

Cognitive Phraseological Variations in Terminology of Public International Law and Its Application in Translation into Farsi

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Abstract

For the past twenty years, “phraseology” has been considered a very important topic of study for various specialized languages. The linguistic view that used to see phraseology such as “idiom researches and lexicography classifying various kinds of idiomatic expressions” has changed meaningfully. Nowadays, thanks to these changes, the new view is focused on identifying and classifying phraseology as well as applying them to research in theory. That is why we would do well to try to define new horizons of phraseology in different specialized languages. The language of interest here is the prescriptive and descriptive language of international law instruments. We should consider this language as the normative language of judges, legislators, courts and international lawyers. These practitioners – who use specific types of phraseology and stable linguistic structures – should perhaps adhere to the use of a professional language that conforms to recognized standards of normative rules. This paper, therefore, tries to define the main relations between phraseology studies and IL Latin expressions and their systematic-semantic equivalences in languages with different roots like Farsi.

Keywords: Phraseology, International Law Instruments, Latin Phrases and Expressions, farsi

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Resumen

Durante los 20 años pasados, fraseología ha sido tratado como uno de los temas más importantes en el estudio de distintos lenguajes especializados. La mirada lingüística que lo veía como "estudio de modismos y lexicografía, clasificando varios tipos de expresiones idiomáticas" ha sido cambiada significativamente. Hoy en día, gracias a estos cambios, la nueva mirada se enfoca en identificación y clasificación de fraseología así como aplicándola en el estudio de la teoría. Es así que podríamos definir nuevos horizontes de fraseología en diferentes lenguajes especializados. El lenguaje especializado que trataremos aquí es el lenguaje de derecho internacional; un lenguaje descriptivo- prescriptivo usado por los jueces, tribunales e internacionalistas. Estos practicantes de este lenguaje especializado- quienes gozan de un tipo- forma especial en sus discursos- deberían aplicar estas orientaciones en sus usos del lenguaje especializado de derecho internacional, basado en las reglas y normas. Por lo tanto, en esta obra vamos definiendo las relaciones fundamentales entre estudios de fraseología y expresiones latinas del lenguaje de derecho internacional y sus equivalencias semántico- sistemáticas en lenguas diferentes desde el punto de vista de la raíz así como es el Farsi.

Palabras clave: fraseología, instrumentos de derecho internacional, expresiones latinas, farsi

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Introduction

Despite all efforts, yet there are too important factors which should be studied about language of International Law. If we accept or not, the IL also enjoys a specific form of language which is made by a specific class of users in the societies. The users of this type of language are judges, lawyers, interpreters, courts, UN commissions and so forth which have a primordial role for defining the correct way to describe denotation-connotation of legal norms and rules. However, some important questions which arises here are that if we accept that language of IL has its own characteristics, how can we analyze and perceive it? Is it possible just to understand this type of language only by international legal knowledge? What about the other languages? Accepting that not all IL language users and makers are English or French speakers, how can the courts and international lawyers conclude documents that the other language users like Farsi or Arabic understand them well?

That's why we believe that we have to incorporate new data bases from the other sciences like linguistics, cognitive linguistics, and pragmatics and so forth into IL knowledge in order to be able to coding-decoding messages, statements and rules in international law. In this respect, one of the interdisciplinary studies which can help scholars to analyze correctly the sentences and expressions in international law could be phraseology or study of formulaic expressions. Enquiries about this type of knowledge show that it is necessary to evaluate IL formulaic expressions from this viewpoint specifically because of the existence of a huge number of Latin formulated expressions in that language. We believe that the study of phraseology and incorporating it into IL language, can help IL scholars to understand the real formulation-translation of these expressions used in international law.

We seriously believe that cognitive- corpus based linguistics could help International Lawyers to comprehend the main idea of expressions used in International Law Language part of which have been derived from Latin. In this aspect, a descriptive methodology can help reader or interlocutor of this paper to understand both, the main idea of this paper and know how to analyze this phenomena in his/her native language which in this specific case is Farsi since one of the biggest existing problems for Farsi speakers of IL texts is the huge vague or etymological- cognitive differences between Farsi and Latin.

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For all above mentioned reasons, the aim of this paper is to evaluate the impact of some phraseological studies and enquiries in forming-translating International Law Latin formulaic expressions and the objective equivalences in the other languages like Farsi, a language that has nothing to do with Latin languages in any linguistic and extra linguistic aspect, responding to this important question that have systematic differences of Latin Legal language to do with semantic phase when translating IL Latin expression into Farsi or not? That is why we will try to show, at first hand, some useful IL Latin expressions and at second one, evaluate their systematic- translational equivalences in Farsi.

