A Contrastive Analysis of Textual Metafunction between English Legal Texts and Their Persian Translations

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Abstract
The main focus of this study is to probe the thematic structure of legal texts cross-linguistically in English with their Persian translations. In this respect, the researcher adopted Halliday’s systemic functional grammar (1985) as a yardstick for the analysis. The corpus of the study was International Law Documents (2011) and their Persian translations. In order to answer the three posed questions, the researcher chose seventy legal articles and went on an in-depth analysis of the source and target textual elements. Since the outcome of the research rests on the preliminary examination, an authorized translator stepped in to review the whole task. The findings indicated that thematic structures in almost half of the clauses were preserved, while about 37.23% of them exhibit none-correspondence in their thematic structure. The label of absorption was used to show embedded clauses in which the change of T/R organization was in the adjacent clauses not within the clause. In the clauses with none-correspondent thematic structure, the most and least amount of substituted elements were subordinate/relative clauses and indefinite pronoun respectively. More than half of the English marked themes were translated into marked ones. It implies that the translator tried to keep the original style of the legal text.

Keywords: textual metafunction, thematic structure, marked structure, contrastive analysis

INTRODUCTION
Language and communication are two inseparable entities. The current world is the world of international communication in which translation has a considerable function. One of the major areas of universal grammarian is the legal enterprise. According to Newmark (1993), specialized texts are divided into technical and institutional texts. The science of law is expressed by institutional texts. Legal translation is so complex that relatively little investigation has been done on it. That is, lots of unexplored issues still remain in this kind of translation. One of the important subsystems of language is the system of thematic structure. Systemic functional grammar (SFG) presents a
comprehensive model for the thematic structure which has attracted the attention of many linguists. In this study, the researchers took a linguistic and contrastive look at translation of thematic structure.

Design

Depending on the realm of investigations, the type of design change. It is also plausible in some cases that the researchers mingle both qualitative and quantitative in approaching the task. Since the present research is doing an investigation on both source and target texts, the approach is named comparative. On the other hand, because the data collection in this study is extracted by empirical material such as case studies, so the present research is in a qualitative mode. According to Holm’s map of translation studies, the current research can be categorized as a descriptive one (as cited in Munday, 2008. p. 10).

Theoretical Background

This research is based on Michael Halliday’s systemic functional grammar (1985). It is part of a social semiotic approach to language called systemic functional linguistics (SFL). For Halliday grammar is described as system not as rules. As he states, system is mood, agency, theme, and etc. In his view language is metafunctionally organized and for this reason all languages have three kinds of components: Interpersonal, ideational, and textual metafunctions which are the concerns of the present research. The textual metafunction enables the speaker or writer to construct texts. All these three metafunctions have status (as cited in Teich, 1999, p.15). Halliday (1985) argues that the functional organization of language determines the form taken by grammatical structure. The term metafunction originates in systemic functional linguistics and is considered to be a property of all languages. The major progress in SFG was the new ways of looking at function in language. SFG also concerns with the relationship between texts and contexts in which they are produced (Butler, 2003).

Another point worthy of attention is the fact that a translator should be aware of cognitive meaning, syntactic structure, and information dynamics of the text. Syntactic structures of a language impose restrictions on the way messages may be arranged. There are some languages with fixed word order while some others have flexible ones. Clause as a message bearing unit can be studied in terms of thematic structure and information structure. Halliday regards them as distinct variables (Baker, 2011). In the Hallidayan model, thematic choice is stated by placing clause elements in the initial position. Thematic choice includes a clause element such as: subject, predicator, object, complement, and adjunct as theme. The concept of meaning, choice, and markedness are severely interrelated. There is a meaning behind the selected element in the clause. When the position of the clause element is fixed and obligatory, it is regarded as unmarked. Flexible elements which take different position in the clause bear more textual meaning (as cited in Baker, 2011, p. 141). Thematic structure and cohesion are the two main features of text organization (Baker, 2011). Cohesion is a semantic concept which is expressed by both grammar and vocabulary (Halliday and Hasan,
The present study is limited to the thematic structures, so the cohesion is marked off in this research.

