

Legal Translation in Algeria: The Justice Scales to The Test of Equivalence

BENAOUDA Adila* 

University of Algiers 2 Abou EL Kacem Saâdallah, Algeria
adila.benaouda@univ-alger2.dz

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ABSTRACT: *Legal translation is a specialized area of translation that requires a deep understanding of legal systems, legal terminology, and the cultural context in which the legal document was created. In Algeria, legal translation plays a critical role in facilitating communication and ensuring the accuracy and clarity of legal documents. This paper will explore the challenges and considerations that legal translators in Algeria face, including linguistic, cultural, and legal factors. Through a thorough analysis of legal translation in Algeria, this paper seeks to shed light on the essential role that legal translation plays in promoting access to justice and maintaining the integrity of legal systems in Algeria, where legal translation is particularly important due to the country's unique, complex, and diverse legal system, which combines elements of French civil law and Islamic law, in addition to the multiple official languages, including Arabic, French, and Berber. Moreover, the legal documents that require translation in Algeria range from contracts and agreements to court documents and legal judgments. These documents often have significant legal consequences, making accuracy and precision in legal translation critical. In this context, it is essential for legal translators in Algeria to have specialized training and expertise in legal translation to ensure that legal documents are accurately and effectively translated across different languages and legal systems using all types of equivalence for terms and concepts dealt with and comparative law study for the text to be translated.*

KEYWORDS: legal translation, specialized translation, legal system, comparative law, equivalence, legal terminology

* Corresponding author: **BENAOUDA Adila**, adila.benaouda@univ-alger2.dz

Introduction

Researches about specialized translation have been carried out in the past few decades as a field of study that deals with the transmission of ideas and concepts from one language to another especially to contrast different types of translated texts from those affiliated to the field of literature. Thus, the translator is seen as an important and influential part of the process of translation as well as a source of power in it. Indeed, he is empowered with the role of transmitting specialized knowledge and data from the source language and culture into the target language and culture. "The knowledge, the competence and the recognized status of expert" (Snell-Hornby, 1992, p. 10) are important factors in the translation process because within these new criteria, the translator is shifting the process from the "applied linguistics" approach to a more recent and "branded" category in the translation studies field which is "specialized translation".

This latter covers many areas of knowledge among which texts and data falling into legal (Gémar, 1995a.), (Šarčević, 2000), economic, media, administrative, scientific (Wright, Wright, & Leland, 1993), and financial translation. The classic text "The Translator as Communicator" which was co-authored by Basil Hatim and James Mason, provides a succinct yet remarkably candid statement about translation saying that translating is "looked upon as an act of communication which attempts to relay, across cultural and linguistic boundaries, another act of communication" (Hatim & Mason, 1997, p. 1), arguing that the translator is not only a communicator but also a bridge between languages and cultures. As such, he is worth being an expert as he can handle communicating specific yet technical knowledge to people.

1. Legal Translation as a Specialized Translation

Specialized Translation is a relatively old-new field in the translation studies field. It is therefore difficult to state with any degree of certainty what its impact on the field has been. However, it is safe to state that the field has been of particular influence on the field of legal translation (Gémar, 1995a.), (Gémar, 1995b.), (Šarčević, 2000).

The area of Legal Translation Studies is often associated with the legal profession, the courts, and the law. The legal translation industry is worth hundreds of millions of dollars in the United States alone not to mention the totality if we include what is produced in other countries.

The terminology used in legal context is often difficult for non-legal experts to understand, therefore the use of specialized legal terminology in translation has led to the development of specialized translation techniques and the growth of the number of Legal Translation Studies scholars and practitioners to ensure proper semantic equivalence to the translated terminology and accurate and meaningful stand for the translated text in the target language and culture to acquire effectiveness.

The Legal Translation industry is a dynamic and fast-paced industry that is constantly changing with the demands of the market and the needs of the social relationships of mankind. It is a mult of changing tasks and challenges brought about by the complex nature of the language, changing laws in other jurisdictions, technological advances, and the rapid changes in the way legal work is conducted. It is an essential service for the legal profession, as it ensures that legal documents and information are accessible to those who require them. Šarčević (2000, p. 332), argues that:

"Legal translators have traditionally been bound by the principle of fidelity to the source text. As a result, it was generally accepted that the translator's task is to reconstruct the form and substance of the source text as closely as possible. Thus literal translation (the stricter the better) was the golden rule for legal text and is still advocated by some lawyers today"

Furthermore, the role of translation in the field of legal industry has been a primary focus for specialized translation scholars. The field of Legal Translation is characterized by the use of terminology that is specialized to the legal field. In this respect, Prieto Ramos" (2014, p. 273) argues that:

“LTS scholars should not only be up-to-date with quality standards in the translation settings investigated but also contribute to raising those standards through research and training based on solid empirical foundations.

According to Prieto Ramos (2014, p. 273), practitioners confronted with changing textual symptoms, legal translators can only profit from such scholarly findings if they meet the criteria of good legal communication.

This suggests, according to Prieto Ramos in consequence, that rather than adopting overly simplistic or static ideas, one should embrace the multidimensional nature of Legal Translation and determine its function under each particular set of communicative circumstances. LTS can only strengthen the genuine relevance of its specialty within and far beyond academia, improve both disciplinary and professional acceptance, and demonstrate its tangible benefits by capitalizing on such a set of empowering vision (Prieto Ramos, 2014, p. 273).

