

Analysis of the Misuse of Legal English Terminology in Legal Scientific Work Abstracts

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Abstract Scientific work in law field has its own characteristics, including the legal English terminology. Legal English is actually slightly different with general English. Nowadays, there are lots of inappropriate process of language transfer from *Bahasa* to English can be found especially in abstract, as part of the scientific work related to law field. Thus, such issue will affect the abstract validity as a representation of the contents of the scientific work as a whole. This study used an empirical juridical approach which employed non-probability sampling technique and qualitative descriptive analyses. The results show that the misuse of legal English terminology towards abstract of legal, scientific works may occur due to word-for-word translation, free translation, and literal translation. Based on empirical research, such misuse occurred due to the use of online translation engine which mostly caused by the ignorance of abstract's authors on the structure of standard academic writing (S-P-O) in the source language and asking help from colleagues who mostly do not have legal background and has minimum knowledge of legal English terminology.

Keywords: misuse, terminology, legal English, abstract

I. INTRODUCTION

Scientific work is a written and published report that describes the results of research or assessment that has been done by a person or a team by fulfilling the rules and scientific ethics that are confirmed and obeyed by the scientific community. Accuracy is very important in this sense because the data, conclusions, and information contained in the scientific work are used as a reference for other researchers in conducting preliminary or advanced research. Scientific work is actually a container to develop knowledge or science. Each scientific work has its characteristics. For example the use of theories as for the basis of thinking or framework to discuss issues raised and later to be solved which is logical and systematic. There is one item that is very important in scientific work, namely abstract. The abstract is an element in a scientific work that must exist and can be understood. It might be said that good

scientific work must contain abstract. Abstract is a summary of the entire contents of scientific work. It constitutes a representation of the content of such scientific work.

Scientific work in law field has its characteristics, including the legal English terminology. Legal English is actually slightly different with general English. Nowadays, there are lots of inappropriate process of language transfer from *Bahasa* to English can be found especially in abstract, as part of the scientific work related to law field. Thus, such issue will affect the abstract validity as a representation of the contents of the scientific work as a whole. This is of course very important to be examined because the legal terminology when it is translated into English and is not used carefully and appropriately, it may have a different meaning which will potentially destroy the essence of scientific work. Thus, in examined such issues, this study used an empirical juridical approach which employed non-

probability sampling technique and qualitative descriptive analyses. For the empirical approach, we used depth interview to authors and reviewers of abstract of legal scientific works (journal, mini-thesis, thesis, dissertation) in Faculty of Law Udayana University, Bali.

II. ANALYSIS AND DISCUSSION

Nida and Taber (1967) (E.A Nida and Charles R.Taber,1974, p.12) in Hanafi (1986: 25) says that "Translating consist in producing in the receptor language the closest natural equivalent to the message of the source language, first in meaning and secondly in style." This means that with regard to translation, we should search for the nearest equivalent word to the recipient language of the source language, in terms of both the meaning and the style of the language. Thus translating means to divert the message contained in the source language into the target language in such a way that the person is reading or hearing the message in the target language has the same picture as the person reading or hearing the message in the source language. Larson (Mildred L.Larson,1984, p.17) states that when translating text, the purpose of translation is to achieve such idiomatic translation in an attempt to communicate the meaning of the source language text into the natural form of the target language. According to Catford (J.C. Catford, 1965, p.20), translation means transferring the source language to the target language. Translation is the replacement of textual material in the source language into the target language.

The following is the analysis towards the mistranslation by using the wrong methods which impact the translation results where such mistranslation or misuse of legal English terminology will be reviewed in morphology, syntax and semantic levels.

A. Mistranslation Due to Word for Word Translation

Word for word translation is a type of translation which still closely related to the word level. This translation can also be said as a type of translation that simply moves word for word in the source language to the target language without changing the wording of the source language into the target language. This translation is also not focused on differences in cultural point of view or sentence structure changes. The results of such translation method seem rigid and hard to understand. Examples of such mistranslation can be seen from the following table.

