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The Problem of Functional Equivalence in Translation Personal Statutes Documents

"The case of Algerian personal statutes documents"

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قسم اللغة الانجليزية وآدابها

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العـــــــنوان:

مشكلة التكافؤ الوظيفي في ترجمة وثائق الأحوال الشخصية

" وثائق الأحوال الشخصية الجزائرية أنموذجا "

نـــوقشت عــــــلانيا

يوم: ..../......./...........

أمـــــام اللجنة المـــكونة من :

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Dedication

Above all, I thank Allah for having given the strength and patience to undertake this work .Glory and praise to Him.

I would like to dedicate this humble work to the soul of my dear grandfather Ali who has been my modal for hard work, persistence and personal scarifies, God bless his soul…

To my Father, Redjeb, who has raised me to be the person I am today.

To my dear Mother, Hinda, who always encourage me in hard times with her precious advices.

Thank you for your unconditional love ,for your support that you have always given me.

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List of Abbreviations

1. **SL:** Source Language .
2. **TL:** Target Language .
3. **TC:** Target Culture .
4. **TT:** Target Text .
5. **ST:** Source Text .
6. **C.C.T:** Culture specific terms .

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Introduction

It is undinable that translation has been once and remains one of the most required desplines since it become more important in our globalized world, also it plays a major role as means which bridges languages, cultures, and all kind of omnipresence, more its benefits to various field for instance scientific works, literary works, legal documents.

Taking for example the case of translating legal documents; it is defined as translation between two legal systems established by a governing authority to institute and maintain orderly consistence. Since every science or disposes its own terminology, and its own lexis. Law in other hand has its own specialized language which is characterised by legal and technical vocabulary. Taking the example of the case of translating personal status documents where the translator face certain terms that do not have an equivalent in the target language. These terms mainly are culture-bound terms i.e. ; related to religious, culture of certain area, thin entails that culture heavily influences translation. Therefore translators are required to take into consideration the cultural aspects, the communicative values, and the function of the original text, that is to say the translator must look for functional equivalent while translating any documents in order to keep the function of the original text and to promote his performance, thus translating legal documents is not a simple task to accomplish. The main reason due to the fact of the differences existed between the two legal systems. The problem, however, is that despite the recent development in the field of translation the theory and application legal translation still poses a serious challenge for translators.

1. **Statement of the problem:**

Legal translation is considered one of the most difficult translations ,since law has its own specialized languages ,and its own technical terms ,which obliges the translator to use the functional equivalence each time in order to transfer the intended meaning and to create similar effect on the target readers and being faithful to the original text in the same time, however, the problem is that due to the cultural differences between legal systems ,the translator faces the problem of the existence of cultural specific terms in our case Islamic terms ,the absence of the functional creates a

serious problem for the translator to how he can transfer the meaning without attempting to adapt these terms into the target culture .

2. Aim of the study:

Taking into consideration, the great importance of translating legal documents, and believing in the difficulties that may be posed while translating this type of documents, this study aims to examine the types of difficulties, the translator face due to lack of the functional equivalence when translating from Arabic into English and identifies the other techniques translator should use in order to translate cultural specific terms .

3. Research questions:

Considering the cultural and the legal differences between the source language and the target language is it possible to find the functional equivalence all the time?.
- What are the difficulties that translators find while translating personal status documents? Mainly translating cultural specific terms.

- What are the possible techniques that should be followed to overcom these difficulties?.
- Does the translator have the right to use adaptation in translating legal documents?.

4. Hypothesis:

In order to answer these questions, the research hypothesis could be stated as follows:
No doubt that all translation methods put forward by Vinay and Dablent are considered to be essential keys in translating, however, the most successful methods remains are of the indirect methods such as: adaptation, substitution, however, translating legal documents mainly translating culture-specific concepts requires different set of translation techniques such as functional equivalence, transliteration, and here it is up to the translator to choose which method to use as long as it helps him to have faithful and correct translation.
Providing the linguistic equivalent is not always considered as correct translation.
It is not for the translator to use the technique of functional equivalent all the time.

5. Methodology:

Investigating the problem of functional equivalent is translating personal status documents can be realized through the analysis of the problem of translating cultural specific terms in Algerian personal status documents this is done via collecting examples from real life personal status document I was lucky enough to obtain them these documents include marriage contract ,divorce verdicts ,patrimony liquidation certificates. I have collected from the public office of documentation ,municipality of debila court of EL_oued in order to illustrate the problem of the functional equivalence and the problem of the absence of the functional equivalence due to the existence of cultural specific terms these problems shall be analysed via providing illustrations and comments .this can be done through the analytical method which allow us to analyse these problems which the translator face ,and using the descriptive ,method which allow us to comment below the analysis of the data.

6. Structure of the study:

This study consist of two chapters, the first chapter is the theoretical, while the second one is practical. the first part of the first chapter provides an over view on translation as general concept , its types , translation as process and a product as well as legal translation problems. The second part of the first chapter is devoted to equivalence as a main concern in this process. Chapter two is divided into two section the first is an introductory part where we present the corpus of own study.

In second the part we will analyse 15 extracted from real life personal status documents them more specifically ,texts which contains cultural specific terms through the analysis of the problem of the absence of the functional equivalence which translators face in translating such terms and identify the alternative techniques translators should use in such cases and finally a conclusion in that summarizes the results as well as it answerers the research questions.

Chapter One

The problem of functional equivalence in personal statutes documents

I.1 Introduction:

Translation of legal discourse is one of the most challenging tasks for the translators , the main problem in translating legal document consists in finding the appropriate functional equivalent, which conveys almost the same meaning in both TT and ST. Since our legal system based on Islamic law (sharia) the translators face numerous factors that influence their ability to translate certain terms such as cultural norms, and traditions within the legal system. Aiming at investigating the problem of functional equivalence, this chapter is divided into two parts, gives a detailed theoretical background about equivalence and functional equivalence. Part one is an introductory section that provides some definitions of translation, types of translation also it lists some of the problems of legal translation.

Part two, however, is more detailed It includes many definitions of equivalence together with the problems of equivalence in translation. In addition to highlighting some of the most important views on equivalence in translation studies. Moreover it gives definitions about functional equivalence, also the technique of the functional equivalence , it discusses Nida's theory on functional equivalence. And the principles of the functional equivalence In addition to the alternatives techniques of the functional equivalence.

I.2 Concepts of Translation:

Translation is considered to be the oldest human activity. It has been widely practiced since ancient history. Translation played an important role in developing nations in all the fields of life ,and in passing ancient heritage and old civilization, as per Bassnett translation can be seen as "The portal through which the past can be accessed" (Bassnett,2007 , p.16).Throughout the history numerous scholars attempted to give several definition to the concept of "translation". Some of these definitions have given a restricted meaning to it , other have given a broad meaning to it.

Catford sees that translation is considered only by the replacement of the linguistic units between the source text (ST) and the target text (TT).Also he distinguishes between the total translation which is based on the replacement of SL grammar and lexis by equivalent TL grammar and lexis , and restricted translation which is based on the replacement of SL textual materiel at one level only.(Catford,1965,p.20).

Nida and Taber view translation as "reproducing in the receptor language the closest natural equivalent of the source language (SL) message .Firstly in terms of meaning and secondly, in terms of style"(Nida and taber ,1982,p.12). what seems important for them is the form and the meaning of the message ,thus the same effect of the ST(source text) to be reproduced on TT(target text).i.e.; reproducing the same effect of the ST on TT readers.

On the other hand, Jacobson shares Catford's point of view. He views translation as the mere replacement verbal sings by means of some other languages Jacobson (1966) argues that translation is limited only to the linguistic signs ,and this can take place between or within languages.

On the other hand Ghazala relates translation with all the means involved in rendring the meaning of the source language message into the target language as he puts "translation refers to all the processes and methods used to render the language or transfer the meaning of the source text in the target language text as closely as ,completely, accurately as possible"(Ghazala ¸1995¸P.1).

