

English Legal Terminologies in Bengali: Convergence and Divergence in Equivalence

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Abstract

The formation of English legal terminologies in Bengali began as a colonial project during the late 18th century in Bengal, and this terminographic process is advanced with the help of the Bengali writers, lexicographers, terminologists and authoritative language institutions. The objective of this paper is to explore convergence and divergence of English legal terminologies in Bengali in the context of equivalence relations against the backdrop of lexicography, terminography and translation studies. The study is a qualitative research under a descriptive framework based on content analysis and critical interpretive analysis of a range of legal terminologies in English and their equivalents or counterparts in Bengali. This study addresses the question of whether and how language contact with its transliteration and translation strategies actuates convergence and divergence phenomena between the two languages in a particular domain. The findings show that equivalence relations of English legal terminologies in Bengali have changed with historical trajectories, sociolinguistic realities and cultural dimensions of the Bengali legal language and its development.

Keywords: Legal terminology, Equivalence, Convergence, Divergence, English, Bengali.

1. Introduction

The formation of English legal terminologies in Bengali as equivalents or counterparts has a long history with its beginning in Bengal during the late 18th century. The English colonizers initiated the tradition as a colonial asymmetrical relation of power to administer the colony, promote language contact with native communities and explore the epistemological space of the territory.¹ The native writers, lexicographers, terminologists and authoritative language institutions have continued the developmental process to encode the forms of knowledge and facilitate the expansion of the Bengali language with equivalents. However, the choice of equivalence for a technical term particularly a legal terminology has assumed to be problematic in the two different languages of diverse cultures for its involvement of convergence and divergence against the backdrop of conceptualization, cognition, meaning construction and communication.² The variety of morphosyntax, semantics and pragmatics, cross-linguistic cultural turn, behavioural translational norm etc. cause conceptual or semantic shift, indeterminacy, inscrutability and indefinability between the source text and the target text in the process of translation. When a term whatsoever is to be transferred or translated into another language with a different culture, translation fails or untranslatability occurs for the absence of target language entries signifying context and cotext in translation equivalence.³ However, the study is about the exploration of English

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legal terminologies in Bengali under a descriptive framework based on content analysis and critical interpretive analysis, and it aims to address the research question: "How do English legal terms converge and diverge in Bengali?"

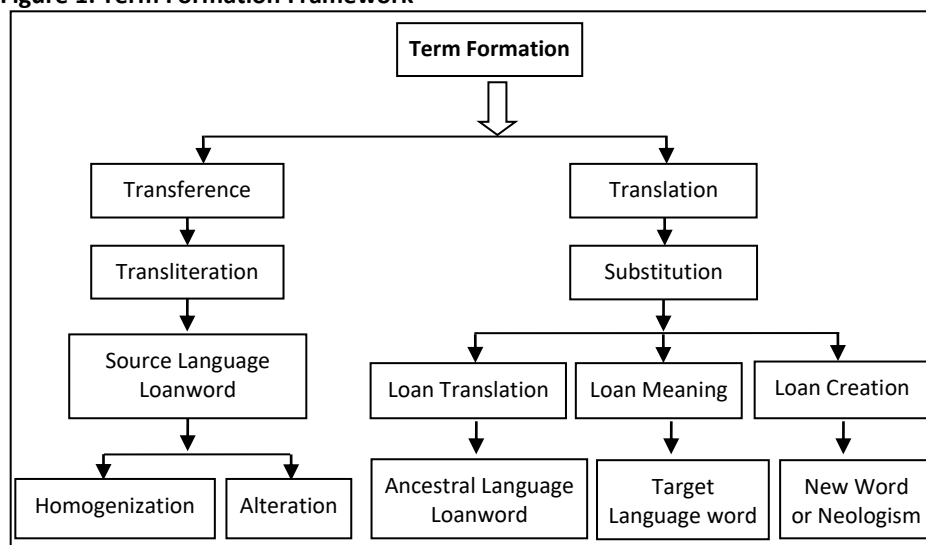
2. Concept of Convergence and Divergence in Equivalence

Equivalence is a relation of equal value; convergence is the quality of conformity and divergence is a sort of deviation between a source term and a target term. Terminography defines equivalence as a relation of compatibility of a common designation of a concept by two terms in two different languages. It is "a variable notion," said Lawrence Venuti, "of how the translation is connected to the foreign text;" and he labels it as 'accuracy,' 'adequacy,' 'correctness,' 'correspondence,' 'fidelity,' or 'identity.'⁴ The relation between a source term and a target term as well as their involvement of conceptual meaning construction can motivate the existence of equivalent relations, namely convergence and divergence in translation. Convergence is the quality of uniformity or congruity whereas divergence is a shift or deviation in terms of lexical, syntactic, semantic and pragmatic parameters. Convergence involves linguistic unification and homogenization of the linguistic repertoire whereas divergence amounts to linguistic diversification, diffuseness and heterogenization.⁵ The notion of equivalence faces a serious problem inevitably bound up with the definition of meaning leading to enquire what types or aspects of meaning it is expedient to operate with and what facets should or can be retained in transfer or translation. In fact, convergence and divergence in equivalence relations are considered the conceptual basis of translation quality assessment in terminology transfer or translation.

Language is usually equipped to convey any cognitive experience with the help of a word or a term. A terminology in the sense of a term is a word or a multiword expression used to designate a mono-referential concept within a domain-specific linguistic designation. When there is a deficiency in a language, terminologies may be, as Roman Jakobson suggested, "qualified and amplified by loan words or loan translations, neologisms, or semantic shifts, and finally by circumlocutions."⁶ A term irrespective of its domain is to represent the conceptualization of an abstract cognitive entity as a unit of understanding within the boundary of a language. It is to include a clear and non-contradictory relationship between its concept and definition; and therefore its formation procedure is to comply with its elaborative function in the target language and its wide acceptance by the target speech community for its sustainability. A term, whether a legal or scientific one, is characterized with a set of terminology policies, strategies and legalities prescribed by UNESCO, TermNet, Infoterm and ISO.⁷ The basic criteria of a term include monosemy or precision, univocity or absence of synonymy, semiotic conception of designations, exclusive interest in the lexicon leaving aside all other linguistics levels, synchronic treatment and priority of written registers.⁸ A term also encompasses the criteria of a phraseology continuum, the institutionalization of a sequence, fixedness and non-compositionality. However, when a terminological project is launched for the formation of a terminological vocabulary, the procedure followed in the preparation of terminologies is to identify concepts, establish concept systems, formulate definitions, and finally select and form terms. The need to provide a designation for a new concept is primarily met by adopting the source-language word into that of the target language. Then the need is filled by a loanword from a common

ancestral language or using a target-language word; and finally by creating a neologism or a new term with a word having a parallel in the target or ancestral language in accordance with the linguistic exigencies of the target language. The procedure to be followed in terminology formation within a language or from one language to another may be represented in a framework as shown in Figure 1 below:

Figure 1: Term Formation Framework



Source: The framework is developed based on Uriel Weinreich, *Languages in Contact: Findings and Problems* (New York: Mouton, 1953); Helmut Felber, *Terminology Manual* (Paris: UNESCO & Infoterm, 1984).

When a term is transferred with the strategy of transliteration, the question of convergence and divergence is nominal for the involvement of the source language and the target language; but the question is crucial in the process of translation for the association of the source language, the target language and the common ancestral language(s). The lack of entries, the existence of more than one entry and the conflict of language choice pose a major concern in the process of translation. The choice of convergence and divergence becomes more complicated in legal terminologies for their interdisciplinarity and instrumentality; and legal term formation demands a sort of specialization in the subject-field and languages involved.

3. Research Methodology

The study is a descriptive research with a view to analyzing convergence and divergence of English legal terminologies in Bengali. The timeframe selected for the study encompasses the English colonial period, the Pakistani regime and the post-independence period to understand the formative nature of legal terminology and its equivalence relations. The primary sources of data in the research are Bengali translations of regulations, colonial legal documents and glossaries of legal terminologies sampled from three distinct timeframes: 1784-1947, 1947-1971 and

1971–2015. The study incorporated terminologies used in the legislation during the English colonial rule and Pakistani regime, as well as terminologies in the Constitution of Bangladesh and its statutory legal system. However, a chronological list of regulations, legal documents and glossaries consulted for the study is as follows:

Table 1: A List of Regulations, Legal Documents and Glossaries consulted for the Study

Author/ Institution	Name of the Text (Regulation, Legal Document or Glossary)	Publisher	Year of Publication
Jonathan Duncan	<i>Translation of Regulations for the Administration of Justice in the Courts of Dewanny Adawlut</i>	Hon'ble Company's Press	1784
G. C. Meyer	<i>Bengal Translation of Regulation for Weavers</i>	Hon'ble Company's Press	1787
G. F. Cherry	<i>Bengal Translation of Treaty of Commerce</i>	Hon'ble Company's Press	1788
N. B. Edmonstone	<i>Bengal Translation of Regulations for the Administration of Justice, in the Fauzdarry or Criminal Courts; in Bengal, Bihar and Orissa</i>	Hon'ble Company's Press	1791
H. P. Forster	<i>Bengal Translation of Regulations, Passed by the Governor-General in Council during the Year 1793</i>	Hon'ble Company's Press	1795
Francis Gladwin	<i>A Dictionary of Mohammedan Law, and of Bengal Revenue Terms</i>	Thomson & Ferris	1797
J. C. Marshman	<i>Dewani Ain Sar</i>	Bengal Military Orphan Press	1843
Ananda Ram Dhekial	<i>Ain O Byabastha Sangraha</i>	Calcutta New Press	1855
H. H. Wilson	<i>A Glossary of Judicial and Revenue Terms</i>	W ^M . H. Allen and Co.	1855
John Robinson	<i>Dictionary of Law and Other Terms</i>	Thacker	1860
West Bengal Government	<i>Sarkari Karje Byabaharja Paribhasha</i>	West Bengal Government Press	1948
Bangla Academy	<i>Ain Paribhashakosh</i>	Bangla Academy	1970
Bangla Academy	<i>Antarjatik Ain Paribhashakosh</i>	Bangla Academy	1970
Ghazi Shamsur Rahman	<i>Ain Paribhasha,</i>	Bangla Academy	1985
Md. Abdul Hamid	<i>Ainkosh</i>	Bangla Academy	1991
Paschimbanga Bangla Akademi	<i>Paribhasa Samakalan: Prashasan</i>	Paschimbanga Bangla Akademi	1993
Muhammad Habibur Rahman, and Anisuzzaman	<i>Ain Shabdakosh</i>	Anyaprakash	2006
Government of Bangladesh	<i>Prashasanik Paribhasha</i>	Ministry of Public Administration	2015

The data collection tools used in the research are content analysis, document analysis and literature review. Qualitative content analysis and critical interpretive analysis were used to explore, evaluate and interpret the data in the context of linguistic dimension, historical perspective, sociocultural background and geopolitical dynamics in order to come to a substantiated conclusion. The bulk of English legal terminologies and their Bengali equivalents are cross-checked with terminologies of Political Science, Public Administration and International Relations to validate and triangulate data into language-specific and genre-specific conventions of translation.

4. English Legal Terminologies in Bengali

The legacy of legal terminologies in Bengal is intertwined with the sociolinguistic history and the gradual evolution of administration of the Indian subcontinent, no doubt; but the formation of legal terminologies in Bengali is closely related with its contact with English and the English colonial rule in Bengal. The root of English in the Indian subcontinent is customarily traced back to 31 December 1600; and the British East India Company brought English to the shores of India as an extraneous language.⁹ The recorded history also shows that Sir Thomas Roe was dispatched to the court of Moghul Emperor Jahangir in Delhi in 1615 jointly by the Company and King James I to obtain a treaty or pact to guarantee constant love and peace between the two monarchs.¹⁰ However, the English traders had begun to penetrate into the interior of Bengal in the mid-seventeenth century and established their trading posts along the Hooghly-Bhagirathi valley. The English got a *farman* (royal mandate or decree) from Shah Jahan in 1650, a *nishan* (royal seal) from Shah Shuja in 1651 and established a factory in Hooghly. James Hart, an agent of the company, appeared to have been in Dhaka in 1658 and a factory was established in Dhaka in early 1669. The company's operations had eventually moved from the western to the eastern coast, and Bengal became their most important field by the end of the seventeenth century. The monopolistic trading body gradually became involved in politics and attained the political control of Bengal in the Battle of Plassey in 1757. The victory established the British East India Company as the new territorial overlord over Bengal and it acquired the legal right of *Diwani* over Bengal, Bihar and Orissa from the Mughal Emperor Bahadur Shah in 1765.