TABLE 1
MISTRANSLATION DUE TO WORD FOR WORD TRANSLATION

Bahasa	Word for Word Translation	English
<i>Undang-Undang Nomor 40 Tahun 2008</i>	<i>Law Number 40 Year</i>	<i>Act No. 40 of 2008</i>
<i>Anak luar kawin</i>	child beyond mating	child born out of wedlock / bastard

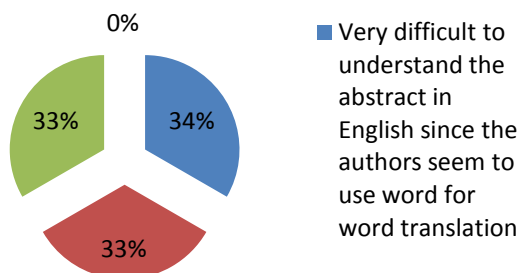
From table 1 it is noted that the translator uses a word-for-word translation, in which the word "*Undang-Undang*" is translated in English into "Law" instead of "Act". Moreover, the word "*Tahun*" translated into "Year", where the word that should be used is "of" to give meaning to what year the law is stipulated. If the translator is using the word "Year", the legal term cannot be properly channeled, considering there is a misuse in the choice of word in the sentence. The use of word "Year" is actually showing that the translator has poor knowledge in legal English and lack of English understanding on the use of word structures. In the morphological level or the study of the smallest part of a sentence, the word, the word "*Tahun*" if literally translated from the source language is true that it should be "Year". However, in semantic learning, it is still quite wrong. Similarly, the word "*Undang-Undang*" in the source language is translated into "Law". In this case, the translator is obliged to pay attention to the terms in the target language to distribute equivalent meanings in the source language.

The second example shows the misuse found in the noun phrase "*anak luar kawin*" which is translated into "child beyond mating". In English, such noun phrase has a term which is "bastard". Instead of it, the translator uses a word-for-word translation. The word "*anak*" is translated to "child", the word "*luar*" translated into "beyond" and the word "*kawin*" is translated into "mating". The translator, in this case, uses the literal translation on every word-by-word. This gives a different meaning to the term because of the incorrect choice of words that lead to the wrong wording rules and the absence of an element of cultural viewpoint. Of course, such misuses of legal terminologies reflect the abstract writers' lack of knowledge in understanding culture and structure of target language, which is English.

In relation to the above mistranslation, the result of empirical research on the informants show that the level of difficulty experienced by informants who are reviewers of journals / mini thesis / thesis / dissertation in scientific works in the field of law, as much as 34% of informant feel very difficult in understanding the legal abstract in English because the authors translate it by word for word translation; as much as 33% informant feel difficult to understand because it appears that the authors translate the abstract in *Bahasa* into English by using online translation engine, which mostly caused by the ignorance of abstract's authors on the structure of standard academic writing (S-P-O) in the source language; and the remaining 33% informant feel quite easy because it has been translated according to the content. The results of this empirical study can be seen in diagram 1 below:

DIAGRAM 1
THE DIFFICULTY LEVEL IN UNDERSTANDING LEGAL
ABSTRACT IN ENGLISH

The Difficulty Level in Understanding Legal Abstract in English



The diagram processed from the result of empirical research towards informants who serve as reviewer journal / mini-thesis / thesis/dissertation in the field of law.

B. Mistranslation Due to Free Translation

Free translation is a translation that is not tied to the search for equivalent words or sentences, but such search for the equivalent is more emphasized on a broader level than the sentence. This way of translation is more concerned with one party, where the translator reveals the contents of the translation freely regardless of the target language. Having complete freedom in translating a source language into the target language produces meaning that deviates from the message in the original text. This can happen to translators who have not mastered the source language. Examples of such mistranslation can be seen from the following table.

TABLE 2
MISTRANSLATION DUE TO FREE TRANSLATION

Bahasa	Free Translation	English
<i>Otonomi asli desa</i>	the village's native autonomy	Autonomy of the village
<i>Pembuatan dan perancangan Undang-Undang Nomor 1 Tahun 1974</i>	The manufacture of the inside and design the form of Law No. 1 of 1974	The enactment and drafting of Act Number 1 of 1974

From table 2, it is noted that the term “*otonomiaslidesa*” is translated into “the village's native autonomy” by the translator. The translator in this case inadvertently gives the meaning that the original autonomy belongs to the village. This happens because the translator uses a possessive pronoun in the target language. The use of “s” means ownership in the target language. Using free translation method is actually beneficial for translators. Usually, the

translator will be more comfortable with their own language understanding without being focused on the recipient or the reader of the target language. This method is very unfavorable to the reader in the target language.

