

2023

A Translation Study of Arabic Legal Texts into English: Iraqi Official Documents as a Case Study

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Recommended Citation

2023) (الدهوي، أ.م.د. سمير صالح مهدي) "A Translation Study of Arabic Legal Texts into English: Iraqi Official Documents as a Case Study," *Midad AL-Adab Refereed Quarterly Journal*: Vol. 30: Iss. 3, Article 17.
Available at: <https://digitalcommons.aaru.edu.jo/midad/vol30/iss3/17>

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دراسة ترجمة نصوص قانونية من العربية إلى الإنجليزية: الوثائق الرسمية
العراقية بوصفها دراسة حالة

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A Translation Study of Arabic Legal Texts into English: Iraqi Official Documents as a Case Study

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المستخلص

تتناول الدراسة تقييم ترجمة بعض الوثائق الرسمية العربية المترجمة إلى الإنجليزية على المستويين المعجمي والنحوي. وتعرف الوثائق الرسمية هي الوثائق التي تصدرها المؤسسة والتي تحتوي على البيانات الأصلية التي تدعم المعلومات الملخصة في الوثيقة. إذ يمكن اعتبار المستندات والبيانات التي يتم إرسالها عبر البريد الإلكتروني الامن ووثائق رسمية. ويتطلب نسخ رسمية من المستندات للقبول والتقييم من أجل التقدم في الدرجة ، ويجب أن تكون جميع هذه الوثائق موقعة ومختومة من قبل المسؤولين المعتمدين من المؤسسة الأصلية. تهدف الدراسة الحالية إلى إجراء تقييم لترجمة الوثائق الرسمية العربية على المستويين المعجمي والنحوي، ولتحقيق هدف الدراسة ، يفترض الباحث أن مترجمي النصوص القانونية العربية إلى الإنجليزية قد لا يحققون تأثيراً قانونياً في اللغة الهدف نتيجة ضعف كفاءتهم في ترجمة مثل هكذا نوع من النصوص، ومن المفترض أيضاً أن اعتماد التكافؤ الوظيفي من قبل المترجمين يمكن أن يلعب دوراً مهماً في تحقيق التأثير القانوني ونية كاتب اللغة المصدر، ومن أجل إثبات صحة الفرضيات اعلاه ، تم أخذ الوثائق الرسمية المختارة وترجماتها ، والتي ستخضع لتقييم الترجمة ، من كتاب "ترجمة الوثائق الرسمية" من تأليف إبراهيم وآخرون. (٢٠١٦)، وفي حالة فشل المترجمين في تقديم الترجمة المناسبة للوثائق الرسمية العربية ، يقوم الباحث بتقديم ترجمته المقترحة. الكلمات المفتاحية: الترجمة القانونية ، الوثائق الرسمية ، المستويات المعجمية والنحوية ، التكافؤ الوظيفي.

Abstract

The present paper deals with the translation assessment of some Arabic official documents translated into English at the lexical and syntactic levels. Official documents are the documents that an institution issues and which has the original data which support the summarized information on the document. Documents and data which are sent via secure electronic transmission can be deemed official documents. Official copies of documents are required for admission and evaluation toward degree progress, and all such documents must be signed and sealed by authorized officials of the originating institution.

The present study is aimed at carrying out a translation assessment of Arabic official documents at the lexical and syntactic levels. To achieve the aim of the study, it is hypothesized that the translators of Arabic legal texts into English may not achieve legal effect in the TL as a result of their poor competence in translating such a type of texts. It is also hypothesized that the adoption of functional equivalence by translators can play an important role in achieving the legal effect and the intention of the SL writer.

In order to test the validity of those hypotheses, selected official documents and their translations, which will be subject to translation assessment, are taken from the book "Translation of Official Documents" by Ibrahim et al. (2016). If the translators fail to give the suitable translation of Arabic official documents, the researcher will give his suggested translation.

Key words: Legal translation, official documents, lexical and syntactic levels, functional equivalence.

1. Arabic Legal Language

The Arabic legal system is built on two foundations: Islamic Law and Roman or Common Law (Wood, 2016). For four centuries, the Ottoman Empire dominated the Arab countries, and following its demise, almost all of these countries attempted to build their new laws. According to Al-Fatlawi (2013:34), Egyptian law is directly based on French law; Iraqi and Syrian laws are founded on Egyptian law, so it is reasonable to claim that they already follow the French pattern.