The English law began to infiltrate into Bengal with the assumption of *Diwani* (revenue authority) by the East India Company and its de facto rule over the province in 1765. The East India Company incrementally secured the right to settle the civil and criminal disputes establishing courts like Mayor's Court and Calcutta Supreme Court in Bengal. The Company realized that Indian knowledge and experience as embodied in the varied textual traditions of the Hindus and Muslims were relevant for developing British administrative institutions. When Warren Hastings was appointed to the newly created position of governor-general and was instructed by the Court of Directors to place the governance of the Bengal territories on a stable footing, he initiated a pragmatic project to create a body of knowledge that could be utilized for the effective control of Indian society.¹¹ He instructed to compile a complete digest of the authoritative Hindu and Islamic laws; and anglicize the local laws on an assumed theoretical legal basis of justice, equity and good conscience. So the English endeavoured to codify ancient and medieval

Indian law and introduced in its place their own system of law ignoring multiple legal orders that coexisted in India through the ages. The British attempted to re-give law and legal systems as a project of ideologically justifying the presence of the British Raj in India. The British used India's extant legal diversity to argue for the lack of a dominant legal tradition, leading to the introduction of British common law as the law of the land. The East India Company replaced Persian by English, introduced Bengali as the medium of correspondence in judicial system; initiated the translation of regulations from English to Bengali and the compilation of English-Bengali law dictionaries. Moreover, the language contact between English and Bengali has influenced the integration of English words and terms in Bengali as well as Bengali or Indian lexical items in English.¹²

The East India Company civilian Jonathan Duncan's *Translation of Regulations for the Administration of Justice in the Courts of Dewanny Adawlut* was the first individual attempt to translate regulations and form a set of corresponding English legal terminologies in Bengali. George Charles Meyer, George Frederic Cherry, Neil Benjamin Edmonstone and Henry Pitts Forster also translated company regulations and codified a body of legal literature in Bengali under the colonial patronage. The trend of translating company laws and regulations in Bengali continued as far as 1806; and a good number of legal terminologies were formulated in Bengali. Then the English and Bengali bilingual lexicographers of the 18th and 19th centuries also contributed in creating terminologies in Bengali. Henry Pitts Forster started the practice with his *A Vocabulary, English and Bongalee* in 1799; and then William Carey, Graves Chamney Haughton, William Morton, Ram Comul Sen and others advanced the trend. Felix Carey, a pioneer of the conventional terminology formation in Bengali with the addition of a list of terms entitled "Glossary of Words Used in the History of England" in his Bengali translation *Britin Deshiya Bibaran Sancya* based on Goldsmith's *History of England* formed a good number of legal terms in Bengali.

Wilson's *Glossary of Judicial and Revenue Terms of the Government of British India* and Robinson's *Dictionary of Law and Other Terms, Commonly Employed in the Courts of Bengal* are two important publications for Bengali legal terminology.¹³ The glossary of Wilson and the dictionary of Robinson contain words likely to occur in legal proceedings along with words added for their general utility. Robinson enriched and completed his dictionary based on *The Imperial Dictionary of the English Language* edited by John Ogilvie in the context of Courts of Bengal.¹⁴ The East India Company acted as an agent of British imperialism in India from the early 18th century to the mid-19th century. Then the British government intervened to rule the Indian subcontinent directly under the crown in 1857; and the crown evolved into "an imperial ruler, responsible for the day-to-day governance of a vast, often unwieldy, collection of overseas territories and settlements"¹⁵. The late nineteenth century and the first half of the twenty century witnessed the publication of legal reports and a number of legal texts in Bengali.

The creation of the two nation states of India and Pakistan partitioned Bengal with its Muslim majority eastern portion joining the Islamic Republic of Pakistan as its eastern wing in 1947. India opted for Hindi and Pakistan attempted to make Urdu the state language of Pakistan. Language choice became a crucial concern in the milieu of the

multilingual subcontinent with its distinct and rich culture. The language controversy compelled the Bengali to resist the imposition of Urdu in support of Bangla; but the English language remained and continued to be used in the legal system. The *Paribhasha Samsad* of West Bengal Government in association with the *Paribhasha Samiti* of University of Kolkata compiled *Sarkari Karje Byabaharja Paribhasha* [Terminologies on Public Services] in 1948, and it included a good number of legal terminologies in Bengali.¹⁶ The terminologies of the *Paribhasha Samsad* were widespread in East Pakistan; and set a precedent for post-colonial legal terminology formation in Bengali. The *Paribhasha Samsad* project was edited first by Rajshekhar Bosu, then Suniti Kumar Chatterji and finally by Sukumer Sen. The project continued from 1948 to 1969; and Paschimbanga Bangla Akademi published their *Paribhasa Samakalan- Prashasan* [A Compilation of Bengali Terminology- Administration] based on the work of the *Paribhasha Samsad*.¹⁷

Bangla Academy and Central Board for Development of Bengali, Dhaka compiled a good number of terminologies on law, international law and administration. *Ain Paribhashakosh* [Terminology of Law] was published first by Central Board for Development of Bengali and then by Bangla Academy in June 1970; and *Antarjatik Ain Paribhashakosh* [Terminology of International Law] was in August 1970. A sub-committee consisting of five members headed by M. Shahabuddin was assigned to implement the terminology project under the Board. Bangla Academy also published *Sarkari Office-Adalate Byabharita Paribhasha* in 1972; *Prashasanik Paribhasha* in 1975; *Ain Paribhasha* in 1985 and *Ainkosh* in 1991. Bengali Language Implementation Cell under Ministry of Public Administration, Bangladesh also compiled *Prashasanik Paribhasha* in consultation with Bangla Academy in 1987 when the government legislated *Bangla Bhasha Prachalan Ain*, 1987 to enact Article 3 of the Constitution.¹⁸ Ghazi Shamsur Rahman, Muhammad Habibur Rahman and A. B. Siddique wrote a good number of books on law in Bengali including legal glossaries and dictionaries. *Ain Shabdakosh* [English-Bengali Law Lexicon] compiled and edited by Muhammad Habibur Rahman and Anisuzzaman under the financial and technical support of CIDA is a part of legal reform project. The glossary included the conventionally accepted terminologies in Bengali, formed new terminologies and opted for alternatives with explanation. The lexicon with its 6000 entries was first published in 2006; and its extended second edition was published by Law Commission, Bangladesh in 2020.

