

IMPLICATIONS OF BAD TRANSLATION OF LEGAL TERMS ON A JUDICIAL CASE: PERSPECTIVES OF ARABIC TRANSLATORS

Dr. Nasser Jameel Al-Shamayleh¹, Dr. Aisha Mohamed Ismail Elamin²

¹Department of Law - College of Business Administration, Prince Sattam bin Abdulaziz University - Kingdom of Saudi Arabia, n.alshamaileh@psau.edu.sa

²Department of Law - College of Business Administration, Prince Sattam bin Abdulaziz University - Kingdom of Saudi Arabia, a.elamin@psau.edu.sa

Abstract

The question of translation accuracy is at the core of the field of translation studies. Despite the abundance of tools for evaluating translation quality, hardly anything is understood about the consequences of a poorly done translation. Students of translation often find the legal system to be one of the most complex. The translation of judicial documents from English to Arabic and from Arabic to English is particularly challenging due to the differences in linguistic system, legal permutations, and cultural variety between the two cultures. Equally, practitioners of translation use various methods for coping with these challenges. The purpose of this research was to look at the obstacles and issues that Arabic translators have while working on statutory documents and the methods they employ to overcome them. In addition, the story of a wrongful conviction Mazhar Hussain in Pakistan brought about by the inaccurate translation of legal concepts is presented in the paper. This survey gathered the opinions of Arabic translators. Over 70 Arabic translators took part in the survey, which was distributed online. According to the results, the most difficult aspects of translating legal contracts into Arabic are the use of binominal phrases and paralleled structures, the construction of legal sentences, the handling of numerous negatives, and the arrangement of legal texts. Poor translation of legal precepts has far-reaching consequences, as shown by the reported instance of wrongful conviction in Pakistan. The study's findings have significant implications for those working in the field of translation education, as well as for those developing curricula for it. As a result, it's clear that those who translate legal codes require education in the nuances of different legal systems, the influence of other cultures, and the wider repercussions of doing things wrong.

1. Study Background

Translating legal documents is a subset of specialized translation. To translate papers, editorial topics, and legal formulae like contracts, judgements, or statutory procedures from one language to another is often termed as legal translation (Frade, 2015). The goal is to develop a different but consistent structure for the document, text, and topic at hand, one in which the translator makes use of the individual's customs and vocabulary while highlighting the original notion without introducing any discrepancies or ambiguities (Duraner 2012). A legal translator's credibility rests on his experience and knowledge of the field; in many jurisdictions, he must also be attested in using the target language (Khaydarova, 2019).

Conventions plays the most important role in legal translation, which also requires a high level of correctness and often results in the need for interpretations (Karjo, 2015). Reason being, translators have a harder time with legal documents because of its unique morphology, syntactic, vocabulary, contextual, category, neologisms, pragmatism, and stylistic qualities (Hargitt 2013). There are two main aspects that set legal translation apart from others: the justice system, and the terminology used within it (Enberg, 2020). Certain Arabic terms, for example, have the same morphemes and lexical structure but have various meanings since they are part of different legal systems.

It is common knowledge that the law is defined by both complexity and variety: variety because there are different types of law including "family law, commercial law, and administrative law; complexity, because it is related to all human relations; and this reality results in an almost infinite number of documents, each dealing with a particular legal situation in a particular area of law" (Al Aqad, 2014: 15).

For accurate legal translation, it is essential to work with a professional who has extensive understanding of legal terminology and procedures. The translation of legal papers is among the most challenging tasks because of the necessity for precision and accuracy. Birth certificates, applications, technical patent confirmations, deposition transcripts, financial statements, evidentiary papers, litigation materials, and company contracts are just some of the various types of written material that need a legally accurate translation. Not only should translators be familiar with the ins and outs of the law in general, but also with the specifics of the laws and legal traditions of the countries into which they are translating.