Hu & Cheng (2016, p. 263) state that:

“the major difference between translated legal texts and other types of translated texts is that most of the legal texts serve a legal purpose and any error or mistake in the target texts may and will give rise to legal consequences in most circumstances”

Therefore, Legal Translation practice is in most countries limited to sworn and accredited translators. In Algeria as to mention, the industry is led by “Official Translators” who are accredited by the Ministry of Justice and hold an official seal bearing their names and the languages of work (generally three languages).

As to legal text’s categories, they vary from one legal system to another. Some scholars (Bocquet, 1994), (Šarčević , 1997) have based their classification on the main textual functions, whereas others (Gémar, 1995a.), (Borja Albi, 2000), (Cao, 2007) based theirs on discursive situation parameters (Prieto Ramos, 2014, p. 263)

2. Legal Translation in Algeria

The examples taken from judicial texts listed below present certain difficulties to be solved. These difficulties revolve around terminological problems that the translator can solve with a specialized dictionary, and conceptual problems that are sometimes a challenge to which he must pay close attention.

The conceptual problems are due to different referents from one country to another, so the translator will have to master the concepts to which they refer in order to make a choice. These choices often depend on the function attributed to the target language text, but sometimes on the function attributed to the source language text to inform the receiver of its content.

Let us recall that Algeria is signatory of international treaties and conventions that lead it as a sovereign state to formulate legal texts in accordance with these treaties and conventions. Also, the Algerian State reserves the right to draw inspiration from the laws already applied and amended in other countries according to the contexts and situations in order to improve their application and bring them into line with the evolution of Algerian society. These two elements can cause the above-mentioned conceptual problems.

Hereunder, I present Bocquet's and Šarčević approaches and will attempt to give a classification of the texts as presented and translated in the offices of translation in Algeria and those that fall under the syllogistic mode.

Bocquet (2008, p. 20) states that the first kind of texts are those that fall under the performative mode, which means that they produce reality rather than only describing it as in the descriptive mode. Examples of this include laws, rules, contracts, etc. The second type of text is syllogistic, or where the statement consists of contrasting the reality with the rules. This is true for all decisions, judgments, administrative provisions, and even individual decision statements of each. The third category consists of texts that fall under the descriptive mode but are specifically written to describe the two preceding categories of texts that are deemed to be legal. This encompasses the vast area of what lawyers refer to as the doctrine.

In Algeria, the “Official Translation Office” deals with all types of institutional documents ranging from judicial, extrajudicial (including documents emanating from the courts that are for civil use, outside legal proceedings and those of notary, bailiff and justice’s experts), administrative, medical to commercial ones.

Characteristics challenging legal translators’ daily work include the use of technical terminology, the presence of legal culture-specific expressions, the need for precise translation of legal concepts, the potential for ambiguity in legal language, and the importance of preserving the intended legal effect of the source text. Legal translators must navigate these challenges to ensure accurate and effective communication across different legal systems and languages. Gémar (1979) argues that the most difficult aspects of the legal difficulties’ characteristics, are the normative nature of legal texts, legal discourse, the variety of sociopolitical legal systems, and legal corpora.

Šarčević has proposed an approach based on the function of the legal texts, that is prescriptive, descriptive and prescriptive and descriptive at once, given that she considers that her book *New Approach to Legal Translation* attempts to “provide a new approach to legal translation by proposing a theoretical framework in which the translator assumes the role of an active participant in legal communication” (Šarčević, 1997, p. 3).

Šarčević argues that “a theoretical approach to legal translation must also be practice oriented” (1997, p. 3), this is why we state that the translator is regarded as a “legal communicator” in the legal translation process, which is more obvious with the practice of court interpreters that enable judges, general attorneys, lawyers and litigants to suit and settle cases, even though oral hearings were not classified by most scholars within the previous categories.

In Šarčević’s approach (1997, p. 11), she classifies rules and regulations, codes, contracts, treaties, and conventions as having a prescriptive function. She described them as normative, constrained by the prescription of a particular path of action that a person ought to follow or will be penalized. She includes under the hybrid texts falling under primarily descriptive and then prescriptive function category: acts, pleadings, briefs, appeals, requests, petitions, and other judicial decisions and instruments used to conduct judicial and administrative proceedings. She includes under the descriptive function category “texts written by legal scholars such as legal opinions, law textbooks, articles, etc. such texts constitute what is known as legal scholarship or doctrine, the authority of which varies in different legal system” (Šarčević, *New approach to legal translation*, 1997, p. 11).

To better translate legal text, the translator shall use comparative law approach, which is necessary to understand the legal system of both source language text and target language text. Before the translation commences, he must identify the legal system of both source and target languages through comparative law study. De Cruz defines comparative law stating that:

“most legal systems in the world today possess characteristics which are predominantly identified with one or more of the three major legal traditions or parent families, that is, civil law, common law and (at least until recently) socialist law. This does not, of course, mean that this trichotomy encompasses every possible legal system existing in the modern world. In places like Asia and Africa and the Islamic countries, powerful elements of customary law (of non-European origin) still remain and are in evidence in varying degrees” (De Cruz, 1999, p. 34).

De Cruz speaks of civil law countries as distinct from common law countries. He argues that the majority of countries that may be identified as having civil law owe this to their particular legal institutions (including judicial, executive, and legislative structures), their distinctive legal sources (mainly codes, statutes, and legislation), and their basic legal doctrines. Common law countries are those with legal systems based on the English common law model, heavily dependent on a system of case law or judicial precedent, and for which legislation has traditionally been regarded as simply the integration or explanation of legal rules and principles that are primarily derived from case law and judge made law (Šarčević, *New approach to legal translation*, 1997, p. 34).

