

Semantic and Pragmatic Implications of Inaccurate Translations of Shari'a-Court Phrases & Sentence Extracts into English

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Abstract

The present paper aims to highlight the semantic and pragmatic implications of the inaccurate English translations of Gazan shari'a-court phrases and sentence extracts. The researchers analyze the translations of five shari'a-court phrases and five sentence extracts from shari'a-court documents of different shari'a courts in Gaza Strip. The descriptive analytical approach was adopted to conduct this research paper. The texts used in this paper are extracted from a thesis on the linguistic difficulties Palestinian translators face when rendering shari'a-court terms in which the researchers participated as a master student and a supervisor. When selecting the source texts, the researchers consulted an assistant professor in law to identify the legal phrases and sentential extracts which require specific familiarity with shari'a-court terms. Then, the selected texts were given to four Palestinian sworn translators who rendered the translations which were afterwards analyzed by the researchers in light of explanations of the legal meaning of the shari'a-court terms by the law specialist. The findings of the selected translations, five phrases and five sentential extracts from fifty phrases and thirty-five sentential extracts in the original thesis, show that the inaccurate translations of shari'a-court terms have semantic and pragmatic implications which are mainly reflected in semantic loss and pragmatic ambiguity which lies in lack of specific reference to intended persons. The researchers recommend integrating specific contents in legal translation courses to better familiarize student translators and trainee translators with the semantic complexity of shari'a-court terms and the practical methods which can be adopted to translate such terms into English. Attention should also be given to the legal terms which are characterized by culture-based meanings.

الآثار الدلالية والتداولية للترجمات غير الدقيقة لعبارات ومقتطفات من جمل محاكم شرعية إلى اللغة الانجليزية

المخلص

تهدف الورقة البحثية هذه إلى إبراز الآثار الدلالية والتداولية للترجمات الانجليزية غير الدقيقة لعبارات ومقتطفات من جمل تستخدم في المحاكم الشرعية في غزة، حيث قام الباحثان بتحليل ترجمات لخمس عبارات وخمسة مقتطفات من جمل تستخدم في وثائق محاكم شرعية مختلفة في قطاع غزة. استخدم الباحثان المنهج الوصفي التحليلي لإجراء هذه الدراسة حيث اختارا، بصفتها طالبة ماجستير ومشرف، نصوصاً مستلة من رسالة ماجستير تناقش المشاكل اللغوية التي يواجهها المترجمون الفلسطينيون عند ترجمة مصطلحات المحاكم الشرعية. وفيما يخص اختيار النصوص المراد ترجمتها، استعان الباحثان بأستاذ مساعد في القانوني لتحديد العبارات ومقتطفات الجمل التي تتطلب معرفة خاصة بمصطلحات المحاكم الشرعية، وقاما بعد ذلك بإرسال هذه النصوص إلى أربعة مترجمين محلفين فلسطينيين لترجمتها. قام الباحثان بتحليل الترجمات التي قدمها المترجمون الأربعة مستعينين بشرح المعاني القانونية لمصطلحات المحاكم الشرعية الذي قدمه المختص في القانون. أظهرت نتائج تحليل ترجمات الخمس عبارات وخمسة مقتطفات من الجمل والتي أستلقت من بحث ماجستير تكونت عينة دراسته من خمسين عبارة وخمسة وثلاثين جملة أنه ثمة آثار دلالية وتداولية للترجمات غير الدقيقة لمصطلحات المحاكم الشرعية يمكن ملاحظتها في فقدان المعنى والغموض الدلالي الناتج عن عدم تحديد الأشخاص المعنيين بصورة واضحة. أوصى الباحثان بضرورة إدماج محتوى خاص في مساقات الترجمة القانونية لتحسين سبل اطلاع طلاب الترجمة والمترجمين المتدربين على التعقيد الدلالي لمصطلحات المحاكم الشرعية بالإضافة إلى الآليات العملية التي يمكنها استخدامها لترجمة هذه المصطلحات إلى اللغة الانجليزية؛ كما ويوصي الباحثان بالتركيز على المصطلحات القانونية التي تتميز باعتماد معانيها

كلمات مفتاحية: ترجمة قانونية، دلالي، تداولي، آثار، محكمة شرعية

INTRODUCTION:

There is a considerable volume of ongoing translation work between English and Arabic in various fields including the translation of legal texts which some describe as challenging and complex especially when dealing with distinct languages such as English and Arabic. The translation of legal documents can serve different significant purposes as in promoting business when translating contracts and agreements, providing academic literature when translating books or research papers and assisting the work of lawyers and courts when translating court-related documents. Despite the aforesaid, there are great challenges which can make the translation task require strenuous efforts from the translators. The difficulty and complexity of legal translation between English and Arabic can be attributed to the nature of English and Arabic legal discourse which Mellinkoff (1963, p. 3) names "the language of law." One of the main reasons for the difficulty associated with translating English and Arabic legal texts is the fact that different Arab countries enforce different laws on the one hand and the fact that laws in the Arab world and the English-speaking countries considerably vary on the other. Each country can have its own legal system and terminology which are enormously influenced by religion, culture and society. Another reason for the difficulty and complexity of legal translation is the lexical and syntactic features of the English and Arabic legalese (legal language). This may have profound semantic and pragmatic implications on the translation product be it English or Arabic.

The semantic and pragmatic implications of legal translation can relate to word, phrase or sentence level being the building blocks of legal texts. Sarcevic (1997) explains that legal translation is used for specific functions and purposes and can promote peace or prompt war. She further points out that legal language prescribes legal actions which are intended to achieve a specific goal. Tiersma (2000) says that the rules which govern legal language are different from the rules which govern ordinary speech because legal language is far more specialized than the technical language of any other profession. The semantic and pragmatic implications of inaccurately translated legal texts can relate to the fact that legal texts have an informative function for the general reader and a directive function for a specific group of people (Sager 1993, as cited in Sarcevic, 1997). Given that English and Arabic belong to two linguistically, culturally and legally different backgrounds, it is expected that such differences will ultimately result in challenges arising from the nature of the source and target legal texts, the lexical and syntactic differences, the cultural aspects which influence the source and target legal texts and the translators' familiarity with English and Arabic legal terminology and the suitable translations strategies. Translators may face greater difficulties when working on specific Arabic legal documents as in the case of translating shari'a-court documents into English. Part of these difficulties relates to the fact that this type of Arabic legal texts requires detailed familiarity with shari'a-court terminology on the one hand and the translation methods which ensure accounting for the source meaning in the target language on the other. Insufficient level of familiarity may result in inaccurate translations on the lexical and syntactic levels which leads to semantic and pragmatic implications. This was one of the main findings of a master thesis which focuses on a linguistic analysis which Palestinian sworn translators face when translating Shari'a-court documents into English. The examples extracted from the thesis are analyzed to examine the semantic and pragmatic implications of inaccurately translating shari'a-court documents.

