

Major Problems in Translating Algerian Marriage and Divorce Documents into English

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Abstract: The paper discusses problems facing the researcher in translating Algerian marriage and divorce documents from Arabic into English, shedding light on major problems facing translators considering linguistic characteristics of these documents and difficulties of conveying their content into English culture and its legal system which are totally different from the Algerian Arabic. The researcher has applied the linguistic approach to translation. This approach allows the researcher to minimize problems encountered by focusing on the appropriate meaning and equivalence of terms and expressions. The paper shows that lexical and stylistic problems are more encountered than syntactic and cultural ones. This was the result of translating seven documents collected from municipality administration, a lawyer, and a department of family cases in Algeria. The study shows that a translated legal document could be homogenous if different translation strategies are used particularly the literal

translation strategy. The study suggests that the Translation Departments should require from their MA translation students to attend not less than 200 hours of translation training at translation offices or companies. This ensures graduating qualified translators who would be able to integrate easily in the translation market. The study also recommends conducting further research aiming at investigating the problems encountered in translating other legal types of documents.

Keywords : Legal translation, Algerian documents, Marriage and Divorce documents.

المستخلص: تهدف هذه الدراسة إلى تسليط الضوء على المشاكل الرئيسية التي يواجهها المترجم وثائق الزواج والطلاق الجزائرية من العربية إلى الانجليزية. واعتمدت في ترجمة هذه الوثائق على المقاربة اللغوية في الترجمة، وذلك نظرا للخصائص اللغوية لهذه الوثائق، وكذا حساسية ترجمة مضمونها من لغة وثقافة ونظام قانوني مختلف تماما عن اللغة الهدف. إن من شأن هذه المقاربة اللغوية أن تساهم في تقليص نسبة المشاكل التي يواجهها المترجم في الترجمة، لكونها تعتمد على إيجاد المكافئ الأنسب للمصطلحات والتعابير. وأظهرت نتائج الدراسة أن المشاكل المعجمية والأسلوبية هي أكثر المشاكل التي يواجهها المترجم مقارنة بالنحوية والثقافية. وكان ذلك نتيجة ترجمة سبع وثائق تم جمعها من إحدى المصالح البلدية، وأحد المحامين، وأحد فروع قضايا شؤون الأسرة في المحكمة الجزائرية، وأظهرت الدراسة أنه بإمكان أن تكون الترجمة القانونية منسجمة ومتناغمة، وذلك باستعمال عدة استراتيجيات في الترجمة بما في ذلك الترجمة الحرفية. تقترح الدراسة على أقسام الترجمة

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في كافة الجامعات العربية على أن يكون مطلب تخرج طلاب الماستر في تخصص الترجمة التدرب على الترجمة في إحدى مكاتب أو شركات الترجمة لمدة لا تقل عن مائتي ساعة. إذ انمن شأن هذه الخطوة أن تساهم في تخريج مترجمين أكفاء يكون اندماجهم في عالم سوق الترجمة سهلا وسريعا. كما توصي الدراسة بالقيام بدراسات مستقبلية أخرى تبحث المشاكل التي يواجهها المترجم في ترجمة مختلف الوثائق القانونية.

الكلمات المفتاحية: الترجمة القانونية، الوثائق الجزائية، وثائق الزواج والطلاق.

1-Introduction

The world is developing quickly, with people traveling around in an unprecedented way. States sign agreements and treaties with each other. As a result, there is an urgent need for translating international and local documents, contracts, agreements, legislative papers, etc.

In the present paper, the researcher intends to examine major problems that translators face when translating Algerian marriage and divorce documents from Arabic into English. The analysis will be followed by suggested solutions for these problems. The rationale behind choosing Algerian marriage and divorce documents is that Algerian family law may not be available, so far, in English. Moreover, there are many people and governmental or non-governmental agencies around the world that wish to know about Algerian laws such as those looking for: investigating, establishing relationships, and concluding agreements, among others. The phenomenon of marriage with foreigners has increased vastly in Algeria. Therefore, translation public offices in Algeria find it hard to translate personal

documents, notably those for divorce and marriage, and all documents that have some sort of relations to family law and all the relative cases. Due to the fact that there is a lack of reliable translations, this paper might be useful to shed some light on this topic.

1.1- Statement of the Problem

Translating legal texts requires not only linguistic skills but also a good cultural awareness. Any failure in conveying legal texts or misunderstanding the exact message of official instructions, constitutions, codes, trial proceedings, legal texts, agreements, etc., may lead to bad consequences. This situation motivates the researchers to focus on this issue, the Algerian family law, particularly divorce and marriage documents in particular which need to be given extensive attention and further investigation.

For these reasons, the researchers concentrate on the following problems: transferring the layout of legal texts as well as stylistic and structural features, as both Arabic and English have their particular properties concerning the style and the structure of law; problems of finding equivalent terminology in the target language; and attitudes of families that differ from one society to another. The study discusses cultural problems encountered in translating these documents into English language. Furthermore, the researchers discuss solutions and strategies used to overcome the challenge of translating the Algerian marriage and divorce documents into English.

1.2- Significance of the Study

This study focuses on the practical translation of Algerian marriage and divorce documents, such as those required for immigration, travelling, settlement of foreigners in the country, as well as marriage

from non-Algerians. It discusses problems of translating such documents emphasizing stylistic and syntactic problems, and finding appropriate terms in the TL. It might be significant as it is one of the few studies on this issue. The significance of this study draws on the assumption that syntactic and stylistic problems would be more serious than other problems. Above all, this survey would benefit students and teachers of translation, as well as law practitioners.

1.3- Data Collection and Method

This research involves translation of personal legal documents. Some of them are available at the municipality such as: marriage certificate, and certificate of non-marriage. Some petitions were taken from a lawyer, and some were delivered as pictures from another lawyer under the condition of omitting all personal information, but other documents such court reports and verdicts are not attainable because they are issued from courts delivered to the concerned person and bear personal and private information. Because of this, the researchers collected 22 documents omitting all details that may refer to personal data. Then(7) of these documents were analyzed, the problems encountered and the way used to solve them were also given. Finally solutions to overcome the difficulties were suggested.

2- Legal texts and translation

2.1-Legal Language

The technicality of legal language is an undebatable issue. This is due to its characteristics and the context in which legal language is used. Cao (2007) agrees with Caton (1963) and Jackson (1985) that legal language is a plain language that comprises some lexicon items used only in legal context because they are used for specific communicative purposes. It is commonly

known that legal language is written according to a legal system and its particular rules that belong to each country with regard to the political system and the cultural aspects.

Kurzon (1989, 1997) defends the idea of distinguishing between the language of the law and legal language. For him language of the law refers to the style used in document that lies to down the law, whereas legal language refers to the language that is used when people discuss the law. Kurzon (1989:284 and 1997:120, cited in El-Farahaty(2015:12). On the other hand, Cao (2007:9) considers legal language as a type of register. It is a variety of language appropriate to the legal situation, while legal texts refer to the texts (spoken or written) used for legal purposes in legal contexts. The sub-varieties are different kinds of legal texts. They are classified according to their peculiarities into: legislative texts, judicial texts, legal scholarly texts by academics, and private legal texts written by lawyers.

As a matter of fact, each text, document, or concept has its function. Thus, legal texts are used for communicative purposes in general, whereas, the views of certain scholars like Cao, Sarcevic, and Saqf Al-Hait deal with them in particular. They posit that each document or text has its proper functions.

2.2Legal Translation

It is commonly known that legal translation is complex and difficult; the complexity and the difficulty are attributable to the nature of law and the language used in law, in addition to the intercultural and interlingual communication differences in translating legal texts.

Sarcevic (1997:9) agrees with Sager's definition of legal translation and considers

legal translation as "special-purpose communication between specialists, excluding communication between lawyers and non-lawyers." Legal translation is more than a process of translating or transcoding from one language to another or even to a string of equivalence, but it implies several interesting details to take into account. The issue of cultural aspects in legal translation has been a crucial debate among scholars; some agree on it, but others totally deny it and separate legal studies from culture, such as Snell-Hornby (1988), Honig and Kassumaul (1982), Vermeer (1986), Lambert (1994), and Wroblewsky (1987). On the other hand, there is a group that considers legal translation and legal transposing as being of the same process, or they are just synonymous terms. In this regard, Hadi (1992:35, cited in Sarcevic 1997:12) draws the limitation of *transposistionjuridique* and considers it as "a process of transcoding legal terms from one language into another". That isto say; legal transposition is the process of transferring a legal message from one language in a particular legal system to another language and legal system.

As a result, legal translation consists of a well-structured language and style and a well-determined terminology in a legal system that should be respected and applied. Notably, the translation should be done with respect to those elements and equivalently transposed in order to avoid misunderstanding of each word, decision, or provision declared in a text (spoken or written).

