

# Issues in Arabic Legal Translation



# Issues in Arabic Legal Translation:

*New Insights into the Field*

Edited by

Sonia A. Halimi and Djamel Goui

**Cambridge  
Scholars  
Publishing**



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This book first published 2025

Cambridge Scholars Publishing

Lady Stephenson Library, Newcastle upon Tyne, NE6 2PA, UK

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

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ISBN: 978-1-0364-4177-7

ISBN (Ebook): 978-1-0364-4178-4

# TABLE OF CONTENTS

List of Tables .....	vii
List of Figures.....	viii
List of Contributors .....	ix
Foreword .....	xi
Introduction .....	1
<b>Chapter One</b> .....	9
Approaches for Overcoming Inconsistencies in Arabic Legal Terminology. The United Nations' Documents as a Case Study <i>Sonia A. Halimi</i>	
<b>Chapter Two</b> .....	34
Axiological Evaluation in Legal Translation: An Appraisal Theory Perspective on the State Department's Arabic Translation of the US Constitution <i>Hisham M. Ali and Abied Alsulaiman</i>	
<b>Chapter Three</b> .....	56
Critiquing Qur'an Translation at the Lexical Level: A Case Study <i>Rafat Y. Alwazna</i>	
<b>Chapter Four</b> .....	86
Legal Pragmatics and Politics: The Case of Translation in the Government of Palestine <i>Mohammad Ahmad Thawabteh</i>	
<b>Chapter Five</b> .....	104
Translating Law and the Development of Egyptian Jurisprudence <i>Rana Roshdy</i>	

<b>Chapter Six</b> .....	138
Perceptions of the Professional Status of Legal Translators: A Case Study in Lebanon	
<i>Nadira Fahed and Lina Sader Feghali</i>	
<b>Chapter Seven</b> .....	181
The Concept of ‘Legal Translation’ in Jordanian Laws: A Diachronic Analysis	
<i>Mohammed Abu-Risha</i>	
<b>Chapter Eight</b> .....	203
Legal Translation Landscape in Libya: Dynamics and Contextual Considerations	
<i>Hamza Ethelb</i>	
<b>Chapter Nine</b> .....	228
State of Art and Challenges of Official Translation in Algeria: “A Descriptive Study”	
<i>Djamel Goui and Ammar Boukrika</i>	
<b>Index</b> .....	246

# LIST OF TABLES

## CHAPTER ONE

Table 1-1 Arabic correspondents to ‘ <i>Cour de cassation</i> ’ in some national legal systems .....	24
Table 1-2 Arabic correspondents to ‘ <i>détention provisoire</i> ’ and ‘ <i>Garde à vue</i> ’ in some national legal systems .....	27

## CHAPTER THREE

Table 3-1 The Qur’anic terms that have been transliterated only with their references, the target text before amendment and the amended target text .....	69
Table 3-2 The repeated Qur’anic terms that have been transliterated only, the target text before amendment, the amended target text and their frequency .....	70
Table 3-3 The Qur’anic terms that have been translated inappropriately with their references, the target text before amendment and the amended target text.....	75
Table 3- 4 The repeated Qur’anic terms that have been translated inappropriately, the target text before amendment, the amended target text and their frequency .....	77
Table 3-5 The Qur’anic phrases\sentences that have been translated inappropriately with their references, the target text before amendment and the amended target text .....	80

## CHAPTER SIX

Table 6-1 Issues in Question in the Study of Translators’ Perceptions of the Professional Status of LTs in Lebanon .....	149
Table 6-2 Issues in Question in the Study of the Perceptions of the Most Prominent <i>LT</i> Commissioners towards the Professional Status of <i>LTs</i> in Lebanon .....	150
Table 6-3 Issues in Question in the Study of Translation School Administrators’ Perceptions of the Professional Status of LTs in Lebanon .....	151

# LIST OF FIGURES

## CHAPTER FOUR

Fig. 4-1 Tithe Receipt (1933) .....	93
Fig. 4-2 Registration of Birth (1940) .....	94
Fig. 4-3 Registration of Birth (1940) .....	95
Fig. 4-4 Registration of Birth (1934) .....	96
Fig. 4-5 Revenue Tax Receipt (1941) .....	99
Fig. 4-6 Palestine Citizenship Order (1941) .....	100

