

**ترجمة المصطلحات الثقافية في النصوص القانونية: تقييم جودة الترجمة  
الإنجليزية في كتاب حاتم وآخرين (المترجم القانوني في الميدان)**

***Translation of Cultural Terms in Legal Texts: An Evaluation of  
the Quality of English Translation in the Book by Hatem et al.  
(The Legal Translator in the Field)***

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## المخلص:

تهدف هذه الدراسة إلى تقييم ترجمة النصوص القانونية العربية إلى الإنجليزية من خلال كتاب "المترجم القانوني في الميدان" لـ (حاتم وشناق وبكلي). تركز الدراسة على اقتراح حلول واستراتيجيات فعالة لمعالجة الصعوبات التي تنشأ عن هذه الترجمات. تناولت الدراسة تقييم ترجمات النصوص القانونية العربية التي تحمل مدلولات ثقافية إسلامية إلى الإنجليزية. اتبعت الدراسة منهجية متعددة التخصصات تجمع بين التحليل الوصفي والنقدي والمقارن للنص الأصلي ونص الترجمة. اعتمدت الدراسة معايير التقييم الآتية: الدقة: في تقييم مدى دقة الترجمات في نقل المعاني الأصلية. التناغم: في مدى انسجام النص المترجم مع القواعد اللغوية والثقافية للغة المستهدفة. الجزالة: في تقييم قوة التعبير في النص المترجم. التأثير القانوني: في مدى قدرة الترجمة على نقل الأثر القانوني للمدلولات الثقافية. وأظهرت الدراسة أن المترجمين نجحوا إلى حد ما في تحقيق أهداف الترجمة ونقل مقاصد النصوص الأصلية. في بعض الحالات، ساوم المترجمون على دقة الترجمة لتكييف النص مع القيم الثقافية القانونية للقراء المستهدفين. كما استنتجت الدراسة استخدام المترجمين طرق الحذف والترجمة التفسيرية والحرفية، مما أدى إلى اختلال دقة النصوص وفقدانها للجزالة والتأثير البرغماتي. تقدم الدراسة ترجمات بديلة مبررة بالحجة والبرهان. كما أوصت الدراسة بإعادة مراجعة الترجمات لتحقيق الدقة والمقبولية بالإضافة إلى ضرورة استخدام استراتيجيات توطين النصوص والترجمة الوظيفية في المراجعة والتحرير. تعتبر هذه الدراسة خطوة مهمة نحو تحسين جودة ترجمة النصوص القانونية العربية إلى الإنجليزية، مع التركيز على الحفاظ على التأثير القانوني والامتثال للمعايير الثقافية المستهدفة.

**الكلمات المفتاحية:** ترجمة النصوص القانونية، تقييم جودة الترجمة، مفاهيم دينية ثقافية، الدقة، المقبولية، التأثير القانوني.

## Abstract:

This paper critically assesses the translation of legal discourses from Arabic into English by examining the book of Hatim, Shunnaq, and Buckley (1995), aiming to identify challenges and propose cost-effective solutions. Translation quality assessment is determined by how the target text may approximate the source text in terms of meaning, power, elegance, force, and pragmatic impact. Meaning is context-dependent, and any given lexical item is likely to assume different meanings in different contexts. The paper adopts an interdisciplinary qualitative analysis and translational

hermeneutics, combining descriptive, comparative, contrastive, and critical analyses to evaluate the accuracy, fluency, and legal effect of selected translations. Translational hermeneutics emphasizes that a translator can only translate what they have understood. The study further identifies translation strategies, proposes solutions to challenges, and suggests alternative renderings where necessary. The research findings indicate that the translators have partially succeeded in meeting the translation objectives, with the intended meanings of the source text's author being largely conveyed in the English translations. However, they were unable to reproduce the full legal effect and impact. The authors prioritized informing the target readership and adapting to cultural norms at the time of their translation, which may have compromised the coherence and legal impact of the source text. Conversely, they focused on maintaining high accuracy to the source text, potentially undermining cultural acceptability. The translators' strategies, including omission, literal translation, and one-to-one transition, may have negatively impacted the acceptability, elegance, force, power, and pragmatic impact of the target texts. As a result, the legal effects of the source texts may have been partially lost in translation. To achieve comparably legal effects, it is recommended to revise and post-edit these translations, employing domesticating and trans-creative strategies while preserving the source text's intentions, culture, and legal effects in the target text.

**Keywords:** Legal translation, Translation Quality Assessment (TQA), Religious-cultural concepts, Accuracy, Acceptability, Legal effects.

### ***1. Introduction:***

Legal translation is a distinct field of discourse. It is “a category in its own right” (Weston, 1991: 2). This type of translation focuses on the use of language for specific purposes, particularly within the legal domain (Zhao, 2000: 28). There are some key characteristics of legal translation. It

demands a high level of accuracy in conveying the substance of the message while also respecting the form and the unique characteristics of the target language (Zhao, 2000: 19). Unlike mathematics or physics, legal language relates to specific legal systems, such as common law, civil law, and religious law. Within these frameworks, it is tailored to national legal systems, making it "systems-bound" (Weisflog, 1987: 196–197). There exists a "systems gap" between different national legal systems, exemplified by the differences between Western law and Islamic law (Weisflog, 1987: 188–189). This gap complicates the translation process, particularly when dealing with culture-specific terms that may not have direct equivalents in the target legal system (Harvey, 2000: 22). A significant challenge in legal translation arises from the presence of numerous culture-specific terms within legal texts. Weston (1983: 207) emphasizes that these terms create acute conceptual dissimilarities between the source legal system and target legal system, making the process of rendering particularly challenging. In summary, legal translation is a complex field that requires a linguistic proficiency and a deep understanding of the legal systems involved. The interplay of accuracy, cultural specificity, and the inherent differences between legal systems underscores the unique challenges faced by legal translators.

