



Sudan University OF science & Technology

College of Graduate Studies

College of Languages



**Investigating The Difficulties of Grasping Terminological
Equivalence in Legal Translation of Islamic sharia (A Case
Study Of Sudanese Personal-Status Law For The Year
1991)**

تقصي صعوبات تحقيق التقابل الاصطلاحي في الترجمة الاقنونية لمصطلحات الشريعة الإسلامية (دراسة
حالة لقانون الحوال الشخصية)

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English Language (Translation)

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استهلال

آية قرآنية

قال تعالى في كتابه الكريم: (...قُلْ هَلْ يَسْتَوِي الَّذِينَ يَعْلَمُونَ وَالَّذِينَ لَا يَعْلَمُونَ إِنَّمَا يَتَذَكَّرُ أُولُو الْأَلْبَابِ)، «سورة الزمر: الآية 9».

Preface:

Quranic Ayah (verse)

Allah the Almighty said:

"Say: "Are those equal, those who know and those who do not know? It is those who are endowed with understanding that receive admonition".

Az-Zumar (verse 9)

Dedication

To my parents.

Acknowledgment

Praise is to Allah who gave us the strength and willing to complete this dissertation to the end.

I would like to express my sincere and faithful thanks to **Dr. Ahmed Mokhtar** for his supervision, pieces of advice, encouragement.

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For their assistance and their insightful criticism this study would not have been successful.

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Abstract

This study intends to investigate the difficulties in achieving terminological equivalence in Legal Translation of Islamic share's Terms. It compares Islamic Shari 'a terms inspired from marriage and divorce chapters in the Sudanese personal status Law in Arabic (SL) and English (TL). It first exposes the theoretical framework in the features of legal language and legal translation, terminological equivalence and the difficulties of translating legal specific terms as well as the suggested strategies by theorists to solve those difficulties. According to the comparison and analysis of the selected terms in the document, we conclude that the nature of legal systems is the main reason behind the difficulties in achieving terminological equivalence, hence culture-bound terms, especially, Islamic Shari' a terms are the most problematic terms to be translated, this study recommends that the translator must be acquainted with the target culture approach, also s/he should be aware of choosing adequate strategy which enables him/her to achieve the terminological equivalence between the SLT and TLT.

مستخلص البحث

تهدف هذه الدراسة إلى تقصي الصعوبات في تحقيق التقابل المصطلحي في الترجمة القانونية لمصطلحات الشريعة الإسلامية. يقارن مصطلحات الشريعة الإسلامية وهي مصطلحات مستوحاة من بابي الزواج والطلاق في قانون الأحوال الشخصية السوداني باللغتين العربية والإنجليزية. فهو يعرض أولاً الإطار النظري في سمات اللغة القانونية والترجمة القانونية، وتكافؤ المصطلحات، وصعوبات ترجمة المصطلحات القانونية المحددة، فضلاً عن الاستراتيجيات المقترحة من قبل المنظرين لحل تلك الصعوبات. وفقاً للمقارنة والتحليل للمصطلحات المختارة في هذه الدراسة، نستنتج أن طبيعة النظم القانونية هي السبب الرئيسي وراء الصعوبات في تحقيق التكافؤ المصطلحي، وبالتالي فإن المصطلحات المرتبطة بالثقافة، ولا سيما مصطلحات الشريعة الإسلامية هي أكثر المصطلحات المراد ترجمتها تعقيداً، وتوصي هذه الدراسة بضرورة إمام المترجم بالنهج الثقافي للغة الهدف، كما ينبغي أن يكون على دراية باختيار استراتيجية مناسبة تمكنه /ها من تحقيق التكافؤ المصطلحي بين نص لغة المصدر ونص لغة الهدف.

List of Abbreviations

The word/s	The abbreviation/s
Source language	SL
Target language	TL
Source language text	SLT
Target-language text	TLT

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Chapter One

Introduction

Chapter one

Introduction

1.0 Overview

This chapter consist of the following backgrounds of the study; statement of the study problem, question of the study, hypotheses of the study, objective of the study, significant of the study, methodology and limits of the study.

1.1 Background about the study:

Translation of Islamic Sharia terms encounter obstacles related to the connotation of words and scope of denotation from Source Language (SL) to Target Language (TL). As a result, translators have two choices: either the term exists in the TL and they only have to find it, or the term does not exist in the TL and they have to search for the correct and accurate equivalent.

In response to such obstacles, the researchers deemed it appropriate to see how the participants translate such terms from Arabic into English in order to identify the degree of success in translating the meanings of such terms. This study explores Islamic terms, and the complications of translating such terms.

1.2 Statement of the Study:

Legal translation has its own terminology, so it can be regarded as a distinctive category in its own right. Translating legal terminology requires particular attention because it contains specific terms embedded in local

cultures and traditions. Therefore, the transfer from one legal system to another is not straight forward process like in this research, we will deal with two legal systems, and they are totally different.

In this study, we will compare between the English target equivalents and the Arabic source terms in the Sudanese Personal Status Code, that are inspired from the chapters of marriage and divorce. Moreover, we will try to detect a plenty of cultural and contextual differences amongst the two languages. Hence, finding the precise and accurate legal equivalent term is considered as a thorny problem in legal translation.

1.3 Questions of the study:

This study seeks to answer the following questions:

- What are the Translators' Perceptions about Some of the Linguistic Challenges they encounter when translating Islamic Sharia texts or terms between English and Arabic?
- What are the potential factors that hinder achieving terminological equivalence when translating Islamic Sharia texts or terms between English and Arabic?
- What are the most appropriate translation strategies that can be used to obtain full terminological equivalence when translating Islamic Sharia texts or terms between English and Arabic?

1.4 Hypotheses of the study:

Hypothesis 1: The vast majority of the study participants will consider achieving full terminological equivalence is impossible when translating Islamic Sharia texts or terms between English and Arabic.

Hypothesis 2: There are several factors that hinder translators from achieving terminological equivalence when translating Islamic Sharia texts or terms between English and Arabic

Hypothesis 3: The most appropriate strategies when translating Islamic Sharia texts or terms between English and Arabic are: borrowing, foreignization, domestication and transliteration.

1.5 Objectives of the study:

The current study strives to achieve the following objectives:

- 1- To find out whether terminological equivalence is achievable or not when translating Islamic Sharia texts or terms between English and Arabic.
- 2- To explore the possible factors that hinder translation practitioners from achieving terminological equivalence when translating Islamic Sharia texts or terms between English and Arabic.
- 3- To find out the appropriate translation strategies which can be used when translating Islamic

1.6 Significance of the study:

this study is intended to detect the methods which Translators use in order to deal with translating Islamic sharia terms, proving the

importance of terminology and specialization for each researchable cognitive domain, showing that it is necessary for Translators to avoid false beliefs when translating Islamic terms in violation of the Holy Qur'an and Sunnah, as well as Finding out the need to determine the connotations of terms within their particular contexts then to translate them.

1.7 Methodology:

The study highlights the linguistic and Islamic denotations that an Islamic term is likely to have, discloses the translation of these terms by the participant translators. In addition, two methodological instruments were utilized in the study: analysis and criticism with the purpose of comparing the similarities and differences of the Translators in response to the SL.

1.8 Limits of the study:

The study is confined under the title " Investigating Difficulties of Achieving Terminological Equivalence in Legal Translation of Islamic sharia Terms", and deal with hindrances behind the achieving of terminological equivalence in Islamic legal term.

1.9 The structure of the study:

This study is mainly divided into five chapters:

- Chapter one: introduces background about the study, statement of the problem, questions of the study, hypotheses of the study, objectives of the study, significance of the study, methodology and thesis structure as a starting point.
- The second chapter forms the theoretical basis for this study and its

approach. It will discuss translation studies as an interdisciplinary field, and review cultural approaches to translation within legal language and its peculiarities, both the legal English and legal Arabic, and it also includes legal translation, its types and features, introduce the notion of equivalence and its approaches in translation, equivalence at word level and especially terminological equivalence with particular reference to the Islamic terms and the preferable methodology used for rendering them and the problems that arise from achieving terminological equivalence, as well as, the strategies suggested to solve those problems.

- Chapter three will review the research methodology and field study procedures; which includes; Data collection method and tools, Population and sampling, Tools/instruments, Reliability and validity, Methods of data analysis, and the Ethical Considerations.
- Chapter four will be a critical analysis of the results, and suggested recommendations of the study.
- Chapter five contains bibliography and criticism of the corpus.

Chapter two

Literature Review and previous studies

Chapter Two

Literature Review and previous studies

2. introduction:

This chapter includes contents of the theoretical handling to the topic of the study.

2.1 Overview:

What is translation?

As a subject, translation is generally used to refer to all the processes and methods used to convey the meaning of the source language into the target language, that is, the use of:

1. Words which already have equivalents in the target Language.
2. New words which no equivalent was available.

- Various Definitions of Translation:

In the Concise Oxford English Dictionary, translation is defined as “A written or spoken rendering of the meaning of a word or text in another language.”

Translation is defined ‘as the result of a linguistic-textual operation in which a text in one language is decontextualized in another language’ (House, 2015, Chapter 1, Section 1, Para. 1). Ex **Catford(1965)** defines translation as “**the replacement of textual material in one language by equivalent textual material in another language**” (1965:20). **Brislin (1976: 1)** defines translation as: "The general term referring to the transfer of thoughts and

ideas from one language (source) to another (target), whether the languages are in written or oral form; whether the languages have established orthographies or do not have such standardization or whether one or both languages is based on signs, as with sign languages of the deaf." **Newmark (1988)** looks at translation as **"a process of replacing one written statement in a Source Language (SL) by the same message in the Target Language (TL).** It is defined by Reiss, (2000:160) as **"a bilingual mediated process of communication, which ordinarily aims at the production of a Target Language text that is functionally equivalent to a Source Language text".** **Ghazala (1995:1-2)** used the term to refer to **'all the processes and methods used to convey the meaning of the source language into the target language.** **Hatem and Mason (1990)** defined it as **“the transfer of meaning from one language to another.**

Savory (1968) defined translation as: **translation is made possible by an equivalent of thought that lies behind its different verbal expression.**

Nida and Teber (1969) explain the process of translation as follows:

Translating consists of reproducing in the receptor language the closest natural equivalent of the source language message, first in terms of meaning and secondly in terms of style.

Meethan and Hudson (1977:713) defined translation as: **the replacement of representation of a text in one language by a representation of an equivalent text in second language.**

All the previous definitions of translation have something in common since they focus on defining translation as a process of seeking appropriate equivalents and transforming expressions, meanings, and messages from one language into another. However, they do not refer to the role played by culture in the process of translation. The main concern of theories of

translation was about language with no focus of any kind on the interaction between translation and culture. It can be said that the cultural turn with regard to translation was started by Zohar (1978) and Toury (1980). More attention was paid to the analysis of translation in its cultural, political, and ideological context.

It is quite clear that the notion of culture is vital to consider the implications for translation. Although there are different opinions with regard to the interrelationship between language and culture and the debate concerning whether language is part of culture or not, it seems that they are inseparable. In 1964, Nida gave equal importance to both linguistic and cultural differences between the source language and target language. He concluded that cultural differences may cause more serious problems and challenges than do linguistic differences. According to him both cultural implications and lexical concerns are of equal importance.

In that contextualization, studies on translation indicate that there are certain ‘critical points’ (Munday, 2012a, and p.40) that are problematic for translators, especially when dealing with key cultural texts such as religious texts (Malmkjær, 2015; von Flotow, 2010). The difficulty underlying the translation of key cultural texts is that they describe ideas such as identities, nationhood, and sacredness that reflect different cultural values and are fundamental to defining a culture and ‘it's cultural others’ (Malmkjær, 2015). Religious texts, as one of the ‘paradigm cases’, in Malmkjær’s words (ibid), include ‘sensitive’ terms that are essential to the beliefs and culture of the people owning the original texts or in whose societies the original texts emerged (Simms, 2006, pp.19-24). Such terms may pertain to sacred teachings and quotations of the religions’ prophets or sages. For example, an Islamic word like *maḥram* (محرم), which describes a person who as a relative cannot get married to specific other

persons in Islamic law, is often misunderstood and/or mistranslated (see Section 2.4).

Hence, translators need to face the fact that those terms are as culturally loaded as they are religious in nature. Malinowski (1935, p.14) famously stated that ‘translation ... must refer therefore not merely to different linguistic uses but often to the different cultural realities behind the words’. Any detachment of those languages from their cultural context may result in a translator’s misinterpretation of the other culture and tradition. Consequently, misleading judgments will be passed on them (ibid).

Malinowski (1923/1946, p.306) suggested that in order to understand the meaning conveyed by a language of people living in a different culture, we have to study that language in its ‘culture’ and ‘environment’. His studies on people of the Trobriand Islands showed that most terms (such as magical formulas, terms of folk-lore, narratives, etc.) referring to their social life, traditions, and rituals are missing in English and cannot be easily rendered (ibid, p.299). He stressed that ‘language is essentially rooted in the reality of the culture, the tribal life and customs of a people, and it cannot be explained without constant reference to these broader contexts of verbal utterance’ (ibid, p.305).

In order to understand the meaning of an expression one should not only consider this ‘context of situation’ in which a particular instance of language functions, but also what Malinowski termed the ‘context of culture’ with all social aspects and traditions of that particular people. Malinowski (1935) differentiated between these two types of context. On the one hand, he referred to the broad ‘context of culture’ as the one that includes ‘the physical setting, the institutions, the material apparatus and the manners and values of a people’ to which the language related (ibid, p.12). These are important factors in controlling our verbal utterances. Thus, in an Islamic culture, people often

refrain from talking about their sexual relationship in an everyday conversation (this being considered a taboo) with friends at home or school, yet they freely discuss the matter in detail with a doctor in the hospital or a scholar in the mosque to ask for advice.

On the other hand, Malinowski described a less broad context, i.e. context of situation, as the immediate environment of an utterance that includes ‘the social, legal, and technical’ factors which indicate the appropriateness of this utterance compared to other ‘opposites’ and ‘cognate expressions’ (Malinowski, 1935, pp.15-16). He, for instance, described different words used by Trobriand people to refer to a garden, and maintained:

The need of a clear context of situation for certain words is even more obvious in Text 3 [defining *bagula* and *buyagu*], where my informant reproduces the socio-logical as well as the physical context. We have an indication that strangers arriving at a garden would first enquire about the ‘garden as a whole’ (*buyagu*) and then about the ‘individually owned portions’ (*bagula*). (ibid)

In the same way, Arabic native-speakers use different technical terms to refer to camels in different situational contexts. A she-camel is called *nāqa* (ناقة), whereas a the-camel is called *jamal* (جمل). An old he- or she-camel is *šārif* (شارف). The pregnant she-camel is *‘išār* (عشار). The newly born one is *ḥuwār* (حوار). The she-camel in its first-baby maternity is *bakrā* (بكرة), to mention only a few from a legion of examples (see Lisān Al‘arab, 1997).

Later, the linguist J. R. Firth (1957, p.182) adopted Malinowski’s concept and elaborated it. He suggested that the context of situation refers not only to the actual environment, but also to an abstract ‘schematic construct’, i.e. a cognitive map, relevant to the text and from which people derive meanings.

2.2 Culture, Religion, and Translation

Due to the importance of understanding the concept of culture to uncover the inferences and connotative meaning implied in culture-specific items, a large number of translation theorists tried to give an exact definition of culture. Some of them concerned about the behavior feature of culture. Sapir (1949: 79) maintained that "culture is technically used by the ethnologist and culture historians to embody any socially inherited element in the life of man, material and spiritual." Lado (1957: 111) defined culture as "structural systems of patterned behavior" and Bennett (1968: 10) stated that "culture is the reflection of the total behavior of a society". Larson (1984: 431) described culture as "a complex of beliefs, attitudes, values, and rules which a group of people shares". Rohner (1984:111) tried to define culture in a non-behaviorist way, as "a system of symbolic meanings that shape one's way of thinking". Newmark (1998:94) clearly and simply defined culture as "the way of life and its manifestations that are peculiar to a community that uses a particular language as its means of expression". Furthermore, Bloch (1991) defined culture as "what needs to be known to operate effectively in a specific environment."

In the mid-1980s Vermeer introduced skopos theory which focuses on the purpose of the translation. It concerned the method and strategies that should be used to reach an adequate translated target text. And this can be done by identifying the purpose behind the translation of the source text and the function of the target text. There has been an intense and vehement argument about the interrelationship of language and culture with regard to the influence of each one on the other or which one has the dominant aspect of communication, it has become theoretically acceptable to conclude that both of them operate as two parts of a whole rather than independently. Hence, any study of language involves a study of culture too. (Valdes: 1986).

Still, there are certain items in any language that are unique to that language or to the culture associated with that language. These items are called culture-bound or culture-specific items (Schwars, 2003). According to Newmark (1988b, p.94), culture-bound terms are particularly “tied to the way of life and its manifestations that are peculiar to a community that uses a particular language as its means of expression.” As Wylie (2004) points out, culture-bound concepts give rise to some of the most difficult translation problems; even where the two cultures involved are not too distant, they can be more problematic for the translator than the semantic or syntactic difficulties of the text. Schwarz (2003, p.14) defines culture-bound terms as “concepts in any language that are unique to that language or to the culture associated with that language and create a cultural gap between speakers of different languages.” They create a cultural gap between speakers of different languages. Since translation involves two languages and two cultures, a proper translation has to bridge this gap as far as possible

A lot of translators all over the world look at culture as one of the most difficult parts of translation. This stance may be due to their own perception of the relationship between language, culture, and translation. They tend to be culture-bound or culture biased with regard to their attitude towards translation. Those who see the process of translation as just a means of transporting a culture with all its components to another and not just transferring words from one language to another, seem to culture-bound since they consider the translated text a true carrier of ideological meaning as Alvarez and others (1996) actually stated. In this sense, language has become only one of the cultural activities and the whole process of translation is viewed as an act of cultural information or to say, a transformation of culture (Ghazala:2012). Faiq (2004) also states that translation is culture-bound so the translator needs to take care of the cultural elements when translating from one language to another rather than seeking appropriate

equivalents. On the other hand, there are other scholars as well as translators who advocate the culture-based approach when dealing with cultural texts (Ghazala: 2012, and Fawcett, in Baker, 1998).

2.3 The Purpose of Translation

Contributing to understanding and peace between nations, groups and individuals is expressed as the first purpose of translation by Newmark (1991: 43). This formulation highlights the pragmatic elements of translation – the effect on the readership, the manner, the style etc.

The most evident task of the translator, which embraces the second purpose of translation, is to achieve knowledge transfer in a simple, proper and accessible language, especially related to technology transfer.

Showing respect to strengths and weaknesses of cultures, giving common humanity based explanations and mediating between cultures might be considered as the third purpose of translation.

The fourth main purpose is to translate the world's great books and the universal works such as poetry, drama, fiction, religion, philosophy, history, the seminal works of psychology, sociology and politics, and works of individual and social behaviour.

The fifth purpose is to provide some general help or a skill which is called for the acquisition of a foreign language.

2.4. The Process of Translation

Robinson (2003: 90-91) indicates that beginner translators begin a text by approaching with an instinctual sense that they know how to perform this, that

they are going to be good at it, that it might be fun; with their first real experience of a text they realize that they don't know how to proceed, but soon they start translating and learn inductively as they go, by trial and error, make mistakes and failures and learn something from those mistakes. They gradually conclude patterns and regularities that help them translate more rapidly and more effectively; and eventually these patterns and regularities become habit or second nature. They are constantly forced to review what they have learned via contact with new texts. Robinson cites from Weick's terms: the enact—select—retain cycle might be reformulated as translate, edit, and sublimate:

1 Translate: act; jump into the text feet first; translate intuitively.

2 Edit: think about what you've done; test your intuitive responses against everything you know; but edit intuitively too, allowing an intuitive first translation to challenge (even successfully) a well-reasoned principle that you believe in deeply; let yourself feel the tension between intuitive certainty and cognitive doubt, and don't automatically choose one over the other; use the act—response—adjustment cycle rather than rigid rules.

3 Sublimate: internalize what you've learned through this give-and-take process for later use; make it second nature; make it part of your intuitive repertoire; but sublimate it flexibly, as a directionality that can be redirected in conflictual circumstances; never, however, let subliminal patterns bind your flexibility; always be ready if needed "to doubt, argue, contradict, disbelieve, counter, challenge, question, vacillate, and even act hypocritically (be willing to break your own rules)."

Snell- Hornby (2006: 69) specifies that the translator's text analysis must start with identifying the text from the point of culture and situation. The next step is the analysis of the structure of the text together with the relationship between the title and the main body of the text and finally strategies must be

developed for translating the text, on the basis of inferences obtained from the analysis.

Decisions of detail Reasoned decisions concerning the specific problems of grammar, **lexis** (vocabulary), etc., encountered in translating particular expressions in their particular contexts. Decisions of detail can only be made in the light of strategy. Naturally, however, problems of detail may arise during translating that raise unforeseen strategic issues and oblige the translator to refine the original strategy somewhat.

With these notions in mind, the translation process can be broken down into two types of activity: understanding an ST and formulating a TT. These do not occur successively but simultaneously; indeed, one often does not even realize that one has imperfectly understood the ST until coming up against a problem in formulating the TT. When this happens, it may be necessary to go back and reinterpret the ST in the light of one's new understanding of it. This reinterpretation sometimes means that the original strategy has to be revised, this **revision** in turn entailing changes to some of the decisions of detail already taken. Nevertheless, it is useful to discuss ST interpretation and TT formulation as different, separable processes.

The component processes of translation are not different from familiar things that all speakers and listeners do every day. Comprehension and interpretation are processes that we all perform whenever we listen to or read a piece of linguistically imparted information. Understanding even the simplest message potentially involves all of our experiential baggage – the knowledge, beliefs, suppositions, inferences and expectations that are the stuff of personal, social and cultural life. Understanding everyday messages is therefore not all that different from what a translator does when first confronting an ST – and it is certainly no less complicated.

In everyday communication, evidence that a message has been understood may come from appropriate practical responses – for example, if someone has asked you for a spoon, and you give them a spoon and not a fork. Or it may come from an appropriate linguistic response – such things as returning a greeting correctly, answering a question satisfactorily or filling in a form. None of these are translation-like processes, but they do show that the comprehension and interpretation stage of translation involves a perfectly ordinary everyday activity that simply requires a standard command of the language used.

2.5 Types of translation:

SL and TL, the foreign culture and native culture, the writer and the intention and type of the text and the translator's purpose are the main factors to determine the appropriate translation type. The translator should take all these factors into consideration and decide which of these to give priority. The translator should be aware of the fact that various translation types (methods) might be used for the same text.

To be able to name the types of translation, the translator's degree of faithfulness to the text to be translated or his/her degree of freedom in changing the form and style of the text are predictive factors. As an example, the translator's faithfulness to the content can be shown in literal or word-for-word translation types while his freedom in changing the form or style can be shown in free, communicative, pragmatic and idiomatic types of translation.

- **Interlinear translation:**

At the extreme of SL bias is interlinear translation, where the TT does not necessarily respect TL grammar but has grammatical units corresponding as closely as possible to every grammatical unit of the ST. Here is an

example of an interlinear translation of an Arabic proverb (found, with some variants, in several Arabic dialects):

اللي فات مات

The/What passed died

The following is an interlinear translation of the first line of one of the pre-Islamic معلقة poems, معلقة لبيد . (The معلقات are seven pre-Islamic ‘odes’ – قصائد , sg. قصيدة – considered to be the most outstanding examples of pre-Islamic poetry, one of which, معلقة لبيد , was written by عقيل العامري . According to tradition, they were hung on the Ka’ba in Mecca.) In this translation, ~ indicates that the two English words so linked correspond jointly to one Arabic word in the ST; - indicates that the two English words so linked correspond to two linked Arabic forms or words in the ST and // indicates a hemistich (half-line) break in the middle of the line. This is a standard feature of traditional Arabic poetry and is marked in the ST by a space between the words فَمَقَامُهَا and بِمَنَى , which is longer than the spaces between other words in the line:

عَفَتِ الدِّيَارُ مَحَلُّهَا فَمَقَامُهَا، بِمَنَى تَأَبَّدَ غَوْلُهَا فَرَجَامُهَا

Disappeared the-camping~grounds alighting~places-there and stopping~places-their // in-Mina became~deserted Ghaul-its and-Rijam-its As is apparent from the incomprehensibility of the English TT here, interlinear translation is normally only employed where the purpose of the translation is to shed light on the structure of the ST. Mainly used in descriptive linguistics or language teaching, interlinear translation is of no practical use for this course, and we shall not consider it further.

- **Literal Translation:** الترجمة الحرفية

A translation strategy in which a text (or a part of a text) is subjected to translation at a low level of linguistic organization (e.g. the level of the word).

Literal translation is a sort of word-for-word translation and it can be applied when the content and form of both texts overlap with each other. It can be used as a pre-translation activity to overcome some problems like ambiguity and obscurity. In word-for-word translation, the unit is the word and the word order is the same. In literal translation, however, the unit is the sentence and source language in which grammatical structures are adapted to their nearest target language equivalents. But the lexical words are again translated independently in contrast to translating the whole phrase out of context.

A simple example is translating the colloquially oriented *الدنيا شمس* as 'It's sunny': the TT has a dummy subject 'it' where the ST has the word *الدنيا* ('the world') and an adjective 'sunny' where the ST has the noun *شمس* ('sun').

- **Word-for-word Translation:** الترجمة كلمة بكلمة

In this kind of translation, aspect of the source text such as wording, word order, cultural reference and local are bound to be primary focus. To quote Cook (2003:56): word-for-word translation is impossible if the aim is to make sense.

- **Free Translation:** الترجمة الحرة

A type of translation in which more attention is paid to producing a Target Text (TT) which reads more naturally than one which adheres closely to Source Text (ST) wording. A possible free translation of the colloquial Arabic proverb *إللي فات مات*, discussed earlier, would be 'Let bygones be

bygones'. Here, the grammar is completely different, and the metaphor of 'dying' is lost. Similarly, a free translation of the proverb **يوم لك ويوم عليك** might be 'You win some, you lose some'; here, the grammar and vocabulary are completely different.

- **Semantic Translation:** الترجمة الدلالية

Semantic translation is a mode of text transfer which involve using the bare syntactic and semantic constrains of the TL (Target Language) to reproduce the practice contextual meaning of the author. Newmark (1981: 22).

- **Communicative Translation:** الترجمة التواصلية

Communicative is a mode which seeks (to produce the same effect on the TL readers as was product by the original on the SL reader (Ibid: 22).

These examples of free translation are also examples of communicative translation. A communicative translation is produced, when, in a given situation, the ST uses an SL expression standard for that situation, and the TT uses a TL expression standard for an equivalent target culture situation. 'Let bygones be bygones' is an obvious translation of **إللي فات مات**, and, in some situations at least, would be virtually mandatory. This is true of very many culturally conventional formulae that do not invite literal translation. Public notices, proverbs and conversational clichés illustrate this point:

ممنوع التدخين No smoking (public notice) **ضرب عصفورين بحجر واحد** To kill two birds with one stone (Standard Arabic proverb) **لا شكر على واجب** Don't mention it (conversational cliché) As these few examples suggest, communicative translation is very common. Communicative translation apart, however, this degree of freedom is no more useful as standard practice than interlinear

translation, because potentially important details of message content are bound to be lost.

- **Adaptive Translation:** الترجمة الاقتباسية

This kind of translation whereby the SL text is freely translated into the TL, it is mainly a procedure appropriate to particular circumstances such as translating plays for the stage.

- **Idiomatic Translation:** الترجمة الاصطلاحية

Idiomatic translation reproduced original content. The translator prefers generalization and idiomatic expressions which different from the literal meaning of the word make up those expressions, often peculiar to a particular language culture.

- **Faithful Translation:** الترجمة الوافية

A faithful translation attempts to reproduce the precise context meaning of the original within the constraints of the TL grammar structures. It transfers' cultural words and preserves the degree grammatical and lexical abnormality (deviation from SL norms) translation. It attempts to be completely faithful to the intentions and text realization of the SL writer.

2.6 Kinds of Translation:

1. Translingual Translation الترجمة من اللغة الواحدة: refers to construction, rewriting or paraphrasing within the same language. According to this - kind, these is the possibility of transforming the verbal indicators through other ones of the same language, which is

considered basic towards a theory sufficient to meaning such as the efforts for explanation of the Holy Quran.

2. Interlingual Translation الترجمة من لغة إلى أخرى: This denotes translation from a language into another). This kind indicates to transforming pronounciational indicators of a language through other pronounciational terms or indicators of another language. In this kind we can compare then order, symbols and equivalence of words and expressions of both the languages.

