Analysis and classification of errors when shifting from general English to ESP teaching at University (the case of legal translation)

Karine Chiknaverovaa*, MGIMO University, ul. Novosportivnaya, 3, Odintsovo 143007, Russia

Abstract

Teaching legal translation at university causes a number of challenges which are caused by linguistic and sociocultural characteristics of the corresponding original and translation texts and psycholinguistic peculiarities of the second language acquisition process. There are some aspects in teaching legal translation that are rarely under investigation, among them there are issues that arise when shifting from general English to legal translation teaching. The article aims to comprehensively analyse and classify errors that students make during the introductory course of legal translation as well as to reveal the causes thereof. The author is guided by a set of methods including inter alia analysis of research on errors made by foreign language learners, observation and representative method. It concludes with recommendations related to teaching legal translation at the introductory level, summarises sources, types of errors and the ways to minimise and avoid them.

Keywords: Teaching legal translation, ESP, ESL, error analysis.

* ADDRESS FOR CORRESPONDENCE: **Karine Chiknaverova**, MGIMO University, ul. Novosportivnaya, 3, Odintsovo 143007, Russia.
E-mail address: chiknaverova@mail.ru /

1. Introduction

1.1. Problem statement

When designing foreign language courses for specific purposes at university, students' foreign language communicative competence, background and general professional knowledge are in the focus of researchers' and syllabus designers' attention. However, considering only these factors is not sufficient in designing legal translation courses.

Teaching legal translation at university requires propaedeutic and preparation of students in the framework of the introductory ESP course. Designing and launching such a course presupposes thorough analysis of students' errors (by 'students' we mean those who have already completed a similar course of general English and of the same learning background (including inter alia language pairs, methods of teaching and learning etc.). The errors revealed and classified enable us to determine the causes of errors and provide for their minimisation and elimination during the further courses.

The issues of errors/mistakes made by learners in the process of language acquisition, their investigation and analysis, general and specific theoretical aspects thereof have been actively discussed in academic literature. Researchers look into such matters as different types of correction, general issues related to correction (Chandler, 2003; Chaudron, 1986; James, 1998; Truscott & Hsu, 2008; Zybert, 1999), substantiation of positive approach to language mistakes, (Bartram & Walton, 1991), implicit and explicit corrective feedback (Ellis, Loewen & Erlam, 2006), oral and written corrective feedback (Bitchener & Knoch, 2010; Ellis, 2010), prompts and recasts (Ammar, 2008), errors as indicators of the development of interlanguage (Arabski, 1979), feedback in adult second language acquisition (Carrol, Swain & Roberge, 1992), individual differences in second language learning and difficulties caused by them (Ellis, 2004), modelling learning difficulties (Ellis, 2006), analysing learner language (Ellis & Barkhuizen, 2005), the short- and long-term effects of written error correction (Ferris, 2006), effects of proficiency differences and patterns of pair interaction on second language learning (Watanabe & Swain, 2007).

However, difficulties, obstacles and restraints that we encounter when teaching a professionally-oriented sublanguage and the related translation provoked by the preceding course of general English, those which subsequently act as causes of errors have not been in the focus of researchers' attention.

1.2. Purpose of the study

For purposes of our research, we employ only one term 'errors' and we do not distinguish it from the term 'mistake'. 'Error' is understood as a linguistic form or a combination of forms which under the same conditions and in the same context of speech production cannot be made by a native speaker (James, 1998). James provides for criteria according to which one can judge about derogation from the standard usage, in particular: compliance with grammar rules, the appropriateness (i.e., the possibility to be used in a particular situation), accuracy (compliance with certain standards and norms), deviation (deliberate breach of the language code and other deviations related to pragmatics) (James, 1998, p 64). This definition is complemented by one provided by C.James

Chaudron (1986), according to him, error is a linguistic form or content which is different from what is considered to be the norm for the native speakers, or any other language behaviour which is subject to correction (in the judgement of the teacher).

The preliminary analysis we undertook revealed sources of errors students make during the introductory course, they include inter alia: interference (different types thereof: intralanguage, interlanguage etc.), ontogenetic errors, errors caused by learners' cognitive styles and abilities. These

are errors frequently discussed in theoretical and empirical research papers. Our study focuses on revealing errors made by students after the first 4 months of learning legal English for translation purposes (following a course of general English). The next stage provides for analysing and classifying errors and further, based on this analysis determining the causes and sources of the errors caused by habits, expectations, non-developed and underdeveloped skills that students acquired during the preceding course of general English. The errors revealed are further classified, the causes are analysed and recommendations are formulated that are supposed to be integrated in the propaedeutic course of legal English teaching.