Legal translation has garnered significant interest among professional scholars, experts, and researchers due to its unique characteristics, including its peculiarity, technicality, subtlety, regularity, ultra-sensitivity, and constraints. These factors present challenges for translators who strive to convey the sense of the source language (SL) without distorting author's intentions, as well as maintaining the conventional form and content of the target language (TL). Legal translation is a crucial area within translation studies. It is both professional and technical, possessing its own lexical and grammatical style, norms, and conventions. Legal translation serves specific

socio-cultural functions and purposes, which necessitates a deep comprehension of the legal systems involved in both languages.

An inadequate translation of legal texts leads to significant problems, including potential lawsuits or financial losses. Therefore, professional translators specialized in legal texts are fit to render such documents. Complexity of legal language and necessity for accuracy underscore the importance of employing qualified professionals in this field. Zidan (2015: 5), regarding the potentials of legal translators, states that

Legal translators must therefore be competent in at least three key areas: first, comparative law that requires the possession of a basic knowledge of the two legal systems for the SL and the TL. Secondly, specific terminology that requires the translator to be familiar with the specific and accurate term of the particular legal field dealt with in the SL and the TL texts. Thirdly, legal writing style which requires the professional translator to be highly competent in the specific legal writing style of the translated target language.

Legal translation thus requires high levels of creativity, comprehension of the intended languages, as well as their respective cultures and legal systems. Translating law poses challenges due to its reliance on structure, culture, religion, and its own legal system. Appreciating the legal effect involves analyzing the text's textual, pragmatic, semantic, cultural, and ideological aspects to discern the intended meaning.

**Translation Quality Assessment (TQA)**, on the other hand, has indeed emerged as a pivotal issue in translation studies, serving as a fundamental aspect of evaluating and judging the quality of translations and providing a comprehensive framework for understanding translation evaluation. TQA encompasses various methodologies and criteria for assessing translation quality. It allows a systematic approach to evaluate

translations based on factors such as accuracy, fluency, and cultural appropriateness. TQA is the heart of any translation theory, as it informs the principles and practices that guide translators. A solid understanding of TQA is essential for developing effective translation strategies and curricula in translation education. It is indeed an important help in the field of translation practices and intercultural communication. It incorporates insights from various disciplines, such as linguistics, cultural studies, and communication theory. It also benefits professional translators by providing insights into best practices and quality standards in the field. In summary, TQA is a critical area of focus within translation studies, providing essential tools and frameworks for evaluating translation quality. Its significance extends to educational settings and professional practice, highlighting the importance of rigorous assessment in the translation process. House (2015: 1) states that:

There are two steps in translation evaluation: firstly, analysis, description and explanation. Secondly, judgments of value, socio-cultural relevance and appropriateness. The second is futile without the first: to judge is easy, to understand less so.

**TQA** is complicated due to the subjective nature of translation. Different evaluators have varying opinions on what constitutes a "good" translation, influenced by their own cultural and linguistic backgrounds. There is an ongoing discussion in the field regarding the need for standardized criteria and methodologies for TQA. This is crucial for ensuring consistency and reliability in translation assessments across different contexts and languages. House (1997: 1) also states that:

Evaluating the quality of a translation presupposes a theory of translation. Thus, different views of translation lead to different concepts of translational quality, and hence different ways of assessing it.

In his article "The Role of Translation Theory in the Classroom Class", Mason (1982: 18–33) points out that:

Assessing the final product of a particular text is the translator's main concern. One significant feature to be accounted for as a final product is acceptability or readability. Acceptability and/or readability may have to be assessed according to the text-producer's intention and its impact on the reader.

Shiyab (2006: 61), in this respect, postulates that:

A good and successful translation can be assessed according to two key factors: **A**– to what extent the translation accurately conveys and expresses the meaning of the source text, without adding to it or deleting from it, and without intensifying or weakening any part of the text's meaning; **B**– to what extent the translated text sounds natural to a native speaker of the target language to have originally been written in that language, and conforms to the language's grammatical, syntactic and idiomatic conventions.

Accordingly, a comparison of TT to the ST in terms of meaning, elegance, power, force and pragmatic impact ensures a quality translation. Newmark (1991) states that such comparison involves both quantitative (i.e., completeness of message transfer) and qualitative aspects, i.e., accurate "in denotation and in connotation, referentially and pragmatically" (P. 111). In summary, a thorough comparison of the TT to the ST in terms of meaning, elegance, power, force, and pragmatic impact is vital for achieving a high-quality translation. This process ensures that the translation is not only accurate but also culturally and contextually appropriate. Needless to say, that 'no practice no problem', 'no problem no theory', 'no theory no criteria', 'no criteria no TQA' & no quality translation. Munday (2001) emphasizes, "The practice of translation is the essential



experience for the translation scholars, theorists and trainers. Professional translators and trainee translators place their own practical experience into a theoretical framework" (P. 15). Holmes (1988b/2000) also states some main applications to the practice of translation:

- **Translator training:** teaching evaluation methods, testing techniques, and curriculum design.
- **translation aids:** such as dictionaries and grammars.
- **translation criticism:** the evaluation of translations, including the marking of student translations and the reviews of published translations (P78).

Hatim and Mason (1990) emphasize that "the judgment of translating activity can only be made within the **context** in which the translation occurs—specifically, the social circumstances of translation" (P12). This includes considerations such as who is translating what, for whom, when, where, why, and under what circumstances. Hervey, Higgins, and Loughridge (2005) suggest, "Translators should be familiar with the characteristics of SL and TL genre" (P114). The basic tenet is that "translators do not translate words or grammatical structures, but texts as communicative occurrences" (de Beaugrande & Dressler, 1981: 143). Translators are always dealing with texts in situation and in culture, and these texts fulfil a specific function. Moreover, "each text is an exemplar of a specific text type or genre characterized by specific conventionalized text–internal and text–external features" (Schaffner, 1998: 1).