Moreover, Dullion emphasizes the fact that comparative law study is not a *sine qua non* goal for the translator; translating is a different endeavor that might be both more humble and more demanding. It is not necessary to conduct a thorough comparison in order to discuss the findings and, maybe, draw legal inferences. It involves writing a text in a specific context and for a specific receiver in order to translate a message using the concepts that have been the focus of the comparison into another language. In this case, the communication's objectives can vary greatly. For example, the goal may not always be to overtly contrast the foreign law with the target system and show it as such; it may alternatively be to adapt it (Dullion, 2015, p. 99).

As for studying comparative law, the translator has to do the same with parallel corpora. He studies the form and content of similar texts in the target language to be inspired or oriented, because the final objective of the translation he carries out is to have similar function in the target language and culture.

Parallel corpora are very helpful for translator if we take into consideration the narrow time -pace as part of his work environment; that is to say, in legal context, legal instruments and documents set in the target language can be taken as a second hand along with specialized dictionaries and lexicons for the translator to project his translation in the target language. They can be inspiring in the form and content.

Despite the fact that some commonly translated text categories such as legal texts may be difficult to access due to clear confidentiality concerns related to translation projects (Lefer, 2020) carried out by professionals, Johansson indicates that "as translation shows what elements may be associated across languages, it is fruitful to base a contrastive study on a comparison of original texts and their translations". (Johansson, 2007, p. 3)

In our view, this may hinder the translator's work, as not all translators can obtain documents that fall within the framework of "professional secret" unless they obtain them from their owner or from an institution, which keeps them in their archives.

After completing the study of and the parallel corpus, the translator moves on to the translation stage. In this respect, Bocquet (2008, p. 111) describes the process of translation of legal texts in three stages:

«Une phase sémiologique de décryptage du texte source, faisant intervenir dès ce stade le bagage cognitif juridique du traducteur. Suit une phase de droit comparé où le traducteur confronte le message juridique perçu dans la langue-source et le contenu du droit de la langue-cible. La troisième étape, de nature onomasiologique, concerne le ré-encodage du message source dans la langue conçue pour exprimer d'autres institutions, celles du pays de la langue-cible.»

According to Bocquet (2008, p. 111), legal texts have informative and communicative purposes combined with prescriptive and/or performative functions. Therefore, in the three stages, the functional approach will prevail; thus, the translator will look for equivalence in terms of form and content leading to the equivalent legal impact/use in the target language and culture. Either prescriptive, performative or both at once (descriptive legal text with impact on people), the translator will define the purpose of each translation first, then its function.

3. Translation Criticism from the Comparative Law Perspective

Translation criticism associated with an interdisciplinary academic field drawing more on literary criticism and translation theory consists of the evaluation of translated texts. This assessment is based on identifying the strengths and weaknesses of the translator's decisions. Strengths are identified to encourage such approach, while weaknesses are used to identify gaps. Every translator is confronted with the question of quality. Criticism in several respects leads him towards this quality.

The criticism of the translation also allows a better understanding of the text already translated and makes its improvement. Among the discipline's most influential authors is the work of Antoine Berman, who explored several methods for translation criticism. This takes place either in criticism of one's own work or that of others.

When the criticism concerns the translator's own work, he is more exposed to his subjectivity and therefore he will have to redouble his efforts to take a step back from his work. In the context of research, self-criticism is present; the translation researcher will have to ripen thinking using comparative law studies additionally to the linguistic basic criteria to obtain the expected results. The examples below shed light on a few ways to do this from a terminological and comparative law point of view.

The critics allows strengthening the knowledge in translation studies and practices, prepare the future to edit schematized analysis with clear objectives and results, develop one's abilities to have a critical view on our translations' choices, empowering with different translation techniques and strategies, developing the ability to translate specialized texts from English into Arabic.

The translation researcher is confronted with the difficulty of communicating his research work with a well-defined analysis gauged to his scientific problem. He will need to use the information provided in the source document and the translated document as well as his knowledge. He needs also parallel corpora and dictionaries.

4. Translation of Legal Terms and Concepts under the Magnifying Glass

The law is prevalent in all aspects of our lives, from agreeing to the terms and conditions for using an app on our devices to retrieving providing guidelines that may have an impact on our careers, making Legal Translation one of the most challenging specialized translations. As consequence, the legal system is a result of the people's historical, political, and cultural evolution.

This critical study's major goal is to review translation in order to improve the process and fix errors by identifying the most significant challenges that are faced in the process.

Gémar noted five criteria that challenge legal translation in his article " La traduction juridique et son enseignement: aspects théoriques et pratiques". Indeed, according to the author, the legal text's normative nature, the language or discourse of law, the variety of sociopolitical legal systems, and the legal corpora are the biggest challenge in Legal Translation. In this, he assumes that (Gémar, 1979, p. 38) :

“Cinq critères principaux, formant une typologie non exhaustive, constituent le fondement épistémologique de la traduction juridique. Ce sont, dans l'ordre d'importance que nous leur connaissons, le caractère normatif (ou contraignant) du texte juridique, le discours (ou langage) du droit, la diversité sociopolitique des systèmes juridiques, tous éléments conditionnant le problème de la documentation juridique auquel il faut lier la nécessité d'une approche pluridisciplinaire du droit et, partant, de son enseignement. Ce qui est vrai de l'enseignement du droit, l'est également de l'enseignement de la traduction juridique ».