**Thematic Structure**

Information structure is an accepted issue, while thematic structure is still a debatable concept, since scholars had not yet reached a uniform definition. Presenting the definition of theme by Mathesius opened a new discussion in this respect. According to Mathesius, "Theme is known, obvious information. Theme is the starting point of utterance" (Rothwell et al., 2000, p. 118). Informative structure is known by given and new, while thematic structure comprises of theme-rheme (as cited in Rothwell et al., 2000, p. 118).

For Fries, "it can be shown that this difference is not merely at a terminological difference, since the judgments of what are or not thematic within a given sentence differs" (as cited in Rothwell et al., 2000, p. 118). Chomsky (1971) paid attention to the concept of information structure in a context by focusing on deep and surface structure (Hajičová, Sgell and Hana, 2002). According to Mathesius, thematic structure correlates with linguistic aspects which do not relate to subject-predicate.

**Systemic Functional Grammar (SFG)**

Systemic functional grammar owes its developments to Halliday. According to Halliday and Matthiessen, in SFG, grammar is a tool to gain communicative goals by showing specific meaning in a context. He was also of the opinion that this approach treats grammar as a comprehensive process of making choices that are in connection with the context and takes into account the grammatical relation between discourse and meaning which specify social and psychological factors (as cited in Nassaji & Fotos, 2011, p. 50).

In general, the goal of SFG is to account for the appropriate grammatical structure according to a given context. In SFG, a grammatical description is an account of grammar of a language as the grammatical potential available to a language user (Teich, 1999, p. 18). The basic information about the main linguistic concepts was provided previously. Since SFG construct the theoretical basis of the current study, conducting the analysis needs knowledge in grammar. As the unit of analysis in Halliday's viewpoint is the clause which comprises of noun phrase and verb phrase, the following sections will be devoted to grammar, noun phrase, verb phrase and clause in source language (SL) and target language (TL).

**Legal Translation**

The more recent taxonomy considers translation as a dichotomy of specialized and general. The general translation has to do with documents and materials. Unlike the general one, specialized translation undergoes a specific process in the translation of materials. Legal translation falls in the area of specialized translation (Gouadec, 2007). Legal translation is a combination of language and law. Since the complexity and
interdisciplinary of the legal translation, few investigation have been done in this realm. Since languages are historically and culturally diverse, transference of source legal text to the target one is not a straightforward activity. The complexity of the legal translation lies in the disparity of two legal systems. In this respect, translation of international legal texts are more challenging due to the fact that it has to do with more than two legal systems (Šarčević, 1997).

Translation is not merely bound to terminology and transcoding. The letter of the law is a crucial factor which must be preserved. The unit of translation in legal texts is the text not the word. For the aforesaid reasons, there is no doubt on the importance of legal translation over other types of translation. For Snell-Hornby (1988), legal translation is something beyond the word and structure equivalences. Culture is an affective factor in the law of a country. In other words, experts regard legal investigations and culture inseparable. Considering legal translation, the first priority is the transfer of legal issues not the cultural ones (Šarčević, 1997). Today United Nation Instructions for translator appear to take a more literal approach by admitting that 'there is always room for the exercise of stylistic judgment in the case of draft resolutions, treaties and other legal texts, or technical texts;' however, the final conclusion is that fidelity to the original text must be the first consideration. (Šarčević, 1997, p. 12-16)

Research Questions

Research question of the study can then be the followings:

1. Are the thematic structures of the English legal text preserved in the Persian translation?
   1.1. If the answer to the first question is negative, which clause element is used frequently as a substitute for thematic choice in the Persian translation?
   1.2. What percent of the English marked structures are translated into Persian marked structure?