## ***2. Methodology:***

Colina (2009) argues that translation quality assessment (TQA) is one of the most controversial, intensely debated topics in translation scholarship and practice (P. 236). Many approaches and proposals for TQA have been introduced in the field of translation studies, yet none has emerged as a



definitive solution. Moreover, finding a unique method for TQA that could achieve full objectivity in every situation, context, and for every type of text appears to be an unrealistic goal. The study thus adopts an eclectic method by introducing the following models. The study compares and contrasts the ST and the TT with respect to some areas of similarities and dissimilarities. The aim of the comparison is to describe how these areas are rendered and what procedures are utilized to overcome such problems. Following El-Farahaty (2015: 59–63), this paper utilizes Vinay and Darbelnet's model (1995) of contrastive and comparative analysis as applied here to Arabic–English legal texts. Alcaraz Varó and Hughes's (2002) techniques of adaptation are utilized as guidelines. Baker's (1992/2011) strategies of rendering culturally dependent words are also of value to the method and the analysis of data.

### 1.1. Vinay and Darbelnet's Model:

Vinay and Darbelnet (1995) set up their model according to three basic micro–linguistic notions, namely vocabulary "lexicon", grammar "syntax" and composition "message". They claim that 'certain stylistic effects cannot be transposed to the TL without upsetting the syntactic order or even the lexis' (P. 84). To solve this stylistic problem, they suggest two general translation methods and some translation procedures to be utilized by the translator: **direct** and **oblique** translation.

#### 1.1.1. Direct Translation:

Direct translation, on one hand, concludes the following sub–classes:

##### 1.1.1.1. *Borrowing*:

This involves using words from the source language verbatim in the target language without translation. Borrowing is common in cases where there is no equivalent term in the target language. For instance, *hijab*, *kebab*

; الإنترنت ، فيس بوك ، تويتر كمبيوتر، and intifada are taken from Arabic to English  
are transferred from English to Arabic.

#### **1.1.1.2. Loan Translation (Calque):**

This technique refers to translating a phrase from the source language word-for-word into the target language. Unlike borrowing, which uses the original term, loan translation creates a new term in the target language based on the original language's structure. For instance, play a role لعب : اليونيسكو، الفاو. names of organizations such as UNESCO, FAO, دورا,

#### **1.1.1.3. Literal Translation:**

This method, also known as word-for-word translation, aims to translate the text from the source language to the target language while preserving the original structure and word order as closely as possible. It focuses on translating each word or phrase directly, without considering idiomatic expressions or cultural nuances that may not exist in the target language. Munday (2001) states that literal translation is unacceptable because it:

- gives a different meaning.
- has no meaning
- is impossible for structural reasons.
- ‘does not have a corresponding expression within the metalinguistic experience of the TL.’
- corresponds to something at a different level of language. (P. 57)

The above restrictions show that literal translation is a **recipe for disaster**.

#### **1.1.2. Oblique Translation:**

Oblique translation, on the other hand, involves the following four subcategories:

#### 1.1.2.1. *Transposition:*

Vinay and Darbelnet (1995) argues that ‘transposition involves replacing one word class with another without changing the meaning of the message’ (P. 36). For example, ‘The economy did not stop growing’ can be rendered into Arabic in two ways:

1. لم يتوقف الاقتصاد عن النمو.

2. ينمو الاقتصاد نمواً ثابتاً.

El-Farahaty (2015) states that:

The first translation is transpositional, where little change has occurred, while in the second translation a transposition has occurred on two levels: when the verb (ينمو is growing) replaced the noun (growing نمو (and when the absolute object plus the adjective (steadily growing) نموّاً ثابتاً replaced the verb (did not stop) لم يتوقف (P. 61).

#### 1.1.2.2. *Modulation:*

Modulation refers to a change in perspective or point of view in the translation process. This technique allows the translator to express the same idea using different phrases that may be more natural or idiomatic in the target language. In this context, El-Farahaty (2015) states that:

A negative SL expression is changed to a positive TL expression such as ‘it is not a strong argument’ which can be translated as حجة واهية replaces a negative SL expression. It is optional if (منبع العلم the fountain of knowledge) is translated as ‘the root of knowledge’, but obligatory if one translates حجة

باردةcold argument as ‘weak argument’ or if one translates  
أثلجت صدري as (you warmed my heart) (p61).

### 1.1.2.3. *Idiomatic Translation:*

Proverbs and clichés are typical examples of idiomatic translation. They express the approximate idea in a completely different way. The translator creatively finds an equivalent expression that resonates with the target audience. For example,

الطيور على أشكالها تقع Birds of a feather flock together

### 1.1.2.4. *Adaptation:*

Adaptation occurs when a cultural reference in the source language does not have a direct equivalent in the target language. The translator modifies the content to make it more relevant and understandable for the target audience. For example) العدة الشرعية ,the legally prescribed waiting period before remarrying) إذا وقع الفسخ قبل البناء (if the dissolution occurs after the consummation of the marriage) إنجاب الذرية (is adapted to (have children).

## 1.2. **Alcaraz Varó and Hughes’ Techniques of Adaptation:**

Alcaraz Varó and Hughes (2002) discuss the ‘techniques of adaptation’, which may solve legal translation problems. They argue that literal translation does not exist between languages and it is ‘a metaphor albeit a buried one’ (p. 180). They believe that ‘the idea of identity is illusory’. There must be some adaptation while translating between two languages, ‘naturalness or dynamic translation’ (PP. 179–180). They do not support free translation since there is ‘no place for such free-ranging adaptation in the translation of legal texts’ (ibid.). They rather adopt Hamlet’s principle ‘by indirections, find directions out’ (ibid). They present the adaptation techniques of (a) transposition (b) expansion (c) modulation for producing more 'natural version of the original' (PP. 181–190).

### 2.2.1. Transposition:

Alcaraz Varó and Hughes (2002) define transposition as ‘the substitution of one category for another since they possess the same semantic weight or comparable semi density’ (p. 181). This technique involves changing the grammatical structure of the source text when translating. It may include altering the order of words or changing parts of speech to fit the target language's syntax while maintaining the original meaning.