5. Convergence of English Legal Terminologies in Bengali

Convergence is, as mentioned earlier, a relation of uniformity between a source term and a target term; and it occurs when a bilingual perceives a sort of similarity between an original and its translation. The issue of convergence is significant in legal terminologies for their clarity, comprehensibility and rigidity. A terminologist endeavours to ensure convergence by the strategy of transliteration and translation using the source language, the target language and the common ancestral language. A source term is to maintain convergence in its target term with an internal coherence between its concept and definition, an understanding of cross-cultural factors and communicative norms. "A term is to possess," said Ramendrasundar Trivedi, "a specific,

restricted and distinct meaning without any connotation in its application; and ensure its competitive advantage, utility and convenience.”¹⁹ The failure of convergence in translation derives from a gap in culture or a wrong selection of word(s); and results in mistranslation and semantic shift.

Jonathan Duncan in his *Translation of Regulations* formed ‘আদালতের অপমান’ [ādālater apamān] as a Bengali equivalent for the English legal term ‘contempt of court.’ The term ‘contempt of court’ is used to mean disobedience to a court order or process in civil contempt or a conduct that obstructs or tends to obstruct the proper administration of justice in criminal contempt.²⁰ Duncan’s formation reflected the core meaning of the English term, and it proved convenient with its modern Bengali equivalent ‘আদালত অবমাননা’ [ādālat abamānanā] in the context of equivalent relations. He also translated ‘jurisdiction’ as ‘সীমাবন্দি’ [Simābandi], ‘regulation’ as ‘ধারা’ [dhārā], ‘resolution’ as ‘আজ্ঞাপত্র’ [ājñāpatra], ‘officer’ as ‘কর্মকর্তা’ [karmmakarttā], ‘suspend’ as ‘স্থগিত’ [sthagit], ‘punishment’ as ‘দণ্ড’ [da], and ‘warrant’ as ‘তলবচিঠী’ [talabcithi],²¹ The work was not easy in the initial stage of terminology formation amidst a sort of confusion about the question of accuracy and the choice of language. Duncan had to depend on the help of *munshis* or catechists for his translation. He read the English text before his *munshis* and made them understand the assigned term using English, Persian and Bengali. The *munshis* individually translated the source text in Bengali and finally Duncan verified the target text consulting with the *munshis* based on his sense of propriety. Duncan neither imitated the structure of English nor surrendered to the expression of Persian; rather he was successful in creating a simple and free flowing Bangla for the expression of legal concepts in his terminology formation.

Duncan’s model influenced Meyer, Cherry, Edmonstone and Forster to translate company regulations and codify a body of legal literature in Bengali under the colonial patronage. Meyer translated ‘revenue’ as ‘মালগুজারি’ [mālgūjārī] in his *Regulation* and Cherry transferred ‘tax’ as ‘হাশীল’ [hāśil] in his *Treaty*.²² Edmonstone translated ‘plaintiff’ as ‘ফৈরাদি’ [phairādi], a misspelling of ‘ফরিয়াদি’ in his *Regulation*.²³ They used Persian and Arabic words common in Bengal in their translation; and sometimes transliterated the source term in Bengali. The application of transliteration strategy in translation is noticed in Marshman and he transliterated ‘government’ as ‘গবর্ণমেন্ট’ [gabarnmēnt] and ‘secretary’ as ‘সেক্রেটারী’ [sēkrētārī] in his *Dewani Ain Sar*.²⁴ Forster rendered ‘accusation’ as ‘অপবাদ’ [apabād] or ‘অভিযোগ’ [abhiyog]; ‘court’ as ‘আদালত’ [adālat], ‘দরবার’ [darbār] or ‘রাজসভা’ [rajsabhā]; ‘injunction’ as ‘আজ্ঞা’ [ājñā] or ‘আদেশ’ [ādeś]; ‘offence’ as ‘অপরাধ’ [aparādh] or ‘দোষ’ [doś]; ‘statute’ as ‘বিধি’ [bidhi], ‘বিধান’ [bidhān] or ‘ব্যবস্থা’ [byabasthā], etc. in his *Vocabulary*.²⁵ He conceptualized and defined the legal terms almost correctly in his translation in terms of comprehensibility. He attempted to regularize Bengali vocabulary in the total want of a repository; and advocated “the importance of the study of the Bongalee, and the propriety of its adoption, as the only official language in the province of Bengal.”²⁶ Forster preferred translation to transliteration; and prioritized the Sanskritization of the Bengali language.

Felix Carey translated ‘anarchy’ as ‘অপ্রভুত্ব’ [aprabhutba] or ‘অনাধিপত্য’ [anādhpatya], ‘court’ as ‘সভা’ [sabha] or ‘আদালত’ [ādālat]; ‘cabinet’ as ‘মন্ত্রিসভা’ [mantrīsabhā] and ‘will’ as ‘দানপত্র’ [dānpatra] in his “Glossary.”²⁷ Felix tried to focus on semantic characteristics of Bengali in his terminology formation. He utilized the ancient glossaries of the subcontinent; accommodated Sanskrit or Bengali single words; and compounded vernacular words instead of English to coin a new term in Bengali. Wilson translated ‘a petition or writing of a complaint’ as ‘অভিযোগপত্র’ [abhiyojpatra]; ‘bribe’ as ‘ঘুষ’ [ghuś]; ‘a nuptial gift or a marriage dower’ as ‘যতুক’ [yatuk], ‘tax’ or ‘revenue’ as ‘রাজস্ব’ [rājasba]. Robinson translated ‘amnesty’ as ‘ক্ষমা’ [kṣamā]; ‘bankrupt’ as ‘দেউলিয়া’ [deuliā]; ‘compensation’ as ‘ক্ষতিপূরণ’ [kṣatipūraṇ]; ‘mortgage’ as ‘বন্ধক’ [bandhak]; and ‘testimony’ as ‘সাক্ষ্য’ [sākṣya] or ‘গওয়াহী’ [gaoyābī] in his dictionary. His formation of ‘bailable offence’ as ‘যে অপরাধ হইলে অপরাধী হাজির জামিন দিয়া মুক্ত হইতে পারে’ is convergent in terms of meaning with ‘জামিনযোগ্য অপরাধ’ in modern Bengali terminology formation. Robinson was well equipped in his terminology formation; and his terminologies seemed to be more accurate than his predecessors.