Iraq's legal system is founded on four elements: first, the historical source of the law, the Egyptian model; second, the substantive source, customs and traditions; third, the interpretative source, jurisprudence and jurisdiction; and finally, the fourth one, which is the real or official source, the Islamic Sharia' "Qanon" (ibid).

Iraq's legal system is based on modern western legal structures and authorities. It has a diverse set of laws governing many aspects of life. These regulations govern a variety of topics, from ordinary communication to traffic rules and business contracts to judicial codes, national security, and international treaties (Hayawi, 2010:2ff).

Regarding the legal language used in Iraqi law texts, it is identical to the language utilized in contemporary legal publications in neighboring states (Sabra, 2007:25).

The vocabulary of Iraqi legal texts is inherited from traditional Islamic law, but there is an obvious (alien) impact

visible in the style as a result of the translation of foreign language documents (Hargit, 2013:25).

2. English Legal Language

It is essential to clarify "Law," i.e. the entity that is formed and constructed by legal language. The term "Law" has four definitions in Henry Black's Law Dictionary (1979, p. 700): the first, "the law," is "[the maxim] that is laid down, established, or or-dained." A rule or procedure through which events or activities coexist or follow one another. Second, the law is stated as follows:

A system of principles and rules of human conduct.... which are either prescribed or recognized by the governing power in an organized jural society as its will in relation to the conduct of the members of such society and which it undertakes to maintain and sanction and to use as the criteria of the actions of such members.

(BLD, 1979, p.700)

The Law, third, is "a formal statement of legislative will. It gives orders, warnings, and permissions. It announces both incentives and consequences. Its regulations, in general, do not apply to solitary or exceptional occurrences, but rather to what occurs in the ordinary course of events".

Finally, the word "*Law*" without an article appropriately suggests a science of system of principles or laws of human action, as when it is referred to as a matter of study or practice and corresponds to the Latin "*jus*." In this sense, it encompasses both the rulings of courts of justice and legislative acts (BLD, 1979).

According to Melinkoff (1963:44), the word "Law" originated in Scandinavia and entered Old English around 1000 A.D. from prehistoric Old Norse. It was derived directly from an Old Icelandic term that meant "something laid or fixed."

3. Characteristics of Legal Texts in English and Arabic

3.1 Syntactic Features

3.1.1 Length and Complexity of Sentences

Due to syntactical features such as the use of passive, complicated and long sentences, and prepositional phrases, legal language is highly formal and impersonal. According to Crystal and Davy (1969), legal sentences are frequently self-contained entities that convey all of the meaning that has to be conveyed at any one time and do not need to be tied tightly to what comes after or what came before.

The complexity of legal English texts can be noticed in their sentences, which have multiple subordination and postponement of the primary verb until the end of the sentence. These sentences also feature repetitiveness, long noun phrases, unusual word order, and prepositional phrases (Stanojević, 2011:45).

Legal specialists and lawyers are increasingly favoring the trend of shortening legal sentences by adding just the words that are specifically needed for the precise content of the legal text (Rylance, 2012:23). Similarly, it is desirable to measure the length of a legal statement, eliminate unnecessary words or phrases, and cross out redundant words and phrases that provide no legal value to the sentence or the document as a whole (ibid).

3.1.2 Nominalization

Numerous elements of legal texts work within nominal group structures, as evidenced by the fact that written legal English is primarily nominal. A noun phrase having a systematic correspondence with a clausal prediction that contains a head noun morphologically related to a corresponding verb is referred to as nominalization (Quirk et al., 1985).

Nominalization is more frequent in constitutions, laws, and international documents than in other forms of legal documents due to their comprehensive nature and the necessity for inclusivity when they are drafted (El-Farahaty, 2015:33).

Written legal Arabic, on the other hand, is predominantly verbal (Zidan, 2015:20), which means that many legal documents operate with a verbal structure. This is well recognized in legal documents of a contractual nature, such as agreements, constitutions, and so on. This characteristic is shown by the following sentence, whose main verb can be found in practically every text of this type. e.g.