Another example of mistranslation due to free translation can be seen in phrase “*Pembuatan dan perancangan Undang-Undang Nomor 1 Tahun 1974*” which is translated into “the manufacture of the inside and design of the form of Law no. 1 of 1974”. In this case, the translator translates the word “*pembuatan*” into “manufacture of the inside”, where the translator freely translates the meaning of “*pembuatan*” into the target language. However, such selection of words has errors in language rules in the target language due to the translator is lack of cultural understanding of the target language, which is English. In this context, the translator should use the word “enactment” which has relevant meaning with “*pembuatan*” in the target language. The mentioned mistranslation, of course, will harm the target language reader in understanding the meaning contained in the source language, which is *Bahasa*.

C. Mistranslation Due to Literal Translation

A literal translation is a word-for-word translation, but it has deformation which is adjusted to the language structure of the target language. It would be nice to use literal translation on a single sentence or short sentence. However, for complex sentences, many researchers argue that this translation is incorrect. This is because complex sentences have multiple clauses and phrases that have different subjects and predicates, so sometimes there is difficulty in translating main clause and subordinate clause into equivalent meanings and having a regular form of structure in the target language.

In translating a term, using literal translation regardless of cultural point of view is also wrong. The table below is an example of mistranslation due to literal translation.

TABLE 3
MISTRANSLATION DUE TO LITERAL TRANSLATION

Bahasa	Literal Translation	English
<i>Hukum adat</i>	Indigenous Law	Customary Law
<i>Putusan pengadilan</i>	Court decision	Court judgment

The first example of Table 3, the term “*hukum adat*” is literally translated as “indigenous law”. In this case, “*adat*” literally means “indigenous” to the target language. However, in legal English, the term “*hukum adat*” should be translated as “customary law” which has the equivalent meaning to “*hukum adat*”. The word “indigenous” is not wrong, but in this case, the meaning of the source language is not transmitted to the target language. This precisely reflects a lack of cultural understanding of the target language.

As for the second example, a similar case occurs, in which the term “*putusan pengadilan*” translated into “court decision”. The word “decision” in the target language does have the meaning of “*putusan*” in the source language, but

if literally translated, “decision” in the target language is actually “choice” in the source language. Meanwhile, in the source language view, we want the word “*putusan*” to be understood as the statement of a judge as outlined in writing and spoken by the judge in an open court to the public as part of the submitted lawsuit. Thus, the proper legal English term should be “judgment”. In this case, the legal term that exists in the source language is not channeled into the target language.

D. Translation Shifting

In the translating process, or transferring the source language into the target language, it is very helpful for a translator to pay attention to the various adjustments in the translation. This adjustment itself is also noticed not only from a language point of view but also from a cultural point of view or term that has equivalent meaning to both languages. Adjustment, according to Nida and Taber (1969: 105), is divided into two groups, which are a structural adjustment and semantic adjustment which both resulting in translation shifting. The structure adjustment will result in a language form shifting, while semantic adjustment will lead to a meaning shifting. Catford (1965: 73) states that shift is a formal transfer of meaning from the source language to the target language. Catford also divides the shift into two types, namely the level shift and category shift.

In the legal language or legal terminology, language shifting is absolute, but if it focuses only on the form of language without regard to the meaning of the target language, it will also have an effect on the shift of meaning in the target language.

E. Language Form Shifting

In the language form shifting, Catford's theory (1965) states that the shift is divided into two, namely the level shift and category shift. According to Catford, a level shift occurs in the source language that is at a certain linguistic level having a translation language with an equivalent language system in different linguistic levels. This shifting, in general, occurs in vocabulary or lexical and grammatical, or often called grammatically. In legal language, the linguistic shifting in the translation of terminology in legal language can also occur. The second language form shifting is called the category shift. According to Catford (1965), category shift is the freedom to translate, where this shift follows many rules of the writing of the target language so that the translation does not look like a translation. The translation that using this shift method will focus on the form of sentence structure, each word, phrase and others that make up the sentence.

The absence of language form shifting can also lead to non-maximum or wrong translation. The below table is the example.