2.3Importance of Translating Legal Texts

The importance of translating legal documents, discourses, or texts relies on the purpose of each document, either spoken or

written. "Law exists as a set of prescriptions having the form of imperatives, defining and enforcing the arrangements, relationships, procedures and patterns of behavior that are to be followed in a society" (Jenkins 1980:98 cited in Cao 2007:13). It is commonly known that in law; language is formulated, interpreted, and enforced. During this process, language is the medium of communication and the product of any legal texts, either spoken or written. In this regard, Olivercrona (1962, as quoted by Jackson 1985:315) says that:

The purpose of all legal enactments, judicial pronouncements, contracts, and other legal acts is to influence men's behavior and direct them in certain ways, thus, the legal language must beviewed primarily as a means to this end.

2.4- Types of Legal Translation

Sebra (2003) classifies legal writing into three types: academic legal writing that appears in legal books, specialized magazines, research, surveys, and articles about law; legislative writing that appears in constitutions, resolutions, regulations, legal principles, and several treaties and contracts; local, regional, or international; and Judicial writing that is characterized by the use of legal language in courts, notices, notifications, pleas, and pleadings.

On the other hand, Cao (2007:8) classifies legal translation according to the subject matter of the SL text into: translating domestic statutes and international treaties; translating private legal documents; translating legal scholarly works; and translating case law. Cao (2007) refers to Sarcevic (1997) and agrees that legal translation could be classified according to the functions of the legal texts in the SL into

the following: primarily perspective (laws, regulations, codes, contracts, treaties and conventions); primarily descriptive and prescriptive (judicial decisions and legal instruments such as: pleadings, briefs, appeals, request, petitions, etc.); and purely descriptive (scholarly works by legal scholars, including law textbooks, legal opinions, articles, etc.)

In the light of classifications of Sarcevic (1997) and Cao (2007), it is suggested that the legal translator has to determine well the status and the communicative purposes of the source and the target text before producing the translation.

3- Status of Legal Translation in Algeria

Translation as a profession and a field of study at universities is progressively developing in Algeria. It is worthy to point out that the necessity of translation in Algeria finds its origins since the settlement of the first state in the country in 860s named Al-Rostomya State led by Abderahman Ibn Rostom, with Tahert its capital (now Tiaret province in the west of Algeria), and it was more needed after the independence in 1962. Algeria has established several processes to restore the real place of Arabic language in the country because the French colonization has wiped out its national identity, language, and culture. Both the Algerian government and the people believed and grasped the idea of promoting the Arabic language in the country; several decrees were enacted, conventions were signed, and procedures were taken. Institutions, centers, and universities were also inaugurated, but several obstacles were in the way as well. Therefore, the success of those processes and approaches was so challenging for Algerian authorities, academics, researchers, and among others.

Translation as a field of study is taught in several universities in the country: translation studies, translation technologies, as well as translation and interpretation to several languages (French, English, Spanish, and German) taking into account that the Arabic language is the Axe. In bachelor's degree, students have to choose between English, German, and Spanish to study translation in addition to Arabic and French. Then in the master's degree, students should specialize in one of these languages (e.g.: Arabic/English – Arabic/French – Arabic/Spanish). Translation students during MA programs have the option to specialize and choose between: written translation, interpretation, specialized translation, terminology and Arabicization program, and the translation didactics program. The researcher in doctoral degree has the right to be more specialized in the field that s/he wants to improve on, whether literary, technical, or legal, according to theme of his/her project. Several reforms have witnessed the field of translation studies in Algeria, the last one was in September 2016, when new section of students were permitted to study translation only at the institute of Translation, Algiers University, after they won the High School Certificate, this issue was banned in 2003. The Arab League has inaugurated its High Institute of Translation in Algeria in 2005.

Being a sworn translator is a challenge for an Algerian translator. The translator has to fulfill some requirements to participate in the competition organized by the Ministry of Justice every two, three, or five years depending on the need. If the candidate wins the written exam, s/he proceeds to the oral exam and an interview with a scientific committee, and then he will be named a 'sworn translator'. The sworn translator holds

a national stamp that should stamp each document s/he translates. If s/he does so, justice has the right to deal with him according to the conventions signed. Two categories of sworn translator exist in Algeria: Sworn translator before the local court and the local judiciary council (the court and the council which belong to the province where the translator exercises his work); and Sworn translator before the Supreme Court, the translator should have some experience and should fulfill the requirements to be certified before the Supreme Court.

Working as a translator or interpreter is also available in ministries and different departments. They are selected through a competition as well. Because of successive development, there are several students, researchers, and others who work as freelance translators. But in Algeria and in most Arab countries, they are not controlled and their translations are not recognized before courts and official departments.

It is observed that translating legal documents from Arabic to French or vice versa does not pose any problem, but translating from Arabic into English language is not easy task for all translators, notably in translating local and personal documents.

5- Algerian Marriage and Divorce Documents

The Algerian Civil law like other laws is a result of a mixture of laws, notably the Egyptian, and the French laws. The laws are taken and adopted according to the Algerian culture and law system. Legislative rules, laws, and the official newspapers in Algeria are issued in both French and Arabic. But which one is the source language, is still a problematic issue. In answering this question the government refers to the fact that the

Arabic language is the official language of the country. The absence of a clear idea about this problem may result in complicated intricacies during the process of translation. On the other hand, because of the developments and changes in life of Algerians and their interaction with foreigners around the world, some documents and certificates have been recently requested in courts and the municipalities, such as prior-marriage authorization, medical certificate, and several divorce documents notably those issued by lawyers such as verdicts and petitions, and these documents are issued only in Arabic, that is why foreigners are obliged to submit the document for translation into English or French. Therefore, the translation should be done by sworn translators. In this case, translators who have not a good command of English in this domain (divorce and marriage) might fail to translate the appropriate meaning. Marriage and divorce documents have specific terms such those related to Shari'aa (Islamic Law), as well as certain terminologies belonging to the Algerian traditions and culture which are difficult somehow to find their equivalent in the target language or in the Anglo-cultures.

In this regard, it is equally important to conclude by what Demleitner (1899) (cited in Le Cheng and Anne Wagner 2014:1) stresses:

All legal systems are mixed derived from imported structures, concepts and ideas but also emanating from different normative systems which are based on costumes religions and languages, habits and natural resources, families, geography and climate, conceptions of morality, and other features.

6- The corpus, translation and analysis

6.1-Translated Documents

Below, seven Algerian marriage and divorce documents translated into English, discussed and analysed as well.

6.1.1. A Petition to Certify a Foreign Court Judgment

SidiM'Hammed Court

Family cases department

Case N°:

Session N°:

A Petition to Certify a Foreign Court Judgment

(According to the Article 607 of Civil and Administrative Procedures Law (C.A.P.L))

For the benefit of:

Who chooses the office of his lawyer: Mr. Tebban Mohammed Al-Taher, as his residence.

Al-Taher is a lawyer before the Judicial Council- located in Bab-Ezzouar, Villa N° 50. Algiers

Plaintiff

Against:

She resides in: Street, France

Defendant

In the presence of The Public Prosecutor

Honorable Court Members

- Whereas, the plaintiff and the defendant have concluded a marriage contract on: ./.../., in Brussels (document N°1)
- Whereas, on:/...../... a divorce has been announced between the plaintiff and the defendant, in accordance with the judgment issued from the first instance court of Brussels (document N°2)
- Whereas, the divorce judgment registered in the margin of their marriage contract, in Brussels civil status registers (document N°3)
- Whereas, the divorce is not recorded in the margin of the petitioner' birth contract. (document N°4)
- Whereas, the petitioner is demanding from the honorable court members the issuance of a judiciary judgment to ratify the present foreign judgment, so the divorce shall be valid in all Algerian territories according to the rules of the article 607 of Civil and Administrative Procedures Law.

For these reasons

- A marriage between Mr. And Mrs. has been certified.
- It is certified that, a divorce has been concluded between the parties, as it is mentioned in the margin of their marriage contract in Brussels Civil Status registers.

Therefore: we appeal to:

- Authenticate the marriage contract concluded between Mr. ... and Mrs.
- Authenticate the foreign divorce judgment, and record it in the margin of his birth certificate before the civil status services of Municipality. According to article 607 of Civil and Administrative Procedures Law.

For the petitioner/ his proxy

Under all reservation

6.1.2. An Opening Petition of a Lawsuit Demanding the Custodianship after Remarriage

Judicial Council of Algiers

El-Harrash Court

Family Cases Department

An Opening Petition of a Lawsuit Demanding the Custodianship after Remarriage

For the benefit of:

His office in:..... Algiers

Stand on his right, Mr. Mouass Kamal, A lawyer before Algiers Judicial Council

Resident in:- Algiers

Plaintiff

Against:

Resident in: Algiers

Defendant

In the presence of:The Public Prosecutor at El-Harrash Court

Honorable Court Members

The petitioner, through his proxy, the lawyer, is pleased to recite to the honorable court the facts as follows:

- Whereas, the both parties were married in accordance to official contract.
- Whereas, this marriage is resulted in the birth of the daughter
- Whereas, the marriage bond has been terminated between the two parties, according to the court's judgment issued from the instance court, on ../.../2011.
- Whereas, the custodianship of the daughter is vested to her mother according to the law.
- Whereas, it is fixed by Islamic jurisprudence and law that the right of custodianship lapses once the mother married to a non-prohibited relative spouse.
- Whereas, the defendant remarried to a non-prohibited relative spouse, on../.../2012.
- Whereas, after the awareness of the petitioner about the aforementioned marriage, he is pleading the honorable court members to award the daughter custody to him, according to the regulation of the Article 60 of Family law.

