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A Functional Approach to the Translation of International Law

By

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Abstract

Legal documents present a real challenge for translators. The purpose of this study is to examine the challenges associated with translating legal materials into Arabic and how these challenges can be addressed by using a functional approach to the translation process. The study also intends to investigate the challenges that arise while translating legal materials into Arabic and the common approaches used in this process. These challenges include the inability to translate culturally bound words and expressions correctly, providing the incorrect translation, meaningless paraphrasing, and literal translation; using the incorrect lexical words and making grammatical, stylistic, and linguistic errors; textual difficulties and terminology issues; and the lack of a trustworthy English Arabic law dictionary, where Arabic functional equivalents provided can be used in translation. The study considers a few legal text translation procedures that are looked at from a functional standpoint. The analysis demonstrates the intricacy of translating legal texts, which is heavily influenced by particular elements that strictly depend not only on the various linguistic, cultural, and legal contexts in which it occurs but also on the target users, who have their own legal cultures and specialized knowledge. The study highlights the significance of functional factors in legal translation. The applicability of functional theory to the translation of legal documents plus applying House's (2015) and Nord's (2005) translation quality models with a wide theoretical foundation is also examined. This study shows that, by using a functional approach, standardized legal language elements can still be subdued to achieve the final goal of successfully transmitting the message across languages as intended and as commissioned. The functional

approaches to legal translation between Arabic and English are the main topic of this study.

Key Words: functionalist approaches, legal translation, international conventions, characteristics of legal discourse.

1. Introduction

Due to the significant language, stylistic, and cultural differences between Arabic and English, legal translation faces certain challenges. As a result, the researcher's goal is to investigate the challenges associated with translating legal texts from English into Arabic and vice versa, as well as the most effective approaches. Additionally, attempting to determine how the functional-based method might aid in resolving the challenges legal translation faces in delivering legal equivalency at different linguistic analysis levels. This work addresses the need for a methodical, analytical, and comparative examination of this unique feature in both languages, with a focus on legal translation. Many scholars consider translating legal writings to be among the most difficult tasks, "combining the inventiveness of literary translation with the terminological precision of technical translation" (Harvey 2002). The primary cause of this is the specialized language used in law, especially legal terminology which is system-bound. Legal papers contain specific laws, rights, or obligations; the language used in them should be clear, expressive, and incapable of being interpreted in any other way than how it is presented. Legal language does not employ figures of speech or ambiguity, in contrast to literary language. As a result, it is the least expressive. Written legal documents should be concise, economical, and well-organized. The goal of such organization and precision is "to stop fraud, as well as any additions, deletions, or changes to the text" (Crystal and Davy 1969). Legal translation has its own lexicon and can be considered a separate subject, much like other disciplines. Legal texts can be difficult to interpret, much like other translation genres. Because the legal systems of the two nations differ in terms of history and culture, which inevitably impacts language, translation becomes complicated.

2. Statement of Research Problem

This research seeks to provide insight on the process of translating legal writings from English into Arabic. Using a few analytical models created by functionalist theorists, the study will try to: Examine the translation technique used by UN translators to determine the meaning's legal implications; evaluate how well the functional TQA models perform when analyzing legal text translations from Arabic (the target language) and English (the source language); examine how cultural, practical, and functional factors affect legal translation. The study discusses the importance of context as a determining factor in the translation process in order to convey the intended message. Another idea that has to be investigated is the possibility that a translation commission will result in the source text's (ST) function changing. This might have a number of effects on the course and result of legal translation.

3. The Objectives of The Research

The present research tries to achieve the following objectives: (1) Outlining the lexical, syntactic, and textual elements that distinguish and resemble legal Arabic and English writings of law. (2) Using semantic, functional, and pragmatic viewpoints to describe "legal translation" as both a conceptual and linguistic category in English and Arabic and as a universal idea in language. (3) Determining and outlining the typical translation techniques applied in the legal translation field, as well as offering advice to translators who deal with legal documents—especially those that are international in nature. (4) Examining how to translate legal writings using functional translation theories.

4. Research Questions

The research attempts to answer following questions:

(1) How do legal texts in Arabic and English differ?

(2) What are the challenges encountered by legal translators?

 (3) What are the most popular tactics employed in legal translation, and how much do these methods aid in accurately translating the meaning from the ST to the TT?

5. Research Methodology

The current study is a descriptive one that looks into the primary challenges associated with translating legal texts. The descriptive analytical approach is used to explain the issues found in Arabic legal writings, and a diagnostic analysis is selected as the means of data collection. By contrasting the UN official Arabic translation with the original English convention, the study delves deeply into functional translation theory and examines its applicability to the translation of international agreements.

6. Literature Review

A study on the methods for translating legal documents from Australian English into Italian was carried out by Loiacono (2013). In order to translate culturally specific legal terminology, he suggested treating them as proper names and using the techniques for translating proper names to the translation of culturally specific legal terms. The study suggested seeing cultural legal texts as proper names that are manifestly impossible to translate and concentrated on one particular component of legal documents: the use of culturally specific legal terminology.

Al Aqad (2014) studied the language and cultural similarities between the Arabic and English legal systems by translating five marriage contracts from Arabic to English. When comparing the meaning

expressed in the source texts to the meaning given in the target texts, the researcher used a pragmatic method. He came to the conclusion that numerous terminology and phrases peculiar to Arabic culture were rendered unclear or incorrectly meaningous when translated literally, based on the comparison's results. The study recommended translating marriage contracts between Arabic and English using functional and communicative approaches in light of that finding. The researcher did not specifically adopt any method for the above study, despite using Baker's (1992-2006) levels of equivalency and Newmark's (1998) classification of translation techniques. In contrast, the current study unequivocally demonstrated that functional faithful translation was the most appropriate method for translating legal texts. Furthermore, one of the conclusions of the current study—that literal translation is not always appropriate when translating legal texts—is consistent with the general conclusion of the previous study, which held that literal translation cannot be followed in legal translation.