As compared to other types of technical translation, the task of translating legal papers into a foreign language is often regarded as one of the most challenging. Since each nation has its unique legal system and legal language, this is a challenging task. Even if two

countries share a same language, there are likely to be significant differences in this area. A legal translator's skillset requires mastery of not just the source and target legal systems, but also the target language's writing style, relevant vocabulary, and legal terminology. When translating legal papers, literal word-for-word translation is not an option. Since an exact translation is often impossible, a professional translator of juridical transcripts must combine the skills of an investigator, a legal researcher, and a linguist in order to decipher the origin as well as compose its precise interpretation in a way that is faithful to the original document under all circumstances.

Study Objectives

The primary purpose of this research is to investigate the results of inaccurate translation of legal concepts, the factors that lead to inaccurate translation, and the steps that translators may take to prevent inaccurate translation. This goal stems from the study's central problem, which is based on the fact that translators often make mistakes while working with legal writings, particularly those involving a language pair of English and Arabic (Faris & Sahu, 2013). Researchers in the field of languages have come up with a list of reasons for why translators struggle with the task of translating legal data, including a lack of knowledge of legal terminology, an unfamiliarity with the culture surrounding the legal reference, and an inadequate command of both the intended discourse and the original document (Jabak et al., 2016). In light of this misunderstanding, translated texts are often inaccurate, leading to confusion among readers (Malinowski, 2001).

Significance of the Study

The data presented in this research highlights the key factors that could lead to erroneous translation of legal terms from English to Arabic or from Arabic to English. The discussion also unveils the implications of erroneous translation of legal terms, as such could amount to wrongful conviction and judicial misinterpretation of case proceedings. In light of this, the study will be of great significance to both legal translators and translation theorists. To legal translators, the study will provide them with adequate knowledge of processes they could follow to avoid wrongful translation of legal concepts. To the translation theorists, the study provides them a reason to conduct further studies on the implications of bad translation of legal document, and implement a system that can help trained translators produce the best and suitable quality of legal documents.

2. Literature Review

2.1. The Nature of Legal Translation

The translation of legal contracts that form the foundation of corporate transactions, economic interactions, social and technical agreements, and so on, has risen to prominence as one of the most significant areas of translation (Ababneh, 2019). A translator working in the field of law has several linguistic, social, and cultural obstacles, including but not limited to those associated with the English and Arabic languages (Engberg, 2020). There is a significant cultural and linguistic component to legal translation, as well as a wide range of resources and contexts. As English is an Indo-European language, while Arabic is a Semitic language, the translators will inevitably run into problems while attempting to accurately convey the meaning of technical terms from one language to the other (El-Farahaty, 2016).

The demands of industrialization necessitate shaped, cross-cultural communication that often necessitates the use of specialized legal terminology. Each translator is mindful of the need of providing accurate and comprehensible translations, especially when working with legal documents. This highlights the need of having the wherewithal to use suitable techniques, grounded on well selected theoretical frameworks. Yet, many of the practical norms of the profession are, in fact, controlled by theory, thus the theories must always be studied in combination with these. To ensure that a translated text is both comprehensible to a user in the target language and faithful to the source text and distinguishing qualities of the judicial process of the country from which the source language was derived, a proportion of varying approaches must be taken when translating legal texts. In order to meet these expectations, translators must use practices including borrowing original terminology, naturalizing certain particular phrases into the recipient culture, using linguistic calques, and adding descriptive translations, which necessitates that some clarifications must be supplied. The translator may just need to use synonymous terminology that are commonly used in both languages, or they may need to adapt some aspects to the target culture. Comparative analyses of several Arabic and English legal texts have shed light on the question of which approaches are most common, resulting in the observation that the capacity to preserve the characteristics of the source culture and not block the discourses of their specific character—while localization is sometimes necessary—is the most viable technique. However, there are certain words that have dual purposes in both cultures and need a literal translation.