2. Characteristics of legal- judicial language

There are too many characteristics which could be attributed to legal-judicial language which is used not only in domestic law but also in international law language too, which are the result of cognitive linguistics and pragmatic approach. In this regard, Gutierrez Rodilla in his work (2005:9) states: <<one the most important characteristics of science is the rigor>> and continuous mentioning the next characteristics (*ibidem*: 22-30) in Spanish:

- **Precisión (accuracy):** Gutiérrez Rodilla (*ibidem*: 22) la califica como <<la cualidad más preciada del discurso científico>> y, aunque este lenguaje tiene sus cualidades especiales específicamente sobre lo que es la desambigüedad y uso preciso de las palabras y conceptos, la relaciona, sobre todo, con <<la precisión de los términos>> (*ibidem*: 23). Otro requisito planteado por Gutiérrez de Rodilla (*ibidem*) es que los términos sean monosémicos y no cuenten con sinónimos, por muy difícil que esto pueda ser. Esto resulta especialmente importante a efectos que nos referimos ya que el lenguaje de derecho por sí mismo, bien sea descriptivo o prescriptivo, tiene que regular relaciones entre entidades y personas y esto parece ser más difícil aun cuando se habla de un tipo derecho que tiene que ser reconocido en el ambiente internacional, contando con muchos lenguajes que en la mayoría de los casos, son

lenguas diferentes y este concepto se relaciona con nuestros objetivos aquí, es decir, términos científicos del lenguaje jurídico como unidades fraseológicas con las que conseguir la mayor precisión y, con ella, la mayor exactitud posible en los textos jurídico- legislativos en el ámbito internacional.

- **Neutralidad (neutrality):** definida por Gutiérrez Rodilla (Gutiérrez Rodilla, 2005: 23) como <<la carencia de valores y connotaciones afectivas {y} subjetivas>>. Aunque se trate de un tema destacado, creemos que no podemos contar con ella especialmente en el área fraseológico de este tipo de textos como lo que contamos en la parte de precisión. Claro que la neutralidad es importante cuando hablamos sobre discurso o las unidades pragmáticas- semánticas, mas, cuando hablamos sobre las unidades fraseológicas, al parecer, no lo podemos ver como una característica fija y absoluta del lenguaje jurídico internacional.
- **Economía (economy):** el mensaje científico <<debe expresarse con el menor número posible de unidades>> (*ibidem*: 25) y busca la concisión ligada al menor número de palabras posible, cuyo se expone por <<la sustitución de frases enteras por un solo término>>. (Becerro: 2) Esta característica también es importante a nuestro parecer debido a que hablamos sobre 2 lenguas diferentes desde el punto de vista del sistema y el contenido cuyas son latín y Farsi. De hecho, lo ideal pudiera ser que las unidades equivalentes en ambas lenguas fueran las mismas tanto gramaticalmente como fraseológicamente, más, debido a las diferencias arriba mencionadas, esto parece ser imposible y la única forma por la cual se podría exponer un equivalente correcto desde el punto de vista semántico, es calificar el concepto o la regla enteros.
- **El vocabulario científico (scientific vocabulary):** Gutiérrez Rodilla (*ibidem*: 28) defiende que existe un cierto acuerdo entre los distintos autores que el vocabulario del lenguaje científico se sirve de su <<aspecto más distintivo, menos diferenciador>>. Además, añade algunas de las características del vocabulario de este tipo de lenguajes: está compuesto por <<adjetivos, verbos y, fundamentalmente, sustantivos>> (*ibidem*), que en una gran mayoría <<se

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construyen mediante la combinación de formantes griegos y latinos>> (como también lo dice Calonge [2001: 104] y que <<muestra una velocidad de crecimiento muy grande>> (Gutiérrez Rodilla, 2005: 28). Si aceptamos que el lenguaje jurídico internacional goza de muchas formas jurídicas latinas que provienen de la misma sociedad, pues hay que aceptar que para traducir a demás idiomas y después, interpretar estos términos hay que buscar las unidades parecidas o exactas en las lenguas de destino. En otras palabras, cualquier traductor especializado Farsi parlante debe tener en cuenta que como reitera Cabré (2004: 2) <<la terminología es absolutamente imprescindible para el ejercicio de la traducción especializada>>.

3. The Latin phraseological Units in IL texts

It seems to be a challenge analyzing and speaking about phraseology because the interlocutor of learner probably encounter it really confusing with the other aspects of cognitive linguistics, applied linguistics and discourse analysis [16]. According to Cowie, there is a lack of standardized terminology [6]. That is to say, there exist terminologies like collocations or idioms which referred for decades to the same idea of phraseological units. That's why we could declare that for having an uncertain terminology about the phenomena, so the final decision about what the identity is comes really difficult.