An exploratory study on the intralinguistic and interlinguistic translation of legal documents was conducted by Gotti (2016). "The translation of legal texts is a very complex procedure, greatly conditioned by specific factors strictly depending on the different cultural, linguistic, and legal environments in which it takes place," the researcher concluded after analyzing a few legal texts and their translations. The current study concurs with the previous study's researcher that translating legal materials is not a straightforward or easy undertaking. Translations of legal writings "may be influenced by different target users with their own legal culture and drafting traditions," (ibid). The aforementioned study clarified a number of crucial legal translation-related topics, including source and target

languages, drafting customs, intended audiences, and general translation tactics.

A study on the difficulties involved in translating legal papers from English into Arabic was carried out by Altarabin (2018). His research looks broadly on the challenges translators have while translating legal texts. "Lexical features, connotative meaning, contextual meaning, intra-system difference, translators' [lack of] familiarity with legal terminology and lack of uniformity between legal documents in different legal systems," he claimed, are among the challenges. Some of the issues raised in the previous study may be connected to the results of the current study on inaccuracies in legal translation. Both the current study and the one mentioned before have a comparable scope and pair of languages investigated. Nevertheless, the aforementioned study did not employ a theoretical framework or provide a method for translating legal documents. In contrast, the current study uses functional translation as both its theoretical foundation and the most suitable approach for translating legal documents.

7. Theoretical Background

7.1. Legal Texts

A legal document differs greatly from everyday language. It is any written document that contains a duty, permits specific behaviors , establishes a legally enforceable commitment, or specifies the consequences for breaking the agreement. This is particularly true of books that are considered authoritative in law: those that establish, alter, or terminate the duties and rights of people or organizations. These writings are classified as "written performatives" by Austin (1962). According to SŌarčević (2006, 26), a legal text can be

considered as a communication between specialists meant to fulfill a specific purpose.

7.2. Characteristics of Legal Language

Under the general heading of languages for special purposes (LSP), lies legal language (LL). As a result, it serves as the legal language. In the course of their work, attorneys legislators, and other legal professionals use it. It is also linked to legal writing, which is the process of creating written agreements, pleadings in court, and laws. Thus, the following categories can be used to group aspects of legal language:

7.2.1.Precision

It is believed that precision and accuracy are crucial elements of legal language. This is basically the outcome of the need for legal protection and legal certainty, whereby laws should be clear to prevent the risk of arbitrariness. Due to its exactness, legal language uses rhetorical devices like tautology to accomplish the purpose of conveying legal messages in a clear and unambiguous manner.

7.2.2 Information (over) load

On the one hand, it is best to keep legal language as brief as possible in order to prevent long and ambiguous laws and regulations. Overly abstract language should be avoided in legal documents so that decoding requires the least amount of work.

7.2.3. Universality and aloofness

Since rights and duties are merely mental constructions, modern law has an abstract quality to it. Real-world experience serves as the foundation for law. On the other hand, the present tense predominates and conditionals are frequently used to regulate hypothetical future occurrences. Legal language frequently uses the passive voice to place

the subject of the action front and center and place the actor in a supporting role.

7.2.4. Neutrality

Since the primary goal of the legal language is to influence knowledge rather than the reader's or listener's emotions, it is almost entirely neutral in style.

7.2.5. Metaphors

Metaphors are uncommon in contemporary legal terminology, albeit there are a few exceptions to this rule. The reason for their being is that some legal terminology have metaphorical roots. In legalese, phrases like "burden of proof, lion's share, etc." are examples of metaphors.

7.2.6. Systemic Character

This means that all of the order's components are a part of a larger whole. A law is composed of articles, while legislation is composed of laws. When elements of the legal order are connected to one another by intertextual references, it is evident that the legal order is systemic.

7.2.7. Sentence Complexity, Length, and Diversity of Language Elements

It is commonly recognized that legal language sentences are typically extremely lengthy and intricate. However, in recent years, linguists have worked to make legal language better by condensing lengthy sentences. Legal texts include more complex language. 'Slowly, if, before, after' is used, for instance, whereas 'with slow pace, in the case that, prior to, following' is used instead. Verb tenses are given less weight in legalese than in everyday English. This is due to the fact that nouns are perceived as having a more objective impression than verbs. When words in legal language are related to one another by

connectors, a structure known as verbiage takes place (Boztaş, 2007; 32).

7.3. Types of Legal Writing

7.3.1. Bhatia classification of legal language writing

Three categories of legal language writing are distinguished by Bhatia (1987:   227):

(1) Academic legal writing, which encompasses terminology from law textbooks and usage in academic legal research. (2) The Juridical Writing, which is utilized by attorneys, judges, literature containing legal topics, and legal reports when imposing punishments and decrees. (3) Legislative writing, which is the term for documents that the parliament publishes with the primary intent of establishing laws.

Figure (1) Bhatia classification of legal language writing
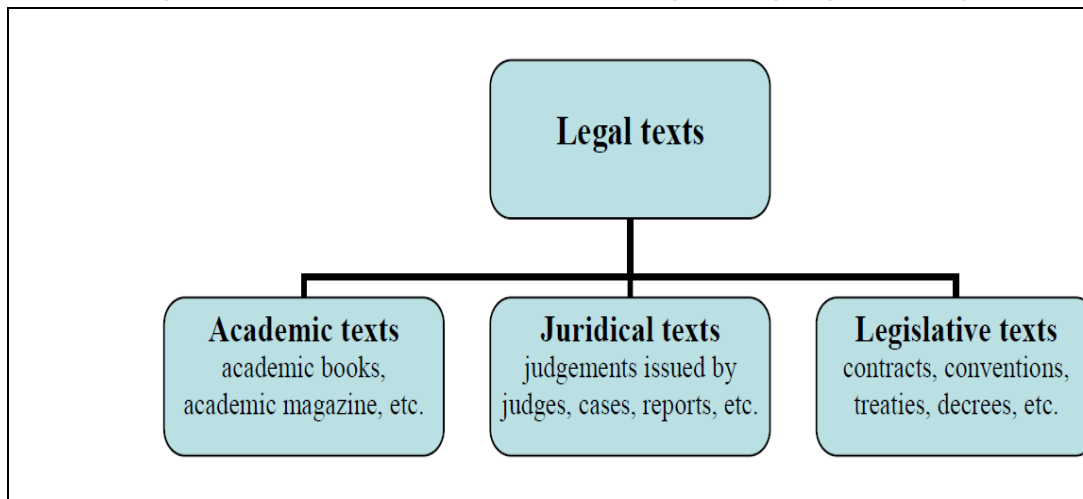
7.3.2. Trosborg's classification of legal language writing