TABLE 4
ERROR IN LANGUAGE FORM SHIFTING

<i>Bahasa</i>	Mistranslation	English
<i>Daftar calon sementara dalam proses</i>	The candidate list a while in the nomination process	A list of candidates in the nomination

<i>pencalonan</i>		process
Asas pemberian pinjaman yang sehat	<i>Sound lending principle</i>	<i>Fair lending principle</i>

The first example in Table 4 above shows example of nominal phrase data in the source language, which is *Bahasa*, which translating “*daftar calon sementara dalam proses pencalonan*” into “the candidate list a while in the nomination process”. The data does not use a good translation method, because there is an addition of lexicon which causing an error in the structure of the target language word, which is English. The phrase “*daftar calon sementara*” is translated to “the candidate list a while”, where the noun phrase in the target language gets the addition of “a while lexicon” which caused the word structure error. The word “a while” literally means temporary or *sementara* in the source language, but, the selection of the lexicon in the target language is less precise. Supposedly, for the first example, the noun phrase data in table 4 is translated into “a list of candidates”.

Moving on to the second example provided in Table 4, it is noted that there is still inappropriate structural shifting in noun phrase due to the wrong selection of word or lexicon in the target language. The phrase “*asas pemberian pinjaman yang sehat*” is then translated into “sound lending principle” in the target language. In the “*pemberian pinjaman*”, the translation is correct by paying attention to the selection of word that has equivalent meaning. The word is translated into “lending” in the target language, which is English, in which there is a lexical reduction in the structure of the language.

F. Meaning Shifting

The meaning shifting often occurs in the process of translating from the source language to the target language. This is due to the difference in cultural point of view. Similarly, it also happens when translating terms in legal English. If the translator is focused solely on the literal translation without knowing the term in legal English with regard to the cultural point of view, thus, the translator cannot distribute the meaning of the legal term.

In translating legal term, the meaning is the most important thing to distribute correctly the content of the legal term. Each language has its own legal terminology. Hence, the translator who translates an article which contains legal terms must understand the legal term both in the source and target languages. Meaning shifting often occurs in translation. If the translation process engages with literal translation only, thus, it will eliminate the real meaning of the text and raise a big question to readers who understand the target language. For a better understanding, table 5 provides the example.

TABLE 5
MISTRANSLATION WHICH ELIMINATES THE MEANING

<i>Bahasa</i>	Mistranslation	English
<i>Perusahaan Induk Anak perusahaan</i>	Parent Company	Holding Company
	Child Company	Subsidiary

In the first example of table 5, the term “*perusahaan induk*” is translated to “parent company” in the target language, which should be translated into “holding company”. This occurs because the translator does not pay attention to the culture of the target language, which is English. If the translator has lack of knowledge of the culture or terms in the target language, the translation which using only the literal method would be a major mistake. This can be seen from the first example where the word “*induk*” translated into “parent”. Literally, “*induk*” in *Bahasa* has parallel meaning to the translation “parent” in the target language. However, in the context of the legal term, “*perusahaan induk*” which in *Bahasa* actually has meaning as the main company in charge of several companies incorporated into a group of companies cannot be well distributed into the target language, which is English.

A similar case occurs in the second example in table 9, where the term “*anak perusahaan*” translated into “child company” in the target language. The same thing happens because the translator lacks understanding of the cultural terms that exist in the target language. This error causes no distortion of meaning contained in the source language, which is *Bahasa*, to the target language, which is English. The legal term “*anak perusahaan*” should be translated into “subsidiary” in English.

For a broader picture, the table 6 below provides more examples of other mistranslations occur in the writing of abstract in legal, scientific works (journal, mini-thesis, thesis or dissertation).