- Whereas, the petitioner is insisting on the custodianship of his daughter, notably she is very attached to him. In addition to that, all the conditions determined by law and Islamic Jurisprudence are found in the present case.

For these reasons:

- The divorce between the both parties has been proved.
- The regulation of the article 60 of family law has been proved.
- The mother's marriage to a non-prohibited relative person has been proved.
- Therefore, it is sentenced to award the custodianship of the daughter to her father, besides giving her mother the right of visiting her according to the law.

Under all reservations

For The petitioner/ his proxy

6.1.3. A Petition to Cancel the Marriage Contract**before Consummation of Marriage, by the Wife's request****SidiMhammed Court****Family Cases Department****An Opening Petition of Divorce Lawsuit before Consummation of Marriage****For the benefit of Mrs.****Resident in: (Algiers)****Her proxy:** Mr. Mouas Kamal, a lawyer before the judicially council**His office in:** Algiers.**Plaintiff****Against:** Mr.**Resident in:** , Algiers**Defendant****In the presence of The Public Prosecutor****Honorable Court Members**

The petitioner, through her lawyer, is pleased to recite to you the following:

- Whereas, the petitioner is in relation with the defendant according to the marriage contract issued on: 01/05/2013, N° 00 recorded at the services of civil status of Middle Algiers municipality (attached document N° 1)
- Whereas, this marriage has not been consumed.
- Whereas, this marriage has met its conditions stated in the Article (9) and the Article 9.bis of family Law.
- Whereas, the petitioner resorts to the court member to prove the harm caused to her by the maltreatment of her defendant, which becomes an attitude.
- Whereas, the petitioner recently surprised that once due to a trivial misunderstanding, the defendant quickly used the language of violence, and this is unbearable by anyone.
- Whereas, on 14/07/2013, once there was a mere misunderstanding , the defendant has aggressed on the petitioner, and this forced her to resort to the services of emergency in **Mustapha Bacha Hospital**, where a medical certificate proving her beating and injuring was given to her, in addition to a 10- day sick leave certificate (attached document 2).
- Whereas, the petitioner lost a lot due to these treatments of her husband before marriage consummation. Therefore, she is wondering: how could it be after marriage consummation, if this situation continues?
- Whereas, the petitioner is no longer able to stay with her husband, due to his continuous anger and rage.

- Whereas, due to the fact that the petitioner is afraid on herself, her life, and her future, she presents her case to the court members pleading to divorce her before consuming marriage, according to Article 53, paragraph (10) of Family Law.

- Whereas, the petitioner is pleading to the court members an Ad damnum of 100.000 AD as a moral damage of what she has received of maltreatment.

For These Reasons

- After certifying that a marriage contract was concluded on 01/05/2013
- After certifying the medical certificate which proves the beating, harm, and injury.

Therefore:

- It is sentenced to dissolve the marriage bond between both parties by a divorce before consummation of marriage, as a result accusing the husband of grievance of his wife; we order to record this divorce at the civil status services of Middle Algiers municipality, and to be registered in the margin of the petitioner's Birth Certificate.

- It is sentenced to force the defendant to pay an amount of 100.000 AD as an Ad damnum of the moral harm afflicted to the petitioner.

Under all reserves

For the petitioner/ her proxy

6.1.4. An Opening Petition for a Lawsuit of Marriage Dissolution

By *Khulu'* (Divorce against Compensation)

Bir-Mourad Rais Court

Family Cases Department

An Opening Petition for a Lawsuit of Marriage Dissolution

By *Khulu'* (Divorce against Compensation)

For the benefit of: Mrs., unemployed

Resident in:, Dali-Brahim

Plaintiff, on her proxy Mr. Kamal Mouas

Against: Mr., merchant

Resident in:, Algiers

Defendant

In the presence of: The Public Prosecutor

Honorable Court Members

The plaintiff presents before you pleading the dissolution of her marriage bond with the defendant. Because the plaintiff has been fed up with the behaviors of the defendant, and his numerous and continuous absence from the marital home.

- Whereas, the plaintiff has married to the defendant according to the official marriage contract issued on....., and recorded before the services of Civil status of Municipality.

- Whereas, this marriage is resulted in the birth of the daughter.....

- Whereas, the plaintiff was willing to build a strong family among this society based on mutual respect and responsibility.

- Whereas, in accordance to the principals of the plaintiff, who doesn't find any problem in convincing her parents to assign her a separate flat to live with whom she has chosen to be her partner for the rest of life.

- Whereas, alas, after elapsing a short period of marriage, the defendant clearly showed his bad conduct, notably after displaying the sense of opportunism that dominates his personality. The defendant was neglecting his responsibility as well; he was the stingy husband towards his wife and family. The defendant continued in acting in the same manner even after his first daughter came to life. Moreover, he was frequently absent from home without notifying or informing me.

- Whereas, the aforementioned status has created a big enmity atmosphere between the two parties; neither the plaintiff becomes able to tolerate the situation in which the defendant put her on, nor the defendant tries to change his behaviors. For these reasons, dispute and separation continued and it became the feature of their relation which is supposed to bring them together.

- Whereas, The God Almighty creates the creatures, and He created Eve from Adam's rib to support and help him. The God Almighty imposes on Adam to shoulder responsibility towards her without carelessness, hurt, or polygamy. God requires building their relationship on the principals of affection and mercy, and tranquility. In the light of those principals, the scholars of Shariaa and Law assert that a marriage bond without those principals must irrevocably be dissolved. First, for the benefit of the spouses and their children, secondly for the sake of the society and avoid the transposition of this united family from a good deed to an evil deed that affects and weakens the nation and lead to the appearance of many social destructive diseases.

- Whereas, due to the continuous and actual absence of the defendant from house and his wife for a long period as well, this situation is considered as an abundance of the wife. For these reasons, the plaintiff presented before the court with a petition for the head of the court issued on: .../.../..., for enacting an order to inspect and observe the absence of the defendant. On...../...../..., and in accordance to the head of the court order, the bailiff was not present at the marital home and it was ascertained that the husband has left and took with him all his luggage and objects.

- According to the inspection record issued by Mr., on .../.../..., at 18:30 : the defendant was absent from home and he took all his personal objects.

- According to all the details that have been mentioned, it was clearly proved that the plaintiff demanded the marriage dissolution against compensation is based on the Family law regulations.

The plaintiff could not imagine the possibility of her reconciliation after all what she received from the defendant, her husband. It is also due to the impossibility of changing his inheriting behaviors and personality. That's why; the plaintiff is sticking to her request, *Sidaaq* (a beforehand dowry) of fifty thousand Algerian dinars (50.000AD).

For and due to those reasons

- Certifying the inspection record, by Mr. dated on .../.../...;
- Asserting the absence of the defendant and the abandonment of his wife before enacting the inspection record; and
- Asserting the continuation and the increase of disputes between the two parties of the present lawsuit.

Therefore,

According to the form:

It is sentenced that, the present petition and lawsuit are accepted as they satisfy all conditions stipulated by law.

According the subject:

- It is sentenced to dissolve the marriage between the parties of the lawsuit through *Khulu'*.
- It is sentenced to comply the defendant to pay a nutrition alimony of an amount of 20.000DA, commencing from/...../.... which corresponds to the day of his departing the home, till the day of the issuance of the expected court decision.
- It is sentenced to oblige the defendant to pay the plaintiff an amount of 150.000AD as alimony of the divorce legally prescribed waiting period before remarriage.
- It is sentenced to give the custody of the daughter to her mother and to grant her the right of guardianship to take care of her. It is also sentenced to comply the defendant to pay a monthly nutrition alimony for his daughter that totals a value of 10.000AD
- It is sentenced to comply the defendant to assign a residence for custodianship, if not; the defendant shall pay a rental allowance with an amount of 30.000AD per month.
- It is sentenced to comply the defendant to pay the expenses as stipulated by law.

Under all reservations
For The petitioner / her proxy

6.1.5. A Sample of Notification to Provide a Custodianship Accommodation

Mr. Kamal Mouas

A Lawyer before the Judicial Council

of.....

Algiers

Algiers on:/.../ 2013

To Mr.

N° 7 ... street

Algiers

Object: A Notification to Provide a Custodianship Accommodation

Mr.