Trosborg (1997: 20) divided legal language into five categories as follows:

(1) The first category includes language found in legal documents such as contracts, deeds, and legislative writing. (2) The terminology used by the judge, attorneys, witnesses, prosecutors, and others in the courtroom. (3) Wording seen in textbooks that cover scholarly publications, magazines, and the like, as previously mentioned.(4) Words used by attorneys to discuss matters with other attorneys and laypeople while they are not in court. (5) Words that laypeople use while discussing the law.
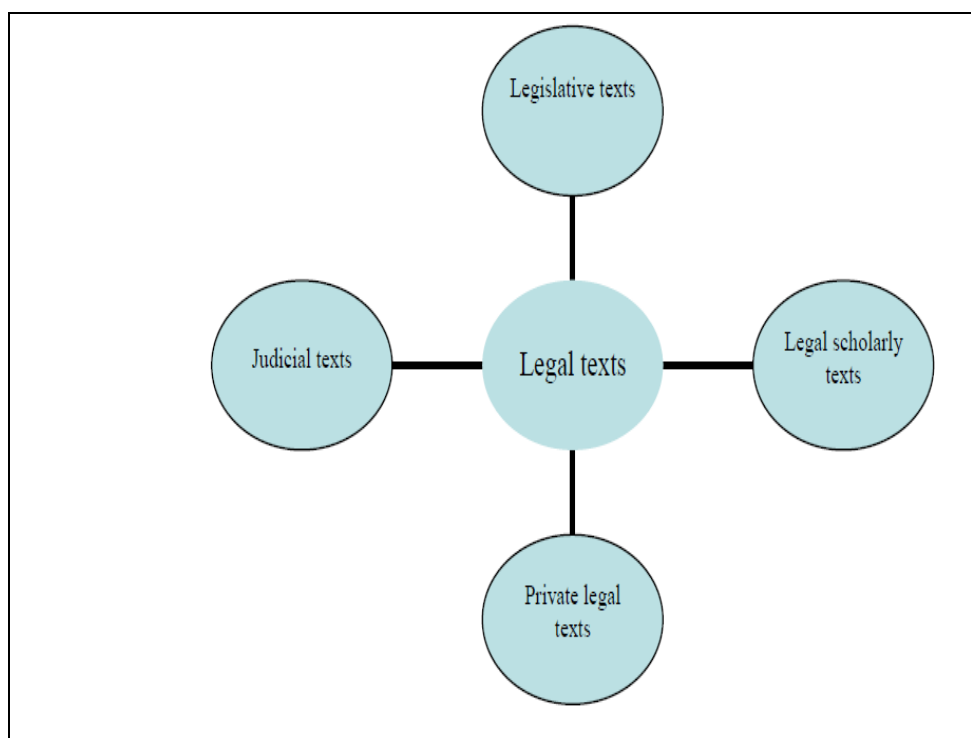
Figure (2) Trosborg's classification of legal language writing
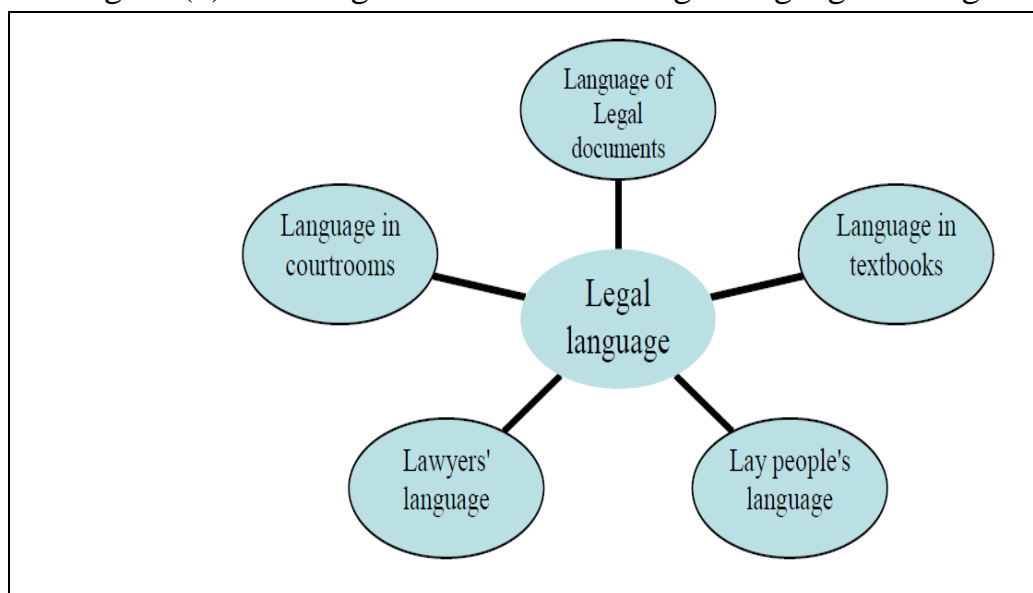
7.3.3. Cao's classification of legal texts

Cao (2007: 9–10) has more recently divided legal documents into four categories, which are illustrated below:

Figure (3) Cao's classification of legal texts

With the exception of legislative texts, which Cao divides into two categories: private legal texts, which cover wills, tenancy agreements, treaties, and other similar documents, and legislative texts, which cover multilingual laws, domestic statutes, and the like, Cao's classification resembles that of Bhatia in certain ways.

7.4. The Challenge of Interpreting Legal Texts

Translating involves much more than just taking a written document in one language and translating it into another. The translator must possess a thorough understanding of the legal system to which reference is made in order for it to make sense and flow in a legal language that is accurate and understandable. This is because legal translation has the unique characteristics of law and legal language,

and it can and frequently does generate not just linguistic but also legal influence and consequence (Cao, 2007).