## CHAPTER SIX

Fig. 6-1 Translators' Views of the LT Market.....	152
Fig. 6-2 Translators' Attitudes toward LT .....	153
Fig. 6-3 Translators' Perception of their LTC .....	153
Fig. 6-4 Surmountable Challenges in LT according to Translators.....	154
Fig. 6-5 Unsurmountable Challenges in LT according to Translators....	154
Fig. 6-6 Factors Contributing to the Development of LTC among Translators .....	155
Fig. 6-7 Strengths of University Training in LT According to Translators .....	156
Fig. 6-8 Weaknesses of University Training in LT According to Translators .....	156
Fig. 6-9 Commissioners' Need to Review LTs Conducted by Translators .....	157
Fig. 6-10 Factors Driving LT Commissioners to Work with Translators	158
Fig. 6- 11 Factors Discouraging LT Commissioners from Working with Translators .....	159
Fig. 6-12 Elements of a Good Translation according to LT Commissioners.....	159
Fig. 6-13 LT Commissioners' Preference as to Who Performs LT .....	160

## CHAPTER NINE

Fig. 1 English into Arabic test text of June2024.....	233
Fig. 2 Arabic into foreign language(s) test text June 2024. ....	235
Fig. 3 French into Arabic text test of June 2024.....	237



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## FOREWORD

A decade ago, in a study on the development of Legal Translation Studies (LTS) as an interdiscipline (published in *Meta*, 2014), I referred to the period of consolidation and expansion that began in the field around the mid-2000s. Since then, we have witnessed the continued fertilisation and prolific growth of LTS with an increasing diversity of researchers, themes, languages, jurisdictions, branches of law, genres, and approaches to the study of legal translation processes and products.

While translation strategies addressing legal incongruities and legal terminology remain at centre stage in LTS, new insights into sociological, ideological, didactic, or cognitive issues, among others, have enriched our understanding of the relevance and multiple facets of professional legal translation in society. Technological developments have also offered new tools and avenues to researchers, particularly for information retrieval, corpus analysis and process research, as approaches have become increasingly sophisticated in producing empirical data, both quantitative and qualitative.

Many of these trends in LTS are superbly illustrated by the present volume on Arabic legal translation. It is particularly valuable as it attests to the wide range of settings of legal translation into this language, at both the international and national levels, including several Arab jurisdictions (Algeria, Egypt, Lebanon, Libya, and Palestine). It encompasses topics as diverse as consistency in legal translation at the United Nations, analyses of specific translations (the US Constitution and the Qur'an), legal pragmatics and politics, the role of translation in law-making and case-law, and perceptions of professional status.

The volume has brought together an outstanding group of experts in the field, combining various methods and perspectives. I am especially pleased to see the results of this fruitful cooperation under the leadership of Prof. Sonia Halimi together with her co-editor, Prof. Djamel Goui. As reflected in her own chapter, Prof. Halimi demonstrates the pragmatic rigour and international vision that characterises the long tradition of the Geneva school of LTS (currently under its Centre for Legal and Institutional Translation Studies, *Transius*), while Prof. Goui and the contributors to the book stand out for their legal translation expertise at the national level in particular. We can only appreciate the efforts put into this book, which fills

a gap in the Arabic-speaking world. It will, no doubt, prove invaluable for practitioners, trainers and academics in Arabic translation, and a source of inspiration for future research.

Fernando Prieto Ramos  
University of Geneva  
September 2024

## INTRODUCTION

In recent decades, legal translation has experienced extensive developments that have taken legal translation as an object of study out of the exploratory, product-oriented, and descriptive modes of research. This progress has given rise to a variety of research questions that approach legal translation studies from an interdisciplinary perspective: linguistic or cognitive sciences, intercultural or technical communication, social, ethnographic, or historical studies, ethical, ideological, or political considerations, etc., leading to a better understanding of this activity.

As far as Arabic legal translation is concerned, the discipline has only just begun to receive proper attention from scholars. The linguistic features between Arabic and other languages, especially Indo-European, are so broad that Arabic legal texts are considered to be linguistically, historically, culturally and legally different in complex ways, which makes legal translation as a field of research or practice more cumbersome.

This edited collection, “*ISSUES IN ARABIC LEGAL TRANSLATION. NEW INSIGHTS INTO THE FIELDS*” brings together leading scholars and practitioners in the field of Arabic legal translation, representing the four regions of the Arab world and the international arena, and considers developments in legal translation from a variety of research frameworks: empirical methods, discourse and contrastive textual analysis, contrastive lexical studies, historical and ideological approaches. It reflects the reality of contemporary Arabic legal translation, integrating broader social, religious, cultural, ideological, and institutional contexts.