This is caused by the fact that each society prepares its own laws according to its own vision and the system it deems appropriate. In the legal profession, the issue lies not only in the potential for transferring a message from one language to another, but also and particularly to transferring it from one system to another.

In the current analysis, this challenge primarily manifests itself in vocabulary in our examples under review. The language is frequently so dissimilar that it is difficult to identify an equivalent for it. The vast disparity between the Algerian and American legal systems is the first obstacle facing us rather than only the divergence between the Arabic and English linguistic systems, as the Algerian system is a mixed system that incorporates the Latin-Germanic system and the Islamic law (*Chariaâ*). In the opposite side, the common law governs the legal system of the United States. This fundamental difference in legal systems can create significant challenges for legal translators, who must not only translate legal documents accurately but also understand the legal context and terminology of each system. For example, legal terms such as "tort" and "liability" have distinct meanings in the common law system of the United States and the civil law system of Algeria. Additionally, legal documents such as contracts and court judgments have different structures and requirements in each legal system, further complicating the translation process.

To support my words, I will use “Memorandum of Understanding on Child Custody”, “Notice of rights and responsibilities” and “Additional Findings and Orders”, which are legal documents issued by the Superior Court of the State of California that were translated into Arabic by Algerian legal translators. Examples were selected from these last and put under the magnifying glass from the specialized translation and the comparative law perspectives.

4.1 Cultural Gap to Overcome

The first term that has constituted a challenge and an ambivalence is “custody” with its two uses “child custody” translated as “حضانة الطفل” and “physical custody” translated as “حضانة مادية”.

As for “child custody”, several equivalents were found in legal dictionaries among them “ولاية وصاية”, “عناية”, and the choice of the right equivalent was not an easy one because the chosen equivalent would perform the meaning and function of the source term.

The term “حضانة” was defined in Lisân al-‘Arab (Ibn Manzoor, 1956, p. 153) as:

“الحضانة: مصدر الحاضن والحاضنة،... وحضن الصبي يحضنه حضنا: رباّه. والحاضن والحاضنة: الموكّلان بالصبي يحفظانه ويربّياه. وفي حديث عروة بن الزبير: عجبت لقوم طلبوا العلم حتى إذا نالوا منه صاروا حضانا لأبناء الملوك أي مربّين وكافلين.”

(Translation: “the custody: the origin of the custodian; he took the boy’s custody means he raised him. The custodian (male & female): the guardians of the child, who protect and raise him. In the hadith of *Urwa bin Al-Zubayr*: I was amazed at people who sought knowledge until they obtained it, and became custodians of the kings’ sons, i.e. educators and caretakers.)

As for the concept “child custody”, it is defined in the Free Dictionary as: “the care, control, and maintenance of a child, which a court may award to one of the parents following a divorce or separation proceeding” (West’s Encyclopedia of American Law, 2008).

We pinpoint that the concept of custody is consistent regarding Algerian law. It is defined as: “the maintenance, schooling and education of the child in the religion of his father as well as the protection of his physical and moral health (Family Code, 1984, 2005, 2005, p. Art.62).

We used a functional equivalent since we observed that the two terms share a similar meaning whenever one parent is caring for and educating the child after the divorce.

We observe that the functional equivalent is defined by Šarčević (1997, p. 236) as: “a term designating a concept or institution of the target legal system having the same function as a particular concept of the source legal system”.

Moreover, there are two types of custody in the source language text: legal and physical that may be joint, sole and temporary. It is referred to in the Merriam-Webster’s legal dictionary as follows:

“care or control exercised by a person or authority over something or someone: as: (a) supervision and control over property that usually includes liability for damage that may occur, (b) care and maintenance of a child that includes the right to direct the child’s activities and make decisions regarding the child’s upbringing” (Merriam-Webster).

For the joint custody: “custody of a child shared by divorced or separated parents who alternate physical custody of and share in decisions regarding the child” called also shared custody, whereas the physical custody: “custody that includes sharing a residence with a child”. Moreover, the sole custody: “custody of a child awarded to only one person and usually to a parent”, while the temporary custody: “custody awarded until a final judgment in a matter (as a divorce) is made” (Ibid).

Other uses for the term custody are recorded in the (Merriam-Webster) among which, the custody is an “official restraint on freedom (as by arrest or imprisonment or by release on bail, personal recognizance, probation, or parole), the constructive custody is “custody of a person (as a parolee) who is not under immediate physical control but whose freedom is controlled or restrained by legal authority”, the penal custody is the “custody of a person (as in a correctional institution) as a form of punishment”, the preventive custody is the “custody of a person (as a criminal defendant awaiting trial) for the purpose of preventing

further possible dangerous or criminal behavior” and the protective custody is “physical custody of a person for his or her own safety” (Ibid).

While in Algerian law particularly the Algerian Family Code (1984, 2005, 2005), custody has the first allotted meaning in the (Merriam-Webster) and is granted exclusively to one parent and the other will be granted visitation: the right of custody is devolved first to the mother of the child, then to the father, then in the best interest of the child. In making the custody order, the judge must grant visitation rights (Family Code, 1984, 2005, 2005, p. Art. 64). Besides, the holder of the rights of custody must be able to assume it (Family Code, 1984, 2005, 2005, p. Art. 62).