### 2.2.2. Expansion:

Alcaraz Varó and Hughes (2002) state that expansion or explication is ‘one of the techniques that may be called for in translating virtually any part of speech, often in conjunction with transposition and technique is useful in translating prepositions and/or adverbials’ (P184). An example is the Arabic phrase ‘irrevocable divorce. بائن لا رجعة فيه طلاق’. El-Farahaty (2015) argues that ‘the term ‘irrevocable’ is rendered into Arabic as بائن then the translator opted for an expansion of the word ‘بائن’ with the phrase ‘لا رجعة فيه’ to differentiate it from another type of divorce (revocable divorce) in which one can return his divorcee to his custody’ (p63).

### 2.2.3. Modulation:

Alcaraz Varó and Hughes (2002) deposit that ‘modulation involves changes to semantic categories or even alteration of the processes by which thoughts are expressed’ (P185). In summary, these sub-classes of oblique translation highlight the flexibility and creativity required in translation to convey meaning accurately across different languages and cultures.

## 2.3. Baker's Strategies of Rendering:

Baker (2011) discusses "developing strategies for dealing with non-equivalence between Arabic–English pairs of words due to being culturally dependent. She argues that semantic fields determine the similarities and

the differences between English and Arabic (PP. 16–17). She then concludes the common problems of literal translation. These problems are:

- culture–specific concepts.
- the source–language concept is not lexicalized in the target language.
- the source–language word is semantically complex.
- the source and target languages make different distinctions in meaning.
- the target language lacks a superordinate.
- the target language lacks a specific term (hyponym).
- differences in physical or interpersonal perspective.
- differences in expressive meaning.
- differences in form.
- differences in frequency and purpose of using specific words.
- the use of loan words in the source text (2011: 18–23).

Baker (2011) thus suggests the following strategies to tackle these problems:

- translation by a more general word (superordinate).
- translation by a more neutral/less expressive word.
- translation by cultural substitution.
- translation by using a loan word or a loan word plus explanation.
- translation by paraphrase using a related word.

- translation by paraphrase using unrelated words.
- translation by omission.
- translation by illustration (PP 23–43).

### **3. Data Analysis and Interpretation:**

This paper's analysis methodically evaluates legal English translations of Arabic legal source texts in Hatim et al.'s book *legal Translator at Work (1995)*, contrasting with the original based on accuracy, cross-cultural acceptability and effect. It identifies and resolves translation inaccuracies, suggesting enhanced approaches and alternatives to uphold and refine the law binding authenticity and effectiveness in translation. Cultural knowledge plays a crucial role in the translation of cultural notions in Arabic legal documents issued by Shariah courts. The study thus focuses on Venuti (1995), Baker (1992), Hatim & Mason (1990), Vinay & Darbelnet (1995) and Alcaraz Varo & Hughes (2002) models of translation assessment and some of their translation strategies. The study assesses the English translation of the Arabic cultural legal terms in the following documents in terms of meaning, force, elegance and pragmatic impact, and suggests an alternative translation if the available translation proves to be inadequate. The interpretations presented in the analysis section of this research are justifiable and defensible. Arabic is the SL while English is the TL.

#### **Example 1: From عقد زواج Marriage Contract**

المهر ونوعه Amount and type of dowry

المعجل Down-payment

المؤجل Deferred payment

توابع المهر Extras

(Hatim, Shunnaq and Buckley, 1995: 86–87)



The example presents the translation of the term *المهر/mahr* (dowry). Faruqi's Law Dictionary Arabic–English (1983) translates the word *مهر* as 'dower' (P. 40). Webster's Online Dictionary defines the archaic word 'Dowery' as:

Dower (1) the money, goods, or estate that a woman brings to her husband in marriage (2) a gift of money or property by a man to or for his bride.

Osborne's Concise Law Dictionary (2001), on the other hand, defines it as follows:

(1) The property which the bride brings to her groom in marriage. Also known as dowry or dowery. (2) A widow's life interest in a portion of her deceased husband's property: that portion of lands or tenements which the wife has for a term of her life of the lands and tenements of her husband after his decease, for the sustenance of herself and the nurture and the education of her children (P. 142).

The translators use the method of 'adaptation' by giving the closest meaning in the English culture. They partially adapt the intended meaning to the TL, but the Islamic cultural flavor of the term as well as its pragmatic effect are lost in translation. To address the gaps in terms of accuracy, elegance, acceptability, and pragmatic legal impact in translation, several strategies can be employed. One effective approach is to ensure that specific cultural or legal terms are accurately conveyed while maintaining clarity for the target audience. Here is a suggested strategy: **Transliteration with Explanation**. For terms that do not have direct equivalents in the target language, such as "mahr," it is beneficial to transliterate the term in the target text (TT) and provide an explanation. For example, "mahr" can be presented as follows: "mahr (the property which the bride brings to her groom in marriage)" in a footnote or in brackets. This method preserves the

original term's cultural significance while ensuring that the reader understands its meaning and context (El-Farahaty, 2015: 82).

### Example 2: From حجة إبراء a Certificate of Non-liability

ST..قررت قائلة وهي في الحالة المعتبرة شرعا أنني أبرأت ذمة زوجي.

She, being legally competent, resolved, saying: I absolve my husband ... from responsibility over ... (TT)

(Hatim, Shunnaq and Buckley, 1995: 92–93)

Webster's Online Dictionary defines 'Absolve' as follows:

- (1) To set free from an obligation or the consequences of guilt.
- (2) To remit (a sin) by absolution.

Faruqi's Law Dictionary (2008), on the other hand, translates 'Absolve' as (إبراء، يخلي من التزام، يبرئ، يحل من دين أو التزام) (P. 6) and the Dictionary of Islamic Terms (Al-Khudrawi, 1995: 277) defines it as: 'Acquittal, absolution, release, release of a debtor from his liabilities, remission of debt'.

**Ibra'** إبراء is translated by Faruqi Law Dictionary (Arabic-English) (1983: 2) as acquittal, absolution ; إبراء release, discharge ; (إخلاء ذمة) إبراء quittance or acquittance. (كتابي) إبراء.

