness". This definition refers to the property of language that links the elements of the text together.

ii. Text is a manifestation of language in terms of communicative language events in context (Beaugrande & Dressler, 1981). The text is defined as “[A term] used in linguistics to refer to any passage- spoken or written, of whatever length, that does form a unified whole” (Halliday & Hasan, 1976, pp. 1-2).

iii. Translation shift is the changes that may occur to the source text while undergoing translation process in which Catford (1965:73) defines translation “shift as the departures from formal correspondence in the process of going from the SL to the TL”.

iv. Cohesion refers to how the surface elements in the text are related to each other, and it is a chain of lexical, grammatical, and other relations that creates linkages between the various parts of a text (Baker, 1992, p. 180).

v. Coherence is the network of conceptual relations that underlies the surface text and it is manifested in the interaction between the reader's knowledge and the text. Van Dijk (1977) defined it as "semantic property of discourses, based on the interpretation of each individual sentence relative to the interpretation of other sentences" (p. 93).

vi. Cohesive devices are defined as the surface semantic ties used within the text to glue its elements together, and they represent a different network of relations in the text (Baker, 1992; Halliday & Hasan, 1976). These devices are divided into two categories: grammatical and lexical cohesive devices.

vii. Legal language or legalese refers to the specialised language that is employed by legal practitioners, such as judges, lawyers, legal interpreters, and legal translators, which is not easily understood by laymen (Oates & Enquist, 2009).

viii. Legal translation refers to translating documents that belong to the field of law, and it is usually referred to as "a general term to cover both the translation of law and other communications in the legal setting" (Cao, 2007, p. 12).

ix. Treaty is an official document that is binding for the parties involved. Treaty is defined as "a contract in writing between two or more political authorities (such as states or sovereigns) formally signed by representatives duly authorised and usually ratified by the law-making authority of the state" (Webster, 2006). According to the International Law Commission (1966), "treaty means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation" (p. 333).

x. Translation Techniques: A good translation is "the translation that has the closest natural meaning to the original text" (Nida, 1964, p.166). This aim can be achieved through a set of translation techniques, which are defined as techniques used in Bible translation, which are designed to "to produces correct equivelants" in the target language (ibid,226).

xi. Translation methods is defined as "the way a particular translation process is carried out in terms of the translator's objective" (Molina & Albir, 2002, p.507).

xii. Translation strategies are defined as "the procedures (conscious or unconscious, verbal or nonverbal) used by the translator to solve problems that emerge when carrying out the translation process with a particular objective in mind" (Albir ; 1999, cited in Molina.508:2002) .

xiii. Convention refers to "a formal agreement between States. The generic term 'convention' is thus synonymous with the generic term 'treaty'. Conventions are normally open for participation by the international community as a whole, or by a large number of States. Usually, the instruments negotiated under the auspices of an international organisation are entitled conventions" (Nyazz & Nyazz, 2019, p.45).

xiv. International agreement is defined in Encyclopedia Britannica as "instrument by which states and other subjects of international law, such as certain international organizations, regulate matters of concern to them. The agreements assume a variety of form and style, but they are all governed by the law of treaties, which is part of customary international law" (Encyclopedia Britannica, 2016).

xv. Law book is defined as any book that is “containing or dealing with laws, legal subjects, or cases adjudicated” (Merriam-Webster, 2006). This type of legal documents is different from other forms is that it “tends to conform to traditional structure, but it is usually less rigid than that of operative document. The style resembles formal everyday language, although use of legal terminology is unavoidable "(Tiersma,1999,p.140)

1.10 Organisation of the Thesis

This thesis is composed of six chapters. The First chapter is the introductory chapter that contains the introduction and the background of the study, the statement of problem, the research objectives and questions, as well as the limitations of the study. This chapter includes the significance of the study, the definition of key terms, and the organisation of this thesis. The Second chapter reviews the literature and a number of studies relevant to this research, by including the introduction and the literature on equivalence in translation, translation strategies, and texts. The related literature on technical translation, legal language, translation and culture, coherence, cohesion, cohesion in Arabic, Halliday and Hasan’s (1976) model, criticisms of this model, and translation shifts are included in this chapter. Next, Chapter Three discusses the study methodology by incorporating a brief introduction, research design, corpus, justification for selection of the corpus, research tools, theoretical framework, and definition of data including data collection, data analysis, and overall data analysis of research methods. Moving on, Chapter Four presents the findings of the analysed data of treaty, agreement and convention. Chapter Five presents the analysis and findings of the Handbook on Nuclear Law, as a kind of a legal book as well as this chapter will present the results of statistical analysis to find out whether or not there is a significant difference concerning the frequency of cohesive devices between documents of operative legal texts and a legal book. Lastly, Chapter Six concludes the study with an introduction, as well as discussion of the study outcomes, limitations, contributions, and recommendations.