“Legal custody” and “physical custody” mentioned in the source language text are defined in the *Nolo’s Essential Guide to Child Custody & Support* (Doskow, 2017, p. 5) as follows:

”[t]here are two kinds of custody: physical and legal. Physical custody is the right to have a child live with you. Legal custody is the right to make decisions about the child’s welfare and education. It’s common for divorced parents to share one or both kinds of custody”.

Thus, having legal custody of the children means that the parent is in charge of making decisions regarding the crucial aspects of their lives, such as their place of education, their religious instruction, their need for academic tutoring or psychiatric counseling, and their doctor's visits (Doskow, 2017, p. 30).

In this case, we interpreted legal custody as “الحضانة القانونية” using the literal equivalent because it refers to “taking legal decisions” and “الحضانة المادية” for the physical custody because it is related to the physical location where the child lives. Both concepts do not carry any specific meaning in the Algerian legal system, this is why we have chosen literal equivalence as our case falls under the condition set by Šarčević (1991) for the possible use of the literal equivalent in legal translation in the absence of a functional equivalent in the of target language system. Šarčević (1991, p. 619) questions and answers in this respect:

“What happens if a functional equivalent is unacceptable or if there is no functional equivalent at all for a particular source concept? In such cases, legal lexicographers are usually content to define or paraphrase the source term. Those who insist on offering an equivalent for every term, for example, for the purpose of translation, are forced to use one of the following types of equivalents; borrowings, literal equivalents, descriptive substitutes, neologisms”.

4.2 System Bound Terms

Additionally, system bound terms are frequently encountered in translating legal texts and legal translators must have a strong understanding of the legal systems involved and be able to navigate the nuances and complexities of each system in order to accurately convey the intended meaning of legal documents. This requires a high level of expertise and attention to detail. In this perspective, Fuglinszky & Somssich argue that:

“legal translators must act beyond the role of a simple translator: they must be comparatists, being aware of the legal origin of the relevant concepts and using the methods of comparative private law and translation studies at the same time, since both law and language are system-bound and are heavily influenced by the cultural and social environment” (Fuglinszky & Somssich, 2020, p. 749)

The lack of an equivalent can be overcome by paraphrasing, which can be a useful technique to convey complex ideas or concepts in simpler terms. However, it is important to ensure that the meaning of the original message is not lost in this process. This could be demonstrated by the translation of the term "Server" by "مقدم خدمات". The term in English refers to a person who serves, i.e. “to deliver conclusively a legal document such as a writ or summons” (Collins Dictionary of Law, 2006).

In the Algerian legal system, the bailiff « المحضر القضائي » is in charge of serving court notices to the other party. (Code of Civil and Administrative Procedure, 2022, p. Art.838).

"يتم التبليغ الرسمي لعريضة افتتاح الدعوى عن طريق محضر قضائي ويتم تبليغ المذكرات ومذكرات الرد مع الوثائق المرفقة بها إلى الخصوم عن طريق أمانة الضبط تحت إشراف القاضي المقرر".

We have avoided the functional equivalent since the two terms have a different meaning. We gave a translation that explains the original term and opted for paraphrasing. Biel (2009) advocates that when it comes to textual procedures, translators use a variety of techniques to deal with confusing terms, including borrowing and naturalization, literal, descriptive, and functional equivalents. She argues (Biel, 2010, p. 9) that:

“While functional equivalents are most TL-oriented, they are not always possible due to a high degree of incongruity or zero equivalence; in such a case, the translator may want to resort to a descriptive equivalent (also known as a gloss or a paraphrase). This technique attempts to account for the recipient’s knowledge gaps by explaining a concept which is absent in the target legal system (zero equivalence) or by explicating central aspects of meaning which are responsible for the incongruity”.

Another system bound term is noticed with “Family court services”, which was translated into Arabic by “خدمات محكمة الأسرة”, as Family Court Services has mediators who help resolve disagreements between parents who are separating about the care of their children through the Family Court Services program (California Courts).

However, in the Algerian law, we do not have this kind of services but we have family affairs section in the court. According to the Algerian Family Code of 2007, the family affairs section of the tribunal has the authority to hear and make decisions on any matters related to family affairs, except for divorce cases. Additionally, the family affairs chamber, which functions as a court of appeal, reviews appeals against the decisions made by the family affairs section, except for those related to divorce, thereby providing a means of redress for parties dissatisfied with the decisions made by the family affairs section. In the Civil Procedures Code, book II, provisions specific to each jurisdiction, title 1, procedure before the court and procedure specific to certain sections, chapter 1, the family affairs section, section 1, powers of the family affairs section (Family Code, 1984, 2005, 2005, p. Art.423): the family affairs section rules in particular in the following actions:

1. Actions related to engagement, marriage, reintegration into the marital home, dissolution of marriage and its consequences, in the case and conditions provided for by the Algerian Family Code on 2007.
2. Actions related to the maintenance obligation and the exercise of the right of custody and the right of access.
3. Actions related to proof of marriage and filiation.
4. Actions related to *kafala*.
5. Actions related to guardianship and its forfeiture, judicial prohibition, absence, disappearance and curatorship”.

Since the English concept is absent in the target language the translator provided a literal translation "خدمات محكمة الأسرة".