METHOD

Source Material

The corpus of the study namely "The International Law Documents" (2011) contains five hundred and thirty six pages and is of two parts. The International Law Documents under the name of Asnād-e beinulmelal rāje’ be hall va Fasl-e musālematāmyz-e ekhtelāfāt-e beynulmelaly 1390/2011 was initially published in 2008, and then about three years later in 2011 its second reprint appeared in thousand copies. The conventions and rules available in this book date back to 1988 to 2002. The publication of this book was undertaken by Jungle press. Among all the articles available in this book, the first 5 articles of 14 subdivisions were chosen to be analyzed for the representation of thematic structure.

It is worth mentioning that the first two parts of the subdivisions in part one are the same, but their time of publication is different. So the "Convention (II) for the Pacific
Settlement of International Disputes, (the Hauge, 1907) was not included in the analysis. The current book (2011) has merely been translated once, so there was no opportunity for the comparison between diverse translations.

**Procedure**

The theoretical underpinning of the current research is Halliday’s SFG (1985). Data collection was done attentively in various steps to provide answer to the research questions. Theme distinction relies on the mood system; therefore, the first task in determining the theme is finding the type of the clause. Second, the English legal text was studied in order to find the borderline between T/R. Then, the same job has been done on the Persian translation. Next, when the source and target text had been analyzed fully, the inter-rater stepped in the research task. In this phase, the thematic structure of the source text and target text were compared to determine the correspondence or lack of it between the English legal text and its Persian translation. Afterwards, it is determined which English clause elements were substituted by Persian equivalents.

And finally the source materials were examined to find out whether the English marked themes were translated into marked themes in Persian or not. At the very end of the analysis, the work was again inspected by both the inter-rater and the thesis advisor. The last point to bear in mind is that Theme-rheme boundary is shown by hash # mark in the analysis bellow, while clause boundary is shown by slash / marks. Marked themes would be bold printed and unmarked ones would be underlined. STₙ and TTₙ are the abbreviated form of source theme and target theme respectively.

**Some examples**

1. **Unless the parties concerned**ST₁ #agree otherwise, / **the Conciliation Commission**ST₂# shall be constituted as follows:

2. **The Commission**ST₃# shall be composed of five members./ **The parties**ST₄# shall each nominate one commissioner,/ **who**ST₅ # may be chosen from among their respective nationals./ **The three other commissioners**ST₆ # shall be appointed by agreement from among the nationals of third Powers./ **These three commissioners**ST₇# must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties./ **The parties**ST₈# shall appoint the President of the Commission from among them.

3. **The commissioners**ST₉ #shall be appointed for three years. / **They**ST₁₀# shall be re-eligible. / **The commissioners appointed jointly**ST₁₁ # may be replaced during the course of their mandate by agreement between the parties. / **Either party**ST₁₂# may, however, at any time replace a commissioner/ **whom**ST₁₃ #it has appointed. / **Even if replaced, the commissioners**ST₁₄#shall continue to exercise their functions until the termination of the work in hand.
4. Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations. (Article 4, p. 183)

There are 15 clauses in English text, while Persian text contains 14 clauses.

ST1 and TT1: The English clause is a subordinate clause which has a multiple theme, since it starts with elements other than subject, complement and circumstantial adjunct. In Persian, the condition clause which starts by “magar īnkeh” comes after the main verb. This means that in the translation the place of the two dependent and independent clause are reversed. Since both ST and TT clauses don’t start with adjuncts or complements, they have unmarked structures. (Theme-rheme organization corresponds in two languages).

ST2 and TT2: Both English and Persian clauses hold simple theme. The subject and theme in both of them correlate, so they are considered as unmarked. (Theme-rheme organization is correspondent).

ST3 and TT3: The subject of both ST and TT clauses are regarded as theme, so both ST and TT have simple themes and have unmarked structures. (Theme-rheme organization corresponds in two languages).