I am pleased to info

rm you that I was charged to defend the rights of Mrs., therefore be informed of the followings:

- Whereas, in accordance to a final judicial decision sealed to be executed, issued on .../.../...., by the Judicial Council of Algiers – Family Cases Department, case number: It is sentenced "to offer the appellee an accommodation for the custodianship. In case of inability, an amount of 8000AD should be paid monthly as rent allowance as of the issuance date of the absenceof custodianship housing report till the invalidity of the right legally or the issuance of an opposite judgment."

- Therefore,

The petitioner through the present formal notice is pleading from your part to grant her a custodianship accommodation during ten days from the date of receiving this notice. Kindly contact the bailiff charged to send you this formal notice for any response either for positive response or refuse,

- In case, the granted period given for you ended without any response, the bailiff will issue a record of abstaining from providing an accommodation for custodianship, then the period of paying the rent allowance shall commencein accordance to the decision stated above.

Awaiting your prompt reply,

Sincerely Yours.

for the petitioner/ her proxy

6.1.6 An Order at the End of a Petition for Awarding the Custodianship Temporary According to the Provisions

Rouiba Court

Mr. the Head of the Court

The judge of family cases issue

An Order at the End of a Petition for Awarding the Custodianship Temporary According to the Provisions of the Article 57 bis of Family Law.

For the benefit of: Mrs. Herproxy, in demand against him

Honorable Court Member

The petitioner through her proxy, the lawyer Mr....., is pleased to present the facts of her lawsuit in the aim of enabling her to receive her sister's minor, because it is a duty to custody her, according to the followings:

- Whereas, the petitioner is the sister of the deceased **Gueddada Ftaiha**, the mother of **Bougezoula Yamina**, born on: 13/08/2012 (attached document).
- Whereas, the deceased **Gueddada Ftaiha** died on 26/08/2012 and left behind her the infant, **Bougezoula Yamina**. After the mother's death –Gueddada Ftaiha-, the custody of her daughter went to her father, the defendant, **Bougezoula Sid Ali**. In accordance to the social situation of the custodian (her father) which resulted in the deterioration of the child's health and psychological situation. Thus, the custodian broke the regulations of Article 62 of the Family law;
- Whereas, the petitioner filed a lawsuit (N° 13/1142) to attribute the custodianship of **Bougezoula Yamina**, which has been adjourned to the court hearing of 15/05/2013, for proceeding the investigation. (Attached document);
- Whereas, the daughter's father did not attend the court hearing. Although, he was charged to attend regarding to the bad health deterioration situation of **Bougezoula Yamina**. The girl in demand for custodianship is in declining healthy situation, due to her father negligence and that is what made the petitioner worried about her single nephew, and the risk endangering her;
- Whereas, due to the aforementioned situation, the petitioner demands from your honorable to urgently adjudicate on the present case ordered and award custodianship of the minor girl to her aunt, **Geudada Hedda**; the custodianship will remain under her responsibility till the issuance of the final judgment from Family Cases Department of Rouiba Court.

Under all reserves
for the petitioner/ her proxy

6.1.7 Mutual Consent Document of Divorce Petition

Sidi M Hammed Court
Family Affairs Department
Mutual Consent Document of Divorce Petition
(Family Law, Article 48)
and(the Article 429 of Civil and Administrative Procedures law)

For the benefit of: Mr..... Employee

Nationality: Algerian

Born on: 01/02/1947, in Algiers.

Resident of: Street, Middle Algiers.

And: Mrs.....

Nationality: Algerian

Born on: 01/02/1947, in Algiers.

Resident of: Street, in Middle Algiers.

On their proxy, Mr. Kamal Mouas, A lawyer upon the Judicial Council

Address:- Algiers.

In the presence of the Public Prosecutor

Honorable Court Members

According to the article 48 of family Law and due to the difficulty to continue living under the marriage bond, the two petitioners present before the court to dissolve their marriage after a mutual consent.

Whereas, the marriage contract has been concluded between the two parties of the present lawsuit before the services of the civil status of Hussein-Dey Municipality, on 01/02/1948 N° 000 (attached document)

- Whereas, the two parties have not any children from this marriage (attached document);and

- whereas, due to the impossibility of the marriage continuity between both parties as asserted by Islamic Law (Sharia) and confirmed by Law, both parties have agreed on marriage dissolution by a mutual consent with one condition; i.e. the husband shall pay to his divorcee an amount of 30.000AD for housing and *idda* (legally prescribed waiting period before remarriage).

For and due to these reasons

- It is certified that the marriage contract between both parties is valid.
- It is certified that the petitioners agreed by a mutual consent on the dissolution of marriage.

Therefore,

- It is sentenced to divorce both parties by a mutual consent, with paying the divorcee 30.000AD for housing and *idda* (legally prescribed waiting period before remarriage). It is sentenced to record the judgment on civil status registers of Hussein-Dey Municipality.

Mr.

Mrs.

6.2 Discussion and Analysis

The present section analyzes and discusses problems encountered in translating the seven documents and the strategies followed in producing appropriate translations. Several problems were faced such as nominalization, passivization, redundancy, repetition, collocation, the use of pronominal reference (both endophoric and exophoric), complex sentences, and finding appropriate terms and equivalences of some religious and legal terms and so forth. But due to the study's limitations, there was only on three main problems: syntactic, stylistic and lexical.

6.2.1 Syntactic problems

The problem of translating some nominal sentences, passive sentences, and long sentences were encountered as illustrated in the following examples:

1.a: حيث أن هذا الطلاق لم يتم تسجيله ميلاد العارض (النص الأول)

1.b: Whereas, the divorce is not recorded in the margin of the petitioner's birth certificate.

This was found as challenging to translate Arabic nominal sentences into English. The authors opted to convey some nominal sentences into verbal ones as in the present case. The aim behind this strategy is to render the text to be more natural and more understandable in English. Such texts are read by people of all walks of life, irrespective of their age, academic level, profession, or gender.

2.a: (النص الثاني) بتاريخ تم عقد قران كل من المدعي و المدعي عليها

2.b: The plaintiff and the defendant have concluded a marriage contract, on

Although most of the documents use past tense for past events in Arabic sentences, the researchers opted for the use of past, past perfect, and/ or present perfect tenses in the English translations seeking natural and idiomatic English structures. In this example, they opted for the present perfect as the contract has been concluded recently.

3.a: حيث أنه بتاريخ 2013/07/14 و بمجرد وجود سوء تفاهم قام المدعي عليها بالتعدي على العارضة مصطفى باشا أين سلم لها شهادة طبية لمدة 10 أيام. (النص الثالث)

3. b: whereas, on 14/07/2013, once there was a mere misunderstandingMustapha Bacha Hospital. A medical certificate was given for 10 days.

In this example, the researchers divided the Arabic sentence into two in English to avoid ambiguity. In both of them the meaning is fully complete and adequate.

And now consider the following example and its English translation:

4.a: حيث ان الله تعالى خلق الخلق ، و خلق من ضلع آدم حواء لتكون سنده و معينه ، و الزم آدم بتحمل مسؤوليتها دون اضرار او تفريط وجعل سمة التقائهما المودة و الرحمة و السكينة ، وهذا ما أدى بعلماء الشريعة و القانون يؤكدون انه بانعدام هذه الاسس يفك هذا الرباط و جوبا صيانة اولاد للزوجين والأولاد ثم للمجتمع حتى لا تتحول هذه البيئة من حسنة صالحة الى سيئة خبيثة تصيب الامة بالوهن و يكثر فيها الامراض

4. b: Whereas, The Almighty God created the creatures, and He created Eve from Adam's rib to support and help him. The Almighty God imposes on Adam to shoulder responsibility towards her without carelessness or hurt. God requires building their relationship on the principals of affection and mercy, and tranquility. In the light of those principals, the scholars of *Shari'a* and Law assert that a marriage bond without those principals must irrevocably be dissolved. First, for the benefit of the spouses and their children, secondly for the sake of the society and avoid the transposition of this united family from a good deed to an evil deed that affects and weakens the nation and lead to the appearance of many social destructive diseases.

This example is a sample of the long sentences used in Arabic register, where they should be divided into two or three segments in English. The aim is to present the events in a more comprehensive way and to avoid any possible ambiguity. The second point is to maintain the use of synonymous words. Similar strategies have been used in other documents to maintain the exact meaning intended in the source language.

Another example:

5.a: و في حالة انتهاء المدة الممنوحة لكم و لم تتلقى منكم أي رد سوف يحرر المحضر القضائي محضر عدم توفير مسكن لتبدأ حساب بدل الإيجار

الواجب الدّفع بموجب القرار المذكور أعلاه. (النص الخامس)

5. b: In case, the granted period given for you ended without any response, the bailiff will issue a record of abstaining from providing an accommodation for custodianship, then the period of paying the rent allowance shall commence according to the decision stated above.

Here, the problem is either to maintain the Arabic structure when translating into English or to create an English structure that fits the meaning. One observes that the translation of legal texts could be literal translation as it is the case in this example.

