

**M'hamed Bougara University of Boumerdes
Faculty of Law and Political Sciences
Department of Public Law**

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The Importance of Using Foreign Scientific Documentation in Legal Research"

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Opening presentation of the Study Day entitled:

English and Law : A New Challenge for the Algerian Researcher

Abstract :

Learning foreign languages contributes to the advancement of national law by raising the standard of legal science research. However, there are a number of obstacles that the Algerian researcher must overcome, in order to conduct high-quality legal research in English. One of the biggest challenges for the Algerian legal researcher is "legal translation", since he has to ensure that legal terms are accurately translated when they are used in his research. To conduct a legal research in English, the Algerian researcher must become proficient in legal English, literary English is insufficient. Because legal terminology is the key to any legal research, Artificial Intelligence (AI) is still unable to perform tasks that a human translator could.

Key words: legal English, legal translation, legal terminology, human translator, Artificial intelligence (AI).

اللغة الإنجليزية والقانون: تحدي جديد للباحث الجزائري

ملخص:

يساهم تعلم اللغات الأجنبية في تطوير القانون الوطني من خلال رفع مستوى البحث العلمي القانوني. ومع ذلك، فإنه ثمة العديد من العقبات التي يجب على الباحث الجزائري تجاوزها من أجل إنجاز بحث قانوني عالي الجودة باللغة الإنجليزية. من أكبر التحديات التي يواجهها الباحث القانوني الجزائري هي "الترجمة القانونية"، حيث يتعين عليه التأكد من ترجمة المصطلحات القانونية بشكل دقيق عند توظيفها في بحثه. لإنجاز بحث قانوني باللغة الإنجليزية، على الباحث الجزائري إتقان اللغة الإنجليزية القانونية، فاللغة الإنجليزية الأدبية غير كافية. ونظرًا لكون المصطلحات القانونية المفتاح لأي بحث قانوني، فإن الذكاء الاصطناعي (AI) لا يزال غير قادر على أداء المهام التي يمكن للمترجم البشري القيام بها.

الكلمات المفتاحية: اللغة الإنجليزية القانونية، الترجمة القانونية، المصطلحات القانونية، المترجم

البشري، الذكاء الاصطناعي (AI).

Introduction:

Scientific research in the field of law is not tied to a specific legal system or a particular country. Legal research is a combination of different cultures and many perspectives.

This paper aims to increase the level of awareness of young Algerian law students and broaden the consciousness of experienced lawyers, in order to recall together the importance of languages in the field of law. It is also an opportunity to spotlight the problems related to legal language, in particular legal English, and try to find appropriate solutions.

Language is strongly linked to human development, which is at the core of sustainable development. So, we can easily say that language is the pillar of continuous development in any country, since communication, information, education, economy, digital transactions, and many other factors rely on languages.

Learning foreign languages plays an important role in the evolution of national laws, especially for a lawyer. As a social actor, a person who studies or practices law must possess the necessary language tools to fulfill his role in upholding the legal system and ensuring the respect of the law¹.

Acquiring a large knowledge of law is not enough to make the Algerian law student an excellent researcher, able to achieve scientific breakthroughs and high-quality research. However, it is important to remember that mastering 'only' foreign languages is not enough either. An Algerian law student must first learn the necessary legal knowledge required for a considerable legal background (general principles of law, legal provisions, regulations, court decisions, procedures, etc.), and then use foreign languages to better enrich his research.

So, legal knowledge comes first, and at the same time, a continuous improvement of language skills would be the perfect process. There are students who have very high language skills in English but have very limited knowledge of law. It doesn't work. A legal researcher must mix both legal knowledge and foreign languages.

In addition, even if the Algerian researcher manages to master English, a serious problem arises: that of an appropriate legal English and, in particular, a correct legal translation, which is considered an obstacle due to its impact on credibility in the transmission of information.

So we can wonder:

What are the new challenges for the Algerian researcher in the field of law when using the English language?

To answer this problematic question, we will discuss the importance of English for the Algerian legal researcher in the first part (I). In the second part, we will focus on legal translation as one of the greatest obstacles to correct legal research (II).

¹ What does a lawyer do? [Online] <https://www.careerexplorer.com/careers/lawyer/> Accessed: 10/09/2023 at 12:28.

I. The importance of English for the Algerian legal researcher:

To clarify the importance of English for the Algerian legal researcher, we will first discuss the importance of the scientific researcher in the field of law (1), and then we will see how English impacts Algerian legal research in different ways (2).