7.4.1. various legal frameworks

Laws reflect the societies in which they were established; social, cultural, and linguistic institutions constitute the foundation of every community. Put another way, a nation's laws and legal terminology are reflections of its overall legal system, which in turn is a reflection of the nation's history, culture, and development. The primary source of difficulty in translating a legal document is the inconsistency between the two legal systems to which the legal translation alludes. Every nation has its own legal system, which serves as a basis for making decisions regarding legal issues. For instance, the French legal system is based on statute law, whereas the British legal system is rooted in common law. In contrast, the Egyptian legal system is based on Islamic jurisprudence, which means that there are terms unique to the Egyptian culture that are difficult to translate (Al-Silimane, 2011).

7.4.2. lexicon used in law

One of the main challenges faced by legal translators is the wide variations in legal terminologies between the source language (SL) and destination language (TL). The translator has to continuously compare the two legal systems of the two languages he is working on while translating. In addition, a problem known as the absence of established terminology

arises when a legal phrase in the target language lacks a stable translation or equivalent, leading the target reader to believe that a different term is being used even though it has the same meaning.

7.4.3. Cultural Disparities

The nation's legal language reflects its cultural norms. The cultural distinctions between the legal systems of the two societies that the

legal translator is translating for must be understood by the translator. People are exposed to many languages and ways of thinking through translation; hence, a variety of issues may arise in cross-cultural translation. According to Yowelly and Lataiwish (2000), "the greater the gap between the source and target culture, the more serious difficulty world be" (p. 107). Because Arabic and English come from two very distinct backgrounds and cultures, there may be terminology in both languages that are not in the other.

7.4.4. Style of Law

Each legal language has its own unique style, created by the legal customs and culture of the relevant nation, and is a distinct language unto itself.

7.4.5. Complexity in syntax

This explains a lot of the obstacles laypeople face when trying to understand legalese. An average of 2.86 clauses per sentence is reported by Gustafsson (1975), and nominalization is thought to be a common usage in the legal record (Crystal & Davy, 1969). Legal speech is characterized by a high prevalence of prepositional phrases and passive constructions, which further complicate the language used in law (Charrow & Charrow, 1979).

7.4.5. legal Tautologies

Another lexical challenge for legal translators is tautologies. Legal tautologies are words with the same meaning gathered in pairs (doublets) or even triplets, where only one is required, according to Rylance (1994, p. 45). In the phrase "null and void," for instance, "null" does not contribute anything to "void" and "void" does not add anything to "null." Four sources are cited by Houbert (2005, p. 70) for these legal tautologies:

7.5. Characteristics of English legal discourse

Just as the media has its own "journalese," legal English, as a specialist language, has unique lexical characteristics of its own. According to Goodrich (1987:177), legal vocabulary is "a vocabulary of possibilities purportedly comprising a comprehensive system of meanings that are internal or latent within the lexicon itself." Regarding vocabulary, Hiltunen (1990:84) notes that nouns tend to be abstract rather than concrete (because they often do not refer to physical objects), verbs are chosen from a fairly small number of lexical sets, and adjectives are "quite scarce (because they are often imprecise and vague)" in legal English.

7.5. 1. Lexical features

7.5. 1.1. Archaic terms

Old or "antiquated vocabulary" is a defining characteristic of legal English (Alcaraz Varó and Hughes, 2002:5). These archaic terms have their roots in Middle and Old English. Typical instances of these phrases are displayed in the subsequent table:

Table (1) sample of Archaic terms used in legal texts

Archaic term	Meaning
abutting	next to
anterior to	Before
forthwith	Immediately
in pursuance of	in accordance with
prior to	Before
pursuant to	under, in accordance with
subsequent to	After
to wit	for example, namely, that is to say
vel nom	or not, or the lack of it

7.5. 1.2. Latin and French terms

During the Middle Ages, the Roman Church, whose primary language was Latin, had considerable impact on English law. As a result, it served as the standard for written writings and scholarly discourse across Europe. "Minor" is a Latin term that refers to a party in a case and is used in English law (Tiersma, 1999:88).

The following list of frequently used Latin expressions and terms, as referenced in Garner (2001), is translated into Arabic:

Table (2) sample of Latin and French terms used in legal texts

Latin term / phrase	Meaning	Arabic translation
Bona fide	good faith, in good faith	بحسن نية
Res judicata	an issue adjucated	حجية الأمر المقضي به
Res nova	a new thing; an undecided question of law	قضية لم يُبت فيها
Actus reus	guilty act	العنصر المادي
Alibi	elsewhere	الدفع بالغيبة

7.5. 1.3. Formal terms

Formality is reflected in the unique characteristics of legal English, which are expressed by fixed linguistic aspects: enactment formulas and modals (such the use of shall); specific words used in marriage ceremonies; and formal expressions used in a variety of contexts, such as "your honor," "your majesty," "royal," and "master" (of a minor in a report to the court). Furthermore, swearing and oaths include quite formal language.

7.5. 2. syntactic features

In addition to other unique characteristics that will be covered below, the syntax of legal English is distinguished by complicated structures, multiple subordination, and the primary verbs of the phrase appearing late in the sentence.

7.5. 2.1. Nominalization

According to Quirk et al. (1985:1288), a nominalization is "a noun phrase that has a systematic correspondence with a clausal prediction which includes a head noun morphologically related to a corresponding verb." These nominalized forms, which are frequently found in the syntax of legal English, include "assessment," "inspection," and "movement." Reduced nominalization occurs when a sentence lacks a tense, making it unclear when the process is starting, what the modality is using, or whether a patient or agent is involved. It is "a radical syntactic transformation of a clause, which offers substantial ideological opportunities and has extensive structural consequences" (Fowler, 1991:80).