6.2.2 Lexical problems

The main important task in translating legal documents as a whole is to produce an appropriate exact equivalence of the source text in the target text. In the following examples, main challenging terms encountered by the researchers in translating the legal documents:

1.a: (النص الأول) عريضة من أجل المصادقة على حكم أجنبي

1.b: A petition to certify a foreign court judgment

In this case, the researchers point out that the appropriate equivalence of the underlined term is what is given above, although they would suggest some translations as "a court decision". However, 'the court decision' is a general term that may refer to a judgment, a verdict, a sentence, and that is why 'court judgment' is more favoured. Moreover, according to Oxford, Cambridge, and Webster dictionaries 'Decision' means: the particular end of a legal or official argument: a legal or official judgment. 'Decision' is a generic term which includes final judgments, rulings, or provisional orders made by the court pending the outcome of the case.

On the other hand, judgment is a decision made by a court or other tribunal that resolves a controversy and determines the right and obligations of the parties. Moreover, judgment is the final part of court case. For these reasons, "court judgment" could be a more adequate translation regarding the function and the context.

2.a: (النص الأول) طبقاً للمادة 607 من ق.إ.م.

2.b: According to Article 607 of Civil and Administrative Procedures Law (C.A.P.L)

In this example, there is an abbreviation in the Arabic sentence, so it is more adequate to give its full translation. The aim of this technique is to avoid ambiguity. This is a legal addition as labeled by Dickens, Hervey, and Higgins (2002).

In the following example, it would be more adequate to produce a different translation of the word "أسند":

3. a: حيث أن حضانة الطفلة أسندت إلى أمها طبقاً للقانون (النص الثاني)

3. b: whereas, the custodianship of the daughter is **vested to** her mother according to the law.

In this example: The first case, the custody of the daughter is implied by law, and in this context we use 'vested to someone', as a fact does not change. Vested right is the right fixed or absolute, being without contingency. Also, it is: property law having a present right to the immediate or future possession and enjoyment of property.

While in the second case the petitioner is asking and demanding to assign him the custody due to some changes and reasons that let him to present before the court. In this case, the petitioner is pleading to the court to protect his daughter because his ex-wife is married to another person and the child's custody is about taking care, control, maintenance of a child, which the court may award to one of the parents following a divorce or separation proceeding.

4. a: حيث أن المعارضة أصبحت لا تطبق الجلسوس بسبب انفعاله المستمر.

4. b: whereas, the petitioner is no longer able to stay with her husband, due to his continuous **anger and rage**.

In the present example, the anger of a person in Arab communities may cause and lead to several bad consequences, and in this context the man was hurting his wife. That is way it is more adequate to add word 'rage' to 'anger' capture the meaning of انفعال. This addition as stressed by Dickens and others serves to convey the effect that may hide behind the word. As one word in English 'anger' would not convey the intensified meaning of the word 'انفعال'.

5.2: حيث أن العارضة تلتبس من هيئة المحكمة تعويض قدره 100.000 دج كضرر معنوي الذي لحقها جراء ذلك
5.1: whereas, the petitioner is pleading from the court an **Ad dumnum** of

In this case, it is more appropriate to use the Latin term 'Ad damnum' as an equivalent of 'تعويض'. This term is used in the clause in a complaint that sets a maximum amount of money that the plaintiff can recover under a default judgment if the defendant fails to appear in court. It is found that this term is more suitable to be used than: amends, compensation, or indemnification.

6.1: فك الرابطة الزوجية عن طريق الخلع:

6.2: Marriage dissolution by *Khulu'* (divorce against compensation).

Regarding the principle of this kind of divorce in Islam, where the wife asks to be divorced notably when the husband refuses, so the latter accepts the divorce provided that the *Mahr* (dowry) that he paid to her be returned. Obviously, this treatment is based on compensation, for this reason, it is more adequate to opt for this functional equivalence. Further, this term is absent in the target culture that is why its translationshould be provided between brackets.

6.2.3 Stylistic problems

It is attempted, in this study, to maintain the formality during the process of translation which was not any easy task at all. The problem of conveying the past events and the complex sentences in a well-structured style of writing was problematic. Below are some main stylistic features:

1. Translating some documentswas quite easy as a whole, but it was not easy to maintain the layout of English legal language and to present the texts in a coherent way.For instance, some sentences were short and simple and their translations were direct and forward.

2. Repetition is a stylistic feature of legal texts.In our documents there is a repetition of the Arabic word 'حيث', which is reiterated in the beginning of each sentence. This deliberate repetition is used in legal texts and it is translated as it is by reiterating the legal equivalence 'whereas' to mention the succession of a case 'events. It is also used in English legal translated documents for the same purposes.

3. The formality in the present legal texts exists as in most other texts. It is one of the salient features of administrative correspondence. Thus theywere maintainedduring the process of translating Algerian marriage and divorce documents as it is shown in the following example:

3. a: هيئة المحكمة الموقرة / المحكمة الموقرة(النص الثالث):

3. b: Honorable court members.

This expression was translated literally maintaining the same level of formality.

4. a. حيث أن العارضة إذن، خوفا على نفسها و مستقبلها و حياتها

4. b. whereas, due to the fact that the petitioner is afraid for **herself, her life, and her future**

In this case, one may consider the Arabic sentence as redundant, but as we know that Arabic language prefers the use of such synonymous expressions to create parallelism in one hand, and contribute in enhancing the meaning of the text on the other. It is here favoured to maintain such parallelism in the English version for a stylistic purpose which might appear as more rhetoric.

4. To produce standard English layout of when translating from Arabic is not an easy task as the English petitions for divorce are merely forms, while, in Arabic the petitions forms involve narration and description of events related to the case. Therefore, it is favoured to maintain the Arabic style (the form) in this regard with an attempt to present it in a good English style and register as stressed by Farghal and Shunnaq (2015).

5. As stressed by Farghal and Shunnaq (1997) and Ghazala (1995) that long and short sentences, passive and active voice, free and literal translation, redundancy, parallelism, and so forth are stylistic features in translation. In this paper, these issues were dealt with by maintaining the same style presented in the Arabic texts sometimes and restructuring the sentences to be presented in an English stylistic form. The aim of using different techniques in these documents was to avoid ambiguity and to present the texts in an appropriate way to give the intended and functional meaning.

7- Conclusion and Recommendations

7.1- Conclusion

It is hoped that the present study shed some light on the role of legal translation in serving the Algerian community through translating seven documents of marriage and divorce. The study concludes that each language has its linguistic and cultural features that should be considered while translating from Arabic into English and vice versa. It also concludes that, in some cases, translating literally is successful in dealing with legal documents. Stylistic problems encountered are the major ones in translating Algerian marriage and divorce documents. Lexical problems are difficult to be dealt with because Arabic is rich in concepts and terms which do not exist in English. Finally, the legal translation background has helped the author in producing appropriate translations.

7.2- Recommendations

-It is suggested that translating legal documents should be done by translators who have theoretical, practical, and cultural backgrounds of the two languages they deal with.

- Translation departments at Arab universities should give more attention to legal translation module. The course should be taught practically and theoretically to focus on the features of language pairs the students are working on. The study suggests providing a specialized master's courses programs on legal translation between Arabic and English and vice versa.

- Translation's departments should require from their students a 200-hour training in an office or company of legal translation before their graduating.

- It is suggested to conduct further research on comparing and contrasting the translations of legal documents in other Arab countries other than Algeria to help translators bridge the gaps between other Arabic varieties and cultures. And

- other studies on professional legal translators working in public translation offices are suggested to be a model for newly translation graduate students which enlighten them about challenges in translating legal documents such as marriage and divorce documents.