TABLE 6
OTHER EXAMPLES OF MISTRANSLATION

<i>Bahasa</i>	Mistranslation	English
<i>Memberikan kredit</i>	Giving credit	Give credit
<i>Meminta jaminan</i>	Guarantee of return	Ask for a guarantee
<i>Hak Tanggungan</i>	The rights of dependents of the problem	Security Right
<i>Permasalahan Pihakkreditur</i>	Creditor party	Creditor
<i>Pengembalian hutang</i>	The return of the debt	Repayment of the debt
<i>Eksekusi objek hak tanggungan</i>	Execution of the object of the mortgage right	Execution of security right
<i>Undang-undang no. 4 tahun 1996</i>	Law number 4 of 1996	Act No. 4 of 1996
<i>Kredit macet</i>	Stuck credit	Bad credit
<i>Melunasi hutang debitur kepada kreditur</i>	Pay off the debt to the creditor	Pay off the debtor’s debt to the creditor
<i>Pelelangan umum</i>	General auction	Public auction
<i>Ketua pengadilan</i>	The chairman of district court	The head of district court

<i>negeri Objek jaminan yang sulit dijual</i>	Object of as a guarantee could be hard to sell	Hard-to-sell object guarantee
<i>Debitur mengajukan perlawanan</i>	The debtor filed a fight	The debtor filed a resistance
<i>Struktur permodalan koperasi</i>	Union Capital structure	cooperative Capital structure
<i>Pemupukan modal</i>	Beating capital	Capital accumulation
<i>Salah satunya dalam bentuk modal pernyataan</i>	One of which is in the form of capital statement	One of which is in the form of capital investments
<i>Rapat anggota</i>	Meeting by the members	Member Meeting
<i>Kitab Undang-Undang Hukum Pidana</i>	Indonesian Criminal Code	Criminal Code
<i>Pemalsuan terhadap surat</i>	Falsification of letter	Falsification of a document
<i>Memiliki sifat membahayakan umum</i>	Considered the nature of the general harm	Considered a legal harmful nature
<i>Menafsir pasal 78</i>	Interpreting article 78	Interpret the article 78
<i>Mengajukan tuntutan dengan membuat laporan</i>	Filed a lawsuit to make report	Field a lawsuit by making report
<i>Putusan pengadilan</i>	Court ruling	Pre-trial ruling
<i>Kejaksaan</i>	Attorney	Prosecutor
<i>Kebutuhan akan perumahan</i>	By the increasing of a housing	The needs of housing
<i>Menawarkan perumahan</i>	Offering housing	Offering house
<i>Membatalkan perjanjian jual beli perumahan</i>	Nullification of the buy and sell agreement	Nullification of the purchase agreement
<i>Hukum pembatalan secara sepihak</i>	Nullification of the agreement by the customer	Unilaterally Nullification Law
<i>Syarat sah</i>	The valid requirement	Validity of contract
<i>Klausula perjanjian perikata jual beli rumah</i>	The regulate of the buy and sell agreement of the house	The regulate through nullification and force majeure provision
<i>Perlindungan konsumen</i>	Protection customer laws	Customer protection