2.2. Challenges of Translating Legal Documents

According to Wenlong and Gonghua (2021), the textual form of legal provisions tends to be obscure. The legal translator faces the challenge of functional equivalence since he or she must find an equivalent for each legal word and judicial framework in the original text that is also functionally acceptable in the target language. The legal translator will have to put in enough energy and time because of this. The fact that English law is based on precedent and precedent alone contributes to its inherent opacity (Enberg, 2020). When it comes to legal terminology, the English language borrows much from German and French (Sammut 2021). The legal translator has to be able to modify the translation to fit the linguistic norms and terminology of the target nation.

While translating legal documents, the translator is often confronted with unfamiliar and difficult-to-decipher terminology (Qian, 2021). A mistranslation in the subject of law has the potential to either bring about peace or spark immediate war, since the translated document must always have the same legal impact as the original text and may handle major political and international concerns (Yun Yao & Shudong, 2020). Since law is a system dependent on language, and because language is limited by standards based on meaning rather than form, this sort of translation calls for the expertise of qualified legal translators (e.g. Duranti 1997; Bhatia & Bhatia 2011).

Many studies have shown the difficulties inherent in translating legal documents. Due to the system-bound structure of legal language and its particular syntactic, semantic, and pragmatic restrictions, translating legal literature is said to be among the most laborious and demanding duties faced by translators (Harvey, 2002). (Cosmai 2014). Contract translation language issues may be broken down into three broad areas, according to Fargal & Shunnaq (1992): syntax, layout, and tone.

As both a scientific inquiry and a form of art, translation necessitates the translator's expertise in a particular area, and this expertise necessitates his or her constant awareness of all improvements, particularly in the area of his or her expertise that necessitates imbuing the translated text with an aesthetic spirit while still conserving the text's truthfulness and accurate interpretation (Hargitt 2013).

Baker (1992) claims that translating legal writings is complicated by the absence of functional equivalency. To prevent misunderstandings on the level of the legal idea and the word that bears the meaning meant to be transmitted, a specialized legal translator will have extensive experience with legal terminology. For the simple reason that every interpretation of a legal document departs significantly from the

source material interpretation. A legal translator's ability to convey legal proceedings and accomplish the intended impact via language is crucial (Kelly 2005).

As Kordi (2020) investigated, translators of legal writings encounter challenges owing to cultural and linguistic disparities between the target and source languages. There were also issues with the translation of legal writings in terms of style and lexis. Dijk (1985) argues that language is a medium through which the law is expressed, and as such is often governed by a plethora of rules enshrined at the pinnacle of the legal system's hierarchical framework on the levels of style, grammar, semantics, and lexicology.

2.3. Complexity in Translating English Legal Texts into Arabic

Arabic law draws heavily on both Islamic law and Central civil law. As Egypt uses both Islamic and Civil Law, Saudi Arabia for instance relies on the Qur'an and Prophetic tradition (Sunnah) in its official interactions (Triebel, 2009). While one English word may encompass more than ten interpretations, similarly can an Arabic term have multiple synonyms in English. Here is where the translator's ingenuity comes into play, as it is in the selection and usage of acceptable or suitable terms for the Arabic texts communicated in English, or conversely.

Several scholars in the field of English-Arabic translation have looked at the issues of legal translation and lexical gaps, with varying conclusions. For instance, Fargahal and Shunnaq (1992) zeroed on on the difficulties faced by MA scholars attempting to translate an official United Nations document. In addition, Ali (2016) demonstrated that the language barrier is the most noticeable difficulty Arabic translators have while working on legal materials, followed by the style barrier, then the cultural barrier, and finally the culture-specific barrier. According to El-Sadik (2018), legal documents pose linguistic and non-linguistic challenges for Jordanian translators. As such, according to Al Aqad (2014), current translators have a serious issue with not knowing enough about translation theories.

Bostanji's (2010) research found that translating legal documents is much more challenging than translating other texts due to the absence of linguistic competence of both the target language and the legal language.