7.5. 2.2. Passivization

"Passive transformation includes a shift of positions of the left-hand and right-hand noun phrases" (Fowler, 1991:77). The (object) so takes over the (subject) position. There are three reasons why passivization is chosen: (i) to hide the agent; (ii) to highlight a particular aspect that the author deems more important; and (iii) to highlight a fact by omitting its details. Nominalization and passivization are characteristics that "may intentionally or unintentionally reduce precision; they frequently obscure the identity of the actor" (Tiersma, 1999:75).

7.5. 2.3. Wh-deletion

Wh- deletion is considered one of the characteristics that set English legal discourse apart, however it is not as prevalent as other characteristics. The term "wh-deletion" refers to the removal of words in a phrase that begin with "which," "what," or "which," and the verb's past participle. Danet uses the following example to clarify this idea: "agreement... herein (which is) contained or implied" (1985:280).

7.5. 2.4. Restrictive connectors, conditionals, and prepositional phrases

Legal English frequently includes complex conditionals and hypothetical formulations expressed as parenthetical sentences. Syntactic indicators of condition and hypothesis include the following examples: "if," "where," "whenever," "provided that," "assuming that," "so long as," "should," and "whereas." In legal terminology, the Middle English word "whereas" is ambiguous (Mellinkoff, 1963:321–2). It frequently signifies "the fact is" or "in spite of," and it is frequently used in preamble beginning paragraphs. "It is no longer acceptable and should be replaced by'since' or 'as,'" according to Meredith (1979:64).

7.5.3. Textual Features

7.5.3.1. Cohesion factors

The text as a macro unit is the focus of textual features. One important linguistic component of English legal documents is coherence. The main components of cohesiveness, according to Halliday and Hasan (1976), are lexical repetition, ellipsis, reference, conjunction, and substitution. Certain cohesive devices, such as lexical cohesiveness and conjunctions, are frequently employed in legal discourse in English; other cohesive devices, like reference, are also used.

7.6. Characteristics of Arabic legal discourse

Arabic law is primarily based on two legal traditions: Roman or Common Law and Islamic law. Following the collapse of the Ottoman Empire, which governed the Arab world, the majority of these nations started drafting new legislation. Rayner (1991: 48) claims that the Egyptian 1949 law, which in turn inspired the laws of Iraq and Syria, was taken from the French model, just as the Lebanese Law of Obligation and Contracts of 1932 was based mostly on French law. The situation differs from one Gulf state to another, including Saudi Arabia, Kuwait, Bahrain, and Qatar. After reviewing the laws in light of Islamic law, Kuwait created two new Civil and Commercial Codes, which went into effect in 1981, according to Ballantyne (1986: 4). The Qatari Law of Civil and Commercial Matters is a condensed form of the former Kuwait Commercial Code from 1961, while the Bahraini Constitution specifically designated Sharia as the primary source of law.

7.6.1. Lexical features

7.6.1.1. Doublets

Word pairs are frequently employed in Arabic as redundancies to provide emphasis, as in:

This establishment announces and declares
إن هذه المؤسسة تعلن وتصرح

7.6.1.2. Binominals

According to Emery (1989: 9), they are collocations of antonyms, synonyms, or near-synonyms. Binomials are not necessarily more common than other Arabic registers in Arabic legal documents.

Binominals are used in Modern Written Arabic largely for stylistic purposes.

7.6.1.3. Descriptive epithets

These epithets are meant to highlight and further alter the term. This is the example that Emery (1989: 10).

The two high contracting parities confirm
يؤكد الطرفان الساميان المتعاقدان

7.6.1.4. Terms and expressions that are system-based, culturally particular, and religious

Arabic marriage contracts and other private agreements frequently use terminology and idioms that are system- and culture-specific.

7.6.1.5. Formality

Legal discourse in both Arabic and English is formal, yet legal Arabic displays formality in a very different way than does English. Arabic formality is achieved by honorific titles or modes of salutation because Arab nations differ greatly in terms of their social and political origins. One of the distinguishing characteristics of Arabic legal literature is the use of polite modes of address.

7.6.2. Legal Arabic's syntactic characteristics

Arabic has two basic tenses: الماضي (perfect) and المضارع (imperfect). The temporal variables لما (when) and مازال (still) indicate perfect and future, respectively, and these help define the exact tense and aspect in Arabic. Legal Arabic is sometimes imprecise and impersonal, especially in international documents and laws that deal with broad subjects without naming specific people.

7.6.2. 1. Nominalization

Arabic phrases can be classified as verbal (containing verbs) or nominal (containing no verb). Similar to English, Arabic legal language makes use of lengthy, complex nominals. In Arabic legal documents, the nominal verb إسم الفعل is commonly used in its nominal form. "Nominalization, like passivization, allows "unattributable" claims to be made" Holes (2004:320). For instance, at its most basic, "there is a belief that" as opposed to "I"/"he" / "they" believe that... The text seems more objective because of the way both syntactic forms obfuscate agents. Nominalization is more prevalent in some text forms than others, such as international documents, laws, and constitutions where inclusive language is required.

7.6.2. 2. Passivization

Even if there is a tendency to minimize passive constructions in legal Arabic, as in the example given by Emery (1989), passives in legal Arabic have a special form where no auxiliaries are employed.

The employee shall be appointed on a probationary basis for a period of six months
يكون تعيين الموظف تحت الاختبار لمدة ستة اشهر

7.6.2. 3. Complex sentence structure

Long complicated sentences are the product of poorly defined sentence boundaries and uneven punctuation. Arabic is known for favoring coordination through the conjunction و (and). However, legal Arabic exhibits complexity by utilizing both embedded and relative sentences, as well as coordinated clauses, which are started with one of the relative pronouns التي ، الذي (who, whom, which, that).

7.6.2.4. Doublets and triplets

Arabic legal writings often contain two or three related words that are connected by و (and) or أو (or) and can occasionally be synonymous or nearly synonymous. These are referred to as "binomials or polynomials" by Badawi, Carter, and Gully (2004:138). In MSA, synonymous pairs are frequently employed as a stylistic element that involves repetition.