The collection, consisting of a foreword by **Fernando Prieto Ramos**, an introduction and 9 chapters, aims to provide new insights into the field of Arabic legal translation by presenting the most recent studies, and to determine where the Arabic legal translation research stands within the ongoing methodological developments in the field. The topics and research questions are approached from the standpoint of qualitative and quantitative approaches, thus responding to a conspicuous lack of empirical data on Arabic legal translation.

Throughout the edited collection, the chapters explore the dynamic relationship between language and the law in a range of legal settings where the cultural landscape and social dynamics determine the act of translation. While this contribution aims to present an array of Arabic legal contexts, it

will obviously reflect only a fraction of the reality of different Arabic legal situations. It is hence a valuable source of information for Arabic legal, translation and linguistic specialists, practitioners, and academics.

A brief description of the contributions to the collection will give an idea of the wide range of the findings presented. The contributions are organised thematically.

While Halimi and Ali and Alsulaiman (chapters 1 and 2) focus on international institutional settings dealing with international legal texts as sources of law, Alwazna (chapter 3) deals with the translation of the Qur'an as an Islamic source of law.

The role of translation as a tool to convey ideology is approached from a historical perspective by Thawabteh and Roshdy (chapters 4 and 5).

The state of legal translation in two Arabic-speaking countries, Lebanon, and Jordan, is then examined by Fahd and Sader Feghali and Abu-Risha (chapters 6 and 7).

Finally, the status of official translator-interpreters in Algeria and Libya is presented by Ethelb and Goui and Boukrika (chapters 8 and 9).

On the international institutional front, **Sonia A. Halimi** shows in her chapter "*Approaches for overcoming inconsistencies in Arabic legal terminology. The United Nations documents as a case study*", how the diversity of Arab legal systems exacerbates the problem of translation, especially in the United Nations (UN) context, where legal texts refer to both international and national sources of law. She points out that such exposure to many systems increases the differences in terminology as well as the differences in translation contexts. The author draws attention to the fact that, despite the institution's efforts to standardise the translation process, mainly through the introduction of machine translation, it is still not clear how to choose between the various alternative terms embedded in each national system.

Based on a thorough analysis of typical translation situations in the UN setting, the author argues for the use of two distinct approaches. The first approach is *descriptive* and presents relevant variables for institutionalised terms, aiming at terminological consistency and uniform interpretation of common international law. She contends that this approach should also be used for the standardised management of Arabic terminology when transferring concepts belonging to non-Arabic speaking legal systems. The second approach involves an *intralinguistic contrastive analysis* to identify correspondences or inconsistencies for a terminological choice that is related to national systems.

The merit of the study is that it sets out a clear approach to legal translation based on typical translation situations in the UN context, in order to make informed and coherent translation decisions and avoid inconsistencies in legal terminology management. Overall, Halimi's chapter foregrounds the importance of carefully identifying the translation conditions in an international institutional framework, arguing for the harmonisation of terminology as well as the awareness of national contexts at the international level to ensure the validity of subsequent generalisations.

By analysing a case study from the point of view of quality assurance and adequacy in legal translation, **Hisham M. Ali and Abied Alsulaiman** argue for an axiological perspective in the evaluation of legal translation. In their chapter entitled "*Axiological evaluation in legal translation: an appraisal theory perspective on the state department's Arabic translation of the us constitution*", Ali and Alsulaiman draw on the appraisal framework developed by James Martin and Peter White and use the Department of State's official Arabic translation of the United States Constitution as a case study.

For the authors, the appraisal framework provides a wide range of conceptual tools for a perceptive analysis of the intricate nature of evaluative language in legal translation, particularly value judgements and rhetorical effects. They focus on the operation of the three primary evaluative systems of (attitude, engagement, and graduation) as they interact in translation. Particular attention is paid to how certain rhetorical effects are central to the evaluative discourse of the Arabic version of the constitution. The authors challenge the view of constitutional texts as impersonal.

Their analysis of the translation goes beyond the supposedly depersonalised façade of the legal text and shows how the translation promotes value positions, such as alignment, solidarity, and constitutional patriotism. Rather than asking how the translator's interventions enhance or undermine adequacy, the authors ask how these interventions reveal the values that the translation normalises or imposes on the reader. This case study provides a fine illustration of the complexities involved in the cultural transfer of a particular legal system from one language to another. It clearly contributes to a growing body of research on evaluation in translation and on legal translation as a form of cultural transfer.