1. The importance of the legal researcher:

Scientific research can be defined as a set of procedures followed by someone called 'the researcher', using scientific methods to discover and identify all aspects related to a scientific problem, in order to solve the problem.

A scientific researcher is the person who makes the analysis of objective and scientifically proven facts. The academic scientific researcher is a qualified teacher or student subject to specific conditions, working on the study of a phenomenon or a problem in a specific discipline.

Legal research is a background investigation of a legal issue or case of legislation, case law, and legal definitions. Including resources on how to realize legal research, such as research guides, services that help in legal research, and also basic research tools such as dictionaries¹.

A scientific researcher in the field of law is called 'a legal researcher'. Noting that PhD students, under the supervision of older researchers, also do a great job in scientific research. The place of the PhD. student is not minimal, minimalist, or minimalized at all in the field of law. The PhD student is a driving force in its construction. And his academic future naturally depends on his qualities as a researcher and his thesis, which constitutes a central point².

A legal researcher is one of the most important actors in the evolution of national laws through the analysis of laws and regulations in force, allowing the improvement of the national legal system and the effectiveness of legal policy.

Legal researchers also help to find appropriate solutions to current legal issues and contribute to the protection of individuals and groups, through the reinforcement of norms relating to equality and justice.

The researcher in the field of law contributes to the improvement of the law itself, by taking a critical look at existing law and proposing revisions to the legal system. In this way, legal researchers promote excellence and reinforce the impact of the common theme on the construction of law³.

One of the main important roles of a legal researcher is to make the law known to the public, that is, to the citizens who are subject to it. The presumption of knowledge of the law

¹ Recherche juridique [Online] <https://www.lawcentralalberta.ca/fr/recherche-juridique> Accessed : 21/11/2023 at 14 :41.

² Hiam MOUANNES, LA RECHERCHE JURIDIQUE VUE PAR SES PROPRES ACTEURS, Préface, p. 7-15. [Online] <https://books.openedition.org/putc/947?lang=fr#:~:text=6La%20recherche%20juridique%20est,la%20finalit%C3%A9%20de%20sa%20mission> Accessed : 15/09/2023 at 09:35.

³ Hiam MOUANNES, *Ibidem*.

‘No one is supposed to ignorant law’ can only be established if the law is made known. And this is one of the important performances of legal researchers¹.

In the same context, the scientific researcher in the field of law plays an important role in development. From a first perspective, we can believe that ‘development’ affects the sciences of technology rather than law and human sciences. But in fact, law is no less involved in development and scientific research. The law uses the results obtained by scientific researchers in various disciplines, to determine the rules and measures that must be applied in practice, in order to improve human conditions. Hence the importance of legal research in the field of sustainable development.

Sustainable development is a controversial concept, but as defined by the United Nations, it is "a development that meets the needs of the present without compromising the ability of future generations to meet their own needs"².

Scientific research is the intellectual side of sustainable development³, with cross-cutting subjects. One subject of sustainable development includes several disciplines. For example, poverty affects technological, economic, social and political areas⁴. Sustainable development includes three dimensions. It is increasingly perceived not only from an economic standpoint but also from social and environmental perspectives⁵.

Thus, an Algerian legal researcher must always improve the level of his knowledge for high quality research, far from simple theories and repetitive information that cannot be applicable in practice. As we previously said, legal research is the basis of the entire legal system.

2. The role of English in the field of Algerian legal research:

Algerian legal researcher must play an active role in the revision of national laws, by providing decision-makers with results and convincing legal ideas, allowing them to make their own decisions, instead of simply receiving and accepting what already exists.

English is one of the best skills that allows the Algerian researcher to better play his role, by contributing positively and effectively to the development of local laws.

The growth of open access to the web motivates the use of English language between English speakers and non-English speakers. “Any monolingual model is no longer suitable.

¹ Hugues BOUTHINON-DUMAS , W. GREGORY VOSS, Vincent REBEYROL, L’impact de la recherche en droit et sa mesure, [Online] <https://www.actu-juridique.fr/theorie-sociologie/limpact-de-la-recherche-en-droit-et-sa-mesure/> Published on 22/09/2017. Accessed : 15/09/2023 at 10 :31.

² "Report of the World Commission on Environment and Development: Our Common Future" Brundtland Report". United Nations, 1987.

³ Bernard Hubert, Le développement durable et la recherche scientifique : opportunisme ou refondation ? Annuaire de l'EHESS, 2006, p. 602. (pp. 601-603)

⁴ LA RECHERCHE AU SERVICE DU DÉVELOPPEMENT DURABLE, Rapport intermédiaire, p. 26. [Online] https://medias.vie-publique.fr/data_storage_s3/rapport/pdf/034000336.pdf Accessed : 20/09/2023 at 11:04.