SIGNIFICANCE OF THE STUDY:

The present research paper study builds on a master thesis which provides a linguistic analysis of the difficulties Palestinian sworn translators face when rendering shari'a-court documents into English. The real significance of this research paper lies in that, as far as the researchers believe, it is the first study which discusses the challenges which face Palestinian sworn translators when rendering selected texts from Gazan shari'a-court documents into English. It is therefore believed to be a foundation stone for the literature on translating shari'a-court documents and a reference for translation researchers, postgraduate students and instructors. In addition, this research is designed to provide researchers with significant insight into the problematic areas of translating shari'a-court documents and the translation methods adopted to address lexical and syntactic translation difficulties having semantic and pragmatic implications.

OBJECTIVES:

- highlighting the main challenges which Palestinian legal translators face when rendering Gazan sharia-court documents into English;
- examining the effect of translator' familiarity with sharia terms on the translation product;
- identifying the semantic and pragmatic implications of inaccurate English translations of Gaza sharia-court phrases and sentential extracts;

STATEMENT OF THE PROBLEM:

Legal translation is a difficult and complex area of translation industry due to the differences related to language, legal systems, culture and translators' competence. Misunderstanding or lack of familiarity with the legal meaning of shari'a-court phrases and sentences can lead to inaccurate English translations having semantic and pragmatic implications. Unfamiliarity with the semantic complexity of shari'a-court phrases and sentences can have serious implications on translation, which can be judged inaccurate. In addition, the linguistic complexity of shari'a terms and syntactic structures of shari'a documents can pose serious challenges to legal translators where finding equivalents on the lexical, syntactic, semantic and pragmatic levels becomes a difficult task. The importance of this paper lies in exploring the semantic and pragmatic implications of inaccurately translating phrases and sentences selected from different Gazan shari'a-court documents into English. The paper shows that such implications may result from translators' unfamiliarity with the lexical and syntactic aspects of the source texts in addition to the unfamiliarity with the semantic and pragmatic implications of using English equivalents.

RESEARCH QUESTIONS:

1. What is the main cause for the inaccurate translations of shari'a-court phrases and sentential extracts into English?
2. What are the semantic implications of the inaccurate translations of shari'a-court phrases and sentential extracts into English?
3. What are the pragmatic implications of the inaccurate translations of shari'a-court phrases and sentential extracts into English?

REVIEW OF LITERATURE:

Legal discourse, translation and translator:

Different scholars provided varied descriptions of legal discourse features as well as types of legal translation. Generally speaking, there is a strong link between law and language and, as Mattila (2006) points out, the language aspect of law can dominate legal translation and legal lexicography.

Some scholars name legal language as a sublanguage, dialect, language, genre, and register (Van Dijk 1981), (Bhatia, 1993), and (Kurzon, 1989). Legal discourse is mainly used by judges, lawyers, legislators and researchers and can also be used to regulate social relationships which include marriage, agreements, contracts, and civil rights (Crystal and Davy, 1969). In addition, legal discourse features the use of archaic words and high level of formality, domain-based collocation, and specific cohesive devices. Trosborg (1997) explains that legal translation is classified as a specialized language or language for specific functions. In addition, it is classified among the languages which are used in technical domains just as medical language and scientific language. Kurzon (1989) differentiates between the law language and the legal language. From Kurzon's point of view, the law language involves the language and style used in the documents that lay down the law, while the legal language is the language people use to speak about the law. Kurzon states that 'legal language is a metalanguage used to express the law in its broad meaning and the law language is the literary language used in the legal writings and wordings. In the context of this paper, shari'a-court legal discourse features specific linguistic and stylistic features which require a high level of translators' familiarity. There is a strong link between language, law and meaning which reflects translators' need to have detailed knowledge of the semantic complexity of shari'a terms in order to account for their meanings when translating into English.

The task of legal translation can have different classifications according to the subject matter of the source texts. In this context, Cao (2007) points out that legal texts can be (1) legislative texts as in domestic statutes and international treaties, (2) judicial texts produced by judicial authorities, (3) legal scholarly texts produced by scholars and (4) private legal texts as in contracts, leases and litigation documents. Cao further classifies legal texts according to the communicative purpose into: (1) bilingual and multilingual legal documents which establish legal facts, rights and obligations and (2) informative purposes as in the case of legal scholarly works, legal advice and correspondence between lawyers. If a legal text is translated for a normative purpose, then the source text and the target text are equally binding unlike the informative purpose where only the source text is binding. With regard to the subject matter of the source legal text, shari'a-court documents (used in this work) are private legal texts on litigation. According to the communicative purpose, shari'a-court documents create legal rights and obligations. The purpose of translating shari'a-court documents into English was mainly informative and is slowly turning into normative as many European countries as in Germany and UK began to allow shari'a courts to resolve civil conflicts among Muslims. This highlights the increasing importance of translating sharia-court documents into English.

Given that many non-Muslim countries began to allow shari'a courts to operate in order to resolve civil conflict among Muslims, the work of legal translators is becoming increasingly important. Many Muslim migrants living in these countries may file cases to such shari'a courts where the cases originated in their homelands, Arab countries.

Professionals dealing with legal texts, be they judges, lawyers or translators, are required to interpret the legal meaning of specific words in specific legal texts. During their interpretation, they assign meaning on different text levels which mainly include the basic level, words, and a higher level, the sentence. It is important to highlight that assigning meaning to specific legal terminology may be subject to contextual factors related to the settings in which the legal texts are used. Judges, when carrying out their tasks at courts, crucially depend on the translation work done by translators

who seek to achieve accurate '*linguistic equivalence*' in the target language, English in the context of this paper. Judges, however, rely on the linguistic equivalence which translators achieve to deliver their judgments according to the legal principles in place. Therefore, in many cases, the tasks judges and translators carry out are interrelated. Aust and Nolte (2016) explain that translation helps us understand the processes by which judges interpret international law. The results of such processes do not imply greater uniformity.

Possessing necessary linguistic skills and good understanding of the source and target legal systems is an essential requirement for legal translators. Smith (1995) identifies two key prerequisites which can help legal translator to successfully translate legal texts: (1) clear understanding of the source language and target language legal systems and (2) familiarity with the related legal terms. In addition, legal translators should also be quite able to excerpt linguistic and legal information from the source text in order to better able to render such information pursuant to target language linguistic and legal systems. Reaching broad consensus on the target language equivalent term/s for a source language term may not be possible without the help of legal experts who can explain different aspects of a given term. Alcaraz and Hughes (2014) believe that terms used in legal texts are continuously redefined because social developments force legislations to change.

Equivalence and Challenges of legal translation:

The nature of legal systems, especially legal systems in the Arab world and those in the English-speaking countries, and the complexity of legal language can lead to difficulties and challenges for legal translators. The strong link between language, culture and law makes the industry of legal translation even more complex and challenging. Legal translation does aim at transmitting culture but rather, in many cases, identifies rights and obligations among individuals or institutions. However, such rights may be linked to cultural aspects which poses challenges to legal translators who may be relatively unable to achieve a legal effect in the target language which entails serious consequences. In this context, Sarcevic (1997) points out that legal translation can cause legal effects, establish peace or prompt wars. Kuner (1991, quoted in Sarcevic, 1997) explains that attempting to provide authentic legal texts for different treaties in a number of languages can endanger the stability of the international peace and order.