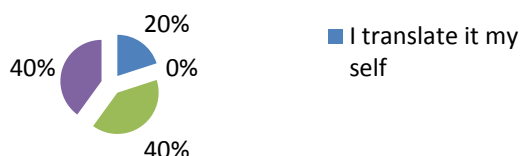
<i>Sepihak Peraturan presiden no. 51 tahun 2014</i>	One party Presidential regulation no. 51 year 2014	Unilaterally Presidential Decree No. 51 of 2014	<i>Perjanjian pokok</i>	Principal agreement	Basic agreement
<i>Rencana tata ruang kawasan perkotaan</i>	Spatial planning of urban area	Urban spatial plan	<i>Perjanjian utang piutang</i>	Agreement debts	Debs agreement receivable
<i>Tidak ada kemanfaatan hukum di dalam peraturan tersebut</i>	There is no law benefit in the regulation	No legal expediency in achieving the regulation	<i>Mengajukan lelang kepada BLBI</i>	Submit to the BLBI auction	Filed auction to BLBI
<i>Kedaulatan bangsa</i>	The unity and sovereignty of the nation	The sovereignty of the nation	<i>Pengosongan objek</i>	Cleaning object	Emptying of object
<i>Mengatur penataan dalam Teluk Benoa</i>	Arranging the arrangement within Benoa Bay	Adjust the setting in Benoa Bay	<i>Badan hukum public atau privat</i>	Legal institution of public or private	Legal entity of public or private
<i>Akibat hukum dari Peraturan Daerah Provinsi Bali Nomor 16 Tahun 2009</i>	Legal consequences of Benoa Bali Provincial Regulation no. 16 year 2009	Legal consequences of Local Regulation in Bali Province no. 16 of 2009	<i>Perseroan terbatas</i>	Limited company	Limited liability company
<i>Rencana tata ruang kawasan perkotaan Sarbagita</i>	Urban Area Plan Sarbagita	Urban Area Plan for Sarbagita	<i>Badan hukum</i>	Law body	Legal entity
<i>Peraturan daerah</i>	Local law	Local regulation	<i>Subjek hukum</i>	Legal subject of law	Legal subject
<i>Transaksi perdagangan luar</i>	Outside trading transaction	Foreign trading transaction	<i>Kekurangan modal</i>	Increase capital	Lack of modal
<i>Penetapan rupiah sebagai alat pembayaran</i>	Set rupiah as a means of payment	Set rupiah as legal tender	<i>Pengaturan rekapitalisasi</i>	Recapitalization setting	The recapitalization of arrangement
<i>Pelaku usaha perdagangan internasional</i>	International trade business perpetrators	International trade business actor	<i>Sistem voting</i>	Vote system	Voting system
<i>Akta pemberian hak tanggungan</i>	Deed of granting rights of dependents	Security right deed	<i>Undang-undang no. 40 tahun 2007</i>	Law no 40 year 2007	Act No. 40 of 2007
<i>Pemberi hak tanggungan akan mengosongkan objek hak tanggungan pada waktu eksekusi hak tanggungan</i>	The giver of security will emptying the Security Right objects at the execution time	The grantor of security will vacate the Security Right objects at the execution time	<i>Saham mayoritas</i>	Majority share	Majority shareholders
<i>Jaminan hak tanggungan</i>	Guarantee security right	Mortgage guarantee	<i>Sengketa pajak</i>	Legal action of tax	Tax disputes
			<i>Upaya hukum keberatan</i>	Legal remedy of appeal	Remedis Objection
			<i>Lembaga pengadilan pajak</i>	Tax court institution	Tax court
			<i>Aparat penegak hukum</i>	The agent of law enforce	Law enforcement officers
			<i>Budaya hukum dari masyarakat</i>	Culture Law from society	Law culture of the society
			<i>Direktorat jenderal pajak kantor wilayah Bali</i>	DirectoralJendral Tax on Bali	Directorate Gendral of Taxitaion in Bali
			<i>Wajib pajak</i>	Required Tax	Taxpayer
			<i>Upaya Hukum Keberatan</i>	Legal Objection	Remedies Objection
			<i>Efektivitas Hukum</i>	Effectiveness Legal	Legal Effectiveness

Relevant to the above analysis, the result of empirical research also indicates that as many as 40% of respondents, who are abstract authors of scientific works in the field of law, translate abstract from *Bahasa* into English by using online translation engine; as much as 40% using the services of colleagues who mostly have lack legal background and knowledge; and as much as 20% translate the abstract itself. As mentioned previously, the

mistranslations in legal abstract from *Bahasa* into English, generally occur due to the use of online translation engine by abstract authors without them (the authors) paying attention to the structure of standard academic writing (S-P-O) in the source language or ask for help colleagues who mostly have lack of legal backgrounds and knowledge. In more detail, such result of empirical research is shown in diagram 2 below:

DIAGRAM 2
AUTHOR'S EXPERIENCE IN TRANSLATING ABSTRACT IN LAW
FIELD FROM *BAHASA* INTO ENGLISH

Author's Experience in Translating Abstract in Law Field from *Bahasa*...



The diagram processed from the result of empirical research towards respondents who are abstract authors of journal / mini-thesis / thesis/dissertation in the field of law.

III. CONCLUSION

The translation process from a source language into the target language without knowing the conceptual meaning will lead to misunderstanding. The misuse of legal English terminology may occur due to the word for word translation, free translation and literal translation. In line with that, based on empirical research, such misuse occurred due to the use of online translation engine which mostly caused by the ignorance of abstract's authors on the structure of standard academic writing (S-P-O) in the source language and asking help from colleagues who mostly do not have legal background and has minimum knowledge of legal English terminology. Thus, in translating legal abstract of scientific works, it is very important for the authors to avoid the methods of word for word, free and literal translations without paying attention to the conceptual meaning of the terms, phrases or sentences both in source and target languages.

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