I.3 Translation as a process and product

The term "translation" can be viewed from two different perspectives , as a process , and as a product. As per Munday " the term translation itself has several meaning ; it can refer to the general subject field , the product (the text has been translated) or the process (the act of producing the translation) , otherwise known as translating" (Munday ,2011).As a process translation consists of transferring a message from one language into another , this can be done on an expressions i.e.; written forms , or on an utterances i.e. oral forms. As a product translation can be seen as the end product of this process i.e.; the translated text.Bell(1991) put forward a third variable in addition to this two division .He differentiates between the " the abstract concept which encompasses both the process of translating and the product of that process. i.e.; translating (the process), translation (the product) and a translation proper.

I.4 Types of translation

Translation has been divided into different types by different scholars for example we may find " literal Vs. free translation " , "formal Vs. dynamic ", " non-pragmatic Vs. pragmatic " , "non-creative Vs. creative " (Ghazala , 1995 , p.5) , "word for word Vs. sense for sense translation" (Shuttle worth and Gowie , 1995 , p.151), " Domesticating Vs. forignazing translation " (Shuttle worth and Gowie , 1997, p.43) and finely " the second Vs. first choice translation " which put forward by Sheleirmancher (Shuttle worth and Gowie , 1997, p.44)these notion are more or less based on the equivalent principles between the source text and the target text.

I.5 Problems in Legal texts translation

During the translation of legal texts translator may face some problems ;these problems are due to the specify of the legal system ,thus any misunderstanding of the legal document would cause a serious problem for the translator .a translation problem can be viewed due to many reasons for instance : the difference in the legal systems ,lack of established terminology ,the usage of common terms with uncommon meanings .

I.5.1 Problems due to the differences in the Legal systems

Every country has its own legal system ,as a source of making decisions on legal matters for example the British legal system roots in common law while the frensh legal system is based on statutes law, however, the Algerian legal system is based on Islamic jurisprudence ,consequently there are cultural specific terms which are not easily translated (Al-Silimane ,2011).

For example the word :Hujab   الحجب

غياب المصطلحات القانونية الإسلامية يجعل من عملية الترجمة أكثر صعوبة مثلا كلمة

- Hujab (exclusion from the inheritance)   الحجب   (ibid)

The translator preferred to use the legal term   "hujab" in the English translation and adds an explanation to make the term clear for the target readers.

I.5.2 Problems due to the lack of established terminology:

This problem occurs when there is no fixed translation or equivalent for the legal term, in the target language thus the target reader assumes that he or she a different term while they convey the same meaning for example the two terms فدية and the term تعويض

" تعويض" and the term "فدية "

-compensation: payments for loss or injury sustained ,e.g. compensation for destructing or damaging property of another (Curzon ,2002)
- compensation :monetary payments to compensate for loss or damage .when someone has committed a criminal offence that caused a personal injury ,loss or damage and has been convicted for this offence or it was taken into account when sentencing other offence ,the court make a compensation order (Oxford law dictionary ,1998).

I.5.3 Problems due to usage of common terms with uncommon meanings

These terms have a different meanings in law ,as well as in the communicative usage of language ,the legal translator find them problematic when they are trying their best to convey the meaning of such terms as accurate as possible for instance the word "حدود" which generally means limits or boundaries(Emami ,2006) in legal language, has a different meaning it is a kind of "religious punishments"

(Sminikia ,1994,P.18)

I.5.4 problems due to the cultural differences :

Through translation , people are introduced to different languages and ways of thinking as a result a nember of problems may occur in cross-cultural translation" the greater the gap between the source and target culture , the more serious difficulty world be" (Yowelly and Lataiwish , 2000, p.107).
English and Arabic belongs into two very different cultures and background, cultural problems may include geographical, religious, social, and linguistic one, for this reason we may find some terms in both systems that do not exist in the other systems. New mark (1981) argues that there is a cultural value in translation this entails that translation is heavily influenced by culture.

I.6 The concept of equivalence in translation theory

Equivalence is the most controversial term in the field of translation as per Leonardi " equivalence is the central issue in translation. Although its definition, relevance, and application within the field of translation theory have caused heated controversy, and many different theories of the concept of equivalence have been elaborated within the field in the past fifty years " (Leonardi, 2000, para 1) .

As a term " equivalence" is often used to defined the relationship between the (SL) text and the (TT) text". In fact equivalence can be defined as "the relationship between a source text (ST) and a target text (TT) that allows the TT to be considered as a translation of the ST in the first place" (Baker, 1988, p.77). This relationship have been studied by numerous scholars in the field including: Nida and Taber, Catford, House, Vinay, and Darblnet, Jacobson, and Baker, in relation to the translation process using different approaches .

Nida and Taber dealt at length with this issue in their book "the theory and the practice of translation" they claims "translating consist in reproducing in the receptor language the closest natural equivalent of the source. Language message, first in terms of meaning and secondly in terms of style". In other words the target text has the same effect on the target text readers is the same effect of the source text on its readers or not. What is important for them is form and the meaning of the message thus same effect of the ST to be reproduced on the TT i.e.; reproducing the same effect of the ST an TT .

Nida defines and explains the notion of equivalence as a main objective of translation studies Thus, Nida (1964,p.8) argues that there are two different types of equivalence.

Formal correspondence and dynamic equivalence according to him, formal correspondence "focus attention on the message itself in both form and content". The main objective is being faithful as possible to the source text and source culture. As Nida (ibid) writes it "knows as much as he can of the customs, manner of thought and means of expression". Unlike the dynamic equivalence which is based upon "the principles of equivalent effect" (Cited in Leonardi, 2003 para.9) i.e.; seeks an equivalent effect on the target readers it aims at complete naturalness of expression.

Formal correspondence, consist in translating the message from ST into TT and rendering the grammatical structure as much as possible (Leonardi, 2003, para.9) however dynamic equivalence call for an equivalent effect on the target readers. Dynamic equivalence is a translation in which a translator aims to translate the meaning of the original text in a manner that

the surface structure of the TL will create the same effect on the TL readers as the same effect on the source text readers (ibid). They argue that " frequently , the form of the original text is changed, but as long the change follows the rules of back transformation in the source language of contextual consistency in the transfer, and of the transformation in the receptor language, the message is preserved and the translation is faithful " (Nida and Taber, 1982, p.20) therefor Nida and Taber favour the so-called "dynamic equivalence" which corresponds to transferring ideas instead of words.

I.7   Equivalence views:

Equivalence is a basic concept in translation studies, nearly all translation are based on the equivalence between the source text and the target text ,yet it presents a great concern for those who study and practice translation, thus it is considered to be the most divisive issue in the field of translation studies. This issue is viewed differently by several scholars such as : Nida and Taber, Catford, House, Koller, Newmark, Jacobson, Vinay and Darblnet, Baker and Pym. According to Halverson equivalence is defined as " a relationship existing between two entities and the relationship is described as one of likeness (sameness) similarity, equality in term of any number of potential qualities " (Halverson, 1997,p.210). In other words the relationship between the source text and the target text is synonym relation. This notion was ignore totally by Snell-Hornby; she sees equivalence concept as "Unsuitable" (Snell-Hornby, 1989, p.22).

I.7.1   Catford's view:

Catford sees equivalence as an "empirical phenomena, discovered by paring SL and TL text" (Catford, 1980,p.27). In other words replacing SL items belonging to the same category the operation of translation shift. Catford also distinguishes between textual-equivalence and formal (ibid 27).

I.7.2   House′s view:

House has come up with a translation model in which the basic requirement for equivalence of ST and TT is original and translation should match one another in function (Despoina, 2013, Equivalence in translation studies volume 3. UK) .

House (1977) in favour of semantic and pragmatic equivalence, she argues that ST and TT should match each other in function. She suggests that it is possible to characterize the function of text determine the situation dimension of the ST (as Cited in Leonordi, 2003, para4). She assert that " translation text should not only match it source text in the function, but employ equivalent situational .

I.7.3 Steiner′s view:

Steiner believes that equivalence is sought by means of substitution of equal verbal signs from those in the original (Steiner, 1998, p.460). In other words, equivalence can be done through replacing similar units of the ST in the TT.

I.7.4 Koller′s view :

Koller has devoted a great deal of his book " Introduction into the science of translation " (1979) , to explain the concept of equivalence and its linked term correspondence. For Koller correspondence consist in comparing the two language systems, where the differences and simulates are described while equivalence deals with equivalent items.