The lexical and syntactic ambiguity of legal discourse can result in adverse consequences if translators attempt to resolve such ambiguity. Alcaraz and Hughes (2014) explain that if the source language legal sentence is ambiguous, then the translation will also result in ambiguity in the target language. The authors advise translators not to provide any alternatives for ambiguous structures.

Translating legal documents between a pair of different languages highlights the critical importance of understanding source and target legal languages which Mellinkoff (1963, p. 3) calls "the language of law." It is also important to understand the specific roles, purposes and functions of the legal documents to be translated and the target audience. In this context, Sarcevic (1997) explains that the main role language plays in normative legal texts is prescribing specific legal actions which aim at realizing specific goals. With regard to audience, the function of legal texts is informative for the general reader and directive for a specific group of people (Sager, 1993, in Sarcevic, 1997). In the context of translating legal documents between two distinct languages, the nature, purpose, and function of such legal document, as in shari'a-court documents, pose serious challenges for translators. There are three key challenges which significantly influence legal translation between English and Arabic.

Distinct languages and legal systems

Altarabin (2018) points out that equivalence, regardless of the text type, is the ultimate objective which translators seek to achieve. When translating legal documents in general and shari'a-court documents in specific, achieving such an objective becomes extremely challenging to accomplish due to the major differences among the legal systems in the Arab world and the English-speaking world. At the conceptual level, Sarcevic (1997) highlights that when there is no match of the legal terms of different legal systems, translators become unable to use corresponding natural equivalents in the target legal system. The author further explains that that differences in legal systems and culture can result in challenges to translators of legal texts. Sarcevic (1997) supports her argument by stating that national laws are independent legal systems having their own terms, conceptual structure, specific rules of classification, different sources of law as well as social principles. Yankova (2017) argues that the difference in the semantic domains of the legal terms in two legal systems complicates the process of legal translation. Given the conceptualization of two different legal systems, say those in the Arab world and English-speaking world, terms do not fully correspond especially in the case of shari'a legal terms.

The different legal systems, linguistic differences and cultural differences (Cao, 2007) and the nature of law (Tetley, 2000) make legal translation difficult. Furthermore, the different contents of legal systems play a key role in translating legal texts. Volker (2009) points out that legal English relates to common law where concepts can be understood in the context of common law only. Shari'a-court legal documents mainly depend on Quran and Sunnah as the two major sources of legislation.

The difficulties of translating shari'a-court documents into English lies in the absence of terminological and legal correspondence which poses serious challenges to translators whose work can lead to effects home and abroad. What complicates the task of translating Gaza shari'a-court documents into English is the fact that shari'a courts exist in some Arab countries which entails that translating such documents should be confined to Palestinian translators who can request interpretation from Palestinian lawyers or other Arab lawyers who are familiar with the legal system of shari'a courts. This point is highlighted in White's (1982) argument which reflects that the invisibility of legal discourse is problematic due to the explicit conventions that govern the functioning of language, vocabulary selection and sentence structure employed in law. Bhatia (1997) believes that when translators render legal texts, they link language use and purpose of communication. This linkage may not be possible when translating shari'a-court documents into English because the purpose of the source text may significantly vary from that of the target text. Cao (2007) affirms that the absence of equivalent terms across languages, English and Arabic in the context of this paper, is a basic challenge in legal translation. Translation in this context requires continuous comparison of the source and target language legal terms to see how far do they correspond to the actual meaning of source and target legal terms. On the terminological level, the Arabic word نفقة *nafaqah* is not simply translated into English as *alimony* due to the semantic complexity and varied aspects of the word meaning in Arabic. In addition, the term بيت الطاعة (literally obedience house) can be culturally adapted into English as *husband's house*. This reflects that certain source text terms require familiarity with how strong is the linkage between some terms and cultures.

Differences within legal systems

Translators' familiarity with the legal differences existing in one legal system is essential when rendering source texts containing legal terms which do not exist in other source legal systems or have different interpretations within such systems. In certain cases, such familiarity may require having a degree in law in addition to the extensive reading on the differences among source and target legal systems. Husni and Newman (2015) point out that legislation in the US is divided into federal law, which applies to all states, and state law, which applies to particular states. The uniqueness of the legal system in Canada lies in the use of English and French as two official languages on the one hand and common law and civil law on the other.

Taking the Arab world into consideration, we find that the civil law in Algeria, Morocco, Syria, and Tunisia is influenced by the French law while Oman's legal system is influenced by the English Common Law (Husni & Newman, 2015). This reflects that such legal systems may have subtle differences relating the existence and use of legal terms. The differences that occur within a specific legal system result in often significantly different terminologies which relate to the legal profession and courts. In this context, Brierley and David (1985) explain that legal systems have their own vocabulary to express certain legal concepts as well as certain rules to interpret them.

An example of the differences on the use of one Arabic legal term which has different equivalents in English-speaking countries is the term محامي. The equivalents of this term include *lawyer*, *attorney*, *solicitor*, *barrister*, *advocate*, *counselor* and *counsel* in the UK and US (Husni & Newman, 2015). The English equivalents are not synonyms, and, therefore, the differences in meaning and usage should be taken into consideration. *Lawyer* and *attorney* are synonyms in the US; however, only *lawyer* is used in UK to refer to the legal profession. In England, Canada, and New Zealand, there is a difference between "*solicitors* (lawyers who advise clients) and *barristers* (lawyers who advocate in a legal hearing)" (Day & Krois-Lindner, 2008, p. 18). In Arabic, the word عدل, which refers to the *qadi*'s (judge) assistant performing the duties of a notary public in Europe, is used in Morocco, Algeria, and Tunisia. عدل is equal to كاتب عدل in some Arab countries other than Morocco, Algeria, and Tunisia.

Husni and Newman (2015) highlight significant differences between the hierarchical structure of courts in USA and Canada. For US courts, the order is Supreme Court, State Supreme Courts, District Court, Country Courts. The order of Canadian ours is: Supreme Court, Federal Court of Appeal, Federal Court, Provincial/Territorial Court.

Legislative institutions in the Arab countries have different established English translations. مجلس النواب is translated as *Council of Representatives* in Bahrain and Iraq, *House of Representatives* in Jordan, Morocco and Yemen, *National Assembly* in Lebanon, *Chamber of Deputies* in Tunisia, *General People's Congress* in Libya, and *People's Assembly* in Egypt and Syria (Husni & Newman, 2015).