Arabic translators face linguistic and cultural challenges when working with legal texts, as reported by Salamah (2021) and Mohammed (2018), and as discovered by Elmahdi (2016), who discovered that Arabic higher education translation students make a variety of translation errors, including lexical, spelling, and meaning errors, when working with legal texts. In furthermore, Ababneh (2019) discovered that the most common reasons for misunderstandings in translation

include a lack of English proficiency, unfamiliarity with specific English phrases, cultural and religious considerations, and literal translation.

The aforementioned research focuses on the translation of contracts, literary works, and international legal materials via the use of tests and surveys, mostly from the viewpoint of professionals in the field of translation. There hasn't been any prior study of this kind that specifically focuses on the challenges that Arabic translation students face while attempting to translate legal contracts. Although findings from previous studies in the past might be helpful, they are only marginally applicable to the Arabic translation major. The impact of several aspects on the translation of legal documents has been established, but their importance for students of Arabic translation has received little attention.

3. Methodology

The method of descriptive analysis was adopted for this investigation. It's a technique in which the researcher examines a topic as it really exists, with the help of facts and information he collects. From the viewpoint of Saudi translation students, this research outlines and analyzes the issues involved in translating legal contracts. There were a total of 70 Arabic translators that took part in the survey. The questionnaire is the primary data gathering instrument in this investigation. The study's questionnaire has been meticulously crafted after careful consideration of existing literature. The researcher has created questionnaire items based on empirical research and previous relevant studies that addressed difficulties in interpreting legal documents, particularly legal contracts. Because of its simplicity and its ability to elicit detailed responses from a large sample, the questionnaire is often used. This table contains the encrypted format of the questionnaire:

Table 1: Likert Scale Ranking Values

-Likert Scale	Ranking	Score value	Mean range
Strongly Agree	5	Highest	4.50-5.00
Agree	4	High	3.50-4.49
Moderate	3	Moderate	2.50-3.49
Disagree	2	Low	1.50-2.49
Strongly Disagree	1	Lowest	1.00-1.49

The data presentation is in two forms. The first segment presents the results of the data collated through questionnaire. The second part presents the story of Mazhar Hussain, a Pakistani who was wrongfully convicted of a crime, and the conviction was considered as error due to the translation of the case file, as he committed the crime in America. The essence of the story of Mazhar Hussain is mainly to highlight the implications of erroneous translation of judicial proceedings. The analysis of the results of the questionnaire is conducted using table, graphs and other statistical tools. The mean was also calculated, wherein the mean was derived according to the values of the Likert scale.

4. Result and Discussion

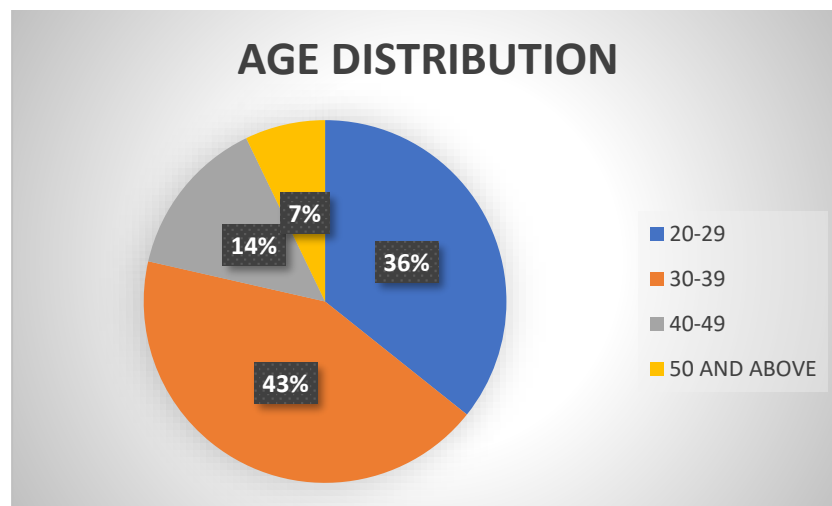
4.1. Result

The distributed questionnaire contains three major parts. The first part is the demographic information which is significant in determining the level of professionalism of the participants. The second part of the questionnaire contains question items that borders on legal translation and the difficulties associated with legal translation. The third part evaluates the results of the question items on the strategies the translators adopt to overcome the challenges.