⁵ Language at the heart of sustainable development discussions in upcoming International Language and Development Conference. [Online] <https://www.britishcouncil.com.sn/en/about/press/language-heart-sustainable-development-discussions> Accessed : 19/09/2023 at 17:32.

Today, locking oneself into one's own language and trying to maintain monolingual spaces in the sciences does not seem to us to be a strategy that is either realistic or adequate”¹.

Actually, English becomes a necessity for the Algerian legal researcher, especially for one who wishes to do research on an international scale. Knowing English allows the Algerian legal researcher to better follow the evolution of English-speaking legal systems.

Legal English is not only a necessary tool for lawyers in English-speaking countries, but for all legal international professionals since English is the first common language of international business².

Algerian legal research needs a language that facilitates the transmission of information, that can guarantee the exchange of legal knowledge between Algerian researchers and other researchers from different countries, a language that takes the legal message to another level of communication.

In the same context, the linguistic shift to English in Algeria is a relevant step for both economic growth and sustainable development. There is no sustainable development without communication. Even if languages are not included in the Sustainable Development Goals (SDGs) adopted by the United Nation in 2015³, languages are still the foundation of sustainable economic development. Language is the basis of skills, communication and participation through which populations can play an active role in socio-economic development⁴.

As English is a cross-border language, it has become a global international language for the exchange of goods and services in high economic spheres⁵.

English is also the language of the market and the economy. On the terminological side, a common English word becomes very quickly a famous technical term, adopted by all professionals around the world (for example, manager, businessman, credit card, cash, money, etc).

Foreign languages, in general, play a fundamental role in economic activity. Linguistic skill is an added value in the economy and there is a reciprocal influence between the economy and language⁶. Foreign language training for economic improvement is a scientific field that combines three themes: economy, languages and training⁷.

¹ Rainer Enrique HAMEL, L'anglais, langue unique pour les sciences? Le rôle des modèles plurilingues dans la recherche, la communication scientifique et l'enseignement supérieur, Synergies Europe n°8 – 2013, p. 62.

² WHAT IS LEGAL ENGLISH [Online] <https://www.british-legal-centre.com/what-is-legal-English> Accessed : 19/09/2023 at 23:42.

³ Philip Harding-Esch, Languages and the Sustainable Development Goals after Covid-19, in Language and the Sustainable Development Goals, British Council, 2021, p. 8.

⁴ Philip Harding-Esch, *Op. cit.*, p. 12.

⁵ Mesbahi khaled, L'impact des langues étrangères sur le développement socio-économique, Journal of Social Studies and Research, El oued University, n° 24, December 2017, p. 9.

⁶ “The economics of languages is interested in the reciprocal influence between economic (E) and linguistic (L) variables: for example, does the level of foreign language skills have an impact on salary (LE)? Does international trade influence the diffusion of certain languages (EL)?”. See: François Grin, L'économie face aux langues, Bulletin SAGW 1 | 2017, p. 61.

⁷ Mesbahi khaled, *Op. cit.*, p. 8.

II. Legal translation:

Legal translation is one of the biggest challenges for the Algerian researcher. Legal English is quite different from ordinary English (1) and Artificial Intelligence (AI) can not replace a human translator (2).

1. The specificity of legal English:

Law has always had its own spoken and written language, used and understood only by lawyers¹. Legal English is a set of terms, concepts and expressions used by lawyers and found in all legal documents. Legal English is quite different from ordinary English².

'English' as a common language is not enough to make correct legal research. Each foreign legal language has its own legal terms and concepts, of which the corresponding terms and concepts in another language are not always the correct equivalent. 'Legal English, as any legal language, is a technical language in which, vocabulary is used in a well-defined sense, necessary for the precision and clarity of the rules, for lawyers and non-lawyers³.

Some authors distinguish between three types of language relating to legal discourse:

"Jurisprudential legal language is that in which decisions relating to the application of law are formulated. It is identified by the pragmatic factor, namely the discourse of law-enforcing bodies. The difference between legal language and jurisprudential legal language is linked to the opposition between the creation and application of law.

Scientific legal language is specific to the discourse of legal science. Its function depends on pragmatics, namely on the functions of the discourse of legal science.

Common legal language is used in other discourses concerning law, and its identification remains more problematic"⁴.

Legal English is widely considered a sublanguage, and this term puts forward the idea that legal English is different from common English. These differences can be observed in vocabulary, morphology, syntax, and semantics, as well as in other linguistic features⁵.