According to El-Farahaty (2015), the Arabic term 'إبراء' means both 'absolve' and 'acquit' in English, the former having a religious sense whereas the latter has a legal one. So, we hear of 'absolving sins' and 'acquittance of debts' (P. 83). She argues that:

the translators successfully add the phrase 'responsibility over ...' in the TT to make the absolution more specific and denoting what is exactly meant in this particular context (paying a fixed sum of

money each month) but fall short of reproducing its Arabic cultural flavor with an acceptable and comparable impact in English" (P. 83).

To ensure adequacy of accuracy and acceptability (QT), an alternative better translation can be in more than one way (i) transliteration of the term إِبْرَاء *ibra* (ii) providing an English close translation ‘women-sought divorce’ (iii) explication in a footnote as ‘divorce (of wife) by assigning her rights, debts and alimony to her husband.

By the way, خُلْع /*khul'*) is comparatively another Islamic legal term which has no direct terms in English. So, translating it as ‘divorce’ is not the straightforward rendering of the Arabic terms. It can be translated in more than one way (i) providing a transliteration *khul'* (ii) coining an English close rendering ‘women-sought divorce’; (iii) explication as ‘divorce (of wife) for consideration payable by her’ (Faruqi, 1983: 155); (iv) explanation as given by Al-Khudrawi (1995: 124):

‘An agreement concluded for the purpose of dissolving marriage. The release from the marriage tie obtained by a wife upon payment of a compensation or consideration whenever enmity takes place between husband and wife, and they both see reason to’.

All these three strategies could be equally combined with borrowing of the term to the TT, for ‘clarifying these terms for readers with a different legal background to be able to grasp the meaning as accurately as possible from their viewpoint of the legal world’ (Pommer, 2008: 362). According to the above definitions of خُلْع (*khul'a*), it has a close but different meaning to إِبْرَاء (*ibra*). If the wife seeks and obtains divorce by payment of a compensation for her husband it is خُلْع)) but if she seeks and obtains divorce by assigning her rights, debts and alimony to her husband it is إِبْرَاء).

It is worth to emphasize that concepts have meaning only by virtue of being embedded in socio-culturally determined frames, which are more or less culture-specific, and a message may be totally distorted if the translator

does not grasp the implicit culture-specific information or culture-specific word meaning or an allusion (Schaffner, 1997: 137).

### **Example 3: From حجة رجعة (Certificate of Remarriage to a Divorced Wife)**

ST قرر قائلاً إنني كنت قد طلقت زوجتي ومدخولتي الشرعية طلاقاً رجعية

He resolved stating: I revocably divorced my wife with whom I had consummated the marriage .... (TT) (Hatim, Shunnaq and Buckley, 1995: 98–99)

In the excerpt above, the Arabic text includes a doublet (زوجتي ومدخولتي) – my wedded wife) in which the terms are near-synonymous but they are indeed different. In Shari‘ah Law a man and a woman can be married with a legal marriage contract but they may not have consummated marriage (having sex). Thus, the translators effectively employ the technique of ‘expansion’ according to Alcaraz Varó and Hughes (2002: 184), by explaining the word مدخولتي as: ‘with whom I have consummated the marriage’ to the word ‘wife’ giving the intended meaning of the Arabic term (El-Farahaty, 2015: 84).

In the title of the document, the translators opt for ‘explanation’ of the term رجعة (remarriage) in this case, of a wife to the husband’s matrimonial authority and contract of marriage. This is common in translating titles that depend mainly on the main body and content of the document.

In the same example, the term رجعية طلاق is a Shari‘ah Law term which is also referred to, according to Al-Khudrawi (1995: 263–264), as رجعي طلاق (revocable divorce). The translators succeed to a good extent in transferring the meaning of the sentence but fall short of reproducing its connotations with an acceptable and comparable impact in English. To fill the gaps in terms of meaning, elegance, power and pragmatic legal impact, the following translation strategies may serve as a better alternative: (i)

providing a close rendering 'revocable divorce'; (ii) providing an explication in a footnote or in a list of definitions as 'if the husband gives sentence of divorce to his wife for only a first or second times, it is lawful for him to take her again within the legally prescribed waiting period before remarrying'.

**Example 4: From وثيقة طلاق بائن قبل الدخول (Certificate of Irrevocable Divorce before Consummation of Marriage)**

... فأقول زوجتي المذكورة التي لم أدخل ولم أختل بها طالقاً من عصمتي وعقد نكاحي طلبة واحدة بائمة أطلب تسجيله وتبليغها. وحيث تحقق إلينا سبق الزوجية بينهما وعدم الدخول والخلو الصحيحة بإقراره وإفادة المعرفين المذكورين فقد أفهمته أنه وقع منه طلاق بائن بينونة صغرى على زوجته المذكورة. (ST)

... and I state that my aforementioned wife with whom I have not consummated the marriage and have not been alone is irrevocably divorced from my matrimonial authority and my contract of marriage once and for all and I request that be recorded and that she be notified. Whereas a state of matrimony previously existing between them, non-consummation of the marriage and not being together have been ascertained to us by his avowal and the testimony of the aforementioned identifiers, I have informed him he has concluded an irrevocable divorce of his aforementioned wife. (TT) (Hatim, Shunnaq and Buckley, 1995: 104–105)

The above excerpt gives the translation of the phrase ' طلاق بائن قبل ' which is one type of irrevocable divorce. It happens if the husband divorced his wife before the consummation of marriage; this counts as one divorce statement and is known as طلاق بائن بينونة صغرى (minor irrevocable divorce). In this type, if the husband needs to remarry his divorcee, this must happen through a new marriage contract with a new dowry. The above type is different and distinguished from الطلاق البائن بينونة كبرى (major irrevocable divorce), which is defined by Al-Khudrawi (1995: 264) as: 'if

the husband gives sentence of divorce to his wife a third time, it is not lawful for him to take her again, until she shall have married another husband’.

The translators fail again to achieve comparability to the ST in terms of meaning, elegance, force, and pragmatic impact. When translated literally, readers may feel baffled or fail to grasp the deeper meaning. Translators must balance preserving cultural flavor of the ST with ensuring comprehension of the TT. Such Islamic legal terms deeply rooted in culture are needed to be explained and paraphrased in a form of definitions or in footnotes only then target readers may grasp the implicit culture-specific information or culture-specific word meaning.