1.11 Summary

This chapter has presented the introduction and background of the study as an overview of the knowledge area related to this study. This chapter includes statement of problem, research objectives and questions, as well as the hypotheses linked with the third research question. It embeds scope of study, significance of study, and corpus of study. This chapter ends with the organisation of thesis and a list of definitions.

CHAPTER 2

LITERATURE REVIEW

2.1 Introduction

This chapter reviews a number of prior studies pertaining to cohesion to clarify the image of cohesion in general and legal language particularly. This chapter starts with a review of text that has been depicted in previous studies and it was highlighted for investigating cohesive devices in text nor in isolation. This chapter also presented the features of legal language in English and Arabic languages, translation studies, translation and culture, translation techniques, equivalence and translation shift. In addition, this chapter examined and highlighted technical translation, legal translation, coherence, cohesion and Halliday and Hasan’s (1976) theory for cohesion.

2.2 Text

Translation strategies refer to rendering items within an organised form, possibly a text, which can be defined as as a sequence of sentences which form a cohesive whole”(Dambska-Prokop, 2000:230). The Text also can be defined as “a piece of naturally occurring spoken, written, or signed discourse identified for purposes of analysis. Text is often a language unit with a definable communicative function, such as a conversation or a poster” (Crystal, 1992, p.72). Since this present study assessed the realisation of cohesive devices within a text, reviewing the concept of text and its manifestation in translation and writing as part of the translation process has been deemed as necessary.

The type of text is an aspect that has attracted the attention of scholars, mainly because different types of texts, such as informative, expressive, operative, argumentative, and persuasive, have their own features, style, and terminology.

Therefore, as noted by Wilss (1982), types of texts determine the methods of translating the text and the degree of its translatability. A text may also be classified based on its focus, wherein if the focus of the text is on the sender, the text is called expressive, while persuasive if the focus of the text is on the receiver. Meanwhile, if the focus of the text is on the realities of the world, the text is called referential (Jakobson, 1960; Kinneavry, 1971).

Scholars, nonetheless, could not come to an agreement on one definition for text. A substantial number of definitions were offered and each has its own focus, aim, and perspective. Brown and Yule (1989) envisioned that a text is a verbal record of a communicative event, which implies that any communicative situation is a form of text. de Beaugrande (1997) added to the definition proposed by Brown and Yule (1989) about certain features that differentiate a text from a non-text as he considered that text is not a set of spoken or written words, instead, text is a set of interrelated sentences. In agreement with de Beaugrande and Dressler (1981) regarding the notion of text and the way to differentiate between a text and a non-text, Werlich (1976) defined the following:

> A text is an extended structure of syntactic units such as words, groups, and clauses and textual units that is marked by both coherences among the elements and completion… [Whereas] a non-text consists of random sequences of linguistics units such as sentences, paragraphs, or sections in any temporal and /or spatial extension. (p. 63)

Halliday and Hasan (1976) pointed out that text is:

> [A term] used in linguistics to refer to any passage; spoken or written, of whatever length, that does form a unified whole … A text is a unit of language in use. It is not a grammatical unit, like a clause or a sentence; and it is not defined by size… A text is best regarded as a SEMANTIC unit; a unit not of form but of meaning. (p. 1-2)

Halliday and Hasan (1976) made a reference to the nature of text that is not confined to the borders of clauses or sentences, rather a semantic unit of language unconfined by the borders of sentences. In particular, Fowler (1991) asserted that text is easily distinguished from a sentence because it is made up of a larger group of sentences based on certain rules that determine the construction of text. Fowler (1991) defined text as “a different kind of unit from a sentence. A text is made up of sentences, but there exists separate principles of text–construction, beyond the rules for making sentences” (p. 59). Hatim (1984) defined text as “a stretch of linguistic material that maps on to the surface a set of mutually relevant communicative intentions” (p. 2).