Familiarity with legal terms

Translators' familiarity with English and Arabic legal terminology plays a major role in translating legal documents. Trosborg (1997) points out that translating legal texts requires translators' familiarity with legal terms used in specific legal contexts as well as their familiarity with the distinct lexical features of legal terms which reflect the competency of legal translators. Different concepts resulting from the difference in legal systems must be explained. Smith (1995, in Bhatia et

al., 2008) identifies three main prerequisites to deliver a successful translation of legal documents: (1) basic familiarity with target legal systems, (2) familiarity with the relevant specialized terminology, and (3) competence in the legal style of writing in the target language. This reflects the immense importance of translators' familiarity with the source and target legal terms. Ahmad and Rogers (2007) point out that translating legal texts requires extensive knowledge of legal topics, terms, concepts, sentence structure and culture in the source language and the target language.

Translators need to familiarize themselves with specific established translations for some English legal terms rendered into different Arabic equivalents across the Arab world. If we consider the translation of the legal terms *chapter* and *article* in Egypt and Morocco, we can familiarize ourselves with the implication of using different translation of one English term. *Chapter* is translated as فصل and قسم in Egypt and Morocco respectively whereas *article* is translated as مادة and فصل.

The Egyptian law deals with فصل as a main heading and مادة as a subheading thereunder. The Moroccan law deals with فصل as a subheading. Other English legal terms can also have different Arabic translations. *Court of Cassation* is translated as محكمة التمييز in Saudi Arabia, Lebanon, Jordan, Kuwait, United Arab Emirates and Iraq; محكمة التعقيب in Tunisia; and محكمة النقض in Egypt and Syria. *Examining magistrate* (investigating magistrate) into Arabic as قاضي التحقيق in Algeria, حاكم التحقيق in Tunisia, and المحقق العدلي in Lebanon. There are types of laws and courts which are specific to certain Arab and Muslim countries such as المحكمة الشرعية (Shari'a court) in Palestine, Jordan, Syria, and Iraq. محكمة الأسرة exists in other countries such as Egypt, Qatar, Bahrain, and Kuwait. Such Shari'a courts' rulings can be binding in the English-speaking countries which allow the shari'a law and shari'a courts such as Germany and the UK. Schäffner (1997) and Legrand (2005) argue that concepts have meanings only when they are embedded in socioculturally determined frames.

Translators' familiarity with shari'a-court documents, in the context of this paper, is critically important for various reasons. Such familiarity enables translators to identify the semantic and pragmatic functions of shari'a terms and then select appropriate translation strategies to render these terms into English. The semantic complexity of some terms necessitates expert-like familiarity with such terms in order to accurately convey certain word meanings into English. An example on such semantic complexity is the phrase جد صحيح. Without understanding that this specific shari'a-court term refers to the paternal grandfather, translators may not, in most cases, deliver an accurate translation of the same. Another example relates to the word نفقة which many simply translate into English as *alimony*. The word نفقة has many uses and implications in Arabic for which *alimony* may not be a perfect equivalent. Therefore, translators need to be familiar with what the word refers to in order to properly render it into English.

Related studies:

Al-Shehab (2013) conducted a study to examine the translatability of Google Translation (GT) for a test of six English Legal Articles or sentences (ELAs) into Arabic. The researcher submitted the articles for two professionals at the Jordanian universities to ensure validity. To collect the data, the researcher entered the ELAs into Google for translation into Arabic. The qualitative analysis was adopted to investigate the translatability of GT for the English legal sentences in comparing with human translation. The study findings show that translation for English legal sentences into Arabic

acceptable with the level of partial equivalents. However, GT poses a number of problems when translating English archaic terms, passive voice, and the modal shall.

Alwazna (2016) conducted a study on translating Islamic law terms into legal English. The author argues that despite the translation problems resulting from the terminological difference between Islamic law and the law originally written in English, translators can adopt specific translation strategies to overcome such problems. In addition, Alwazna (2016) discussed the Islamic term مال *mal* and the English term *property* which translators often adopt to render مال. He stresses that legal translators should adopt functional equivalence when translating legal documents into English to reproduce the right legal effect. If such equivalence is not available, translators may adopt other strategies.

Hdouch and Mahraj (2020) discussed the sources of difficulty in legal translation and the technicality of legal language which poses challenges to legal translators. In addition, the authors examined the nature and lexical features of legal language. The lexical features discussed in the paper include archaism, Latinism, technicality, redundancy and repetition, synonyms and legal tautologies. Hdouch and Mahraj say that translating legal texts involves some lexical difficulties which translators need to overcome. They also recommend that translation instructors invest enough time to address such issues.

Al-Aqad (2014) investigated the quality of the translated message from Arabic into English. His study focused on the changes of the message in the translation process which are attributable to functional and verbal equivalence in Arabic and English. Al-Aqad adopted Baker's theory (1992) to examine different ways in which semantic changes affect the quality of the translated texts in relation to equivalence. He also adopted Newmark's translation techniques (1988) as a theoretical framework for his investigation. His data were collected from five marriage contracts from Gaza shari'a courts focusing on six Arabic idioms in each contract. Al-Aqad discussed the challenges faced by translators in translating marriage-related terms such as "Mahr", "Muakhar Sadaq" المهر، مؤخر الصداق, and other culture-specific terms. The researcher highlighted the challenges of finding equivalence, functionally and verbally, to render the same message from the source language to the target language. He explains that performing excellent translation and overcoming all challenges encountered in the translation process need attention from the educational institutions that graduate professional translators. Due to the importance of delivering quality translation and interpreting courses at universities, a desperate need emerged to conduct empirical research to enhance the quality of translation courses.

Nouri (2016) conducted a study to investigate the challenges which translation students at AlMa'moun University College in Iraq face when translating legal documents. The researcher designed his study to investigate a randomly chosen sample of translation students by testing their performance to figure out the difficulties and problems they encountered in 1) translating English legal text, 2) translating Arabic legal text, 3) translating five Arabic legal terms, and 4) translating five English legal terms. He found that Iraqi undergraduates performed poorly in translating some legal terms. However, they performed better in translating some other legal terms. Nour (2016) attributes such challenges to students' lack of exposure to such legal texts to translate. The author did not provide any recommendations at the end of this study and only outlined the problems students faced.

Fakhouri (2008) examined how pragmatic and functional considerations affect the translation of a legal text. Fakhouri investigates the application of the Speech Act Theory by comparing the regulative acts for the translations of three different contracts. The author examined three different versions of translations for each one of the three contracts: Real-Estate Sales Contract, a Lease Contract, and an Employment Contract. The contracts were translated from English into Arabic by three different certified translators. To examine the translation from Arabic into English, she asked a group of graduate students from the English department and a commissioned legal translator to translate a "Power of Attorney." Both translated the text twice, once as part of a legal thriller novel and another as a classified newspaper advertisement. The produced translations were examined to see if they transferred the same message functionally. After analyzing the data collected, the results showed that employing the pragmatic and functional attitudes to the legal translation promotes the performance of the legal translators.

Thawabteh (2014) traced the development of legal discourse in Palestine by examining three marriage contracts of three periods of time: post-First World War, post-Israeli occupation and post-foundation of Palestinian National Authority. His study showed how legal language developed in terms of structure, culture and terminologies. The study highlighted the strong link between the development of legal discourse and the social, political and economic situations when the three marriage contracts were written.