The next chapter by **Rafat A. Alwazna**, "*Critiquing Qur'an translation at the lexical level: a case study*" shifts the perspective from the international institutional documents as a source of legal discourse to the combination of the Qu'ran and the Sunna, as a source of Islamic Law, with a focus on the translation of the Qur'an. From the outset, the author

emphasises the importance of the translation of the Qur'an, recalling that human efforts cannot produce a Latin Qur'an, no matter how accurate the translation.

As a demonstration case, Alwazna draws on the fourteenth edition of the Qur'an translation accomplished by Al-Hilali and Khan (2019) to analyse and critique the translation at the lexical level. He begins with a concise account of the Qur'an and its legal status in Islamic Law. He then presents certain stylistic features of Qur'anic discourse, by pointing out that the interpretation of a particular Qur'anic verse is never made in isolation, rather it is directly linked to its linguistic and legal contexts, its occasion of revelation as well as the events related to that revelation. Elements of intertextuality and coherence play a pivotal role in the process of interpretation and extrapolation of legal rulings.

In this chapter, Alwazna shows the impossibility of keeping intact in translation different lexical elements that serve different communicative purposes, which can lead to clear loss in the transmission of the intended message. Although the translation in question is considered to be largely acceptable, the results reveal key translation problems which are divided into three main categories: lack of equivalence, use of inappropriate equivalence and inconsistency in the use of terms. The chapter demonstrates that the mystical effect of the Qur'anic structures and expressions challenges translators to proceed with utmost caution and meticulous analysis in order to avoid inappropriate renderings.

The following chapter by **Mohammad Ahmad Thawabteh**, "*Legal pragmatics and politics of translation in the government of Palestine*", focuses on the socio-textual and socio-cultural practices of legal translation from English into Arabic during the British Mandate to Palestine. The author uses six authentic legal documents of different genres for his analysis and explanation.

The significance of Thawabteh's chapter in this edited collection comes from the following considerations: firstly, it discusses an already established notion in translation studies, i.e., ideology and translation at a particular period of time in Palestine, and explains it in a way that facilitates the analysis; secondly, it sheds more light on the ideology that dominated translation activities during the British Mandate in Palestine, during which translation was obviously manipulated in a way that served the purpose of a particular ideology at hand, with a view to reinforcing a hegemonic power. Finally, the study could be considered significant because it closely examines documents that are considered strong evidence of a people in the historical land of Palestine.



In this chapter, the documents have shown the Palestinian identity as an indigenous people with experiences of daily life in various social, economic, and political aspects. The study demonstrates how important it is for legal translators to be au fait with the development of legal discourse diachronically, to know the language of law in terms of terminology, syntax, and layout and, most importantly, to be able to read the underlying ideology in the overall structure of the legal documents.

Drawing on the renewed interest in the history of law in Egypt, **Rana Roshdy** examines the development of the Egyptian jurisprudence through translation movements, in a chapter entitled *“Translating law and the en route towards the development of Egyptian jurisprudence”*. The chapter begins by describing the political circumstances and intellectual trends that shaped the formation of the legal system in the Nahda period of Egyptian history (from the 19th to the mid-20th century). It identifies the first source of law in the Middle Ages and traces the impact of colonialism. Then, through the translation movement in the 19th century, which brought forward the first cohort of laws in Egyptian history, the fundamental role of translation is discussed.

In a well-documented analysis, the author shows how translation policies are contextualised by providing background information on the paradigms of thought and discourses of modernisation that inspired translation during the Nahda era in Egypt, highlighting the crucial selection of individual texts and modes of borrowing, and providing an example of the relationship between translation and knowledge production, and in the governance of Nahda modernisation projects, particularly in the fields of science and literature.

Roshdy illustrates translation policies by focusing on two trends in legal translation in Egypt: westernisation and nationalist movements. By linking socio-political factors and translation norms, she sheds light on how translation policies and strategies reflect and enact ideological positions. The chapter outlines the translation techniques of co-drafting, indigenisation and Islamicisation which have been delicately deployed to enact legal reforms that serve nationalist agendas and questions their implications for contemporary drafting.

In their chapter entitled *“Perceptions of the professional status of legal translators: a case study in Lebanon”*, **Nadira Fahd and Lina Sader Feghali** present valuable empirical research on the professional status of legal translators in Lebanon. Based on the results of a tripartite study conducted among translators, legal translation commissioners and translation school administrators, the chapter paints a comprehensive picture of the

prevailing perceptions of these three groups of stakeholders regarding the professional status of legal translators.