« Superior court » of California is an additional system bound terms in the same text, which is defined as follow:

“A superior court is a trial court in which a judge or jury decides cases by applying the law to the facts presented by witnesses’ testimony and other evidence. Superior courts are different from appellate courts, where people who are not satisfied with trial court decisions appeal their cases... Superior courts have trial jurisdiction over all criminal and civil cases. Special departments of the courts handle family, probate, mental health, juvenile, small claims, and traffic cases. Many superior courts also have specialty departments for nonviolent drug offenses and domestic violence cases. Superior courts handle cases in which parties ask for special relief, such as an injunction or a declaratory order.” (The Judicial Council of California, 2004)

The superior or trial courts, which are located in each of the 58 counties in California, are where the great majority of cases in the state's courts begin. The Courts of Appeal have jurisdiction at the next tier of the judicial hierarchy. The majority of appeals cases involve one of the six higher courts of the state ruling

that is being contested by one of the parties. The state Supreme Court is the highest court in the state and has the authority to review decisions made by the Courts of Appeal in order to resolve legal disputes and important legal issues. This hierarchy organizes the legal system in California according to the three ascending levels, namely the Superior Court, then the Court of Appeals, and finally the Supreme Court (Judicial Council of California, 2022).

We can easily make the following comparison between the organization of legal systems in California and Algeria to explain the use of the equivalent functional term “محكمة” instead of his literal translation « محكمة عليا », which refers in the Algerian legal system to another jurisdiction.

Indeed, the judicial system in Algeria (Ministry of Justice, 2023), is organized as follows: the ordinary judicial order, the administrative judicial order and the court of conflicts, which makes it different from that of the USA.

The legal system in Algeria for ordinary judicial order is hierarchized according to three ascending levels namely the tribunals (المحاكم), courts (مجالس القضاء) and Supreme Court (المحكمة العليا). The Tribunal « المحكمة » constitutes the jurisdiction of the first degree similarly to the Superior Court of California. Its competence is determined by the Code of civil and administrative procedures, the Code of criminal procedures and the specific laws in force. It is divided into several sections (أقسام): civil; misdemeanors; fines; referrals; family affairs; minors; social; land; maritime and commercial and may be composed of specialized poles. While the Court (مجلس القضاء), similarly to the Court of Appeal of California, is a court of appeal of the judgments rendered by the tribunals of its jurisdiction as well as in the other cases provided for by law. The Supreme Court (المحكمة العليا), similarly to the Supreme Court of California, is a court of law; it can be a trial court in the cases provided for by law, exercises control over orders, judgments and court decisions as to the proper application of the law, respect for forms and rules of procedure.

However, the administrative courts are the general supervisory courts in administrative disputes ruling in first instance on a judgment subject to appeal in all matters where the State, the *Wilaya*, or the municipality is a party, or one of the public authorities of an administrative nature. They are competent to rule on appeals for annulment, interpretation and assessment of the legality of decisions taken by: the *Wilaya* as well as the decentralized State services operating within the latter, the municipality, regional professional organizations, local public administrative establishments (Ministry of Justice, 2023). Nevertheless, the conflict tribunal decides on conflicts of jurisdiction between the jurisdictions of the ordinary judicial order and the jurisdictions of the administrative judicial order. The conflict tribunal cannot intervene in conflicts of jurisdiction between jurisdictions belonging to the same judicial order (ibid).

4.3 Polysemy of Legal Terms

Legal terms can be polysemous, which creates uncertainty and complicates the translation process; this is particularly challenging when dealing with legal documents of different cultures and languages that require precise and accurate concepts of translation. The difficulty of translating these terms lies not only in finding the exact equivalent term when the one word having several meanings in the target language, but also in understanding the specific legal concept that the term represents in the source language depending on the context in which it is used. Yet, the polysemous nature of legal terminology makes it challenging for legal translators for the terms they are confronted with that are often context-dependent and ambiguous.

This can be demonstrated with the term « stipulation » which is defined as follow:

«An agreement, usually on a procedural matter, between the attorneys for the two sides in a legal action. Some stipulations are oral, but the courts often require that the stipulation be put in writing, signed, and filed with the court.» (Collins Dictionary of Law, 2006).

The functional equivalent is « اشتراط » regarding the context but in the Algerian laws, this term has been rendered with different terms that are " اشتراط " (Art.116, 117, 118, 874), " اتفاق " (Art.244, 283, 384, 387, 388, 404, 423, 428, 448, 494, 584, 663, 870, 883, 956, 978), " شرط " (Art. 377, 388, 873) of the Algerian Civil code.

The term “Obligor” is another example that is polysemous. It was defined as “a person who binds himself by contract to perform some obligation; a debtor.” (Collins Dictionary of Law, 2006). “The person or entity who owes an obligation to another, as one who must pay on a promissory note. (The People's Law Dictionary, 1985-2005). Obligation is a legal duty to pay or do something and the obligee is the person or entity to whom an obligation is owed, like the one to be paid on a promissory note. (Law.com, 2022)

In US divorce law, “the obligor is the parent that is required to pay the child support or alimony to the other parent. The obligee is the parent who receives the payment from the other parent. An obligor is sometimes called a debtor or promisor”. (uslegal.com, 2020)

According to the context, closest functional equivalent to be used is “مدين” as quoted from Art. 14 of the Algerian Civil Law “يطبق القانون الوطني على الالتزام بالنفقة بين الأقارب للمدين بها” (Civil Law, 2007) even if the term « التزم » appeared and which refers to the “obligation”.