Ain Paribhashakosh by Central Board for Development of Bengali and Bangla Academy endeavoured to form legal terminologies classifying them into jurisprudence, criminal procedure code, company act, Muslim law, law of evidence, contract law and constitutional law. The *Kosh* translated ‘administration’ as ‘হুকুমাত, শাসন, প্রশাসন, পরিচালন;’ ‘charge’ as ‘অভিযোগ, দায়, দায়িত্ব;’ ‘jurisdiction’ as ‘অধিক্ষেত্র, এলাকা, এখতিয়ার;’ ‘law’ as ‘আইন, বিধি, বিধান;’ ‘regulation’ as ‘প্রণিয়ম, আইন, প্রবিধান;’ ‘settlement’ as ‘বন্দোবস্ত, নিষ্পত্তি, মীমাংসা, মিটমাট;’ ‘tyranny’ as ‘নিষ্ঠুরতা, অত্যাচার, অত্যাচারী শাসন, স্বৈচ্ছাচারতন্ত্র;’ etc. Similarly, *Antarjatik Ain Paribhashakosh* translated ‘amnesty’ as ‘রাজক্ষমা, ব্যাপক-ক্ষমা, আন্তর্জাতিক ব্যাপক-ক্ষমা;’ ‘conclave’ as ‘খাস উপনিবেশ, সরাসরি কর্তৃত্বাধীন উপনিবেশ;’ ‘hegemony’ as ‘কর্তৃত্ব, নেতৃত্ব;’ ‘refugee’ as ‘রিফিউজি, উদ্বাস্তু, শরণাগত ব্যক্তি;’ ‘territory;’ as ‘রাজ্য, রাষ্ট্র, রাষ্ট্রীয় এলাকা’ etc. The term ‘Supreme Judicial Council’ is translated as ‘সর্বোচ্চ বিচার পরিষদ or উচ্চতম বিচারালয় সংসদ’ by Bangla Academy and the same term is transliterated as ‘সুপ্রিম জুডিশিয়াল কাউন্সিল’ by *Ain Shabdakosh*. Bangla Academy formed the Bengali equivalent of the term ‘habeus corpus’ as ‘বন্দিপ্রদর্শন-আদেশপত্র;’ and Paschimanga Bangla Akademi translated the term as ‘সশরীর হাজিরা, বন্দী প্রত্যক্ষীকরণ’ whereas *Ain Shabdakosh* transferred the term as ‘হেবিয়াস কর্পাস.’ The ambiguity arises either for equivocal language used by the English law or for the problem of translation. However, the transliteration of the term ‘habeus corpus’ as ‘হেবিয়াস কর্পাস’ [hebiyās karpās] proved better to mean a prerogative writ used to challenge the validity of a person’s detention, either in official or in private custody as regards clarity and acceptability.

The Constitution of Bangladesh is a classic bilingual text drafted first in English and then translated in Bangla; and so a good number of English legal and administrative terminologies are translated in Bengali in the Constitution. The Constitution has used the term ‘territory;’ and ‘republic’ in Article 2; and formed their Bengali equivalents as ‘রাষ্ট্রীয় সীমানা’ and ‘প্রজাতন্ত্র’ borrowing Sanskrit loanwords.²⁸ The Constitution transferred ‘administrative tribunal’ as ‘প্রশাসনিক ট্রাইব্যুনাল’ compounding the ancestral language Sanskrit and the original language English. The Constitution transliterated the source term ‘attorney-general’ as ‘অ্যাটর্নি-জেনারেল’ avoiding the translation of the term with the

target language or the ancestral language for better convenience. The Constitution tried to maintain monosemy, univocity and unambiguity in forming terminologies whereas organizations assigned with terminology compilation used equivalents with synonyms to designate a concept in a given subject field. However, Table 2 below will show convergence in English legal terminologies in Bengali from 1947 to 2015:

Table 2: Convergence of English Legal Terminologies in Bengali

English legal Terminologies	Paribhasha Samsad, West Bengal Govt.	Bangla Academy, Dhaka	Paschimbanga Bangla Akademi	CIDA's <i>Ain Shabdakosh</i>	Ministry of Public Administration, Bangladesh Govt.
amendment	সংশোধন	সংশোধন	সংশোধন	সংশোধন	সংশোধনী
civil court	দেওয়ানী আদালত	দেওয়ানী আদালত	দেওয়ানি আদালত	দেওয়ানি আদালত	দেওয়ানি আদালত
decree	আজ্ঞাপত্র	আজ্ঞাপত্র, ডিক্রী	ডিক্রি	ডিক্রি	ডিক্রি
precedent	পূর্বদৃষ্টান্ত, নজির	পূর্বদৃষ্টান্ত, নজির	পূর্বদৃষ্টান্ত, নজির	নজির	নজির, পূর্বনিদর্শন
status quo		পূর্বাবস্থা, স্থিতিবস্থা	স্থিতিবস্থা	স্থিতিবস্থা	স্থিতিবস্থা
summon(s)	আহ্বানপত্র, সমন	সমন	সমন	সমন	সমন
vote	ভোট	ভোট	ভোট	ভোট	ভোট

Source: West Bengal Government, *Sarkari Karje Byabaharja Paribhasha* (Kolkata: West Bengal Government Press, 1948); Bangla Academy, *Ain Paribhashakosh* (Dhaka: Bangla Academy, 1970); Paschimbanga Bangla Akademi, *Paribhasa Samakalan: Prashasan* (Kolkata: Paschimbanga Bangla Akademi, 1993); Muhammad Habibur Rahman, and Anisuzzaman, ed., *Ain Shabdakosh* (Dhaka: Anyaparakash, 2006); Government of Bangladesh, *Prashasanik Paribhasha* (Dhaka: Ministry of Public Administration, 2015).