Koller (As Cited in Desporira, 2013,Volume 3) Distinguishes five different types of equivalence:(a) denotative equivalence involving the extra linguistic content of a text, (b) connotative equivalence relating to lexical choices, (c) text-normative equivalence relating to text. Type, (d) pragmatic equivalence involving the receiver of the text message, and finely , (e) formal equivalence relating to the form and aesthetic of the text (Koller, 1979, p.186.191)

Koller (1989, p.187.191) presents text-normative in which the SL and TL wording have the same effect on SL and TL readers. And pragmatic equivalence which overlaps in an important way with cultural translation. Where the cultural norms or contexts influence heavily the translation process and product hence pragmatic equivalence .

I.7.5 Nida′s and Taber′s view:

Nida makes a distinction between formal correspondence and dynamic equivalence in his point of view, formal correspondence " focus attention on the message itself in both form and content " (Nida, 1965, p.8). However, dynamic equivalence call for an equivalent effect on the target readers .Nida and Taber (1982) prefer dynamic equivalence because it is effective and it is more of translating thoughts not words i.e.; to convey the meaning of ST message into the TT as naturally as possible .

I.7.6 Jacobson′s view:

Jacobson stresses the fact that there is no full equivalence between two words (Jacobson,2000, p.114). Jacobson (as cited in Bassnett, 1980) believes that translation can always be done and cannot be hampered by the cultural and the grammatical differences between the SL and the TL. He argues (ibid) " wherever there is a deficiency ".i.e.;
When the translator cannot find an accurate equivalent to SL words " terminology may be qualified and amplified by loan translation, neologisms, semantic, shifts ".

I.7.7 Baker′s view:

Baker argues that equivalence is a relative notion because it is influenced by a variety of linguistic and cultural factors (Baker, 1992, p.6). In addition to that Baker distinguishes different kinds of equivalence, at the word level, phrase, grammar text and pragmatic. Baker (as cited in Safi,1994) cites in the word level referential or denotative equivalence between the SL words and TL words in addition to the connotative equivalence where the SL and TL words are expressed to make the same or similar association in the mind of the native speaker.
The grammatical equivalence refers to the diversity of grammatical rules across language , Baker stresses that differences in grammatical structure may change the information or message is carried across .While textual equivalence refers to equivalence that may be achieved between the SL and TT in terms of cohesion and information. Pragmatic equivalence focus on what is intended not what is said.

I.7.8 Vinay and Darblnet′s view:

They view equivalence as a processes in which the same message is rendered in but in different words (Vinay and Darblnet, 1995, p.32). Through the equivalence the style of the ST is maintained in the target-language text. Vinay and Darblnet assert that it is acceptable to pairs equivalent expressions between language in a bilingual dictionary " as full equivalents "

(ibid , p.255)

I.7.9 Newmark′s view:

Newmark put forward the terms semantic and communicative translation instead of Nida's terms of formal and dynamic equivalence. Whereas semantic translation focus on meaning whereas communicative translation, focus on target reader In other words the semantic translation is looks back to original and tries to render it characteristics as much as possible. Communicative translation looks towards the needs of the addressees, thus trying to stratify them as much as possible. he believes that literal translation is the best approach in both semantic and communicative approach.(Newmark,1981, p.39)

I.7.10 Pym′s view:

For Pym (2010, p.7) equivalence is relation of "equal value" between an ST unit and TT unit and can be established on any linguistic level from a form to function.
Pym (ibid, p.37) believes that there is no such thing as perfect equivalence between language and it is assumed equivalence. Moreover Pym (ibid, p.7) distinguishes between natural and directional equivalence. Thus, natural equivalence exists between languages prior to the act of translating, and secondly, it is not affected by directionality. However, directional equivalence give the translator the freedom to choose between several translation strategies.

I.8   The problems of equivalence in translation:

Although all translations are based on equivalence yet it remains the most divisive issue between the scholars of the field; thus there is no numinous agreement on the nature of equivalence for Nida and Taber they wrote « translating consist in reproducing in the receptor . language the closest natural equivalent of the source. language message, first in terms of meaning and secondly in terms of style .i.e.; whether the target text has the same effect on target text readers as that of the same text readers or not based on this definition ,Nida and Taber put forward their notion of dynamic and formal correspondence .

Formal correspondence consist in translating the message form of the ST into the TT one and retaining the original wording and grammatical structure as much as possible (as cited in Leonardi ;2003 ,para.2) this focus in which in favors the form rather than the function of the TT readers with more faithful translation. Therefore, misunderstanding the message is by no means possible to occur (Nida and Taber 1982).

Nida and Taber claims is not legitimate to apply this kind of procedure because it is done at the expense of the original meaning. Translating the original text to the receptor language results in distorting the original message as whole ,thus the punctuation arrangement and the grammatical structure will be changed ,this happens when we deal with two different languages as the same one that is to say ,each language has its own specific and linguistic and grammatical structures that should commitment to most of the time, otherwise a big dichotomy of " language and culture " results in the production of faithful translation or as Hatim and Mason put a communication translation by using this translation procedure ,the translator can free himself from the source text as long as the linguistic side is concerned ,thus the translator has the opportunity to make a radical change at the grammatical level in order to have a clean understanding of the contextual original meaning by making implicit linguistic information of the original text explicit in the target text(Hatim and Mason,1990) .This kind of translation quality leads to high degree of equivalent influence on the receptor language reader this ,in fact what Gutt (1991) referred to as functional equivalence that ensure better communication since the translator does his best to meet the target readers comprehension needs be in his place seeing things from this perspective. Presumably, the example that may illustrate the aforementioned notion is that of ' عدة وفاة 'which is translated into waiting period as an attempt to preserve the original effect. In the native English culture, this term is not accepted that is the translator is dealing with two different linguistic

systems but also with two different cultures. Hence the focus should be on creating a similar effect on the addressing audience.

Functional equivalence is an important technique in legal translation ,however ,it is not possible with culture terms   Hence the translator should focus on creating a similar effect on the addressing audience.

I.8.1   Non-equivalence in translation:

During the translation process the translator may face some problems of non-equivalence. This problems occur due to the grammatical, cultural, lexical, stylistic differences between the TL and SL.

For Baker (1992) non-equivalence may be at the word level above it. Non-equivalence at the word level can occur because of the "the absence in the target culture of a relevant situational feature for the source language text (Bassnett;1980;p.59) this is because the concept may be lexicalized in the SL and not in TL. Sapir and Whorf (1964) have illustrated this phenomenon through giving the example of "snow". For European countries have many words for snow like blizzard , snowfall, snow flurry, because it is part of their nature, unlike the Arab countries that lexicalize only one type of snow, also the word "camel" for Arab countries have many words for

"Camel" like   سفينة الصحراء, المطية ,البعير,الهجن,الزملbecause it is part of their nature and culture

,in contrast to other countries, like European countries, that lexicalize one type of camel. This phenomenon is highly related to culture.

Above the word level, sometimes the comprehension of a word is impossible until it is combined with other words to form stretches of language-Non-equivalence above the world level characterizes notions like metaphors, collocations, and idioms.

I.9   The concept of Functional equivalence:

Eugene Nida have developed two approaches to translation: the formal-equivalent approach ,and the dynamic equivalent approach (Vender Brink,1994,p.113). The dynamic-equivalence approach was renamed " the functional-equivalent approach" functional-equivalent approach to bible translation is based on a specific view of communication, Viz that is a process which takes place within a closed cultural circle. Hence functional equivalence stresses the

importance of transferring meaning, not grammatical form. In his book " the theory and the practice of translation " .Nida claims that translators were not able to convey the message of the bible " Unfor-timatly, translators of religious materials have sometimes not been prompted by the same feeling and urgency to make sense " (Nida,1982,p.1).

Nida shows that there are two main focuses which translation on the bible " the older focus in translation was the form of the message, and translators took particular delight in being able to reproduce stylistic specialties, e-g, rhythms ,plays ,or words, chiasmus ,parallelism ,and unusual grammatical structures. The new focus, however has lifted from the form of the message to the importance receptor " (ibid:1).In other words, dynamic equivalence meet the functional requirements of the original text, also transferring cultural elements in the source language to the target language, and thus achieve the same effect on the target receivers as in the original receivers.