“ملتزم” could also be used and would also be an appropriate translation to a certain extent provided that the “obligor” commits himself to pay the “obligation” to the “obligee” because the term « ملتزم » refers to « التزم » which has a direct equivalent « obligation ». Whereas, the Algerian legislator chose a general term no matter if he has committed himself through contracting or whatsoever. The Algerian legislator when legislating in financial matters regarding family affairs has referred to the term « نفقة » “maintenance” and not obligation:

تجب نفقة الزوجة على زوجها بالدخول بها أو دعوتها إليه ببينة... وتجب نفقة الولد على الأب ما لم يكن له مال... وفي حالة عجز الأب، تجب نفقة الأولاد على الأم إذا كانت قادرة على ذلك. (Family Code, 1984, 2005, 2005, pp. Art. 74, 75 & 76).

Thus, the legislator required the husband to provide for the maintenance of his wife as soon as the marriage is consummated or if she so requires based on proof. The father is required to provide for the maintenance of his child unless the child has resources and in the event of the father's incapacity, the maintenance of the children is the responsibility of the mother when she is able to provide for it.

Therefore, the translator should be aware that a legal term can be polysemous then he should look for the equivalent concept and not the term that is –according to him- appropriate to the context. In addition, legal translators must also be aware of cultural differences and nuances that may affect the interpretation of legal documents. This requires not only linguistic expertise but also a strong grasp of the social and cultural context in which the legal systems operate.

4.4 False Synonymy in Legal Translation

False synonyms (also known as pseudosynonyms) are word pairs that deceitfully suggest that they share the same or at least comparable meanings. They are seen as redundant terminology in some cases, and can confuse the translator, particularly since the pseudo-synonyms for the two different concepts are themselves quite similar in daily use of non-specialists.

Dubuc & Kennedy describe the distinctions between real, quasi-, and pseudo terminological synonyms (Dubuc & Kennedy, 1997, pp. 121-123). Cocca & others inspired by Dubuc gave a distinct definition to pseudosynonym:

“Real synonyms represent the same concept and are generally interchangeable ... As well as real synonyms, quasi-synonyms are interchangeable, with the tendency to differ in conditions under which they are being used... Unlike real and quasi-synonyms, pseudo-synonyms are not interchangeable, since specific diagnostic features are added to narrow their semantic contents” (Cocca, Kendzora, Rericha, & Martinez, 2016, p. 24).

They gave as examples the terms “coach and trainer” that both refer to a team manager, but they are used in different semantic contexts. The former term applies to a professional who is in responsible of strategy and tactics, as well as the starting lineup and substitutes, while the latter term refers to an individual who is responsible of the players' physical and psychological physical conditioning.

An example of the pseudosynonyms laying in the text under analysis is the terms "fees & costs", which are in many cases rendered with the Arabic terms « تكاليف », « نفقات », « أتعاب », « أعباء », « حقوق », « رسوم ».

"Fees" are "the payments to professional persons such as lawyers and accountants for performing services on behalf of clients" (Collins Dictionary of Economics, 2005). Whereas, "costs" are "law charges incurred in bringing litigation, including court fees and charges that may be payable by the losing party, but usually not including attorneys' fees (Dictionary of the English Language, 2011). Nevertheless, the term charges signifies the expenses which have been incurred in relation either to a transaction or to a suit; as the charges incurred for his benefit must be paid by a hirer; the defendant must pay the charges of a suit. The term charges, in relation to actions, includes something more than the costs, technically called. (Bouvier, 1856)

The Algerian Civil Code uses the term « نفقة » as equivalent of the term « expenses » (Art. 874 Civil Code), « fees » for « مصاريف » (Art.417 Code of Civil Procedure), « charges » for « أعباء » (Art. 881)

Under Title XII, legal costs of the Civil Procedure Code, are provided in the French version (N.D.A: the Algerian laws are edited in Arabic and French) that:

«Les frais de justice comprennent les taxes dues à l'état et les dépens afférents aux instances, notamment ceux relatifs aux procédures de signification, de traduction, d'expertise, aux mesures d'instruction et frais d'exécution, tels que fixé par la législation. Ils comprennent également les honoraires d'avocats tels que fixés par la législation». (Code of Civil and Administrative Procedure, 2022, p. Art.418)

The Arabic version of the same article provides that:

"تشمل المصاريف القضائية، الرسوم المستحقة للدولة، ومصاريف سير الدعوى، لا سيما مصاريف إجراءات التبليغ الرسمي والترجمة والخبرة وإجراءات التحقيق، ومصاريف التنفيذ، كما يحددها التشريع. وتشمل المصاريف القضائية أيضا أتعاب المحامي وفقا لما يحدده التشريع."

That is, if we make a due comparison of the equivalent terminology, it would be as follows:

Frais de justice=مصاريف, Dépens=مصاريف, Frais d'exécution=مصاريف, Honoraires=أتعاب, Taxes=رسوم,

We conclude that the term « fees » is a pseudo-synonym of "cost" and "charges" and the equivalent of « أتعاب » since it is linked to the expenses of lawyers and legal officials and experts that means that the context to which it is linked is different to that of two previous terms.

Whereas the term « cost » is the quasi-synonym of «charges » and equivalent of « مصاريف ». It can also be translated by the term « تكاليف » since they are interchangeable in legal context.