English legal terminologies translated or compiled in Bengali show that initial term formation in Bengali lacks convergence for violation of monosemy and indecision of language choice. A term converges when codified using transliteration strategy, but a term diverges when codified using translation strategy with a conflicting language choice. Therefore, selection of norm and its standardization are crucial for convergence of English legal terms in Bengali. However, contemporary Bengali legal terms tend to converge in the context of terminological principles and strategies. Bangla Academy is entitled to compile dictionaries and form terminologies in Bengali in accordance with Bangla Academy Act, 2013. The Academy is trying its best to perform its statutory responsibility, no doubt, but the formation of Bengali terminology in the legal field requires more attention for its coordinated codification and standardization in the context of convergence.

6. Divergence of English Legal Terminologies in Bengali

Divergence is, as said before, a deviation in value between a source term and a target term; and it arises when a bilingual identifies a profound difference between an original and its translation. Divergence gives rise to the problem of ambiguity, incomprehensibility

and flexibility in translation. A terminologist endeavours to avoid divergence by the strategy of transliteration and translation using the source language, the target language and the common ancestral language; but divergence occurs for the lack of entries, the existence of polysemy and the factors of cultural turn and behavioural norms. A hermeneutic concept of language privileges the interpretation of creative values and therefore describes the target-language inscription in the foreign text on the basis of changing cultural and social situations. If divergence persists in term transfer or translation, a heterogeneous body of literature is created in a domain; and the process of translation fails for incomprehensibility.

Duncan in his *Translation of Regulations* translated 'gratuity' as 'লৌকিকতা' [laukikatā] in the sense of a sum of money given without claim or obligation for services rendered; but 'লৌকিকতা' is conventionally used to mean 'ভদ্রতা' (civility), 'সামাজিকতা' (formality) or 'উপহার' (gift) in Bengali. He rendered 'governor general' as 'বড়সাহেব or গবর্নর জেনারেল' [barasāheb or gøbnør], 'judge' as 'ব্যবস্থাপক সাহেব' [byabasthāpak sāheb], 'Administration of Justice' as 'বিচার ও ইনসারফ চলন' [bicār o inasāph calan] and 'decree' as 'দিক্রি' [dikri] in his Bengali translation. Duncan's mistranslation occurs for his failure to incorporate the convention of Bengali morphology and semantics. The lack of equivalents in Bengali, the want of an existing translation model from English to Bengali, and the challenge of conveying specialized concepts of law caused divergence in his translation. His dependence on intuition and aptitude; his switching over from high variety to spoken variety and his indifference towards literal translation and free translation led him to mistranslation. Meyer formed 'court' as 'কচহরি' [kachari], Cherry transliterated 'company' as 'কুম্পানি' [kūmpāni] and Edmonstone rendered 'regulation' as 'দফা' [daphā] or 'ধারা' [dhārā] in Bengali.²⁹ The problem Duncan, Meyer, Cherry and Edmonstone encountered in their translation arises from a cultural gap or a distance relationship between the source term and the target term; and their lack of long contact with the target language.

Forster translated 'law' as 'আইন' [āin] in his *Translation of Regulations*; but he rendered 'law' as 'ব্যবস্থা' [byabasthā], 'বিচার' [bicār], 'ন্যায়' [nyāy], 'বিধান' [bidhān] or 'মোকদ্দমা' [mokaddamā] in his *Vocabulary*.³⁰ He translated 'witness' as 'সাক্ষী' [sākṣī] or 'প্রমাণ' [pramaṇ] and 'সাক্ষ্য' [sākṣya] or 'প্রামাণ্য' [prāmāṇya] because of his misconception about 'সাক্ষী' (witness) and 'সাক্ষ্য' (evidence) in Bengali. Moreover, Forster decoded a multilevel meaning instead of encoding a single concept by identifying its naming; and therefore the basic criteria of monosemy, univocity, semiotic conception of designations and synchronic treatment are somehow ignored in his terminology formation. Ram Comul Sen translated 'government' as 'রাজশাসন, রাজ্যনিয়ম, রাজ্যের বা শাসনের রীতি, দেশ প্রতিপালন, রাজকর্ম, নিজামৎ, বাদশাহী সরকার, নবাবী, রাজত্ব' with a multilevel meaning; and somehow failed to convey a single concept with a specific definition. Robinson rendered 'bond' as 'তমঃসুখ' [tamahsukh], 'বণ্ড' [baṇḍ], 'একবারনামা' [ekbārnamā], 'খৎ' [khaṭ], and translated 'abduction of an unmarried female' as 'কন্যা হরণ' or 'অবিবাহিতা স্ত্রী হরণ'. His conception of abduction is convergent in Bengali; but divergence occurs for his ambiguity about the concept of a girl, daughter, female or wife in Bengali translation.

