

Cross-Cultural Communication Barriers in the English Translation of the Civil Code and Cognitive Linguistic Response Mechanisms

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Abstract

This thesis aims to explore the intercultural communication barriers encountered in the English translation of the Civil Code and proposes corresponding coping mechanisms based on the theories of cognitive linguistics. By analyzing barriers at the linguistic, cultural, and cognitive levels, and employing theories such as conceptual metaphor and conceptual integration from cognitive linguistics, this study provides strategies and methods to improve the quality of the English translation of the Civil Code and promote intercultural communication. The research focuses on specific clauses, such as “invalidity of contract,” to demonstrate how these strategies can effectively address translation challenges. The findings show that these mechanisms not only enhance the accuracy and readability of the translated text but also facilitate a better understanding of the legal concepts across different cultural backgrounds. Future research should further explore the application of cognitive linguistics in other legal texts to enrich the theoretical and practical resources for intercultural legal translation.

Keywords

Civil Code; English Translation; Intercultural Communication Barriers; Cognitive Linguistics; Coping Mechanisms.

1. Introduction

1.1. Research Background and Significance

The Civil Code of the People’s Republic of China (hereinafter referred to as the Civil Code) is a foundational legal document in China’s legal system. Its English translation is of great significance for international legal communication, transnational legal cooperation, and the global dissemination of Chinese legal culture. As China’s status in the international community continues to rise, the demand for cross-cultural translation of legal texts is increasing. However, the English translation of the Civil Code faces many cross-cultural communication barriers, which not only affect the accuracy and readability of legal texts but also hinder the dissemination of legal culture [1]. Therefore, it is of great theoretical and practical significance to conduct an in-depth study of the cross-cultural communication barriers in the English translation of the Civil Code and their response mechanisms.

1.2. Research Objectives and Methods

This study aims to explore the cross-cultural communication barriers in the translation process of the Civil Code and propose corresponding response mechanisms from the perspective of cognitive linguistics. The specific objectives include: analyzing the barriers at the linguistic, cultural, and cognitive levels, introducing the core theories of cognitive linguistics, proposing response strategies based on these theories, and verifying the effectiveness of the strategies through case analysis. The research methods mainly include literature research and case

analysis. By systematically sorting out relevant literature and conducting in-depth analysis of specific cases, this study explores cross-cultural communication barriers and their solutions.

2. Core Theories and Application of Cognitive Linguistics

Cognitive linguistics, as an emerging interdisciplinary field, has brought a new perspective and methodology to language research. It covers major theories such as conceptual metaphor, conceptual blending, and categorization. These theories not only reveal the intrinsic connection between language and cognition but also provide strong theoretical support for cross-cultural communication and translation practice.

2.1. Conceptual Metaphor

The theory of conceptual metaphor holds that humans understand and express abstract concepts by mapping the structure of one conceptual domain (the source domain) onto another conceptual domain (the target domain). This metaphor is not only a linguistic phenomenon but also a cognitive mechanism[2]. For example, the metaphor “law is a weapon” maps the characteristics of the concrete conceptual domain of “weapon” onto the abstract conceptual domain of “law,” thereby helping people to more intuitively understand the function of law. In the field of law, the use of metaphors is very widespread. It not only helps to explain complex legal concepts but also plays an important role in legal reasoning.

2.2. Conceptual Blending

Conceptual blending theory emphasizes that humans construct new meanings by integrating information from multiple conceptual domains during the cognitive process. This theory provides a theoretical basis for solving cognitive barriers in cross-cultural communication. In legal translation, conceptual blending can help translators find similar conceptual frameworks between different legal systems to achieve more accurate translation[3]. For example, when translating the concept of “public order and good morals,” it can be integrated with “public policy” in Western law to find a closer expression.

2.3. Categorization

Categorization refers to the process by which humans understand and organize the world by classifying things into different categories. In legal translation, concepts in different legal systems may need to be recategorized to fit the target language culture. For example, some legal terms may belong to one category in the source language culture but need to be reclassified in the target language culture. The theory of categorization emphasizes the close connection between language and cognition, providing theoretical support for the conversion of legal terms in legal translation[4].

These theories of cognitive linguistics have brought new ideas and methods to solving problems in the English translation of the Civil Code. At the linguistic level, the use of conceptual metaphors can transform complex legal concepts into more understandable metaphorical expressions. For example, by metaphorically representing “property rights” as “the right to control property,” English readers can better understand its meaning. The strategy of conceptual blending is also very useful. During the translation process, by integrating similar concepts in Chinese and Western legal cultures, a new legal conceptual framework can be constructed. For example, when translating “public order and good morals,” it can be integrated with “public policy” in Western law to find a closer expression. The application of categorization is also indispensable, reorganizing and classifying legal concepts to fit the target language culture. For example, some legal terms may belong to one category in the source language culture but need to be reclassified in the target language culture.