4.2. Demographic Information

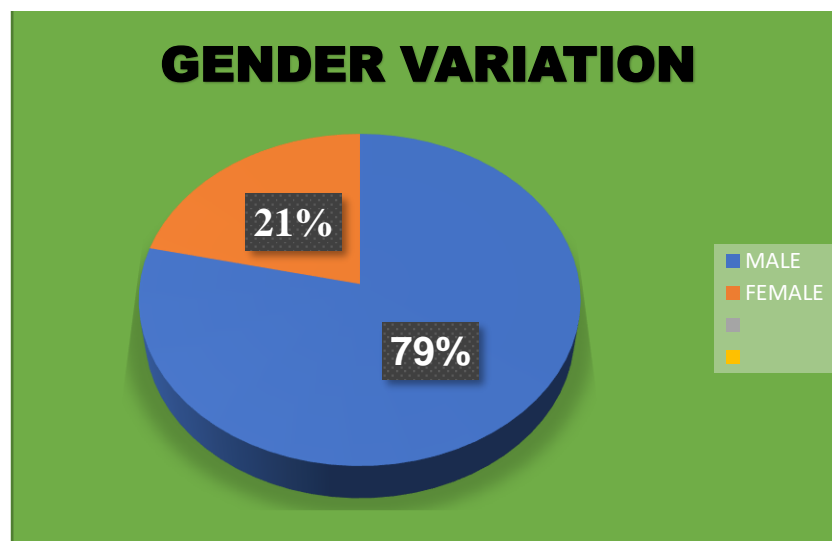
Five demographic information are contained in the question, and the results are presented in the figures below.

Figure 1: Age Distribution of Participants



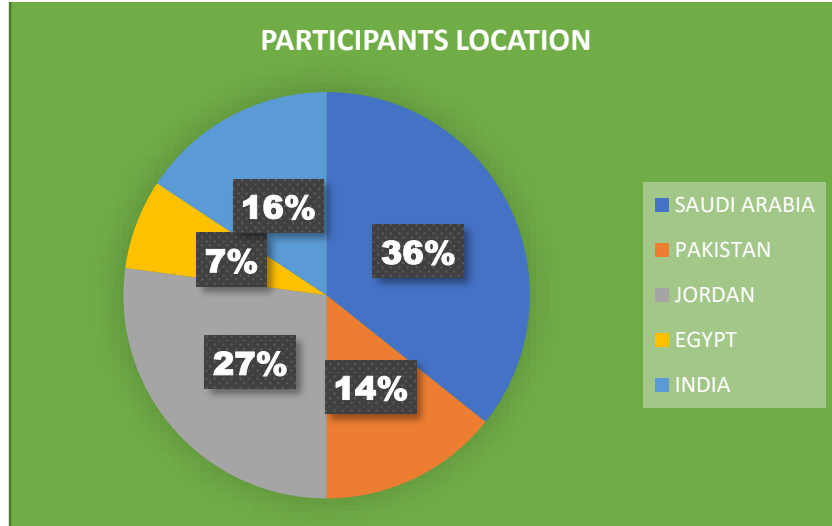
The data in figure 1 is an indication that a greater percentage of the study participants are aged 30-39 years with about 43% of the sample of the survey. This is closely followed by participants aged 20-29 years, which recorded about 35.71%. This is an indication that majority of the participants are young professional translators who may be at the early or middle stages in their career as translators. This result further implies that the age variables indicates the possibility of redirecting these young translators to embrace strategies to avoid producing erroneous contents. Finally, the participants at the age variants of 40-49 and 50 and above got the values 14.28 and 7.16 respectively.