METHODOLOGY:

Research design

The researchers adopted a descriptive analytical approach in this study to examine the translations of Gazan shari'a-court phrases and sentential extracts by four Palestinian sworn translators.

Participants

The participants were four Palestinian sworn-translators, certified and licensed by the Palestinian Ministry of Justice. They translated the sharia-court texts and part of the data for data collection and their translations were analyzed in a master thesis to examine the lexical difficulties Palestinian translators face when rendering sharia-court documents into English.

3.3 Data selection

The researchers selected five phrases and five sentential extracts from fifty phrases and thirty-five sentential extracts examined earlier in a thesis discussing the linguistic problems Palestinian translators face when rendering sharia-court documents into English. However, this study adds a new and significant aspect of the analysis, examining the semantic and pragmatic implications of the inaccurate English translations of Gazan sharia-court phrases and sentential extracts.

3.4 Procedure

The researchers examined the selected translations of five phrases and five sentential extracts from the original thesis. The phrases and sentential extracts studied in this research were taken from the shari'a certificates templates and different Shari'a cases. Difficult and problematic phrases and sentential extracts were highlighted. Assistance was sought from an assistant professor in law working at the Islamic University of Gaza who explained the semantic complexity of the selected sharia-court texts. The source text was sent to four Palestinian sworn translators who rendered the translations which were analyzed to discuss translation problems at the lexical and syntactic levels. This paper looks into a new aspect of the translation which lies in examining the semantic and pragmatic implications of the English inaccurate translations of Gazan sharia-court legal documents

containing phrases and sentential extracts which require high level of translators' familiarity with the Arabic legal discourse in general and the Palestinian sharia-court legal discourse.

TEXTUAL ANALYSIS:

In this section, the researchers selected five phrases and five sentential extracts from fifty phrases and thirty-five sentential extracts which the thesis discussed. The thesis discussed the lexical and syntactic problems which Palestinian sworn translators face when rendering shari'a-court documents into English. Here, the researchers discuss the semantic and pragmatic implications of the 'inaccurate' renderings of Gazan shari'a-court phrases and sentential extracts into English. To the best of the researchers' knowledge, this is the first study which focuses on the semantic and pragmatic implications of translating sharia-court documents.

What is meant by inaccurate here is that the translations provided include some inaccurate selection of target language equivalents which have semantic and pragmatic implications. Inaccuracy is judged against a detailed analysis of the source shari'a-court terms and their translations into English.

Analysis of selected phrases:

1. دعوى تفريق للشقاق والنزاع

| | |
|---------------|--|
| Translation 1 | Claim of Separation for Dispute and Disagreement |
|---------------|--|

| | |
|---------------|---|
| Translation 2 | Claim for Separation on the grounds of dissention |
|---------------|---|

| | |
|---------------|--|
| Translation 3 | Claim of separation due to Dispute & Discord |
|---------------|--|

| | |
|---------------|---|
| Translation 4 | Separation case for discord and dispute |
|---------------|---|

The phrase دعوى تفريق للشقاق والنزاع is a shari'a-court phrase which refers to the case a wife files at the shari'a court requesting a court-ordered judicial divorce due to marital discord and strife between the husband and wife. The first three translators rendered the word دعوى into *claim*. In the legal context, *claim* refers to (1) demand for something due, right to something in the possession of another person and (3) a statement open to challenge. Semantically, the use of *claim* does not technically reflect the word دعوى which refers to a case at bar. In terms of the pragmatic implication, the use of *claim* can indicate that the subject matter has no solid grounds and therefore cannot be considered as a fully true matter deserving legal action.

The word تفريق in the shari'a-court phrase refers to the case which a wife, in most cases, files at a shari'a court requesting a judicial divorce for reasons related to marital discord and strife. The four translators rendered تفريق into *separation*. The term *separation*, in many English-speaking countries, refers to the marriage separation which takes place when married spouses stop living together in one place. This step does mean getting divorced; however, it can mean that the spouses are taking steps toward divorce legal procedures. Semantically, *separation* does not reflect the shari'a term تفريق which means that the wife is the one who files a case requesting judicial divorce. Another important point which should be highlighted here is that the four translations do not make any reference for marriage which can lead to semantic as well as pragmatic ambiguity arising from lack of specific reference to context and usage. Furthermore, the translators did not also highlight that such type of divorce cases is court-ordered unlike the normal divorce cases where the husband performs the act of divorce verbally. Lack of complete interpretation on the source text semantic complexity can lead to semantic and pragmatic ambiguity.

The word *تفريق* is currently transliterated and used in English academic literature. In addition, English academic literature on such a type of court-ordered divorce includes terms like *judicial divorce* or *divorce by judicial intervention*.

Suggested translation: *Judicial Divorce (Tafriq) Case for Marital Discord and Strife*.

2. نفقة الحال والأمثال

| | |
|---------------|----------------------------|
| Translation 1 | Standard of Living Alimony |
|---------------|----------------------------|

| | |
|---------------|---------------------|
| Translation 2 | Alimony of the Like |
|---------------|---------------------|

| | |
|---------------|------------------------------|
| Translation 3 | Individual and Peers Alimony |
|---------------|------------------------------|

| | |
|---------------|------------------|
| Translation 4 | Similar expenses |
|---------------|------------------|

The term *نفقة الحال والأمثال* is a shari'a-court phrase which refers to the standard amount of Nafaqah (alimony) which is paid to the wife according to the financial status of the husband. *الأمثال* refers to the standard amount of nafaqah which is paid to other married women.

To begin with, the first three translators rendered *نفقة* into *alimony* which, in English, basically refers to the financial support which a court of law orders a person to pay for his wife during separation or after divorce. The semantic and pragmatic implications of such a translation entail a loss of specific reference to what nafaqah in this context means, the money a husband pays to his wife to meet her basic needs. The pragmatic ambiguity is reflected in providing two status alternatives for the wife: separated and divorced, which is not the case in the source language context. *الحال*, which refers to the financial status of the husband, was not translated in the four translations which indicates a complete loss of the semantic and pragmatic aspects of translating the term. The word *الأمثال* refers to similar married women. The first translator did not render *الأمثال* in the translation; the second, third and fourth translators used *like*, *peers*, and *similar* to render *أمثال*. Although these translations provide a very general meaning of *أمثال*, they cannot be used as accurate equivalents. The semantic and pragmatic implications of such translation lie in some degree of semantic loss and lack of identification of the intended person. The word *nafaqah* is currently in used in English books or articles and therefore a transliteration of the term into English is acceptable. *Alimony* may be added as a kind of cultural adaptation.