2. Methods

The methods employed to conduct the theoretical research and the experimental part of it include: analysis of scientific works on errors made by learners of a foreign language, teaching methodology, classification and categorisation of errors as well as observation, representative method, continuous sampling technique, statistical computation of the data, analysis of written translations from English into Russian and from Russian into English.

While selecting the texts (for learning purposes from authentic English textbooks for law students (introductory course)), we were guided by the following criteria: the level of difficulty taking into account that of the sentence structure, conceptual complexity, informativeness, subjects (the relevance to the major disciplines' syllabi), the perspective to transform the text and its adaptation.

The lexis comprised legal terms (denoting general legal notions), general English vocabulary frequently used in legal English contexts and presupposed by such contexts, those of them related to legal concepts.

The representative sample constitutes 2-year undergraduate students who have been learning General English for 1 year (10 academic hours per week) and legal English for 4 months (2 academic hours per week), their mother tongue is Russian. Here are the characteristics of the groups under observation. Each ESL group consists of 7–10 students. All in all, seven groups were subject to examination.

Table 1. The general characteristics of the groups under consideration

Conditions of sampling	Representative sampling (*n* = 64)
Non-variables: Typical Syllabus Written translation from English into Russian and from Russian into English	1) 2-year undergraduate students, 2) Students with the same level of foreign language communicative competence (the average grades—B–C) and 3) Uniform statistical computation of the data

Written translation tests were analysed. Lexical units incorrectly translated by students were selected according to the continuous sampling technique. The data received enabled us to reveal the distribution of lexical units and their variety. As we considered cases of intralanguage interference caused by the preceding course of general English, we applied the representative method in order to select the portion of errors that can be caused by the type of interference we described above. The lexical units obtained were subsequently subdivided according to the following indicia: 1) lexical units which have the same or similar roots with the words frequently used in the general English course; 2) homonyms, especially in cases when legal terms were previously known to students as general English words; 3) paronyms; and 4) multivalent lexical units.

In order to avoid discrepancies in the course of teaching, we introduced observation sessions (during students' regular classes) conducted by legal English teachers. The observation focused on tests correction and analysis as well as students' reflection and self-assessment. The observation

protocols contained three sections: the linguistic parameters of intralanguage interference identified earlier; the degree of skills development (developed, underdeveloped and not developed); other behavioural characteristics reflecting the impact of the preceding general English course (the latter were not identified in the protocols, teachers introduced their own findings and comments). We calculated the frequency of particular parameters (the corresponding percentage) in different sections. The data were computed with the help of SPSS 1, 5 for Windows.

3. Findings and results

The methods employed enabled us to determine clusters of errors, analyse and classify them. Generally, these errors can be attributed to both English–Russian and Russian–English translation.

The general English course is aimed at drilling students to use the variety of language forms, in particular syntactic patterns whereas professionally-oriented English texts in the field of law have strict and rigid syntax frameworks. We revealed the following typical syntax errors: rearrangement, replacement of parts of sentence, changing word order, changing predicates, transformation of active patterns into passive, splitting sentences/merging, replacement of syntactic links and omissions/additions.

Students make errors in morphological transformations. These are as follows: transformation of pronouns, replacement of grammatical number, word formation transformations. The major part of errors is related to lexis: contextual translation of multivalent terms, unknown terms, antonymous translation, translation of synonyms and translation of false cognates.

Students are taught active vocabulary and are drilled to use newly acquired lexical units instead of those they have already committed to the memory but in this process, covert or not, so obvious meanings of synonyms are neglected including those revealed in a particular context. They do not master the skill to be selective in choosing lexis. It happens because variability is the priority and in most situations it prevails.

For example, such frequently used words as 'proceeding', 'proceedings', 'procedure'; 'liability', 'responsibility', 'obligation', 'undertaking', 'commitment' are not differentiated by students or the words at issue are translated not regarding the context. When translating from Russian 'процедура' is in the majority of cases translated as 'procedure' (approximately 74%), whereas 'обязательство' is translated as 'obligation' (68%) as other synonyms in general English are used in different contexts and acquire other meanings ('commitment'—'преданность' (57%), 'undertaking'—'предприятие, дело' (81%) etc.).