We believe that these stable and fixed phrases in IL have their own grammatical, discursive and semantic characteristics. For instance, when the ICJ or international lawyers use expressions of phraseological units like: *utti possidetti juris*, *jus gentium*, *ex aequo et bonno*, *jus cogens*, *erga omnes* and etc. there is going to emerge an idea of figurative language in particular interlocutors regarding the content of the discourse and the usage of these types of legal expressions. "*jus cogens*", being a type of phraseological fixed and stable unit which could be studied from different points of view, should be interpreted in a narrative way in order to connate in the strict manner: "promtory or imperative norms" or *قواعد امره*. An international judge or lawyer by this unit, has a clear intention which is to call the attention of specialized interlocutor: 1- this comes from a Latin legal system which has been used during years and it is working like an international norm which is

applicable for all of the IL subjects 2- in a grammatical approach, it is formed by 2 parts (monemes or signifiers) which connote an action or reaction: “these norms or *Jus* are to be considered important and binding that the violation of them could not be presumed.”

4. Translating some IL Latin formulaic units into Farsi

Translation of specialized texts, especially legal terms, is not as easy as some people think; it not only requires stylistic competence in the language, but it also requires knowledge of the inner meaning and connotation of words of the legal systems. That is why Farsi translators and then, interpreters of legal terms especially Latin ones, should be aware of both stylistic and phraseological features of these terms and semantic and connotative characteristics in order to get the right sense. For instance, there is no any literal meaning for *Ex aequo et bonno* term (phraseological unit) in Farsi but the translators are obliged to explain it in other words which could lead to descend the principal denotation of the term. For instance, the word *Jus* when is used with *ad bellum* has a specific connotation and equivalence in Farsi and when it is used with *Cogens*, has a stricter meaning regarding imperative norms of IL. The other useful example is when we use *Jus* with *Gentium*, when the meaning differ from the previous ones and it is transferred like “rights and demands of people”. The below Examples Show that it is almost impossible to preserve grammatical density, phraseological characteristics of Latin language and semantic properties while translating them into Farsi:

Uti Possidetti Juris: تبدیل مرزهای حین استعمار به مرزهای بعد از استقلال Eng.:

As You Possess

Ex aequo et bonno: اصل صلاح و ثوابدید Eng.:

According to the Right and Good

Lex fori: قانون مقر دادگاه Eng.:

the Local Law

Jus Cogens: قواعد آمره Eng.:

Imperative Norms

Jus Gentium: حقوق مردمان Eng.:

Law of Nations

5. Concluding remarks

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The objective of this paper was to propose the design a systematized view for encoding and describing cognitive phraseological information in IL language and to create a new aspect of fixed legal terms especially those which come from Latin. Difference in language systems could lead differences in translational phase. For instance, *Jus* is sometimes translated like حقوق which is “law” in English and sometimes is translated like قواعد which is “norms or rules” in English. The systematic and semantic nature of *Jus* in Latin is the same but while translating it into Farsi, it changes from context to another context. That’s why it can be inferred that the “contextual criteria” of the target languages like Farsi has also to do with the exact meaning of IL Latin formulaic expressions.

As studied above, the systematic- etymologic differences between languages like Farsi and Latin especially in specialized areas like IL could result in different ways of translating expressions. Another clear example in this aspect is *Utti Possidetti Juris* which is a 3 words expression while its literal translation in Farsi does not exist so the Farsi lawyers translate it like: تبدیل مرزهای حین استعمار به مرزهای پس از استقلال. So it is translated in a completely contextual manner in order to show the exact connotative meaning.

The underlying idea is that when translating phraseological IL units from Latin languages into Farsi, it is particularly difficult to adequately convey an equivalence that connotes the same root, lexeme and sense of terms. Therefore, to understand the main ideas and connotations of these phraseological units, the Farsi interlocutors should use a triangular approach: 1) perception of denotative-connotative meaning, 2) analysis, and finally 3) expression of the main idea of the terms if there is not any literal equivalence; Especially for units like: **ex aequo et bonno**, **utti posidetti juris** and the expressions with more than one word, signifier and connotation. We believe, therefore, that a Corpus Based view to international law language could help readers and interlocutors of this language to understand and analyze well; specially when we are speaking about translating these expressions in different languages like Farsi which has different roots from Latin, English or French. This enquiry could create this atmosphere for the Farsi lawyers who are working on

concepts of international law specifically which have to do with Latin variations. It is worth noting that in case of a good and faithful translation from language of international law into Farsi, it is necessary to take in consideration all steps of meaning conveyed the fixed Latin expressions in international law in order to have a clearer translation both literal or contextual; a concept which could define the real essence of those expressions which have been used.

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