Suggested translation: Standard Adequate Nafaqah (Alimony)

3. حجة تصادق علي الزوجية

| | |
|---------------|----------------------------------|
| Translation 1 | Marriage Ratification Instrument |
|---------------|----------------------------------|

| | |
|---------------|-------------------------------------|
| Translation 2 | Confirmation of Marriage Instrument |
|---------------|-------------------------------------|

| | |
|---------------|----------------------------------|
| Translation 3 | Marriage Validation Certificate: |
|---------------|----------------------------------|

| | |
|---------------|---------------------------------------|
| Translation 4 | Certificate of shari'a court marriage |
|---------------|---------------------------------------|

The term *حجة تصادق علي الزوجية* is a shari'a-court term used in Palestine and some other Arab countries to refer to the certificate of marriage validation at shari'a court. The translation of *حجة* into *instrument* is not accurate because it is not commonly used with marriage. *Certificate* is a commonly used term with reference to marriage. *تصادق* was rendered as *ratification* in the first translation which entails some semantic loss because the source term refers to validating a previous marriage while *ratification* means *signing* or *giving formal consent*. *Confirmation* and *validation* are two acceptable translations for *تصادق* in this context because they reflect verification. The fourth translator rendered the phrase without making reference to a key word in the phrase, *تصادق*.

This reflects a semantic loss and a pragmatic ambiguity which reflects that the parties to the marriage are being married for the first time which is not the case.

In addition, the first three translation do not make reference to shari'a courts which indicates that such certificates can be issued at different legal institutions.

Suggested translation: Certificate of marriage validation at shari'a court

4. دعوى مهر في تركة

Translation 1 Claim of a Bride's Dowry in Inheritance

Translation 2 Claim of Dowry from Inheritance

Translation 3 Claim of dowry in estates:

Translation 4 Dowry suit in heirs

The phrase دعوى مهر في تركة is a shari'a-court term referring to the case a widowed woman files to gain her outstanding Mahr (bridewealth) in her husband inheritance after his death. The first three translators rendered دعوى into *claim* which does not legally reflect the meaning and usage of the source language term. Semantically, the use of *claim* does not technically reflect the word دعوى which refers to a case at bar. In terms of the pragmatic implication, the use of *claim* can indicate that the subject matter has no solid grounds and therefore cannot be considered as a fully true matter deserving legal action. The first translator used the word *bride* which, semantically and pragmatically, does not refer to the widowed woman implied in the source text. In addition, the four translators used the English term *dowry* to translate مهر. Semantically and pragmatically, this translation creates ambiguity because *dowry* mainly refers to the money or property a woman brings to her husband which is not the case in the source text. The accurate meaning is Mahr (Bridewealth), which refers to the money or property a husband brings to his wife. English provides different translations for مهر which include *bridewealth* and *bride token*. Additionally, the term *Mahr* is transliterated and used in the English language. The third translator used the term *estates* to refer to تركة. This translation is semantically ambiguous because the word *estates* normally refers to *the sum of a person's assets whether this person or alive or dead*. In terms of its pragmatic ambiguity, *estates* as an equivalent to تركة does not specifically refers to a person's property owned at death. The fourth translator inaccurately used the term "heirs" which indicates human beings, not the husband's property.

Suggested translation: *Widowed Wife's Outstanding Mahr (Bridewealth) in Husband's Inheritance Case*.

5. موافقة ولي شرعي

Translation 1 Consent of a Legal Guardian

Translation 2 Approval of the legal curator

Translation 3 The approval of the legal guardian:

Translation 4 Approval of the guardian

The term موافقة ولي شرعي is a shari'a-court phrase referring to the consent of a legal custodian. The first, third, and fourth translators rendered ولي into *guardian* which semantically and pragmatically does not reflect the meaning of ولي.

It is more accurate to render ولي into *custodian* which indicates a custodian's exceptional authority over a person's legal rights being placed under custody. Guardians' actions are limited compared to custodians. The second translator used the lexical item 'curator' which is completely irrelevant to

the context; the word means a keeper or custodian of a museum. Thus, it is an inaccurate translation. Using *guardian* rather than *custodian* has semantic and pragmatic implications which are mainly reflected in attributing approval to another person than the intended person, the custodian ولي.

Suggested translation: *The consent of a legal custodian.*

Sentences

1. إذني بالاستدانة والصرف والرجوع عليه بما يتراكم من النفقة وتضمينه الرسوم والمصروفات القانونية وإجراء المقتضى الشرعي

| | |
|---------------|---|
| Translation 1 | My permission to borrow, spend and recourse to what accumulates from the alimony and include the legal fees and expenses and conduct the Shari'a requirement. |
| Translation 2 | I hereby authorize to borrow and dispense and recourse against (him) for any accumulating expenses; incurring him the legal fees and expenses and proceeding with the legal requirements. |
| Translation 3 | Shall permit me to borrow and disburse and take from him the due alimony including the fee, legal expenses, and execute the legal requirement |
| Translation 4 | I give permission for borrowing, spending and returning to it with what accumulates from alimony, including legal fees and expenses, and the procedure for legal requirements |

There are obvious inaccuracies in the four translations provided above. The word إذني here refers to "allowing me" to carry out certain tasks under a court ruling. This expression is used by a plaintiff (wife). There are two other similar words which are only used by Qadi (shari'a judge) in similar court proceedings: (1) وأذنته "I shall permit him" and (2) وأذنتها "I shall permit her." إذني was translated as *my permission*, *I hereby authorize*, and *I give permission* in the first, second and fourth translation respectively. Compared to the third translation, these three translations do not relate to the source language word and are therefore semantically inaccurate. The pragmatic implication of such inaccurate translation of this term lies in attributing the term to another person than the intended person (giving permission instead of being permitted). The second translator mistranslated الصرف into *dispense* which does not relate to *spending money to cover the basic needs*. The semantic implication of this inaccurate translation lies in changing the meaning from *spending money to over basic need to manage without*. In translating الرجوع عليه, the first and second translators accurately used *recourse* which refers to the legal right to request a payment or compensation. The third translator rendered الرجوع عليه into *take from him* which generally reflects the meaning but the phrase is not technically accurate in the legal context. The fourth translator used *returning to it* to render الرجوع عليه. This translation is semantically inaccurate and does not relate to the meaning of the source language phrase.

In translating the shari'a-court term نفقة, the first, third and fourth translators used *alimony* while the second translator did not render the term. The discussion on the accuracy of using *alimony* to translate نفقة can be found in the discussion of الأمثال.

The translations show that the four translators did not accurately render تضمينه which relates to the court ordering of a party to a case to pay the legal expenses. It was rendered as *included*, *incurring*

him, and including respectively. This reflects a complete semantic loss of the source language legal phrase.

Suggested translation:

I request the court to allow me to borrow and spend money for my basic needs and request him to pay the nafaqah (alimony) due on him. I also request ordering him to pay the legal fees and expenses and carrying out necessary shari'a procedures.