3. Intersemiotic Translation الترجمة من علاقة إلى أخرى: it point out to conveying a message of a certain kind without being accompanied by verbal signals, with the full possibility to be understood by all, e.g. in the US naval it is possible to transform a verbal message to a message to be communicated through raising certain flags for specific purpose. Within the frame of translation from a language to/ into another (interlingual translation) , we can generally differentiate between two main sections:

1- Written Translation الترجمة التحريرية: it is that kind to be achieved written. Although some consider it easier than the other kind, as it not restricted by the tie factor, but it is of the most difficult types, for the reason that the translator has to strictly and fully abide by the mode or style of the original text, or the translator will be subjected to much criticism in case of communicating a mistake.

2- Oral Translation الترجمة الشفهية: its difficulty is vested in its freedom from restriction of any time-factor, the time within which the original message is said. As the interpreter's role starts after or during the delivery of the message. However, this kind doesn't abide fully by the mode or style of the original text, the interpreter suffices by conveying, transforming or communicating the general meaning or content of the original text or message.

The interpretation (verbal or oral type of translation) is divided into various kinds as following:

- a- At-sight interpreting الترجمة المنظورة (أو بمجرد النظر): it is achieved the interpreter reads the written text message of the source language (SL) using his eyes, then he interprets the same in his/her mind, then he/she starts interpreting of the target language (TL) orally (with movement of the lips).
- b- Consecutive interpreting الترجمة المتتالية: It takes place when there is a meeting between two groups each of them speaks a different language. A member of the first group starts delivering a certain message (or speech), the interpreter transforms this speech in the language of the second group, so that could respond ... etc. Of the difficulties that need to overcome into the consecutive interpreting) the problem of listening, good understanding to the text of the source language, thus, some work has to be done for activating or reviving the memory for recalling as big as possible of the message, text of the speech/ that the interpreter had listened to earlier.
- c- Simultaneous interpreting الترجمة الفورية: It is dominant in some local or international conferences, with a speaker or group of speakers delivering

their talks or speeches through or using a language or languages different from the conference. The speaker starts delivering his/ her speech using his/ her source language (SL), and the interpreter interpret the speech at once to the language of attendants or participants in the conference (TL).

- Human and machine translation:

The act of translation can be performed not only by a human being but also by a machine. Machine translation can be fully automatic or semiautomatic. In full automatic translation, the original text is fed into the computer and the translation is delivered with no human involvement far, full automatic machine translation can only produce through draft, a simple expression such as "we had dinner" in a British cultural context cannot be transposed into an Arabic, German or Finnish.

2.7 Translation techniques/ methods:

1- Direct Translation Techniques:

Direct Translation Techniques are used when structural and conceptual elements of the source language can be transposed into the target language. Direct translation techniques include:

- Borrowing: الاقتباس
- Calque: النحل
- Literal Translation: الترجمة الحرفية

Borrowing:

Borrowing is the taking of words from one Language into another without translating them. It means that the source language word is transferred into the target language to fill a lexical gap or to create a certain effect. This technique is

used in English and other languages in order to fill a semantic gap in the TT.
Such as:

Hijab "حجاب", radio "راديو", television "تلفزيون", Instagram "انستجرام".

Calque

In linguistics, a calque is actually a word or phrase borrowed from another language by literal, word-for-word translation. The term calque is borrowed from French and it derives from the verb calquer which means to copy, to trace. More specifically, we use the verb to calque when speaking about borrowing a word or phrase from another language while translating its components so as to create a new lexeme in the target language. For instance:

Business man, "رجا أعمال", data processing, "معالجة البيانات", skyscraper, "ناطحة
سحاب".

Literal translation:

Çakır (2006: 34) implies that literal translation is a sort of word-for-word translation and it can be applied when the content and form of both texts overlap with each other. It can be used as a pre-translation activity to overcome some problems like ambiguity and obscurity. In word-for-word translation, the unit is the word and the word order is the same. In literal translation, however, the unit is the sentence and source language in which grammatical structures are adapted to their nearest target language equivalents. But the lexical words are again translated independently in contrast to translating the whole phrase out of context. This signifies that the translator has to be lexically faithful. Nevertheless, he/she can make some differences in the language form to be able to give the same effect and the meaning.

Examples:

I leave tomorrow to London.

أغادر غدا إلى لندن

I left my bag on the table.

تركت حقيبتي علي الطاولة

However, this type of translation may change the meaning, for example:

His advice was invaluable.

كانت نصيحته عديمة الفائدة

While the word (invaluable) means: precious.

Literal translation method is usually used in the case of languages that belong to the same origins, or that which are included in one civilizational domain, which would provide common concepts among the speakers in those languages, otherwise the translation is unacceptable, which would make it essential for the interpreter to follow the indirect translation method. Unacceptable means that translation:

(1) It expresses another meaning, for example:

'Give me your hand'

أعطني يدك.

While the expression in English means; (help me)

(2) Has no meaning, such as:

'I can't put up with the noise'

لا أستطيع أن أضع فوق مع الضوضاء

(3) Not possible in terms of morphological language considerations:

'The 17-year old boy was injured'

جرح السبعة عشر كبيرا ولد

2- Indirect Translation Techniques:

Direct Translation Techniques are used when the structural or conceptual elements of the source language cannot be directly translated without altering meaning or upsetting the grammatical and stylistics elements of the target language.

Indirect translation techniques include:

- Transposition: الابدال
- Modulation: القياس
- Equivalence: التكافؤ
- Adaptation: التكيف

Transposition:

Transposition is the first technique or steps towards oblique translation. The oblique translation is another term for free translation where the translator exercises his/her freedom to attain equivalence. It operates at the grammatical level and it consists of the replacement of a word class by another word-class without changing the meaning. From a stylistic viewpoint, the transposed expression does not have the same value, but the meaning is the same. Transposed expressions are usually more literary in character. What is most important is to choose the form that best fits the context.

This technique is most often used to substitute a certain class of words with another one in the target language. For instance, a verb may be translated by means of a noun, or an adjective may be used instead of a noun. In addition, transposition may also be used to resolve the lack of correspondence occurring at the level of grammar, syntax, and morphemes.

Transposition can be:

– Free: when the transposition that we use is mainly dependent on the context and particularly on the desired effect. For example:

The course is of interest to all of us. (The course interest all of us: back translation)

– Compulsory: when only a transposition is acceptable, thus it is absolutely necessary in a particular context. For instance:

I will never forget that time when I saw you in the village. (I will never forget the time that I saw you in the village: back translation).

Example:

- To jog in the morning is useful.

- Jogging in the morning is useful.

As in in Arabic language:

- يسرني أنك ناجح -

- سرني نجاحك -

Modulation:

Modulation is defined by Gérard Hardin and Gynthia Picot (1990) as “a change in point of view that allows us to express the same phenomenon in a different way”. it provides the translator with the possibility to exchange one grammatical category with another, modulation implies that the translator may change the perspective, i.e. the point of view that the recipient of the target text may have.

Vinay and Darbelnet (1958) believed that different types of modulation may be identified and that perspectives may be altered depending on the context. For instance, a translator may present abstract as concrete, cause as a result, aim as a goal, part as a whole, etc. In other words, a certain phrase may be presented from a new point of view without changing the meaning.

The translator uses modulation when he/she feels that transposition or literal translation may produce a valid language text, but it is far from the spirit of the translation language (target language), for example:

It's not difficult to succeed.

Can be translated into Arabic Language as:

"ليس من الصعب أن تتجح"

But it's better to translated as:

"من اليسير أن تتجح"

Equivalence:

This term is used by Vinay and Darbelnet (1995:38-9) to refer to cases where languages describe the same situation by different stylistic or structural means. An utterance of the ST is replaced in the TT with one that fulfils the same pragmatic function, although it differs in form and meaning. (Cruz 2013: 354). This strategy is commonly used for the translation of idioms, proverbs, for example:

- It is raining cats and dogs.

Can be translated in Arabic Language as:

"إنها تمطر بغزارة"

- A fox is not taken twice in the same share.

Can be translated as:

"لا يلدغ الثعلب مرتان من نفس الجحرة"

We express our feelings in different terms. For example, if someone hits his finger while hammering a nail, then:

In English we say 'ouch'

While in Arabic we say "آخ"

In this regard, if a specific linguistic unit in one language has the same intended meaning encoded in a specific linguistic way in another, then both units are considered equivalent because they carry the same intended message. Given that equivalents may be words, morphemes, phrases, clauses, idioms, and proverbs, finding the correct equivalent is one of the most problematic and difficult steps in the translation process. However, equivalence does not imply that the translator must always find one-to-one equivalent units, namely the same category or the same structure in both the TL and the SL, given that two different equivalent units can sometimes carry the same function. In this way, equivalence is directly related to the ability of the translator to keep at least some of the same essential features evidenced in the original text. This means that after understanding the meaning of a SL linguistic form, the translator's task is to find the corresponding linguistic form in the TL ensuring that all the relevant features of the SL message are contained in the TL and reflect the same meaning as the original.

Adaptation:

Vinay and Darbelnet (1995: 39-40) introduces this term to refer to the translation strategy that implies changing the cultural reference when the cultural-specific peculiarities of the source text do not exist in the target culture and they must be eliminated or replaced by other cultural-specific peculiarities appropriate in the TT.

In general, adaptation is used when a translator does not find the appropriate equivalent in the target language, instead providing another equivalent on the basis of matching, which requires a degree of knowledge of social cultures and customs, because what is acceptable in a society, may not be accepted in others. For example, it is acceptable in English society for the father to kiss his daughter in her lips, if he returns from a long journey, so we find an expression such as:

He kissed his daughter on the lips.

If this expression translated as it is in some languages that do not accept such practices, it may raise a great deal of rejection and disgust, so it would be better translated into its compatible equivalent, like if you say in the Arabic language:

"طبع قبلة علي جبين ابنته"

2.8 Translation studies

Bassnett (2007, p.16) claims that 'the cultural turn in translation studies' was 'part of a cultural turn that was taking place in the humanities generally in the late 1980s and early 1990s' which had an impact on most of the 'traditional subjects'. As described in section 2.1 above, Holmes defined the name and nature of Translation Studies and divided the field into pure and applied branches. By introducing the interdisciplinary nature of translation, he was

aiming at describing, demonstrating and then predicting ‘translational phenomena’ (ibid, p.77).

Making use of the works of both Holmes and Even-Zohar, Toury (1995) – later revised in Toury (2012) – established the principles of Descriptive Translation Studies (DTS) and introduced his concept of norms (see below) as a measurement policy that leads to the discovery of translation ‘laws’. Toury’s innovative approach broadens the traditional approaches of comparing source text (ST) to target text (TT) in describing the translational relationship. His methodology consists of three phases: (1) a comparison between a given ST and its corpus of translations, (2) a description of the relationship between the TT and ST in a particular socio-cultural context, and (3) an explanation of the resulting ‘laws of translation’ then suggested (Brownlie, 2009, p.78). According to Toury (1995, pp.55-61) norms, i.e. regular translators’ behavior, are of three types, namely: initial norms, preliminary norms and operational norms. Firstly: initial norms determine the translator’s first choice of either adhering to the ST norms of language and culture, which produces an ‘adequate’ (source-oriented) translation, or adhering to the TT norms of language and culture, which results in an ‘acceptable’ (target-oriented) translation. Toury maintains that, while this is not a binary distinction, a translation will rather tend naturally towards one end of the continuum. He also highlights the importance of optional and obligatory shifts (see Section 2.3 below) as ‘translation universals’, paying more attention to the optional ones that might uncover the translator’s own preferences and decision-making process.

Secondly: preliminary norms involve policies and directness of translation. Policies refer to choosing certain texts, writers and/or languages for translation, whereas directness refers to acceptance or rejection of a translation from an intermediate language rather than the source language (SL) in a given society. Finally: operational norms are of two sub-divisions; 1) metrical norms that focus

on how much of the ST is translated or omitted, including ‘the addition of passages or footnotes’, and 2) textual-linguistic norms that focus on ‘the selection of TT linguistic material: lexical terms, phrases and stylistic features’ (Munday, 2012b, p.174).

Bassnett and Lefevere (1998), pioneers in shedding light on the cultural turn of translation, expanded the polysystem theory and proposed their own critical tools. Bassnett (2007, p.19) claims that in order to analyze, learn techniques, or investigate the role of translation in any given culture, one has to pay more attention to these two critical tools: cultural capital and the textual grid.³ Cultural capital, i.e. cultural boundaries, refers to things that are regarded ‘necessary for an individual to be seen to belong to the “right circles” in society’, whereas textual grids ‘are constructs’ that refer to ‘patterns of expectations that have been interiorized by members of a given culture’ (ibid, p.19). For example, to say that John and Mary belong to the circle of doctor’s means that they are physicians, had to some extent similar education, speak the same jargon and put on the white coat inside a clinic. Hence, they share the same cultural capital. When looking at societies from a wider view, one can recognize that Western cultural capital differs from Eastern, Middle Eastern and/or Indian cultural capitals. In translation from a SL to a TL, the TL readers are given an access to the cultural capital of the SL. A cultural capital would be diminished if it could be accessed only by a limited number of readers (ibid, p.19).

Lefevere (1998) examines different translations into English of the Kalevala, a collection of Finnish oral poetry, and finds that most of these translations were not accepted as epics. The translators, as he claims, did not ‘conform to the textual system of their time’. The only translation that was accepted and published is the one that showed ‘submission to textual and conceptual grids’,

he adds (ibid, p.88). In other words, the textual and conceptual grids are very important in translating from or into 3 the tools are derived from Bourdieu (1994). cultures that have little in common. For instance, a sentence in an Islamic and Semitic-Arabic textual grid like the following:

ST: طلق محمد زوجته سارة

(Literally: divorced Muhammad his wife Sara) would be ambiguous if translated into a Christian and Greco-Roman textual grid as follows:

TT: Muhammad divorced his wife Sara

It would to be more normal to translate it as:

TT: Mohammad and Sara got divorced.

In Christian and Greco-Roman traditions people expect that each couple needs to reach an agreement on getting divorced and no one has the authority to end the marriage over the other. Therefore, the TT needs to reflect the pattern of expectations i.e., the textual grids of the TL readers. This is true as long as the translator did not choose to adhere to the ST norms described in Toury's approach or to produce overt translation as suggested by House (1977; 1997). This will be discussed fully in Chapter 4 below.

In conclusion, cultural approaches to translation are very important 'shifts' in the history of translation theory. They focus on 'target-oriented theories' rather than 'source-oriented' ones and 'include cultural factors as well as linguistic elements in the translation training model' (Gentzler, 2001, p.70).

Translation is then, for proponents of cultural approaches, an intercultural practice that requires mind-shifting from one linguacultural model of the world to another. The notion of meaning in these approaches is transferred from being

linguistically static to being a culturally dynamic one. Untranslatability is an inevitable translational phenomenon that induces different strategies. Discrepancies in conceptual and textual grids cause ambiguity and/or misunderstanding (anthropologists' system of filters and Katan's third frame). Cultural approaches, furthermore, highlight the function of the TT and its impact on the receiving culture (accepted or not accepted in the receiving literary system). The target audience is seen as another reality that has its own cultural grid and/or cultural grammar. Translators in this compass are carriers of ideologies who transform otherness into an acceptable form for consumption by their readers, and play a major role in shaping the perspective one culture has of another. Gutt criticizes these approaches by saying 'the study of translations as intercultural discipline cannot be carried out on purely culture-specific assumptions; it must include intercultural assumptions as well' (Gutt, 2000, p.7). He, therefore, suggests taking into consideration the assumptions of both TL and SL cultures and postulating translation theories on how to make a compromise between them at the same time, a point that might open up a new avenue in the field of translation.

209 The language of the law

According to Mattila (2006, p. 3), "legal language is based on ordinary language", therefore, grammar and vocabulary of legal language are the same in the case of ordinary language. However, legal language is a language for special purposes, first of all, it means that a large number of legal terminology differ according to the branches of the law. Secondly, legal languages of different countries and different periods possess, to a varying degree, features that distinguish them from ordinary written language. For these reason, legal language is often difficult to understand especially from the perspective of laymen.

Legal language is called by many linguists as “register”, “dialect”, or “sublanguage”, as Cao said in his book (Translating Law) “legal language is a type of register, that is a variety of language adequate to the legal context” (Cao, 2007, p. 09).

According to Mattila (2006, p. 3), (legal language is often characterized as technical language or “technolect”), that is a language used by a professional.

By referring to Kurzon, who distinguishes between the language of the law and legal language, in his point of view, the terms are not synonym: The language of the law is “the language or the style used in documents that lay down the law; while legal language refers to the language that is used when people talk about the law”. In other words, “legal language is meta-language used to talk about the law in a broad sense, and the language of the law is literally just that the language in which the law is written” .e.g. The language of the law is the language used to draw up statutes and contracts, while legal language is the language used in legal textbooks and judges’ opinion. (Silvia Alchini, 2012, p. 32).

Legal texts are texts used for legal purposes in legal contexts. We may distinguish four types of legal texts in the written form:

- 1- Legislative texts, e.g. domestic statutes and subordinate laws, multilingual laws and other laws produced by lawmaking authorities.
- 2- Judicial texts produced by judicial officers and other legal authorities.
- 3-legal scholarly texts produced by academic lawyers, e.g. contracts, leases, wills and also texts written by non- lawyers, e.g. private agreements, witness statements and other documents produced by non-lawyers and used in litigation and other legal situations.(Cao, 2007, p.09-10).

Also, this chapter reviews the theoretical framework of legal translation which is considered one of the many branches of special- purpose translation.

In approaching the question of how to tackle the translation of a legal text, it is important to consider the characteristics of its genre. Although, as Tiersma (2012) argues, “legal language is based on ordinary language”, it is important to note how the language used in legal texts and legal discourse often differs significantly from the language common in every-day use, and these texts often “contain a large number of words of ordinary language with precisely defined meanings which sometimes differ significantly from their ordinary meanings” (Tiersma 2012, p. 31). Therefore, in line with the language used for technical and scientific texts, legal language is considered a ‘language for special purposes’ (LSP). Sager (cited in Šarčević 1997) defines special languages as “the means of linguistic communication required for conveying special subject information among specialists in the same subject” (p.8-9). In the case of legal texts, this particular language variety is “used strictly in special purpose communication with specialists, thus excluding communication between lawyers and non-lawyers” (Šarčević 1997, p. 9).

However, as the language of the law depends on the legal system in which it is used, it is in fact inaccurate to speak of ‘legal language’ in the same way as one would of technical ‘medical language’, ‘chemical language’ ‘economic language’ and so on. Within one single language, there may be as many legal languages as there are legal systems making use of it (De Groot 1996, p. 155). In fact, every legal system, in principle, has its own legal language along with its specific legal terminology (De Groot 1996, p. 156-157; Šarčević 2015, p. 9).

This means that within the Dutch language only, there might be as many as five or six ‘Legal Dutch’ languages, counting for example the legal systems in the Netherlands, Belgium (Flanders), - there may even be a separate Dutch legal

language for domains shared among the Benelux countries, in for example the Benelux Bureau for Intellectual Property (BOIP) – the legal systems in the Dutch Caribbean and the Dutch in the language variety of European law (De Groot 1996, p. 155). In fact, there are states in which multiple legal systems with their individual legal terminology operate alongside each other (De Groot 1996). As Tiersma & Valkó (2012) points out, legal terminology is largely polysemous: “even within a single culture, the same term may express several concepts depending on the context in which it is used” (p. 30) In order to be able to produce translation suggestions for terms specific to the Dutch legal language, it is necessary to ascertain each meaning of that particular term in the Dutch legal language (De Groot 1996, p. 158).

De Groot (De Groot & Florijn 1996) points out that the basic principle for the translation of legal information is to translate from one legal language into another legal language. However, he observes, in practice legal texts are treated as ordinary texts and translated inaccurately from one ordinary language into another. When translating legal texts, it is important to consider the semantic features of the text. The meaning of a legal term as intended by the legislator takes precedence over its ordinary meaning. As mentioned above, each legal system has its own legal language. To translate legal texts inherently means to practice comparative law. While a comparative lawyer is always translating between legal systems, a translator is always practicing comparative law (De Groot & Florijn (1996, p. 7).

For this reason, the production of bilingual legal dictionaries is useful. For a long time, the translation of special-purpose texts was less highly regarded than the translation of literature, as it was not considered as creative a process. Fedorov (referenced in Šarčević 2015) rejected this idea, arguing that “special-purpose texts can be translated correctly only if the translator possesses excellent

knowledge of the particular subject-matter” (p. 8). In addition to subject matter, function is an important element in special-purpose texts: as Sager (referenced in Šarčević 2015) argues: “the sender’s motivation is most frequently to inform the recipient in the restricted sense of augmenting, confirming or modifying his current state of knowledge” (p. 8). Within legal translation, the translation of national law is considered most complex, as this involves the translation of national legal terminology into the terminology belonging to another legal language, whereas texts concerning supranational law are easier to translate (De Groot & Florijn 1996).

According to De Groot (De Groot & Florijn, 1996), an international legal language exists only in so far as legal areas have been ‘internationalised’. This is the case for example in the legal system of the European Union. When it comes to copyright, as mentioned in the previous section, there have been considerable steps toward unification of copyright rules, but it is far from complete harmonization, therefore the translation difficulties encountered in this area likewise apply. Nonetheless, according to De Groot (De Groot & Florijn 1996), as national law terms and their meanings significantly influence terminology in supranational law, translating legal texts concerning supranational law may be similarly difficult.

The issue of national versus supranational law raises the question whether, for example, the Dutch variety of European legal terminology should be considered a separate legal language. De Groot (De Groot & Florijn 1996) argues that, with regard to the legislator producing the terminology, European legislation is autonomous in the development of its own legal terminology, without necessarily taking into account or conforming to the role of these terms in, for example, the languages of the Dutch or Belgian legal systems. In this sense, all 24 legal languages of the European Union and European legal system could certainly be considered separate from and existing alongside their so-called

national counterparts. As the European Union as a legislator may ‘modify’ terms or establish new meanings, through European law these terms will refer to the same concepts in, for example, both Belgium and the Netherlands, at least in so far as these concern the areas within the competence of the European Union (De Groot 1996, p. 161). In other words, this applies to legal areas in the European Union which have been harmonized. The European legal system is constantly under construction, “gradually developing as a result of European integration” (Tiersma 2012, p. 29). European law and domestic law are inextricably connected through for example regulations – which are directly applicable in all member states – and directives – which require implementation in domestic law. Thus, the European Union “partly has its own apparatus of legal concepts, expressed by either new legal terms or traditional terms used in a particular European union sense” (Tiersma 2012, p. 29). This may create considerably polysemous terminology. According to Tiersma (2012), the European Union has a tendency toward the creation of neologisms in order to “avoid confusion with the legal terminology of the member states” (p. 30). Florijn (1993) suggests that the Dutch used in a European context is a separate legal language from the Dutch used in a national legal context. Moreover, the usage of the same terms may also result in false friends in the Dutch and European Dutch contexts (p. 7). On the one hand, I would expect that as competences are transferred to the European Union, this leads to more unity among the legal systems of the European countries and therefore in the legal languages as well, making legal texts easier to translate. At the same time, this may result in the suppression or ultimately the disappearance of the domestic legal languages – that is to say, with regard to the areas which have been harmonized. On the other hand, as most of the European legislation regarding copyright at this point in time is by means of directives, as Florijn (1993) argues, the differences in, for example, domestic and European legal languages may cause difficulties in the implementation of these directives (p.7).

According to De Groot (1996), translation with regard to European legal terminology is simple and straightforward thanks to its very nature. The common origin of European legal terms in European law and the fact that the European Union maintains equally 24 official legal languages should ensure the existence of full equivalents in the other languages.

However, while officially drafted in all 24 languages of the EU, the language versions of European legislation are in practice usually originally drafted in English or French and subsequently translated into the other languages. Therefore, Tiersma (2012) argues that “a law or regulation, intended to be uniform throughout the European Union, may acquire subtle differences in meaning via the process of translation” (p. 25).

2.10 Equivalence

A vast number of bilingual legal dictionaries exist to aid translators’ work with legal texts. However, as De Groot and Van Laer (2006) point out, “the majority of (...) dictionaries fails to offer much more than glossaries containing unsubstantiated translations. They often contain non-motivated lists with translation suggestions and frequently do not distinguish between the different meanings within the source language and target language” (p. 73).

As discussed above, because of the system-specificity of legal terminology, it is of great importance to take the characteristics of a specific legal system into account and to avoid simply translating into the official language spoken in the area. The English language, for example, has several versions of English legal

language, applied in the different legal systems, for example in England/Wales, Canada or the United States. It is important that the relevant legal system is reflected in the translation or as De Groot and van Laer (2006) assert: “one legal language must be translated into another legal language”, that is to say, “into the legal terminology”. Translators, De Groot and Van Laer (2006) argue, “practice comparative law” (p. 66), as both source and target language legal systems must be thoroughly studied and compared in order to identify the most accurate options for translation.

This means that legal translation involves the need for thorough knowledge of the relevant legal systems and their terminology. Sager (1990) provides the following definition of terminology: “the study of and the field of activity concerned with the collection, description, processing and presentation of terms, i.e. lexical terms belonging to specialized areas of usage of one or more languages”. Cabré and Sager (1999), outline certain principles for terminography, defined “the application of terminology that deals with special dictionaries”. According to these principles, terminography is based on three areas in which expertise is needed: terminology, the subject field and the language or languages in question (Cabré and Sager 1999).

A (bilingual) legal dictionary or terminological database may serve a number of purposes to the aid of the translator. It may, inter alia, “resolve doubts about the existence of a term in a [legal] language”, provide information on grammar, semantics and spelling, and provide “equivalents in other functional or historical languages” (Cabré and Sager 1999). The aim of a translator is to produce as accurate a translation as possible. As discussed above, due to differences in languages, cultures and inherent (lexical) systems, this may prove difficult. As Jakobson (cited in Munday 2012), states: “there is ordinarily no full equivalence between code-units” (p. 59). Ideally, legal translators should aim for equivalence

in the translation of terminology, but finding the perfect term may not always be easy. Full equivalence, for example, De Groot and Van Laer (2006) note, is rare and “occurs only where the source language and target language relate to the same legal system”.

This is the case in some officially bi- or multilingual countries such as Belgium, Finland or Switzerland, where the nature of the legal system dictates the establishment of full equivalent terms in all relevant languages. Near-full equivalence, however, may be one step up in frequency. This “occurs if (...) there is a partial unification of legal areas, relevant to the translation, of the legal systems related to the source language and target language” (De Groot and Van Laer 2006). This should be the case in texts of European law in the areas in which harmonization has taken place – for example in areas relating to the internal market. It is interesting to see to what extent it applies to the Digital Single Market, which has yet to be completed.

When no suitable equivalents may be found in the target legal language, the translator must look for the next best thing. For this purpose, De Groot and Van Laer (2006) identify three possible subsidiary solutions. Firstly, the translator may choose to preserve the source term. However, De Groot and Van Laer (2006) warn that this option is to be avoided if possible, because by doing so the translator runs the risk of “making the translation into a collection of foreign-language words glued together”, while the purpose of the translation is to bring the text to the reader who is a speaker of the target language. The second option then is to paraphrase, or to provide, as Susan Šarčević calls it, a “descriptive equivalent” (cited in De Groot and Van Laer 2006). This option may prove useful and desirable, depending on several factors, such as the purpose and length of the translated text. There may not be enough space to fit long paraphrases into the target text.

Valkó 14 The third and final solution is to develop a neologism. It should be noted here that in this category, the term does not need to be an entirely new invention. The term ‘neologism’ is applied in a broader sense to include all terms which do not belong to the legal system of the target legal language (De Groot and Van Laer 2006). Therefore “a translator must make sure that the target term does not exist in the target language legal system. All words even remotely connected with that legal system must be counted out” (De Groot and Van Laer 2006).

This is important in order to avoid the creation of false friends and rendering the translation too confusing. At the same time, the term must “possess some transparency” (De Groot and Van Laer 2006). Therefore, Roman law terms are often used, which may not easily be confused with the target language legal systems but would be familiar to lawyer readers.

In addition, De Groot and Van Laer (2006) note that it may be useful at times to borrow terms from another legal system in which they are (full, near-full or partial) equivalents and introduce them in the target text and as a neologism. In doing so, however, it is “necessary to mark such terms as neologisms, for instance by referring to the legal system from which the neologisms in question were borrowed” (De Groot and Van Laer 2006). Furthermore, it must be kept in mind that organisations may have standardised terminological policies, which may impact the applicability of neologisms (Cabré and Sager 1999).