I.9.1   Nida's theory on functional equivalence:

Nida's theory of functional equivalence has a great on translation, including legal translation. Nida uses the following diagram to stress the importance of the functional equivalence which highlights the influence message has on the target language and the source reader .

Figure1: (Nida, 1982, p.22)

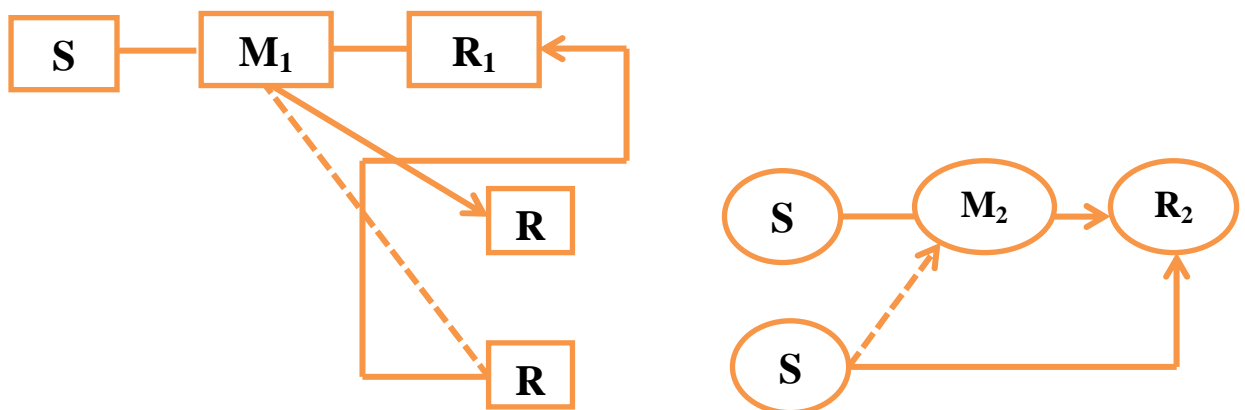The first box represents the source (S) ,who communicate the message (M_1) , which is received by an original receptor (R_1) .The translator ;who is both receptor and source first receiving M_1 as if he were an R_1, and then produces in totally different historical-cultural context a new message between final receptor, R_2. The differences between the two languages and the two cultural

settings are represented by the different shapes. The squares represent the source language factors and the circles represents the receptor language factors (ibid).

I.9.2 Equivalence in legal translation:

Researchers have described legal translation as a category in its own (Garazon, 2000, para 2). For Šarčevic (as cited in Darain, 2013)

…law remains first and for most national phenomenon. Each national or municipal law…constitutes an independent legal system with its own terminological apparatus and underlying conceptual structure, its own rules of classifications, sources of law, methodological approaches, and socio-economic principles.

In other words the legal translation is a translation between two different legal systems, thus the legal terminology is already set by that two different legal systems. This means the translation of legal texts requires particular attention because it "consists primarily of abstract terms deeply and firmly rooted in the domestic culture and intellectual traditions" (Chromà ,2004 , para 2). Alcarz Hugbes (2002) adds that the translatability of legal texts depends directly on the relatedness of the legal systems involved in the translation. The Algerian legal system is based on Islamic law i.e.; Sharia, on civil law, and has civil code, the Personal status code of Algeria. The United Kingdom does not have a "written" constitution and its law is made up of four main parts: status law, common law, conventions and work authority. Common law that consists of rules based on common customs and on judicial decisions therefore very little 'relatedness' to Algerian and English history and tradition has nothing in common, and thus the languages of law have been subject to very different influences.

English legal terms have their roots in Lain, French Norman, Greek, Anglo, Saxon, and English traditions. Algerian terminology originates from Islamic law(shariaa).

 The vast difference in the histories of Algerian and English law highlights many challenges in the official translation.

Selecting relevant translation methods and the issue of equivalence are the main conparitets of legal translation. Wilss (1982) distinction that refers to foringzation and domestication of the target text. As he puts " the translator can either leave the writer in peace as much as possible or being the reader to him, or he can leave the reader in peace as much as possible and being the writer to him ". This means that " Bring the reader ". To the translator would require that the target text reader to process the translation in its original context.

While, bringing the writer to the reader would means domesticating the source text in terms of context familiar to the Target Text readers, thus making it easy to be assimilated by them. In the same line with Wilss, Koller (1979) insure that full adaption is accepted method if translation in legal text.

Cesana further supports the foringzation of the legal text, and the use of neologisms and low words to render new legal concepts, as he writes " it is fidelity to the original which counts, not the beauty or elegance of the target languages" (Gasana, 1910, p.88, as cited inŠarčevic, 2000). Other scholar like Weisflog (1987) who supports formal equivalence, also advocates this view.

In legal translation, many scholars associates legal equivalence with the extent to which the same ' legal effect ' can be produced in TT while maintaining fidelity to the ST. This technique, referred as " functional equivalence is described by Newmark (1988) as a produce that occupies the universal concepts between the SL and TL. He further recommends to use this technique in official translation, because it makes the target text comprehensible to the TT readers and faithful to the original ST. Newmark (1981) suggests that when dealing with legal documents that are not valid in the target language, the translator should focus on the communicative approach. Vermeer (as cited in Šarčevic, 2000) agrees with this point of view that legal concepts should be taken into account when selecting the appropriate translation strategy since the meaning of legal text is determined by the legal functional equivalent.

I.10   Legal functional equivalence:

Šarčevic (as cited in Shiflett, p.30) defines the legal functional equivalent as a term in the target legal system designating a concept or institution, the function of which is the same as that in the source legal system, i.e.; functional equivalence is a produced that occupies the common concepts between the SL and the TL. Weston describes the value of functional equivalence in legal translation. Weston further proposes that " the technique of using a functional equivalent may be regarded as the ideal method of translation " (Weston, 1991,p.23).

I.10.1 Principles of functional equivalence

Nida (as cited in Shiflett, p. 30) puts " in general it is best to speak of functional equivalent in terms of range of a adequacy, since no translation is ever completely equivalent ". This means that there is no such thing as a full equivalent.

Nida (ibid) further suggests that functional equivalence is appropriate when application of formal translation would not be adequate. Nida propose three principles of functional equivalence.

- **Principle I**: Functional equivalence is necessary if a close, formal translation is likely to result in misunderstanding of the designignative meaning, certain changes must be introduced into the text (Nida, 1993, p.125).

In other words when the use formal translation is to results misunderstanding for the TT readers, functional equivalence technique is obligatory to use .

-**Principle II**: Functional equivalence is necessary if a close, formal translation makes

Nonsense, certain charges be introduced into the text (Nida, 1993, p.125).

This means, when using formal translation makes no changes at all, like the case of literal translation is often results in ambiguous terms that make no sense. The translator is ought to use the technique of functional equivalence.

-**Principle III:** functional equivalence is necessary if a close, formal translation is likely to result in serious misunderstanding of the associative meanings of the original text or in a significant loss in a proper appreciation for the stylistic values of the original text, it is important to make such adjustment as are necessary to reflect the associative values of the original text (ibid) . Like the case of religious terms thus the use of literal translation with this terms cause a loss in the associative meaning.

إن استعمال الترجمة الحرفية في ترجمة المصطلحات الدينية غالبا ما يفقدها خصائصها الثقافية

I.10.2 The technique of functional equivalence in translation Legal documents:

Legal translation refers to the translation of texts within the legal system. It entails conveying a complex legal information in an accurate manner. Therefore legal translation is considered one of the most challenging tasks. It requires investments of literary translation with the terminological precision of technical translation.