المادة ٨

يرعى العراق حسن الجوار

Article 8

Iraq shall observe the principles of good neighborliness.

According to Baker (1992:46), Arabic emphasizes pronominal reference as a typical strategy for tracing participants and building cohesive relationships in general. e.g.

وفي حديثه امام البرلمان، قال رئيس الوزراء....

In his speech before the parliament, the Prime Minister said...

3.1.3 The Use of the Passive Tense

In terms of tense, legal English and Arabic both utilize the present simple tense, as in:

يلتزم الطرف الاول بـ.
تلتزم الدولة بمحاربة الارهاب بجميع اشكاله

the first party undertakes to...

The State shall undertake to combat terrorism in all its forms.

Ordinarily, the passive voice is used when the agent is unknown, insignificant, or unobvious; or when the agent refers to people in general, but in legal language, the passive voice serves a variety of other functions (Bulatovi, 2013:29).

Lyons (1968:376) distinguishes three types of passive:

- Passive with a specific agent (e.g. John was killed by Bill)
- Passive with a non-specific agent (e.g. John was killed by someone)
- Passive without mention of the agent (e.g. John was killed)

3.2 Lexical Features

The lexical characteristics are the most crucial, and they may be the only way to distinguish between a good, comprehensible, and legally acceptable translation and a weak, poorly translated, non-accepted translation of any legal document. The most significant distinction between legal and everyday English is its lexicon (Smejkalová, 2009:20). As a result, numerous scholars are looking into these characteristics. Mellinkoff (1963:34), for example, refers to lexical elements as the hallmarks of the language of the law. They overlap, affect each other, and constitute the specialized tongue that separates lawyer and non-lawyer.

Bouharaoui (2008:19) identifies the following as distinguishing lexical aspects of legal English.

- 1- An archaic diction.
- 2- The use of doublets.
- 3- The use of purely technical and semi-technical terminology.
- 4- Lexical redundancy or repetition
- 5- Unusual usage of the terms "the same," "such," and "said"
- 6- Unusual usage of terms of Latin and French origin.
- 7- The modal "shall" is used in an archaic way.

He (ibid) concludes that the legal English lexicon is significantly different from the standard English lexicon. He also argues that such terminology does not make legal language clearer, but rather makes it more difficult to understand for those unfamiliar with the legal system.

3.2.1 Archaisms

The use of archaisms is a distinctive element of legal English since it enhances the legal texts and gives a formal touch to the legal language (Crystal & Davy, 1969:33). Tiersma (1999:42) defines this phenomenon as follows: Legal language frequently strives for high formality; therefore, it naturally gravitates toward archaic language. Examples of archaic terminology used in the English legal language are "peruse", "inquire", "hereinafter", "hereof", and "herein".

3.2.2 Legal Expressions

Legal language employs common phrases and idioms that have an additional meaning that varies from their ordinary meanings.

According to Mellinkoff (1963:33), the legal English language regularly employs legal phrases composed of common words with uncommon meanings.

Smejkalová (2009:19) categorizes legal terminology or idioms as purely technical, semi-technical, and shared, common, or unmarked vocabulary, as follows:

- a) Purely technical terms: terms found solely in the legal realm; they don't have application outside of it. These may be single words (for example, barrister) or entire phrases (e.g. bring an action).
- b) Semi-technical: words or phrases with additional meanings in parallel to their common meanings (e.g. issue, consideration).
- c) Everyday legal vocabulary (e.g., paragraph, subject matter)

3.2.3 Latin and Other Languages Influenced

Due to the fact that legal English is a result of its history, it may be traced back to many influences on today's legal language. There is an unmistakable influence of Middle English in legal terminology, such as aforesaid, thence, there- and here- words, and so on (Mellinkoff, 1963:33). The Anglo-Saxon impact is also discernible when phrases like bequeath, manslaughter, oath, or writ appear in a legal document (Smejkalová, 2009:21).

In addition to the Latin and French influences on legal English terminology, most specimens of legal English would most likely contain a similarly high proportion of Romance to Germanic words (Crystal and Davy, 1969:32).