In considering the translation options above, De Groot and Van Laer (2006) provide seven desiderata which a legal dictionary should abide by in order to be reliable. A useful, reliable bilingual legal dictionary should:

Be “restricted to offering suggestions for translations based on legal areas, tying both source language and target language terms to a particular legal system”;

Make explicit “the relation of the entries and their proposed translations to their respective legal system”. This requires the inclusion of sufficient evidence and justification from reliable sources;

Not present “proposed translations as ‘standard equivalents’” (p. 73), as equivalence always depends on the context, consisting for example of the area of law in which the translator operates, the legal system, usage); “Indicate the degree of equivalence” (full, near-full or partial);

Explicitly state the absence of an equivalent in the event that a suitable term in the target language cannot be found. In this case, one of the subsidiary solutions would work; Valkó 15 “Identify neologisms as such”, in order to avoid giving the impression that these terms are standard terms in the target (legal) language. The dictionary should also provide its reasons for choosing a particular neologism;

Be regularly updated, as legal systems and legal languages are not static. (De Groot and Van Laer 2006). This thesis will draw on the principles by Cabré and Sager (1999) and De Groot and Van Laer (2006) for terminography and terminology in dictionaries outlined above in the creation of a lexicon for Dutch and English copyright terms.

2.11 Legal Language and Legal Translation:

2.11.1 Features of Legal English

Legal English comprises plenty of elements from a various European languages and has also borrowed words from other languages. Legal English owes to this multiplicity of linguistic influences, so it becomes a wealthy and diversified language with a peculiar grammar and many polysemous lexemes. (Rupert Hiagh, 2009, p.01).

1- The lexical features

a- Frequent use of formal words

Using the dignified and formal words is striking lexical feature of legal English, according to Malinkoff (1963), the language of the law characterized by the frequent use of “formal words”, this was originally done for the sake of completeness and perfectness. Such typical examples include “shall” over “will”, “deem” instead of “consider” and liable” rather than “responsible” and so on. (Fakhouri Maram, 2008, p. 17-18).

b- Archaisms

Sanchez Febrero (2003) describes archaisms in his book “Legal English and Translation” as “Archaisms nearly always seem to add a touch of formality to the language in which they occur”.

Archaic words are being rarely used, and have been abandoned for a long time, so they become obscure in everyday language. The goal of its usage is to imbue the legal English with solemn style. For example: adverb (hereinafter), verb (darraign), noun (surrejoinder) and adjective (aforesaid). (Stanojevic, 2011, p. 69).

In archaic adverbs, we refer to a special case in legal English contains compound adverbs by using simple adverbs based on the simple deictic “here”, “there”, “where” and so on, they often indicate to the text or document under discussion, such as:

- Thereunder (by virtue of which, subsequently).
- Hereby (as a result of this).
- Whereby (because of which). (Alcaraz, E, & Hughes B, 2002, p.9).

c- Terms of art

Are technical words, phrases and expressions that have accurate and fixed meaning which cannot be substituted by others, e.g. bailment, abatement, affidavit (sworn statement), waiver, restraint of trade, etc. (Rupert Haigh, 2009, p. 04). Apart from terms of art, there are also common words with uncommon meanings that is to say polysemous lexemes. For examples: attachment, action, consideration, execute, party and so on. (Stanojevic, 2011, p. 70).

d- Legal jargon

Legal jargon contains special and technical terms familiar to the lawyers who discovered them in order to make their communication more easily, but it is impossible to understand for the lay public. In his famous book “legal English” Rupert Haigh points out that “Jargon words range from near-slang to almost technically precise words. Well-known examples of jargon include boilerplate clause and corporate veil”. He also said that “Jargon includes a number of archaic words no longer used in ordinary English”. (Rupert Haigh, 2009, p.04).

e- Repetition of words

Repeating the same word rather than using the pronoun which is refer to in the legal text or document. For example: The Lessee shall pay to the Lessor at the office of the Lessor. (Sabrah, 2003, p.37).

If we wish to enlarge on our perspective and have a more inclusive overview by referring to “Stanojevic” in his book “Legal English – changing perspective” we see (the absence of anaphoric reference in legal English prompted the repetition of words. Anaphoric reference is being avoided despite the fact that it is used in other registers by means of personal pronouns, demonstrative adjectives and demonstrative pronouns. The nouns are being repeated instead of the pronouns; for it is not always clear which word in the text a certain pronoun refers to, which legal writing does not tolerate. Therefore, the repetition is used in order to avoid ambiguity. (Stanojevic, 2011, p.72).

f- Foreign words

Legal English is mixed in a striking way as a language of interaction between old English, Latin and Old French. (Mattila, 2006, p. 229).

Legal English contains a large account of foreign words which are in particularly Latin and French origin. These foreign words derived from Latin and French underwent the process of transliteration and the direct borrowing process. (Stanojevic, 2011, p. 70)

According to Mattila (2006) “Latin is in evidence everywhere in legal English”. Today, the general principles of law illustrate that legal maxims are often still expressed in Latin. e.g.” ubi jus”, “ibi remedium” (where “there is” a right, there “is” a remedy).

There are a large number of words referring to the position of the parties in a case. e.g. versus (against), pro se (for “him/her” self). (Mattila, 2006, p. 229).

Legal English also borrowed many French words which are used in legal documents by their origins from French character. e.g. contract, proposal, schedule, terms, conditions, policy, alias, quash, etc. (Sabrah, 2003, p. 46).

Also, there are derivation of French origin in the suffix “ee” which denoting a person as a recipient of action. e.g. “lessee” = “the person leased to”. (Stanojevic, 2011, p. 71).

g- Using of doublets and triplets

Legal English has curious historical tendency to string to gather two or three words in order to classify and precise the meaning and to convey a single legal concept. For example:

- “Fit and proper” = “Fit”.
- “Deem and consider” = “Deem”.
- “Cancel, annul and set aside” = “Cancel”. (Rupert Haigh, 2009, p.34-35).

2.12 The syntactic features

2.12.1 Excessive use of noun clauses

The over use of nominalization is an explicit feature of legal English; therefore, legal drafters frequently have recourse to nominalization for easier modification. (Fakhouri Maram, 2008, p. 21).

Also using nouns instead of verbs are often used in legal English, such as to give consideration instead of consider, to be in opposition rather than to

oppose, to be in agreement instead of to agree. (Stanojevic, 2011, p. 73).

Bhatia (1993, p. 107) expresses his view on the nominal character “Legislative sentences are more nominal in character than the ones generally encountered in ordinary everyday usage...”

2.12.2 Sentence length

The most obvious feature in legal English is the length and complexity of sentences. Sentences include a plenty of information, repetition, long noun phrases, peculiar word order and prepositional phrases. (Stanojevic, 2011, p. 72).

2.12.2.1 The use of complex-prepositional phrases

This feature plays a large role in legal English, it is considered as striking syntactic feature. According to Bhatia (1993, 107), complex prepositional phrases consists of the structure which is P.N.P (Preposition + Noun + Preposition), includes examples of this; for the purpose of, on respect of, in accordance with, in pursuance of, by virtue of, etc.

2.12.2.2 Passive voice

The extensive use of passive form rather than active form is an inherent in legal English, and it is the predominant marked in all types of legal texts that make them peculiar. In his book “legal English”, Stanojevic states that “Legal drafters instinctively stick to it, so both laws and court decisions generally contain a verb in the passive, especially when obligation or condition is imposed. They tend to create the impression that such rules are infallible as they occur without the influence of the humanagent”.

The aim behind the use of passive voice is to allow the legal draftsmen treating with matters more easily, in addition to this, to imbuing the legal

English with impersonal style, and solemn touch. (Fakhouri Maram, 2008, p. 21).

2.13 General features of Arabic legal language

Whereas English depends largely on paraphrasing and organization of sentences in terms of punctuation, capitalization and italicization, Arabic rarely so, Although Arabic has many forms: Kufic, Naskh, Diwani, etc. they have the same way of writing structure and paraphrasing in various texts. The fact that almost all Arabic words are written in cursive and so separate letters are not used (except in some acronyms and abbreviations), also capitalization is not used. (Fakouri Maram, 2008, p. 26).

2.13.1 Lexical features

2.13.2 Doublets

Legal Arabic uses paired words as redundancies for emphasis, such as:

This establishment announces and declares. إن هذه المؤسسة تعلن وتصرح

2.13.3 Binominals

Emery defines them as collocations of antonyms, synonyms or synonyms.

Binominals are common in Arabic legal text and other Arabic registers.

Emery's examples are:

عاجلا أم أجلا "Later" or "sooner"

الأمن والسلام "Security and "peace"

ذهابا وإيابا "round trip"

2.13.3 Descriptive epithets

Such epithets are intended to lay emphasis on and in addition modify the noun. E. g.

يؤكد الطرفان الساميان المتعاقدان. the two High contracting Parties Confirm.

2.14 Syntactic features

2.14.1 Nominalization

Like written legal English, the dense use of long difficult nominal is a feature of legal Arabic.

Emery's example: ما يقرره المجلس بالإجماع يكون ملزما لجميع الدول

In this example, the nominal group is introduced by the relative "ما".

2.14.2 Verbal group

Emery (1989, p. 06) says that the imperfect past verb «كان» is equivalent to « shall »

In legal English and it may express condition or stipulation as in:

Those to be recruited in the Sudanese armed forces should be Sudanese by Birth.

يقبل في القوات المسلحة من كان سودانيا بالولادة

2.14.3 Conditionals

Conditionals and stipulate terms are often crammed in Arabic legal texts. The most common conditional particle is «إذا» if ». e.g.

(Should) if any of the two parties terminated the contract.

إذا قام أي من الطرفين بإنهاء العقد

2.14.4 Modality

It is always expressed by sentences initial lexical verbs as in يجوز, لا يجوز, يحظر

Preposition "ل" and "علي" for rights and obligations respectively, such as:

للحكومة إنهاء هذا العقد دون إنذار.

علي الموظف كجزء من مهام وظيفته أن يبذل قصارى جهده.

(Fakhouri Maram, 2008, p. 25-28).

2.15 Legal translation

2.15.1 Definition

As a first step in introducing legal translation in this thesis, the umbrella term of legal translation needs to be explicated.

Legal translation is a translation carried out on the legal terms and documents as well as on all kinds of legal texts in different setting. It is also a translation from a source language (SL) into a target language (TL) and it involves the transfer from one legal system into another.

Researchers have described legal translation as a category in its own right. This is because the peculiar nature of the legal language and the ambiguity of the interpretation of legal meaning. In addition, the preciseness of legal terminology, Therefore, the translation of legal texts needs a special care as it entails abstract terms rooted in the legal culture and local tradition of the source language.(Al Shehab, 2003, p.19).

With respect to Chromá states that, “The primary objective of legal translation is that the target recipient should be provided with as explicit, extensive and precise legal information in the target language as is contained in the source text, complemented (by the translator)

with facts rendering the original information fully comprehensible in the different legal environment and culture, and serving the purpose of translation”. (Chromá, 2007, p.202).

The legal translation involves a special language (LSP) i.e. language for special purpose under a juridical context, therefore, it differentiated from ordinary language and also from special language of other domain (Alchini, 2012, p.45).

Another definition, legal translation as a specialized, institutional and culture dependent translation, requires of a translator to be faithfully to the source legal document. (Shiflet, p.29).

2.15.2 The peculiarities of legal translation

Legal translation must have the following features:

- It requires a highest precision, accuracy and attention to details than other translation in other domain. (EVS translation Blog, 2010). Consequently, it entails primarily of abstract terms deeply embedded in the local culture and intellectual tradition of the original text (Darani, 2013, p.02).
- It basically needs two abilities:
- Knowledge of legal systems, both of the source and the target languages.
- Depth knowledge and comprehensive understanding of the subject in the legal system intended, in addition, a good legal drafter must be familiar with the domestic culture of target language. (Vittoria, 2007, p.3-4).
- Confidentiality, security and punctuality, all of them are very

important for legal translator in order to convey the message across perfectness.

- According to the contemporary legal translator “fidelity” is achieving the same equivalent effect on the target reader and respecting the stylistic conventions of the target legal culture as in the original text. So, it is considered as the translator's first consideration.(M. Harvey, 2002, p.182).
- Weisflog (1987, quoted by Cao 2007, p. 37) according to him, legal translator must have a thorough acquaintance of law as the subject matter, including the laws and legal systems of SL and TL countries.(Smejkalova, 2009, p.4).
- Ambiguity is viewed as an inherent feature in legal translation. So, for legal translators identify the ambiguous meaning. (M. Harvey, 2002,p.181).

2.15.3 Legal Translation Typology

Many linguistics experts such as (Trosborg 1994, Sarcevic 1997, Cao 2007) have suggested a number of classifications to identify the types of legal translation.

Trosborg (1994) who divides the texts of contracts into three types: directive, constitutive and constitutive. (International journal of English 20).

Legal translation falls under the specialist category, because it entails special language use (LSP) (Cao, 2007, p. 08).

Sarcevic (1997, quoted by Cao, 2007, p. 07-08) classified legal translation with respect to the functions of the source legal text that can be describes

as:

1. Primarily prescriptive, e.g. contracts, laws, codes...etc.
2. Primarily descriptive and also prescriptive, e.g. judicial decisions and legal instruments such as actions, requests, pleadings...etc.
3. Purely descriptive, e.g. law textbook, legal opinions belong to legal scholarship. (Cao, 2007, p.07-08).

As Sarcevic (1997, p. 11) points out in his famous book “New Approaches to legal translation” “Legal text may be divided into regulatory and informative, prescriptive and descriptive. The first group includes the first documents that come to our minds when speaking about legal texts: legislative texts that is to say regularity instruments containing rules of conduct or nouns”.

Cao (2007) defines legal translation as the rendering of legal texts from the SL into the TL. Hence, for her Legal translation can be divided into three categories according to the functions of the TL texts.

- Firstly, there is legal translation for normative purpose.
- Secondly, there is legal translation for informative purpose. It aims at providing the target reader with information as it refers to the translation of statutes, court decisions, scholarly works and other types of legal documents.
- Thirdly, there is legal translation for general legal or judicial purpose, it is mostly descriptive and mainly

for information. This includes the translation of legal documents such as statements of claims pleadings, contracts, agreements, and ordinary texts such as business, certificates, and witness statements and soon.

Conclusion

As we mentioned above that legal language has many features which differentiate it from other type of languages. Thus, we conclude that the complexity and difficulty of legal translation is imputed to the nature of law and language that law uses.

So, in legal translation there are several issues that should be taken into consideration when dealing with legal terminology, Therefore, “It is said that the legal translator requires both linguistic skills and some basic understanding of law”. (Cao, 2007, p. 37). So, the legal translator should be acquainted with both source and target cultures.

2.16 Translating Terminology

In this section, we try to detect the concept of equivalence, which is the most relevant and debated issue in translation and even more in legal translation and to investigate the conundrum of translating legal terminology, especially, Islamic Shari's terms, in particular terminological equivalence and it reviews the Islamic term and the adequate methodology of translating it. Also it provides the difficulties

and suggested strategies of translating legal specific terms.

2.31.1 Equivalence Forms

In order to understand the nature of equivalence we must define translation, which is the replacement of a text in one language by a representation of an equivalent text in a second language. (Bell, 1991, p. 6).

The concept of equivalence is seen as a constitutive notion in translation theory, becoming the most problematic and controversial concept in the spectrum of translation studies.

Equivalence is to indicate that “the relationship between a source text (ST) and a target text (TT) that allows the TT to be considered as a translation of the ST in the first place” (Baker, 1998, p. 77).

As we know that equivalence is the core support in translation, that there is no translation if there is no equivalence between the original text and the translated text, hence this term has been critically analyzed and conceptualized by a lot of scholars in the field, namely, Jakobson (1959), Nida (1964) and Baker (1992).

Roman Jakobson (1959) in his essay (on linguistic aspects of translation) distinguishes three kinds of translation: interlingual, interlingual and intersemiotic.

- Intralingual translation: paraphrasing or rewording, it happens within the same language.
- Interlingual translation: (or translation proper) which is an interpretation between languages.

- Intersemiotic translation: (or transmutation) which is between the nonverbal sign systems.

According to him, in all these kinds there is no full and complete equivalence via translation. In addition, he stated that “equivalence in difference is the cardinal problem of language and pivotal concern of linguistics”.

He believes that languages may vary from each other at the grammatical level and cultural context, hence the translator can find deficiency in the translation practice, and thus s/he can pass the message by using several procedures which are loan-words, neologisms, circumlocution and so on. (Venuti, 2000, p. 114)

According to Nida, there are two different types of equivalence: formal and dynamic. Nida defines formal correspondence as follows: “formal equivalence focuses attention on the message itself, in both form and content...one is concerned that the message in the receptor language should match as closely as possible the different elements in the source language”. (Venuti, 2000, p. 129).

For him, formal equivalence attempts to produce accuracy and correctness. It emphasizes on the form and aesthetics of the text, so formal equivalence tends to be faithfully to the original text without adding the translator's ideas and thoughts into the translations. (MR Journals, 2013, p. 02).

“A gloss translation” is typifies formal correspondence, such translation would be supplemented with numerous footnotes in order to make the text more comprehensible. (Venuti, 2000, p. 129).

Whereas, in dynamic equivalence there are an effort is made to convey the same effect and same relationship that existed between the original receptors and the message. For Nida, it is based upon “the principles of equivalent effect”, hence Nida’s dynamic equivalence aims at retaining naturalness of expression and matching the receptor-language message with the relevant context of his own culture. (Venuti, 2000, p.129).

Mona Baker in her book (In Other Words) (1992) proposed different levels in the issue of equivalence, including all different aspects of translation.

- **Equivalence at word level and above word level**, equivalence at word is the first element to be taken into consideration by the translator, because when the translator looks at the words as single units in order to find a direct equivalent term in the TL. Secondly, equivalence above word level, when words starts combining with other words to form a stretches of language, in this level Baker focuses in collocations and idioms.
- **Grammatical equivalence**, differences in the grammatical categories of the source and target language frequently results in some change in the information content of the message during translation, this type is considered as the diversity of grammatical categories across languages, it focuses on number, gender, tense and aspect, person and voice.
- **Textual equivalence**, thematic and information structures, when referring to the equivalence between a SL text and a TL text in terms of information and cohesion, “A translator should be aware not only of cognitive meanings and basic syntactic

structure in his text, but also of his information dynamics”. So, translator produces a cohesive and coherent text in a specific context.

- **Pragmatic equivalence**, Baker concerned with the way utterances are used in communicative situations and the way we interpret them in context. Pragmatic is the study of language in use. Baker focuses on coherence and implicative.

2.31.2 Equivalence at word level

As translators, we are primarily need to concern with units and structures which carry the meaning, according to Bolinger and Sears as cited in Baker (1992), the word is “the smallest unit of language that can be used by itself”. Meaning can be carried by units smaller than the word, e.g. rebuild, there are two different elements of meaning in it, re and built (to build again). Elements of meaning are represented by several orthographic words in one language, also may be represented by one orthographic word in another and vice versa. E.g. Tennis player is one word in Turkish: Tenisci. This means that there is no one-to-one correspondence between orthographic words and elements of meaning within or across languages. (Baker, 1992, p.10-11).

With respect to the view of Roger Bell (1991, p. 6) who stated in his famous book “Translation and Translating”, that the issue of equivalence is very plain in the translation spectrum.

“Texts in different languages can be equivalent in different degrees (fully or partially equivalence), in respect of different levels of presentation (equivalent in respect of context, of semantics, of

grammars, of lexis, etc.) and at different ranks (word –for-word, phrase-for- phrase, sentence-for-sentence)”.

Languages are different from each other grammatically and culturally. They have distinct forms. These forms convey different meanings. Hence, there is a belief for a very long time that the ideal of total equivalence is a chimera.

According to Bell (1991) there is no absolute synonymy between languages, since within the same language may discover a lack of synonymy. Additionally, in the translation process sometimes there is a loss or gain. Bell (1991, p. 6), notes that the translator imbues with traitorous nature “...translator can find themselves being accused of reproducing only part of the original and so "betraying" the author's intentions”, as the Italian proverb said:

« Traduttore Traditore ».

Catford in his essay "A linguistic Theory of Translation" (1965, p. 24-25), for him, the central problem of translation practice is that of finding TL translation equivalents. Specifically, he stresses on the equivalence at the word level. Hence, he classified translation in terms of the extent, levels, and ranks of translation, (Full vs. Partial translation); (Total vs. Restricted translation); (Rank bound translation vs. Unbound translation). For him, translation equivalence is established in the grammatical rank; Cattford claims that the selection of TL equivalents is confined to rank-bound translation, which is word-to-word or morpheme-to- morpheme equivalences.

2.32 Terminological equivalence

Terminological Equivalence is one of keen current interest, as well

as, it is considered as one of the most problematic and controversial issue posed by legal translation due to the diversity of legal systems i.e., a particular concept in legal system may have no counterpart in other system.

Each legal system is situated within a complex social, political, cultural, historical, and religious framework. This complex framework is seldom identical from one country to another.

Diana Yankova (2003, p. 53), views that the connotations of the meaning play a secondary role, the referential function is utmost important, and the conceptual content of the specialized term is essential. Hence, Conceptual differences have an important position should be taken into account by the legal translators. Moreover, she gives a definition for legal terms as “a proposition consisting of a predicate and arguments that fulfill varying semantic or thematic roles”.

2.32.1 Definition of Terminology

According to the dictionary, Terminology” is a vocabulary associated with a certain field of study, profession, or activity”.

M. Teresa Cabre (1996), defined the terminology “As a discipline, terminology is a subject which is concerned with specialized terms; as a practice it is the set of principles oriented toward term compilation; finally, as a product, it is the set of terms from a given subject field... In this first meaning, terminology is conceived as the discipline concerned with specialized terms”.

Thus, for the purpose of this study, we come to legal Terminology in general, with particular reference to religious terminology inspired

from Islamic law.

2.18 Translating Religious Texts:

Scriptures and religious texts function as the backbone of a religion. They provide structure, clarity and a means of perpetuating the religion, and also enable the rapid proliferation and establishment of the religious beliefs. Keeping the scripture in a safe, accurate and comprehensible format has always been an essential aspect of ensuring the survival and the spread of a religion. Many sacred scriptures written in ancient languages would remain incomprehensible to most readers without translation, thereby creating the need to translate them and thus make them accessible and suitable to the needs of various populations from various cultural contexts.

2.19 Qur'an translation

In Islam and the translations of the Qur'an we find a different belief, understanding and trend here. In the words of Mustapha (2009, p.225), the 'importance attached to the Qur'an stems from the belief that it contains, verbatim, the Word of God'. Hence Muslims see the Qur'an as a miracle which is inimitable, and consequently set highly strict conditions for translating it.

The word Qur'an is a noun derived from the basic form of the verb قرأ (qara'a) in Arabic, which means "read".⁷ This book was disclosed to the Prophet Muhammad progressively over 22 years (610-632) by the Angel Gabriel (Mustapha, 2009). As Muhammad was an illiterate prophet, the Qur'an was intended to be recited 'to a real audience' (Naudé, 2010, p.290). The Qur'an is composed of 114 sura(s) or chapters, with each sura containing a number of aya(s) or verses, and

assigned a title, such as An-nisa' (The Women), An-noor (The Light), and Yusuf (Joseph).

2.19.1 Legitimacy and principles of Qur'anic translation

As the Qur'an is the holy book of Muslims which guides their worship as well as their daily conduct and they look at it as a heavenly unique miracle, it is not unexpected that the legitimacy of its translation underwent much controversy. Consequently, since Muslims believed the Qur'an to be the direct Word of God, its value resided in its actual language, Arabic, and this was much more than in any other language. Muslim scholars such as Abu Baker bin Al-Arabi (c.1075-1149) of the Maliki school, Ibn Hajar (c.1372-1448) of the Shaf'i school and Ibn Taymiyyah (c.1264-1328) of the Hanbali school, had a consensus view that a translation can be an interpretation or commentary for helping the reader to understand; however, the actual Qur'an would remain in Arabic, and to read and understand it one must learn and follow Arabic. They all rejected Abu Hanifa's claim that permits those who are unable to read Arabic to read a Qur'an translation in their indigenous languages and recite it in daily prayers (Al-Qatan, 2000, pp.329-31). Even though Abu Hanifa, the Iraqi scholar and the founder of the Hanafi school of Islamic Law (c.699-767), did not accept the idea of calling any such translation the "Qur'an" but saw it rather as a kind of "Dhikr" (remembrance of Allah), he withdrew his opinion later, adding credit to the other viewpoint (ibid; Al-Obaid, 2014, p.10).

Al-Tha'alibi (1933/2011, pp.32-63) explains in his book Legitimacy of Translating the Noble Qur'an how these scholars reached such a consensus. He reviews the evidences according to which theologians concluded that it is legitimate to translate the meanings of Qur'anic

verses without considering them “holy” – which means, therefore, that they cannot be recited in Islamic rituals. All these evidences, as he stresses, were extensively discussed in Imam Al-Bukhari’s (c.809-870) book⁸, which is the second resource of Sharia (i.e. legislation) in Islam (see also Saleem, 2013). Al-Tha’alibi (1933/2011) maintains that, as all the aforementioned scholars (the Hanbali, Shaf’i and Maliki scholars) recognized the Qur’an to be the perfect and unerring Word of God, they also considered its translation to be the imperfect and erring words of the translator; therefore no translation can ever acquire the sanctity or the divine nature of the original Arabic Qur’an.

Similarly, Al-Obaid (2014, pp.8-12) compares the opinions of scholars such as Al-Bazdawi, Az-Zaila’i and Az-Zarkashi in addition to those of the previously mentioned theologians. He asserts that according to these scholars’ view any translation of the Holy Qur’an, whether word-for-word, literal, or merely interpretive, is neither called a Qur’an nor contains its ordinances. Furthermore, Al-Obaid (2014, pp.33-35) not only sets out the criteria for the translation, but has also listed the principles governing its acceptance as follows:

First, the translator should be a scholar or a person who is well acquainted with scholars’ interpretations and their rules of interpreting the Qur’an. Secondly, the translation should be based on sound and comprehensive interpretations. In case of having different viewpoints, the translator should provide other opinions in footnotes. Thirdly, the translator has to indicate in the introduction of his work that, due to its unique nature, the Qur’an is untranslatable and that the translation cannot provide all possible interpretations of its meanings. It is also important to clearly state that it is not a freestanding translation and that those who want to understand the wisdom and hidden meanings of

the Qur'an need to refer to the original Arabic text, as the translation can only convey some aspects of its meanings (e.g. polysemy, metaphorical expressions). Fourth, the translator must (a) have the prerequisite skills of mastering both source and target languages, and (b) avoid bias by translating the text according to his/her whim or belief which may contradict and/or distort the meaning of the original. Fifth, the translation ought to be entitled "The Interpretation of the Holy Qur'an in ...", "The Translation of the Interpretation of the Holy Qur'an into ..." or something similar and never just "The Holy Qur'an". Finally, a panel of specialized scholars should referee any translation before giving it their approval.

2.19.2 Qur'an translations: from verses to the whole book

Although Muslim scholars throughout history have supervised activities pertaining to translation and attempted to ensure that only the persons deemed suitable by them are allowed to proceed with their translation endeavors, many different translations with various orientations have been produced. This fact stems from the importance of the Qur'an in Islam, on the one hand, and from the rapid and vast expansion of the religion on the other, coupled with the recognition and concern of non-Muslims regarding the same issue in the past and present. Saeed (2008, p.121), for example, states that Salman Al-Farisi, one of the Prophet's companions, conducted the first translation of the Qur'an in the seventh century. It was a rendering of the first Chapter (The Opening), which includes seven verses, into Persian. Since then, translations have been introduced to help non-Arabic speaking Muslims understand the scripture, yet have been followed by a vigorous debate (see the different opinions of Muslim scholars in Section 3.1.4.1 above), he stresses (ibid). Al-Blushi (2002/2014, p.12)

adds that the translation of At-Tabari's seminal work *Jāmi' u Albayān* from Arabic into Persian in the 10th century was the first translation of the whole Qur'an along with its exegesis. In the twentieth century, other translations from Arabic resources were introduced for the Shi'i sect and the Sunni as well. The latest offering is a translation of the whole Qur'an with exegesis by Saeed Al-Fadhili of a book entitled 'Aysru Attafāsīr, the first volume of which was published in Iran in 2000 (Al-Blushi, 2002/2014, pp.30-5).