While the first part of the chapter explores translators' competences and attitudes towards legal translation, the second part examines working conditions, focusing on commissioners' experiences and their satisfaction with legal translators' services and translators' reliability. Fahd and Sader Feghali also examine the realities of legal translator training and its impact on both students and graduates, gathering the views of academic administrators on legal translation at both the academic and professional levels. Based on empirical evidence the results show a scarcity of professional translators specialised in legal translation despite the constant demand for legal texts translation in Lebanon.

The authors attribute the observed scarcity to the quasi-total absence of translation training programs in the legal field in Lebanese universities. They highlight the factors that influence legal translators' status and present suggestions for enhancing this status and contributing to its professionalisation, emphasizing the need for formal specialised training as a crucial step in this direction.

While Fahd and Sader Feghali depict the reality of the competences, challenges, and opportunities of legal translators in Lebanon, the chapter by **Mohammad Abu-Risha** entitled "The concept 'legal translation' in Jordanian laws: a diachronic analysis" sheds the light on the state of legal translation in Jordan, focusing particularly on the translation of documents that convey the same legal meaning and effect. With a clear purpose of improving legal translation training, the chapter begins by dispelling the assumption that legal translation is a given, and refrains from assuming that the translator has any literacy skills or education. Furthermore, it acknowledges that there is no law of translators in Jordan. His review is grounded on available legal texts that refer to translators or interpreters, employing transliterations of Arabic terms for precision, claiming that the absence of a specific law for translators creates a challenge in verifying terms related to translation, like certified translation, against a recognised definition.

The chapter redefines the role of translators and their categorisation within a potentially more effective system. It argues that further efforts are needed to finalise and formalise a precise framework for legal translation and the role of translators. This imperative task should be led by the legislative and judicial authorities. Meanwhile, educational institutions specializing in translation should exercise caution in offering courses labelled "legal translation" until such frameworks are in place. The author believes that a more constructive approach is to offer courses with a specific

focus, such as the translation of apostilles, contracts, insurance policies, and similar subjects. This targeted approach helps to rectify the current situation. Furthermore, scholars involved in translation research have a responsibility to develop the field. According to the author, they should actively contribute by refining existing models, cultivating new perspectives, and dispelling the preconceived notions presented in the preamble to this chapter.

Inspired by the aim to formalise the practice of translation of legal documents, **Hamza Ethelb** entitled his chapter “*Legal translation landscape in Libya: dynamics and contextual considerations*”. He examines the situation of legal translation in Libya, with a particular focus on the dynamics and contextual considerations that shape this process. The chapter acknowledges the increasing demand for translation of legal documents in a globalised world and the importance of accurate and culturally appropriate translations. It explores the unique challenges faced by legal translators in Libya, including discrepancies between Arabic and English versions of legal texts, uncertainty, differences in legal systems, and complex legal terminology.

Specifically, the author aims to fill this gap by examining the socio-cultural, and legal factors that influence legal translation in Libya. He also assesses the training and resources available for legal translators in the country, examining their adequacy and accessibility. Furthermore, the chapter provides an understanding of the legal translation landscape in Libya focusing on the importance of the development of specialised training programs, the establishment of professional networks and collaborations, and the improvement of terminology resources and glossaries.

In a descriptive approach come **Djamel Goui** and **Ammar Boukrika** to elaborate on the practice of official translation and interpretation in Algeria in their chapter entitled “*State of art and challenges of official translation in Algeria – a descriptive study*”. The authors accounts for the situation of legal translation in Algeria by depicting the work of official translators-interpreters. With reference to the laws and regulations in force, the chapter describes the whole process of appointing an official sworn translator-interpreter and outlines some of the challenges that the official translator-interpreter faces during his or her work.

The author begins by defining the conditions for admission to the competition for the official translators-interpreters, who are considered to be civil servants and bear the state seal– a competition to be launched and organised under the full supervision of the Ministry of Justice. It also describes the two stages of the competition, namely the written and the oral, as well as some of the duties and the nature of the work of the official translator-interpreter once accredited and being placed under the supervision

of a local jurisdiction, namely the Procureur de la République (Public Prosecutor). At the end of the chapter, Goui and Boukrika set out various challenges for the official translator-interpreter and made some recommendations in this respect.

