

FOOD METAPHOR IN LEGAL TERMINOLOGY: CHALLENGES FOR PERCEPTION, SOLUTIONS FOR INTERPRETATION IN MULTILINGUAL PROFESSIONAL SETTINGS

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Abstract

The paper explores the domain of food-based metaphor use in legal terminology and issues related its correct rendering into another language. The correctness is considered in the paper in line with such cornerstone translation studies categories as equivalence and adequacy. However, the need to balance and adapt the legal information to another country legal culture, legislation and proceedings runs through the text like a red thread.

The goal of the study comprises two interdependent objectives, namely to identify interdisciplinary grounds for food metaphor-based terminology interpretation in administrative legal settings and to specify possible protocols for such interpretation within multilingual communication in legal settings, as well.

The materials for theoretical analysis covered academic papers. The data for empirical studies included the USA and UK administrative-legal sources, academic papers on legal cases, and samples of mass -media communication in the administrative-legal field, monolingual and bilingual dictionaries and encyclopaedias.

The methodology exploited qualitative approach to data analysis, rested on ground theory and inductive method as no substantial theoretical data has been found on the topic under study so far.

The empirical analysis incorporated legal analysis of the concepts and their interpretation, the cognitive-frames based comparative analysis of the concepts in different national legal cultures, the investigation of language structure, namely syntax, morphology, orthography, linguistic and extralinguistic contexts, etymology data. The investigation rested on case study techniques.

Keywords: language, linguistics, legal translation, food-based terminology.

1 INTRODUCTION

Metaphor is one of the landmark tools for the world conceptualization in human minds and verbal communication (Lakoff, Johnson, 1980). Its study dates back to Antiquity (Mio, Katz, 2018).

Metaphor use is increasing in the modern communication due to the limited number of language signs, specialization of the knowledge nature, and the need to reflect it through verbal discourse (Semino, 2008).

The development of knowledge society enhances the role of scientific and domain specific communication. It currently faces multi-faceted use of language tools. This use often reveals a somewhat transferred meaning of the words and its actualization in semantically and pragmatically new contexts. Thus, figurative use of the phrases pave the way for their use particular settings that strive to use expressive means to grab the attention and influence the target audience.

The above leads to the metaphor-based terminology related to both basic and specific areas of human knowledge.

Among other issues, food metaphor shapes its landscape and fabric across divers areas of general and field specific human activities (Orbach, 2018), running from political discourse (Johnson, 2018) and advertising (Heller, et al 2015) to early childhood mathematics (Thornton, 2018). It might be explained by the fact that food creates the background for human existence (Mensah, & Eni, 2019).

However, it becomes even more complicated when some metaphor-based expressions live their own lives in different national variants of one language, in a field of particular specialization, i.e. law (Hanne, Weisberg, 2018). Some lawyers even call Law as Metaphor (Deutsch 1977, Murray, 1984).

It is interesting to note that the search through the Google scholar data base with key words, including food metaphor law, legal terms/terminology does not to a list of research papers on the topic under study.

The above confirms the present research relevance.

The research goal is two-fold and it aims to highlight interdisciplinary grounds for food metaphor-based terminology interpretation in administrative legal settings and to identify possible protocols for such interpretation within multilingual communication in legal settings, as well.

2 METHODOLOGY

Research materials include the USA and UK administrative-legal sources, academic papers on legal cases, and samples of mass -media communication in the administrative-legal field, monolingual and bilingual dictionaries and encyclopaedias.

Totally over 150 terminological items were found. They can be grouped on different grounds, namely the USA and the UK law terminology, types of food, etc. However, in terms of translation practice it seemed important for translation practice to distinguish cases with regard to the terminological units with the same metaphorical unit use in different branches of law, and with regard to existence/absence of equivalents between English and Russian legal cultures, second.

The research methodology rested on the qualitative approach to data analysis and interpretation, ground theory and inductive trajectory as no substantial theoretical data has been found on the topic under study so far.

The analysis developed on the interdisciplinary background, took into account fundamentals of cognitive semantics (that considers language use as the reference of mental activity to process the real world data) and functional pragmatics

The research incorporated legal analysis of the concepts and their interpretation, the comparative analysis of the concepts in different national legal cultures, the investigation of language structure, namely syntax, morphology, orthography, linguistic and extralinguistic contexts, etymology data.

The investigation employed case study and frame-based analysis to consider origins, use, and cross-language interpretation of food-based metaphor terminology in domain-specific settings.

3 CASE STUDIES

3.1 A Case of *Cherry Picking*

The cherry-based legal metaphor is found in different areas of legal practice.

First, it concerns the activities in the bankruptcy procedure, and second, in research and development policies:

Cherry Picking is practice that is applied in bankruptcy proceedings when the court may “enforce contracts that are in the money to the bankrupt counterparty while abrogating contracts that are out of the money” (Cherry Picking - The Financial Encyclopedia, n.d.)