Figure 2: Gender Variation of Participants



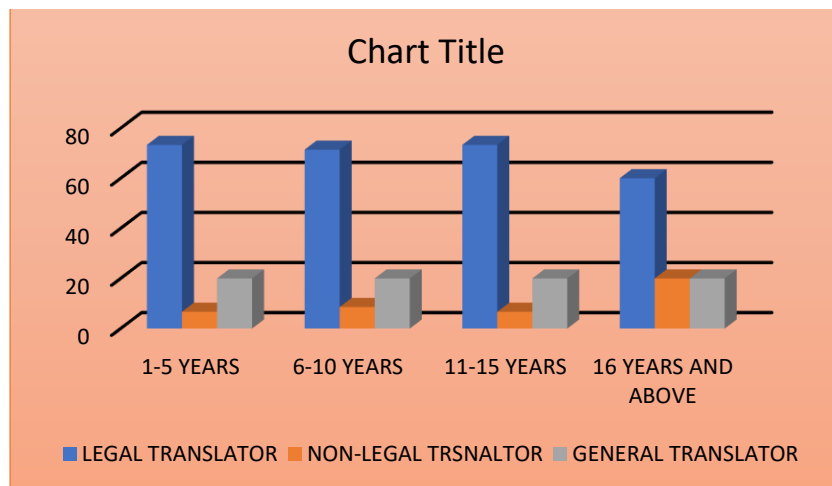
The data from figure two indicates that male participants clearly dominated the survey with over 78% of the survey population. The female participants are at 21%, which is significant enough to represent good gender diverse population in a study.

Figure 3: Results of Participants Location



Five study locations were targeted in the distribution of questionnaire. The data in figure 3 above indicates that a greater number of the participants, standing at about 36% are pulled from Saudi Arabia. The result further indicates that participants from Jordan came second with about 27% of the study sample. There is a 16% sample population pulled from India, who are Arabic translators. The Egyptian Arabic translators that participated in the study constitute 7% of the population, which is below the sample that was pulled from Pakistan, at about 14% of the total population. In terms of location, the study sample is highly diversified. This is possible as a result of the means of distributing the questionnaire, which was done electronically.

Figure 4: Participants' Level of Expertise in Translation



The participated translators were dully selected in terms of their profession. The first round of question sent to them indicates that 70 of them are professional translators. However, there is disparity in yterms of the number of years they have bbeen prating as translators, or as Arabic translators. The data below summarized the values of their responses.

The data contained in figure 4 is highly dispersed. It indicates that the legal translators that participated in the study dominated the values at a total scale of 71.42%, which is closely followed by the general translators at 20%, and the least are the non-legal translators, which is at 8.58%. Here, non-legal translators are specialized translators, but not specialized in legal translation. The data also indicates that translators that are experienced 6-10 years dominated the sample, at about 50%. This is followed by translators experienced 1-5 years and 11-15 years, which obtained 21.42% each. The least are those experienced 10 years and above which is at 7.16% of the total sample size. Clearly, the legal translators dominated the sample population. This is significant to the study, as the participation of legal translators validates the result of the questionnaire on the difficulties of legal translation and the implications.

4.3. Result of Question Items on Legal Translation Challenges

Seven questions on the nature and challenges of legal translation were presented to the study participants. The percentages, mean and standard deviation of the result of the questionnaire are presented here.

Table 2: Result of the challenges in legal translation

Question Items	SD	D	N	A	SA	MEAN	S.D
1. It is difficult to translate legal documents from Arabic into English and English into Arabic.	4.6	28.7	18.7	28.7	19.3	3.39	1.13
2. When translating legal documents, the form of legal language may be rather lengthy and challenging to work with.	6.8	18.9	22.3	39.6	12.4	3.36	1.12
3. When translating legal documents, culturally distinctive	6.1	17.5	19.7	40.4	16.3	3.33	1.10