ST4 and TT4: Both English and Persian clause make up simple theme and hold unmarked structures. (Theme-rheme organization does not correspond in two languages). That is, the indefinite pronoun of English rheme was moved to Persian theme and there is a relative clause in theme of TT which does not exist in the rhyme of ST.

ST5: The English clause has a simple theme. There is no equivalent clause in Persian for the comparison of the two clauses because the relative clause was absorbed in the rhyme of the previous Persian clause. In this case, it is not possible to classify clauses as correspondent or not-correspondent. Such cases are categorized under the name of
absorption. This title is borrowed from the concept Hageman (1994) applied in her book under the name of introduction to government and binding theory.

**ST6 and TT5:** The subject of both ST and TT clauses are regarded as theme. Both of ST and TT have simple themes. (Theme-rheme organization corresponds in two languages). More explanations are mentioned in the third section of the previous section.

**ST7 and TT6:** Both English and Persian clauses hold simple themes. The subject and theme in both of them correlate, so they have unmarked structures. (Theme-rheme organization corresponds in two languages). The clauses number 8, 9, 10, and 11 given above in the example are the same as the seventh clause.

**ST12 and TT11:** The English clause contains a simple theme, while its Persian counterpart has a multiple theme. These clauses hold unmarked structure, since they start by a subject. (Theme-rheme organization does not correspond in two languages). The lack of correspondence is due to the fact that there is a relative clause in Persian rheme which does not exist in English clause.

**ST13:** The English clause has a simple theme. Since the relative clause was absorbed in the rheme of the previous Persian clause, there is no clause to be compared with its English counterpart. Therefore, it is classified as absorption.

**ST14 and TT12:** Both English and Persian clauses contain multiple themes because they start with subordinate conjunction. As both of ST and TT clauses start with subject, they are considered as unmarked. The verb which was in theme of English clause moved to the rheme in TT. (Theme-rheme organization does not correspond in two languages).

**ST15 and TT14:** There is simple theme in both clauses. These clauses have unmarked structures because subject exists in the initial position of the clauses. (Theme-rheme organization corresponds in two languages).

**RESULTS**

The current project focused on thematic structure in English legal texts and its Persian translation on the basis of Halliday’s SFG model (1985). The source and target text analysis lead to intriguing findings which will be presented in next part. Among all the clauses, in 169 of the theme-rheme organization between ST and TT correspond to each other, while 124 clauses did not correspond in two languages. During data analysis, the researcher encountered 40 clauses which could not be classified as corresponding or not-corresponding. Therefore, they were allocated as ‘absorption’ in which two English clauses mingle into one Persian clause in translation. In the clauses in which Theme-rheme organization is not preserved during translation, some textual elements were substituted between theme and rheme. The most and the least numbers of substituted elements are subordinate/relative clauses (39%) and indefinite pronouns (1%) respectively. Other elements such as complements (33%), adjuncts (23%), verbs (16%), subjects (11%), conjunctives (7%), and relatives (6%) come in between.
The total number of substitution in thematic structure occurred 136 times, while the total numbers of none-correspondent clauses are 124. Out of 281 marked English themes, 219 themes were unmarked, 31 themes were absorbed, and the last 31 theme were marked. On the other side, out of 52 marked English themes in the Persian rendering, 21 themes were unmarked, 9 of them were absorbed, and 31 of them were marked. The full findings of the current research are shown below in 4 tables for a better illustration. It is worth noting that the total amount of percentages is less than 100, since up to two decimal numbers is counted in the statistics.