Bangla Academy *Ain Paribhashakosh* formed 'ordinance' as 'অর্ডিন্যান্স, জরুরী বিধান, বিশেষ ক্ষমতাবলে প্রদত্ত নির্দেশ' whereas the Constitution of Bangladesh, Bangla Academy *Prashasanik Paribhasha*, Paschimbanga Bangla Akademi and Ministry of Public Administration, Bangladesh translated the term as 'অধ্যাদেশ' [adhyādeś] with a Sanskrit loanword. The term 'tribunal' is translated as 'বিচারালয়, সালিসী-আদালত, সালিস-সভা, বিচার-সভা, ন্যায়পীঠ, ট্রাইবুনাল' by Bangla Academy; 'ট্রাইবুনাল' by the Constitution of Bangladesh; 'ন্যায়পীঠ, ট্রাইবুনাল' by Paschimbanga Bangla Akademi; 'ট্রাইবুনাল, বিচারালয়' by Ministry of Public Administration and 'ট্রাইবুনাল' by CIDA's *Ain Shabdakosh*. The term 'tribunal' is a body established by or under the act of Parliament or statute to decide claims and disputes, exercise jurisdiction subject to judicial control under the doctrine of ultra vires and therefore equivalents such as 'বিচারালয়, সালিস-সভা, ন্যায়পীঠ' diverge in the context of meaning. Table 3 below will give an idea about the dimensions of divergence in English legal terminologies in Bengali from 1947 to 2015:

Table 3: Divergence of English Legal Terminologies in Bengali

English legal Terminologies	Paribhasha Samsad, West Bengal	Bangla Academy, Dhaka	Paschimbanga Bangla Akademi	CIDA's Ain Shabdakosh	Ministry of Public Administration, Bangladesh
Administration	প্রশাসন, পরিচালন	হুকুমাত, শাসন, প্রশাসন, পরিচালন	প্রশাসন, পরিচালনা	প্রশাসন	প্রশাসন
Habeus corpus	বন্দিপ্রদর্শন	বন্দিপ্রদর্শন-আদেশপত্র	সশরীর হাজিরা, বন্দি প্রত্যক্ষীকরণ	হেবিয়াস কর্পাস, বন্দি হাজির	হেবিয়াস কর্পাস, বন্দিপ্রদর্শন
Jurisdiction	অধিকারক্ষেত্র, অধিক্ষেত্র	অধিক্ষেত্র, এলাকা, এখতিয়ার	অধিকারক্ষেত্র, অধিক্ষেত্র, এজিয়ার	এখতিয়ার, অধিকারক্ষেত্র	এখতিয়ার, অধিক্ষেত্র
Proceeding(s)	কার্যবাহ	কার্যধারা, কার্য-বিবরণী, কার্যবাহ, কার্যাজ, কার্যাবলী	কার্যাবলি, কার্যবিবরণ	কার্যধারা	কার্যবিবরণী, কার্যক্রম
Ordinance	অধ্যাদেশ	অর্ডিন্যান্স, জরুরী বিধান, বিশেষ ক্ষমতাবলে প্রদত্ত নির্দেশ	অধ্যাদেশ	অধ্যাদেশ	অধ্যাদেশ
Tribunal	ন্যায়পীঠ	বিচারালয়, সালিসী-আদালত, সালিস-সভা, বিচার-সভা, ন্যায়পীঠ, ট্রাইবুনাল	ন্যায়পীঠ, ট্রাইবুনাল	ট্রাইবুনাল	ট্রাইবুনাল, বিচারালয়

Source: West Bengal Government, *Sarkari Karje Byabahrja Paribhasha* (Kolkata: West Bengal Government Press, 1948); Bangla Academy, *Ain Paribhashakosh* (Dhaka: Bangla Academy, 1970); Paschimbanga Bangla Akademi, *Paribhasha Samakalan: Prashasan* (Kolkata: Paschimbanga Bangla Akademi, 1993); Muhammad Habibur Rahman, and Anisuzzaman, ed., *Ain Shabdakosh* (Dhaka: Anyaparakash, 2006); Government of Bangladesh, *Prashasanik Paribhasha* (Dhaka: Ministry of Public Administration, 2015).

The formation of English legal terminologies in Bengali shows that the rate of divergence is low in case of transliterated terminologies; but the rate is comparatively high in case of translated terminologies. The terminologies use synonyms violating the basic principles of terminology, and there exists a variety of loanwords from English, Bengali, Sanskrit, Persian and Arabic. The quality of precision and univocity is compromised and the conflict of language choice causes divergence and ambiguity in translation. However, divergence existing in Bengali legal terminologies can be minimized integrating basic justifications, principles and processes to describe the intrinsic components of terminological units and their equivalents. If a term has already been formed and recognized in the Bengali legal system, it should be accepted ignoring its alternatives; and if necessary, an explanation can be provided to avoid its conceptual deficiencies.

7. Conclusion

The formation of English legal terminologies in Bengali was initiated with a colonial project; then it expanded with the necessity of administration and finally became a tool of legal system. The Bengali legal system predominantly owes its origin to the English law; and therefore the terminology formation in Bengali is determined by the hegemony of the source language in the context of language politics. The hegemony of English and its dominant status as a global language influence communicative norms through language contact in covert translation and comparable text production in Bengali legal terminologies. The complications and constraints arise from the confrontation of two different linguistic systems with diverse cultures and the choice of language. The conflict of language preference overshadows efficacy, compromises mono-referentiality, violates equivalence and ultimately fails to ensure unambiguity with a single effective meaning in translation. Moreover, legal terminology formation in Bengali more or less lacks coordination in the context of theory and methodology in practice; and there is a controversy about the use of English, Sanskrit, Persian or Bengali in terminologies. The study findings show that a lack of a transparent equivalence relation assumes to prevent convergence and results in divergence towards source language conventions. The question of convergence and divergence does not occur when an English legal term is transferred using the source language loanword but the problem persists when a common ancestral language like Sanskrit, Arabic or Persian and the native language Bengali are used in translation. Moreover, the use of synonyms, the problem of polysemy and the variety of spelling in Bengali terminologies violates convergence and causes unnecessary divergence. However, there is always scope for homogeneity, harmonization and unification in terminology formation in terms of terminographic principles and techniques. Therefore, a strategic coordination is expected in order to accommodate a clear, authoritative and comprehensive source of legal terminology to avoid mistranslations and inconsistencies for the convenience of stakeholders.

Notes and References

- ¹ The East India Company started forming terminologies and compiling dictionaries in Bengali in 1780s with Duncan's *Translation of Regulations* and Butler's *The Indian Vocabulary*. See Jonathan Duncan, *Translation of Regulations for the Administration of Justice in the Courts of Dewanny Adawlut* (Kolkata: Hon'ble Company's Press, 1784); Weeden Butler, *The Indian Vocabulary* (London: John Stockdale, 1788).