2. وهي نفقة الحال والأمثال يستطيع الزوج دفعها ولا يكفي الزوجة أقل من ذلك إخباراً شرعياً

| | |
|---------------|---|
| Translation 1 | It is alimony that can be afforded by the husband, and the wife cannot accept less than that according to Shari'a. |
| Translation 2 | The proper alimony of the like such that the husband can afford and the wife cannot be sufficed with less amount, upon lawful notification. |
| Translation 3 | Alimony paid by the husband that wife never accepts less as a legal right. |
| Translation 4 | It is the expense of the case and proverbs that the husband can pay, and the wife is not sufficient |

To avoid repetition, readers can refer to example 2 of the phrases above for more information on the translation of نفقة الحال والأمثال. However, there are few semantic and pragmatic implications of the phrase translations here.

The word الحال, referring to the economic status of the husband, was not rendered in the third translation and was rendered as case, a literal translation, in the fourth translation which indicates a semantic loss in the two translations. In addition, the first and third translators did translate الأمثال into English which indicates a semantic and pragmatic loss because of the meaning loss and lack of specific person reference (similar wives) in the target language. 'ولا يكفي الزوجة أقل من ذلك' was rendered appropriately in the first three translations. The fourth translator rendered it as *the wife is not sufficient* which is completely inaccurate.

The four translators did not accurately translate 'إخباراً شرعياً' which leads to semantic and pragmatic implications. The term إخباراً شرعياً refers to the witnesses' testimonies in the court concerning a case. The first translator rendered it as 'according to Shari'a' which, semantically, does not reflect the meaning of the phrase and, pragmatically, leads to lack of reference to the intended persons. The second translator rendered the phrase as 'upon lawful notification' which is completely irrelevant to the phrase meaning. The third translator translated it as 'a legal right.' These translations of إخباراً شرعياً are not related to the intended meaning of the phrase and are therefore inaccurate. This reflects that the translators are unfamiliar with the meaning of some legal phrases in the source text. In addition, the translations reflect that such unfamiliarity leads to semantic and pragmatic implications which have undesirable effects on the meaning and also usage of the target text. What complicates the matter is that such inaccurate translations may be taken as grounds for further legal actions.

Suggested translation: *It is the nafaqah of similar married women, which the husband can afford; and the nafaqah, which the wife cannot accept a lesser amount thereof according to the witnesses' testimonies.*

3. وضمنته الرسوم والمصروفات القانونية وذلك بناء على الدعوى والطلب والإقرار والإخبار

| | |
|---------------|---|
| Translation 1 | The legal fees and expenses are included according to the claim/case, request, acknowledgement and informing. |
| Translation 2 | In reliance on the claim, the request, the acknowledgment and the notification, he shall incur the legal fees and expenses. |
| Translation 3 | Included in decrees and legal expenses pursuant to a claim and request, recognition, and Notice. |
| Translation 4 | It is included in legal fees and expenses based on the case, request, approval and declaration |

The above legal sentence is said by a shari'a judge when passing a judgement on a case. The legal term 'ضمنته', which means – I hereby order him to pay-, was inaccurately rendered in the four translations. This reflects a semantic loss of the meaning and a pragmatic implication in that the intended persons, the judge and the defendant, are not reflected in the translation of ضمنته as *included*. Translating دعوى into *claim* in the first three translations does not specifically refer to the case at bar. Furthermore, the lexical item 'الطلب' refers to the request made by the litigants to the case. The four translators provided a general translation of the term into English as *request*. Such translations do not specifically refer to the requests made by the plaintiff and defendant in a legal case which indicates a semantic loss of the indented meaning and pragmatic ambiguity because the intended persons are not identified. الإقرار refers to a litigant's confirmation of the facts provided by either of them. None of the four translators rendered this term accurately. It was rendered as 'acknowledgment' in the first two translations, 'recognition' and 'approval' in the third and fourth translations respectively. Despite the fact that such translations provide a general meaning of the source text term, they cannot be legally considered due to the semantic loss and pragmatic ambiguity they create. The translations should reflect the plaintiff's or defendants' confirmation of the facts or claims made by either. The shari'a legal term 'الإخبار', which refers to *witnesses' testimonies*, was not translated properly by the four translators. The first, third, and fourth translators used 'informing,' 'notice,' and 'declaration' respectively while the second translator did not translate the word إخبار, which refers to *witnesses' testimonies*. The translations have a semantic implication represented in the loss of the source language term actual meaning and, pragmatically, lack of reference to the concerned persons.

Suggested translation:

I hereby order him to pay the legal fees and expenses based on the case, litigants' requests and confirmation of their claims in the case, as well as witnesses' testimonies.

4. لم يُقم عليهم وصياً شرعياً حال حياته ولا وصي من قبله وليس لهم جد صحيح

| | |
|---------------|---|
| Translation 1 | N/A |
| Translation 2 | He has not appointed a lawful guardian in his life, and there is no guardian from his part and they have no living grandfather. |
| Translation 3 | Never assigned a legal custodian in his life nor assign any before and have no grandfather. |
| Translation 4 | There was no legal guardian over them during his lifetime, nor a guardian from him, and they have no valid grandfather |

The above shari'a-court legal sentence relates to child custody. The first translator did not provide a translation for this term. The second, third and fourth translations are generally accepted except for

some translation errors having semantic and pragmatic implications. The shari'a-court phrase لم يُقم was rendered accurately in the second and third translation and was not reflected in the fourth translation. وصياً شرعياً was only rendered accurately in the fourth translation as *legal guardian*. *Lawful guardian* in the second translation is partially accepted because *lawful* is not commonly used to refer to people. The third translator rendered وصياً شرعياً into *legal custodian*. Although *guardian* and *custodian* share some characteristics relating to the responsibility for children, *custodian* refers to الولى rather than الوصى which is translated as *guardian*. This creates pragmatic ambiguity related to the intended person. The phrase 'ولا وصي من قبله' refers to the fact that he, while being alive, did not appoint a guardian to take care of the children after his death. Therefore, there is some semantic loss in the three translations. In addition, it is clear that the second translator misread قبله which means *by him* and rendered it into *before*. Furthermore, the Arabic shari'a term 'جد صحيح' refers to "paternal grandfather." Both the second and third translators rendered it into *grandfather* which can refer to "paternal" or "maternal" grandfather. The fourth translators used *valid grandfather* to render جد صحيح which is legally inaccurate given the semantic implication of partial meaning loss and pragmatic ambiguity resulting from the lack of clear reference to the concerned person.

Suggested translation:

The children's father did not appoint a legal guardian for them while he was alive and did not appoint a legal guardian to take care of the children after his death and they (children) do not have a paternal grandfather.