In fact, the Qur'an has been translated in a large number of places and into many languages. For example, in the Indian subcontinent, the Qur'an was also translated into Urdu, Bengali, Sindhi, Malayalam and modern Hindi, to name just a few languages. Muhammad (2002/2014, pp.5-14) relates that translation of some chapters of the Qur'an into Urdu started in the second half of the sixteenth century. Similarly, Qur'an translations in Bengal appeared late in the nineteenth century (Zakaria, 2002/2014). Translation projects reached the far east of Asia very late. In Thailand, for example, the first translation was produced by the reformation institution in Bangkok in 1931. In China, meanwhile, Sheikh Ma Fu Cho rendered the first five parts of the Qur'an into Chinese by the end of the nineteenth century. In the same way, a full translation of the Qur'an into Korean by Chui Keel first appeared in 1988 (2002/2014, pp.11-14). As for Russia, Qur'an translations started there in the eighteenth century (Al-Attawi, 1998).

When looking at translation activities in Western Asia, we will find various languages with different histories. For instance, Qur'an translations into Turkish started anonymously at the end of the tenth century for the purpose of enabling understanding of the meanings of

the Arabic texts. Two methods of translation were used, namely, interlinear gloss and interpretation (Cumush 2002/2014, pp.4-13). Unlike with the Turkish language, Qur'an interpretations began to appear in Kurdish in the 1930s, yet nothing was published before the 1970s (Jwamir 2002/2014, pp.3-5).

The first Qur'an translation introduced in the European languages, on the other hand, was done in order to counter Islam (Mustapha, 2009, p.228). Earnest to stop Islamic 'intellectual and political' invasion (Saeed, 2008, p.122), Peter the Venerable, the Abbot of Cluny, sponsored the first translation of the Qur'an into Latin which was done by Robertus Ketenensis in Christian Spain in 1143 (Holes, 2000, p.142). The Latin translation was printed for the first time in the Renaissance with an introduction written by Martin Luther in 1543, 400 years later, and printed again during the English Civil War in 1649 (Bradah, 2002/2014, pp.5-6). It was the base from which translations of the Qur'an into the European vernaculars stemmed:

1. The Latin translation was paraphrased into Italian by André Arrivabene in 1547,
2. The Italian version was re-translated into German by Salomon Schweigger in 1616,
3. The Latin translation was rendered into French by André du Ryer in 1647,
4. The French translation was re-rendered into English by Alexander Ross in 1649,
5. The French version was also re-translated into Dutch by Glazmaker in 1657, and

6. The Dutch translation was rendered again into German by Lange in 1688. (Saeed, 2008, pp.124-5; Al-Biq'a'I, 2002/2014, pp.12-13).

In spite of the fact that these translations were spread over Europe, Qur'an translation projects did not stop at this point. In Spain, for instance, a Qur'anic text in three languages, namely, Arabic, Latin and Castilian, was introduced in 1456 (Reilly, 1993). Qur'an translations were also produced in Catalan and in Spanish written in Arabic alphabets in the sixteenth century (Bradah, 2002/2014, pp.9-10). The most popular translation of the Qur'an into German in the nineteenth century was introduced by a Jewish kohen: Lion Allman (Hoffman, 2002/2014, p.5). In Sweden, the first Qur'an translation was introduced in 1843 by Crusentolpe (Brostrom, 2002/2014, pp.2, 9). In the Balkans region, the first translation into Serbian appeared in 1861 for certain political reasons (Jelo, 2002/2014). Qur'an translations into Portuguese, meanwhile, were introduced at the end of the nineteenth century in Portugal and other countries which were occupied as part of the Portuguese Empire (Nasr, 2002/2014, pp.3-5).

English translation literature is rich in Qur'an translations (Saeed, 2008). The first translation conducted directly from Arabic was by George Sale and printed in 1734. Similar to the anti-Islamic translation of Ross (1649/1688), who clearly stated his aim in the title: **The Alcoran of Mahomet...** And newly Englished, for the satisfaction of all that desire to look into the Turkish vanities, Sale's work was 'intended for missionary purposes' (Saeed, 2008, p.122). His work **The Kuran**: commonly called Alcoran of Mohammed was criticized by Muslims for mistranslations and omissions (ibid). Nevertheless, it was reprinted in several editions and used up to the end of the twentieth century (Naudé, 2010, p.289). Other popular English translations by

non-Muslims began to appear in the nineteenth century onwards: these are Rodwell's (1911), Palmer's (1880), Bell's (1937), Arberry's (1955), Thomas B. Irving's (1985) and Dawood's (1956). Some translators, namely, Bell, Rodwell, Dawood and Arberry, did not follow the Uthmanic Codex⁹ text but rearranged Qur'anic chapters in their supposed chronological or other order (Mustapha, 2009, pp.228-9).

2.19.3 Challenges of translating the Qur'an

Transferring the Qur'anic discourse from its Arabic lingua-cultural context into another was, is and always will be problematic (Abdul-Raof, 2005; 2004; 2001b; Al-Obaid, 2014). For the purpose of this study, the discussion will highlight only major difficulties that are encountered when translating the Qur'an into English and which help to explain some of the problems encountered. Most translators tend to translate the Qur'an literally in an attempt to preserve its sanctity, though this is held to be untenable as a translation could only be a partial interpretation of the Qur'anic text (Abdul-Raof, 2005; 2001b; Al-Humaidan and Mahmood, 2002/2014; and Aziz, 2002/2014). Word-for-word translation and/or archaisation (hath, thee, etc), in some cases result in structural and lexical ambiguity, as Al-Humaidan and Mahmood argue (2002/2014, p.12). They (ibid) find domestication and functional approaches¹⁰, such as in Dawood's and Irving's translations, better meet the TT readers' expectations. Taking a contrary view, Al-Khateeb (2002/2014, p.57), upon analyzing 11 English translations of the Qur'an, suggests that translators who adopt the 'Foreignizing method' are more successful in keeping the ST intact. He stresses the importance of Schleiermacher's (1813/2004, p.49) notion of leaving 'the writer in peace' and Venuti's (1995/2008, pp.18-

19) ‘resistancy’ strategy of challenging the TT readers in translating a miraculous text such as the Qur’an (see also Hatim and Mason’s criterion of informativity in Section 2.5, and Section 5.2 on the proposed model). Like Schleiermacher, Al-Khateeb (2002/2014, pp.35-40) prefers to move readers towards the Qur’anic text. Between these two extremes, some specialists, such as Abdul-Raof (2001b; 2004; 2005) and Gazalah (2002/2014), differentiate between what are considered linguistic voids (e.g. verbal sentence structure, flexible word order) and cultural gaps (e.g. flora and fauna). They, furthermore, introduce strategies that can be deliberately applied to bridge such gaps (ibid). Hence, major translation problems, which will be discussed here, are divided into two types: linguistic differences and cultural features.

Linguistic differences, on the one hand, are manifest in all levels of discourse between the two incongruous languages Arabic and English (see Dickins, 2011/2012; Dickins et al., 2002; Abdul-Raof, 2001a; 2001b; and Hatim, 1996/2000). To highlight the point some variations may be classified as follows:

Firstly, on the lexical and semantic level, the Qur’an is full of religious terms such as words referring to supernatural beings, religious activities, moral criteria and ritual expressions (Abdul-Raof, 2005, pp.166-9). Besides, these items may include hapax legomena where something, whether a word, a form, or an expression, ‘appears only once’ in the Qur’anic text, such as “الموقودة”¹¹, and “أبائيل”¹² (Toorawa, 2011, p.193). For example, Abdul-Raof (2004, pp.94-5) indicates the difficulty of rendering the moral concept of “تقوى” - taqū” (piousness, righteousness) which encompasses ‘many spiritual aspects including fear and love of God’. He (2005, pp.167-8) examines

different translations of the plural noun derived from it المتقون

“almuttaqūn” (pious, righteous people) and finds that they were under-translated. He proposes that in order to enable English to ‘penetrate’ the Qur’anic lexical system, such sensitive terms ‘can only be tackled through componential analyses and ‘a periphrastic translation approach’ (Abdul-Raof, 2004, p.93).

Secondly, on the syntactic/structural level, the syndetic coordination, inflectional endings, ellipsis, flexible word order, repetition, preposing and postposing play a crucial role in Arabic stylistics that other languages cannot emulate (Al-Jurjani, 2007/2011, p.257). Translators, therefore, need to adjust such features while rendering the Qur’anic text (Al-Humaidan and Mahmood, 2002/2014, p.14).

Thirdly, on the rhetorical level, figures of speech and tropes are culture-specific aspects of the language. Speakers employ the rhetorical features for certain pragmatic functions in their own cultural context. Translating rhetorical expressions in the Qur’an, hence, ‘imposes some limitations on the translator’ and thus tones down the TT discourse if not appropriately compensated for (Abdul-Raof, 2004, pp.102-5). Alliteration, assonance, antithesis, euphemism, metaphor, simile, and synecdoche are some rhetorical devices that are implemented in the Qur’anic text and usually lost when transferred into a different lingua-cultural context.¹³ an example of translating metaphoric Qur’anic expressions is:

ST: { وفي عاد إذ أرسلنا عليهم الريح العقيم } (Qur’an 51:41)

Gloss: And in ‘Ad when we sent on them the sterile wind

[Metaphoric use of the word “العقيم - sterile” in describing the disastrous

wind]

TT (Ali 1983): And in the ‘Ad (people) (was another Sign): behold, we sent against them the devastating Wind.

Abdul-Raof (2001b, pp.115-6) states that the translator has opted for reducing the metaphor to sense, rather than for creating a new metaphor,

On the other hand, terms referring to cultural features¹⁴, such as ecology (e.g. geographical factors), material culture (e.g. food, clothes), social culture (e.g. habits), religious culture (e.g. names of prophets) and linguistic culture (e.g. intersexuality) are also cited as major obstacles for translators of the Qur’an (Abdul-Raof, 2005; Akmadhan, 2002/2014; and Gazalah, 2002/2014). Early translators, who were unfamiliar with the Arabs and their culture, were in doubt about the names of religious groups that are mentioned in the Qur’an and rendered them inaccurately. For instance, Sabeans “الصائبين” (Qur’an 2:62) was translated by Robert of Chester as those who worship angels instead of God, or those who change their religion, and Magians “المجوس” (Qur’an 22:17) was translated as pagans or gentiles (Masson, 1967, xxii, 17 in Delisle and Woods worth, 2012, p.195).

Material culture seems to be less problematic for translators. Except for Asad (1980) who translated the word “خمار” (i.e. hijab) as head-coverings, others, such as Ali (1983) Pickthall (1969), and Al-Hilali and Khan (1984) preferred domestication and rendered it as veil (Abdul-Raof, 2005, pp.169-170). Ecology in the Qur’anic text is also translatable into English. The term “العشار” (She-camels which are due to give birth) was translated by Ali (1983, p.1693) as the she-camels, ten months with young (ibid). However, the problems of these

translations, according to Abdul-Raof (2005) were less in finding words than in the cultural values associated with these terms in ST vs. TT lingua-cultural contexts. He maintains that what could be [+ value] in culture A is not necessarily the same in culture B because of the different ideological backgrounds of people in each culture. There will be definitely distinct ‘mental images’ that are triggered in the ST and TT readers’ minds when encountering terms such as (a) God associated with the notion of the Trinity in Christianity, and God/Allah referring to the only one worshipped God in Islam, (b) veil as a headdress resting on a nun’s shoulders or a covering on a bride’s face vs. veil/hijab covering ladies’ hair and bosoms as an Islamic rule, and (c) pilgrimage as a journey to any of the Holy places around the world in contrast to pilgrimage/Hajj as a journey to the Holy Mosque in Makkah for Muslims (Abdul-Raof, 2005, p.172). More difficult yet is the translation of the fauna term “العشار” (the pregnant she-camels) which occurs in the description of the Day of Judgment, when people are so shocked that they forget about everything including their most valuable property, i.e. the pregnant she-camels in Arab culture.¹⁵ The Qur’an employs this cultural feature with a ‘luxuriant imagery’ to achieve a certain ‘impact’ on its intended readers which is totally lost in the English lingua-cultural context (ibid, p.170). According to Abdul-Raof (ibid, p.172), Nida’s (1964) functional equivalence is not enough unless accompanied by ‘illuminating notes’. Even though it may distort readers’ expectations, Abdul-Raof claims that paraphrasing via domestication and transposition remains the best way to fill linguistic and cultural voids.

In the same vein, Gazalah (2002/2014) indicates the drawbacks in translating the socio-cultural feature of having more than one wife as

bigamy or polygamy. These two terms, according to the English monolingual dictionary, describe ‘the crime of marrying while one has a spouse still living’ (Dictionary.com, 2015, my italics), a concept that contradicts the Arab-Islamic culture. Gazalah (2002/2014, pp.18-19), therefore, suggests that when the word legal precedes polygyny in the TT, it will pave the way for the TT readers’ expectation. Gazalah adds that difficulties such as false equivalence and cultural and linguistic gaps in translating Qur’anic terms can be overcome using the following procedures:

1. Literal translation: الكتاب = the Book, Scripture
2. Direct equivalent+ one explanatory word/phrase: صوم رمضان = fasting in the month of Ramadan
3. Direct equivalent: صيام = fasting, صلاة = prayer
4. Literal translation with explanation: الطواف = circumambulation around the Ka’bah
5. Explanation: زكاة الفطر = a compulsory charity to be delivered by every Muslim towards the end of Ramadan, the month of fasting, and
6. Transliteration with explanation: الكعبة = Ka’bah: the House of Allah and the direction of prayers. (ibid, pp.21-22)

Although these methods are arranged according to preference, the last two are highly recommended to fill a linguistic and/or cultural gap, as Gazalah stresses. Translators, furthermore, are urged to bear in mind that these procedures will vary in importance and appropriateness according to different texts and contexts (ibid). It is precisely this constraint of context that will be examined systematically in this study

(see Sections 5.1 and 5.1.1; see also the detailed analysis in Chapters 6 and 7).

2.20 Translating Islamic Religious Discourse:

The term “discourse” is defined by Hatim and Mason (1997, p.216) as ‘modes of speaking and writing which involve social groups in adopting a particular attitude towards areas of socio cultural activities (e.g. racist discourse, bureaucratise, etc.)’. The various types of discourse, such as educational discourse, legal discourse, political discourse, etc., are each concerned with a particular social activity and reflect the ideology of the parties involved.

A similar typology exists in the Arabic language, unless these matters are discussed from a religious, and particularly an Islamic point of view. Islamists being political parties, social reformers or religious leaders ‘share something in common’; in other words, Islam is their frame of reference and ‘there are features common to most Islamist discourse’ (Holt, 2004, p.64). Hence, Islamic religious discourse, or Islamic discourse for short, is hybrid by nature (Bassnett, 2005, p.394). It is pregnant with social, political, economic and cultural values. Thus, to understand the ideological tenets of Islamic discourse, one needs to explore its meaning, absolutes, and functions from the theologians’ point of view. Its main features, consequently, can be highlighted in order to examine which ones pose serious problems in the translation from Arabic into English and how to deal with them.

The word “خطاب” (discourse) in Arabic¹⁶ is defined as speaking to another party, whether that party being addressed is an individual or a group. Imam Az-Zarkashi (c.1344-1392) defines it as ‘speech that is intended to pass on knowledge to whoever is capable of understanding’

(Az-Zarkashi, 1992, p.126). Bin Bayyah¹⁷ concludes that Islamic discourse is ‘comprehensive’ and covers all aspects of human life. He elaborates this idea by writing:

The broad scope of the concept of religion [in the Islamic culture] and its universality that penetrates all aspects of life is not meant in the narrow ecclesiastical sense of religion juxtaposed to reason, but rather in the broad encompassing sense that regards as part of religion all human activity. This activity may be emotional, rational or behavioral, in its diverse fruitful expressions judged on the scale of values and human interest. (Bayyah, 2009, p.12)

Thus, Islamic discourse often includes elements of the Qur’an and Sunnah¹⁸ in order to present ‘the content of divine discourse directed to humanity’ (ibid). Hence, the content of Islamic discourse is essentially, in accordance with its origin, built on absolutes and variables. Absolutes are the principles of the religion itself that were supported by clearly stated evidence, such as the oneness of Allah, the Prophet hood and its imperatives, and the standards that guide and guard humanity. When dealing with these constants, Islamic discourse is known whenever possible for employing scientific evidence and rational proofs.¹⁹ It functions as a means (a) to explain the fundamentals of Islam, (b) to gather the community around them, and (c) to introduce these principles to humanity. Variables, on the other hand, are any subject matter that is not based on clearly stated evidence in the Qur’an and/or Sunnah. It is because of these variables that the secondary resources of Islamic law, namely, consensus and juristic analogy, were developed. Characteristics of Islamic discourse dealing with variables are (1) tolerance of different opinions, (2) conciliation with opponents, and (3) easing of hardship (ibid,pp.29-41). The

function of this discourse is to facilitate people's affairs and help them in coping with life-altering changes.

Islamic discourse, in general, 'is firm and solid in its essence' as it relies mainly on the four sources of Islamic law (the Qur'an, Sunnah, consensus and juristic analogy), while at the same time 'flexible in the manner' by which it approaches the audience (ibid, pp.42-3. cf. An-Nabulsi, 2003). However, what seems to be important here is how to translate Islamic discourse. As highlighted by Al-Mohannadi (2008) in section 2.5, translators inevitably will face the problem of shifting between two discourse worlds with different ideologies when dealing with Islamic vs. Western discourses (see Holt's (2004) study below). In other words, they need to be conscious of what is considered constant, logical and/or incontestable in Islamic discourse, yet may not necessarily be so in the Western discourse and, hence, needs mediation (Katan, 2004).

From linguists', or more precisely translation researchers' point of view, features of Islamic discourse are far more intricate. The transmission of Islamic discourse from its Arab-Islamic lingua-cultural context into another, particularly English lingua-cultural context and for a new audience sheds light on other important features in this kind of discourse. Zabadi (2007) examines the translation of 17 Friday Sermons and concludes that translating religious texts is a demanding task. He stresses that, though these sermons were primarily intended to explain Islamic fundamentals to Muslims in Arabic-speaking countries, the need to communicate the divine message to non-Arabs inevitably calls for them to be translated. According to this study, Zabadi finds that Islamic discourse is loaded with the following:

- Emotively charged expressions used when referring to battles, social or political systems, Muslim leaders or the like.

- Culture-specific religious features of Islam. Islam adds new concepts to existing Arabic terms, such as “صلاة - ṣalā” (which becomes: prayer, supplication or praise) and invents new terms especially for Islamic law like “جهاد - jihād”, “هدي - hadī”, and “طواف الإفاضة - ṭawāf al’ifāḍa”. Furthermore, religious terms may have different interpretations according to the context, or refer to supernatural events ‘that lack finite or solid bases’.

- Structural and semantic repetition, such as parallelism and lexical repetition (e.g. O people, avoid the Hellfire. Avoid the Hellfire even by giving away as little as a date. Avoid the Hellfire by saying a good word), root repetition (e.g. cognate accusative: It shakes the earth a shaking), lexical couplets (e.g. mercy and forgiveness).

- Aesthetic aspects such as figures of speech, metaphor, diction, etc.

- Linguistic and semantic voids due to differences between the two languages in phonetics, morphology and syntax, in addition to the referential gaps. (Zabadi, 2007, pp.1-6)

As he is concerned with lexical errors occurring as a ‘result of the translator’s departures from the SL text’, Zabadi locates 192 errata which he divides into 7 categories (ibid, p.14):

1. There are 47 repetitive expressions (24.47%) that are mistranslated. In Arabic, structural and semantic repetitions are used as cohesive devices and for rhetorical purposes, such as persuasion, emotive involvement, emphasis and sound effects (see also Johnstone 1987; 1991). Although repetition is traditionally a figure of speech in English

stylistics, translators opted neither for translating nor for compensating for it. This resulted in toning down the discourse of the TTs.

2. Omission occurred 44 times (22.91%), thereby introducing a loss in the information conveyed to TT readers.

3. Thirty-eight (38) words were substituted with non-equivalent lexical items (حكمة

/purpose > wisdom, لتكبروا /to glorify > to magnify) which shows the difficulty the translators faced in analyzing religious STs in the first place, as indicated by Larson (1984, p.180).

4. Islamic-specific concepts, in most cases, form lexical voids. Translators need to combine more than one strategy to bridge the referential gap, such as transliteration plus paraphrasing. However, the study shows that translators aimed at approximation only in 24 instances, or 12.5%. Zakat, for example, was translated as poll tax or alms-giving, which might cause confusion and/or misunderstanding.

5. Some religious terms were transliterated 17 times (8.85%) in the TT without any explanation. This strategy certainly hinders the readers' comprehension. To illuminate the fog, an interpretation should be provided at least when the term is first introduced, within the text or in a footnote.

6. Shared concepts were directly translated in 13 instantiations (6.77%) with no further explanations to highlight differences (Allah> God, Hajj> pilgrimage); this practice was always likely to produce misunderstanding.

7. Literal translations of metaphors were found to be 9 in the TTs

(4.68%). In these cases, it is either the fact that the analogy was not very clear, or the availability of multiple meanings that made translators opt for word-for-word translation (تمسكوا بحبل الله i.e. comply with Allah's orders/ His bond/ His message> hold fast unto the rope of Allah, صبغة الله i.e. Allah's religion> Allah's own dye).

Zabadi suggests that translators dealing with religious discourse should pay more attention to the aesthetic, emotional and rhetorical aspects of meanings in addition to the referential. He also recommends that translators should acquaint themselves with religious terms and concepts in the TT culture in order to avoid confusion, and provide the TT readers with the necessary background information to facilitate comprehension (Zabadi, 2007, pp.15-39).

In the same vein, Halahla (2010) investigates the problems encountered while translating religious discourse from Arabic into English. She finds that certain characteristics in religious texts usually cause translation loss. Arabic stylistics, to begin with, is an obstacle if one aims at producing a similar stylistic effect. For example, a sentence such as “لا إله إلا الله” has been rendered as ‘There is no God except Allah’, where the two elements are semantically, but not stylistically equivalent. The ‘emphatic negation’ produced by what is called in Arabic restricted expression (the exceptional particle “إلا” preceded with a negative particle “لم, لا”) is lost here (ibid, p.21). Another difficulty is posed by rhetorical features like proverbs, metaphors, and alliteration. In most cases, these features are derived from the Qur’an and the sayings of the Prophet, as in the following proverb:

ST: الساكت عن الحق شيطان أخرس

Literally: ‘He who keeps his mouth shut concerning what is right is a

dumb Satan’ or ‘To refrain from saying the truth is satanic’ (ibid, p.24)

It is difficult for TT readers to infer that this proverb is a saying of the Prophet if this has not been clearly indicated. Moreover, the TT readers may not understand or agree upon the similarity between the two situations. Thus, a loss in the connotative meaning and/or the image is inevitable in this case. Halahla (ibid) also stresses that religious texts are bound up with archaic Arabic words (e.g. الوسواس الخناس, i.e. the evil of the retreating whisperer), hapax legomena (e.g. الموقوذة, see Section 3.1.4.3), religious terms with different shades of meanings (names of the deity such as “الصمد”, which indicates ‘total perfection of might, power, wisdom, knowledge and honor in Arabic’, usually translated as ‘Eternal or Almighty’) or that form lexical gaps (e.g. سحر, a meal to be eaten before the dawn as a preparation for fasting), polysemy (e.g. كفر, which means unbelief, cover, or unthankfulness), collocation (the word ‘honorable’ is collocated in the religious text with the Prophet’s ‘sayings’, ‘head’, ‘hand’, etc. to indicate the writer’s/speaker’s attitude, e.g. ‘His honorable face’) and connotation (there are, for example, three words in Arabic for “sword”, each of which has a different connotation: سيف is neutral, سيمهه means the sword in its sheath, while حسام refers to a very sharp one). She adds that other features that are not necessarily religious but culture-specific are of great importance for the optimum conveyance of the message, such as verses of poetry, legendary figures, historical events and names of places, plants or animals. Untranslatability (see Section 2.4), as the study shows, occurs when a situation or a concept belongs to the ST cultural context, yet is absent from the TT’s (Halahla, 2010, pp.14-26). Halahla alerts translators to the need to take into consideration the attitudinal language (we shall refer to this when we discuss it in Chapter 5 below) in religious texts where emotive terms are used to ‘express or arouse emotional responses’ (ibid,

p.30). She urges translators to use a wide range of resources, which should consist of:

1. Reliable sources on Qur'an interpretations and Sunnah,
2. Encyclopedia of Islam, and Encyclopedia of World Religions,
3. Arabic/English dictionaries of Islamic terms,
4. Arabic/English dictionaries of Rare Words, and
5. Arabic/English CAT tools. (ibid, p.31)

Halahla, much like Siu (see Buddhist scripture translation, section 3.1.3), emphasizes the usefulness of computer systems in facilitating translators' work. Finally, she proposes that translators should render the ST as closely as possible, and at the same time produce a TT that sounds natural. Untranslatable items are better explained in footnotes, as she suggests.

Similarly, some translation specialists in the West are aware of the complex nature of this genre. Holt, in his article 'Translating Islamist Discourse', brings to the fore two important points:

Firstly, it is a discourse that attempts to speak from outside the orbit of the West and to challenge notions of universality based on European models, yet few in the West are aware of the basic tenets of this ideology. (Holt, 2004, p.63)

According to Holt, Islamists, via their discourse, draw lines between themselves and others. This means that translating Islamic discourse first and foremost entails a shift in the discourse world from a worldview that sees the religion as a frame to analyze all kinds of human activities, whether political, social, moral or whatever, into a more secular western world of discourse (see also Krämer, 2015; and Al-Mohannadi, 2008, p.531; see also Section 2.5 on ideology). Holt

adds:

Secondly, these texts bring with them specific problems for the translator, especially concerning intertextuality, rhetorical devices unfamiliar to most English speaking readers and, above all, the connotative and affective aspects of Islamic terminology so consistently used by Islamist writers to persuade their Arabic readership of the truth, moral justifications and even inevitability of their arguments. (Holt, 2004, p.63)

For Holt, religious discourse has certain features that are employed to enhance the interpersonal function of language (i.e. tenor of discourse, see Introduction and Table 4.1), yet at the same time are alien to the English-speaking readers, a point that adds a burden on the translator's shoulders. In an attempt to assess the translator's success in solving such problems, he compares the translation of the widely read book among Islamists known in English as *Milestones* to its Arabic source text, "معالم في الطريق". He finds that the translation is overwhelmed with what he has called 'Arabicness', i.e. using Arabic words and expressions (ibid, p.68). This shows that foreignizing is the dominant translation strategy applied for this text. He arranges Arabicness into 4 sets ranging from the least to the most unfamiliar ones to the TT audience:

1. Borrowed words of Arabic found nowadays in most English dictionaries, such as Allah, Hijab, etc. These words 'retain phonetic features of the original', so they sound foreign to the TT readers.
2. Qur'anic and Hadith quotations translated into the TT. Some of these quotations were not included between inverted commas, which makes for some confusion.

3. Arabic quotations transliterated using italic font. Although within-the-text notes were provided the first time the quotations appeared in the TT, it is difficult for the non-specialist reader to remember them afterwards.

4. Arabic concepts and words transliterated sometimes without explanation, such as jahiliyyah = ignorance, din = religion. Worse still, some of these terms are not in the ST but added by the translator. (Holt, 2004, pp.68-9)

Holt concludes that code-switching in the translation may result in excluding TT readers who are ‘familiar with only one of the codes’. He suggests a domesticating approach where even some allusions to the Qur’an in the ST can be illuminated by using similar biblical expressions (e.g. الصراط المستقيم / ‘the straight path’, should be rendered intertextually as ‘the straight path’ instead of transliterating it), (ibid, pp.71-2). He stresses:

I am not suggesting that all references to the Arabians of the source text are to be avoided. This would result in an extreme form of cultural translation where key Islamic concepts were, for example, translated into Christian terms and where the geographical setting of early Islam would be transposed, say to Britain. (ibid, p.70)

What Holt proposes here is a balanced approach that would not deprive the ST of its salient features, yet at the same time would reach ‘a wider audience’ (ibid, p.74). This is true especially when these religious texts are of great significance, i.e. key cultural texts, and at the same time not regarded as sacred or untranslatable. Such texts necessitate and the overt translation that keeps the ST intact while, in House’s words, enabling TT readers to ‘eavesdrop’ on what is going on ‘albeit at a

distance' (House, 1997, p.112). This will be the focus of this study, to be discussed further in Chapters 4 and 5 below, which will seek to counteract the fact that little work has been done so far on translating as well as assessing the translation of Islamic discourse.

2.20 Islamic sharia terms

Expression or a new concept in Arabic comes from the Holy Quran, Sunnah, and Islamic jurisprudence. This includes three kinds of terms in the Arabic Language:

- New terms were originally not part of the Arabic language vocabulary such as Zakat, Jihad, etc.
- Terms that already exist in the Arabic language but semantically new such as fasting and pilgrimage, etc.
- There are Islamic terminology that agreed with the Arabic language terms in the form and content such as peace, war, punishment, etc. (Our translation, Hasan Ghazala, 2004, p. 84).