7.6.2.5. The use of verbal sentences

This relates to sentence structure; Arabic legal language is distinguished by the usage of verbs at the beginning of sentences, which elevates the verb above the noun or subject as an essential component. In addition to using doublets and triplets, it also employs complicated structures that are identified by their length, which calls for the usage of two, three, or more clauses as well as parallel structures.

7.6.2. 6. Using the present simple

Because legal structures refer to broad situations that are relevant at all times—past, present, and future—the majority of them use the simple present tense. Thus, in legal systems, it is a fixed tense.

7.6.3. Textual features

According to Abdul-Raof (2001:59), Arabic has unique textual strategies that are employed as linguistic resources to create coherence in all Arabic text kinds.

7.6.3.1. Lexical repetition

To achieve cohesiveness, lexical repetition—also known as "semantic redundancy," "verbosity," or "wordiness" (Shunnaq, 2000:209)—is necessary. Jawad (2009:754, 763) claims that recurrence serves two main coherent purposes: textual and rhetorical. In a similar vein to

connectives, lexical recurrence serves to organize and make the text cohesive. It is used in a variety of text formats for a range of objectives. Its purpose in legal papers is precision.

7.6.3.2. Reference

According to Baker (1992:189), pronominal reference is generally preferred in Arabic as a frequent method of participant tracing and coherent link establishment. References can be classified as either endophoric (found inside the text) or exphoric (found outside the text). Each can be identified by the situation's context. Anaphora and cataphora are the two types of endophoric reference; the former specifies a pronominal reference that comes before the word, while the latter refers to a reference that comes after the word.

7.6.3.3. Conjunctions and punctuation

Punctuation in Arabic is generally not governed by strict guidelines. It differs significantly between Arabic registers. Occasionally, the style adopts the author's personal opinions, as in literary writing. Punctuation signs were actually brought to Arabic in the early twentieth century by the Egyptian scholar Ahmed Zeki, who is credited for adopting and incorporating European punctuation symbols into Arabic literature (Al-Khafaji, 2001:7). Holes (2004) says that "until perhaps the latter part of the nineteenth century, much Arabic writing contained no punctuation at all and no fully standardized system of punctuation exists even today".

7.7. Models of analysis

The study employs two models of analysis in an attempt to apply the TQA models of Nord (2005) and House (1997; 2015) to UN conventions. It also looks into the models' applicability to the conventions and the degree to which the chosen translation has succeeded in fulfilling the original text's intended purposes.

7.7.1. Nord's model (2005)

With her theories of extratextual and intratextual elements, Nord (2005) makes a valuable contribution to the theoretical and practical aspects of translation challenges. Subject matter, content, genre, and register are examples of intratextual elements, whereas sender, audience, medium, and text function are examples of extratextual characteristics. According to Nord (2005), "Extratextual factors are mostly linked with macro-strategies" (p. 43–141). Three key components of translation are highlighted by Nord (1997): text analysis, translation commission, and translation issues and functional hierarchy. a) Translation commission: The translator should prioritize adhering to the client's instructions and requests. The translator needs to analyze the commission and make a note of any discrepancies between the source and target text characteristics. b) Text analysis: Nord provided a list of intertextual elements for examining the original text: Subject matter, textual content, and presuppositions all refer to actual facts that the participants in the communication scenario ought to be aware of, Formulation, Use of italics or illustrations as nonverbal components. Lexical aspect, and Sentence structure. c) Translation problems: Establishing a functional hierarchy is crucial while translating. That is: The translation's intended purpose should be determined. The target text should be modified to reflect the addressee's circumstances.

7.7.2. House's models

According to House (2001, p.156), the assessor of translation critique should always be compelled to shift from a macro-to a micro-analytical focus, from concerns about ideology, function, genre, and

register to the communicative value of specific linguistic concepts. The steps in House's functional-pragmatic model are as follows: (1) Field, Tenor, and Mode dimensions are used to analyze the original text. A text-profile that represents each unique textual function is established based on lexical, syntactic, and textual level discoveries. (2) The translated text is examined using the same criteria and degree of nuance. (3) The texts used as the source and translation are contrasted. A comparison of the two texts' relative matches is made, evaluating how different and/or similar they are given the various linguistic and cultural limitations.

Figure (8) A scheme for analyzing and comparing original and translation texts (Source: House 2001, p.139)
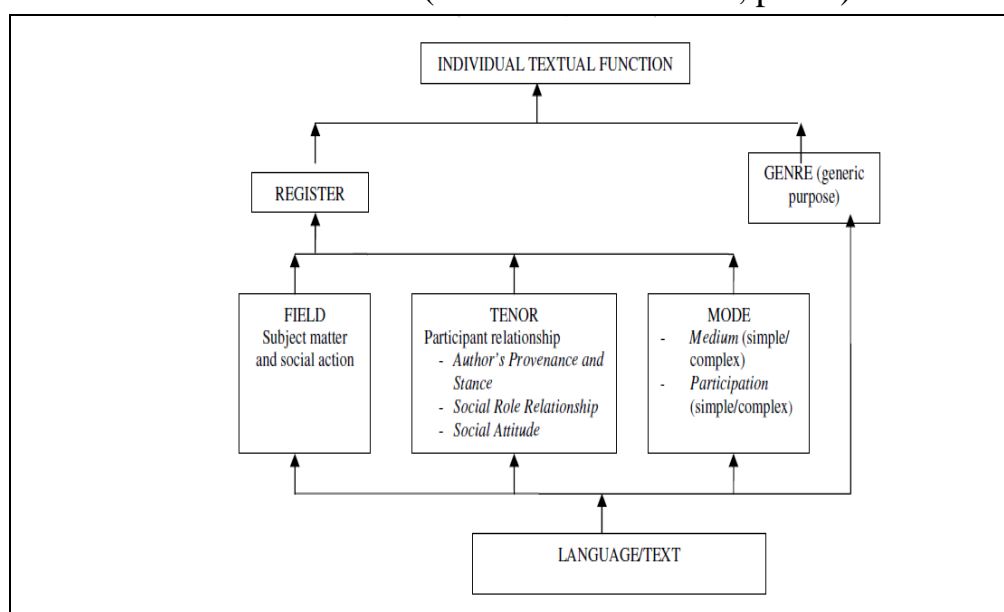
7.7.2.2. House's Newly Revised Model (2015)