Although many terms of Latin, Anglo-Saxon, or German origins can be used in legal English, Norman and later French are considered to have had the most influence on the formation of the legal language. Tiersma, as described in Smejkalová (2009), mentions how French was previously the language of the royal courts. Although many attempts have been made to return to legal English, French continued in use until 1731, when it was barred from being used in court proceedings together with Latin (ibid).

Many of the most basic legal phrases are of French origins, such as proposal, contract, schedule, terms, policy, quash, conditions, alias, and so on (ibid). French influence can also be evident in some legal terms that use an adjective after the noun, such as fee simple or attorney general, or in creating neologisms by adding a (-ee) ending to a verb, such as condemnee (ibid).

3.2.4 Using Modal Verbs

According to El-Farahaty (2015:39), modal auxiliaries are an important part of the legal translation process since they depict features of possibilities, obligation, etc. The function of the translator is difficult in terms of modality in both English and Arabic. If modal verbs are not reproduced appropriately, they will leave the TT open to multiple interpretations.

Modality is expressed through modal verbs or auxiliaries, including *shall*, *can*, *may*, and *must*. These modal verbs are restricted in number, namely *can* (in the past tense), *may* (in the past tense), *shall* (in the past tense), *will* (in the past tense), *must*, and ought to.

Modality, for Maley (1987:28), is a linguistic device that reflects the institutional ideology of the roles and relationships engaged in legislative rule-making. Similarly, because contractual legal documents such as agreements, memorandums of understanding, constitutions, and so on are typically concern with obligations, prohibitions, and permissions (Bostanji, 2010:67), it is appropriate to employ modal verbs such as *shall*, *must*, etc. to express these senses.

"*Shall*" is the most commonly used modal verb in legal texts (Pelková, 2006:43). The modal '*shall*' was first used in English translations of Roman legal texts, such as the Magna Carta, also known as the Great Charter of the Liberties, which is defined as an exercise in '*shall*'. The modal '*shall*' is commonly used in general English to denote futurity (Tiersma, 1999); however, it serves a different purpose in legal language. According to Bowers (1989), as cited by El-Farahaty, "*shall*" is used to conjure up some flavor of the law (El-Farahaty, 2015).

Furthermore, Maley (1987:29) asserts that 'shall' performs and generates an obligation most formally, and as a result, it adds an archaic touch to the legal language with its overtones of authority and power. Sabra (2007), on the other hand, believes that any legal verb preceded by 'shall' is frequently translated into Arabic in the present tense, as in the following example (Husni and Newman, 2015:55): The process of translating "shall" into the present form is not fixed. The obligatory modal 'shall' followed by an active verb is occasionally translated as an equivalent lexical verb denoting necessity, (El-Farahaty, 2015), e.g.

يجب

as in the following example:

تستعمل المؤسسات الاتحادية والمؤسسات الرسمية في إقليم كردستان اللغتين.

The federal and official institutions and agencies in the Kurdistan region *shall* use both languages.

Sabra (2007:60) argues that the obligatory *shall* in legal documents, particularly contracts, should be rendered as a present tense verb, if the text does not require otherwise. The reason for this desire is to preserve the nature of such documents rather than turn them into merely void orders (Badawi et al, 2013:33).

"*May*" is the second most frequently used modal in legal documents (Bhatia et al., 2003:40). Its application in a legal system differs from that in common English. However, it is also used to communicate possibility and permission. Its negative form may not be commonly used as a negative command in formal or legal language, e.g.

This document may not be used to...

لا يمكن استخدام هذه الوثيقة لغرض

(Husni & Newman, 2015,).

Due to the fact that the primary function of the modal 'shall' in legal texts is to indicate obligation, there are some lines in which the modal 'shall' bears a meaning that is actually confusing and creates challenges for the interpreter or translator. In such problematic formulations, the translator is unable to determine whether the modal 'shall' is being employed for obligation, futurity, or a false imperative.

3.2.5 Redundancy or Lexical Repetition

Legal language experts do not use passive or referential pronouns, such as personal pronouns (he, she, it, etc.) or demonstrative pronouns (this, that, and others). Legal language specialists move to lexical repetition, and therefore to functional redundancy (Sabra, 2007:22).