5. توجهت أنا محضر هذه المحكمة... إلى العنوان المذكور وأعلنت صورة هذا الإعلان وصورة لائحة الدعوى إلى المدعى عليه ... المذكور بنفسه وهو مكلف شرعاً حسب الأصول

| | |
|---------------|---|
| Translation 1 | I, the court officer, went to the mentioned address and notified the Defendant with this announcement and a copy of the Statement of Claim |
| Translation 2 | I, the Bailiff..., appeared personally at the said address and served a copy of the notification along with a copy of the Statement of Claim to the legally accountable defendant ... by hand. |
| Translation 3 | I, the process server, headed to the said address and declared a copy of this announcement and a copy of the list of claim to the said defendant ... the legally authorized duly. |
| Translation 4 | I am the clerk of this court went to the aforementioned address, and a copy of this announcement and a copy of the case sheet was announced to the aforementioned defendant and it is legally mandated by the rules |

In this legal sentence, the term 'مُحضر' refers to the court employee who is assigned the duty of serving court notices. The first translator inaccurately translated مُحضر into *court officer* which in fact refers to the court employee who is primarily responsible for providing security services within their respective courtrooms. The semantic and pragmatic implications of this inaccurate translation lie in meaning loss and ambiguity resulting from reference to another person than the intended person. The second translator rendered the term into *Bailiff* which refers to a law officer who makes sure that the decisions of a court are obeyed.

This does not reflect the duty of the court employee who serves court notices. The third translator rendered it accurately using the term 'the process server.' This translation was the only translation

which reflected the intended meaning by using a natural equivalent in the English legal language. The fourth translator rendered it using the term 'Clerk' which refers to the employee who writes down the minutes and procedures of the court sessions inside the court. Therefore, it is an inaccurate translation.

The legal term أعلنت means *notified* or *duly served the notification*. The phrase was not rendered accurately in the third translation because the translator used the word 'declared' which does not refer to serving a notice. The use of 'declared' reflects a literal translation which shows the translator's lack of familiarity with the legal term. In addition, the legal term لائحة الدعوى summarizes the facts a plaintiff provides against a defendant in a court of law. It was rendered accurately in the first two translations as 'statement of claim.' Meanwhile, it was rendered in the third translation using the term 'list of claim' which is commonly used in courts language. The fourth translator rendered it using the term 'sheet' which does not reflect the meaning of لائحة الدعوى. In translating وهو مكلف شرعاً حسب الأصول, the first translator did not render this part of the source text legal sentence. In addition, the third and fourth translators did not accurately render مكلف شرعاً because they used the phrases *legally authorized* and *legally mandated* respectively. These two translations are not suitable equivalents for مكلف شرعاً which is accurately translated as *legally accountable*. Finally, the Arabic term 'حسب الأصول' was not translated in the first, second and fourth translations. The third translator used *duly* which is an acceptable rendering of حسب الأصول.

Suggested translation

I, the court process server, went to the said address and duly served a copy of the service and a copy of the statement of claim to the defendant, being legally accountable.

CONCLUSION:

Translating legal documents between English and Arabic in general and shari'a-court documents into English in specific is increasingly becoming an important topic in the field of translation studies. This can be mainly attributed to the fact that some European countries began to allow shari'a courts to operate in order to settle legal cases among Muslims. Legal texts contained in shari'a-court documents require a high level of familiarity with the source language shari'a terms and the different strategies adopted to render such terms into English. The discrepancy between languages, cultures and legal systems can, given the insufficient level of translators' familiarity with legal discourse, pose serious translation challenges which can relate to lexical and syntactic issues on the one hand and semantic and pragmatic implications on the other. Some of the translation difficulties are attributed to the difference in legal systems and the semantic complexity of the source language terms. Inaccurate translations may also result from selecting cultural equivalents which do not reflected the intended meaning of the shari'a-court terms as when translating نفقة and تفريق into *alimony* and *separation*. The discussion above shows that the main problem which translators faced is unfamiliarity with legal discourse.

Translators' unfamiliarity with legal discourse led to semantic and pragmatic implications which clearly affected the translation outcome. The serious effects of such implications lie in rendering inaccurate translations which semantically depart from the source text legal discourse. This is further complicated by the fact that some pragmatic implications and ambiguity reflect that reference is made to some people who were not originally intended in the source text. This in turn can influence some court judgments which reflects the significant impact of inaccurately rendering shari'a-court terms into English.

One example on the translation inaccuracies having significant semantic and pragmatic implications is the translation of إخباراً شرعياً into English. The term, as explained, refers to the witnesses' testimonies in the court concerning a case. The four translators did not accurately translate it into English which led to semantic and pragmatic implications. Semantically, the meaning of the shari'a-court term is completely lost while, pragmatically, no reference is made to witnesses' testimonies which is reflected in the legal meaning of إخباراً شرعياً.

Another example which reflects the semantic and pragmatic implications of inaccurate translations is the rendering of نفقة الحال والأمثال by the four translators. The first three translators rendered the legal term نفقة into *alimony* does not specifically identify the marital status of the woman as it could mean a divorced or separated wife while the source text makes specific reference to a married woman. The second major problem with the translation lies in that the four translators did not render الحال, which refers to the husband economic status, into English.

The translations inaccuracies and their semantic and pragmatic implications discussed in this paper highlight the need for integrating specific contents in legal translation courses to better familiarize student translators and trainee translators with the semantic complexity of shari'a-court terms and the practical methods which can be adopted to translate such terms into English. Attention should also be given to the legal terms which are characterized by culture-based meanings.

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Appendix:

| Model translation | ST |
|---|--|
| Judicial Divorce (Tafriq) Case for Marital Discord and Strife | دعوى تفريق للشقاق والنزاع |
| Standard Adequate Nafaqah (Alimony) | نفقة الحال والأمثال |
| Certificate of marriage validation at shari'a court | حجة تصادق علي الزوجية |
| Widowed Wife's Outstanding Mahr (Bridewealth) in Husband's Inheritance Case. | دعوى مهر في تركة |
| The consent of a legal custodian | موافقة ولي شرعي |
| I request the court to allow me to borrow and spend money for my basic needs and request him to pay the nafaqah (alimony) due on him. I also request ordering him to pay the legal fees and expenses and carrying out necessary shari'a procedures. | إذني بالاستدانة والصرف والرجوع عليه بما يتراكم من النفقة وتضمينه الرسوم والمصروفات القانونية وإجراء المقتضى الشرعي |
| It is the nafaqah of similar married women, which the husband can afford; and the nafaqah, which the wife cannot accept a lesser amount thereof according to the witnesses' testimonies. | وهي نفقة الحال والأمثال يستطيع الزوج دفعها ولا يكفي الزوجة أقل من ذلك إخباراً شرعياً |
| I hereby order him to pay the legal fees and expenses based on the case, litigants' requests and confirmation of their claims in the case, as well as witnesses' testimonies | وضمنته الرسوم والمصروفات القانونية وذلك بناء على الدعوى والطلب والإقرار والإخبار |
| The children's father did not appoint a legal guardian for them while he was alive and did not appoint a legal guardian to take care of the children after his death and they (children) do not have a paternal grandfather | لم يُقم عليهم وصياً شرعياً حال حياته ولا وصي من قبله وليس لهم جد صحيح |
| I, the court process server, went to the said address and duly served a copy of the service and a copy of the statement of claim to the defendant, being legally accountable. | توجهت أنا محضر هذه المحكمة ...إلى العنوان المذكور وأعلنت صورة هذا الإعلان وصورة لائحة الدعوى إلى المدعى عليه ... المذكور بنفسه وهو مكلف شرعاً حسب الأصول |