The translators in the same example renders the clause لم أدخل ولم أختل بها as ‘with whom I have not consummated the marriage and have not been alone’. The first part accurately renders the meaning of the ST; the underlined clause adds nothing to the meaning, and it is a bit vague in the TT and catastrophically disrupts the flow of the TT. For the TR, such a phrase distracts his attention and interrupts the TT's cohesiveness and coherence. Menacere (1997: 85) argues that ‘lam akhtal biha’ is a culture specific term with no direct rendering in English. The literal translation “have not been alone” is thus a formula for disaster and meaningless in English, the source Arabic concept requiring a ‘lengthy footnote’ such as "being separately in one room, with the door closed or curtains drawn" in the TT. Only then, the TT can be comparable to the ST in terms of meaning, elegance, power, force and pragmatic impact.

Later in the text, the clause is repeated with a different wording: الصحيحة الخلوة (the right *khelwah*/privacy with a wife) and the translators vaguely literally render it as ‘being together’. A better suggestion is that the translator may add an explanatory footnote by providing the TR with the conditions of the right ‘*khelwah*’ such as 'being separately in one room, with the door closed or curtains drawn' in order to capture the ST’s intended

meaning and have a comparable effect in terms of force, elegance, and pragmatic impact.

**Example 5: From حجة رجعة (Certificate of Remarriage to a Divorced Wife)**

وحيث إنها مازالت في العدة الشرعية فأنني أرجعها إلى عصمتي وعقد نكاحي  
...(ST)

And whereas she is still within the legally prescribed waiting period before remarrying, I return her to my matrimonial authority and to my contract of marriage. (TT) (Hatim, Shunnaq and Buckley, 1995: 98–99)

The above excerpt represents another instance of the Shari‘ah Law terms. العدة الشرعية. (*iddah* – the prescribed period of waiting for women to remarry, the length of which depends on whether her husband died, or she is divorced). Details of the exact time of ‘*iddah*’ in the Qur’an have been mentioned in Sura 2, verses 232–234 which is available from: <http://www.noblequran.com/translation/>. This term ‘*iddah*’ is also mentioned in the Qur’an in Sura 65 verse: 4 which is available from <http://corpus.quran.com/translation.jsp?chapter 65 & verse 4>. Mansoor (1965b) has ‘borrowed’ the Shari‘ah Law term عدة (*iddah*) because such a concept has no direct translation in the English culture, followed by an explanation: ‘as that applicable in case of death’ (P. 141). There are two contexts for ‘*iddah*’ in Shari‘ah Law: the context of death or if the wife has been divorced. Al-Khudrawi (1995) defines and distinguishes between these two types of عدة *iddah* below:

The term of probation incumbent upon a woman in consequence of dissolution of marriage either by divorce or the death of her husband. After a divorce, the period is three months and after the



death of her husband, four months and ten days, both periods being enjoined by the Quran. (For details of the exact time of iddah in the Qur'an refer to Sura 2, verses 232–234 (P. 277).

According to Alcaraz Varó and Hughes (2002), the translators successfully use the technique of 'explicitation' or 'expansion' by explaining the meaning of the term as "she is still within the legally prescribed waiting period before remarrying" (p. 184). Baker (1992) views 'Explicitation' as one of the translation universals between many language pairs (P. 223). A suggested better translation, however, is to use both techniques (transliteration and explicitation) to capture the ST's intended meaning and achieve a comparable legal effect in the TT in terms of force, elegance, and pragmatic impact. Transliteration is a procedure in translation often used to inform the TR that this concept is rooted deeply exclusively in the original language and culture and has no direct comparable meaning in TL, target culture and target legal system. The only way to understand its meaning is through its definition, explicitation or paraphrasing.

Looking at the same sentence 'أرجعها إلى عصمتي وعقد نكاحي', the word 'عصمة' (ismah) is also a culture-specific word. Linguistically, "ismah" means hold, preservation, protection, and prevention. In this particular context, it culturally refers to the way in which a woman is preserved and protected by a man upon marriage. Cultural significance of "عصمة" is **Protection and Preservation**. The term reflects the cultural understanding of the husband's role in safeguarding the wife within the marriage. Another cultural significance of "عصمة" is **Authority in Marriage**. In Arab Islamic culture, this concept of "عصمة" signifies that the bond of marriage is predominantly in the hands of the man, who possesses the 'matrimonial authority.' This authority grants him to annul the marriage contract and initiate divorce procedures. Thus, the closest direct rendering of "عصمة" in English is "bond," specifically referring to "the bond of marriage." This translation captures the essence of

the legal and social relationship that binds the couple, emphasizing the man's role in managing this bond.

The translators adopt only the technique of ‘explanation’ to transmit the cultural flavor of the original to the target text. It is better suggested that they may employ the technique of translation triplets because one translation technique is not enough to convey the message in terms of elegance, power and pragmatic legal effect. To fill the gap, the translator first transfers the word ‘عصمة’ into ‘ismah’ due to the absence of an approximate direct lexicon in the TL. Then, he gives a close translation in the TL between two brackets: (my bond of marriage) or better into (my matrimonial authority) to avoid repetition. After that, he provides an explanation in a footnote to prevent meaning misinterpretation and to attain more comprehension. The footnote may run as follows: “*Ismah* is an Islamic cultural word related to the marriage bond in which a woman is preserved and protected by a man when she gets married to him. This bond is in the hands of the man and he is the one allowed to initiate a divorce”.