Investigating the concept of text often involves the concept of discourse. Generally, both terms are used interchangeably. Halliday and Hasan (1976) defined text as “a unit of language in use” (p.1), while Brown and Yule (1983) defined the analysis of discourse in terms of language analysis in light of text. Nevertheless, problem emerges when both terms are used within the same text. Hence, linguists and theorists have been prompted to distinguish them. Coulthard (1985) differentiated text and discourse based on mode, in which text is classified as a written mode made up of sentences, whereas discourse is defined as spoken mode made up of utterances. Sunderland (2004) claimed that discourse is not visible but manifested in texts, whereas for Fairclough (1992) asserted that text is the way of grouping and structuring knowledge and social practice tangibly.

In a similar vein, Virtanen (1990) considered text as a process that is often used to refer to a written text, while discourse refers to the production and comprehension of text as well as spoken mode of language. From another angle, different studies have dealt with text and discourse by referring text as product and discourse as process (Brown & Yule, 1983; Widdowson, 1979). de Beaugrande (1997) did not restrict the image of text as mere connected sentences, but incorporated several features to the definition of text to be acceptable for “it is essential to view text as a communicative event wherein linguistics, cognitive, and social action converge, and not just the sequence of words uttered or written” (p. 10). He further defined discourse as “a set of interconnected texts” (p. 21).

Nevertheless, these two definitions offered by de Beaugrande were not completely accepted by Tanskanen (2006), who claimed that these two definitions could be accepted only for two reasons. First, the two definitions are given a dynamic and contextualised status. Second, these definitions apply to both spoken and written modes. Tanskanen (2006) asserted that it is illogical to think that the connections between texts are sufficient to generate a communicative event. For Buitkiene (2005), he assessed the correlations between text components by highlighting that the writer or the translator should be aware when constructing a text or when selecting styles, vocabularies, connections, and syntactic patterns. Buitkiene (ibid) concludes that a legal text, for instance, favours use of lexical cohesion, which proves the impact of text type on both construction and cohesive devices.

2.3 Legal Language

As depicted in the previous section, technical translation translates specialised subjects. Legal language, which is a specialised subject that is technically translated into the TL, has been investigated by a number of scholars and theorists (Acaraz & Hughes, 2002; Cao, 2007; Mellinkoff, 1963; Sarcevic, 1997). The majority agreed that legal language has its own style, terms, distinction, accuracy, and subject, and these are the essence that makes legal language one that is highly specialised (Cao, 2007). It is common to refer the legal language as a language, although it is far from being a dependent language, such as other existing languages (e.g., English, Arabic, Malay or French). In precise, the legal language is described as a language with special style, structure, vocabularies, and terminologies drawn upon the ordinary ones (Mellinkoff, 1963; Godrich, 1987).

The intricacy of legal language is reflected by "…inherent mannerisms, and often lacks clarity …. it is wordy, unclear, pompous, and dull" (Mellinkoff, 1963, p. 5), hence making this language a rich area for investigation. Goodrich (1987) also considered the challenging task for a legal translator to translate ordinary words in a legal text "into closed code of legally relevant and legally valid" (p. 167).

From the semantic stance, Febrero (2004) evaluated the legal language semantically and reported that legal language determines its conceptual meanings to exclude any form of misleading or misconception, wherein anything can be a subject of the legal document. Similarly, legal specialists always have their own unique terms and meanings to express their written or spoken legal thoughts, in which text used to express legal thought is usually full of archaic words or phrases that make the legal language more peculiar and formal (Alcaraz & Hughes, 2002). In line with this notion, Tiersma (1999) indicates that legal language has a strong tendency toward formality.

Therefore, it depends on the usage of archaic language to confirm its uniqueness and formality. He classifies the legal text into (1) operative legal documents, (2) expository documents and (3) persuasive documents. In the same token, Sarcevic (2000) assessed the nature of legal language and claimed that text is created and structured by adhering to its special syntactic, semantic, and pragmatic rules.