2.20.1 Definition of Islamic Religious item

Linguistically, an item is a word or a group of words that belong to a specific language and expresses it accurately (Hejazi:1996). Al Jabry (2007) also states that an item is a group of certain utterances that refer to a specific meaning or meanings.

If we consider Islamic religious items as culture-specific items or culture-bound items, then there is a need to offer the definitions of these items based on the viewpoints suggested by prominent scholars in the field of translation as well as linguistics. To Newmark (1988, p.94), culture-bound terms are particularly “tied to the way of life and its manifestations that are

peculiar to a community that uses a particular language as its means of expression.” whereas Schwarz (2003, p.14) defines culture-bound terms as “concepts in any language that are unique to that language or to the culture associated with that language and create a cultural gap between speakers of different languages.”

As for religious lexical items, Elwa (2014) classifies them into three categories in the Islamic context; 1) unfamiliar Islamic terms that are only used in Islamic contexts such as *altaqiyah* „dissimulation“, and *alkhul'* „divorce for payment by the wife“; familiar Islamic terms that are only used in non-Islamic contexts such as *alwala'* „allegiance to Muslims“, and *alfat-h* „liberation“; and 3) familiar Islamic terms that are also used in non-religious contexts, but which do not obviously look as if they are being used in some Islamically specialized way in the ST such as *almukatabah* „liberation by virtue of an agreement with a slave“, *alhajb* „exclusion of some relatives from inheritance“. Ghazala (1995) classifies the Islamic religious items into three categories; 1) new items that have not existed in the Arabic language before the advent of Islam such as *Qur'an* and martyrdom; 2) familiar Arabic item that Islam gave it new implications such as *Salah*, and *Hajj*; and 3) items that are already known and used in the Arabic language such as *K'aba*.

2.20.2 Translating Islamic sharia terms

The necessity of translating Islamic texts from Arabic into English has been a must and at the same time, a challenge for Muslim translators in general and Muslim Arab translators in particular since a large number of people of different nationalities, languages, and ethnicities have entered into Islam recently. So, there is a great need to spread the right teachings of Islam. In Saudi Arabia, for example, Fahd complex has been established to offer many translations of the Qurʿan. The complex adopted the policy of calling for Islam among non-Muslims by offering a complete translation of the Holy Book in different languages. Recently, another great project has been made by the General Presidency of the Two Holy Mosques Affairs. It aimed at highlighting the true and right teachings of Islam through translating the weekly sermons delivered at the two Holy Mosques.

Since fewer than 20 percent of Muslims speak Arabic, this means that most Muslims get their knowledge about the religion of Islam only in translation. So, there is an urgent need to spread the teachings of Islam among non-Muslims through the tool of translation. When translating, you are faced with the problem of Islamic religious items that are called culture-bound or culture-specific items (Schwars, 2003). These items require special attention in translation so as to convey their right meaning and to avoid any misunderstanding or wrong interpretation by the reader of the translated text. The role of the translator of Islamic religious texts goes beyond the process of translation to the role of calling to Islam. He has become a preacher and a true caller to Islam so he has to exert his utmost effort to be as honest as possible through renewing his intention and being faithful in his translation.

Islamic term is a compound term that consists of two words, Al Arū (2009) defines it as individuals' mutual agreement to call something with a particular name or use a particular word from one denotative meaning into another appropriate one. Whereas, Adardu' (N.d.) explains Islamic terms as technical words that belong to the religious domain and were developed by the advent of Islam or already known by Arabs.

Considering the fact that the translation of Islamic terms encounter obstacles related to the connotation of words and scope of denotation from Source Language (SL) to Target Language (TL); As a result, translators have two choices: either the term exists in the TL and they only have to find it, or the term does not exist in the TL and they have to search for the correct and accurate equivalent. Such choices direct translators to use Domestication strategy or Foreignization strategy.

2.22 Strategies of Islamic sharia Terms Translation, Foreignization and Domestication

Translation strategies have improved over time to help translators conquer numerous linguistic and cultural impediments resulted from the differences between languages and cultures.

Yang (2010) refers to “Domestication and Foreignization are two basic translation strategies which provide both linguistic and cultural guidance” (p.1). Some of the researchers argue in support of one strategy, whereas others choose the other. Venuti (1995) is one of the supporters of Foreignization strategy and argues that translators have to maintain the foreign elements of the SL with the purpose of registering the linguistic and cultural difference of the TL. While Nida (1964) stands up for the Domestication strategy and asserts that translators succeed when they

minimize the foreignness and strangeness of the SL so the linguistic and cultural expectations of the recipients are met.

According to Venuti (1995), Domestication is “an ethno-centric reduction of the foreign text to target language cultural values, this entails translating in a transparent, fluent, ‘invisible’ style in order to minimize the foreignness of the [target language]” (p.146). Foreignization, on the other extreme, as stated by Venuti (1995) is “an ethno deviant pressure on those (cultural) values to register the linguistic and cultural difference of the foreign text, sending the reader abroad” (p.20).

In other words, Domestication according to Munday (2001) aims at rendering the strangeness of the source text into the cultural standards and values of the translator, and considering what is outside their framework, i.e. odd, negative and it is better to be supplemented and configured in order to contribute to the enrichment of this culture. Through this strategy, the researcher unveils cultural, linguistic and religious differences of the SL to help the recipient of the TL. As for Foreignization, it is opposite to Domestication as it separates the translation of the SL from the intolerance to mother language and culture, so that the translated text does not go under the specifications of the TL, and remains odd.

Translating Islamic terms from Arabic into English is considered one of the conspicuous translation problems. The inquiry that needs to be investigated is that which translation strategy should be used in translating the Islamic terms.

Translating Islamic terms cannot be separated from their meanings according to Hassan (2009). Mameri (2006) believes that the role of literal translation in the transference of Qur’anic translation preserves the characteristics of Qur’anic words, concepts and relevant notions. It can be

noticed that Foreignization strategy is a confirmation of the fact that Qur'anic translation goes beyond the informative function since it transfers the foreignness and alterity of Qur'anic experience into the TL reader without the attempt to adapt its inherent Islamic religion-specific concepts and terms.

Accordingly, Islamic terminology translation should be in correspondence to Foreignization strategy as it is the most favorite one for translating Islamic terms into English, as it reveals the religious and cultural differences between Arabic Islamic terms and English counterparts. Such terms are culture-specific words, in other words, they are inherent Islamic religion -specific words (Nida, 1964). Moreover, Al Khatib (2001) adds that Foreignisation translation method is preferable because it carries the culture of the source text which is required and significant in the text of Quran. However, the reader of the TL will not be very comfortable in reading the text.

2.23 Skills required for Islamic sharia terms Translation

In popular belief, to translate, a person only needs reasonable knowledge of a foreign language; long and varied experience; and a few good dictionaries. Traditionally, any good translation requires that 1) It must make sense;2) It must convey the spirit and manner of the original;3) It must have a natural and easy form of expression;4) It must produce a similar response. (Nida: 64)

Translation is an art as well as a science so the translator does not only need to master two languages at least but to make full use of his competence and abilities to produce adequate as well as accurate translation. Kholosi (1986) as well as Nida(1964) conclude that the spirit of the text is as equally important as the words and structures included in the text. Both of them think that meaning of words are not fixed and could be

changed as they are not dead words. It can be said that extreme precision owing to the sensitivity of the subject as an integral part to the linguistic structures should be considered about when translating Islamic religious texts.

Other scholars in the field of translation look at reading as one of the main tools that help the translator fulfill his duties towards the text. (Abu Reesha: 2012). On the other hand, Enani (1996) states that mastering writing skills of the source language as well as the target language is a must when translating any text.

Success or failure in translating religious terms is due to more than one reason. Therefore, a translator of Islamic religious terms needs to be competent in his mother tongue so that he can be aware of the connotative as well as the denotative meaning of the term in each Islamic context he translates from. He also needs to be well knowledgeable of his religion (beliefs, attitudes, values, and the rules of the SL audience) in order to adequately understand the ST and adequately translate it for people who have a different set of beliefs, attitudes, values, and rules (Naguib:2002). He is required to use the appropriate equivalent if it is available or use the appropriate strategy if it is not.

A Translator of Islamic religious text is required not only to be bilingual or multilingual but also to be bicultural, or multicultural, armed with good knowledge of as many cultures as possible (Vemeeer 1986). In the words of Gerding-Salas (2000:2),

The translator plays an important role as a bilingual or multi-lingual cross-cultural transmitter of culture and truths by attempting to interpret concepts and speech in a variety of texts as faithfully and accurately as possible. He

also needs to make culture familiar to readers, by means of changing the Source Language culture into the Target Language culture in translation (Fawcett, in Baker, 1998)

A translator is considered to be the “first reader” of the other culture so he is responsible for introducing the other in a primary source. To do so he needs to be an avid reader so that he could produce meanings which are acceptable for the cultural community the reader belongs to (cf. Wolf, 1997:128).

The translator should put into his mind that he has certain limits that he must not go beyond. He should know that he must avoid incorrect interpretation or stay away from any involvement in any forbidden area. He is not totally free to change, modify or alter the original text or do whatever he likes as Nida did when he translated the Bible. He must stick to certain strict norms and rules while dealing with religious terms translation.

A translator of religious texts from Arabic into English must take into account several factors when translating 'sensitive' texts from Arabic into English. Translating Arabic religious texts involves not only problems at a linguistic level, including lexical and syntactic manipulation and the reformulation of concepts, but also ideational hurdles that need to be mediated between the source text producer and reader. (Chebbo: 2006)

As Carbonell (2004) suggests, how much 'alien elements and their references are reduced to familiar references' is something that needs to be weighed against the translator's loyalty to the source text and the Arabic language itself. Translators now have to pay more attention to the

relationship between cultures, because the meaning of words and texts depends so largely on the corresponding cultures. (Nida: 1994)

As for translating Islamic religious terms, there are some terms that the translator still have some doubts about or unsatisfied with their translation. Such feelings stem from the lack or absence of adequate equivalence in the target language. Hence, the translator finds himself in front of a serious challenge that he must overcome and find solution to it. (Mahmoud: 2014) While doing so, he has to put himself in the place of the target reader so that he could be able to select the best solution that the target reader could understand. The message of the text is highly important but the form is also vital to convey the message in the best way.

2.24 Difficulties of translating Islamic sharia terms

Translating Islamic religious terms, in the main, is problematic. It seems to be one of the most recurrent challenges and difficulties encountered by translators.

The main problem lies in finding the right lexical as well as cultural equivalent for such terms. One of the main problems for the translator of Islamic religious terms is to decide on which cultural issues should take priority: the cultural aspects of the source language, the cultural aspects of the target language, or perhaps a combination of the two. In his translation of the Bible, Nida (1964) gave priority to the cultural aspects of the target text when he focused on the semantic as well as the pragmatic nature of the meaning. He argued against fixed or unchanged meaning of words. For him, the functional nature implied in the meaning of words are rather important so he stated that the meaning of words can be obtained through

the context and it could be changed through the culture in which they are actually used. According to Nida and Taber (1969/1982), cultural translation is "a translation in which the content of the message is changed to conform to the receptor culture in some way, and/or in which information is introduced which is not linguistically implicit in the original". Therefore, your choice of a certain cultural strategy may result in source-culture bound translation either foreignisation or domestication.

Another problem is reflected in the inability of the targeted equivalent to convey the same meaning implied in the source equivalence. For example, when we are faced with words such as wudu, or itikaf, we instantly think of the lexical English equivalents, ablution and seclusion. By checking their definitions in dictionaries, we will find out that these words are used to refer to rituals or acts that contradict with their original meaning in Arabic. The word, "ablution" for example is defined in Merriam Webster Dictionary as;

1. The washing of one's body or part of it

2. The act or action of bathing

Both previous meanings fail to convey the implied meaning in the Word Wudu which is used to refer to the Islamic procedure for washing parts of the body using water, typically in preparation for obligatory prayers (Salat), but also before handling and reading the Qur'an.

The same issue applies to the word seclusion which is defined in the same dictionary as:

1. The act of placing or keeping someone away from other people : the act of secluding someone

2. The state of being away from other people: a secluded state or condition.

Whereas in Islam the word I'tikāf is used to refer to an Islamic practice consisting of a period of retreat in a mosque for a certain number of days in accordance with the believer's own wish. It is most common during the month of Ramadan, especially the last ten days.

Among the challenges that face the translator of Islamic religious terms is the absence of the equivalence in the target language. Words such as *iddah* or *iddat* have no equivalent in the English as there are no such cases in their religion or beliefs. The word refers to the period a woman must observe after the death of her spouse or after a divorce, during which she may not marry another man. Its purpose is to ensure that the male parent of any offspring produced after the cessation of a *nikah* (marriage) would be known. The length of *iddah* varies according to a number of circumstances. The *iddah* of a woman divorced by her husband is three monthly periods, unless she is pregnant in which case the „*iddah* lasts until she gives birth, or unless the marriage was not consummated in which case there is no `iddah, or unless she does not menstruate, in which case "the scholars say that she should observe an „*iddah* of a full year, nine months for pregnancy and three months for „*iddah*." For a woman whose husband has died, the `iddah is four lunar months and ten days after the death of their husbands, whether or not the marriage was consummated. The period, four months and ten days after the death of a spouse, is calculated on the number of that a

woman has. It is a very rich term that implies a lot of meanings in Islam. However, it triggers the outbreak of unexpected problems. Another example is represented in the word Tayyammum which literally means an 'aim' or 'purpose.' In Islamic Law, it refers to 'Aiming for or seeking soil to wipe one's face and hands with the intention of purification and preparing oneself to pray, and so on." This act of ritual cleansing is proven by the Quran, Sunnah (prophetic tradition) and Ijmaa' (consensus of Muslim scholars).

One of the problems that arise when translating Islamic religious terms is the rich implications included in it that makes the equivalent even if it is available in the target language unable to convey the same message. When translating a word like "Infaq" which is one of the main pillars of the Islamic economic system and of Islam itself as a religion/faith and a way of life. Literally, Infaq is the Arabic word for spending. However, it implies other meanings related to the purpose as well as the intention of spending which is not included in the word "spending". In addition to Infaq, there are few other terms that are used along with their derivatives in the Qur'an and the Sunnah to indicate the same connotation of meaning with emphasis on different shades of giving. Sadaqa is giving out of a truthful heart and normally used for charitable giving, „Ata“ is handing out, Jihad bi al Mal is making concerted effort to give funds to support the cause of God, It'am is giving food „Ita“ is reaching out with the giving, Nahl and Inhal ٺ is giving without compensation, etc. The word Infaq, its synonyms and their derivatives are mentioned in the Qur'an 167 times. That is much more than the famous four practical Pillars of faith put together. In the Traditions of the Prophet Muhammad, pbuh, they appear innumerable times. (Kahf: Notes on Islamic Finance)

The cultural conflict between the Islamic Arabic term and its English equivalent seems to be among the problems that the translator faces in translating an Islamic religious term. In this case, the equivalent seems to be found but it actually may create a kind of misunderstanding for the target reader. Some translators tend to use the word, “conquest” or “occupation” to refer to Fath Mahhak. Both of the words misinterpret the actions made by the Prophet and his Companions when they entered Makkah. They did not actually conquer or occupy it since the Prophet, peace and blessings be upon him, emphasized on refraining from fighting unless Quresh attacked. The Muslim army entered Mecca on Monday, 11 December 629 (18th of Ramadan 8 hijrah). The entry was peaceful and bloodless entry on three sectors except for that of Khalid's column. By checking the meaning of the word, “conquest”, we will find that it is used to refer to the act of taking control of a country, city, etc., through the use of force”. As for the word, “occupation”, it is defined as “the act or process of taking possession of a place or area”. The previous definition seem to be more appropriate than the first one but it also implies the meaning of seizure which represents the act of taking control of something especially by force or violence.

Gender is no longer an inflectional category in Modern English (Huddleston and Pullum. 2002) The only traces of the Old English gender system are found in the system of pronoun–antecedent agreement, although this is now generally based on natural gender – the sex, or perceived sexual characteristics (or asexual nature), of the pronoun's referent. Another manifestation of natural gender that continues to function in English is the use of certain nouns to refer specifically to persons or animals of a particular sex: widow/widower, actor/actress, cow/bull, etc. however, the absence of distinction between masculine and feminine is considered to be

among the main problems that the translator faces when translating Islamic religious terms. For example, when translating words such as Mushrik and Mushrekah, the translator has no solution except resorting to the strategy of addition so as to highlight the differences between the two words in gender. Another more serious problem arises when translating the daughters of your 'Ammah (paternal aunts) and the daughters of your Khal (maternal uncles) and the daughters of your Khalah (maternal aunts) who migrated (from Makkah) in Aya 50 in Surat AlAhzab.

English nouns are inflected for grammatical number, meaning that if they are of the countable type, they generally have different forms for singular and plural. However, there is no specific form that can be used to refer to two people or two objects in English. You have either to use two, both or either. These causes a problem for the translator of Islamic religious terms as there are a lot Islamic Arabic terms that refer to two people or two objects. For example, when translating the word, “Aidaihoma” in Surat Al-Nur, you will find out there is no specific structure that can be used to refer to two objects or two people.

It is commonly known among translators that it is extremely difficult to use the same strategy in translating all cultural terms in a certain text. However, Ginter (2002) state that it would be worth observing how some translators resolve the problems that arise when the elements of one culture should be transposed to the environment of another.

2.25 Translating “culture-specific words (“The absence of source term in the target culture (untranslatability)).

In the process of translation the translator encounters problem, particularly, the translator who dealing with religious and creative

texts, this problem is “Untranslatability”.

This phenomena is a very plain in translation, it is caused by the difficulty in finding the direct target language word as an equivalent of the source language word (Rizki Gunawan 2011, p. 17). Catford (1965, p. 94) states that untranslatability or translation fails happens when it is “impossible to build functionally relevant features of the situation into the contextual meaning of the TL text”. In addition, Newmark (1988, p. 79) is another famous researcher who argues that untranslatability occurs if “a word whose meaning cannot be rendered literally and precisely by another word...” According to Catford there are two types of untranslatability. They are:

Linguistic untranslatability: Is due to differences in the SL and the TL (Bassnet, 2002, p.39). Thereasonofthisuntranslatabilityisthelinguisticside.Itoccurs“Ifthe TL has no formally corresponding feature, the text, or the term, is (Relatively) untranslatable” (Catford, 1965, p. 94).

- Cultural untranslatability: It is the untranslatability caused by the cultural level. It is refers to when a relevant situational feature for the SL text is absent from the culture of the TL, that is to say, some features imbedded in a culture which has not found in otherculture.

Christopher Moore (as cited in journal of king Saudi university- languages and translation 2011, p. 51) makes a list of words which he describes “ the most intriguing words around the world”. According to him, in Arabic there are words which have no equivalent such as “halal”, “haj”, “Baraka”, etc. These words are untranslatable, i.e. they are difficult to translate them into English. Hence, he regards Arabic as

a language that “must surely come at the summit of the word's untranslatable tongues”.

2.25 Culture-Bound terms

In the Oxford Advanced Learner's Dictionary (2004, p. 306) culture defined as “the customs and beliefs, art, way of life and social organization of a particular country or group”.

Newmark in his book “A Textbook of Translation” (1988, p. 94) defines culture as “the way of life and its manifestations that are peculiar to a community that uses a particular language as its means of expression”. Furthermore, Wierzbicka (1992, 1996, 1997) as quoted by (Nader Al-Jallad, p78) “maintains that each culture has key concepts that are essential in understanding it” which means that each culture has a language and this language has specific terms which makes it special from other cultures because language is the heart within the body of culture as Bassnett (1980) viewed, also she emphasized the significance of considering both language and culture in translation process.

Baker in her book “In Other Words” (1992, p. 21) stated that “the source language word may express a concept which is totally unknown in the target culture. It may relate to religious belief, a social custom, or even a type of food”.

Culture-bound terms refer to concepts which are specific to the SL culture, but they are totally unknown in the TL culture. (Palusz Kiewicz, 2005, p. 244).

Cultural words are difficult for the target text reader to understand. According to Harvey (2003, p. 02) “culture-bound terms refer to concepts, institutions and personnel which are specific to the SL culture”. (Rahimkhani and Salmani, 2013, p. 782).

Schwarz (2003, p.14) as quoted by (Pirnajmuddin and Zamani) (2012) defines culture- bound terms as “concepts in any language that are unique to that language or to the culture associated with that language and create a cultural gap between speakers of different languages”.

Bahameed gives some examples of culture-bound concepts from Arab culture that would be difficult to translate into English. E.g. سحور sahuur (a meal is eaten before the dawn for fasting), تيمم Tayammum (the use of sand for ablution when water is unavailable). (Bahameed, 2008).

2.27 The lexical gaps

A lexical gap as a term is more common than a lexical hole, and it is used by many linguists and translation specialists. Lexical gap in religious translation seem to be too thorny problem. (Mehdi F Al-Ghazali, 2000, p. 01).

According to Cvilikaite (2006, p. 127) the term refers to “a lack of lexicalization detected in a language while comparing two languages or in a target language during translation”. Hence, for him “redundancy” is a lexical gap, because it is a free-word combination.

Darwish (2010), as quoted by (Rahimkhani and Salmani, 2013, p. 783), for him the term lexical gap can occur in several different occurrences during translation:

- Whenever a source language expresses a concept with a lexical unit whereas the translated language expresses the same concept with a free combination of words or with phrases.
- The denotation of the same concept may vary from one language to another, so here may exist a lexical gap.
- It occurs where there is a cultural gap or when the concept is absent in the target language.

In the following example "صلاة الاستخارة" as a term has a lexical gap in the target language, it is rendered into English as "Sallat al-istikhaarah" (the prayer asking Allah's guidance to make a good choice). (Shribi, 2012, p.65).

2.28 The problem of reception

Hans-Robert Jauss is known for his theory of "reception" that appeared in Germany between 1960 and 1980. (Clara Srouji-Shajrawi, 2013, p. 02), Jauss focuses on the reception of literary works rather than the production, accordingly, the work of art is determined by the nature of the reader's reaction " spontaneous success, rejection or shock, scattered approval, gradual or belated understanding" (Richard L.W. Clarke, p. 02). That is to say, the reader is the only one s/he has the right to give the legitimacy of literary work.

Specifically, this theory has not confined to the field of literature, but also can apply it in translation practice.

In late 80s and early 90s of the 20 century, reception theory was

entered to translation study, and the translation researchers started to shed light on the role of the reader in the translation process, moreover, they focus on the acceptance of translations by the target reading public. (Liangqiu LV, puyuning, 2013, p. 114). Hence, the problem of reception when translating religious terms to be established in the kind of the target reader, there are three kinds:

- Arab-Muslim: s/he considered as the source reader, s/he has pillars enable him/her to comprehend deeply the Islamic terms.
- Non-Arab Muslim: s/he has less ability for comprehensive understanding comparable with the first type.
- Foreign non-Muslim: here, there is too thorny problem when translating to him religious terms, because of the differences in culture, language and religious. (Fahima Bousaid, 2011, p.46).

2.29 The Strategies of translating legal specific terms

2.29.1 functionalequivalence

Some researches consider this strategy as the ideal and the preferred procedure, while others regard it as “misleading”. The term used for translating culture-specific term by a culture-free word. (Newmark, 1988, p. 83).

Newmark (1988) described the functional equivalent as “this procedure, which is a cultural componential analysis, is the most

accurate way of translating .i.e. decultrealising a cultural word”.

According to M. Harvey, the purpose of using the functional equivalence is to achieve the communicative impact in the target text that the original text did upon the ST audience, thus, the translation “doesn't" sound like a translation”.(Nida and Taber, 1982, p. 12).

As Sarcevic (1988, 1989) quoted by Darani (2013, p. 05), defined the legal functional equivalent as “a term in the target legal system, designating a concept or institution, the function of which is the same as that in the source legal system”.

2.29.2 Formal equivalence

Strategy of formal equivalence focuses on the message itself, in both form and content. According to Nida (1964, p. 165) “formal equivalence translation is basically source- oriented; that is, it is designed to reveal as much as possible of the form and content of the original message”

Also Nida claims that formal equivalence strategy is to remain as close to the source text as possible by reproducing various formal elements such as in translating concept to concept, sentence to sentence, idiom to idiom and poetry to poetry.

This strategy is also called literal translation, because it tries to preserve the semantic content of the SL term intact for the TL users. The main advantage of this strategy is the plainness of equivalents but if it is too used, the target text becomes ambiguous. (Januleviciénė and Rackeviciénė, 2011, p.1078).

According to Harvey, formal equivalent can be a neologism. The

legal translator should check the term in TL legal system. This will help to avoid calque.

So, this strategy implies greater respect for the SL system by presenting it on its own form and content rather than superimposing the TL system.

2.29.3Borrowing

It is also called (cultural borrowing), this strategy uses an original form of the SL term; it is also called transcription (Januleviciené and Rackeviciené, 2011, p. 1078).

According to Vinay and Darbelnet (1958, p. 31-32), borrowing is the simplest strategy, they said that “in order to introduce the flavour of the SL culture into a translation, foreign terms may be used”.

Transcription or borrowing is transliterating the original term. Also, in other cases, especially where the source language is unknown to the reader, transcription is accompanied by a gloss translation. (Harvey, p. 05).

Also according to Dickins et al. (2002) “the first alternative is to transfer an ST expression verbatim into the TT. This is termed cultural borrowing. It introduces a foreign element into the TT”. (p.32).

In this book also borrowing is so-called transliteration by rendering the culture- specific term for examples: إمام (imam), شيخ (sheikh), الله (Allah).

By using this strategy the translator may add glossary at the end of the book or s/he uses footnotes to make the translation clearer and simpler

to the reader, it is sometimes possible to insert an explanation or partial explanation into the TT besides the cultural borrowing term. For example: واعترضت قلة منهم بحجة أن الهلال والنجمة في أمريكا بدعة تخالف الإسلام

A few of them objected, on the grounds that the American use of the Crescent and Star is bid'a. ("Innovation", which Islam opposes). (Dickins, Harvey & Higgins, 2002, p. 33-34).

2.29.4 Description

Self-explanatory translation uses a short explanation in order to convey the meaning of the term; this concise paraphrase can become a quasi-autonomous term equivalent. (Harvey, p.06).

By this strategy the target reader can avoid ambiguity and realize the meaning easily without the need for borrowing or any other sources. (Januleviciénė and Rackeviciénė, 2011, p. 1079)

According to M. Harvey, a descriptive translation can be seen as "a compromise solution, avoiding the extremes of both SL- and TL-oriented strategy", an example typifies this strategy is the Arabic term *نشوز* can be rendered into English by the term (unlawful desertion). (Sabrah, 2003, p.190).

2.29.5 Calque

A calque is a translation strategy which is defined as "an expression that consists of TL words and respects TL syntax, but is unidiomatic in the TL because it is modeled on the structure of an SL expression." (Dickins, Hervey, & Higgins, 2002, p.31).

A calque is a loan translation, in accordance with Vinay and Darbelnet (1995, p. 32), this procedure refers to “a special kind of borrowing whereby a language borrows an expression form of another, but then translates literally each of its elements”. Hence, they mention two types of calque: lexical and structural.

2.29.6 Translation by omission

Translation by omission, as judged by (Dickins et al., 2002, p. 23), is “The most obvious form of translation loss is when something which occurs fairly frequently in Arabic/English translation”. In fact, the translator can omit a particular term or expression in some context in order to avoid the reader's distraction with lengthy explanations. (Baker, 1992, p.40).

Moreover, according to the cultural differences there can be a simple omission, which may be considered as a reasonable strategy. For instance, "الشيخ بيار جميل" translated as "Pierre gemayel" the word الشيخ is omitted in the target text (Dickins, Herevy & Higgins 2002, p.23).

Nida (1964, quoted by Binh 2010, p. 47), he claims that this translation strategy is applied when there are a redundancy and awkwardness.

2.29.7 Translation by addition

As defined by (Dickins et al., 2002, p. 24), “translation by addition

is translation in which something is added to the TT which is not present in the ST. like omission; addition is a fairly common feature of Arabic/English”. Accordingly, they provide their definition with an illustrative example that typifies this strategy:

"منذ الهيمنة التركية" translated as “ever since the days of Turkish hegemony ”instead of ”ever since Turkish hegemony” or “time of Turkish hegemony” would also be possible. (Dickins, Hervey & Higgins 2002, p.24).