8- Bibliography

- Abu-Ghazal, J. 1996. *Major Problems in Religious Texts: Difficulties and Challenges*. AWEJ: *Special Issue on Translation*. No.4. pp. 182-193. Retrieved from http://awej.org/index.php?option=com_content&view=article&id=660:rachid-agliz&catid=56&Itemid=138
- Al-Aqqad, Mohammed M. 2014. Translation of Legal Texts between Arabic and English: the Case Study of Marriage Contract. AWEJ. Vol.5 (2). Pp. 110-121. Retrieved from https://www.academia.edu/7522468/Translation_of_Legal_Texts_between_Arabic_and_English_The_Case_Study_of_Marriage_Contracts.
- Al-Azzam, B. 1998. *Translatability of Some Islamic Religious Terms from Arabic into English*. Unpublished M.A Thesis, Yarmouk University.
- Austin, J. L. 1962. *How to Do Things with Words*. Oxford: Clarendon.
- Austin, J. L. 1979. Performative Utterance. In J. O. Urmson and G. J. Warnock, *Philosophical Papers*. Oxford: Clarendon Press.
- Baker, M. 1992. *In Other Words: A Course book on Translation*. London and New York: Routledge.
- Bouhoun Ali, M. and Lati, Sana. 2014. *The Problem of Translating Modal Verbs from English into Arabic in Legal Texts*. Unpublished MA Thesis. University KasdiMerbah Ouargla. Algeria.
- Bouras, Zouari. And Oum-Hani, Ahmed. 2012. *Difficulties of Achieving Terminological Equivalence in Legal Translation: Some Sharia Terms Translation from Marriage and Divorce Chapters in Iraqi Personal Status Code*. Unpublished Thesis. KasdiMerbah University. Ouargla. Algeria.
- Cao, Deborah. 2007. *Translating Law*. Clevedon: Multilingual Matters Ltd.
- Catford, J. C. 1965. *A Linguistic Theory in Translation: An Essay in Applied Linguistics*. Oxford: Oxford University Press.
- Crystal, D. and Davy, D. 1969. *Investigating English Style*. London: Longman.
- Dijk, V. 1985. *Handbook of Discourse Analysis*. London: Academic Press.
- Elayyan, Nesreen. 2010. *Problems that Jordanian University Students Majoring in Translation Encounter when Translating Legal Texts*. Unpublished MA Thesis. Middle East University. Jordan.
- El-Farahaty, H. 2015. *Arabic-English-Arabic Legal Translation*. London and New York: Routledge.
- Emery, P.G. 1989. Legal Arabic text: Implications for translation. *Babel*, 35 (1). pp. 1-12.
- Emery, P.G. 1990. Lexical Incongruence in Arabic-English Translation. *Babel*, vol.37. (3): pp. 129-137.
- Farghal, M. & Shunnaq, A. 1999/2011. *Translation with Reference to English and Arabic: A practical guide*. Irbid: Dar Al -Hilal for Translation.
- Farghal, M. and Shunnaq, A. 1992. Major Problems in Legal Translation. *Babel*, 38(4). pp. 203-210.
- Farghal, M. and Shunnaq, A. 2015. Major Problems in Student Translations of English Legal Texts. In Farghal, M. et al., *Papers in Arabic/English Translation Studies 1* (pp. 203-209). Jordan: The Jordanian Translators' Association.
- Goodrich, Peter. 1987. *Legal Discourse: Studies in Linguistics, Rhetoric and legal Analysis*. London: Palgrave Macmillan.
- Halliday, M. A. K. and Hasan, R. 1976. *Cohesion in English*. London: Routledge.
- Halliday, M. A. K. and Hasan, R. 1985/1989. *Language, Context and Text: A Social Semiotic Perspective*. Oxford: Oxford University Press.
- Harvey, Malcolm. 2002. 'What's so Special about Legal Translation?' *Meta: Translators' Journal*, vol. 47, n° 2, 2002, p. 177-185. Retrieved from: <http://id.erudit.org/iderudit/008007ar>
- Hassan, Aboudi J. 2005. 'Repetition as a Means of Disambiguation'. *Turjuman*, Vol. 14 (2). pp. 85-111.
- Hatim, B. and Mason, I. 1997. *The Translator as Communicator*. London and New York: Routledge.

- Hatim, B. Shunnaq, A. and Buckely, R. 1995. *The Legal Translator at Work: A Practical Guide*. Jordan: Dar Al-Hilal for Translating and Publishing.
- Ilyas, A. 1989. *Theories of Translation: Theoretical Issues and Practical Implications*. Iraq: Mosul University.
- Jackson, Bernard S. 1985. *Semiotics and Legal Theory*. London: Routledge.
- Jawad, Hisham A. 2009. 'Repetition in Literary Arabic: Foregrounding, Backgrounding and Translation Strategies'. *Meta*, Vol. 54 (4). pp. 35-69.
- Kurzon, Dennis. 1989. Language of the Law and Legal Language. In Lauren, C. and Nordman, M. *Special Language: From Thinking to Thinking Machines*. London: Multilingual Matters.
- Kurzon, Dennis. 1997. Legal Language: Varieties, Genres, Registers, Discourse. *International Journal of Applied Linguistics*, Vol. 7 (2): pp. 283-290. Retrieved from http://onlinelibrary.wiley.com/doi/10.1111/j.14734192.1997.tb00111.x/epdf?r3_referer=wol&tracking_action=preview_click&show_checkout=1&purchase_referrer=www.google.jo&purchase_site_license=LICENSE_DENIED
- Le Cheng, King Kui Sin, and Anne Wagner. 2014. *The Ashgate Handbook of Legal Translation*. London and New York: Routledge.
- Melinkoff, David. 1963. *Translating Official Document*. Boston: Little Brown.
- Newmark, P. 1981. *Approaches to Translation*. Oxford and New York: Pergamon.
- Newmark, P. 1982. 'The Translation of Authoritative Statements: A discussion'. *Meta: Translators' Journal*, vol. 27, n° 4. pp. 375-391. Retrieved from: <http://id.erudit.org/iderudit/003728ar>
- Newmark, P. 1988. *A Textbook of Translation*. New York and London: Prentice Hall.
- Newmark, P. 1991. *About Translation*. USA: Multilingual Matters Ltd.
- Nida, Eugene A and Taber, Charles R. 1982. *The Theory and Practice of Translation*. Leiden- Boston: E. J- Brill.
- Palmer, F. R. 1990. *Modality and the English Modals*. London and New York: Longman.
- Quirk, R. et al. 1985. *A Comprehensive of the English Language*. London and New York: Longman.
- Rmadan, Raidah. 2003. *Incongruency in Translating Islamic Court Documents from Arabic into English*. Unpublished MA Thesis. Yarmouk University. Jordan.
- Ryding, Karin C. 2005. *A Reference Grammar of Modern Standard Arabic*. Cambridge: Cambridge University Press.
- Sager, Juan. 1993. *Language Engineering and Translation*. Amsterdam and Philadelphia: Benjamins Publishing Company.
- Saqf Al-Hit, Abdel Azzam. 2012. *The Reliable Guide to Legal Translation*. Jordan: Dar-Al-Thaqafa.
- Šarčević. S. 1997. *New Approach to Legal Translation*. London: Kluwer Law International.
- Searle, John R. 1969. *Speech Acts: An Essay in the Philosophy of Language*. Cambridge: Cambridge University Press.
- Searle, John R. 1976. The Classification of Illocutionary Acts. In Donal Carbaugh. *Cultural Communication and Intercultural Contact*. (pp. 363-372). Psychology Press. London and New York: Taylor and Francis Group. Retrieved from https://books.google.jo/books?id=YXb_AQAAQBAJ&pg=PA407&dq=A+Taxonomy+of+Illocutionary+Acts%E2%80%99,+Language+in+Society&hl=ar&sa=X&ved=0ahUKEwjSuf3aiL7NAhWEqxoKHVbsD04Q6AEIHDA#v=onepage&q=A%20Taxonomy%20of%20Illocutionary%20Acts%E2%80%99%2C%20Language%20in%20Society&f=false
- Searle, John R. 1979. *Expression and Meaning: Essays in the Theory of Speech Acts*. Cambridge: Cambridge University Press.
- Selmi F. & Trouille H. 1998. *Legal translation in the classroom: A case study*. University of Bradford, England. Retrieved from <http://www.tradulex.com/Actes2000/SelmiTrouille.pdf>
- Shunnaq, A. (1997). Problems in Translating Arabic Texts into English (33-52), in Shunnaq, et al. *Issues in Translation*. Irbid: Irbid National Library University and Jordanian Translator's Association.

Shunnaq, A. and Farghal, M. 1997. *The translatability of Technical Terms in Islamic Court Documents from Arabic into English: A case Study*. Retrieved from <http://eds.b.ebscohost.com.ezproxy.yu.edu.jo/eds/detail/detail?vid=4&sid=3d51b9bd-f13b-4ce4-b06f-0c8808eea187%40sessionmgr102&hid=108&bdata=JnNpdGU9ZWRzLWxpdmU%3d#AN=RN057823288&db=edsbl>

Suleiman, Yasir. 1999. *Arabic Grammar and Linguistics*. London: Routledge.

Tiersma, Peter M. 1999. *Legal Language*. Chicago: University Press of Chicago.

List of Arabic references and resources:

صبرة. محمود. 2003. أصول الصياغة القانونية العربية و الإنجليزية. القاهرة- مصر: دار الكتاب القانونية.

قانون الإجراءات الجزائية الجزائري. (1966). الأمانة العامة للحكومة.