The legal language has been classified as a technical language. Schauer (1987, p. 571, as cited in Cao, 2007) commented on the correlation between legal language and technical language as "technical language often operates in context that makes legal terms having meaning different from those they bear in non-legal context use of legal language" (p. 16). Legal language can be described as an ambiguous language. One may face problem upon reaching an inter-lingual situation due to ambiguity and uncertainty caused by two varying languages. In solving legal language issues, Hargitt (2013) suggested a legal lingua franca, such as the English language, to be used across the world, while reckoning resistance to such suggestion from various nations due to consideration of certain nations that their language is part of their national identity.

The various types of legal writing are: 1) academic legal writing that entails law journals and legal textbooks, 2) juridical legal writing that includes court judgments and legal reports, and 3) legislative legal writing that incorporates acts of parliament, contracts, and treaties (Bhatia, 1993; Hiltunen, 1990). Legal language has a mixed nature, as Olga (2012) claimed that legal language is a multidisciplinary language due to the fact that it overlaps politics in terms of constitutional law, finance (e.g., tax law), the military (e.g., maritime law), and culture (e.g., marriage law). As legal language is linked to all aspects of life with differing texts, structures, and terminologies, thus they seem different. Due to the fact that the operative legal documents adhere to the very rigid structure whereas the legal book is less rigid than the operative legal documents and it resembles formal everyday language and this classification meets the tendency of this study to examine cohesive devices between very strict and rigid legal in terms of its structure and less strict and rigid legal text (Tiersma, 1999), the current study adopted this classification.

2.3.1 Features of English and Arabic Legal Languages

Language organises its words based on the syntax system. The syntax system is defined as "the branch of grammar that dealling with the ways in which words, with or without appropriate inflections, are arranged to show connections of meaning with the sentences" (Matthews, 1982, p. 1). With countless features found in the syntax, this section presented the syntactic features to present a clear image of legal language the following syntactic features: nominalisation, binomial, complex sentences, negation, impersonality, and passive/active voices, including some lexical features of legal language, such as archaic and foreign terms, formal style, and technical terms.

2.3.1(a) Nominalisation

Nominalisation is a syntactic feature that simply refers to the change of verb into a noun, which is possibly found in most languages (Comrie & Thompson, 1985; Crystal & Davy, l969; Gustafsson, l983). Numerous studies have assessed this phenomenon in different languages. Chomsky (1968) asserted that nominalisation is a process that transfers a verb into a noun. Similarly, Quirk (1985) depicted that nominalisation turns a verb or an adjective into a noun. Halliday (1985) and Matthews (1997) claimed that nominalisation as a way of changing a syntactic unit into a noun or into a syntactic unit that functions as a noun. Givon (1997) defined nominalisation as "a process whereby a verb or an adjective is converted into a noun" (p. 287). Mathews (2007) explained nominalisation as "any process by which either a noun or a syntactic unit functioning as a noun phrase is derived from any other kind of unit"

(p. 244). Chomsky (1970, p. 215) divided nominalisation into three types, which are gerundive nominal, derived nominal, and mixed nominal, as illustrated in the following instances:

- John's refusing the offer (gerund)
- John's refusal of the offer (verbal noun)
- John's refusing of the offer (deverbal noun)

Quirk (1985, p. 1288) used these divisions with minor changes in their terms; gerund, deverbal noun, and verbal noun. Both verbal noun and gerund are formulated by adding *-ing* to the verb, as follows:

- Writing the book needs time.
- The writing of the book made him well known.

The distinction between verbal noun and gerund is that verbal noun is followed by 'of', whereas the deverbal noun is formulated either by suffixation or conversion, as listed below:

- His refusal to help was expected (by suffixation)
- His answer is correct (by conversion)

According to Fowler (1979), nominalisation is treated as a process of syntactic reduction with potential 'relexicalisation'. In this process, the participant or the subject is deleted in order to change the verb into a noun. This deletion is performed to draw attention away from the real agent, hence the notion Fowler (1979) highlighted that "nominalisation can depersonalise" (p. 43). Halliday (1985; 2000; 2007) considered nominalisation as a key resource to form grammatical metaphors. A grammatical metaphor, as defined by Thompson (1996), refers to "the expression of a meaning