legal words are a constant source of difficulty.							
4. One of the issues that comes with translating legal documents is figuring out how to translate modal verbs like "shall," "will," "must," and "may."	4.1	15.9	18.5	40.9	20.6	3.16	1.19
5. While translating legal documents from English to Arabic, I have a hard time understanding French and Latin terminology.	7.1	12.4	13.6	42.1	24.8	3.58	1.20
6. In legal documents, it may be challenging to translate binomial expressions and parallel structures, just as it can be difficult to translate numerous negatives in legal documents.	6.8	14.5	17.5	36.5	24.7	3.36	1.18
7. While translating legal documents, it might be challenging to work with certain words and terms, such as hereafter, hereto, hereby, aforesaid, whosoever, hereby, thereto, hitherto, and others.	9.8	13.8	19.7	45.6	11.1	3.37	1.15
8. I understand that bad translation of legal documents can amount to terrible situations, even death	3.8	8.7	12.9	49.4	25.2	3.37	1.13

9. Translated legal documents should be subjected to series of evaluation to ensure that the original message is not misinterpreted.	3.3	6.1	13.2	29.8	41.6	3.33	1.18

The above table I table 2 is an indication that the translators are aware of the difficulties they face in translating legal documents from English to Arabic, and conversely. As can be seen from the result obtained above, Arabic translators have a great difficulty with the statutory document translation task due to “issues with translating legal binominal statements as well as simultaneous formations, the structure of lengthy legal sentences, the translation of several negatives, and the legal text structure. Consistent with the results of Ibrahim (2017) and Abdel (2014), who both draw the same conclusion, this study finds that prominent Arabic translators of complicated legal words and expressions are based in the Arab World. This confirms what Al- Ahdal et al. (2017) found, namely that Arabic translators have significant challenges due to the arrangement of legal documents and the connected negatives.

Arabic translators, on the other hand, reported additional challenges while working with legal documents, including the need to translate technical phrases like "hereafter" and "hereto," as well as doublets, culturally-specific legal terminologies, and tenses. Atari's (2005) research confirms that this is the case, showing that legal translators have a difficulty in making sense of ambiguous terms like doublets and other complex phrases. Furthermore, Bostanji (2010) found comparable difficulties in translating legal texts due to the conjugations and syntax of legal texts, which need a strong understanding of both the targeted and original languages by the translator.

This research highlights a significant obstacle faced by Arabic translators when working with legal documents: the use of culturally distinctive words. Elmahdi (2016), El-Sadik (2018), and Frade (2015), among others, came to the same conclusion, namely, that cultural understanding is crucial when translating legal documents. Also, cultural distinctions between English and Arabic should be carefully examined while translating legal materials, as described by Jabak et al. (2016).

It is difficult, if not impossible, to translate legal concepts between Arabic and English because of differences in the legal systems of the two cultures. The idea of a legal system, according to Atari (2005), is connected to the substance and character of the law. According to Bostanji (2010), legal terminology can only be deciphered in the framework of statutory law. In most contexts, the Quran and the Sunnah are mentioned while discussing legal Arabic.

The findings also suggest that Arabic translators have trouble with legal documents due to issues with French and Latin terms, sentence structures and "capitalization", "modal verbs", "equivalents", "notions", and "abbreviations". These results are consistent with those found by Salamah (2021) and Mohammad (2018), who found that translating legal concepts from English to Arabic is challenging due to the absence of acceptable counterparts of legal terminology between the two languages.

4.4. Strategies to Overcome the Challenges in Translating Legal Texts

QUESTION ITEMS	SD	D	N	A	SA	MEAN	S.D
1. Legal dictionaries	13.6	20.4	11.3	39.8	14.9	3.61	1.31
2. Legal drafters	6.8	22.1	6.1	28.9	36.1	3.34	1.33
3. Direct legal assistance	9.8	12.2	11.6	26.8	39.6	3.42	1.39
4. CAT Tools	11.5	9.8	10.5	31.5	36.7	3.72	1.31
5. Colleagues	16.8	10.6	9.4	29.7	33.5	3.23	1.33
6. Parallel Texts	3.4	25.8	20.0	26.0	24.8	3.43	1.21

The data above is an indication that the translators embrace different methods in the effort to translate legal terms. In their rating, they believe that all the tools are prominent in the translation of legal terms. They consider the use of Computer Assisted Translation (CAT) tools as the most useful, followed by direct legal assistance by legal practitioners who are bilinguals. These findings show that Arabic translators rely heavily on their colleagues and CAT tools to help them through the challenges they encounter while translating legal documents. Google Translate, legal dictionaries, legal drafters, and parallel texts are also shown to be useful tools for Arabic translators while working with legal documents.