De Croot (as cited in Siliman, 2011, para 1) defines functional equivalence by a translation of legal terms with what is functionally equivalent to that term in the target language, even if the target language comprises more than one legal system, for example: translating the term examing

; magister examining magistrate in the English legal system means " رجل القضاء المخول بالبحث

والتحقيق whereas in Algerian legal system is التحقيق قاضي, however in the Tunisian legal system

is حاكم التحقيق and in the Lebanese legal system is المحقق العدلي magister is translated رجل القضاء

في Algerian legal system المخول بالبحث و التحقيق قاضي التحقيق , thus using the technique the in

functional equivalence requires a constant comparison between the different legal system.(Al_siliman) stresses that when the functional equivalence exist in the target legal system it is not permitted to the translator to uses other technique in the translation process. Other than this technique ;for example the functional equivalent of the term **defendant** is ''المدعى عليه''

if even words theseالمشكو منه and not الخصم المدعى عليه or ''المدافع عليه'' or ''المشكو منه'' not

they expressed the meaning of defendant they are not functionally equivalent ;thus the legal terms are already set by the target legal system (ibid).

I.10.3 Alternatives of the functional equivalent techniques

I.10.3.1 Technique of formal and lexical equivalent:

Is the second technique wherever functional equivalence is not possible . What is meant by lexical equivalence is to translate the legal term with the lexical equivalent of that term in a another another language i.e. , Literal translate if possible, for example بجلس القضاء الأعلى is

translated into the Algerian legal system as Court Supreme: المحكمة العلي another language

i.e.literal translation ,for example بجلس القضاء الأعلى is translated into Algerian Legal system as supreme Court

I.10.3.2 Self –explanatory Translation:

We use this technique whenever the use of functional equivalent and the lexical equivalent is not possible (Dickins, 2004, p.24). This technique used with culture-specific temns, Thus, it must be appropriately explained to understood, for example: this sentence taken from a marriage

contract بها الدخول قبل للزوجة يعطى ان يجب الذهب من قراطين قدره صداق على it cannot be translated, because it does not exist in the target culture, here the translator must translate by adding the word on necessary information to make this clear for the target text reader. SADAK is an amount of money or jewellery must be given by the husband to the wife before the communication of the marriage.

I.10.3.2 Omission:

Dickins (2005, p.25) argue that this technique is used when we translate for Arabic into English specially, when translating culture bound terms which do not exist in the English culture, thus the use of technique does not lead to loss some of information. For example : شعبان 30 ل الموافق

omitting this information from the legal document will not lead to failure in the translation process (Al-Siliman, 2009, p.141)

I.10.3.4   Transliteration:

This technique is used when the other techniques does not result in the desired purpose. For example : the translating the term زكاةit should transcribed in Latin letters and explained in

the marriage because it I not a donation as in English for Muslims ZAKAT is an obligation performed in special times unlike donation is given in any time. Translators in this case he should look an alternative term in other legal system.

I.10.3.5   Regionalisms (localization) :

Translator must take into consideration on the differences in the terminology used in each Legal system .For example the term law book is translated in Tunisian law as مجلةand in the

Egyptian قانونin the Syrian law أصول in the Algerian law قانونin Moroccan legal system مدونة.

I.10.3.6   Neologism:

Is the last technique after using all the above mentioned techniques, thus the translator can use any term as long as it does not have function in the target legal system. For example: the translation of the term common law can cause a serious problem for the Algerian translators in this case we should look for an alternative term in the other legal system.

I.11   Conclusion:

In short, Equivalence often caused a lot of problems for translators. Specially in the legal field. Translators usually find difficulties in translation of certain legal terminology. This mainly due to the fact that equivalence is not always possible in these types of translation because of the cultural and legal differences in each side. In other words, same times the translators may face some terms related to a certain culture or in our case religious, since it is the main concern for translators is equivalence, the translator looks for other strategies to convey the meaning and in the same time be faithful as much as he can to the original legal discourse. Hence , better understanding for TT readers.

Chapter two

The analysis of The problem of functional equivalence in Algerian personal statutes documents

II.1   Introduction:

This chapter shall examine the problem of the functional equivalence in translating personal statutes documents, where the translator face some difficulties in translating Algerian personal status documents mainly the problem of translating cultural specific terms. it serves as practical side for this study ,the focus will be on the analysis of the problem of functional equivalence, this is to illustrate practically the problem of functional equivalence in translation such documents depending on two translations the first one is AbdRahmane Al silimane لترجمة الإنجليزية) (2011), in his book " دراسات في اللغة و الترجمة و المصطلح " , and Abed el fatahMurade للأحوال الشخصية)2000. in this chapter I will highlight the intended term then I will clarify and comment the problem and the strategy used in rendering this term.

II.2   The corpus Algerian Personal status:

The corpus of this study is the Algerian personal status document . Personal status is the registration of the individual status due to birth, or any changes in personal situation such as: marriage, divorce or death.

Personal status events, birth , marriage, divorce were registered only in the municipality (city) in which the event took place, thus a copy of the civil status documents is delivered to citizen after being copied from the original registries for the divorce contract in the Algeria legal system is issued by the court (family cases) and registered in the municipality, where the marriage contract issued from

However , we think that first we should focus on '' Personal Status Law '', due to the close relationship to the carpus of our study

II.2.1 Personal Status Law:

Personal status law refers to all the situations between a man and his family , in addition to the consequences of this situation such as legal effects , moral and financial obligation (behadj , 2009 , p13) a group of characteristics that differentiate a human from other natural beings , organized by law into legal effects on his social life as being male or female or being a husband or widowed , divorced , or   legitimate father or being young or made   (ibid p-14) for the

Algerian legislator this law was referred to as " Personal status law" , thus the articles of this law are not only related to the personal status only , but extended to include the provision of missing person , guardianship , giveaways , wills ,legal competence inheritance , these articles are divided into 3 major classes , the first classes includes the provisions of marriage , and its consequences such as : expanses , custody , breastfeeding , divorce among other things , the second class includes the provisions of legal competence ,guardianship , wills in all its levels , the third class includes the provisions of inheritance " الفرائض ″ as in the Islamic jurisprudence.

II.2.2 Source of Algerian personal statutes:

The Algerian legislation derivers the provision of two types of sources

- **Sources on Islamic legislation** :

The Personal statutes law divides its provision from the holly Quran and Sunnah hadiths addition to the four doctrines, specially the doctrine of Malik Ben Anas God's mercy on his soul thus the second article of the Algerian constitutions in 1989 states that Islamic is the official religious of the country, accordingly, Shariaa is considered to be an official source of personal status natters.

- **Other legislative texts of same countries**

The Algerian family code derives its provision as well from other legislative text thus ottoman the first family code was the family rights law on 1917, in addition to Egyptian personal status law on 1952, also the Syrian family legislation on 1953, and the Tunisian personal status code on 1956, and the Moroccan code of personal status on 1957, in addition to the Iraqi personal status law on 1959.

The main reason for choosing this corpus because it contains a lot of cultural-specific terms to be analyzed and studied, moreover, it is issued by an official organization.

II.3   Analysis of the corpus

After collecting a group of samples where the translators found a problem in translating some terms in the documents ,the analysis of the corpus comes as a set texts in followed by analysis   where I comment and illustrate I took only one element in the analysis as a sample.

II.4   Date analysis

II.4.1   Text 01:

Extracted from marriage contracted concluded in the public office of documentation municipality of Debila court of El-Oued

"والذي تزوج على بركة الله و سنة نبيه من ولية الله"

The suggested translation "married to" (Al-El-Fatah.2000)

- **Data Analysis: Text01**

We notice that the translation omitted these two expressions "ولية الله" and " نبيه" و على بركة الله the

translation here preferred to omitted the above mentioned expression to avoid confusion.
Here it must emphasized that omission doesn't include legal information, but to expressions of cultural characters, and religious values in the Arab or Arab-Islamic culture, but it is no longer appropriate in the legal systems of the target language, therefore there is no failure is likely to occur in the translation process for example :

شعبان 18اكتوبر الموافق ل 30

We Can omitted شعبان 18الموافق ل because it does not contain a legal information

II.4.2 Text 02:

Extracted from marriage contracted concluded in the public office of documentation municipality of Debila court of El-Oued

تزوج بعقد رضائي

The suggested translation: "married with consensual contract"Al _Silimane

- **Data analysis: Text02**

The translator there used the technique of functional equivalence, become this terms do exist in the English civil law

"consensual contract" denoting a contract founded upon, and completed by the were consent of the contracting parties".(www.thelawdictionary.org)

II.4.3 Text 03:

Extracted from marriage contracted concluded in the public office of documentation municipality of Debila court of El-Oued

إحصان الزوجين

The suggested translation "protecting the moral of both husband and wife"
(Al-delfatah, 2000, p.20)

- **Data analysis: Text 03**

The translator here used the technique of self-explanatory translation, instead of using the technique of functional equivalence, this is due to the fact that this term is purely culture-bound term, so the explanation is done thought translation.