2.29.8 Transcription/Transference/Transliteration

It is called transference because it is a representation of speech sounds in phonetic symbols, i.e. rendering Source Language sounds into Target Language form (letter). It is the transference of the Source Language word into the Target Language Alphabet exactly as pronounced. It is also called transliteration because the translator transcribes the Source Language characters or sounds in the Target Language (Bayar, 2007). “Transliteration,” - essentially means converting word(s) in one language to word(s) in another language by means of their close approximation in sound. This is usually done because it's more intuitive or easier; and because meaningful corresponding word(s) simply do not exist in the Target Language (as is oftentimes the case with names and places). In other words, this strategy is also called transcription as it refers to the conversion of Source Language letters into the letters of the Target Language. Perhaps this strategy is the easiest, most common and most frequent to be used among all strategies of translating religious as well as cultural terms. For example, in Arabic, the word Allah is the standard word for "God". This Arabic word has been adopted into the English language, so it has become

English. In the same sense there are some Latin phrases that have become part of the English language (de facto, de jure).

On the other hand, there are some researchers who believe that the use of transliteration rather than translation may participate in creating a negative impact on the non-Muslim western addressee, especially when that addressee is not well-acquainted with Arabic language and Islamic studies. (ElShiekh, Saleh. 2011).

2.29.9 Transcription with little illustration

From my point of view, this is one of the best strategies that the translator can use to overcome the problem of translating Islamic religious items. It seems to be among the best strategies ever used as it preserves the original item in the source language as it in addition to a short explanation that make the target reader able to get the meaning implied in such an item. It keeps the transcription of the item and helps spread it among the people of the target language. This can be touched in the translation of words such as the following;

hajj (pilgrimage to Makkah)

Ijlaal (glorification associated with love)

Al-Birr (virtuous deeds)

An-Nusub (Stone- altars)

Nutfah (mixed drops of male and female sexual discharge)

2.29.10 Transcription with paraphrasing

Some Islamic items are compressed in meaning such that a long target language paraphrase is sometimes required to give even a rough denotative

equivalent of the source language term. The translator finds himself unable to convey the message included in a certain specific item by using the strategy of transcription or the strategy of transcription with a little explanation. Therefore, he finds no option except using this strategy which he finds helpful to him in conveying the message. For example, we as a team responsible for translating Friday Khutbah delivered at Al-Madinah Mosque were translating a Khutbah about Fear of Allah. The orator used more than one word to refer to this topic such as Khawf, Khashyah, Wajal, and Haybah. We decided to use this strategy as the best option so that the target reader could understand the difference between these various Islamic religious items. They were translated as follows;

Khashyah (a quality that is particular of the people knowledgeable of Allah and more specific than khawf) Wajal (the shivering and breaking of the heart when remembering the One it fears, His authority, punishment or seeing Him) Haybah (fear from Allah associated with glorification and reverence. Its peak is achieved when love and knowledge are strongly combined).

2.29.11 General Sense

It is a kind of strategy that ignores the cultural charge of a source text item, may be because there is no cultural equivalent in the Target Language. The item is translated into its general sense with its cultural implications. The translator can resort to this strategy when he fails to find an equivalent. He gives a more general alternative that implies some of the cultural features of the item. This strategy avoids direct translation as it could be ambiguous, misleading and strange. For example, the word “Buraq” is not available in English language. It is associated with the prophet's ascension to the heavens. It is translated as “animal” based on the description given by the

prophet. However, the word, “animal” which is a general term refers to the whole class of animals. However, the researcher thinks it would be better if we add more sense to the translation. He thinks, it could be translated into “speedy horse-like creature” which matches the description given by the Prophet, peace and blessings be upon him, when he was asked about it. The same strategy can be used when translating a word like “Dabb” into English. It cannot be translated literally because this kind of animal is not known in the foreign culture. It can be translated using the general sense of the word into “spiny-tailed lizard” or “a fat-tailed lizard” to be more specific, it can be translated into “dabb lizard” which combines the general sense of the word in Arabic as well as the Arabic name given to this lizard.

2.29.12 Literal Translation of Meaning

Although a number of linguists confirm that it is rare or even impossible to find an absolute synonymy, there is hardly any doubt that partial synonymy does exist (Cruse, 1986). It cannot be denied that cognitive as well as pseudo synonyms are actually used in the field of translation. Even if these lexical religious items differ in respect of their connotative meaning but they are actually used in each language to refer to the same referent and they have been accepted by a large number of translators and classified as accepted standard translation. The most important point that should be highlighted here is the apparent gap between theory and practice.

This strategy refers to one-to-one structural and conceptual correspondence: word-for word translation. This strategy considers the word as a unit of translation under the assumption that there is a structural correspondence between a pair of languages. This strategy is easily applied, for it is the literal translation of the individual words of a term or an expression. For each word in the Source Language there is a corresponding

word in the Target Language - a kind of interlingual synonymy. The problem with such strategy is the difficulty of being understood by Target Language readers. It is not quite favourable to be used in translation unless there is an urgent necessity to do that. It is rather an escape to translators than a reliable solid strategy for it is based in the Source Language, not in the Target Language culture. Much care is highly needed when giving literal translation of any religious item since the use of a certain particular religious item rather than another may cause a serious difference in the attitude towards the other, and may even mark a hostile stance as ElShiekh and Saleh (2011) stated in their research . This strategy can be used in translating a large number of Islamic religious items that cannot be considered culture-specific or cultural-bound items as they have actually counterpart equivalents in the target language. This issue applies to the translation of Asmaa Allah into Allah's names, Al-Siyam into fasting, dhikr into remembrance, Rahma into mercy, Salam into peace, and so on.

2.29.13 Classifier

It is one of the most important and best translation strategies for its practicality and applicability. It cannot be used alone but it is always included in the couplet or the triplet strategy. It is used to explain the culture-specific item in simple general way through demonstrating its type, class or category. The use of a classifier replaces long boring footnotes or paraphrase. In translating Ramadan, we have to decide on its category, is it a name given to a man or to a month or an animal. It is better to be translated using this strategy into "the month of Ramadan". The same strategy can be followed in our translation of the Arabic word Thamud into "the people of Thamud", and the Arabic word Sayyarah"into a caravan of travelers", and ahl alkahf" into "the People of the cave"

Conclusion

Each culture represents specific legal concepts, thus this diversity between legal systems causes the difficulty of legal translation especially achieving terminological equivalence in legal translation that is one of the most important issues in legal translation.

This chapter deals mainly with the difficulties in terms of translating the legal specific terminology from Arabic into English, in addition to the main strategies that may achieve terminological equivalence in Islamic Shari's terms such as formal equivalence, borrowing, paraphrasing, calque and etc.

So, in the task of legal translation, language knowledge is not enough to conduct translation, culture knowledge is prerequisite for legal translator, because legal texts are so rooted in their culture, therefore, the translator may find it difficult to render them into another language particularly if the SL and the TL are totally different. S/he should obtain the equivalent that is such a term that also preserves the legal characteristics of the source text in the target language.

2.30 Analytical and critical comparative study of the corpus

This part attempts to confirm that if the terminological equivalence is achieved or not and to suggest strategies in order to solve the problems that are arise from the lack of terminological equivalence in Arabic-English translation. The corpus is namely The Sudanese Personal Status Code that is contains the Arabic version and the translated version into English; we have randomly chosen the terms that are inspired from marriage and divorce chapters. This chapter analyses, compares and critiques the Arabic terms and the counterparts that

translated by the American Bar Association. In legal translation, translators usually face more difficulties and are required to achieve a higher degree of precision than when translating other contexts. This practical part also probes to find terminological equivalent in legal translation. Moreover, it also appraises to introduce the corpus in form of general review.

1. A brief account of the Corpus

The corpus we have chosen is the Sudanese Personal Status Code in the two versions Arabic and English. We have chosen this corpus because our Algerian does not have any English authentic official version.

Some terms which have been taken from the chapters of marriage and divorce in the Sudanese Personal Status Code are chosen because of their unique use and context which does not have a reliable equivalent in the other language side.

Firstly, we deal with a Personal Status as a term, it is all what the human characterized by each natural and family features which the law affected legally in his or her social life, i.e. the social's private affairs of the individual under subject to the law. (our translation).

The Personal Status Code is highly progressive law compared to other status in the region. Although it is primarily rooted in Islamic Sharia and organized different fields of personal status such as marriage, divorce, kinship, bequeathing and the legacy.

2. Terms extracted from “the Marriage Chapter”.

Marriage is a general term used as it is in all over the world, though different it is culturally and traditionally.

Apparently, marriage is a relationship between man and woman that is based on mutual respect and consent. Marriage is the central pillar in personal status. Therefore, it is considered as the best means of reproduction and multiplication. So, the elements of personal status such as: because it is the base that makes all what follows as: divorce, custody, endowment, kinship, etc.

Marriage under Islamic Jurisprudence creates a unit of society that mutually accepts God as an integral part of every situation and decision, and recognizes mutual rights and obligation between spouses. (maha al-khateeb 2002, p. 6).

Thus, marriage in Islam has marital ceremonies which are expressed by terms imbued with Islamic culture.

"Marriage"

"الزواج"

According to Ibn Mandhour, marriage linguistically is:

"الاقتران, والأصل في الزوج كل شيئين مقترنين, وزوج الشيء بالشيء, وزوجه إليه: فرنه"

"كذلك وزوجناهم بحور عين" سورة الدخان الآية 54.

In the Arabic interpretation of this verse is:

"الهور: تحار في جمالها، الجمال المطلق في الجنة، أي زوجناهم بامرأة كما ينبغي أن تكون في أعلى مستوي"

(Mohammed1994).Al-Nabolsi,

So (it will be). And we shall marry them to Hur (fair females) with wide, lovely eyes». Surahad-Dukhan, verse54.

In the Oxford Worldpower dictionary, Marriage is the state of being husband and wife.

In the Islamic Sharia“ and according to Maha Al-Kateeb (2012, p. 6) in her definition of the marriage said that “under traditional Islamic jurisprudence, marriage creates a unit of society that mutually accepts God as an integral part of every situation and decision, and recognizes mutual rights and obligations between spouses”.

Pursuant to the third article the term (الزواج) is rendered into English as follows:

<p>-Marriage is a contract between a man and women with the intention of permanently dissolving each other's enjoyment in a legitimate manner.</p>	<p>- الزواج: عقد بين رجل و امرأة علي نية التأييد بحل استمتاع كل منهما بالآخر علي الوجه المشروع.</p>
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In this translation, the term «الزواج» is translated as «*marriage*», also according to Black's law dictionary (1968) marriage is the civil status, condition, or relation of one man and one woman united in law for life, for the discharge to each other and the community of the duties legally incumbent on those whose association is founded on the distinction of sex.

So, in this case both translators use the formal equivalence strategy in the concept of marriage, because this term is a global and have a universal meaning in different cultures in the entire world (**George Mounin**), regardless the societies and their specific beliefs.

Hence we can say that the translators above achieve the real formal equivalence between Arabic and English in this term according to its meaning and use regardless the cultural religious differences.

« Dowry », « Dower » and « Mahr »

المهر

According to Ibn Mandhour in his famous book "LisanAl-Arab" the term Mahr is defined as: "مهر, المهر, الصداق, والجمع مهور؟ وقد مهر المرأة يمهرها ويمهرها مهرا و أمهرها"

In Quran the term has been referred to as: صداقة, صدقة, sadaq, صداق, sadugh, فريضة, faridha, أجر, ajr, نحلة, nihla

"وآتوا النساء صدقاتهن نحلة" سورة النساء الآية 4

In the book « Safwat al-Tafasiir » al-Zamakhshari gives the interpretation

of this verse as:

- "صُدَقَاتِهِنَّ جَمْعُ صَدَقَةٍ وَهُوَ الْمَهْرُ"
- "نَحْلَةُ هِبَةٍ وَعَطِيَّةٌ"
- "أَيُّ أَعْطَوْا النِّسَاءَ مَهْرَهُنَّ عَطِيَّةً عَنِ طَيْبِ نَفْسٍ"
- "وَيَقُولُ أَيْضًا أَنَّ الْمَهْرَ أَجْرٌ وَلَا تَمْنَأُ وَإِنَّمَا هُوَ عَطَاءٌ يُوَثِّقُ الْمَحَبَّةَ وَيُدِيمُ الْعِشْرَةَ وَيُرْبِطُ الْقُلُوبَ"

And give to the women (whom you marry) their Mahr (obligatory bridal-money given by the husband to his wife at the time of marriage) with a good heart;»). Surah al-Nisa', verse 4.

Whereas the definition of dower according to Islam is “the dower is considered to be an effect of the marriage contract, imposed on the husband by the law as a mark of respect for the subject of the contract—the wife, while others consider that it is in exchange for the usufruct of the wife, and its payment is necessary as upon the provision of support to the wife depends the permanency of the matrimonial connection”.

(Deeb Al- Khudraawi, 2004, p. 484).

The « *Mahr* » is considered as “the marital gift that is given to the wife”.

(Maha Al-Khateeb, 2012, p. 17).

The term « *Dowry* » is mentioned in the article 27 as:

All that is legally obligated to be a dowry, whether it is money, business, or benefit.	كل ما صح التزامه شرعا أن يكون مهرا, مالا كان أو عملا, أو منفعة.
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In this translation, the translator renders the term "مهر" to the English term (the dowry), so s/he uses strategy of formal equivalence, but this equivalent term does not have a cultural-religious denotation. Also it is translated into Dower and it is used by many translators as (Mustanir Mir, 1987), "Dower is the husband's marriage gift to the wife".

But dower in English has different meanings such as a provision for a widow on her husband's death. (Black, H. C, 1968). The term « **Mahr** » is rendered into English as dower although this translation can be problematic and it is perhaps preferred to use **Mahr** instead of dower. So, we can say that translating the term "مهر" to « **Mahr** » and « **Mahar** » in many places by using borrowing strategy and for more clarification; the translator should give a short explanation into the TT besides the cultural borrowing term. For example: in the Holy Quran in the Surah al-Nisa' which we referred above in the verse 4 as: (**Mahr**(obligatory bridal-money given by the husband to his wife at the time of marriage). (Muhammad Taqi- Ud-Din Al-Hilali and Muhammad Muhsin Khan).

consummation

الدخول

With respect to the linguistic definition of the Arabic term "الدخول", Ibn Mandhor in his book « Lisan Al-Arab » defined it as:

"الدخول نقيض الخروج, دخل يدخل دخولا"

Another definition by Al-Fayumi:

"ودخل بامرأته كناية عن الجماع أول مرة, وغلب استعماله في الوطاء المباح, والمرأة المدخول بها"

Consummation is when people make a marriage or relationship complete by having sex. (Longman exams dictionary, 2006, p.315).

According to the article 30 (a) on the term "الدخول" consummation:

a woman is entitled to refrain from consummation until the expedition of her dowry.	يجوز للمرأة الامتناع عن الدخول حتي تقبض معجل مهرها.
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The translator translated the Arabic term "الدخول" by using a formal equivalence strategy,

"الدخول" is rendered into English as «*consummation*». The term defined in Black's Law Dictionary as: « the completion of a thing; the completion of a marriage between two affianced persons by cohabitation». In this expression, "the completion of marriage" denotation of the Arabic term, "الدخول" it means "الجماع". Thus, "consummation" is regarded as an English equivalent for the Arabic term "الدخول". Moreover, the translator may use the borrowing strategy « *Al-dokhoul* » in order to imbue the term with an Islamic touch; the term *الدخول* / **consummation** is a metonymy for the sexual intercourse at the first time.

3- Terms extracted from the divorce chapter

Love and affection are important features of marriage and if those

features do not stand the marital tower will sooner collapse which means there disunity and dissent may occur between the spouses, here the divorce is permissible, because there is no alternative choice and continuing the marriage becomes impossible. So, permitting divorce is the last resort.

The prophet (peace and blessings of Allah be upon him family) is reported to have said: "Of all the things permitted in law, divorce is the most hateful things in the slight of Allah". "Abu Daud". (Moulana.M.S. Raza 1998, p.1).

There are many terms inserted under the chapter of divorce some of them are common and the others are represented specific to the Islamic culture.

Divorce

الطلاق

The term Talaq in the language according to Ibn Mandhour :

"طلق, أي ترك, والطلاق معناه الحل والترك والتخية والارسال"

"الطلاق مرتان فإمساك بمعروف أو تسريح بإحسان ولا يحل لكم أن تأخذوا من ما اتيموهن شيئاً إلا يقيما حدود الله فإن خفتم ألا يقيما حدود الله فلا جناح عليهما فيما افتدت به تلك حدود الله فلا تعتدوها ومن يتعد حدود الله فأولئك هم الظالمون" سورة البقرة الآية 229"

“The divorce is twice, after that, either you retain her on reasonable terms or release her with kindness .And it is not lawful for you (men) to take back (from your wives) any of your Mahr (bridal-money given by the husband to his wife at the time of marriage) which you have given them, except when both parties fear that they would not be unable to keep the limits ordained by Allah (e.g. to deal with each other on a fair basis). Then if you fear that they would not be able to keep the limits ordained by Allah, then there is no sin on either of them if she gives back (the Mahr as a part of it) for herAl-Khul’ (divorce). These are the limits ordained by Allah, so do not transgress them. And whoever transgresses the limits ordained by Allah, then such are the Zalimun (wrong-doers)”. Surah Al-Baqarah, verse 229.

Also, in English in oxford dictionary, divorce is to separate something or somebody from something or somebody.

Also it means to abandon a thing or get rid of a thing. When an animal tied with a string is untied it is called talaq. (Shahzad Iqbal Sham, p. 24).

“Divorce means the dissolution of marital relationship between the spouses personally or through an agent or a deputy or a delegate, with specific words or allegorically, immediately or consequently”. (Shahzad Iqbal Sham, p. 24).

Talaq is not act liked by Allah, this is mentioned in the saying of the Messenger of Allah that: “Among the lawful matters the most disliked in the sight of Allah is the divorce”. (Shahzad Iqbal Sham, p.24).

For the Christian culture divorce is violates the covenant and therefore is not permissible and unforgivable sin. Hence, divorce is to

be avoided at all costs.

The term (طلاق) is rendered in the article 128 as such:

Divorce is the dissolution of the marriage contract in accordance with Islamic sharia	الطلاق هو حل عقدة الزواج بالصيغة الموضوعية له شرعا.
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In this translation we see that the term « الطالق » is transferred to the term « **divorce** » by using the formal equivalent strategy, but by referring to the Sharia, this term has based on conditions and rules in the Islamic societies such as the number of pronouncements of

« *talaq* », and its kinds, whereas in the western culture for non-Muslims people and according to Black's law dictionary, « Divorce is the legal separation of man and wife, effected, for cause, by the judgment, of a court, and either totally dissolving the marriage relation, or suspending its effects so far as concerns the cohabitation of the parties ». So, in this concept, divorce in the western is just legally separation not based on any conditions and rules, so, we can say that there the translator transfer the term « الطالق » to « **divorce** » as general term.

« **Revocable divorce** »

« الطلاق الرجعي »

Revocable divorce is that in which the husband has the right to take the

wife back, without a new marriage contract, dowry or consent of the wife. The divorce in which the husband has the right to take the wife back is the first or second divorce, before the iddah ends.

قال تعالى ((لا جناح عليكم إن طلقتم النساء ما لم تمسوهن أو تفرضوا لهن فريضة ومتعهن علي الموسع قدره وعلي المقتر قدره متاعا بالمعروف حقا علي المحسنين. وإن طلقتموهن من قبل أن تمسوهن وقد فرضتم لهن فريضة فنصف ما فرضتم إلا يعفون أو يعفوا الذي بيده عقدة النكاح و أن تعفوا أقرب للتقوي ولا تنسوا الفضل بينكم إن الله بما تعملون بصير)) سورة البقرة الآية "236 – 237".

"There is no sin on you, if you divorce women while yet you have not touched (had sexual relation with) them, nor appointed unto them their Mahr (bridal-money given by the husband to his wife at the time of marriage). But Bestow on them (a suitable gift), the reach according to his means, and the poor according to his means, a gift of reasonable amount is a duty on the doers of the good. 236. And if you divorce them before you have touched (had sexual relation with) them, and you have appointed unto them the Mahr (bridal-money given by the husband to his wife at the time of marriage), then pay half of that (Mahr), unless they (the women) agree to forego it, or he (the husband), in whose hands is the marriage tie, agrees to forgo and give her full appointed Mahr. And to forgo and give (her full Mahr) is nearer to At-Taqwa (piety, righteousness). And do not forget liberality between yourselves. Truly, Allah is All-Seer of what you do". Chapter 2 Surah Baqarah verse 236-237

Allah has given the marriage ties in the hands of the husbands in Islam, and to protect the rights of the wife, **Allah** has Decreed that in any one marriage, a husband may only pronounce and revoke a divorce upon his wife for an absolute maximum of two times; if perchance the husband were

to pronounce a third divorce in the same marriage, then that pronouncement of divorce would be absolutely irrevocable and the same couple can never ever legally remarry each other again, unless and until the ex-wife were to marry a new husband, and the new husband, of his own free will and choice were to perchance divorce her, or he dies.

In English this form of marriage does not exist in all its forms. Let us first see the semantic side of the word:

- Revocable, is susceptible of being revoked.
- Revocation: The recall of some power, authority, or thing granted, or a destroying or making void of some deed that had existence until the act of revocation made it void. It may be either general, of all acts and things done before; or special, to revoke a particular thing (Black, p.1484).

Revoked divorce in the Western culture does exist; however, not in the same form as it is in Islam:

- Revocable divorce in Islam is just twice.
- Revocable divorce in Western culture can be more than two.
- Revocable divorce is performed by man only.
- Revocable divorce in western culture can also be required by women.
- Revocable divorce in Islam has its own rules that are totally different from the Western ones.

The term «رجعيطلق» is translated into (revocable divorce) in the Article 136 a:

Revocable divorce does not end the marriage contract, except with the expiration of the period	الطلاق الرجعي, لا ينهي عقد الزواج, إلا بإنقضاء المدّة.
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The compound term (الطلاق الرجعي) does not mentioned, but the term (رجعي) is replaced it and translated into (**the revocable divorce**) by using calque strategy but the meaning is uncompleted when referring to the source culture.

For all the previous and above mentioned reasons the equivalent " Revocable divorce" as a term that substitutes " *talaq raj'i*" cannot totally stand to mean all what "talaq raj'i" may mean in the source.

And hence, the borrowed term "*talaq raj'i*" is the best -to the best of our knowledge- equivalent of the term in Islamic sharia.

الطلاق البائن«Irrevocable divorce»

Irrevocable divorce means that after the divorce, the husband is not entitled to take back his wife, that is, he is not entitled to take her as his wife.

After one divorce if husband does not see any chances of reconciliation, he can give her wife the second divorce and wait for

Iddah period, if in that Iddah period things go normal, the marriage is safe .Whoever, after third divorce, there is no turning back now it is irrevocable.

قال تعالي ((فإن طلقها فلا تحل له حتي تنكح زوجا غيره فإن طلقها فلا جناح عليهما أن يتراجعا إن ظنا أن يقيما حدود الله وتلك حدود الله يعلمون)) سورة البقرة الآية 30

Allah Says in the Holy Quran Chapter 2

"So if a husband divorces his wife (irrevocably for the third time) he cannot after that remarries her until after she has married another husband and he has divorced her. In that case there is no blame on either of them if they reunite provided they feel that they can keep the limits ordained by Allah. Such are the limits ordained by Allah which He makes plain to those who understand." Surah Baqarah, verses:230

The problem we have already mentioned with revocable divorce is the same for the irrevocable.

The two terms do have no common points and are different at many levels:

- Irrevocable divorce does have no legal base in the Western society; a man can revoke his wife any time they want.
- Irrevocable divorce in Islam is limited to number (no more than two).
- Irrevocable divorce can be revocable in Islam if the woman gets married from a man another than her ex husband and get divorced.

- Irrevocable divorce in Western society can occur without this condition.

The term "طلاق بائن" » is translated into «irrevocable divorce» in the Article 136 b:

Irrevocable divorce, terminates the marriage contract and is of two types	الطلاق البائن, ينهي عقد الزواج وهو نوعان
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Like **in irrevocable divorce**, also here the compound term "الطلاق البائن" is not mentioned fully, but the term represents it, the translator gave the formal equivalent term «**irrevocable divorce**» but it does not carry the real meaning and the cultural connotation of «**At-talaq alba'in**» of the source culture. Hence, we may say that the term «**irrevocable divorce**» is just a formal equivalent for "**At-talaq alba'in**" and never can be its full equivalent in any sense.

«Khulaa», «Khul'»

"الخلع"

في مختار الصحاح قال الرازي: "خلع ثوبه ونعله وقائده خلعا, وخلع امرأته خلعا بالضم"

قال ابن فارس في كتابه معجم مقاييس اللغة " الخاء والعين و العين أصل واحد مطرد, وهو مزايلة الشيء الذي كان يشتمل به أو عليه" تقول خلعت الثوب أخلعه خلعا, وخلع الوالي يخلع خلعا"

Khulaa in "As-sihah dictionary" is (to take off one's garment and shoes and to oust the leader and to bestow a robe (of honor) upon someone and 'khalaa imraatoho' to divorce her conditionally", (Our translation).

Ibn Faris said, phonetically, speaking the two phonemes "khaa", "laam" and "aayn" denote in Arabic separating the contained from the container. We say "khalaato athaouba" means I took off my garment" *Khalaa alwali* "to oust the governor" *Alkhul'* linguistically is separation i.e. to divorce the woman conditionally upon a sum of money given back to the husband.

This separation is called *Khulaa* according to Alazhari because Allah made women as garment to the men and vice versa. (Our translation).

الخلع, فراق الزوج لزوجته بعوض بألفاظ مخصوصة, سمي ذلك لأن المرأة تخلع نفسها من الزوج كما تخلع اللباس, قال تعالى ((فإن خفتم ألا يقيما حدود الله فلا جناح عليهما فيما افتدت به)) ويسن للزوج

ان يجيبها حينئذ, وإن كان الزوج يحبها, استحب لها أن تصبر ولا تفتدي منه.

Legally speaking, *khulaa* is to divorce the woman using some given expressions. It is called *Khulaa* because the woman leaves her husband as she leaves her garment when she took it off, Al

khul‘ is:

- 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
- Divorce at the instance of the wife who pays compensation.
- The arrangement in which the wife seeks divorce through making a deal with her husband divorce (of wife) for consideration (payable by her).
- Divorce at the instance of the wife, who must pay compensation.

The problem that we may encounter here is the harmony that may be lost in the English version of the term because in the Western world the term as it is with all its features does not exist.

Meaning in English

Redemptive divorce

الطلاق التخلصي / الخلاصي

Redemptive Divorce: A Biblical Process that Offers Guidance for the Suffering Partner, Healing for the Offending Spouse and the Best Catalyst for Restoration.

In Black's Law Dictionary we read: "The right of redemption, an agreement or paction, by which the vendor reserves to him the power of taking back the thing sold by returning the price paid for it." (Black, p1443)

The power of taking back the thing sold by returning the price paid for it.

This one is exclusively restricted for the biblical marriage where divorce is prohibited and can never occur. However, in Islam *Talaq* is not so and hence redemptive divorce is not the only solution may be offered.

Redemptive Divorce can be used as the best exit for restoration because the husband here does not treat his wife justly and makes her suffer physically; while *Khulaa* can be used by the wife even if the husband does nothing and treats her justly and loves her.

Divorce by compensation

أي طلاق بالتعويض

A lot of translators do adopt this term highlighting that the wife is the one who compensate. This term is general because it does not denote which one will compensate the husband or the wife. Terms should be precise and very clear which is not the case with divorce by compensation.

Divorce with mutual consent أي طلاق عن رضا الطرفين

The mutual consent occurs one the two: husband and wife agree to get divorced. This kind of divorce is found in the legal form of the European divorce and it is the same in our Sharia, however in the biblical rules, it is prohibited and can only occur under some strict conditions with another form which is the redemption that we have already explained.

To the best of our knowledge, all the above mentioned terms do not totally equate with what is meant by Khulaa in the Sharia.

The term (الخلع)(rendered into(khul“))in the article 142asfollows:

<p>Khul, is the dissolution of the marriage contract by mutual consent of the spouses by pronouncing the formula of Khul or word of the same meaning.</p>	<p>الخلع، هو حل عقدة الزواج بتراض الزوجين علي بدل لفظ الخلع أو فيما معناه.</p>
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In this translation the term (الخلع)is transliterated into (khul“) because there is no equivalent term in the target language. So, the only translation strategy that should be used is borrowing.