List of websites:

<http://legal-dictionary.thefreedictionary.com/>

<http://www.oxfordlearnersdictionaries.com/>

<http://dictionary.cambridge.org/>

<http://www.merriam-webster.com/>

ليطب هيئة المحكمة الموقرة

- حيث أنه بتاريخ/../. تم عقد قران كل من العارض و المدعى عليها ببروكسل (وثيقة رقم 1).
- حيث أنه بتاريخ/../. تم إعلان الطلاق بين العارض و المدعى عليها بموجب حكم قضائي صادر عن المحكمة الابتدائية الأولى ببروكسل (وثيقة رقم 2).
- حيث تم تسجيل هذا الطلاق على هامش عقد زواجهما بسجلات الحالة المدنية ببروكسل (وثيقة رقم 3).
- حيث أن هذا الطلاق لم يتم تسجيله على هامش عقد ميلاد العارض (وثيقة رقم 4).
- حيث أن العارض يلجأ إلى هيئة المحكمة الموقرة من أجل استصدار حكم قضائي يقضي بالمصادقة على هذا الحكم الأجنبي حتى يكون هذا الطلاق نافذا في جميع الأراضي الجزائرية و ذلك طبقا لأحكام المادة 607 من قانون الإجراءات المدنية و الإدارية.

لهذه الأسباب

- الإشهاد بوقوع زواج بين السيد والسيدة
- الإشهاد بوقوع طلاق مؤشر عليه على هامش عقد زواج السيد والسيدة بسجلات الحالة المدنية ببروكسل.

وعليه:

- المصادقة على عقد الزواج الواقع بين السيد والسيدة
- المصادقة على الحكم الأجنبي الذي قضى بالطلاق و الأمر بتسجيله على هامش عقد ميلاده لدى مصالح الحلة المدنية ببلدية طبقا لأحكام المادة 607 من قانون الإجراءات المدنية و الإدارية.

عن العارض/ وكيله: تحت جميع التّحفظات

الوثيقة الثانية: عريضة افتتاحية للدعوى للمطالبة بالحضانة بعد اعادة الزواج

مجلس قضاء الجزائر

محكمة الحراش

فرع شؤون الأسرة

عريضة افتتاحية للدعوى

للمطالبة بالحضانة بعد اعادة الزواج

لفائدة:

السّاكّن ب.....، (الجزائر)

القائم في حقه الأستاذ مواس كمال محامي لدى المجلس،

الكائن مكتبه -..... - الجزائر

مدعي

ضد:

السّاكّنة بحي، (الجزائر)

مدعى عليها

يحضر: السيّد وكيل الجمهورية لدى محكمة الحراش

ليطب للمحكمة الموقرة

يتشرف العارض على لسان وكيله أن يسرد على المحكمة الموقرة الوقائع كما يلي:

- حيث أن الطّرفان كانا متزوجان بموجب عقد رسمي.
- حيث أنه نتج عن هذا الزواج ميلاد البنت ".....".
- حيث أنه تم فك الرابطة الزوجية بين الطّرفين وذلك بموجب حكم صادر عن محكمة الحال بتاريخ/.2011.

- حيث أن حضانة الطفلة "....." أسندت إلى أمها طبقا للقانون.
- حيث أنه من المقرر قانونا و شرعا أن حق الحضانة يسقط بالتزويج بغير قريب محرم.
- حيث أن المدعى عليها أعادت الزواج مع غير قريب محرم وذلك بتاريخ ././2012.
- حيث أن المعارض وبعد علمه بذلك، يلتمس من هيئة المحكمة الموقرة إسناد حضانة الطفلة "...." وذلك تطبيقا لنص المادة 60 من قانون الأسرة.
- حيث أن المعارض متمسك في حضانة ابنته "هـ." خاصة و أنها متعلقة به جدا و أن جميع الشروط المحددة قانونا و شرعا متوفرة في قضية الحال.

لهذه الأسباب

- إثبات الطلاق بين الطرفين.
- إثبات نص المادة 60 من قانون الأسرة.
- إثبات صحة زواج الأم بغير قريب محرم.
- القول و الحكم بإسناد حضانة الطفلة "....." إلى والدّها و منح حق الزيارة للأم طبقا للقانون.

تحت جميع التحفظات

عن المعارض / وكيله

.....

قسم شؤون الأسرة

من أجل الطلاق قبل البناء

وكيلها الأستاذ مواس كمال، محامي لدى المجلس،

مدعية

مدعی علیہ

[illegible]

تتشرف العارضة على لسان محاميها بأن تعرض عليكم ما يلي:

حيث أن هذا الزواج لم يكتمل بعد بالدخول.

حيث أن هذا القران استوفى جميع أركانه المنصوص عليها في المادة 9 و 9 مكرر من قانون الأسرة.

حيث أن العارضة تلجأ إلى هيئة المحكمة من أجل إثبات الضرر الذي لحق بها جراء المعاملة السيئة التي أصبح المدعى عليه متعود عليها.

حيث أنه مؤخرًا تفاجئت العارضة بمجرد وجود سوء تفاهم بسيط يدفع بالمدعى عليه إلى استعماله لغة العنف وهذا ما لا يتحمله أحد.

حيث أنه بتاريخ 2013/7/14 و بمجرد وجود سوء تفاهم بينهما قام المدعى عليه بالتعدي على العارضة بالضرب مما أدى بها اللجوء إلى مصالح إستعجالات لدى مستشفى مصطفى باشا أين سلم لها شهادة طبية تثبت الضرب و الجرح بعجز عن العمل لمدة 10 أيام (وثيقة مرفقة 2).

حيث أن العارضة تضررت كثيرا من هذه المعاملات التي تتلقاها من زوجها وهذا قبل البناء، فهي تتساءل كيف سيكون الحال لو كان قد تم الدخول بها ؟

حيث أن العارضة أصبحت لا تطيق الجلوس مع زوجها بسبب انفعاله المستمر.

حيث أن العارضة إذن، خوفا على نفسها و مستقبلها و حياتها ، تتقدم لهيئة المحكمة ملتمسة الحكم بفك الرابطة الزوجية عن طريق التّطليق قبل البناء وهذا استنادا لنص المادة 53 من قانون الأسرة الفقرة 10.

حيث أن العارضة تلتزم من هيئة المحكمة تعويض قدره 100.000 دج كضرر معنوي الذي لحقها جراء ذلك.

لهذه الأسباب

- بعد الإشهاد بعقد الزواج المبرم بتاريخ 2013/05/01.

- بعد الإشهاد بمصادقية الشهادة الطبية التي تثبت الضرب و الجرح و الضرر.

وعليه:

• الحكم بفك الرابطة الزوجية بالتّطليق قبل البناء بين الطرفين بتظليم الزوج مع الأمر بتسجيله لدى مصالح الحالة المدنية لبلدية الجزائر الوسطى و كذا على هامش عقد ميلادها.

• إلزام المدعى عليه أن يدفع للعارضة مبلغ 100.000 دج كتعويض عن الأضرار المعنوية التي لحقت لها.

تحت جميع التّحفظات عن العارضة/ وكيلها:

الوثيقة الرابعة: محكمة بئر مراد رايس

فرع شؤون الاسرة

عريضة افتتاحية للدعوى

من اجل فك الرابطة الزوجية

عن طريق الخلع

لِغَايَةِ : السَّيِّئَةِ دُونَ مَهْنَةٍ ،

السَّكَنَةُ دالى ابراهيم

مدعية..... في حقها الاستاذ : مواس كمال

ضد: السّد، تاجر،

المقيم -الحزائر-

مدعي عليه

بحضور: السيد وكيل الجمهورية

[illegible]

لطب للمحكمة الموقرة

العارضة بعد ان سئمت من تصرفات المدعى عليه ومن الغيابات الكثيرة والمتكررة عنها ووعن مسكن الزوجية تتقدم امامكم بكل الحاح التماس فك الرابطة الزوجية التي تجمعها به .

__ حيث تزوجت العارضة بالمدعى عليه بموجب عقد زواج رسمي مؤرخ في، مسجل لدى مصالح الحالة المدنية للمدينة

_____ **حث نتج عن هذا الاقتران ازدياد البنت**

__ حيث ان العارضة باقترانها بالمدعى عليه كانت طامحة لبناء لبنة سليمة لهذا المجتمع ، يسودها الاحترام و تحمل كل طرف مسؤوليته .

__ حيث انه بناء لمبادئ المعارضة لم تجد هذه الاخيرة اي حرج في اقناع والديها بتخصيص لها شقة ملك لهما لتعيش فيها هي و من اخترته ليكون شريكها في درب الحياة .

_ حيث انه وبكل اسف و بعد مرور مدة غير طويلة حتى اظهر المدعى عليه كل ما فيه من عيوب ، لاسيما الانتهازية التي تطبع شخصيته و كذا اللامسؤولية التي جعلها سبيلا لدربه ، فكان الرجل الغير المنفق على زوجته و بيته ثم بعد ذلك بعد ان رزق بنت فلذة كبده ، و لم يتوقف عند هذا الامر فكان كثير الغياب عن بيته دون اخطار او اعلام .

_ حيث ان هذه الوضعية ولدت شحنا كبرى بين طرفي الدعوى ، فلا العارضة اصبحت تقدر تحمل الوضع الذي هجرها و تركها و جعلها فيه المدعى عليه ، ولا هذا الاخير حاول اصلاح نفسه ، ما جعل الشقاق بينهما مستمرا وشديدا وهو السمة التي اصبحت تطبع الرابطة التي من المفترض ان تلمهما .