Second, *Cherry Picking* is used in the USA in R&D arrangements “to prevent a contracting party from selecting or funding only the technologies that are successfully developed, i.e. “cherry picking”. (Cherry Picking, n.d.).

Regarding the above contexts, no terminological similarities with the same fruit-based metaphor are found in Russian legislation practice. However, there is a similar metaphor in common literary use (to skim cream off

the top/to cream money off the top/ to eat the cake). However, the mentioned metaphors fit neither the legal style, nor the specifics of legal contexts mentioned above.

Therefore, we would argue for the replacement of the metaphors by neutral wording that is equal in terms of factual and situational contexts and holds no transferred meaning, for instance, *selective approach in favor of smth/smb*.

3.2 A Case of *Fruit*

3.1.1 Sub-subsection: Guidelines for Abbreviations and Acronyms

There are cases when a national legislation and legal practice operate with terminological groups which are built through use of one word as food metaphor.

For instance, let us consider the following group:

- Fruit and the Tree Doctrine
- Fruit of Poisonous Tree Doctrine
- Fruits of Crime

There explicit use of the same word can make a translator believe that the above units belong to similar contexts, etc.

However, as the proverb states, appearances are deceptive.

The Fruit and the Tree Doctrine refers to the rule in tax law; under this rule a person cannot assign his/her earned income to another person to avoid taxation.

The Fruit of Poisonous Tree Doctrine refers to the way the evidence has been obtained; under the doctrine the illegally obtained evidence cannot be admitted in a court.

And the expression *Fruits of Crime* means outcomes of a criminal act, material objects acquired in consequence of commission of a crime (Fruit, n.d.)

The definitions from the US legal definitions portal confirm that the above terminological units with one and the same word as metaphoric background refer to different domains of law, thus making things even more complicated.

Further, in case of translation into Russian there might be found neutral equivalents (-Fruits of Crime – results of the crime, a calque technique will give the same variant in Russian).

Next, the translator might omit the metaphoric components as their calque translation with word order change (that is linguistically possible) will just add to communicative vagueness with no meaningful information, and extended description of the phenomenon on grounds of the original source information (in case of fruit and tree doctrine)

However, currently lawyers try to reproduce the metaphoric components through the calque translation with word order change, put them in quotation marks and further provide description of the concept (see the example in Russian with regard to this concept in English: Сутягин, 2008).

Therefore, the first important step that translators need do is to define the country and the branch of law within which the metaphor base terminological unit is used.

Next, it is timely to consider the legislation, academic references, and legal research sources in the language into which the term is to be translated and to find similar definitions. Dictionaries and encyclopaedias might be helpful as well. However, we would recommend considering legislation and legal research sources as the background.

3.3 A Case of *Lemon law*

The situation turns out to be not less complicated even if there are already some equivalents of source language food metaphor-based legal terms in a target language. A case of lemon law is a good example thereof.

One can come across the metaphor- based word combination “lemon law” when reading US mass media, legal sources, and academic studies. Lemon Laws are codified in the USA by today.

The first step might be to consult the monolingual encyclopedia that would provide the following explanation that clearly maps the domain and sense of the metaphor-based term:

The area of use covers the US cars which “*have a substantial defect covered by the warranty that occurred within a certain period of time or number of miles after you bought the car, and not be fixed after a reasonable number of repair attempts*”, there are federal rules and state legislations in the USA (Lemon Law for New Cars, n.d.).

The second step focuses on the list of possible language contexts and considers the use of the word combination under study with regard to preceding and following language units in the sentence.

As the language use is always context- dependent, it is critical to identify possible language use in communicative contexts for the language unit under study. One would consider the use of the word combination under study with regard to preceding and following language units in the sentence/utterance. It is possible to use either google search tools or consult national corpora to find a number of examples as follows:

- *Deciding if Your Car is a “Lemon”*
- *Making a Lemon Law Claim to your Dealer*
- *Resolving a Disputed Lemon Law Claim*
- *Most people have heard of the “lemon law”, but few know exactly what it is*
- *The lemon law may apply to you* (How to Learn How the Lemon Law Works, n.d.)
- *A highly skilled lemon law attorney* (TheLemonFirm.com, n.d.)
- *How to Learn How the Lemon Law Works. Most people have heard of the “lemon law”, but few know exactly what it is or how it works* (How to Learn How the Lemon Law Works)

Moreover, there is even International Association of Lemon Law Administrators in the USA that unites representatives of state/provincial and national government agencies that strive to provide an honest, safe, and informed market (ILLA, n.d.).

The above contexts show that the word “lemon” is mostly used as an attribute in the sentence or in the nominal group. The nominal word combination “lemon law” can verbalize the theme of the utterance and can be implemented within the respective sentence subject group (*the lemon law may apply, a highly skilled lemon law attorney*), or within the rhyme where the word can be part of the predicate (*Your Car is a “Lemon”*) or within the object group (*to make a Lemon Law Claim*).