Students appear not to be ready for polysemy, which in turn affects the work with synonyms and antonyms. While being aware of homonyms, students frequently are unable to apply their knowledge in new situations.

Additionally, the course of general English does not provide for proper and thorough development of transfer and word meaning extension skills. Although taught to determine contextual meanings of words, students are more characterised as having declarative knowledge, lacking contextual meaning determination techniques learners experience difficulties when looking for optional matches that cannot be found in a dictionary. Below we provide a table containing the most frequent versions of translation that the majority of students provide when translating the words and word combinations given. In certain cases, students make a lot of errors because they perceive the material as familiar and do not anticipate any discrepancy as for what they learnt before.

The frequency of the equivalents chosen by students for a particular lexical unit varies from 23 to 78%. The Russian equivalents are given in a descending order.

Table 2. Examples of students' errors

Words/word combinations to be translated/the context they are used in	The meanings frequently used in the preceding general English course/wrong frequent translations (the words are in bold type)	The/a right translation in the given context
Association/articles of association	'ассоциация', 'объединение'	'учреждение'
Civil/'civil law versus case law'	'гражданский, штатский, цивилизованный'	'континентальный'
Consideration/'any contract requires consideration'	'размышление, рассуждение, анализ, разбор, рассмотрение'	'встречное удовлетворение'
Officer	'чиновник, служащий; член правления, офицер'	'должностное лицо'
Meeting/shareholders meeting	'заседание, встреча'	'собрание'
Public/public company	'заседание, встреча'	'собрание'
Mitigation/mitigation of losses	'смягчение', 'облегчение'	'сокращение издержек'
Negligence	'небрежность; невнимательность, неряшливость'	'халатность, ненадлежащая осмотрительность'
Settlement/amicable settlement	'колония, поселение; урегулирование'	'соглашение'
Constitution/constitution of the company	'конституция, основной закон, указ, строение, состав конституция'	'консолидированные учредительные документы'
Deed/covenants are referred to as contracts under seal or deeds	'действие, деяние'	'документ за печатью'
Authority/the company members gave the authority to withdraw from the agreement	'власть, авторитет, вес, влияние, значение, авторитетный источник'	'полномочие'
Acceptance/without acceptance of an outstanding offer there is no contract	'получение, прием, принятие одобрение, признание'	'акцепт'
Removal/removal of directors	'перемещение; переезд; удаление'	'смещение с должности, увольнение'
House/companies house	'дом, здание, род'	'палата, реестр'
Breach/breach of contact	'разрыв, брешь'	'нарушение'
Minute/minutes of the meeting	'минута, мгновение; миг, момент'	'протокол'
Dispute/any dispute result in suit	'дискуссия, полемика'	'спор'
Agreement/sale and purchase agreement	'согласие'	'договор'
Extraordinary/extraordinary meeting of shareholders	'выдающийся, замечательный; исключительный, экстраординарный, необычный, странный;удивительный'	'внеочередной'

Knowing the right meaning of a verb, students are incapable of finding the right translation of this verb in a new collocation. For example, 'abandon' (v.) ('покидать', 'оставлять'), but learners have difficulties translating 'to abandon an action' ('отказаться от действий'). Similarly, being familiar with

'award' (v.) ('присуждение'; 'присуждать что-либо; награждать чем-либо') they cannot come up with the right translation of 'to award a contract' ('получить право на заключение договора').

The same is typical of combinations with adjectives. 'Insurance policy' is translated as 'политика страхования' and not 'страховой полис, договор страхования' as needed; trust deed is understood as 'доверенный поступок' instead of 'договор доверительного управления'.

As for translation of pairs of adjectives, there are cases when one of the adjectives may acquire a meaning different from the one that students are accustomed to: in the word combination 'good and marketable title'—the first adjective is usually translated as 'хороший', not as 'безупречный' which is more appropriate.

Pair combinations of adjectives are of special difficulty such as 'jointly and severally', 'null and void'. Students tend to translate each word separately and not to look for one-adjective equivalent as it is applicable.