II.4.4 Text 04:

Extracted from marriage contracted concluded in the public office of documentation municipality of Debila court of El-Oued

تمت قراءة فاتحتها على السيد

The suggested translation "Al-fatiha: we notice that here
Al-fatiha: "reciting the first part of the holy Quran as a part of Islamic wedding traditions"
(A-bed-el fateh, 2000)

- **Data Analysis: Text 04**

The translator transcribed the word "الفاتحة" into to Latin letters "Al-fatiha"

And here the added an explanation in the margine "حواشي الترجمة" (Al Siliman-2011, p.89).

II.4.5 Text 05:

Extracted from marriage contract concluded in the public office of documentation municipality of Debila court of El-Oued

الباقي زوج أقراط ذهب و عقد من الذهب يجب على الزوج أن يؤديه إلى الزوجة قبل الدخول بها

The suggested translation: "the rest, being to pairs of gold a earning, and one gold necklace must be given by the husband consummation of the marriage"

(Al-Siliman.2011, p.89)

- **Data analysis: Text 05**

The translation here used the technique of self-explanatory translation, insatiate of using the technique of literal translation, thus literal translation would cause wrong translation the literal translation of the word   "الدخول" is entering "Enter,verb.p//come or go into(place) eg: she entered the kitchen language Longman pocket dictionary (2007,p.43)

However ,the intended meaning is ا تمام الزواج و الدخول بالزوجة و اختلاء الزوج بها

(Alhamdane.1425, p111)

II.4.6 Text 06:

Extracted from a court judgment – court of Deleila (divorce contract)

نشوز الزوجة

The suggest translation

" abandonment of abidance to the husband "   (Al-Silimane, 2011, p.80)

- **Data analysis: Text 06**

 The translator used the technique of adaptation in attempt to convey the same meaning , thus the word " نشوز" do not exist in the English language because it is a purely religious , legal term which have been used by the Algerian legislator in the Algerian Family Code

II.4.7 Text 07:

Extracted from a court judgment – court of Deleila (divorce contract)

تخول الكفالة

The suggested translation
" legal guardianship "   (Sl-Silimane, 2011, p.40)

- **Data analysis: Text 07**

The translator used the technique of functional equivalence, thus the used term mainly commonly used in the English language

 - Guardian**:** noun one how is formally appointed to look after a child s interest when the parents of the child do not have parental responsibility for him or have died (Oxford dictionary of law 1998).

II.4.8 Text 08:

Extracted from a court judgment – court of Debila (divorce contract)
Marriage authorization organization

" وعليه تم اختيار الزوجة السابقة السيدة ... والمرأة التي يقبل على الزواج بها السيدة... كما قدم لسيادتكم طلب

الترخيص بالزواج لمكان الزوجية

The suggested translator: " Marital house "   (Sl-Silimane, 2011, p.44)

- **Data analysis: Text 08:**

The translator used the technique of literal translation thus this term is not used in the English language ,however, the translator used this technique in attempt to convey the original meaning thus he could use the term " family house " , but the translator preferred to use the other term to be similar to the original text .

II.4.9 Text 09 :

Extracted from a court judgment – court of Deleila (divorce contract)

" وعليه سيادة القاضي قامت السيدة... رفع دعوى قضائية ضد زوجها السيد ... للمطالبة بالتطليق

The suggested translation: " bring a lawsuit "

(Abad-El fatah , 2000 , p40)

- **Data analysis: Text 09**

The translator used the technique of equivalence instead of using a literal translation , thus this term is widely used in the English language , in addition to that using literal translation can destroy the original meaning .

II.4.10   Text 10:

Extracted from a court judgment– court of Deleila (divorce contract)

تم النطق بالحكم انحلال الرابطة الزوجية المدرج تحت العقد رقم

The suggested translation: "dissolution of marriage "

(Al-Silimane , 2011 , p76)

- **Data analysis: Text 10**

The translator used The technique of literal translation, to attempt to preserve the same meaning dissolution : however, he could use the term " divorce " , but he preferred to use " dissolution "

II.4.11   Text 11:

Extracted from a court judgment – court of Deleila (divorce contract)

مطالبة الزوج بتعويض عن الضرر اللاحق بها و قد تم ...

The suggested translation: " to compensate for the damage caused "

(Al-Silimane , 2011 , p73)

- **Data analysis: Text11**

 the translator used the technique of literal translation in order to keep the same meaning used in the original text ,thus this term do not exist in the English legal system.

II.4.12   Text 12 :

Extracted from a court judgment – court of Deleila (divorce contract)

ارتكاب فاحشة الزنا

The suggested translation: ″committing the sin of adultery″.

(Al-Silimane , 2011 , p.65)

- **Data analysis: Text 12**

The translator used the technique of adaptation ,thus he focused on the translation of فاحشة to

sin خطيئة,the translator to convey the meaning of the name الفاحشة in the English target

culture by using the name sin

II.4.13   Text 13:

Extracted from a court judgment-court of Deleila (divorce contract)

وعليه تم الحكم برد ما قبض من الصداق

The suggest translation: Therefore ; it was judged to return the dowry

(Al-Silimane , 2011 , p86)

- **Data analysis: Text 13**

The translator used the technique of pragmatic equivalence ,although the word " dowry " is not

considered as an equivalent to "الصداق (cited in Al-Silimane , 2011 , p85)

II.4.14   Text 14 :

Extracted from a court judgment-court of Deleila (divorce contract)

و عملا بإحكام المادة...من قانون الأسرة الجزائري حيث تبلغ فترة العدة للمرأة المطلقة المد خول بها غير الحامل

بأربعة أشهر و عشرة أيام و اليائس من المحيض ثلاثة أشهر

The suggested translation: Idda (Islamic terminology a waiting period which a widow or a
divorce may not remarry) (Ali-Siliman, 2011, P. 80) .

- **Data analysis: Text 14**

The translator transcribed the word "عدة" into Latin and perfumed a kind of a explanation this

technique called self-explanatory translation (Ali-Siliman, 2011, p.94) . Thus the term Idda is
purely religious term, which does not exist in the English language nor in the English legal
system.

menopause " (ibid)

the translator used the technique of equivalence ,thus the term " اليائس من المحيض do exist in the

English language system

The translator used the technique of equivalence, thus the term المحيض من اليائس"

Woman in menopause"المرأة في سن اليأس"

II.4.15   Text 15:

Extracted from a court judgment-court of Debila.

الطلاق بالتراضي

The suggested translation: " divorce with mutual consent "

(Ali-Siliman, 2011, p.84)

- **Data analysis: Text 15**

The translator used the technique of functional equivalence, thus the above mentioned term in the English legal system. The translator here attempts to preserve the meaning of the original text,

 focusing on the notion: "التراضي" mutual consent .

II.5   Conclusion:

After finishing the practical side I hope that the results and the suggestions would be beneficial for future studies   since I have examined examples' of personal status documents   and their translations we can distinguish the following results

- Algerian personal statutes documents are full with religious terms which often cause a problem for translators.
- Bothe translators attempted to explain rather than adapt the religious terms into the target culture.
- Each legal system bound in the culture in which it belongs.
- The use of transliteration and self-explanatory translation are considered   the best way to convey cultural specific terms .
- The use of the technique of functional equivalence is not possible all the time due the big differences between the British Legal system and the Algerian legal system .