Next, the orthography deserves the translator’s attention as well. The original English sources use the language unit with the word “lemon” in quotation marks. Apart from the function of marking the quotation they can indicate that “a word or phrase is being used in a special way” (Quotation mark. Merriam Webster (n.d.))

Moreover, we argue for the need to pay attention to this point as in Linguistics there is a long-standing discussion on the role of quotation marks in the sentences in terms of their reference to the proposition (Sellars, 1950). Scholars underline that quotation marks when they do not function for the others’ words or titles can indicate a transferred not direct meaning in which the language sign is used (Parsons, 1982).

This leads to further investigation of etymology nature to with regard to the transferred meaning of the word “lemon”. The on-line etymology dictionary explains that “lemon” transferred meaning comes from American English slang where it meant a person who is a loser. While in British English slang it meant “to pass off a sub-standard article as a good one.” The dictionary further elaborates by adding that it might be the idea of “second-hand car in poor condition” (Lemon. On-line Etymology Dictionary, n.d.).

As the Lemon Laws are codified in the USA today and have come across borders and today are part of Singapore Law, Sections 12A to 12F of the CPFTA (“CASE - Consumer Guides, n.d.) and are under consideration in Australia (Report №17, 2015), the phenomenon has attracted the attention of Russian speaking community, as well. Today the concept of “lemon law” is found in bilingual encyclopedias and dictionaries.

The lemon law in Russian on-line encyclopedia bilingual dictionary starts with two notes: American English, Consumer law.

Then the source translates the metaphor using calque technique, i.e. the name of the fruit and meaning of the word “the law” and further provides the explanation in Russian (provided in English in the paper for wider audiences to comprehend): “*guaranties the buyers the return of money for goods that do not meet the declared quality, the laws are in force in some states of the USA*”.

The second variant refers specifically to the car industry: automobile lemon law

The source again translates the word combination with metaphor through calque that in terms of word meanings sounds the same in Russian as it goes in English. Further explanation states: “*protects the rights of the consumers against new defective cars*”.

There is also a third option that renders the English version into Russian as follows: the law on poor quality goods. The explanations states that “*provisions in some laws require manufacturers to provide full return of money for faulty goods, whose repair cannot be provided within reasonable terms*”. The mentioned source also offers other options for interpretation that mention *the right of the consumer to refuse the goods within the guaranty period should the defect be detected* or *the law on poor quality goods* (lemon law, Academic, n.d.).

Bearing in mind the above empirical investigation, it is possible to conclude that there might be several options for rendering the word combination “lemon law” into another language. First through calque and use of word “lemon” in quotation marks with further description in brackets or translation commentary in the footnotes with particular reference to the USA legal context, i.e. *the USA law that is in force across the states and protects the consumers against losses due to their buying new cars with defects*. Alternatively, the metaphor can be omitted and the descriptive tactics can be used to replace the metaphoric unit with neutral language.

Furthermore, there are communicative contexts where the metaphor under study is used without any link to the USA legal/administrative/ cultural/ historic, etc. contexts see for instance the information on Lemon laws on the site of Australian government (Lemon Laws. Queensland Government, 2019).

In this case it seems reasonable read carefully the text, to identify whether the topic refers to the car industry or cover wider areas (in the mentioned site the data concerns the car industry), and to provide a descriptive generalized variant with regard to the original source of info. The site says in English about laws on consumer’s protection and remedies for buyers of new motor vehicles. The same language version is likely to be reproduced with a similar syntax and vocabulary units at least in major European languages.

To conclude with the case studies, the author would like to mention that the issues under study go beyond purely linguistic study. They can be viewed as part of language policy issues within multicultural communities and organizations. Scholars specify that a language policy should cover issues related to adequate protocols for the rendering of socially important terminology (Belenkova, et al 2017).

4 CONCLUSION AND RECOMMENDATION

The research findings allow the author to identify interdisciplinary grounds and protocols for food metaphor-based terminology interpretation in administrative legal settings. These foundations and activities require start from legal backgrounds, namely the identification of national legislation specifics. Next, a careful investigation of specifics of food-based terminology use within particular branches of law.

Third, search of similar legislation of the country of the translation target language is required.

Parallely, the data from legal encyclopaedias in translation source and target languages are subject to consideration. Only then a bilingual dictionary can be consulted. Its last position in the list of sources to be explored is explained by an objective fact, that dictionaries provide less context-linked material, than encyclopaedias and other comprehensive sources.

The theoretical relevance of the research is related to a new empirical area that has been specified in the paper with regard to further development of implications for cognitive analysis of knowledge representation and interpretation within anthropology of communication, language and communication theory and applied communication of legal practitioners in multilingual institutions.

The practical importance of the data shows concrete stages for legal translators to follow in cases when they deal with food-based legal metaphors in the texts.

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