

# Equivalence and Untranslatability in English Translations of *UUD Negara Republik Indonesia 1945*

Frans Sayogie  
English Department

Syarif Hidayatullah State Islamic University Jakarta, Indonesia  
frans.sayogie@uinjkt.ac.id

Moh. Supardi  
English Department

Syarif Hidayatullah State Islamic University Jakarta, Indonesia  
moh.supardi@uinjkt.ac.id

**Abstract--This paper studies equivalence and untranslatability in English Translation of *UUD Negara Republik Indonesia Tahun 1945* (UUDNRI 1945) translated by *Mahkamah Konstitusi Republik Indonesia* (MKRI) and UNESCO. The aims of the study are to examine the both translations in levels of translation equivalence and degrees of untranslatability based on language aspects and the instruments of Indonesian legal culture perspectives. Due to the civil law system that Indonesia embraces, it is supposed to have legal effect in English Translation. The study was conducted by using translation procedures in examining levels of equivalence and degrees of untranslatability in English translations of UUDNRI 1945. The study shows that there are two different perspectives of translating UUDNRI 1945 into English Language that are due to different language and legal culture perspectives.**

**Keywords--equivalence; untranslatability; translation procedures; legal effect**

## I. INTRODUCTION

Constitutional translation, which is the translation of legal texts, is often a result of deeper practical issues in translating its terminologies from a SLT (source language text) into a TLT (target language text) due to difficulties in maintaining consistency of meaning as defined in a SLT. The problem happened in the work of legal translation is that one language does not correspond to terminologies in another language. This is because linguistic difficulties in translating constitutional or legal texts appeared from differences are found in different legal cultures and the legal system used.

In legal language, it has certain types of registers that are not the same as the language in general. The legal text clearly contains certain juridical objectives, therefore the language used contains its own characteristics which has a different reference of meaning. This implies that there are some certain exceptions in legal language not accepted in normal language. It must be noted that words in legal text cannot be viewed individually and must be interpreted conceptually. Words must be seen as elements of a broad communication that has legal dimensions [1]. As Tiersma says, "legal language is a sub-language that has its own characteristic in

grammatical, lexical, syntactic, and semantic system that separate from standard language used in general [2, p. 142].

In legal translation, translators will face with the concept of translatability and untranslatability. In terms of untranslatability, the translators will deal with non-equivalent elements that do not have equivalents in the target language. This paper examines levels of translation equivalence and degrees of untranslatability in the translation of UUDNRI 1945 translated by MKRI and UNESCO.

The main difficulties in legal translation are to find equivalence of legal terminologies. The translators must produce terms of a given legal text by referring to particular terms that are embedded for both SLT and TLT. Language for special needs is defined as various languages that are formalized and codified, with the function of communicating specialist information at each level in the most economic, precise and unambiguous terms. Specific purpose texts are usually characterized by context-specific terminology and discourse. Therefore, the possibility of facing significant equivalent problems is quite high [3, p. 198].

Limitations of the linguistic approach are that a translation work will never be able to get full equivalence between two different unit codes in SL and TL, so the translators can refer to on other translation procedures like loans, borrowings, and neologisms. Nida and Taber [4] have stated that formal correspondence refers to the message both form and content, otherwise dynamic equivalence is constructed by the principle of equivalence effects [5, p. 159].

The concept of untranslatability that a translator deals with is non-equivalent elements which do not correspond formally as to the source language text. The untranslatability problems arise when there is no equivalence text in the TL both substantially and functionally, and the absence of relevant situation features is [6]. The untranslatability in this paper refers to the invisibility of legal culture where words or phrases in the source language do not have the closest natural equivalent to the TL. This happens because the concept of legal culture in the SL is not in the TL.

## II. METHOD

The paper collaborated various approaches in many disciplines, such as linguistics, semantics, translation, and law i.e. comparative law. The data were related to differences in the translation of names of state organs contained in UUDNRI 1945 which have been translated by MKRI [7] and UNESCO [8]. In addition, it is intended to know legal effect in particular, the equivalence obtained that exist in the legal culture system and legal system in the TL. The data were discussed related to identify levels of equivalence and degrees of untranslatability of state organs in UUDNRI 1945.

TABLE 1 State Organs of UUDNRI 1945

	State Organs	MKRI' s Translation	UNESCO's Translation
1.	<i>Majelis Permusyawaratan Rakyat</i>	The People's Consultative Assembly	<i>MPR</i>
2.	<i>Presiden</i>	The President	The President
3.	<i>Wakil Presiden</i>	The Vice President	The Vice President
4.	<i>Dewan Perwakilan Rakyat</i>	The People's Representative Council	<i>DPR</i>
5.	<i>Dewan Perwakilan Daerah</i>	The Regional Representative Council	<i>DPD</i>
6.	<i>Badan Pemeriksa Keuangan</i>	The Financial Audit Board	<i>BPK</i>
7.	<i>Mahkamah Agung</i>	The Supreme Court	The Supreme Court
8.	<i>Mahkamah Konstitusi</i>	The Constitutional Court	The Constitutional Court
9.	<i>Komisi Yudisial</i>	The Judicial Commission	The Judicial Commission

## III. FINDING AND DISCUSSION

The discussion is based on the levels of equivalence and the degrees of untranslatability of State Organs of English Versions of UUDNRI 1945 that are translated by MKRI and UNESCO.