At the cultural level, the construction and transformation of cultural schemes can bridge cultural differences. For example, when translating provisions involving “kinship,” annotations can be added to explain the special provisions on kinship in Chinese law[5]. The addition of cultural annotations is also crucial. Adding necessary cultural annotations in the translated text can help target language readers better understand legal concepts and background in the source language culture. Cognitive-level response strategies are also important. Adjusting cognitive frameworks to fit the thinking patterns of target language readers is essential. For example, when translating provisions expressing causal relationships, the implicit causal relationships can be explicitly stated. Cognitive integration is also very helpful. By integrating similar cognitive patterns in Chinese and Western legal texts, a new cognitive framework can be constructed. This method can effectively reduce misunderstandings and mistranslations caused by cognitive differences.

In summary, the application of cognitive linguistics can not only solve the linguistic barriers in the English translation of the Civil Code but also address cultural and cognitive barriers, thereby improving the quality and effectiveness of legal translation.

3. Cross-Cultural Communication Barriers in the English Translation of the Civil Code

The cross-cultural communication barriers in the English translation of the Civil Code are mainly reflected in three aspects: language, culture, and cognition. These barriers not only increase the difficulty of translation but may also lead to misunderstandings and misuse of legal concepts.

3.1. Linguistic Barriers

Language is the cornerstone of cross-cultural communication. The linguistic barriers in the English translation of the Civil Code are mainly reflected in vocabulary, grammar, and syntactic structure. The translation of legal terms requires a high degree of accuracy and consistency[6]. However, due to the differences in vocabulary composition and semantic scope between Chinese and English, many legal terms are difficult to find exact English expressions. For example, “wu quan” is usually translated into English as “property rights,” but this translation may not accurately convey its specific meaning in the Chinese legal system in some contexts. In addition, there are significant differences in grammatical structure and syntactic arrangement between Chinese and English legal texts. Chinese legal texts often use long and complex sentences, while English legal texts tend to favor concise and clear expressions. These differences not only affect the readability of legal texts but may also lead to misunderstandings and mistranslations.

3.2. Cultural Barriers

Culture is the foundation of language, and the translation of legal texts is inevitably influenced by cultural background. The cultural barriers in the English translation of the Civil Code are mainly reflected in legal culture, values, and social norms. Chinese legal culture emphasizes collective interests and social harmony, while Western legal culture places more emphasis on individual rights and freedoms. This cultural difference leads to different understandings of legal concepts and principles. For example, the concept of “gong xu liang su” holds an important position in Chinese law, but there is no exact corresponding concept in Western legal culture. In addition, differences in social norms also affect the translation of legal texts. For example, provisions on “kinship” commonly found in Chinese law may need to be adjusted according to specific social contexts in Western law. These cultural differences not only increase the difficulty of translation but may also lead to misunderstandings and misuse of legal concepts.

3.3. Cognitive Barriers

Differences in cognitive patterns and ways of thinking are significant barriers in the English translation of the Civil Code. There are notable differences between the East and the West in logical thinking, concept classification, and information processing. For example, Chinese legal texts often imply causal relationships, while English legal texts tend to explicitly state them. This cognitive difference may lead to misunderstandings and mistranslations in the translation process, thereby affecting the accuracy and readability of legal texts. In addition, the translation of legal terms also needs to consider the concept classification and cognitive framework in different legal systems. For example, some legal terms that belong to one category in the source language culture may need to be reclassified in the target language culture. These cognitive differences not only increase the complexity of translation but may also lead to confusion and misunderstanding of legal concepts.

Take the provisions on “invalidity of contracts” in the Civil Code as an example. The provision is stated in Chinese as: “A contract that violates the mandatory provisions of laws and administrative regulations is invalid. However, exceptions apply if the mandatory provisions do not render the contract invalid.” In translating this provision, the linguistic barrier mainly lies in the translation of the term “qiang zhi xing gui ding.” There is no exact equivalent in English, and its legal meaning needs to be interpreted according to the specific context. The cultural barrier is reflected in the understanding and handling of “contract invalidity.” Western legal culture has stricter criteria for determining contract invalidity, while Chinese law allows for certain exceptions to some extent. The cognitive barrier is reflected in the understanding of the causal relationship between “qiang zhi xing gui ding” and “contract invalidity.” The implicit causal relationship in the Chinese legal text needs to be explicitly stated in English translation.

4. Coping Strategies Based on Cognitive Linguistics

When exploring the intercultural communication barriers in the English translation of the Civil Code, it was found that differences at the linguistic, cultural, and cognitive levels are the main challenges. Through coping strategies at the linguistic, cultural, and cognitive levels, the theories of cognitive linguistics can provide effective solutions for the intercultural communication barriers in the English translation of the Civil Code. These strategies can not only help translators to translate legal terms more accurately, but also help target language readers to better understand the cultural connotations and cognitive logic of legal texts.