Legal language can be defined as "special purpose communication between specialists, thereby excluding communication between lawyers and non-lawyers"⁶.

Some authors consider that legal technique results, for the most part, are a question of terminology⁷. A technical term has an enormous advantage, it covers a precise notional

¹ WHAT IS LEGAL ENGLISH [Online] <https://www.british-legal-centre.com/what-is-legal-English> Accessed : 19/09/2023 at 23:42.

² What Is Legal English? [Online] <https://www.thoughtco.com/what-is-legal-english-1691106> Accessed : 19/09/2023 at 22:53.

³ Stéphane CHATILLON, Droit et langue. In: Revue internationale de droit comparé. Vol. 54, n°3, Juillet-septembre 2002, p. 689.

⁴ Jerzy WROBLEWSKI, Les langages juridiques : une typologie. In: Droit et société, n°8, 1988. Le discours juridique. Langage, signification et valeurs, p. 14.

⁵ Messaoud AGOUNINESSOUK and Nadir GUERMAH, Legal translation in the Light of Translating Memorandums of Association from Arabic into English, A dissertation submitted in partial fulfilment of the requirements for the degree of Master in Translation, Department of Translation, Faculty of Arts and Languages, Mouloud Mammeri University of Tizi-Ouzou, September 2016, p. 9.

⁶ Cited in: Malcolm HARVEY, What's so Special about Legal Translation? Vol. 47, n°. Meta, 2, juin 2002, p. 178.

⁷ Cited in : Jean-Claude GEMAR, La traduction juridique : art ou technique d'interprétation ? Revue générale de droit, 18(2), 1987, p. 507.

reality, a given and relatively stable semantic field that would be difficult to circumvent by a paraphrase, for the sake of clarity, simplicity, or stylistic reasons¹.

According to linguistic theorists, only a very great chance would cause the words of one language to coincide with those of another. 'Untranslatability' would therefore be in the nature of things². And it can immediately and easily be seen from the first glance taken at a translation compared to the original text. The most visible changes concern the macrostructure of the text, its order and layout, and its length. It is indeed common for a translated text to be shorter or longer than the original. There are, however, other, more subtle changes that do not only concern lexical or syntactic problems. Linguistic servitudes can give way to the higher interests of politics³.

2. The human translator and Artificial Intelligence (AI):

Legal language is marked by its legal terms, which are tools used by lawyers. One wrong term can change the entire meaning of a legal expression or document⁴.

Hence the danger of an improper translation, which can create confusion and errors, since the foreign researcher does not have knowledge of the original legal English⁵.

The confusion increases when it comes to "machine translation" or "automatic translation", which has gradually developed, especially with the advancement of Artificial Intelligence AI, which affects almost every industry, including translation services.

Legal translation is a special type of translation that involves linguistic communication in a legal context⁶. It is the translation of texts in the field of law. A legal text is defined as any document used in a legal system and drafted in accordance with the applicable laws of a country⁷.

The question of legal translation is more a matter of "a researcher" than "a research", which means that it is related to 'human'. The relationship between humans (the translator) and language has always been complex, and it could become even more complex, due to the linguistic transition that Algeria is experiencing today, at the pace of the digital transition, which is becoming more and more widespread in all areas of everyday life.

Many authors argue that the special status of legal translation arises from the prescriptive nature of legal discourse, which gives rise to legal implications⁸.

Legal translation is the process of transferring the meaning of terms, texts and documents of a legal nature or legal source, from an original language called the source

¹ Jean-Claude GEMAR, La traduction juridique : art ou technique d'interprétation, *Op. Cit.*, p. 507.

² Jean-Claude GEMAR, Les enjeux de la traduction juridique : Principes et nuances, p. 3. [Online] <https://www.tradulex.com/Bern1998/Gemar.pdf> Accessed : 19/11/2013 at: 08:49.

³ Jean-Claude GEMAR, Les enjeux de la traduction juridique : Principes et nuances, *Op.cit.*, p. 4.

⁴ WHAT IS LEGAL ENGLISH and WHY IS IT IMPORTANT TO LEARN? [Online] <https://www.linkedin.com/pulse/what-legal-english-why-important-learn-dena-falken> Accessed : 19/09/2023 at 23:00.

⁵ Barbara J. BEVERIDGE, Legal English : How it developed and why it is not appropriate for International Commercial Contracts, p. 8. [Online] <https://www.tradulex.com/articles/Beveridge.pdf> Accessed : 19/09/2023 at 15:27.