#### **Example 6: From عقد زواج Marriage Contract**

الموانع مستندات تحقق السن وعدم Documents of Age Verification and Eligibility

شهود العقد والوكالة والتعريف Witnesses of Contract, Representative and Identification (Hatim, Shunnaq and Buckley, 1995: 86–87)

Another culture-specific notion in this text is the expression ‘عدم الموانع’, which means ‘being free of impediments’. According to Islam and Muslim judges, there are two types of impediments impeding a man from marrying a woman: lasting and impermanent. The translators adapt the cultural expression ‘عدم الموانع’ into ‘eligibility’ by adopting the technique of ‘foreignization’ in which the cultural flavor of the expression ‘عدم الموانع’ is

closely transmitted into the TL. In order to express the intended meaning accurately and to achieve the intended legal effect pragmatically, they may better support their translation with the following explanation:

Idiomatically, impediment means the reasons prohibiting a certain act whether at its beginning or its continuity. Eligibility means that there is no legitimate impediment with respect to the marriage of a fiancée; as being still in her legally prescribed waiting period because of being divorced, or being widowed. This term is defined procedurally as the non-existence of any legal or Shariah impediment preventing the conclusion of marriage contract of the betrothed persons whose marriage is not prohibited (Saqf Al-Hait, 2012: 241).

An explanation of legal cultural expressions is essential for helping the target language reader understand that these expressions carry specific meanings within Arab culture. Such a technique may maintain the term's cultural color as well as explain effectively the provision stipulated in the Arabic document.

It is worth noting that the translators replace the two words of the SL expression with one word in the TL, which is a smart move since they are translating a sub-title. 'Eligibility' is the same as 'no impediments' i.e., a positive word equals the negation of a negative word. The translators thus use the technique of *transposition* or 'structure shift' (Catford, 1965: 76). In translating titles, prioritizing brevity is essential, as concise titles are more effective in capturing the audience's attention and conveying the core message quickly. However, when a title includes expressions that carry significant cultural weight, it becomes necessary to provide additional context to ensure that the meaning is fully understood by the target audience. This can be achieved through suitable additions, such as definitions or footnotes.

The expression) 'شهود العقد' the testimony of witnesses) holds significant importance in Islamic Shariah Law, particularly in the context of marriage. It is a necessary condition for the validity of a marriage contract. This requirement underscores the importance of public acknowledgment and the formalization of the marital relationship. Marriage in Islam establishes kinship ties and affinity, which have profound implications for family dynamics and social relationships. These ties affect inheritance rights, responsibilities, and the overall structure of familial relationships within the community. The provisions resulting from marriage, validated by the testimony of witnesses, are consequential and enduring. They influence various aspects of a person's life, including legal rights, social status, and familial obligations. The effects of these provisions can last a lifetime, impacting not only the individuals involved but also their families and descendants. In summary, the testimony of witnesses ('شهود العقد') is a fundamental aspect of marriage in Islamic Shariah Law, reflecting its critical role in establishing kinship, affinity, and long-term legal consequences.

The translation of the expression 'شهود العقد' into 'witnesses of Contract' reflects a domestication approach that may overlook the deeper cultural and pragmatic implications of this term within Islamic Shariah Law. This translation strategy employs a direct, literal approach without providing the necessary context that conveys the significance of the testimony of witnesses in Arab culture. To address these shortcomings, employing the strategy of translation couplets is recommended. This involves combining the direct translation with an explanatory note to provide a fuller understanding of the term's implications. By utilizing translation couplets, the translator can effectively convey both the linguistic and cultural dimensions of 'شهود العقد', ensuring that the TL reader receives a comprehensive understanding of its importance in Islamic Shariah Law .

#### **Example 7: From حجة وصاية A Certificate of Guardianship**

: وقد أوصيته بتقوى الله والقيام بشؤون هذه الوصاية بما فيه الحظ والنفع (ST)  
لجهة ... فقبل ذلك مني وتعهد بالتزامه حسبه الله تعالى.

(TT): I have informed the guardian to **be God fearing** and to perform all tasks related to guardianship in the interest and in the benefit of ... He has accepted this from me and undertaken to fulfill his obligation, **may God be his sufficiency**. (Hatim, Shunnaq and Buckley, 1995: 84–85)

The ST reader easily understands the connotative or the implicit meaning of the first underlined phrase بتقوى الله. The phrase (to be God-fearing) in example 7 above, but it does not contrastively make any sense to the target reader. The TR does not understand the relationship between 'fearing God' and the importance of keeping an eye on the minor's money. Although the next clause: 'and to perform all tasks related to the guardian' explains to some extent the intended meaning, the religious expression 'to be God-fearing' بتقوى الله is still ambiguous.

The translation of the phrase "to be God-fearing" often results in a loss of the connotative meaning present in the original Arabic expression أوصيته بتقوى الله. This phrase carries significant cultural and religious implications that are not fully conveyed when only the denotative meaning is rendered in the target text (TT). Translators may focus solely on the literal meaning, which fails to capture the deeper significance of fearing God in relation to moral and ethical responsibilities, particularly regarding the management of a minor's finances. The original phrase emphasizes the importance of piety and vigilance in handling the affairs of others, especially vulnerable individuals like minors. This context is crucial for understanding the implications of the phrase. To improve the translation and retain the original's cultural and pragmatic legal impact, a two-fold strategy is recommended:

- **Omission:** Consider omitting the religious phrase "to be God-fearing" to avoid confusion for the English reader.
- **Domestication:** Adapt the translation so that it reads naturally and fluently in English, ensuring cohesiveness and coherence without distracting the target reader (TR) from the main message.

By employing these techniques, the translation can better reflect the cultural and ethical nuances of the Arabic expression while maintaining clarity for the English-speaking audience. In summary, a more effective translation of "أوصيته بتقوى الله" should consider both the denotative and connotative meanings, ensuring that the cultural and legal implications are preserved while making the text accessible and understandable for the target audience. In this regard, Mayoral Asensio (2003: 21) suggests the possibility of omitting religious elements as follows:

...formulas of salutation referring to God are intertextual references, fully meaningful in the Arabic text, but this intertextuality is lost in non-Islamic cultures. These ritual formulas do not have any relevance for the legal validity of the document; consequently, the possibility of omitting their translation remains open.