4.1. Coping Strategies at the Linguistic Level

At the linguistic level, conceptual metaphor and conceptual blending are two effective coping strategies.

4.1.1. The Use of Conceptual Metaphor

In the translation process, the use of conceptual metaphor can help explain complex legal concepts. For example, the legal term “property rights” can be metaphorically expressed as “the right to control property.” This metaphorical expression can help English readers more intuitively understand its meaning. Specifically, the legal term “property rights” in the Chinese legal system covers a wide range of rights, including ownership, usage rights, profit rights, and disposal rights over property. By metaphorically expressing “property rights” as “the right to control property,” the core content of this legal concept can be conveyed more clearly. This metaphor can not only help readers understand the literal meaning of the legal term, but also help them understand the legal logic and practical application behind it.

4.1.2. The Strategy of Conceptual Blending

Conceptual blending is another effective coping strategy at the linguistic level. By integrating similar concepts in Chinese and Western legal cultures, a new legal concept framework can be

constructed. For example, when translating the concept of “public order and good morals,” it can be integrated with “public policy” in Western law. Although there are differences in the specific meanings of “public order and good morals” and “public policy,” both involve the protection of social public interests. Through this integration, translators can find more appropriate expressions, thereby reducing misunderstandings caused by cultural differences.

4.2. Coping Strategies at the Cultural Level

At the cultural level, the construction and transformation of cultural schemas and the addition of cultural annotations are two important coping strategies.

4.2.1. Construction and Transformation of Cultural Schemas

Cultural schemas refer to people’s cognitive frameworks for specific cultural phenomena. When translating provisions involving “kinship,” cultural schemas can be constructed and transformed to bridge cultural differences. For example, the special provisions on kinship in Chinese law, such as the division of direct and collateral relatives and their specific applications in inheritance law, differ significantly from those in Western law. By adding annotations in the translation to explain the special provisions on kinship in Chinese law, target language readers can better understand these provisions.

4.2.2. Addition of Cultural Annotations

Adding necessary cultural annotations in the translation is another effective coping strategy at the cultural level. Cultural annotations can help explain cultural concepts that are difficult to translate directly. For example, when translating provisions involving “public order and good morals,” annotations can be added to explain the specific meaning and application background of this concept in Chinese law. These annotations can not only help readers understand the cultural connotations of legal terms, but also reduce misunderstandings caused by cultural differences.

4.3. Coping Strategies at the Cognitive Level

At the cognitive level, adjusting cognitive frameworks and cognitive integration are two key coping strategies.

4.3.1. Adjusting Cognitive Frameworks

Adjusting cognitive frameworks is an important strategy for dealing with cognitive barriers. When translating provisions expressing causal relationships, implicit causal relationships can be made explicit. For example, Chinese legal texts often express causal relationships implicitly, while English legal texts tend to express them explicitly. By adjusting cognitive frameworks, translators can transform implicit causal relationships into explicit expressions, thereby helping target language readers better understand legal texts.

4.3.2. Cognitive Integration

Cognitive integration is another effective coping strategy at the cognitive level. By integrating similar cognitive patterns in Chinese and Western legal texts, a new cognitive framework can be constructed. For example, when translating provisions involving “property rights” and “creditor’s rights,” the cognitive patterns of these two types of rights in Chinese and Western law can be integrated. Although there are differences in specific regulations between Chinese and Western law, both involve the protection and limitation of rights. Through this integration, translators can construct a new cognitive framework, thereby reducing misunderstandings caused by cognitive differences.

5. Case Analysis

5.1. Case Selection

This study takes the “invalidity of contract” clause in the Civil Code as the sample for analysis. The clause is stated as follows: “A contract that violates the mandatory provisions of laws or administrative regulations is invalid. However, this does not apply if the mandatory provision does not lead to the invalidity of the contract.” It involves the core issue of contract validity and has significant legal status and research value.

5.2. Barrier Analysis

When translating this clause into English, the following three types of barriers are mainly encountered.

5.2.1. Linguistic Barriers

The term “mandatory provisions” does not have a completely corresponding expression in English. Common translations such as “mandatory provisions” or “compulsory provisions” may not accurately convey its exact meaning in the Chinese legal system in some contexts. In addition, there are significant differences in grammatical structure and syntactic arrangement between Chinese and English legal texts. Chinese legal texts often use long sentences and compound sentences, while English legal texts tend to prefer concise and clear expressions.