CHAPTER ONE

APPROACHES FOR OVERCOMING  
INCONSISTENCIES IN ARABIC LEGAL  
TERMINOLOGY.  
THE UNITED NATIONS' DOCUMENTS  
AS A CASE STUDY

SONIA A. HALIMI

**1. Introduction**

In recent decades, several empirical studies have addressed legal translation in international multilingual settings. The focus has been on the discursive and communicative features of legal discourse,<sup>1</sup> leading to approaches and models of translation in the international and supranational institutions.<sup>2</sup> Among other things, the research has highlighted the role of legal knowledge in translation, stressing the need for legal translators to be fully informed about legal systems and aware of the intercultural and interlingual situation of communication.<sup>3</sup>

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<sup>1</sup> Susan Šarčević. "Multilingual Lawmaking and Legal (Un)Certainty in the European Union". *International Journal of Law, Language & Discourse*, No. 3(1) (2013): 1–29.

<sup>2</sup> Prieto Ramos, Fernando. "Parameters for Problem-Solving in Legal Translation: Implications for Legal Lexicography and Institutional Terminology Management". In *The Ashgate Handbook of Legal Translation*, ed. Le Cheng, King Kui Sin, and Anne Wagner (Surrey: Ashgate Publishing Limited, 2014), 7–21.

<sup>3</sup> McAuliffe, Karen and Trklja, Aleksandar. "Superdiversity and the Relationship between Law, Language and Translation in a Supranational Legal Order". In *The Routledge Handbook of Language and Superdiversity*, ed. Angela Creese and Adrian Blackledge (Abingdon: Routledge, 2018), 426–441.

The identification of Skopos determinants was assumed to ensure an equivalent semantic transfer.<sup>4</sup> Systemised methods and strategies based on comparative approaches were then developed and widely accepted, considering intersystemic legal knowledge as essential for the comprehension, documentation and expression phases.<sup>5</sup> Other methods based on the deontic logic were also used in an attempt to formalise and parametrise the language of law.<sup>6</sup> At the same time, universalist assumptions about the law have been considered, which, together with the establishment of an international legal discourse, call for the universality of legal concepts in the international law system. The coordination of language choices for the acceptance of common concepts and the standardisation of terminology in international legal documents became a natural consequence. The context of legal translation, in particular the nature of the material and its legal function, determines strategic choices. From there, the process of translation became institutionalised and far from accidental<sup>7</sup> in the interest of textual stability, which guarantees clarity, consistency, and effective implementation of the law.

However, strategic translation decisions in the international legal environment also imply a system-based approach,<sup>8</sup> which requires a contrastive analysis of intersystemic concepts, with the national legal discourse as the primary consideration. Depending on the legal function of the institutional document, whether binding or descriptive, the chosen terminological approach shapes the appropriate legal discourse. In the case of terminological choices, the aim is to identify the relevant choice for a contextualised decision.

Despite the research carried out in and for Indo-European languages, the findings on legal translation in the international context remain theoretical assumptions for the Arabic legal language. Few contributions have dealt

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<sup>4</sup> Šarčević, Susan. "Challenges to the Legal Translator". In *The Oxford Handbook of Language and Law*, ed. Peter M. Tiersma and Lawrence Solan (Oxford: Oxford University Press, 2012), 187-199.

<sup>5</sup> Prieto Ramos, "Parameters for Problem-Solving in Legal Translation: Implications for Legal Lexicography and Institutional Terminology Management", 7-21

<sup>6</sup> Aleksandra Matulewska, *Legilinguistic Translatology. A Parametric Approach to Legal Translation* (Bern/Berlin: Peter Lang, 2013), 107-180.

<sup>7</sup> Galdia, Marcus. "Strategies and Tools for Legal Translation". In *Comparative Legilinguistics*, No.16 (January 2013): 77-94.

<sup>8</sup> Sonia Halimi, "Contextualising Translation Decisions in Legal System-bound and International Multilingual Contexts. French-Arabic Criminal Justice Terminology," *Translation and Translanguaging in Multilingual Contexts*, No. 3(1) (May 2017): 20-46.

with translated legal documents in the context of the United Nations.<sup>9</sup> For the Arabic legal terminology, the translation process is complex because, paradoxically, the same natural language is used in different legal systems. Indeed, some Arab legal systems are heavily influenced by Roman law and the Napoleonic Code, while others are based on common law or Islamic jurisprudence<sup>10</sup>. This diversity exacerbates the problem of translation, especially in the United Nations (UN) context, where legal texts refer to both international and national sources of law.<sup>11</sup> Such exposure to many systems increases the differences in terminology as well as the differences in translation contexts. There is a real difficulty in finding established terminology common to all orders when it comes to designating concepts in an international setting. Despite the standardisation of the translation process, mainly due to the introduction of machine translation, it is still not clear what approach should be taken to choose between the various alternative terms embedded in each national system and the terms that are used in international documents, whether these documents are bidding or documentary.