Aixela (1996) justifies "the omission of culture-specific elements in cases where they are either unacceptable in the target culture or irrelevant to the target reader (TR) or when the item in question` is ambiguous" (P. 64). Another suggested translation is to adopt the techniques of 'transliteration' and 'explication' of the term الله تقوى illustrating the relationship between fearing God and the importance of keeping an eye on the minor's money and moves the TR towards the ST (foreignization) preserving the cultural connotations of the Islamic concept in terms of meaning, elegance, power and pragmatic impact. That is, "if somebody is a guardian of any person's money or any other interests, he/she shall fear God to be careful not to steal them."

The phrase) *حسبه الله تعالى* may God be his sufficiency) indeed poses challenges for the target reader, as its meaning may not be readily understood without cultural and contextual knowledge. The translator's approach of using 'adaptation' in translating this expression reflects an attempt to convey its significance, but it may not fully resonate with the target audience. The phrase implies that God will be the ultimate witness regarding the guardian's fulfillment of his commitments. It emphasizes divine oversight in matters of trust and responsibility. This statement also serves as a religious formula within the source text but does not contribute meaningfully to the target text. Its omission would not affect the legal validity of the document, as the preceding statement *فقبل ذلك مني وتعهّد بالتزامه* He has accepted this from me and undertaken to fulfill his obligation already conveys the essential meaning. Here are Suggestions for Translation:

4. **Omission Justification:** The omission of *حسبه الله تعالى* can be justified by the presence of the previous statement, which adequately communicates the intended meaning without the need for additional religious phrasing.
5. **Alternative Techniques:** Another approach could involve using the techniques of 'transliteration' and 'explication' for the term *حسبه الله تعالى*. This would entail explaining its implicit connotations, particularly regarding the importance of oversight over a minor's finances.
6. **Contextual Explanation:** It is crucial to highlight that while a court cannot directly oversee a minor's finances, it appoints a legal guardian for this purpose. However, the question arises: who oversees the guardian? The phrase underscores that only God, the Omnipresent, can continuously watch over the guardian, ensuring accountability and trust.

In summary, while the phrase *حسبه الله تعالى* carries significant cultural and religious weight, its translation can be effectively managed through



omission or by providing contextual explanations that clarify its implications for the target audience.

#### **Example 8: From إقرار بنسب A Certificate of Confirmation of Parentage**

في المجلس الشرعي المعقود لدي أنا ... قاضي ... الشرعي حضر لدي المكلف  
شرعا ... من ... وسكان ... وبعد التعريف الشرعي عليه من قبل ... (ST)

In the Legal Counsel convened in my presence, I ... the religious judge of ... received the legally capable ... from ... and resident in ... and after the identification by ... (TT) (Hatim, Shunnaq and Buckley, 1995: 102–103)

As the above excerpt shows, the term (الشرعي al-Âshar‘i) is used to denote two senses: the first is rendered as ‘legal,’ and the second as ‘religious.’ This distinction specifies that the judge dealing with these matters is a religious judge, rather than a regular judge who handles other cases. The role of this religious judge is akin to that of (كاتب العدل the notary). There is an issue with the translation of وبعد التعريف الشرعي as ‘and after identification,’ as this does not accurately convey the same meaning, elegance, power, and pragmatic impact present in the source text (ST). The translators unjustifiably omit rendering the term (الشرعي legal), which results in the loss of important information necessary for the validity of the target text (TT) as a standalone document. In summary, the translation should preserve the term الشرعي to maintain the legal context and significance, ensuring that the TT accurately reflects the intended meaning of the ST.

#### **4. Conclusion:**

This research assesses the English translations of Arabic legal discourses in *The Legal Translator at Work* (Hatim, Shunnaq and Buckley, 1995) investigating in particular English translations of Arabic religious cultural concepts of law, evaluating how closely they reproduce the ST's legal effect in terms of meaning, force, elegance, and pragmatic impact. It

suggests improvements for inadequate or unnatural renderings. The challenge of translating Arabic legal texts stems from its reliance on linguistic nuances and cultural references pertinent to Islamic Shariah Law and Arab culture, making direct translation ineffective in some cases. A deep understanding of legal system, style and religious context guides the analysis and recommended translation strategies. The differences between cultures significantly influence the translation process, particularly in the context of translating legal terms from Arabic to other languages. The impact of Arab culture on translated legal texts often leads to cultural challenges, as translators struggle to accurately convey certain words and expressions in the target language (TL). In summary, employing strategies like translation couplets can help bridge these gaps and enhance the accuracy of the translated text.

### **5. Recommendations:**

Translation of legal discourses in *The Legal Translator at Work* requires prioritizing its function over form, necessitating creativity and cultural adaptation, especially for concepts based on Islamic Shariah Law, legal system and Arab culture. Translating law is a complex issue that involves a deep analysis of the ST to adapt it effectively to the target language, with consideration for cultural relevance. In principle, analysis of source text is the first stage of translation and the basis of the useful discipline known as Translation Criticism or TQA. Religious passages need careful retranslation to resonate with contemporary English contexts. The existing English translations should be revised and post-edited to preserve ST's intended meaning and legal effect while balancing accuracy and acceptability. Future translations should prioritize legal effect, as it is integral to the essence of the law, allowing readers to question legal norms. Islamic expressions in *The Legal Translator at Work* are part of the overall context of the law and should, therefore, be treated as an inseparable part of the

text during translation rather than being approached as isolated units. This approach enables translators to reproduce the binding nature of the ST in the target language while remaining faithful to the author's original intentions. Accordingly, translation of Islamic terms demands 'paraphrase' to correspond directly and accurately to the SL word and render its connotations to the TL reader. Descriptive paraphrase 'relays the intended legal meaning of the Islamic legal term and reproduces the desired legal effect in the TT, which is the end result required in legal translation' (Alwazna, 2013: 903). The strategy of 'paraphrase' also shows that the concept is derived from a different legal system, the interpretation of which should be made according to this foreign legal system. The paper also suggests employing domesticating, compensating, and trans-creative strategies in the revision, post-editing, or any future translations of the ST to effectively handle law while preserving the intended meaning and legal effect of the ST and accounting to the rules and conventions governing TL and the needs and expectations of the TR.

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