- ² Equivalence is a relation of compatibility; convergence is the quality of conformity and divergence is a sort of deviation between a source term and a target term. See Kurt Braunmüller, and Juliane House, ed., *Convergence and Divergence in Language Contact Situations* (Amsterdam: Benjamins, 2009).
- ³ J. C. Catford, *A Linguistic Theory of Translation: An Essay on Applied Linguistics* (Oxford: Oxford University Press, 1965), p. 94.
- ⁴ Lawrence Venuti, ed., "Introduction," *The Translation Studies Reader* (London: Routledge, 2000), p. 5.
- ⁵ Frans Hinskens, Peter Auer, and Paul Kerswill, "The Study of Dialect Convergence and Divergence: Conceptual and Methodological Considerations," in *Dialect Change: Convergence and Divergence in European Languages*, ed. Peter Auer, Frans Hinskens, and Paul Kerswill (Cambridge: Cambridge University Press, 2005), p. 2.
- ⁶ Roman Jakobson, "On Linguistic Aspects of Translation," in *On Translation*, ed. Reuben Arthur Brower (Cambridge, MA: Harvard University Press, 1959), p. 234.
- ⁷ UNESCO is United Nations Educational, Scientific and Cultural Organization; TermNet is International Network for Terminology; Infoterm is International Information Centre for Terminology; and ISO is International Standardization Organization. See Helmut Felber, *Terminology Manual* (Paris: UNESCO & Infoterm, 1984).
- ⁸ Maria Teresa Cabré, "Theories of Terminology: Their Description, Prescription and Explanation," *Terminology* 9, no. 2 (2003): p. 166.
- ⁹ Queen Elizabeth I granted a royal charter to a group of merchants in London, giving them a monopoly of trade with India. See Braj B. Kachru, *The Indianization of English: The English Language in India* (New Delhi: Oxford University Press, 1983), p. 19.
- ¹⁰ William Foster, ed., *The Embassy of Sir Thomas Roe to India, 1615-19* (London: Oxford University Press, 1926), p. 129.
- ¹¹ Bernard S. Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton: Princeton University Press, 1996), pp. 60-61.
- ¹² Henry Yule claimed that words of Indian origin had been insinuating themselves into English ever since the end of the reign of Elizabeth and the beginning of that of King James. See Henry Yule, and A. C. Burnell, "Introductory Remarks," in *Hobson-Jobson: A Glossary of Colloquial Anglo-Indian Words and Phrases, and of Kindred Terms* (London: Murray, 1886), p. xv.
- ¹³ H. H. Wilson, *A Glossary of Judicial and Revenue Terms, relating to the Administration of the Government of British India* (London: W^M. H. Allen and Co., 1855); John Robinson, *Dictionary of Law and Other Terms, Commonly Employed in the Courts of Bengal* (Kolkata: Thacker, 1860).
- ¹⁴ Ogilvie's *Imperial Dictionary* is an invaluable work with a collection of almost all the terms used in Courts of law. See John Ogilvie, ed., *The Imperial Dictionary of the English Language: A Complete Encyclopedic Lexicon, Literary, Scientific, and Technological*, Vol. I & II (Glasgow, Scotland: Blackie and Co., 1847-1850).
- ¹⁵ Mark Donoghue, *Faithful Victorian* (New York: Palgrave Macmillan, 2016), pp. 169-202.
- ¹⁶ West Bengal Government, *Sarkari Karje Byabaharja Paribhasha* (Kolkata: West Bengal Government Press, 1948).
- ¹⁷ Paschimanga Bangla Akademi, *Paribhasha Samakalan: Prashasan* (Kolkata: Paschimanga Bangla Akademi, 1993).
- ¹⁸ Government of Bangladesh, "Introduction," *Prashasanik Paribhasha* (Dhaka: Ministry of Public Administration, 2015), p. 4.
- ¹⁹ Ramendrasundar Trivedi, "Baiggyanik Paribhasha," *Sahitya-Parishat-Patrika* 1, no. 2 (1894): pp. 81-82.
- ²⁰ Jonathan Law, ed, *A Dictionary of Law*, Tenth Edition (Oxford: Oxford University Press, 2022).
- ²¹ Jonathan Duncan, *Translation of Regulations for the Administration of Justice in the Courts of Dewanny Adawlut* (Kolkata: Hon'ble Company's Press, 1784).

- ²² G. C. Meyer, *Bengal Translation of Regulation for Weavers* (Kolkata: Hon'ble Company's Press, 1787); G. F. Cherry, *Bengal Translation of Treaty of Commerce* (Kolkata: Hon'ble Company's Press, 1788).
- ²³ N. B. Edmonstone, *Bengal Translation of Regulations for the Administration of Justice, in the Fauzdarry or Criminal Courts; in Bengal, Bihar and Orissa* (Kolkata: Hon'ble Company's Press, 1791), p. 8.
- ²⁴ J. C. Marshman, *Dewani Ain Sar* (Kolkata: Bengal Military Orphan Press, 1843).
- ²⁵ Henry Pitts Forster, *A Vocabulary, In Two Parts, English and Bongalee, and Vice Versa, Part-I* (Kolkata: Ferris and Co., 1799).
- ²⁶ Henry Pitts Forster, "Introduction", in *A Vocabulary, In Two Parts, English and Bongalee, and Vice Versa, Part-I* (Kolkata: Ferris and Co., 1799), p. iv.
- ²⁷ Felix Carey, "Glossary of Words Used in the History of England", in *Britin Deshiya Bibaran Sancay* (Serampore: Calcutta School-Book Society, 1819), pp. 7-19.
- ²⁸ Government of Bangladesh, *The Constitution of the People's Republic of Bangladesh* (Dhaka: Ministry of Law, Justice and Parliamentary Affairs, 2016), Article 3.
- ²⁹ Meyer, *Bengal Translation of Regulation for Weavers*, 1787; Cherry, *Bengal Translation of Treaty of Commerce*, p. 5-6; Edmonstone, *Bengal Translation of Regulations*, p. 8.
- ³⁰ Henry Pitts Forster, *Bengal Translation of Regulations, Passed by the Governor-General in Council during the Year 1793* (Kolkata: Hon'ble Company's Press, 1795); Forster, *A Vocabulary*, p. 165.