«Iddah», «Waiting period»

العدة

Ibn Mandhour has defined the term Iddah as:

" عدة المرأة, أيام قروئها, وعدتها أيضا أيام حدادها علي بعلها و إمساكها عن الزينة شهورا
كانت أو إقراء أو وضع

أو وضع حمل حملته من زوجها"

قال تعالي ((والمطلقات يتربصن بأنفسهن ثلاثة قروء ولا يحل لهن أن يكتمن ما خلق الله في
أرحامهن إن كن يؤمن بالله

واليوم الآخر وبعولتهن أحق بردهن في ذلك إن أرادوا إصلاحا ولهن مثل الذي عليهن بالمعروف
والرجال عليهن درجة

والله عليم حكيم)) سورة البقرة الآية 228.

«And divorced women shall wait (as regards their marriage) for three menstrual periods, and it is not lawful for them to conceal what Allah has created in their wombs, if they believe in Allah and the Last Day. And their husbands have the better right to take them back in that period, if they wish for conciliation. And they (women) have rights (over their husbands as regards living expenses) similar (to those of their husbands) over them (as regards obedience and respect) to what is reasonable, but men have a degree (of responsibility) over them. And Allah is All-Mighty, All-Wise». (Al-Baqarah,verse228).

In Islamic law, **Iddah** is a waiting period of woman who is separated from their husbands due to death or divorce before engaging in any other marital relationship. It is for three months in the case of divorce and four months and ten days in the case of death of the husband. (NJFDHL.Vol. 2, 2009, p 85).

In the book of “Nikah” for At-Tuwaijiry (2000, p. 34), defined **Iddah** as “the Iddah, the interval of time which a woman must observe after divorce or after the death of her husband, before she can remarry. The Iddah is obligatory on every woman upon divorcement or widowhood”.

According to the article 207 the term (“العدة”) is rendered to waiting period and

Iddat as follows:

<p>Iddat is an obligatory period of time that a woman spends without marriage due to separation.</p>	<p>العدة هي مدة تریص تقضيها المرأة وجوبا دون زواج إثر الفرقة.</p>
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In this translation, the term “العدة” is rendered to (waiting period) and (iddat), here the translator uses a description strategy by translating it into compound term (waiting period), but this term hasn't carry the exact meaning of “العدة”, hence she/he added the borrowed term

« **Iddat** » for clarifying it to the target reader, So, we can say that this term is untranslatable, because it express notion which do not exists in the English language, and it is embedded in Arabic. Specifically, in the Islamic culture, and it hasn't any kind of equivalents in English language and culture. Hence when translating this term, and until the translator be satisfied by his translation, s/he must borrowed the term directly from the source language and give a short definition or description beside it.

2.31 Review of related previous study

1. Challenges of Translating Islamic Religious Terms from Arabic into English

By Dr. Montasser Mohmaed AbdelWahab Mahmoud

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This paper tries to pinpoint the problems that a translator could face when translating Islamic religious terms from Arabic into English. It is known among translators that such terms pose serious problems and challenges because of their unique cultural patterns that may not be available in the target language. Due to lack of resources, capacities, as well as time, the paper was confined to study problems of translating Islamic religious terms from Arabic to English. It starts with giving an accurate definition of Islamic religious terms. Next, it transmits an idea about the interrelationship between culture, language and translation. Then, it offers the requirements that a translator of Islamic religious terms needs so that he can produce an accurate and appropriate piece of translation, and the problems faced when doing so. Last, theoretical implications of the process of translation are discussed together with a variety of strategies that could be useful in translating Islamic religious terms from Arabic into English. In sum, this study aims to help establish through practical application of translation approaches a framework for the translation of Islamic religious terms from Arabic into English.

2- A THEMATIC COMP AR A TIVE REVIEW OF SOME ENGLISH TRANSLATIONS OF THE QUR'AN

By

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The University of Birmingham

August 2008

This thesis provides a thematic comparative review of some of the English Translations of the Qur'an; In this study, a new and unique approach is used to review and compare these translations along with their commentaries. They are reviewed based on the following four Qur'anic themes: Injunctions, Stories, Parables, and Short Chapters. These are some of the key themes where the Qur'an translations, especially the ones with commentary, often differ from each other and can be assessed objectively. For each theme, three to four examples are taken as samples from the Qur'an, and they are studied from different points of view. For example, the translation of the verses with injunctions will be reviewed for their relative emphasis over the letter versus the spirit of the law, consideration of jurisprudence knowledge, overall objectives of Islamic law, issues of this age, and impact of the translator's environment. This approach is intended to identify further requirements for offering more accurate and more a communicative translations of the Qur'an in the English language.

In this research, a general and comparative review of the four selected English translations of the Qur'an will be carried out to provide a

comparative study among them and to highlight the major features and tradeoffs of each translation.

3- Hindrances Encountering Undergraduate Jordanian Translation Students in Translating Islamic Term

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This study pinpoints the problems that undergraduate Jordanian Translation students encounter when they translate Islamic terms from Arabic into English. Furthermore, it reveals their ability to find the terms in the Target Language (TL) or coming up with adequate equivalents and detects the strategy they adopt either domestication or foreignization. The study attempts to answer these questions: 1. Are there any effects on the results of undergraduate Translation students in finding sufficient equivalents of Islamic terms in English before and after defining the nature of Islamic terminology? 2. Are there any differences in the performance of undergraduate Translation students due to the nature of Islamic terminology? What are the effects of teaching undergraduate translation students the difference between domestication strategy and foreignization strategy on their results of translating Islamic terms? To achieve the purpose of the study; this study is an attempt to identify the effect of

translating Islamic terminology from Arabic into English on the performance of undergraduate Jordanian Translation students in Jordanian universities.

Specifically, the study attempted to answer the following questions:

1. Are there any effects on the results of undergraduate Translation students in finding sufficient equivalents of Islamic terms in English before and after defining the nature of Islamic terminology?
2. Are there any differences in the performance of undergraduate Translation students due to the nature of Islamic terminology?
3. What are the effects of teaching undergraduate Translation students the difference between demonstration and Foreignization on their results of translating Islamic terms?

4- Research on legal translation between English and Arabic is predominantly restricted to purely semantic or syntactic issues. For instance, Abu-Ghazal (1996) outlined a number of syntactic and semantic problems in legal translation from English into Arabic, by analysing graduate students' translations at Yarmouk University of a number of UN resolutions. He chiefly aimed at detecting the linguistic and translation problems facing translators in general and MA students in particular. He concluded that such students should be exposed to intense training in legal translation before practicing it as a career.

5- **Fargahal and Shunnaq** (1992 and 1999) focused on the

problematic areas in translating UN legal documents as encountered by MA translation students at Yarmouk University in their comprehensive examination. According to them, these areas fall into three categories: syntax-related problems, layout-related problems, and tenor-related problems. Their approach is, more or less, similar to Abu-Ghazal's.

6- **AI-Bitar** (1995) illustrated how legal language differs from other common-core English varieties. In her thesis, she studied twelve bilateral legal agreements and contracts signed during the years 1962-1993. She investigated two main areas of nominal group in addition to other grammatical units: complexity of the noun phrase and type of modification. Her main conclusions was that the differences lay in the heavy use of complex noun phrases and the high frequency of wh-relative clauses and prepositional relative clauses as post-nominal modifiers of the finite in legal texts (47-62).

7- Emery (1989) explored the linguistic features of Arabic legal texts and compared them with their English counterparts. Emery ended up recommending that trainee translators should develop a sense of appreciation of structural and stylistic differences between English and Arabic discourse to help produce acceptable translations of legal translation. Though he only made limited inroads into the area of legal translation theory or practice, Emery's article is actually one of the very few works that investigated general features of Arabic legal language; an area of research that has inexplicably been

disregarded by Arab translators and theorists.

- 8- One of the pioneering studies in the language of law frequently referred to in the literature is that earned out by Mellinkoff in 1963. In his book, Mellinkoff was concerned with what the language of the law is, describing its characteristics and mannerisms. He also investigated the history of legal language, and then he brought the language of the law down into the practice.
- 9- In their book, Crystal and Davy (1969) **appraised different varieties of English language uses**. The authors devoted one chapter to the language of legal documents, supported with examples taken from an insurance policy and a purchase agreement. They wrote "of all the uses of language, It [legal language] is perhaps the least communicative, in that it is designed not so much to enlighten language-users at large as to allow one expert to register information for scrutiny by another" (1969: 112). A legal text for them exhibits a high degree of linguistic conservatism, included in written instruction such as court judgments, police reports, constitutions, charters, treaties, protocols and regulation (p.205). They described legal texts as formulaic, predictable and almost mathematic.
- 10- **Leo Hickey** (1998:224) argued that any translation of a legal text must be able to affect its readers the way the ST was able of doing to its readers. She wrote, "The translator must ask herself how the original text reader would have been affected and ensure an analogical TT reader will be affected similarly by his reading of the text but not by any other means" (Hickey 1998:224-225), Hickey failed to see that a TT might be directed towards different readers in

a different context. In this case, it is pointless to pursue a similar effect on the part of the translator.

11- **Newmark** is another theorist of general translation to comment on legal translation. He noted a difference in the translation of legal documents for information purposes and those, which are “concurrently valid in the TL community.” Concerning “foreign laws, wills, and conveyances” translated for information purpose only, Newmark suggested that literal or semantic translation, as he referred to it, is necessary. On the other hand, he stressed that “the formal register of the TL must be respected in dealing with documents that are to be concurrently valid in the TL community (EEC law, contracts, international agreements, and patents).” In Newmark's view, such translations require the communicative approach that is target language-oriented (1982: 47). In this regard, Newmark is one of the few linguists to recognize that the status of a legal text is instrumental in determining its use in practice.

12- By the same token, **Buti and Casle** (2006) burrowed into the roots of traditional legal language and its peculiar characteristics that make legal documents aloof from its users. They proposed a step-by-step guide to drafting in the modern style, using examples from four types of legal documents: leases, company constitutions, wills and conveyances. Moreover, they emphasized the benefits of drafting in plain language and confirming the fruitfulness of its use. Like Mellinkoff (1982), they surveyed the reasons for the current alarming state of legal drafting, as well as provided guidance on

bow to draft well. Their book is the most recent addition to the Plain English Movement that will be discussed in the next chapter. It argues that it is actually "safe" and constructive to break away from old ways of legal drafting into simpler, more communicative ones.

13- As **Sarcevic** indicated, "the basic unit of legal translation is the text, not the word" (2000; 5). Terminological equivalence has an important role to play, but 'legal equivalence' used to describe a relationship at the level of the text may have an even greater importance (Sarcevic, 2000: 48). Sarcevic suggested that the traditional principle of fidelity has recently been challenged by the introduction of new bilingual drafting methods, which have succeeded in revolutionizing legal translation. Contrary to freer forms of translation, legal translators are still guided by the principle of fidelity. However, their first consideration is no longer fidelity to the source text but to guarantee the effectiveness of multilingual communication in the legal field (2000:16). The translator must be able "to understand not only what the words mean and what a sentence means, but also what legal effect it is supposed to have, and how to achieve that legal effect in the other language" (Sarcevic 2000:70).

14- Mahmoud M. Ayoub: *The Quran and its Interpreters*; Vol. 1. State University of New York Press, Albany, NY 1984. This book provides an introduction to the Qur'an and its interpretations. It presents the main principles and development of the science of *Tafsir* along with its different branches, early masters, and various schools. It also provides the *Tafsir* of *Surah* Fatiaha and *Surah* Baqarah based on various *Tafsir* books.

Summary of the Chapter

This chapter investigates the process of Difficulties of Achieving Terminological Equivalence in Legal Translation of Islamic share's Terms; it begins with the various definitions of translation and shading a light to Culture and religion on source and target languages, a short brief about the purpose and process of translation was shown, and also type, kind and technique of translation have been discussed, as well as some translation studies. The chapter outlined the Legal Language, features of legal English, Islamic sharia' terms, religious text translation, challenges of Islamic sharia' text translation, Strategies of Islamic sharia Terms Translation, Skills required for Islamic sharia terms Translation, and Difficulties of translating Islamic sharia terms. Other part of this chapter deals with the Analytical and critical comparative study of the corpus, which is an attempts to confirm that if the terminological equivalence is achieved or not and to suggest strategies in order to solve the problems that are arise from the lack of terminological equivalence in Arabic-English translation. The corpus is inspired from marriage and divorce chapters of The Sudanese Personal Status Code. The final part of the chapter Review some related previous study.

Chapter Three

Methodology

Chapter Three:

Methodology:

3.0 Introduction:

The purpose of this chapter is to explain in detail the research methods and the methodology implemented for this study. In more details, in this part the researcher outlines the research strategy, the data collection methods and tools, the research tools and instruments, the reliability and validity, the selection of the sample, the research process, the type of data analysis, and the research limitations of the project.

3.1 Data collection method and tools:

For the purposes of this research, a diagnostic questioner is developing to measure the performance of student's translation when translating Islamic sharia terms. The questionnaire / test aims to identify participant's performance, quality, and familiarity with the translation of Islamic sharia terms.

As far as data collection tools are concerned, the conduction of the research involved the use of a structured questionnaire, which was used as a test. Some certain questions were prepared, so as for the researcher to gain some information towards the satisfaction of research objectives.

Most of the communication with the participants took place through what'sapp (social media application). The author purposefully targeted group of post graduate translation students. At first, the writer contacted via the phone relevant people participants, to make them acquainted with the purposes of the research and to ask for permission to conduct the research.

3.2 Population and sampling:

This study involves seventy post graduate Translation students in the Sudan University for Science & Technology, Sudan, selected randomly from the first and second class in the academic year 2016 – 2018, as well as translation professionals, teachers, and Legal field specialists.

The method of purposive sampling was used to develop the sample of the research under discussion. According to this method, which belongs to the category of non-probability sampling techniques, sample members are selected on the basis of their knowledge, relationships and expertise regarding a research subject (Freedman et al., 2007). In the current study, the sample members who were selected had special relationship with the phenomenon under investigation, sufficient and relevant work experience in the field of Translation, active involvement in several translation fields, as well as proven research background and understanding of raw data concerning destinations.

3.3 Tools/instruments:

The researcher uses a structured questionnaire paper consists of a numbers of sentences involved Islamic legal terms selected intentionally from the marriage and divorce chapters of the Sudanese Personal Status code. In our study we use bilingual dictionaries in Arabic and English languages in the linguistic and legal fields

3.4 Methodology and Procedures of the Study:

3.4.1 The Sample

The research undertaken for this study has focused on a sample of 70 M.A students majoring in translation at the University of Sudan for Science & Technology for the academic year 2016/18. The participants had BA degrees in English and have completed most of the requirements in their M.A translation program. Most of those students belong to the category of working people. Hence, some have had the experience of working in translation. The sample was purposively selected from the above-mentioned university. Since the aim of the study was to investigate Difficulties of Achieving Terminological Equivalent in Legal Translation- Some Shari 'a Terms Translation from Marriage and Divorce chapter in Sudanese Personal Status Code, a purposive sample of graduate students majoring in translation would fulfill this aim. Thus, the Sudan University for Science & Technology was selected as the major public university that has a reputation of being the best and largest universities in Sudan. In addition, it attracts students from all over the country. It offers master degrees in translation where competition is high over a limited number of seats. As expected, this competitiveness was reflected in the enthusiasm and efficiency of public university students when taking the translation test. However, Sudan University for Science & Technology represents the government sector where the students who enroll in it are of the wider age range. In addition, the sample selected from Sudan University for Science & Technology included students who had a working experience background in translation that made them slightly different from other universities. The information about the respondents' general background such as age, gender, level of education, first language and translation experience was obtained by means of a demographic questionnaire. The sample consisted of 40 participants including (29) males and (11) females. Age ranged from (27) to (60) years. All the participants were Moslems in addition to being native speakers of Arabic. (35) Participants out of (40)

had translation work experience before while (5) participants did not have any.

The following table illustrates the sample:

Age	Gender		Religion		Level of Education		First Language		Work Experience	
	M	F	Mos.	Christ	MA	BA	Arab	Eng	Yes	No
Total										

Key: Male (M), Female (F), Moslems (Mos), Christians (Christ), Master Degree Candidates (MA), Bachelor Degree (BA), Arabic (Arab.), English(Eng).

Inspecting the translation of Islamic sharia terms is an intersection of a variety of disciplines such as semantics, philology, sciences of Qur’an and decomposition of translation. In order to attain the purpose of this study, the study highlights the linguistic and Islamic denotations that an Islamic term is likely to have, discloses the translation of these terms by Sudanese postgraduate Translation students. In addition, two methodological instruments were utilized in the study: descriptive analysis and criticism with the purpose of comparing the similarities and differences of students’ translations in response to the SL. The applied methodology of this study is in connection with Reiss’ (2002) statement “criticism of a translation should not solely depend on the SLT” (p.24).

3.5 Reliability and validity

The reliability was achieved by means of a test-retest. The translation pretest was administered to a group of three professional translators who were purposively selected due to their long years of experience in the translation field. Those professional participants were not part of the sample. Their feedback provided beneficial and constructive comments. They acknowledged the intensity of religious terms and realized that such translation would require deep comprehension. Therefore, participants were allowed two days to finish the test as a homework assignment.

3.6 Methods of data analysis

The analysis of the questionnaire results took place via statistical analysis "SPSS" software.

The results from the questionnaires were presented in the format of tables and charts. The major findings of this dissertation will be discussed in details in the next chapter.

3.6.1 Ethical Considerations:

There were several types of ethical issues, which the researcher had to take into consideration for this project. The most important one was related to the informed consent of the participants. All of the participants were informed in advance about the purposes of this questionnaire and gave their informed consent to participate. Their identity, as well as the names of the

organizations they belong to, has been kept in strict confidentiality, thus meeting the requirements of the code of ethics of the University.

3.7 The Conclusion:

This chapter has outlined and justified the research methodology implemented in this dissertation and its validity. Because of the nature of the research, the researcher opted for the qualitative strategy, bound by interpretive approach. The key research tool is questionnaire. The participants were carefully targeted and recruited through a stratified sampling technique. The results were analyzed statistically. The major results and findings of this dissertation are discussed in the following chapter.

Validators' schedule

Name/s	Academic profession/s	Academic institution/s
Dr. Holi Ibrahim Holi	English Language	Rustaq College of Education "Oman"
Dr. Abbas Badawi	English Language	Sudan University For Science & Technology
Dr. Muntasir Mohammed	English Language	University of Gezira

Chapter four

Data Analysis, Results and Discussions

Chapter four

Data Analysis, Results and Discussions

4.0 Introduction:

This chapter discusses the results and analysis of the qualitative data from 70 questionnaires, but due to some logistic obstacles (covid-19 outbreak), only a number 40 participants, namely, translators, teachers and legal petitioners have responded. The results are presented systematically to address the study aims and objectives and to answer the research questions. The analysis of quantitative data involved the use of SPSS program that facilitated the screening, entering, coding and categorizing, as well as generating both descriptive and inferential statistics of results from the data.

4.1 Analysis and Discussion

This part addresses the analysis of data, discussion and the data presentation. The results are presented to depict the entire population. The data is displayed in tables and charts and it is also discussed and connected with the relevant literature. Method of analysis includes statistical approach that is adopted in the questionnaire and depends on frequency and percentage. The item of high frequency and percentage reflects the most significant, required answers for the study questions. Tables used through out to demonstrate the results of the study. Having collected both the qualitative data, the next step is the analysis which demands frequencies and percentages for analyzing the quantitative. Procedures for establishing validity and reliability were applied to the tools of inquiry. Moreover the

main aims of this study are: to explore **Difficulties of Achieving Terminological Equivalence in Legal Translation of Islamic sharia Terms**; to find out the reasons behind these challenges; to determine how far these challenges impact their quality of translation to investigate how do they cope up with these challenges and to suggest and provide some possible strategies which could help translation practitioners to overcome these challenges and inform translation pedagogy.

The results of the questionnaire and the analysis were carried out on the basis of the questions of the study. The results are discussed as follows:

4.2 Data Analysis and Interpretation – Summary – Conclusions and Recommendations

Survey research is used as a method for this study of collecting information about a population of interest.

Regardless of the type of survey, there are two key features of survey research:

- Questionnaire—a predefined series of questions used to collect information from individuals.
- Sampling—a technique in which a subgroup of the population is selected to answer the survey questions. Depending on the sampling method, the information collected may or may not be generalized to the entire population of interest.

4.3 Questionnaire Design

The two most common types of survey questions are closed-ended questions and open-ended questions.

4.3.1 Closed-Ended Questions

- The respondents are given a list of predetermined responses from which to choose their answer.
- The list of responses includes every possible response and the meaning of the responses should not overlap.
- An example of a close-ended survey question would be, "Please rate how strongly you agree or disagree with the statement:
- A Likert scale, which is used in the example above, is a commonly used set of responses for closed-ended questions.
- Closed-ended questions are usually preferred in survey research because of the ease of counting the frequency of each response.

4.3.2 Open-Ended Questions

- Survey respondents are asked to answer each question in their own words.
- It is worth noting that a question can be either open-ended or close-ended depending on how it is asked. In the previous example, if the question on household income asked respondents to choose from a given set of income ranges instead, it would be considered close-ended.
- Responses are usually categorized into a smaller list of responses that can be counted for statistical analysis.

4.4 Data Analysis and Interpretation

All information was gathered by means of a survey questionnaire choosing sample of size 70 as the participants in the survey.

The frequencies process has been used to get the summary measures for clear-cut categorical (classified) variables and this summary is in the forms of frequency tables (e.g. showing total numbers), and frequency tables (e.g. showing percentages). Moreover, the column of **cumulative percent** in the table gives the total proportion of the sample that is accounted for in the percent column and valid percent columns, and this is calculated by adding the accumulation of all of the statistics of both these columns.

Table 1: Gender of Respondents

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Male	29	72.5	72.5	72.5
	Female	11	27.5	27.5	100.0
	Total	40	100.0	100.0	

The frequency column of the Table 1 above indicates the number of many observations (respondents' opinions) have come under the specified categories of male and female. The collected sample composed of 40 respondents out of 70 in the survey, of which 29 are males and 11 are females. In terms of percentages, males (as participants in the survey) are 72.5% percent, while female participants are 27.5 percent.

Table 2: Educational Background

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	BA	8	20.0	20.0	20.0
	MA	30	75.0	75.0	95.0

	PhD	2	5.0	5.0	100.0
	Total	40	100.0	100.0	

Table 2 above depicts the educational level/ background that cover three different levels which are Bachelor, Master, and PhD. It reveals that, 5 participants have earned a bachelor’s degree, 30 are at the Master level while 2 participants have PhDs. In terms of percentages, 20 percent of the survey’s participants have bachelor degrees, 75 percent have a master’s degree, while 5 percent have obtained PhDs qualifications. This means the majority of the participants who responded to the questionnaire have a master’s level as educational background.

Table 3: Major Subject

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Language	22	55.0	55.0	55.0
	Translation	12	30.0	30.0	85.0
	Legal	6	15.0	15.0	100.0
	Total	40	100.0	100.0	

Table 3 above depicts the Major subject that cover three different levels which are language, translation, and legal. It reveals that, 22 participants have language specialization as major subject, 12 have translation specialization as major subject while 6 participants have legal specialization as major subject. In terms of percentages, 55 percent of the survey’s participants have language specialization, 30 percent have

translation specialization, while 15 percent have obtained legal specialization. This means the majority of the participants who responded to the questionnaire have language specialization as major subject.

Table 4: Practical Experience

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0-3	16	40.0	40.0	40.0
	5-10	13	32.5	32.5	72.5
	15-20	11	27.5	27.5	100.0
	Total	40	100.0	100.0	

Table 4 above shows the practical experience that cover three different levels which are up to three years, five to ten years, and more than ten years. It reveals that, 16 participants have practical experience up to three years, 13 have participants have practical experience between five to ten years while 11 participants have Practical Experience between fifteen to twenty years. In terms of percentages, 40 percent of the survey’s participants have up to three years’ experience, 32.5 percent have experience between five to ten years, while 27.5 percent have more than ten years’ experience. This means the majority of the participants who responded to the questionnaire have practical experience that cover three different levels which are up to three years.

Table 5: Likert Scale Statements

No	Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Weighted Average	Standard Deviation	Opinion
		N	N	N	N	N			
		%	%	%	%	%			
1.	I find it difficult to translate Islamic Sharia terms between English and Arabic	1	4	4	20	11	3.90	1.008	Agree
		2.5%	10%	10%	50%	27.5%			
2.	Culture-specific legal terms are always challenging for me when translating Islamic Sharia terms between English and Arabic	1	4	5	22	8	3.80	0.966	Agree
		2.5%	10%	12.5%	55%	20%			
3.	It is difficult for me to find suitable equivalent to terms when translating Islamic sharia terms between Arabic and English	1	2	14	14	9	3.7	0.966	Agree
		2.5%	5%	35%	35%	22.5%			
4.	It is challenging to translate words and expressions, such as, hereinafter, hereto, hereby, aforesaid, whosoever, herein, etc. when	4	14	9	12	1	2.80	1.067	Neutral
		10%	35%	22.5%	30.0%	2.5%			

	translating legal text between English and Arabic								
5.	Absence of the equivalence in the target language is one of the difficulties I encountered when translating Islamic sharia terms	1	1	7	16	15	4.07	0.944	Neutral
		2.5%	2.5%	17.5%	40%	37.5%			
6.	One of the problems that arise when translating Islamic Sharia terms is the rich implications included in it	2	1	7	26	4	3.73 Agree	0.877	
		5%	2.5	17.5%	65%	10%			
7.	Cultural conflict between the Islamic Arabic terms and its English equivalent seems to be among the problems that the translator faces in when translating the Islamic sharia terms	3	0	7	19	11	3.95 Agree	0.876	
		7.5%	0%	17.5%	47.5%	27.5%			
8.	Lake of distinction between masculine and feminine is considered to be among the main problems when	1	8	7	17	7	3.52 Agree	1.086	
		2.5%	20%	17.5%	42.5%	17.5%			

	translating Islamic sharia terms							
9.	Islamic Arabic terms that refer to two people or two objects, which is absent in English, causes a problem for me when translating of Islamic Sharia terms into English	2	7	10	14	7	3.43 Agree	1.130
		5%	17.5%	25%	35%	17.5%		
10.	Islamic Cultural words are difficult for the target text reader to understand when translating from Arabic to English	0	3	12	14	11	3.82 Agree	0.931
		0	7.5%	30%	35%	27.5%		
	Total	16 4%	44 11%	82 18.6%	174 23.5%	84 21%	3.763	0.430 Agree

Table 5 above depicts translation practitioners' perceptions and views about legal translation in general and Difficulties of Achieving Terminological Equivalence When Translating Islamic Legal Texts in particular.

4.5- Results and Discussions:

This study is an attempt to identify the "**Difficulties of Achieving Terminological Equivalence in Legal Translation of Islamic sharia Terms**", specifically, the study attempted to answer the following questions:

- What are the Translators' Perceptions about Some of the Linguistic Challenges they encounter when translating Islamic Sharia texts or terms between English and Arabic?
- What are the potential factors that hinder achieving terminological equivalence when translating Islamic Sharia texts or terms between English and Arabic?
- What are the most appropriate translation strategies that can be used to obtain full terminological equivalence when translating Islamic Sharia texts or terms between English and Arabic?

The main objective of this part is to describe the methodological part of the study, primarily the subjects, instruments (questionnaires and collection of relevant literature), piloting, validity and reliability issues, as well as the procedures of the main study. The choice of the methodological approach to tackle a research problem should be appropriate to the research questions and should reflect the research topic because the methodology shapes why a certain approach is used and how is to be used (Dörnyei & Toguchi 2010). Thus, the quantitative method was employed in this study to collect data and analyze data, as well as interpret the results. Additionally, Silverman (2007) asserts that the research method should not be pre-determined; rather that it should be chosen because it is appropriate to what the researcher trying to find out. Therefore, a quantitative method was employed to collect data. The quantitative approaches offer practicality in terms of data collection and analysis and provide reliable and replicable data (Dörnyei & Toguchi 2010). Therefore, quantitative method is appropriate for this research because it would help to explore translation practitioners' views, opinions, experience about difficulties of Achieving Terminological Equivalence in Legal Translation of Islamic sharia Terms. According to Silverman (2007), no method in qualitative and quantitative

research is intrinsically better than any other, choosing a method depends on what a researcher is trying to find out and everything in a research project depends on the research problem being analyzed. In addition, Tashakkori & Teddlie (2003, p.15) add "the ultimate goal of any research project is to answer the questions that were set forth at the beginning of the project". Therefore, quantitative methods are useful if they provide better opportunities for answering research questions, helping the researchers to meet the criteria for evaluating "goodness" of their answers better than do single approach designs. The methodological approach which underlies this study is quantitative. The study is based on 40 translation practitioners who were selected randomly. The rationale behind choosing this number of participants is for practical reasons because the study is just small scale complementary research and the researcher finds these people accessible.

Questionnaire reliability will be established using various methods such as expert and statistical validation. As for data analysis, frequency and percentage will be used for statistical analysis. The item of high frequency and percentage reflects the most significant, required answers for the study questions.