Article 2 paragraph (1) of UUDNRI 1945:

*SLT: "Majelis Permusyawaratan Rakyat terdiri atas anggota Dewan Perwakilan Rakyat dan anggota Dewan Perwakilan Daerah yang dipilih melalui pemilihan umum dan diatur lebih lanjut dengan undang-undang".*

TLT 1 by MKRI: *"The People's Consultative Assembly consists of members of the People's Representative Council (Dewan Perwakilan Rakyat) and members of the Regional Representative Council (Dewan Perwakilan Daerah) elected through general elections and to be further regulated by laws".*

TLT 2 by UNESCO: *"The MPR consists of the members of the DPR and the members of the DPD who are chosen through general elections and further regulated by law".*

MKRI's translation, the *Majelis Permusyawaratan Rakyat* is translated into The People's Consultative Assembly, while the UNESCO's translation still maintains the term of *Majelis Permusyawaratan Rakyat*. MKRI's translation seems to get the equivalence of *Majelis Permusyawaratan Rakyat* but it does not correspond to any terminologies used in other English constitution translations. The terminology of The People's Consultative Assembly in English is unfamiliar in state organ of the United States' Constitution or other countries. The United States of America constitutional system uses the nomenclature of Congress as a bicameral institution of the United States federal government that adheres to two chambers or bicameral system, which consists of House of Representatives and Senate [9] [10, p. 68]. There are various names for several types of modern second assemblies, such as the House of the Lords in The UK, the Council of States in Switzerland, the Federal Council in the Federal Republic of Germany and the Senate in most countries, including Australia, Canada, Ireland, France, Italy, South Africa and the United States of America. France and Italy are examples of a unitary state that has a second assembly. The second assembly in France is a Senate chosen indirectly and in Italy is in the form of a directly elected Senate [11, p. 290].

Indonesia also uses a two-chamber system as in the United States i.e. *Dewan Perwakilan Rakyat* and *Dewan Perwakilan Daerah* which are translated into The People's Representative Council and The Regional Representative Council by MKRI, but UNESCO's translation still maintain the language source terminologies. In terms of functions and roles in each constitutional system between *MPR* and Congress, between *DPR* and the House of Representatives, and between *DPD* and the Senate in the United States of America, there is a very significant difference in constitutional functions and roles in every different country. Therefore, the translation of the Indonesian Constitution by UNESCO which maintains the nomenclature of the *MPR*, the *DPR*, and the *DPD* in the TLT as a form of non-equivalent translation due to the absence of relevant and functional features of the situation in the terms of the *MPR*, the *DPR* and the *DPD* in Indonesian's constitutional state system when compared to the United States of America's constitutional system.

Then, Article 23E paragraph (1) of UUDNRI 1945:

*SLT: "Untuk memeriksa pengelolaan dan tanggung jawab tentang keuangan negara diadakan satu Badan Pemeriksa Keuangan yang bebas dan mandiri".*

TLT 1: “*In order to examine the management and responsibility regarding state finances, a free and autonomous Financial Audit Board shall be established*”.

TLT 2: “*To audit the management of and accountability for the state’s finances a free and independent BPK shall be set up*”.

MKRI’s translation, *Badan Pemeriksa Keuangan (BPK)* is translated into the Financial Audit Board, while the UNESCO’s translation still maintain the BPK nomenclature. MKRI’s translation, in this case, obtained dynamic-equivalence due to several countries such as India (*Comptroller and Auditor General of India/CAG*) [12] Japan (*Board of Audit of Japan* [13] and Korea (*The Board of Audit and Inspection of Korea*) [14] uses nomenclature that is almost the same as used in the translation of MKRI. UNESCO’s translation which still maintains the nomenclature of the BPK, in this case is questionable. Perhaps the ideology and attitude of the translator in the UNESCO’s translation is very cautious and more foreignization, because there are several different functions and roles of the BPK than the same organ in other countries.

Several state organs in the Indonesian Constitution have equal equivalence both the MKRI and UNESCO translations, such as: *Presiden* (The President), *Wakil Presiden* (The Vice President), *Mahkamah Agung* (The Supreme Court), *Mahkamah Konstitusi* (The Constitutional Court) and *Komisi Yudisial* (The Judicial Commission) in English language as TL. This is possible because the state organs that have been mentioned both in the SL and TL are generally known in the existing constitutional system in other countries.

#### IV. CONCLUSION

From the discussion above, it can be seen that the differences in the constitutional system of every different country and different linguistical perspectives can cause

problems of the levels of equivalence and the degree of untranslatability. Other causes are because the nature of the legal text is very rigid and may not contain obscurity, vagueness, and ambiguity, so the translator takes a more cautious stance in looking for equivalents in the target language text, even translators tend to keep using terminology in the source language so that meaning in the source language can still be maintained.

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