Another issue is failure to distinguish paronyms. These words are quite often used in general English context, although in legal English they are often used as key words both on the level of word combinations and sentences. For example, 'principal' and 'principle' (principal—agent relationships; principal amount of the loan; legal principles).

It is not rare that professionally-oriented lexis is used in general English texts and in particular, in fiction which is used at home-reading classes. Teachers usually do not draw students' attention to the rules of collocations with such words, their synonyms, limitations in their usage, socio-cultural and grammar peculiarities, neutrality, and in particular, the usage of plural forms.

Further on, certain grammar phenomena do not coincide with students' expectations. One of the most frequent ones is the usage of plural forms of nouns which learners are accustomed to using as uncountables. Students are aware of the meaning of the word 'damage' ('повреждение, поломка; убыток, ущерб') bearing that in mind they translate 'damages' as 'повреждения' and not the appropriate 'возмещение убытков, компенсация за убытки'. The word 'loss' ('потеря, утрата, ущерб') is perceived as uncountable, the form 'losses' ('потери, убытки') is not used and is perceived as an inaccurate form.

Not being aware of limitations in the usage of singular and plural forms of certain nouns, students cannot perceive the meaning differentiating function. For example, 'term' and 'terms' are translated as 'срок' and 'сроки' correspondingly whereas the right equivalent of the latter is 'условия'.

3.1. Stylistic errors

The experience gained during the course of general English has its impact on errors in matters of style. There is limitation in using lexical units and grammar forms predetermined by stylistic peculiarities of legal English texts. 2-year students are unable to be guided by stylistic norms when choosing this or that language unit. They are usually taught to distinguish between colloquial, literary norms, sometimes—the business style, but not all the varieties of styles and language registers, and the legal one, in particular. For example, 'advise' (v.) in the English language is used both in colloquial, literary, business styles and in legal English texts although equivalents of this word in Russian ('советовать', 'консультировать') are stylistically predetermined.

3.2. Using reference books

Both at school and university, students familiarise themselves with the rules of using reference books including dictionaries. Nevertheless, when it comes to professionally-oriented translation, students turn out to be unaware of some peculiarities of bilingual dictionaries as during the course of

general English they might be taught to use monolingual dictionaries especially if the methods of teaching are based on non-translation natural approach.

4. Conclusions and recommendations

Errors that students make during the introductory course are caused by a variety of factors: different types of interference, absence or lack of sociocultural knowledge (especially professionally oriented), typical difficulties those of ontogenetic character, language phenomena caused by specificity of professionally-oriented texts. Our research focused on intralanguage interference caused by the preceding general English course. It enabled us to single out nondeveloped, underdeveloped and weak productive and perceptive lexical, morphological, stylistic, grammar and translation skills: to correctly combine words in syntagmas and sentences, to determine lexico-meaningful and lexico-thematical associations, to combine new words with those learnt earlier, to choose the right word out of synonymic and antonymic ones, to make appropriate equivalent substitutions, to reveal meanings of words with the help of context, to understand the meanings of words based on other characteristics (affixation etc.), differentiate words with similar spelling; meta-linguistic knowledge in the field of lexis, translation; knowledge of word formation rules and their combinations (lexical, grammar) and word changing.

Generalising the above, we formulate causes of errors on different levels. On the level of reception, errors are provoked by failures in the process of perception, on the level of storage—mnemonical failures; on the level of restoration—failures to combine words, to modify words' meanings as well as syntactic patterns. Errors also occur due to multidirectional focus of students' attention; metacognitive failures, particular underdeveloped skills and the adverse effect of the previous language learning experience.

To prevent and minimise errors caused by the preceding general English course, it is recommended to introduce a propaedeutic course prior to the introductory legal translation teaching, or to incorporate propaedeutics in the introductory course. When introducing legal texts on pretranslation and posttranslation stages, it is advisable to rely on particular forms of error prevention and elimination. They can be used as independent error prevention/correction tiers of the course as well as incorporated in the routine exercises. These forms include: information processing (restructuring, classification); building semantic tiers; correcting errors in texts; completing sentences and texts; reconstructing morphology, matching different parts of speech (restoring collocations); analysing, defining, differentiating lexical units, in particular synonyms, homonyms, paronyms, in some instances grammar and morphological forms; transforming lexical units and grammar forms.

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