3.1 The result of the first question:

The results are discussed as follows:

Table 1: Translators' Perceptions about Some of the Linguistic Challenges they encounter when translating Islamic Sharia texts or terms between English and Arabic?

No	Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Weighted Average	Standard Deviation	Opinion
		N	N	N	N	N			
		%	%	%	%	%			
1.	I find it difficult to translate Islamic Sharia terms between English and Arabic	1	4	4	20	11	3.90	1.008	Agree
		2.5%	10%	10%	50%	27.5%			
2.	Culture-specific legal terms are always challenging for me when translating Islamic Sharia terms between English and Arabic	1	4	5	22	8	3.80	0.966	Agree
		2.5%	10%	12.5%	55%	20%			
3.	It is difficult for me to find suitable equivalent to terms when translating Islamic sharia terms between Arabic and English	1	2	14	14	9	3.7	0.966	Agree
		2.5%	5%	35%	35%	22.5%			
4.	It is challenging to translate words and expressions, such as, hereinafter, hereto, hereby, aforesaid, whosoever, herein, etc. when translating legal text between English and Arabic	4	14	9	12	1	2.80	1.067	Neutral

In response to item one in the questionnaire, 75.5% percent of the participants have agreed that it's difficult for them to translate Islamic Sharia terms from English to Arabic. While, 12.5% of the respondents disagreed with the statement and 10% were neutral. This is quite evidence that; translating Islamic sharia terms between English and Arabic challenging.

The major challenge in legal translation is how to overcome the conceptual differences among languages. Translation practitioners have to render concepts into TL (target language) which differ from those familiar to its society.

Concerning item 2, 75% have said Culture-specific legal terms are always challenging for me when translating Islamic Sharia terms between English and Arabic, and only 12.5% disagreed with the statement, while 12.5% were neutral.

Legal translation is among the varieties of translations where the translator subject to stringent semantic constraints at all level due to the peculiar features of the language of English law on the one hand and the culturally mediated nature of legal discourse on the other" (Wang & Sin, 2013, p.883).

As for item 3, we observed that 57.5% have responded that it is difficult for me to find suitable equivalent to terms when translating Islamic sharia terms between Arabic and English, while 7.5 reported by "disagree" and 35% were neutral.

The most common problems that legal translators face during the rendering of a legal text are the lack of verbal / functional equivalence in the target

language. It requires highly competent translator whose task is to stay faithful to the intent, tone, and the format of the original, source legal document and make the text clear and understandable to the receiver without take any creative liberty which is considered unacceptable in the formal constraints of legal language (p.301).

Moreover, many respondents have a neutral response regarding to a challenge in the translation of words and expressions, such as, hereinafter, hereto, hereby, aforesaid, whosoever, herein, etc. when translating legal text between English and Arabic.

Regarding item 4, 32.5% of the participants find it to translate words and expressions, such as, hereinafter, hereto, hereby, aforesaid, whosoever, herein, etc. when translating legal text between English and Arabic, and 45% disagreed with the statement, while 22.5% are neutral.

Table two: What are the potential factors that hinder achieving terminological equivalence when translating Islamic Sharia texts or terms between English and Arabic?

No	Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Weighted Average	Standard Deviation	Opinion
		N	N	N	N	N			
		%	%	%	%	%			
5.	Absence of the equivalence in the target language is one of the difficulties I encountered when translating Islamic sharia terms	1	1	7	16	15	4.07	0.944	Neutral
		2.5%	2.5%	17.5%	40%	37.5%			
6.	One of the problems that arise	2	1	7	26	4	3.73 Agree	0.877	
		5%	2.5	17.5%	65%	10%			

	when translating Islamic Sharia terms is the rich implications included in it							
7.	Cultural conflict between the Islamic Arabic terms and its English equivalent seems to be among the problems that the translator faces in when translating the Islamic sharia terms	3	0	7	19	11	3.95 Agree	0.876
		7.5%	0%	17.5%	47.5%	27.5%		
8.	Lake of distinction between masculine and feminine is considered to be among the main problems when translating Islamic sharia terms	1	8	7	17	7	3.52 Agree	1.086
		2.5%	20%	17.5%	42.5%	17.5%		
9.	Islamic Arabic terms that refer to two people or two objects, which is absent in English, causes a problem for me when translating of Islamic Sharia terms into English	2	7	10	14	7	3.43 Agree	1.130
		5%	17.5%	25%	35%	17.5%		

10.	Islamic Cultural words are difficult for the target text reader to understand when translating from Arabic to English	0	3	12	14	11	3.82 Agree	0.931
		0	7.5%	30%	35%	27.5%		

Concerning item 5; 77,5% of the participants agreed that, Absence of the equivalence in the target language is one of the difficulties when translating Islamic sharia terms, 5% of the participants disagreed with the statement and 17.5 were neutral.

As for item 6; 75% of the participants agreed that, one of the problems that arise when translating Islamic sharia terms is the rich implications included in it, while 7.5 disagreed and 17.5 are neutral.

However in item 74.5, 64% of the participants agreed that; Cultural conflict between the Islamic Arabic terms and its English equivalent seems to be among the problems that the translator faces in translating an Islamic sharia terms, 7.5% disagreed and 7.5 are neutral.

It is quite obvious that legal text layout constitutes a great difficulty for translators when translating Islamic sharia Terms.

Regarding item 8, 60% of the participants agreed that; Lake of distinction between masculine and feminine is considered to be among the main problems when translating Islamic sharia terms, 22.5% disagreed with statement and 17.65 are neutral.

As for item 9, 52.5% of the participants agreed that; Islamic Arabic terms that refer to two people or two objects, which is absent in English, causes a

problem for me when translating of Islamic Sharia terms into English, 22.5 disagreed with the statement and 25% are neutral.

In item 10, 62.5% of the participants agreed that; Islamic Cultural words are difficult for the target text reader to understand when translating from Arabic to English, 7.5 disagreed with the statement and 30% are neutral.

"Unlike general English text, legal English text is much more difficult to translate because legal English translation is not only about transferring the meaning but it also deals with finding the appropriate legal expressions in target language" (Karjo, p.352) .

The overall assessment of responses based on the Likert Scale according to the weighted average of 3.763 shows all participants have perceived the translation of Islamic Sharia terms between English and Arabic is very difficult task for them.

Table 3: What tools did you use to overcome the difficulty of translating some terms? Which of the following methods have you used?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Legal dictionaries	10	25.0	25.0	25.0
	Consulting colleague	3	7.5	7.5	32.5
	Websites	11	27.5	27.5	60.0
	Legal draft	1	2.5	2.5	62.5
	Google Translate	11	27.5	27.5	90.0

	Oxford Dictionaries	3	7.5	7.5	97.5
	Consulting College & Oxford Dictionary	1	2.5	2.5	100.0
	Total	40	100.0	100.0	

Table 6 above shows the type of tools that used by respondents to figure out the difficulty of translating some terms, It reveals that, 16 participants have practical experience up to three years, 13 have participants have practical experience between five to ten years while 10 participants have used Legal dictionaries for translating the most difficult terms, 3 of them have used Consulting colleague, 11 of them have used Websites, only one participant has used Legal draft, 11 of them have used Google Translate, while only one also has used both Consulting College & Oxford Dictionary as translating method.

-What are the most appropriate translation strategies that can be used to obtain full terminological equivalence when translating Islamic Sharia texts or terms between English and Arabic?

As for the question, the surveyed respondents reported many strategies which could be used to overcome the Difficulties of Achieving Terminological Equivalence in Legal Translation of Islamic sharia Terms.

One of the respondents believed that: "Translation needs practice, reading and keeping up-to-date with the websites because some terms and expressions you cannot find in any dictionary and even in Google translation or any site that can translate; sometimes you need to bring a suitable translation for a phrase or a word not found in dictionaries".

Yet another translator said: 'Translators should look for a better choice of words and sentences and legal training for those who are starting to become legal translators is a must. Translators should read all samples of standard of Islamic text and how to draft and formulate legal writing. Translators should be familiar with contemporary law and legal knowledge. Moreover, suitable legal courses training should be offered in the field of legal translation.'

The above two example quotations from the participants' open-question answers show the importance of using the appropriate legal translation dictionaries whether print or electronic dictionaries in helping translators dealing with legal translation problems and challenges in general. Again, familiarity with legal discourse and systems is useful for legal translators and could help translation practitioners dealing with Islamic text or terms translational difficulties and problems.

A translation practitioner added: "orientation and persistent development in the field of legal translation can provide better answers to these challenges".

Another respondent reported: translators need to "try to learn the standard clauses which are used in all or say most of the Islamic legal text, read agreements, laws and Islamic legislation text into both Arabic and English as much as you can and avoid using Google translation too much because that will give you a ready solution and deprives you from storing meaning in your memory to use in the future. Translators need to read parallel texts to increase their knowledge in the field of (law, customs, religions, etc.)."

Another respondent said: 'We need to read contract samples "English and Arabic" and must try as much as we can to use legal terms and expressions, besides, a legal translator must have broad knowledge and background in

areas of Islamic sharia, law, courts, disputes, arbitrations, civil and criminal procedures. Moreover, our Arabic websites are generally very poor comparable to English websites, our Arabic translated texts should be available throughout the internet to provide the contribution. Translators also must get themselves educated and cultured in such areas."

These two example quotations also supported the importance of legal knowledge and background in legal translation in general. There are some recommended strategies such as use of parallel text, familiarity with legal systems and target cultures, having Arabic legal translation-related websites, etc.

A translation practitioner suggested:

"Translation of legal documents contains many inherent difficulties. We have to be aware of the fact that this type of translation is burdened with both intricacies of literary translations and technicalities. Translator should have a deep understanding of the original text as well as full-knowledge of how to deal with intraspecific terminologies. We must be careful not to alter meaning. Therefore, translation of legal documents requires more precision and care. Legal translation should be more literal than focusing on terminological issues; translators are in need for more training that focuses on the application of pragmatics, legal translation, translation competence presupposes not only in-depth knowledge of legal terminology, but also thorough understanding of the communicative legal function of such texts."

Understanding the legal text is a key factor in successful translation. But, the nature of legal terms and discourse make it incomprehensible and difficult for translators. But the in-depth-knowledge and awareness of legal translation can help in this regard.

Another translation practitioner recommended:

"We need to get rid of old-fashion way of drafting and wording legal documents. Further, drafters need to use punctuation to clarify meaning, and they need to shorten legal sentences used in legal documents". Additionally, universities should add more samples of legal texts in their curricula; training institutes for legal translators should be established. Finally, training courses for translators and these courses should be made available to keep up with changes in translation, and exams for accrediting translators should be run even after they get their titles."

One of the participants suggested that: using Foreignization strategy is quite helpful for translating Islamic terms into English, as some words are culture-specific words, which are inherent Islamic religion words.

Another translator suggested: "I would recommend that more exposure to and guidance by professionals will help much in improving the standard. I would also suggest that the translator in general should have common knowledge and common sense. Moreover, conducting legal translation workshop by experts on how to use current legal translation strategies is needed".

Another translator suggested that; we could use borrowing strategy, as sometimes we need to convert source language letter into target language letter so as to fill the lexical gap in the target language.

4.6 Analysis of Errors

This section clarifies the errors committed by the participants when translating the Islamic terms to English; in addition, the reasons of these errors are discussed and the results of their poor translation are mentioned.

Furthermore, it denotes the effectiveness of the participants' awareness of the adapted translation strategy on a staid translation product.

The dictionaries used in checking the meanings of the tested Islamic terms are Oxford Advanced Learner's Dictionary of Current English (1998) to explain the meanings of English words, and The Dictionary of Islamic Word and Expressions (2002) to compare the answers of translation students.

Errors of translation students in Islamic terminology translation can be justified in light of the followings:

The absence of Islamic terms in English makes it more difficult to translate them. Thus, the some of the participants translated the term "مهر معجل" has been translated by some participants to its English equivalent as "delayed dowry", "advance dowry" and "expedited dowry" etc... which does not give the same meaning, In fact, the word „dowry“ in English means the money or estate that a woman brings to her groom as endowment or devotion, in contrast with the Arabic word "مهر" or as it is known among Arab translators as "Mahr" which means a mandatorily required amount of money which paid by the groom to the bride before the ceremony of wedding. In other words, the meaning of „Mahr“ or مهر in Arabic is the amount of payment which has to be paid by the man to his wife before ceremonies, in contrast with the word dowry in English, which required the payment to be done by the woman to her husband. So the use of the word „dowry“ in the English system is not an equivalent term for the word „Mahr“. In the Arabic or Islamic system, in fact, the most familiar way of translating the Arabic term مهر is to keep it as it is transcribing it in Arabic „Mahr“.

Another term is “المعتدة” that was translated by the participant into

(offended) which totally differs from original meaning according to Islamic view that is "a woman shall wait (as regards their marriage) for three menstrual periods after separation from her husband due to death or divorce before engaging in any other marital relationship, and it is not lawful for them to conceal what Allah has created in their wombs, if they believe in Allah and the Last Day. And their husbands have the better right to take them back in that period, if they wish for conciliation. The term was defined in the dictionary of Islamic words as expressions as "A woman in a waiting period, upon divorce or death of a husband. The term is not exists in the English language, and it is embedded in Arabic. Specifically, in the Islamic culture, and it hasn't any kind of equivalents in English language and culture. Hence when translating this term, and until the translator be satisfied by his translation, s/he must borrowed the term directly from the source language and give a short definition or description beside it.

Also the term "المحصنة", which many of the participants have translated the term in to "dungeon" which has another meaning, as the shown in the Oxford Advanced Learners Dictionary, means "a dark underground room used as a prison, especially in a castle" which the term "المحصنة" means in the dictionary of Islamic words and expressions " Married woman". In the Qur'an, the term is used to refer to a married, free or virtuous woman.

-The specialty of Islamic terminology in terms of implication and performance, as there are many English terms that are equivalent to Islamic terms, but transferring Islamic terms into them might lessen their implications, For example, the participants translated the word "الصداق" into (Reward), without taking into consideration its English meaning. In the Oxford Advanced Learners Dictionary (1998), which means, "a thing that you are given because you have done something good, worked hard, etc.

Such translations are semantically compatible with the meaning mentioned in The Dictionary of Islamic Word and Expressions that is "Dower" The money or gift paid by the groom to his bride, normally specified in the marriage agreement. Often, people specify an instant amount ("muqaddam aS-Sadaaq") and a postponed amount (" mu' akhkharal-Sadaaq").

Also the term "الشريعة" (an Islamic religious law that governs not only religious rituals but also aspects of day-to-day life in Islam), it has being translated by some participant into "legislation", while the term "legislation" in the oxford advance learners dictionary means 'a law or a set of laws passed by a parliament', whereas the term "الشريعة" in the dictionary of Islamic Words & Expressions means " Body of the canonical law of Islam".

Another participant has translated the term "الدخلة" (the completion of a marriage relationship by having sex at their first time) into Wedding, the term in the dictionary of Islamic Words & Expressions means

-Islamic terms are awkward to be expressed in Arabic due to the lack of any senses for such terms in Arabic. For example, the participants translated the word " Probation period"

The discrepancy between English equivalents and Islamic terms, as an Islamic term, for instance, might indicates the good, while the English equivalent might refer to the malevolence. For instance, the term "ta'dud az-zawjat" which was translated by some students into (bigamy), while others translated it into (polygamy). Such two English equivalents have negative connotations because they express the crime of having several wives. Oxford Dictionary defines such a term as "the crime of marrying while one has a wife or husband still living, from which no valid divorce has been effected", Whereas "ta'dud az-zawjat" as an Islamic term is

permissible, the meaning of the term mentioned in The Dictionary of Islamic Word and Expressions, which is “ta’addud az-zawjat: the practice of giving more than one wife at the same time in Islam”.

- **Testing of Hypotheses Against the Results**

This section is intended to present the statistical results in term of frequencies and percentages as they pertain to the hypotheses. In chapter (1), three hypotheses were addressed. Each hypothesis was stated and followed by a discussion of the statistical results which related to it.

Hypothesis 1: The vast majority of the study participants will consider achieving full terminological equivalence is impossible when translating Islamic Sharia texts or terms between English and Arabic. The results which have been presented thus far show that 75.5% percent of the participants in the test have agreed that it's difficult for them to translate Islamic Sharia terms from English to Arabic. This is quite evidence that; translating Islamic sharia terms between English and Arabic challenging. Thus, the findings of this study provide strong support for hypothesis 1.

Hypothesis 2: There are several factors that hinder translators from achieving terminological equivalence when translating Islamic Sharia texts or terms between English and Arabic. As for this hypothesis, the study results showed that, 75% of the participants in the test have said Culture-specific legal terms are always challenging for them when translating Islamic Sharia terms between English and Arabic, which agrees with hypothesis 2.

Hypothesis 3: The most appropriate strategies when translating Islamic Sharia texts or terms between English and Arabic are: borrowing,

foreignization, domestication and transliteration. In response to the question **"What are the most appropriate translation strategies that can be used to obtain full terminological equivalence when translating Islamic Sharia texts or terms between English and Arabic?"** respondents reported many strategies which could be used to overcome the Difficulties of Achieving Terminological Equivalence in Legal Translation of Islamic sharia Terms. And their responds could summarize as follows:

Translators should read all samples of standard of Islamic text and how to draft and formulate legal writing.

Using borrowing strategy; as sometimes we need to convert source language letter into target language letter so as to fill the lexical gap in the target language

Read agreements, laws and Islamic legislation text into both Arabic and English.

You need to bring a suitable translation for a phrase or a word not found in dictionaries"

Using Foreignization strategy is quite helpful for translating Islamic terms into English, as some words are culture-specific words, which are inherent Islamic religion words. Therefore, hypothesis 3 agrees with the findings of this study.

Conclusion:

Translation as a human activity, whereby man can overcome the language barriers, language is closely connected with culture. However, there are many differences between cultures which cause several hindrances in translating culture-bound terms. This thesis sheds light on identifying the problems that come across by legal translator while s/he is searching for terminological equivalence in legal translation. Nevertheless, translation is not impossible but it is not easily carried out. In fact, there are some terms translatable while others are untranslatable.

The main reasons behind the lack of achieving terminological equivalence are cultural differences and also the nature of legal systems of the Arab world and English-speaking world is completely different. Further, we must bear in mind the fact that the differences in legal systems are not implied in the language itself. So, achieving the equivalence at the term level is concerned with the extent of relatedness of the legal systems. Additionally, this study highlights to solve the problems resulted from the lack of an established terminology in the English legal language.

From this comparative study we explored the following points:

Carrying out the translation on terms inspired by Islamic jurisprudence is not straight forward process. Some selected terms are inexistent in the target language; here the target receiver will face a cultural constraint, and also the discrepancy of foreign terms with Islamic ones.

The best example of this difficulty is the term "polygamy" in the Western culture is regarded as an offense and a crime inserted under the criminal law, however, in Islamic culture it seen as a one of the husband's right and it is permissible. Some terms are translatable like marriage and divorce;

they are regarded as universally shared notions. Nevertheless, these terms have equivalents but they do not carry the same impact as the original terms.

Last but not least, we can say that from the comparison and analysis that we have carried out between the source terms and the translated one. We detected that there are some difficulties and hindrances that stand against the legal translator making him/her unsatisfied and in a state of chaos.

The ideal translation strategies which the translator carried out in the case of untranslatability are borrowing accompanied by a short comment or explanation added between brackets beside to the translated terms. This strategy is preferred by legal translators in order to elucidate the term for the target reader and for introduce the local culture of the source term. In addition, using paraphrase strategy plus lexical equivalent.

Chapter five

Main Findings, Conclusion, Recommendations

And Suggestion for Further Studies

Chapter five

5.0 Introduction

This chapter is represented in four sections. The first section contributes to an overall summary of the findings and their conclusions. Subsequent to this are the implications of the study and followed by recommendations for future research.

5.1 Main findings

The purpose of the study was to investigate the "Difficulties of Achieving Terminological Equivalence When Translating Islamic Legal Texts". The study went further to investigate how the participants responded to these challenges. Further, to what extent these challenges had an impact on the quality of their translations and what are the possible strategies that translation practitioners can be utilized to cope with these challenges. The main data collection methods used to generate data was a questionnaire and therefore the research is not claiming that the results can be generalized due to its tools of data collection limitations. The results were highlighted and compared to previous empirical findings from the literature to see how far translation practitioners' perceptions are similar or different from the existing empirical findings. The findings showed that the majority of the respondents "agreed" that the translation challenges Achieving Terminological Equivalence When Translating Islamic Legal Texts are not only language-related ones but they involve non-linguistic and other culture-specific challenges. The respondents repeatedly said that they have been utilizing different types of strategies to overcome such challenges such as using legal dictionaries, consulting their colleagues and using translation technology and software.

5.2 The conclusion

Long convinced that legal translation has to be literal, translators and linguists frequently focus their attention on terminological issues. To develop translation competence, translators need instructions in terms of translation theory. Legal translators in Arabic can benefit from the translation training that focuses on the application of pragmatics, which is a relatively a modern science, to legal translation. Translation competence presupposes not only in-depth knowledge of legal terminology, but also thorough understanding of the communicative legal function of such texts. The paper has shown that current trends of translator training, such as functional theories, are more effective than training approaches used almost two decades ago. Being exposed to and aware of modern approaches to translation help translators emphasize more on the communicative and functional nature of legal translation.

Consequently, they will be able to focus on "particular instantiations of language use, in specific texts and contexts" (Colina 2002, 6). Such approaches can effectively bridge the gap between academic and professional worlds of translation.

Vinay (1995) observed the equivalence-oriented translation as an operation that "replicates the same situation as in the original, while using completely different wording" (p. 342) (ibid). Equivalence is the perfect technique when the translator is dealing with idioms, proverbs, clichés, nominal or adjectival phrases and the onomatopoeia of animal sounds. Again, Vinay and Darbelnet assert that the equivalent expressions between language pairs can be granted only if we get them as a list in a bilingual thesaurus as „full equivalents“ (p. 255). They conclude by declaring that the need for

creating equivalences arises from the situation, and it is in the situation of the S.L text that translators have to look for a solution. (p. 255).

Legal translation differs from other types of translation in two basic components: the legal system and the term associated with that system, thus understanding the legal term and its translation into another language depends on the understanding of its locus in the legal system to which it belongs. For instance, the Arabic language has some words which have the same lexical structure, same phoneme and morpheme but different meaning due to the legal system and the terms followed by that system. This means that the translator can only translate the legal term into the TL by understanding its position in the legal system of the SL. Legal translators should add one more skill to their linguistics and translation skills which is the comparative skill between two legal systems: the legal system of SL and the legal system of TL.

It can be assumed that the unfamiliarity with both the meanings of Islamic terms and the indecorous translation techniques and strategies were the main reasons for the poor translation of the participants. Familiarizing Translation students with the meanings of Islamic terms should be necessary, and this can be done by offering extra courses that deal with cultural situations and Arabic language contexts.

5.3 Recommendations

- The study recommends that legal translation courses and training should be offered periodically by experts in both translation and law, since having a legal background, understanding and knowledge can help a lot in coping with legal translation challenges in general and Islamic Legal Texts in particular in particular.
- Cultural contrast is the main cause of the problems that the translator encounter while translating. So, it will be helpful for the translator to be acquainted with the target culture approach.
- It will be quite helpful for the translator referring to a specialized books and dictionaries.
- Translator should be aware of the method that s/he uses in dealing with Islamic legal terms in order to enhance the process of translating such special terms.

5.4 Suggestions for further studies

In the light of the above findings and limitations, the study proposes future research topics on the following points:

Firstly, it is recommended to investigate, as opposed to the case of this study, the validity of the given-new thematic structure when translating from Arabic into English. This can add implications to the current proposed model in particular and to translation assessment in general.

Secondly, analysis shows the translator's omission/manipulation of Arabic originative sentences. This may indicate a difficulty of translating originative sentences. Therefore, more assessments need to be carried out on translation procedures and/or compensation strategies that are used to render Arabic originative sentences.

Finally, more translations of religious texts remain to be analyzed in order to investigate whether the neutrally shaded discourse is a trend in translating religious texts from Arabic into English, or whether it results from the translator's attempt to adopt TL norms in producing an academic English discourse, or else is an indicator of the translator's axiology. Above all, the translation of Islamic religious terms stands in need of further research.

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TRANSLATION TECHNIQUES REVISITED: THE APPLICABILITY
OF EXISTING SOLUTIONS IN NON-LITERARY TRANSLATION

UDC 81'25

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DEPARTMENT OF ENGLISH LANGUAGE AND LITERATURE

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Doctoral Dissertation

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Las Palmas de Gran Canaria

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المصادر والمراجع العربية

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The Appendix

An Investigation into Difficulties in finding Terminological Equivalence When Translating Islamic Legal Texts: A case of Islamic Sharia Terms

Dear Participant,

I am a PhD candidate undertaking a doctoral study in the College of Graduate Studies, University of Sudan for Science and Technology, Sudan. The study focuses on “difficulties of achieving terminological equivalence when translating Islamic Sharia Terms between English and Arabic. This survey intends to investigate translation practitioners’ perceptions of the difficulties and challenges that they faced when translating Islamic Sharia terms between English .You are kindly requested to answer the questions in this questionnaire to the best of your knowledge and ability and to provide the researcher with useful ideas and suggestions for improving your legal translation skills. You may be assured that your responses will remain confidential and will be used for research purposes only. Your identity will not be disclosed when reporting my research findings.

Thank you very much for your cooperation!

Part One: Background Information:

Please answer the following:

Age:	
Gender:	Male () female ()
Level of Education	BA () MA () PhD ()
Major subject:	Language () translation () legal ()
Practical experience:	0 – 3 () 5-10 () 15 – 20 ()

Part Two: Please use Likert scale below, and choose the option that best suits you.

1. Strongly Disagree (SD)
2. Disagree (D)
3. Neutral (N)
4. Agree (A)
5. Strongly Agree (SA)

No	Statement	SD	D	N	A	SA
1	I find it difficult to translate Islamic Sharia terms between English and Arabic..					
2	Culture-specific legal terms are always challenging for me when translating Islamic Sharia terms between English and Arabic.					
3	It is difficult for me to find suitable equivalent to terms when translating Islamic sharia terms between Arabic and English.					
4	It is challenging to translate words and expressions, such as, hereinafter, hereto, hereby, aforesaid, whosoever, herein, etc. when translating legal text between English and Arabic.					
5	Absence of the equivalence in the target language is one of the difficulties I encountered when translating Islamic sharia terms.					
6	One of the problems that arise when translating Islamic Sharia terms is the rich implications included in it.					
7	Cultural conflict between the Islamic Arabic terms and its English equivalent seems to be among the problems that the translator faces in whentranslating the Islamic Islamic sharia terms.					
8	Lake of distinction between masculine and feminine is considered to be among the main problems when translating Islamic sharia terms					
9	Islamic Arabic terms that refer to two people or two objects, which is absent in English, causes a problem for me when translating of Islamic Sharia terms into English.					
10	Islamic Cultural words are difficult					

	for the target text reader to understand when translating from Arabic to English.					
--	---	--	--	--	--	--

Part Three: The Test:

Translate the following terms into English:

No	Term	Your translation
1	الصداق	
2	مهر معجل	
3	تعدد الزوجات	
4	المعتدة	
5	المحصنة	
6	الدخلة	
7	العدة	
8	النفقة	
9	الزواج	
10	الولي	
11	الوطء	
12	اللعان	
13	الهبة	
14	الشريعة	
15	الخطبة	

Part Four: Translate the following terms into Arabic:

No	Term	Your translation
1	Redemptive divorce	
2	Foster sisters	
3	Family lineage	
4	Menstruation	
5	Divorce	
6	Irrevocable divorce	
7	Bound of marriage	
8	Virgin	
9	Fellow wife	
10	Probation period	
11	Pious deed	
12	fornication	
13	Minor	
14	Affinity	
15	Puberty	

1. What tools did you use to overcome the difficulty of translating some terms? Which of the following methods have you used?

1- Legal dictionaries ()

2- Consulting colleague ()

3- Websites ()

4- Legal draft ()

5 - Google Translate ()

6- Babylonian Dictionaries ()

7- Oxford Dictionaries ()

2. Why do you think translation practitioners find it difficult to achieve equivalence when translating Islamic Sharia terms between English and Arabic?

3. In your view, what could be done to help translation practitioners to achieve equivalence when translating between English and Arabic of Islamic Sharia terms?

4. Can you tell us about any strategies you or your colleagues have been employing to achieve equivalence when translating Islamic Sharia terms between English and Arabic.

5. Do you have any comments or anything to add to what covered in this questionnaire?

Thanks for your kind cooperation!