This chapter focuses on the use of Arabic legal terminology in the international institutional context of the UN setting. As an international rule-making body, the institution fulfils an important role in shaping the international legal discourse. It provides a legal system in which the linkage of concepts and terms aims to ensure a uniform interpretation of common legislation in many official languages. However, due to the diversity of national legal sources dealt with in the UN setting, the terminology used locally must be reflected in its documents and their translations. When terms are searched in the institutional document system or terminology database, the results show much room for improvement, as inconsistencies exist despite the general precautionary approach to translation decision-making. In order to explore this issue, the following research questions guided the study:

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<sup>9</sup> Sonia Halimi, "Rethinking the English-Arabic legal translation course: restructuring for specific competence acquisition," *International Journal for The Semiotics Of Law - Revue Internationale De Sémiotique Juridique*, No. 32(2) (May 2018): 1-18

<sup>10</sup> Saad, Georges. "Quelques réflexions sur l'influence du Code Napoléon de 1804 sur les systèmes juridiques arabes et musulmans: le cas du Liban". In *Le Code civil et les Droits de l'homme*, ed. Jean-Luc Chabot, Philippe Didier and Jérôme Ferrand (Paris: L'Harmattan, 2005), 353-372.

<sup>11</sup> Halimi, "Contextualising Translation Decisions in Legal System-bound and International Multilingual Contexts. French-Arabic Criminal Justice Terminology," 20-46.

- 1) What are the translation situations that characterise legal Arabic in the UN setting?
- 2) What kind of terminological inconsistencies are found in the identified translation situations?
- 3) Which contextual directions are relevant for each translation situation?

Before addressing the research questions, section 2 provides a brief historical overview of the introduction of Arabic into the UN system. The taxonomy of legal translation contexts typically defined in international legal settings is presented in section 3. Along with specific translation situations identified in the UN setting and challenges in legal terminology, section 4 presents the method followed to analyse the said situations. Guidelines for dealing with the challenges posed by each situation are provided in sections 5, 6 and 7. Section 8 contains the concluding remarks.

## 2. Arabic in the UN

Arabic has been an integral part of the UN and its specialised agencies since 1954. The process of incorporating Arabic into the family of UN languages began with the General Assembly's decision to publish in Arabic, at the expense of the requesting States, approximately 4,000 pages per year of selected documents relating to the Arabic-speaking region.<sup>12</sup> Arabic's debut as an international language gradually took shape with the UNESCO's decision in 1960 to use it in its regional conferences in the Arabic-speaking world. The religious and cultural value of the Arabic language was emphasised, and the UNESCO later adopted it as a working language in 1968. Since 1973, the Arabic Language has been the sixth official language of the United Nations.<sup>13</sup> However, its adoption was not without its challenges, as it was feared that the multiplicity of languages would turn the international arena into a Tower of Babel.<sup>14</sup> But, aware of the role of multilingualism in bringing peoples together, the international system could not fail to recognise the important role of the Arabic language in preserving

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<sup>12</sup> Mohammed Didaoui, *Ma Wara Al-Tarjama* (Rabat: Dar Abi Raqraq li Al-Tiba'a wa Al-Nashr, 2016), 116.

<sup>13</sup> "Resolutions adopted by the General Assembly at its 28th session-Inclusion of Arabic among the official and the working languages of the General Assembly and its Main Committees", UN General Assembly, accessed July 6, 2023, <https://research.un.org/en/docs/ga/quick/regular/28>

<sup>14</sup> Malal Tabory, *Multilingualism in International Law and Institutions* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1980), 47.



and disseminating the civilisation and culture, as expressed in the General Assembly's Resolution in paragraph 1, topic 3190.

Since then, institutional documents issued in Arabic have been effectively used by Arabic-speaking delegates to address global issues.<sup>15</sup> Official UN documents translated into Arabic are also used as reference materials in educational settings and research. Despite the diversity of Arab legal systems and the variability of their terminology, it is evident that translators have successfully guided the implementation of Arabic by drawing on the Organisation's rich repository of terminology, phraseology or discourse style. As the UN deals with various international issues, the use of institutional Arabic has helped to keep pace with terminological developments. From a technical, linguistic and terminological point of view, institutional Arabic has been established and consolidated. Whether in the field of human rights, international trade, climate change, border management, e-commerce or nuclear energy, reflection on how to develop accurate and institution-specific terminologies, independent of local language usage, has helped to establish a reference source of information through the institution's published documents or its terminology base.