4.5 Swiping Repetition to Avoid Ambivalent Meaning

The use of repetition in legal language is distinctive. Al-Qinai argues that:

"translating both words will flout the pragmatic maxim of quantity by making the target text unnecessarily verbose while dropping both will result in shorter but more implicit sentences. However, before embarking on either option, a translator has to determine which hendiadys achieves emphasis through repetition and which are simply superfluous". (Al-Qinai, 1999, p. 244)

Whereas, the vast differences between the legal systems of English and Arabic, on the one hand, and their respective language systems, on the other, make legal translation from English into Arabic or vice versa even more challenging, El-Farahaty argues that: "translators from and into Arabic face difficulties on different linguistic levels, be they terminological (i.e. Shari'a Law vs Common Law terms), syntactic (i.e. modals and passive structures' incongruities), or textual (i.e. lexical repetition and punctuation marks)" (El-Farahaty, 2016, p. 475).

Let us examine the following example:

ST: «If you claim that the other party has failed to reimburse you for a payment, or the other party has failed to make a payment to the provider after proper notice has been given... »

" في حالة احتجاجك بأن الطرف الآخر قد فشل في تعويضك عن دفعة معينة، أو فشل في تسديد دفعة لمقدم الخدمة بعد تلقيه التبليغ المناسب..."

Translators have avoided retranslating the repeated phrase and kept only the verb in the Arabic version. This is because in Arabic, even if repetition is commonly used, sometimes, it may lead to ambivalent meaning, in the sense that this approach ensures that the translated text accurately conveys the intended meaning without any confusion or ambiguity. Additionally, it helps to maintain the natural flow and style of the original Arabic text.

4.6 Use of Abbreviation

According to Šarčević "the language of the law is used strictly in special-purpose communication between specialists, thus excluding communication between lawyers and non-lawyers" (Šarčević, 1997, p. 9), however some legal texts have a communicative purpose and are intended for non-legal users such as divorce judgment that interest both spouses who need to know the effects of their divorce.

That is, abbreviations have their due place in our study. Since they are mostly known and understood by professionals and not by an average person, one of the translator's task is to explain them or at least identify them. This could constitute a challenge for him due to the limited use of abbreviations in the Arabic language compared to some Western languages.

Salem Mohamed & Jakmakji gave a definition of abbreviation in their dictionary of Turkish abbreviations stating that:

الاختصار: من خصر، واختصار الكلام إيجازه، وهو أن تحذف الفضول من كل شيء، وأن تستوجز (تسرع) بما يأتي على المعنى، وكذلك الاختصار في الطريق... ويمكن تعريف الاختصار بشكل أكثر دقة على النحو التالي: الاختصار هو أن يكتفي بحرف أو ببعض أحرف الكلمة أو العبارة عن كتابتها، على أن ينطق بها عادة كاملة؛ بحيث يطلق على الشكل المختصر – بأساليب مختلفة – لكلمة أو أكثر (اختصار). ويطلق على المختصرات في اللغة التركية (kısaltma) وفي الإنجليزية (Abbreviation). (Salem Mohamed & Jakmakji, 2005)

Abbreviations in the Arabic language are almost restricted to some currencies, measures and weights, general use and to express the *Hejir* and Gregorian calendars according to the authors. They gave the examples of Egyptian currency referred to as (ج)، doctor referred to as (د)، gram referred to as (غ)، centimeter referred to as (سم)، etc.

The abbreviation "DCSS" appears in the text, but the document does not specify what it stands for, therefore the translator had to search for the entire name, "Department of Child Support Services." Without providing the complete term that the acronym corresponds to, the translation would be unclear, leaving the intended reader confused.

Conclusion

Legal Translation is an essential service for the legal profession to ensure legal documents and information are accessible to those who need them. The Algerian legal system is a mixed system that incorporates Latin-Germanic and Islamic law, while the common law governs the US legal system. Besides, Algeria is signatory to international treaties and conventions and draws inspiration from other countries to improve its application and bring it into line with Algerian society.

The disparity of legal systems, language and cultures requires a deep understanding of both legal systems and their cultural backgrounds to bridge the gap and ensure effective communication and cooperation between countries. It is crucial to have legal experts who are knowledgeable in both systems to facilitate any legal proceedings or negotiations.

Therefore, it is important for the Algerian State to consider carefully the potential implications and consequences of adopting laws from other countries to ensure they align with Algeria's cultural and societal values. Additionally, the State should involve stakeholders and experts in the decision-making process to ensure a comprehensive understanding of the potential impact.

Legal terms are often context-dependent and ambiguous, requiring legal translators to have a thorough understanding of the legal systems and cultures involved in the translation process. Literal translations may not accurately reflect the intended meaning of a legal term; thus legal translators must use their judgment to find the closest functional equivalent. Given that legal translation plays a crucial role in international business transactions and legal proceedings, the legal industry becomes by implication increasingly globalized and the demand for skilled legal translators continues to grow.

Besides, the comparative law perspective between the United States and Algeria highlights the unique challenges of legal translation, as well as the importance of specialized training and expertise for legal translators in Algeria. Ultimately, accurate and precise legal translation is critical for ensuring access to justice and maintaining the integrity of legal systems both within Algeria and across different legal systems and languages.

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Author's biography

Dr. BENAOUDA Adila graduated from Algiers 2 University. She currently serves as the Director of the Translation Institute at Algiers 2 University. She was an Assistant Professor of Translation at the same University prior to being appointed Director of the Translation Institute. She has been practicing accredited translation since 2009. Her researches have evolved over time and focus on specialized translation, particularly media translation and legal translation studies, as well as the translator's creative input in the translation process within multidisciplinary fields.