There is no doubt that adding the possessive pronoun, such as 'his', instead of 'the lessor' would make things more confusing and ambiguous. This would make it difficult to figure out who has the intentional office: the lessor or the lessee. Thus, the use of anaphoric devices or referential pronouns would make it more difficult for the translator to figure out what the text's author meant.

4. Translation Assessment of Arabic/Iraqi Official Documents into English

Translation is a cognitive procedure that takes place in human beings which is the translator's head. It is also a social, cross-linguistic and cross-cultural practice.

Translation quality assessment has become one of the essential causes in the field of translation studies. This complete and up-to-date treatment of translation assessment makes explicit the grounds of judging the worth of a translation and asserts that translation is a linguistic process (House, 1977:1).

4.1 Functional Equivalence

In legal translations, many translation theorists associate legal equivalent with the extent to which the same 'legal effect' can be produced in the target text while keeping faithfulness to the source text. This is called a functional equivalence which is deemed by Newmark (1988) as a technique which occupies the global area between the source language and the target language. He (ibid) adds that the use of functional equivalence is recommended in official translation because it makes the TT both understandable to the target reader and faithful to the SL text.

Newmark (1981) also proposes that the translator must give priority to a communicative approach that is TT-oriented when dealing with legal documents like contracts and official documents that are concurrently valid in the TL. As Nida (1993:5) states, "in general it is best to speak of 'functional equivalence' in terms of a range of adequacy, since no translation is ever completely equivalent. A number of different translations can in fact represent varying degrees of equivalence." According to Jean-Claude Ge'mar (1995-II: 163-166), translators of legal documents, specifically contracts, should adopt functional equivalence. He

(ibid) suggests that the TL expression will be understood to the TL reader and close to the SL expression.

On the other hand, Nida (1993) suggests that functional equivalence is often suitable in case the application of formal translation is inadequate, as illustrated in the following principles of functional equivalence:

Principle I: Functional equivalence is important if a close, formal translation is probably to lead to misunderstanding of the intended meaning, some modifications should be carried out into the translated text.

Principle II: Functional equivalence is important if a close, formal translation makes no sense, some modifications may be carried out in the translated text.

Principle III: Functional equivalence is necessary if a close, formal translation is probably to result in big misunderstanding of the associative meanings of the SI text or in a significant loss in a proper appreciation for the stylistic values of the original text, it is necessary to carry out such modifications as are necessary to reflect the associative values of the TL text. (Nida, 1993:125)

Since official documents are part of legal texts, functional equivalence can be applied to the translation of legal texts and official documents. This kind of equivalence is aimed at producing the same legal effect in the target text and maintaining fidelity to the source text. Thus, the researcher will adopt the functional equivalence in the translation assessment.

In what follows, the translation of the Arabic legal documents will be assessed at two levels: syntactic and lexical levels since the two levels play an important role in legal register in both languages. In case the translator fails to achieve the functional

equivalence in the TL text, the researcher will give the suggested translation.

Text One

جمهورية العراق
مجلس القضاء الأعلى
محكمة تمييز الأعظمية
تشكلت الهيئة الجزائية الثانية في محكمة التمييز الاتحادية بتاريخ -----
الموافق ----- برئاسة القاضي الأقدم السيد ----- وعضوية القضاة
السادة ----- المأذونين بالقضاء باسم الشعب وأصدرت القرار
الآتي:

المتهم -----
قررت محكمة جنايات الرصافة بتاريخ ٢٣ حزيران ٢٠١٣ وبالعدد ----- الغاء
التهمة الموجهة للمتهم أعلاه وفق أحكام المادة الرابعة ١١ وبدلالة المادة الثانية ٨ إرهاب
والإفراج عنه عملاً بأحكام المادة ١٨٢ ج من قانون أصول المحاكمات الجزائية وذلك
لعدم كفاية الأدلة ضده عن جريمة قيامه بالاتفاق والاشتراك مع متهمين آخرين بخطف
المشتكي ----- ومساومة أهله على دفع مبالغ مالية وعند استلامها تم
إطلاق صراحه. كما قررت اشعار قاضي التحقيق المختص -----
- وفق المادة ٢٤٨ عقوبات واحالتهم الى محكمة تحقيق الاعظمية.