These results are in agreement with those of Khaydarova (2019), who found that legal translators who struggle with writing complicated legal structure among two languages often turn to CAT tools and Google Translation as crucial and straightforward help. Elmahdi (2016) said that translators might benefit from training in legal translation by comparing and contrasting two translated legal writings in terms of language, structures, and meaning.

While translators do make use of "legal drafters", "parallel texts", and "dictionaries", these resources are less favored than others utilized by translation students due to their length, expense, and scope limitations. El-Sadik (2018) agrees, reporting that translators could be introduced to numerous legal materials translated by human translators with the aim of improving their efficiency, and therefore that translators should use the required resources, whether they be the specialists or internet resources.

4.5. Implications of Analysis

There are arrays of implications of faulty translation of legal texts. There is a case of Mazhar Hussain, who was wrongfully convicted, in 1997, of killing Ismail Hussain in America, A Pakistani from Sihala, Pakistan. This case was recorded by Justice Project Pakistan, Death Penalty Database, but Asad (2018) discussed it in detail. Mazhar was killed. In 2014, he died in prison after heart arrest. Pakistan's highest court was ignorant of his mysterious death and heard his petition. Mazhar's death was reported late to the court. Mazhar Hussain was acquitted posthumously on October 6, 2016. Mazhar's conviction was based on fraudulent evidence, and the trial judge didn't adequately examine the facts, the court said. A court inquired rhetorically who was responsible for Mazhar's 17 years in jail. The supreme court acquitted Mazhar Hussain based on fraudulent evidence.

However, Asad (2018) provided further detail into the case. According to Asad (2018), Mazhar was initially charged in America for the murder of his countryman. However, following several signatories and procedures, he was repatriated to Pakistan for continuation of trial. Asad (2018) stated that the Pakistani court followed a continuation of Mazhar's trial proceeding, but erroneously translated jail detention to prison terms. Which amounted to sending him to prison instead of staying in detention for trial. He actually died in prison before the error in his case file translation was detected.

Faulty translation of legal proceeding has lots of implications and the translators are aware of these concerns. To the translators, they are also aware of the implications and employs different strategies to ensure the use of appropriate terms in the translation process, to maintain the original message of the main text.

5. Conclusions

Arabic translators face a number of difficulties and methods in translation of legal documents. Major difficulties for Arabic translators include the following: translating binominal sentences; the construction of legal statements; the translation of numerous negatives and parallel texts; and the arrangement of legal texts. Arabic translators have additional difficulties when translating legal documents due to words and terms like "hereafter" and "hereinto," doublets, culture-specific legal terminology, conjugations, French as well as Latin words, irregular verbs, equivalents, ideas, and contractions.

Nonetheless, Arabic translators have acknowledged using, computer-assisted translation (CAT) technologies, Legal assistance and sometimes Google Translation in order to get around the challenges they confront while translating legal documents. Arabic translators also use legal dictionaries, hire legal drafters, and consult with colleagues while working on translations of legal documents. The researcher in this study presented the difficulties and solutions encountered by Arabic translators while working with legal terminologies. Hence, it has real-world consequences for enhancing translation curricula and pedagogy, as well as for the authors of translation textbooks and the professionals who teach translation. Professionals in both the legal and translation fields should coordinate the education and training opportunities for legal translators. This is because the difficulties associated with translating legal contracts in particular, and legal translation in general, may be mitigated with the right level of expertise and background.

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