Conclusion

Legal translation is considered one of the most difficult types of translation. Thus the difference between the languages in one hand and the spiffily of the legal system in the other hand are considered one the most common problems that faces the translators ,especially when dealing with cultural specific terms ,thus the main concerns for the translator in this case how to transfer the intended meaning and being faithful to the original text .functional equivalence is considered a ideal technique which guaranties the transference of the same function from the source text into the target text ,however ,the use of this technique is not all the time possible due to the differences existed in the source language and the target language taking for example the case of the word عدة for the first time the translator would be confused how to convey the meaning of this Islamic term in the target culture knowing that there is no equivalent of such term in the target culture a good translator will choose a translation method which guaranties producing the same effect on the target readers trying to convey the meaning through explanting this terms for the target reader rather than adapting these terms in the target culture causing the loss of the flavor of the original text .the absence of the functional equivalence in translation these types of translations make the translator use other techniques such as omission, self ‾explanatory translation to convey the meaning of these terms without causing the loss of the associative meaning . in translating official documents, translators are required all the time to look for the functional equivalent however ,there are some cases translators think that using the linguistic equivalent is appropriate in translating this types of documents unaware that the equivalence in legal translation is already set by the legal system not the language itself.

Bibliography:

- Armstrong, A. J. (2005). *Translation, linguistics, culture, French-English hand book*.USA: Cromwell press LTD.

- Baker, M. (1992). *In other words: a course book on translation*. London: Routledge.

- Bassnett, S. (1991). *Translation studies*. London: Routledge.

- Bell. R T. (1991). *Translation and translating: theory of translation.* Libya: University of Gayomis

- Catford, J. C. (1980). *A linguistic theory of translation; an essay in applied linguistics*. London: Oxford University Press.

- Cambridge: Cambridge University press.

- Cawie, M and Shuttlewarth, M. (1997). *Dictionnary of translation studies.* United Kingdom: St. Jerome.

- Ghazala, H. (1995). *Translation as problems and solutions (3 ed).* Syria: Dar El-lklem El-Arabi

- Gutt, E.A . (1991). *Translation and relevance.*Oxford: Blackwell.

- Hatim. B and Mason.I (1991).*Discourse and the translator.* Lardon

- Hatim. B and Munday.J. (2004). *Translation: an advanced resourse book.* New York: Rantledge.

- Hynes, D. (1964). *Language in culture and society.* New York: Harper and Row.

- Newmark, P. (2003). *A textbook of translation*. E.dinleurgh: Person education..

- Nida, E. A., & Taber, C. R. (1982). *The theory and practice of translation*. Leiden: Brill.

- Sarcevic,S. (2003). *Legal translation and translation theory*. Law, J. (1988).

- Vernuti,L. (2000). *The translation studies reader*. London: Routledge.

- Yawelly A and Lataiwish M S. (2000). *Principles of translation*. Benghazi: Molue G(996) Dar Annahada Alarabia.

2. Arab references:

- عبد الرحمن السليمان, دراسات في اللغة والترجمة والمصطلح (2011).

- عبد الفتاح مراد، الترجمة الإنجليزية لقانون الأحوال الشخصية و صيغة النصوص العربية (2000).

- ابن منظور ، لسان العرب ، المجلد الثاني ، دار المعارف الكورنيش ، القاهرة.

- حسن بن سعيد غزالة (2002) ترجمة المصطلحات الإسلامية مشاكل وحلول , المملكة العربية السعودية, دار العالمية للكتب الإسلامية.

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- قواعد الترجمة القانونية ، الدكتور عمار بوقريقة (2009) رسالة غير منشورة.

Websites:

Leonardo. *Equivalence in translation between myth and reality*. Retrieved March 9, 2014, from

http://occupied.com/journal/14eauivq.html

Abraheman Al-Siliman (2003). *Functional equivalence in translating personal status document/ journal of translation studies $N^{°} 2$*. Retrieved April 12, 2014 from

http://aliternational.org/daagoman.

Abstract:

This study aims at uncovering the overlaps between the linguistic equivalence and the functional equivalence in translating personal status documents ,it also aims at uncovering some of the difficulties posed in translating personal statutes documents from English to Arabic mainly problems of the existence of cultural-specific terms moreover it attempts to show problems the absence of functional equivalence in translating this type of documents in addition, this study attempts to show that applying the technique of functional equivalent is not possible all the time specially when we deal with two languages belonging to different legal systems ,this study also shows what are the other strategies could be followed when dealing with cultural specific terms in order to overcome this cultural constrains .

Key words: functional equivalent, cultural specific terms strategies.

ملخص

تهدف هذه الدراسة إلى التأكيد حول أهمية تقنية التكافؤ الوظيفي في ترجمة وثائق الأحوال الشخصية إضافة إلى توضيح الالتباس الواقع بين المكافئ اللغوي و المكافئ الوظيفي في عملية الترجمة كما تكشف هذه الدراسة بعض الصعوبات التي يتعرض إليها المترجم خلال ترجمته لهذا النوع من الوثائق و خاصة ترجمة المصطلحات المتشبعة بثقافة النص الأصلي و في حالتنا هذه اللغة العربية, بعض المصطلحات فعادة ما تكون هذه المصطلحات ذات بعد ديني فنتيجة للاختلاف الأنظمة القانونية التي ينتمي إليها كل من النص الأصلي و النص الهدف تظهر فورقات اصطلاحية مما يجعل تطبيق تقنية التكافؤ الوظيفي غير ممكنة في كل الأحوال إلا انه يوجد هناك عدة تقنيات سنتطرق إليها ستسهل على المترجم التغلب على هذه المعوقات.

الكلمات المفتاحية : المكافئ الوظيفي مصطلحات مرتبطة بالثقافة استراتيجيات.

Glossary

مسرد الكلمات انجليزي- عربي

Equivalent	مكافئ	Non.equivalence	عدم التكافئ
Function	وظيفة	Contract	عقد
Relegious	ديني	Judugment of court	حكم محكمة
Consant	راضي	Family case	قضايا الأحوال
Ambigues	غامض	Custodian	وصي
Inhrtance	الميراث	Guardian	كافل
Islamic legslatian	التشريع الإسلامي	Adultary	زنا
Consensual	رضائي	Marriage	زواج
Protecting	حماية	Divorce	طلاق
Marigin	حواشي	Concept	مفهوم

Highlight	يوضح	Charity	إحسان
Culture specific	ذو خاصية ثقافية	Legal	قانوني
Transanliteratian	النقحرة	Lawsuit	دعوى قضائية
Neologism	وضع مصطلح جيد	translator	مترجم
Appropiate	مناسب	Legal translator	مترجم قانوني
Find	يجد	identifie	يتعرف
Translator	مترجم	Personal status	الأحوال الشخصية

الملخص باللغة العربية

الملخص

ملخص:

لطا لما كانت الترجمة همزة وصل بين مختلف اللغات والحضارات وأصبحت ميدانا خصبا للدراسة والتدريس والبحث ,
فقد أصبح الباحث الذي يولي اهتماما خاصا بها فهو يسعى للنمو بشخصيته وأمته لتحقيق التطور واللحاق بالركب
الحضاري و الاطلاع على مستجدات الأمور من جميع الميادين العلمية واللغوية والأدبية والقانونية , أما العلوم القانونية
فهي تدخل ضمن دائرة العلوم الحديثة ويمكن تعريفه على أنه مجموعة من الأنظمة والقواعد التي تحكم علاقة الفرد
بأسرته وعلاقة الفرد بمجتمعه ومما ليدع مجالا للشك فيه فإن ينفرد كل علم أو تخصص لغة تميزه عن غيره من سائر
العلوم , والشيء نفسه بالنسبة للقانون فيتميز هو الآخر بلغته الخاصة والدقيقة ألا وهي اللغة القانونية التي تنفرد
بمصطلحاتها القانونية الدقيقة وبتراكيبها وصيفتها الدلالية والمعجمية , وكذا أسلوبها اللغوي الدقيق لذا يترتب على صائغ
الوثائق القانونية كالموثق أو المحامي الإلمام التام والكامل بطبيعة اللغة القانونية وبالمصطلح القانوني بشكل خاص.