Translation of Text 1

"Republic of Iraq"

"Supreme Judicial Council"

"Appeal Court Presidency"

"The 2nd Criminal Body, formed at the Supreme Judicial Council on ----- headed by the Senior Judge Mr. ----- and membership of -----, all authorized by the People of Iraq, has stated the following decree:"

The criminal: -----

"It has been decided by the Criminal Court in Al-Ressafa on ----
----- issue No. ----- to abort the charge addressed
against the above criminal in accordance with Article Fourth/ 1
indicated by Article Second/1 (Terrorism), and to be released
based on Article 128/jeem of the Code of Criminal Law for the
insufficient evidence on the supposed charge of participation of
the above criminal with other criminals in kidnapping the claimant
----- on a ransom to be paid by his family, and was
released after receiving the whole ransom. It has also been decided
by the Criminal Court in Al-Ressafa to notify the investigation
judge to bring up a case against ----- in accordance
with Article 248 of Penal Law and to be investigated by Al-
Aadhamiyah Investigation Court".

Translation Assessment

In the translation of the above-mentioned official document, the translators translated أصدرت القرار الاتي into "has stated the following decree". The translators made a mistake when they translated the Arabic verb "أصدرت" into "stated" because the meaning of the verb 'state' does not give the functional equivalence in English. The suggested translation is "issued".

Furthermore, the translators also made a mistake when he translated المتهم into "the criminal" because the word "criminal" is a person who is condemned with committing a crime while the word المتهم has not been convicted yet. The suggested translation is "the accused person".

Moreover, the clause إلغاء التهمة الموجهة للمتهم أعلاه has been translated into 'to abort the charge addressed against the above criminal'. The verb 'abort' does not collocate with the noun 'charge' in legal language. The suggested translation is 'to drop the charge' where the verb 'drop' does collocate with the word 'charge'.

The translators translated the clause والافراج عنه عملا بأحكام المادة into "and to be released based on Article". Here, the phrase عملا has been mistranslated into "based on" which is not used in legal register. He could have translated it into "under" or "in accordance with". The word أحكام has been omitted by the translator. This word can be translated into "provisions".

Furthermore, the translators made a mistake when they translated the clause بفتح قضية بحق المتهمين into "to bring up a case against" in which the English verb "bring up" is used as an equivalent to the Arabic verb يفتح. The English verb "bring up" has another meaning which is the meaning of "caring for a child until he becomes an adult". The verb that collocates with the noun "case" is "bring" without the preposition "up" which is the functional equivalence for the clause يفتح قضية.

On the other hand, the translator rendered the clause *قررت محكمة جنابات الرصافة* into "It has been decided by the Criminal Court in Al-Ressafa" by changing the active voice in Arabic into a passive voice clause in English. This syntactic shift here is unjustified since the Arabic language prefers the use of active voice rather than passive voice. The suggested translation is 'The Al-Ressafa Criminal Court has decided'.

On the other hand, the translators rendered the verb phrase *كما قررت* into "It has also been decided by the Criminal Court in Al-Ressafa". In their translation, the translators changed the active voice sentence in Arabic into a passive voice one in English. In this case, it is better to keep the active voice in the TL by suggesting the following translation: "The Criminal Court in Al-Ressafa has also decided to".

Finally, the Arabic clause *واحالتهم الى محكمة تحقيق الاعظمية* has been translated into "and to be investigated by Al-Aadhamiyah Investigation Court." The translators used the structure 'to be investigated' to express obligation, which is not used in legal register. The modal used to express obligation in legal language is 'shall'. Thus, the suggested translation is 'who shall be investigated by'.

Text Two

عقد الايجار
----- عدد التسلسل
----- رقم الأبواب
تم العقد بين ----- المدعو فيما يلي بالمؤجر
وبين ----- المدعو فيما يلي بالمستأجر
على ما يلي:
أولا – ان المؤجر قد أجر وهذا قد استأجر من المؤجر بعد الرؤية والاطلاع على ---

الواقع ----- في محلة ----- المرقمة ----- لمدة -----
----- ابتداء من ----- الى نهاية -----
ببديل ايجار قدره فقط -----
ثانيا – ان المؤجر قد أجر ----- العائد ل ----- ببديل ايجار ---