5.2.2. Cultural Barriers

Western legal culture has a stricter approach to determining the invalidity of contracts, while Chinese law is relatively flexible, allowing for the remediation of contract validity under certain circumstances. Moreover, differences in social norms can also affect the translation of legal texts. For example, the “kinship” clauses commonly found in Chinese law may need to be adjusted according to specific social contexts in Western law.

5.2.3. Cognitive Barriers

Chinese legal texts often imply causal relationships, while English legal texts tend to explicitly state them. This cognitive difference may lead to misunderstandings and mistranslations in the translation process, thereby affecting the accuracy and readability of legal texts.

5.3. Application of Strategies and Effect Evaluation

To cope with the above barriers, this study proposes the following coping strategies based on cognitive linguistics and evaluates their effects.

5.3.1. Use of Conceptual Metaphor

The term “mandatory provisions” is metaphorically expressed as “the red line of the law” to help English readers more intuitively understand its importance and seriousness. This method not only improves the readability of legal texts but also reduces misunderstandings caused by linguistic differences.

5.3.2. Strategy of Conceptual Integration

The concept of “invalidity of contract” is integrated with “void contract” in Western law, with annotations explaining the special provisions on contract invalidity in Chinese law. This method not only reduces misunderstandings caused by cultural differences but also improves the readability and accuracy of legal texts.

5.3.3. Addition of Cultural Annotations

Necessary cultural annotations are added to the translation to explain cultural concepts that are difficult to translate directly. This method helps target language readers better understand the legal concepts and background in the source language culture, reducing misunderstandings caused by cultural differences.

5.3.4. Adjustment of Cognitive Frameworks

By adjusting cognitive frameworks, implicit causal relationships are explicitly stated. This method not only improves the readability of legal texts but also reduces misunderstandings caused by cognitive differences.

5.3.5. Cognitive Integration

Through cognitive integration, similar cognitive patterns in Chinese and Western legal texts are integrated to construct a new cognitive framework. This method not only improves the accuracy of legal texts but also promotes dialogue and communication between different legal systems.

In summary, the above coping strategies based on cognitive linguistics can effectively solve the linguistic, cultural, and cognitive barriers in the English translation of the Civil Code, significantly improving the quality and effectiveness of legal translation.

6. Conclusion

By systematically analyzing the intercultural communication barriers encountered in the English translation of the Civil Code, this study has revealed many challenges at the linguistic, cultural, and cognitive levels. With the theoretical framework of cognitive linguistics, especially strategies such as conceptual metaphor, conceptual integration, and cultural annotation, this study has proposed a series of practical coping mechanisms. The application of these strategies has not only effectively solved many problems in translation practice but also significantly improved the accuracy and readability of the English translation of the Civil Code, thereby enhancing its dissemination effect in intercultural communication.

However, this study also has some limitations. The study mainly focuses on theoretical analysis and case discussion, and the systematic evaluation of the actual translation effect is relatively insufficient. Future research should further expand the scope of research, combine empirical research methods, and conduct a comprehensive and in-depth evaluation of the intercultural communication effect of the English translation of the Civil Code. In addition, future research can also explore the application of cognitive linguistics in the translation of other legal texts, in order to provide richer theoretical and practical resources for cross-cultural research in the field of legal translation.

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References

- [1] Diepeveen, A., Svennevig, J., & Urbanik, P.: Suspects' opportunities to claim their legal rights in police investigative interviews. *The International Journal of Speech Language and The Law*, Vol. 28 (2021) No.2, p.171-200.
- [2] Huws, Q., Jewell, C.F., & Binks, R.M.: A legislative theatre study of simultaneous interpretation in legal proceedings. *The International Journal of Speech Language and The Law*, Vol. 29 (2022) No.1, p.37-59.
- [3] Liu, J., & Cao, Z.H.: A Rhetorical Strategy Analysis of the English Translation of China's Civil Code—Taking the Contract Chapter as an Example. *Foreign Language Education Research*, Vol. 12 (2024) No.3, p.70-78.
- [4] Liu, Y.J., & Wei, X.Q.: A Preliminary Multi-Dimensional Evaluation of Legal Terminology Translation from the Perspective of Communication Terminology—Also Commenting on the Terminology

Translation Issues of the Civil Code. Foreign Language and Literature Research (Collection), (2024) No.1, p.263-274.

- [5] Dai, Y.J., & Huang, L.K.: Research on the Construction of National Legal Image in Legal Terminology Translation—Taking the English Translation of Terminology in the Property Rights Chapter of the Civil Code of the People’s Republic of China as an Example. Language and Law Research, (2023) No.2, p.1-16.
- [6] Fu, Y., & Chen, Z.J.: A Discussion on the Translation Strategies of the Civil Code of the People’s Republic of China from the Perspective of Legal Hermeneutics. Language and Law Research, (2023) No.2, p.17-28.