Table 1. Changes of Thematic Structure between ST and TT

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Correspondent</td>
<td>169</td>
<td>50.75%</td>
</tr>
<tr>
<td>Not Correspondent</td>
<td>124</td>
<td>37.23%</td>
</tr>
<tr>
<td>Absorption</td>
<td>40</td>
<td>12.01%</td>
</tr>
</tbody>
</table>

Table 2. The Frequencies of (Un) Marked Theme

<table>
<thead>
<tr>
<th></th>
<th>Unmarked</th>
<th>Marked</th>
<th>Absorption (Ø)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unmarked</td>
<td>219</td>
<td>31</td>
<td>31</td>
</tr>
<tr>
<td>Marked</td>
<td>12</td>
<td>31</td>
<td>9</td>
</tr>
</tbody>
</table>

Table 3. The Percentage of (UN) Marked Theme

<table>
<thead>
<tr>
<th></th>
<th>Unmarked</th>
<th>Marked</th>
<th>Absorption (Ø)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unmarked</td>
<td>77.93%</td>
<td>11.03%</td>
<td>11.03%</td>
</tr>
<tr>
<td>Marked</td>
<td>23.07%</td>
<td>59.61%</td>
<td>17.30%</td>
</tr>
</tbody>
</table>

Table 4. The Frequencies and Percentage of Substituted Elements between Theme and Rheme

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complement</td>
<td>33</td>
<td>24.26%</td>
</tr>
<tr>
<td>Adjunct</td>
<td>23</td>
<td>16.91%</td>
</tr>
<tr>
<td>Subject</td>
<td>11</td>
<td>8.08%</td>
</tr>
<tr>
<td>Verb</td>
<td>16</td>
<td>11.76%</td>
</tr>
<tr>
<td>Subordinate/Relative Clause</td>
<td>39</td>
<td>28.67%</td>
</tr>
<tr>
<td>Conjunction</td>
<td>7</td>
<td>5.14%</td>
</tr>
<tr>
<td>Relatives</td>
<td>6</td>
<td>4.41%</td>
</tr>
<tr>
<td>Indefinite Pronoun</td>
<td>1</td>
<td>0.73%</td>
</tr>
</tbody>
</table>

DISCUSSION AND CONCLUSION

The researchers came to the understanding that out of 333 clauses in ST, 169 clauses corresponded in their thematic structure, while the amount of none-correspondence was 124. Another category of analysis was also added to the data analysis under the name of absorption which happened in 40 clauses. The findings show that there is still a tendency toward following the ST style. As Halliday (1985) has stated, change of order leads to change of message. It is worth noting that the differences of structure may
sometimes cause difficulties in translation. It should also be mentioned that the word order in English is SVO, while Persian has an SOV structure. As stated before, 40 instances of absorption was seen in the analysis. It reveals that the change of order does not necessarily mean the semantic change, since the changes are imposed by the target language structure.

Another important point is the difference between none-correspondence and absorption. In the former the change of thematic structure occurs inside the clause, while in the latter, the changes happen in the adjacent clauses. The second question was to determine the substituted elements in themes and rhemes. About twenty eight percent of the none-correspondence was due to the movement of relative/subordinate clauses which hold the most part among the other elements. Other substitutions happened in complements by 24.26%, adjuncts by 16.91%, verbs by 11.76%, subjects by 8.08%, conjunctives by 5.14% and relatives by 4.41%. These findings clearly show that some textual elements such as complements are easily moved and have a much more flexible position. The last question was to distinguish the changes in marked themes and to find out to what extents they were translated into marked and unmarked themes. Out of 52 English marked themes, 59.61% of them were translated into Persian marked themes, 23.07% to unmarked, and 17.30% were absorbed. In order to get to a better conclusion the same analysis was also done on unmarked themes with the total number of 281. Seventy seven point ninety three percent of English unmarked theme was translated into Persian unmarked, 11.03% to Persian marked, and 11.03% were absorbed.

The findings represent that the translator tried to keep the style of ST because the statistics shows that he attempted to translate marked themes to marked and unmarked themes to unmarked ones. Finally, there are some interesting points which became apparent in data analysis. The first step is making borderline between theme and rheme in different types of clauses. Among all the clauses examined, minor and elliptical clauses had no occurrence in the legal texts. As mentioned in chapter two, themes are of different types. There was no predicated theme in the English legal texts and their Persian translation.

REFERENCES