ثالثا – للمستأجر حق السكن ----- في المأجور مدة الايجار -----
----- وعند ختام مدة الايجار فان المستأجر ملزوم بتخلية المأجور وتسليمه الى
المؤجر خاليا من الشواغل. واذا تأخر عن ذلك فيكون ملزما بأن يدفع عن مدة التأخير
ايجار يومي قدره ----- دينار من غير حاجة الى انذار مسبق.
رابعا – ان ضريبة الأملاك على المؤجر واما رسوم الماء والكهرباء والحراسة
والتنظيفات فهي على المستأجر يدفعها منتظما من خالص ماله علاوة على بدل الايجار
المحرر أعلاه وأن يسلم الوصولات الى المؤجر عند الطلب وعليه أن يسلم كافة
المصابيح الكهربائية والزجاج والمؤسسات الأخرى المذكورة في هذه الورقة سالمة كما
استلمها.
كتب على نسختين بيد كل من الفريقين نسخة واحدة في -----
شاهد شاهد المؤجر المستأجر

Translation of Text 2

"Lease Contract"

"Serial No: /"

"Doors No:/"

"The contract was held between the first party ----- as the lessor and the second party ----- as the lessee and agreed upon the following:"

"First: The lessor has rented the lessee and after making a survey the shop located at Al-Sheik Omar. Dist. 139, No. 721 for -----
-- Starting from 1/1/2013 up to 31/12.2013 with a rental of -----
---."

"Second: The lessor has rented the shop, belonging to him, to the lessee with a rental of -----."

"Third: The lessee has the right to dwell in the shop for one year and at the expiry of the period of lease, the lessee is bound to vacate the property to the lessor, and in case of any delay the lessee is obliged to pay ----- Iraqi dinars for every day of delay without the need for official notification."

"Fourth: Property tax to be paid by the lessor, and all fees of water, electricity power, security guidance, and cleaning are to be paid by the lessee in addition to the rental above. All fee receipts must be submitted to the lessor when requested. The lessee has to submit all electric lamps, window glass and other accessories completely intact and faultless as stated in this paper."

"The contract has been written in two copies, one for each party in Baghdad, on 1/1/2013."

The Lessee

The Lessor

Witness

Witness

Translation Assessment

To start with, the translators translated the Arabic clause *تم العقد بين* into "The contract was held" where the verb 'hold' does not collocate with the word 'contract' and is not used to express the intended meaning. On the other hand, the translator has used the past tense in this sentence. As a matter of fact, the past tense is not used in legal contracts since the contracts are valid and have not been expired. The suggested translation is "The contract has been made and entered.

Furthermore, the translators rendered the Arabic clause *ان المؤجر* into "The lessor has rented the lessee" which does not sound good because the meaning suggests that the lessor has rented the lessee and not a shop. The translator could solve this problem by adding the preposition 'to' before the word 'the lessee' as in 'The lessor has rented to the lessee'.

Moreover, the Arabic sentence *وعند ختام مدة الايجار فان المستأجر ملزوم بتخليه المأجور* is translated into "and at the expiry of the period of lease, the lessee is bound to vacate the property to the lessor" in which the translator used the preposition 'at' in the phrase 'at the expiry of', it should be 'upon expiry of'. He also uses the word 'period' as an equivalent for *مدة*. The word used here should be 'term', which is the functional equivalence, and not 'period'.

On the other hand, the translators translated the Arabic sentence *فان المستأجر ملزوم بتخليه المأجور* into "the lessee is bound to vacate the property to the lessor" in which they neglected the use of the modal 'shall' to express obligation in the legal register which plays an important role in this regard. The suggested translation is 'the lessee shall vacate the property'.

The translators made the same mistake when he rendered the Arabic sentence *ان ضريبة الأملاك على المؤجر* into "Property tax to be paid by the lessor", *واما رسوم الماء والكهرباء والحراسة والتنظيفات فهي على*

المستأجر into "and all fees of water, electricity power, security guidance, and cleaning are to be paid by the lessee", وأن يسلم الوصولات الى المؤجر into "All fee receipts must be submitted to the lessor" and وعليه أن يسلم into "The lessee has to submit" where they did not use the modal 'shall' to express obligation and used the structure 'to be paid' and 'must be submitted' which are not used in the legal register. The suggested translation is 'Property tax shall be paid by the lessor', and all fees of water, electricity power, security guidance, and cleaning shall be paid by the lessee', ' All fee receipts shall be submitted to the lessor' and 'The lessee shall submit'.