_ حيث ان الله تعالى خلق الخلق ، و خلق من ضلع آدم حواء لتكون سنده و معينه ، و الزم آدم بتحمل مسؤوليتها دون اضرار او تضريط و جعل سمة التقائهما المودة و الرحمة و السكينة ، وهذا ما أدى بعلماء الشريعة و القانون يؤكدون انه بانعدام هذه الاسس يفك هذا الرباط وجوبا صيانة اولا للزوجين والأولاد ثم للمجتمع حتى لا تتحول هذه اللبنة من حسنة صالحة الى سيئة خبيثة تصيب الامة بالوهن و يكثر فيها الامراض الاجتماعية المدمرة .

_ حيث انه فعلا و امام كثرة غيابات المدعى عليه و طولها و هو ما يعتبر هجرا للزوجة ، لجأت العارضة امام محكمة الحال و قدمت لرئيس المحكمة عريضة مؤرخة في من اجل استصدار امر لأجل معاينة غيبة المدعى عليه وبتاريخ امر رئيس المحكمة بتعيين محضرا قضائيا للانتقال الى مقر الزوجية و معاينة و التأكد من ان الزوج قد ترك بيت الزوجية آخذا معه كل اغراضه .

_ حيث انه بتاريخ و بموجب محضر معاينة محرر من طرف الاستاذ ، عاين ..على الساعة 18 و 30 دقيقة مساء ان المدعى عليه غير موجود و قد اخذ معه كل أغراضه الشخصية .

- انه بناء على كل هذا يظهر جليا تؤسس طلبات العارضة من حيث فك الرابطة الزوجية عن طريق الخلع اعتمادا على المادة من قانون الاسرة.

العارضة بعد الذي لقيته من المدعى عليه لا تتصور ابدا امكانية الصلح بينهما و هذا لاستحالة تقويم ما هو غير قائم بذاته و شخصه ، و من ثمة تتمسك بطلبها مقابل صداق مقدم لها مقداره الخمسون الف دينار جزائريا .

لهذه الاسباب و من اجلها

_ الاشهاد بمحضر المعاينة للأستاذ المؤرخ في.....

_ التأكد ان المدعى عليه و قبل تحرير المحضر هو غائب و هاجر لزوجته

_ التثبت من كثرة الخلافات بين طرفي الدعوى و استمرار الشقاق بينهما

و عليه :

من حيث الشكل :

الحكم بقبول العريضة و الدّعى لاستجابتهما كل الشروط المنصوص عنه قانونا .

من حيث الموضوع :

الحكم بفك الرابطة الزوجية بين طرفي الدّعى الحالية عن طريق الخلع .

_ الحكم بالزام المدعى عليه ان يدفع للعارضة ما قيمته 20.000 دج نفقة غذائية تبدأ من تاريخ الموافق ليوم مغادرته لبيت الزوجية الى غاية صدور الحكم المنتظر .

_ الحكم بالزام المدعى عليه ان يدفع للعارضة ما قيمته 150.000 دج نفقة العدة

الحكم بإسناد حضانة البنت لأمها مع منحها حق الولاية من اجل رعاية شؤونها ، و الزام المدعى عليه ان يدفع للبنت المشتركة نفقة غذائية قيمتها 10.000 دج شهريا

_ الحكم بالزام المدعى عليه بتخصيص مسكنا حقيقيا من اجل ممارسة الحضانة و ان تعذر عليه ذلك ، الحكم عليه ان يدفع مل قيمته 30.000 دج بدلا للإيجار

- الحكم بالمصاريف كما ينص القانون .

تحت جميع التّحفظات

عن العارضة/وكيلتها

الوثيقة الخامسة: نموذج لإعذار من أجل توفير مسكن لممارسة الحضانة

الأستاذ مواس كمال

محامي لدى المجلس

.....

- الجزائر-

الجزائر في،/.. 2013

إلى السيد

7 شارع

.....-الجزائر

الموضوع: إعذار من أجل توفير مسكن لممارسة الحضانة

السيد المحترم،

يشرفني أن أحيطكم علما أنني كلفت للدفاع عن حقوق السيدة، لذا أعلمكم بما يلي:

- حيث أنه وبموجب قرار نهائي مهوور بالصيغة التنفيذية، الصادر عن مجلس قضاء الجزائر، غرفة شؤون الأسرة، في القضية رقم، بتاريخ القاضي بما يلي: " يوفر للمستأنف عليها سكن لممارسة الحضانة وفي حالة تعذر ذلك دفع مبلغ بدل الإيجار على أساس 8000 دج شهريا من تاريخ تحرير محضر عدم توفير مسكن ويستمر إلى غاية سقوطه شرعا أو صدور حكم مخالفا".

- لذا،

فالعارضة تتوجه إليكم بهذا الإعذار ملتمسة تمكينها من مسكن لممارسة الحضانة خلال 10 أيام من تاريخ تسلمكم لهذا الإعذار وذلك بالاتصال بمكتب المحضر القضائي المبلغ لهذه الرسالة لتمكينه بردكم عن الإعذار الحالي سواء بتوفير مسكن أو رفضكم،

- وفي حالة انتهاء المدة الممنوحة لكم و لم نتلقى منكم أي رد سوف يحضر المحضر القضائي محضر عدم توفير مسكن لتبدأ حساب بدل الإيجار الواجب الدفع بموجب القرار المذكور أعلاه.

وفي انتظار ردكم السريع، تقبلوا منا فائق الاحترام والتقدير.

عن الطالبة/ وكيلها

الجمهورية الجزائرية الديمقراطية الشعبية

محكمة الرويبة

السيدة الرئيس الفاضلة في قضايا شؤون الأسرة

أمرنحن..... رئيس فرع شؤون الأسرة لدى محكمة الرويبة

بعد الاطلاع على العريضة المقدمة والأسباب الجديدة الواردة فيها بعد الاطلاع على الوثائق المرفقة بعد الاطلاع على أحكام المواد 310، 311 من قانون الإجراءات المدنية والإدارية. بعد الاطلاع على المادة 57 مكرر من قانون الأسرة نأمر بإسناد مؤقتا حضانة البنت بوقزولة يمينه المولودة بتاريخ: 2012/08/13، لخالتها قداة حدة ، مع أمر كل من هي متواجدة لديه البنت بقرولة يمينه بتسليمها لخالتها المسند لها حضانة البنت بموجب هذا الأمر وهذا إلى حين الفصل في دعوى الموضوع . وفي حالة الإشكال يرجع إلينا .

الرويبة بتاريخ

السيد الرئيس

الوثيقة السابعة: محكمة سيدي أمحمد

فرع شؤون الأسرة

عريضة من أجل فك الرابطة الزوجية بالتراضي

(المادة 48 من قانون الأسرة)

(و المادة 429 من قانون الاجراءات المدنية و الادارية)

لغائده: شن م ظ، عامل

من جنسية جزائرية

المولود بتاريخ 1947/02/01 بالجزائر

السّاكن ب .. شارع، (الجزائر الوسطى)

و : ب م ن ر

من جنسية جزائرية

المولودة بتاريخ 1947/02/01 بالجزائر

السّاكنة ب .. شارع، (الجزائر الوسطى)

القائمة في حقهما الأستاذ **مواس كمال**، محامي لدى المجلس،

الكائن مكتبه ب - الحزائر

محضور: السيد وكيل الجمهورية

◆=◆

ليطط للمحكمة الموقرة

□ العارضان بعد تعذر مواصلة الحياة الزوجية بينهما، يتقدمان بموجب المادة 48 من قانون الأسرة من أجل فك

الرابعة الزوجية بالتراضي.

□ حيث أنه تم عقد قران طريف الدعوى أمام مصالح الحالة المدنية لبلدية حسين داي بتاريخ 1947/02/01 تحت رقم 000000 (وثيقة مرفقة).

□ حيث أنه لم ينتج عن هذا الاقتران ميلاد أي أبناء (وثيقة مرفقة).

□ حيث أنه لاستحالة مواصلة واستمرار الحياة الزوجية بينهما مثل ما أقره الشرع وأكده القانون، اتفق الطرفان على فك الرابطة الزوجية بينهما بالتراضي مع شرط واحد وهو أن الزوج يدفع لمطلقة مبلغ 30.000 دج كنفقة عدة ومسكن.

لهذه الأسباب ومن أجلها

- الإشهاد بصحة عقد الزواج المبرم بينهما.
- الإشهاد باتفاق طريف الدعوى على فك الرابطة الزوجية بينهما بالتراضي.

وعليه:

- الحكم بالطلاق بين الطرفين بالتراضي مع منح للمطلقة مبلغ 30.000 دج كنفقة عدة ومسكن مع الأمر بتسجيل منطوق الحكم على سجلات الحالة المدنية لدى بلدية حسين داي.

السيدة ب م ن ر

السيد ش ن م ظ