House made significant changes to the components in each of the three categories—field, tenor, and mode—due to what she called their "unnecessary overlaps" (2015, p. 126). She explains this change as

follows: the study inside Field now solely concentrates on lexis, its granularity, lexical fields, and Hallidayan processes (Material, Mental, Relational). Only lexical and syntactic options are considered within Tenor in relation to the subcategories of Participation, Social Role Relationship, Stance, and Social Attitude. Along with mode, the examination will concentrate on connectivity (coherence and cohesiveness), theme-rheme, and medium (spokenness versus writtenness). (Coherence and Cohesion). (p. 126)

7.8. Functionalism and legal translation

The word "functionalism" refers to a group of theories that center on the function or functions involved in translation (Nord, 1997: 1). The functionalist approach, which stresses the communicative and intercultural aspects of translation in contrast to traditional translation theory, is a representation of the "radical change" (Garzone, 2000: 1) in translation theory. The stress placed by the functionalist model on the "communicative nature of translational activities taking place under certain sociocultural circumstances" sets it apart from other translation theories (Yi, 2013: 75). This approach holds that the purpose of translation is not word-for-word translation but rather intercultural communication, and translations are delivered in order to facilitate contact and communication between various cultures.

7.8.1. Functional Language Theory

It is about the meanings and not the words or constructions", this is how Halliday and Hassan (1973, 1978) define the application of function. In general, it's about how language fulfills different purposes and how language is shaped by social circumstances. According to their paradigm, "function" refers to language's overall function rather than specific linguistic structure components (1973: 110). Functional

theory examines a text's functions using what Halliday refers to as its "grammatical features," which include morphology, syntax, and lexical features. For instance, a language use may highlight certain grammatical rules while ignoring others, and vice versa (1994: 102). According to Nord, translating "is the production of a functional target text maintaining a relationship with a given source text that is specified according to the intended or demanded function of the target text" (2005: 33). Furthermore, Reiss sees functional theory as the connection between translation techniques and the function of texts. She suggests a certain approach for every kind of texts. According to Reiss (1977, p. 113), the idea of the ST should be thoroughly and unambiguously communicated in an informative (such as legal) document. Reiss recommends the "identifying" approach for translators to use when translating an expressive work in order to accurately portray the author's message (ibid: 20).

8. Analysis and Results

When investigating the translating the Charter into Arabic, it is generally observed that, although the meaning is usually obvious to Arab readers—particularly those with legal backgrounds—the literal translation is clear in practically every paragraph of the text. The translator employed a lot of interpositional sentences between the verb and the subject or object without using commas to separate the subject from the verb or the object, indicating that he did not give much thought to the structure of the straightforward Arabic sentence. Additionally, a text's readability is greatly impacted when punctuation and adherence to grammatical rules are neglected, making it relatively challenging to comprehend.

The literary style overshadows the spirit of the text and avoids using the legal term and its substantive language in the preamble, which

deals with the amendments to Articles 23, 27, 61, and 109 as well as the date and location of the United Nations General Assembly. Additionally, it should be noted that the paragraphs of the amendment were translated accurately and clearly, as though they had been written in Arabic originally. Examples of this include the following: the amended article states تنص المادة المعدلة...the related amendment التعديل المتعلق...etc.

The following lines, which have no bearing on Arabic, have been translated literally from the charter's first paragraph.

ST:	"To save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and;"
TT:	"أن ننقذ الأجيال المقبلة من ويلات الحرب التي في خلال جيل واحد جلبت على الإنسانية مرتين أحزاناً يعجز عنها الوصف."
Comment:	The words were dropped from the English text into Arabic by the translator. The parentheses from the main clauses are not indicated by commas or periods. Without a doubt, interrogative sentences play a crucial role in providing precise wording and defining meaning, but we must exercise caution when utilizing them in Arabic sentences to prevent any errors that could compromise the sentence's sound grammatical structure. The majority of this eventually results in unclear meaning and a lack of comprehension, this suggests a literal translation that ignores the structure and qualities of the language being translated (the translated text). similar to how "through one generation" ought to have been separated by two commas. Because of the context in which it is used, the word "save" in this statement has a deeper and more significant meaning than the abstract one given

	in the dictionary. That meaning is to "preserve" and "protect" future generations, not to "save" them. The second phrase's meaning is, on the one hand, imprecise and confusing because words are stacked on top of one another without any breaks— not even commas. However, there is no correlation between the term "sorrows" and the verb "brought," which in this case denotes causality. It is best to choose a word that brought about unfathomable pain. A suggested functional translation may be: "أن نحمي الأجيال المقبلة من ويلات الحرب ، والتي تسببت، مرتين خلال جيل واحد، في معاناة يعجز عنها الوصف".

ST:	"To reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and"
TT:	"أن نؤكد من جديد إيماننا بالحقوق الأساسية للإنسان, وبكرامة الفرد وقدره وبما للرجال والنساء والأمم كبيرها وصغيرها من حقوق متساوية."
Comment:	This sentence's translation is accurate, although there is a minor syntactical error that slightly alters the meaning without changing it. The conjunction (of) in the original language served as a connection to denote differences between men and women as well as between nations. Therefore, in order to make a difference and express this small bit of significance, the translator had to add a basic link and what to the nations.

ST:	"And for these ends".
TT:	"وفي سبيل هذه الغايات، اعتزمنا."
Comment:	To preserve the coherence of the sentence, the translator included the word "we intended" in the translation. The

word was added because it was the most appropriate way to ensure the sentence's coherence and to clarify the meaning, which the translator was aware of. Nonetheless, the term's selection is based on a purely literary style, which is at odds with the factual and objective legal language.

The term "وفي سبيل هذه الغايات" is also incorrect in this translation; in legal drafting, the phrase "ولتحقيق هذه الغايات" is typically used. The translator was required to adhere to the widely used terminology among the experts.