Finally, the translators translated the Arabic sentence وعليه أن يسلم كافة المصابيح الكهربائية والزجاج والمؤسسات الأخرى المذكورة في هذه الورقة سالمة كما استلمها into "The lessee has to submit all electric lamps, window glass and other accessories completely intact and faultless as stated in this paper" in which he omitted the translation of the Arabic clause كما استلمها. Thus, the suggested translation of this clause can be 'at the same condition as of delivery'.

Text Three

وكالة خاصة

اني معد يوسف محمد رواندوزي قد وكلت محمد الواحد محمد شفيق وكالة خاصة له حق التصرف في العقار المشيد على القطعة المرقمة ----- ثعالبة - بغداد بالبيع والتسجيل لدى دائرة التسجيل العقاري ومراجعة الهيئة العامة للضرائب بفروعها والبنك المركزي ووزارة الخارجية ودائرة الأحوال المدنية ومديرية الجنسية العامة وكافة الدوائر ذات العلاقة وله حق القبض والتوقيع نيابة عني فيما يخص ذلك وله القرار النهائي والتوقيع على جميع المستمسكات الخاصة بها ومراجعة الدوائر الأخرى كافة ذات العلاقة لإنجازها.

Translation of Text 3

"Special Power of Attorney"

"I, Moustafa Mohammed Rawanduzi, have granted Mr. Mohammed Abdullwahid Shaffen a special power of attorney that he has the right to sell the estate build plot No. ----- Tha'alba, Baghdad, and to register this scale with the Estate Registration Department. I also authorize him to contact the State Commission of Taxes and its branches Baghdad Amanat (Baghdad Municipality) Departments and their branches, Central Bank of Iraq, Ministry of Foreign Affairs, Civil Status Department, Directorate General of Nationality, and all the departments concerned. He has the right to receive payment and sign on my behalf as regards this scale and has the right of final approval".

Translation Assessment

In the translation above, the translators translated له حق التصرف into "he has the right to sell" in which he did not use the modal 'shall' to express obligation which is widely used in the legal register. The suggested translation is 'he shall have the right to sell'.

The translators rendered the Arabic clause ومراجعة الهيئة العامة للضرائب into "I also authorize him to contact the State Commission of Taxes" in which they used the present simple 'authorize' while they used the present perfect 'have granted' in the very beginning

of this translation. He could have used the present perfect in the translation of the Arabic sentence above 'I have also authorized'. On the other hand, the translators translated the word *ومراجعة* into "to contact" which is not the optimal equivalence. He could have used the verb 'refer', which is used in the legal language, to express the intended meaning. Thus, the suggested translation is 'I have authorized him to refer to the State Commission of Taxes'.

Furthermore, the phrase 'and its branches' has been translated as an equivalent for the Arabic phrase *بفروعها* which has not been translated legally. The suggested translation is 'and the branches thereof' which is an archaic word that is widely used in the legal register to express formality.

Finally, the translators rendered the Arabic clause *ومراجعة الدوائر الأخرى كافة ذات العلاقة لإنجازها* into "has the right of final approval" which does not express the intended meaning in the Arabic sentence. The suggested translation is 'he shall have the right to refer to all the concerned departments to complete the motion'.

5. Conclusions

The study has ended up with a number of conclusions. Generally speaking, the translations of the Arabic official documents are not legally oriented and the translators of those documents lack legal competence required in the translation of such texts. The translators also did not achieve the legal effect in the TL due to their poor competence in translating Arabic legal texts into English. This validates the first hypothesis.

On the other hand, many scholars have recommended the use of functional equivalence in the translation of legal texts in order to avoid legal loss and achieve legal effect in the TL. the researcher has adopted functional equivalence in the process of the translation

assessment and thus legal effect in the TL has been achieved. This validates the second hypothesis.

The translators of Arabic legal texts, especially official documents, must have deep legal knowledge of both languages and must well know the legal systems of the two languages. Furthermore, they should adopt certain translation methods and strategies in order to accurately convey the legal effect from the source language into the target language.

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