⁶ Messaoud AGOUNINESSOUK and Nadir GUERMAH, *Op. cit.*, p. 14.

⁷ What is legal translation? [Online] <https://commit-global.com/what-is-legal-translation/> Accessed : 21/11/2023 at: 14:57.

⁸ Malcolm HARVEY, *Op. cit.*, p. 179.

language to a second language, which is the target language. In a way that does not distort or affect the meaning, in order to achieve equality of meaning and concept without distortion or addition to the meaning¹.

Legal translation poses the problem of translating the legal term, and this is due to the translation between two different legal cultures. The translator must search for the functional equivalents of legal terms in the legal system to which they are transferred. Which means to translate the legal term in the language (A) and the legal system (A), with its functional equivalent in the language (B) and the legal system (B).

It is not permissible for the translator to translate by himself when the functional equivalent is present, but in its absence, the translator will face a problem that needs to be solved according to the purpose of the translation².

Most of the difficulties and complexities associated with legal translation are determined by the nature of the legal language itself. Legal translation represents a specialty and a difficult type in the broad field of translation. Each country has its own legal system and legal terminology, in addition to the usual linguistic and cultural differences between communities. Legal translators face serious challenges when handling any legal project. When it comes to a legal text, there is no room for error, because any error, no matter how small, will have very serious consequences³.

It should be noticed that the translator (the human translator) has an obligation of means. He has at his disposal the almost unlimited resources that any language possesses and of which he must make the best use, not simply an honest or suitable one⁴.

Artificial Intelligence (AI) is impacting all aspects of our daily lives, and one of the most important effects of artificial intelligence in the field of translation is 'machine translation', which offers fast services for the user and is rich in vocabulary surpassing that of the 'classic' human translator. Machine translation works by converting source language text and producing its equivalent in the target language.

No one can deny that AI is very helpful and necessary for any legal researcher, especially with the permanent improvement in the efficiency of machine translation.

Google Translate is, practically, the most accessible AI-powered translation tool on the market. Despite the rise of many programmes and applications related to translation, Google Translate remains one of the best machine translation services, after a series of improvements that have reached more than 100 languages. In addition to many other automatic translation services like Reverso, Deepl, Alexa Translations, Sonix ...

But, legal language is one of the most polysemous languages, and legal terms have several meanings according to their legal systems. Legal language is also distinguished by its

¹ رفيق سواسي، وفاء شهناز أمزرت، الترجمة القانونية بين المفهوم والمنهج (ترجمة نصوص القانون الخاص أنموذجا)، مجلة الدراسات القانونية والاقتصادية، المجلد 5، العدد 2، السنة 2022، ص 1085.

² أمينة شويطي، إشكالية ترجمة النص القانوني، مجلد مقاليد، العدد 10، جوان 2016، ص 129.

³ فاطمة الزهراء رمضان، علاقة الترجمة القانونية السليمة بجودة القاعدة الدستورية، مجلة الآداب واللغات، المجلد 22، العدد 1، 2022، ص 348-347.

⁴Jean-Claude GEMAR, La traduction juridique : art ou technique d'interprétation ? *Op. cit.*, p. 501.

precision, that is, each legal term must be understood in a particular way, taking into account the context in which it is used¹.

That is why legal vocabulary is often difficult to translate by machines. Machine translation must always be supported by a human, in order to control each sentence and each word translated by the machine.

Conclusion :

The interest that the Algerian Ministry of Higher Education and Scientific Research places in the English language, reflects a firm determination to raise the level of Algerian scientific research, and an absolute will to restore Algeria's ranking in the international scientific field.

Today, one of the biggest challenges for the Algerian researcher is legal translation. It is not an easy challenge at all, given that legal English itself is a big challenge, so the situation is more difficult when it comes to legal translation.

Legal English and legal terminology are strongly linked to terms, concepts and definitions. Correct legal English can give the research an international dimension, but an incorrect translation of a single word can negatively influence the entire meaning of the research. A notion or a term can be absolutely untranslatable.

Human translation already creates misunderstandings and misinterpretations. The situation gets worse when it comes to Artificial Intelligence (AI). Machine translation can only be effective under human supervision.

Using English in legal research means first of all that the Algerian researcher must master the basic rules of the English language, and then be able to discuss his research in English. This is not an easy task for the Algerian researcher, at least for now, but it is not impossible in the near future.

¹ Samia ZEGOUARENE, L'importance de la langue pour l'élaboration de la terminologie juridique, *Annals of Algiers University I* Vol. 34, n° 01, 2020, p. 890.

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