ولهذا التخصص من أهمية انجذابنا نحو فكرة التعمق في الترجمة القانونية التي تعد في وقتنا الحالي إحدى التخصصات
الترجمة الأكثر رواجا والأكثر طلبا بحكم علاقة القانون بالحياة القومية للفرد , فالتذكر على سبيل المثال عقود الزواج
,الطلاق ,الميلاد والوفاة والميراث إلى غيرها من الأمور القانونية ذات الصلة الوطيدة بالفرد والذي يلجأ إلى ترجمتها
بداعي الحاجة.

وإن أردنا التحدث بإيجاز عن الترجمة القانونية فبوسعنا أن نقول أنها عملية نقل نص ذي صبغة قانونية من اللغة
المنقول منها إلى اللغة المنقول إليها علما أنه قد يكون للغة الواحدة أكثر من نظام واحد ويتجلى ذلك في القانون
الإنجليزي حيث يختلف عن نظيره الأمريكي , ولعل من أهم ما يصادف المترجم بعض المصطلحات القانونية ذات
الشحنة الثقافية والدينية , تظهر هذه المصطلحات نتيجة الاختلاف اللغوي والبعد الثقافي بين اللغة المنقول منها واللغة
المنقول إليها , مما يخلق بعض الصعوبات والمعوقات للمترجم أثناء عملية الترجمة .

الملخص

لقد نالت هذه الظاهرة اهتماما كبيرا من طرف العلماء واللغويين في محاولة منهم لوضع قواعد وتقنيات قد تساعد المترجم القانوني في التغلب على هذه الصعوبات , لكن السؤال الذي يطرح نفسه كيف للمترجم أن يتصرف عند تعرضه لمثل هذه الظواهر خلال عملية الترجمة , وفي هذا الإطار بأني هذا البحث الذي يحمل عنوان : إشكالية التكافؤ الوظيفي في ترجمة وثائق الأحوال الشخصية الجزائرية , وهي محاولة أردت من خلالها التعمق في هذا الموضوع الذي يجمع بين الترجمة القانونية ومشكلة التكافؤ في الترجمة والبحث عن مواضع هذه المشاكل وتحليل ترجمتها ومحاولة إحصاء المشاكل والمعوقات التي قد تواجه المترجم خلال ترجمته لهذه الوثائق , تنقسم المذكرة إلى قسمين الأول نظري والثاني تطبيقي.

الفصل الأول مقسم إلى ثلاثة أجزاء أساسية , الجزء الأول يتعرض إلى تعريفات الترجمة في حد ذاتها ثم إلى عملية الترجمة كنتيجة وكعملية ,بالإضافة الى أهم مشاكل الترجمة القانونية التي يمكن أن يتعرض إليها المترجم خلال عملية الترجمة القانونية أما الجزء الأخير فهو يتعرض إلى مشكلة التكافؤ في الترجمة كمفهوم عام , ثم مشاكل عدم التكافؤ في الترجمة ثم يتطرق إلى مشكلة التكافؤ الوظيفي في عملية الترجمة القانونية بالإضافة الى مبادئ التكافؤ الوظيفي في عملية الترجمة

.الفصل التطبيقي ينقسم بدوره إلى ثلاثة أجزاء :

الجزء الأول يضم تعريف للمدونة , وهي وثائق الأحوال الشخصية الجزائرية , و قانون الأحوال الشخصية لعلاقته الوطيدة بالمدونة .

أما الجزء الثاني فهو يتضمن استخراج بعض العبارات من عقود الزواج, و أحكام الطلاق, ثم التحصل عليها من المكتب العمومي للتوثيق بالدبيلة ولاية الوادي, ثم محكمة الدبيلة ولاية الوادي واستخراج بعض المفاهيم المرتبطة ثقافيا بالدين أو بالقانون الجزائري ثم مقارنة ترجمتها مع الترجمة المقترحة من الدكتور السليمان عبد الرحمن في كتابه "دراسات في اللغة والترجمة والمصطلح (2011)" والترجمات المقترحة من طرف الدكتور عبد الفتاح المراد في كتابه "ترجمة الأحوال

<div dir="rtl">

الملخص

الشخصية من الانجليزية إلى العربية", ثم تقوم بمحاولة التعرف على التقنية المستعملة في الترجمة, ثم إحصاء الصعوبات التي يقع فيها المترجم في ترجمته لهذا النوع من الوثائق.

كما قمنا في الجانب التفصيلي بتحليل هذه الترجمات مع إعطاء بعض التعليقات خلال التحليل. أظهرت لنا النتائج الموجودة خلال ترجمة العبارات الدينية أو المأخوذة من سياق ديني كما أظهرت النتائج أن الاعتماد على التقنيات المتخصصة يساعد كثيرا المترجمين في الحصول على المعنى الصحيح للعبارة دون اللجوء الى الترجمة الحرفية التي يمكن القول أن استعمالها من طرف المترجمين يعتبر محدودا.

تعتبر الترجمة القانونية من أصعب أنواع الترجمات لحساسيتها من جهة, و طبيعة المصطلحات المحتواة في النظام القانوني من جهة أخرى, حيث تخض ترجمة المصطلحات بأهمية كبيرة في مجال الترجمة, إذا لم نعتبر أن ترجمة المصطلحات القانونية هي أهم جزء في عملية الترجمة بأكملها, حيث تعرض طبيعة المصطلحات المتضمنة في النظام القانوني تحد بالنسبة للمترجمين.

فمثلا عندما تكون هذه المصطلحات ذات طبيعة دينية, هنا يتعين على المترجم أن يحدد الإستراتيجية التي على أساسها تم عملية الترجمة دون إفقاد هذه المصطلحات قيمتها الثقافية أو محاولة تطويعها في اللغة و الهدف.

حاولت من خلال هذه الدراسة استقصاء مشكلة التكافؤ الوظيفي في ترجمة وثائق الأحوال الشخصية, فالسؤال الأساسي في هذا الصدد هو كيفية تعامل المترجم مع المصطلحات ذات الطابع الإسلامي التي تتميز بها وثائق الأحوال الجزائرية.

كيف يمكن له أن يترجم هذه الكلمات محافظا على نفس التأثير والشحنة التي يحملها في اللغة العربية. هل يترجمها حرفيا ؟ أم يعيد صياغتها ؟ أو ينقحرها ؟.

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الملخص

من خلال نتائج البحث نرى أن المترجمين عملا على استعمال تقنية النقحرة مع إضافة حواش للترجمة لشرح بعض المصطلحات الدينية كالعدة, الصداق, دون محاولة لتطويع هذه المصطلحات في اللغة الهدف وهذا ما يجب للمترجمين حيث أن استعمال هذه التقنية يحافظ على نكهة النص الأصلي, وأيضا محاولة التعريف بالثقافة العربية والإسلامية.

حيث تعتبر المصطلحات الإسلامية من هذا النوع من أكبر المشاكل والصعوبات التي يواجهها المترجم نظرا لحساسية هذه الكلمات من جهة و حساسية النظام القانوني من جهة أخرى, وعدم وجود مكافئ لهذه المصطلحات في اللغة .

الهدف هو بمثابة تحد بالنسبة للمترجم فكيف يمكنه أن يترجمها دون الإخلال بالمعنى العام ودون اللجوء إلى الترجمة الحرفية لما تضفيه على الترجمة من ركاكة في الأسلوب وصعوبة احتواء المعنى العام للفكرة , فنادرا ما يكون هذا النوع من الترجمات ناجحا وخصوصا في ترجمة النصوص الدينية ذات الطابع الإسلامي.

ومن ضمن المشاكل والصعوبات التي يواجهها المترجم هي الاختلاف التام بين الأنظمة الثقافية وصعوبة المجال القانوني في حد ذاته.

وفي الأخير نصل إلى خاتمة انه يجب على المترجم القانوني البحث الدائم و المستمر على المكافئ الوظيفي إن وجد كما يجب عليه التحلي بروح المثابرة والسعي نحو البحث دائما عن الحلول المناسبة التي تساعده في تقديم ترجمات أقل ما يقال عنها أنها ترجمات أمينة ومؤدية للمعنى, خاصة في الميدان القانوني لما يحتويه من غموض وصعوبات. كما يجب على المترجم التمرن والتدريب من أجل الوصول إلى الترجمة الصحيحة.