ST:	Chapter 1- article 2 – para.1 "The organization and its members, in pursuit of the purposes stated in Article 1, shall act in accordance with the following principles:"
TT:	الفصل الأول – المادة ٢ – الفقرة ١ "تعمل الهيئة وأعضاؤها في سعيها وراء المقاصد المذكورة في المادة الأولى وفقا للمبادئ الآتية:"
Comment:	Because there are no punctuation marks—that is, no commas or periods—which serve to limit the interpositional sentence, reading the sentence reveals the weak point in the language structure. Despite the fact that the statement started with the verb and moved on to the subject and object, the object was introduced after a lengthy explanation, leaving us confused and unable to understand the original meaning of the sentence. The imperative formula shall, which is a crucial component requiring the organization and its members to accomplish

	the intended aims that form the cornerstone of the United Nations, was not conveyed by the translator during this article. Accordingly, A suggested translation may be : "سعيا وراء المقاصد المذكورة في المادة1 ، توجب على الهيئة وأعضائها العمل وفقا للمبادئ الآتية:"

By carefully examining the English original and the Arabic translation, the four categories of translation problems—pragmatic translation problems, culture-specific problems, linguistic translation problems, and text-specific problems—proposed by Nord (2005) have been found.

Firstly, the literal translation process combined with the reader's search for more information has been found to be appropriate to bridge the current pragmatic gap between the ST and the TT with regard to the pragmatic translation problems that, in this particular case, have arisen due to the different communicative situations in the ST and the TT.

The processes of equivalency, borrowing, calque, and adaptation have been found to be useful to deal with these kinds of problems by either not translating them at all or partially (borrowings and calques). This brings us to our next point: the culture translation problems that have resulted in various culture-specific items complicating the translation task. The translator must choose which cultural elements to retain or modify in order to make the translation accurate and appropriate for the target audience.

The translation techniques of transposition or modulation have proven effective in addressing linguistic translation issues pertaining to the structural distinctions between the English and Arabic languages in text sentences. The goal has been to find syntactic and discourse order equivalency between the ST and the TT.

In conclusion, the following factors indicate that the Arabic translation of the Convention is a good translation: It has maintained the original's semantic and syntactic structure, as well as all pertinent cultural allusions. However, despite adhering to the original, modifications have been made to ensure fluency above all else. Furthermore, it is noteworthy that the translation elicits the same feelings as the source text does.

9. Conclusion

It can be concluded from a review of all the corpus's source and target texts that translating legal texts is one of the most challenging tasks. Legal texts are also recognized for their use of stylistic devices like synonyms, quasi-synonyms, archaisms, and repeated references. These elements have an impact on understanding, the first portion of a translator's job. When it comes to the last section of his or her work, production, there is a strong urge to translate exactly as it was written and to adopt the same style. Since the stylistic conventions of the originating language rarely match those of the target language, there is a chance that this will make the translation even harder to understand than it was before.

Overall, the application of Nord's and House's methodology has demonstrated its applicability to legal documents. The dual equivalence that is sought at both a semantic and pragmatic level is the central feature of the legal text model. This is because the model analyzes the use of text within its context, meaning that words' denotative meanings must be taken into account within a particular communicative situation and seen beyond their referential aspect.

ملخص البحث:

إن الهدف من هذه الدراسة هو تسليط الضوء على إشكالات ترجمة النصوص القانونية ، الاتفاقيات الدولية للأمم المتحدة ذات الشحنة الثقافية والتواصلية ، من منظور وظيفي يراعي الأبعاد الثقافية والتداولية والاختلافات الدينية والاجتماعية . وعبر هذه الدراسة سعى الباحث إلى الإجابة على العديد من الأسئلة التي تتعلق بمدى صعوبة ترجمة النصوص القانونية التي لا تقتصر فقط على تباين البيئات الثقافية واللغوية والقانونية التي تحدث فيها ، وإنما أيضاً على المستخدمين المستهدفين بثقافتهم القانونية الخاصة ومعرفتهم المتخصصة ، حيث سعى الباحث إلى توضيح مدى فعالية المنهج الوظيفي في ترجمة النصوص القانونية من خلال تطبيق نموذج وظيفي لتحليل النصوص وتقييم جودة الترجمة وهما نموذج هاوس (٢٠١٥) ونموذج نورد (٢٠٠٥).

أجاب الباحث عن ما يتعلق بكيفية تطبيق النماذج المذكورة على النص القانوني ، كما أوضح أهميه اعتماد تقنيات الترجمة الوظيفية في ترجمة النصوص القانونية لتحقيق الهدف الأسمى للوصول إلى أدق ترجمة من وجهة نظر وظيفية ، و يلاحظ من خلال هذه الدراسة مدى قدرة الأساليب الوظيفية على إنتاج ترجمة سليمة تراعي التباين الثقافي والتاريخي والاجتماعي بين اللغتين العربية والإنجليزية ، خالية من الأخطاء حيث اتضح من خلال تطبيق النموذج أنه لا يزال من الممكن ترويض اللغة القانونية ونصوصها لخدمة الهدف النهائي لعملية الترجمة المتمثل في توصيل الرسالة بفعالية ونجاح بالإضافة إلى تحقيق عناصر الانسجام والاتساق وأمانة النقل .

إن من أهم مبادئ النظرية الوظيفية هو إحداث الأثر الوظيفي المكافئ في بيئة الهدف وثقافته وقرائه مع مراعاة الأبعاد اللغوية وغير اللغوية المتمثلة في اختلاف الثقافة والايدولوجيا وكذا البعد التداولي والاجتماعي وليس فقط المحتوى النصي. لقد قام الباحث

بتوضيح العلاقة بين المنهج الوظيفي وجودة مخرجات الترجمة القانونية وذلك من خلال تطبيق تقنيات الترجمة الوظيفية ، حيث قام الباحث بتحليل الاتفاقيات القانونية المذكورة وتحديد الأساليب التي اتبعها مترجمو الأمم المتحدة في عملية الترجمة مع اقتراح ترجمات وظيفية بديلة عند الضرورة. لم يغفل الباحث عن الانتقادات الموجهة للنظرية الوظيفية.

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