In terms of legal discourse, UN bodies issue a wide range of legal documents, from primary instruments such as treaties, resolutions or model laws, to policy documents related to periodic reports. Most of these key documents are issued in all six official languages, including Arabic, and then require translation from the original documents.<sup>16</sup> Efforts to harmonise terminology have been intensified in the light of developments in areas of international law and advances in information technology (IT) tools. A concrete example is the public multilingual terminology database UNTERM, which has been greatly improved the recent years, as it now displays referenced terms according to the UN system's areas of activity. This makes sense, as specialised agencies collectively contribute their specialised terminology to the database, thus facilitating the consistency of translation choices according to each field of specialisation and internal institutional use (e.g., problems of polysemy). Arabic translation has made real progress in terms of terminology harmonisation and acceptance in recent years, mainly due to the use of IT tools in translation, in particular automated translation and terminology databases. However, there is still a need for further consistency and accuracy of Arabic legal terms within the corpus of institutional documents. In the field of international law, phraseological and terminological issues raised by polysemy and overlapping terms due to the

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<sup>15</sup> Didaoui, Ma Wara Al-Tarjama, 118.

<sup>16</sup> "Official Languages", United Nations, accessed February 13, 2024, <https://www.un.org/en/our-work/official-languages>

diversity of systems require more terminology management that takes into account communication parameters and context-sensitive translation decisions.

In order to examine the communicative situations that call for terminology management, it is essential to present the taxonomy of legal texts as typically defined in international legal settings, including the UN context.

### 3. Contexts of Legal Translation

The taxonomy of legal translation was studied by considering the context of the situation with a field, tenor and mode, and deriving the characteristics of the text from the situation. It was then considered under the parameter of text function, on the basis of which the categorisation criteria identify the relationship between the legal function and the characteristics of the text. In addition to specifying the function of the text, the identification of Skopos determinants, including the addressee and the purpose of the original text and its translation, has been a common ground in attempts presented, for example, by Šarčević,<sup>17</sup> Trosborg,<sup>18</sup> Bhatia,<sup>19</sup> Cao 2007,<sup>20</sup> Prieto Ramos;<sup>21</sup> only then would an equivalent semantic transfer be achieved. With gradients in the functional mode, each criterium reflects a specific legal function, i.e., prescriptive (laws, treaties, contracts, etc.), mainly descriptive and prescriptive (court decisions, actions and pleadings, etc.) and purely descriptive (law or case commentaries, academic works, etc.). However, there are some subtleties between them. Cao (2007), for example, proposed a taxonomy on the grounds that legal discourse goes beyond communication between specialists. Šarčević's (1997) classification of legal translation is based on a source text-oriented approach, as it defines the legal text with a focus on the purpose of its production, limiting it to communication between specialists. While questioning Šarčević's

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<sup>17</sup> Susan Šarčević, *New Approach to Legal Translation* (The Hague: Kluwer, 1997), 5-7v.

<sup>18</sup> Anna Trosborg, *Rhetorical Strategies in Legal Language: Discourse Analysis of Statutes and Contracts* (Tübingen: Gunter Narr Verlag, 1997), 15-26.

<sup>19</sup> Bhatia, Vijay. K. "Legal Genres." In *Encyclopedia of language and linguistics*, ed. Keith Brown (Oxford: Elsevier, 2006), 1-7.

<sup>20</sup> Cao Deborah, *Translating law* (Clevedon: Multilingual Matters, 2007), 7-13.

<sup>21</sup> Prieto Ramos, Fernando. "Implications of Text Categorisation for Corpus-Based Legal Translation Research: The Case of International Institutional Settings." In *Research Methods in Legal Translation and Interpreting: Crossing Methodological Boundaries*, ed. Łucja Biel, Jan Engberg, Rosario Martín Ruano and Vilemini Sosoni (London & New York: Routledge, 2019), 29-47.

classification, Cao considered the translation of legal texts from two different perspectives, which determine not only the status of the original text and the translation, but also their communicative purpose. From the perspective of purpose, legal translation encompasses four categories, which are later shared by subsequent taxonomies: (1) translation of national laws and international treaties; (2) translation of private legal documents; (3) translation of legal scholarship; and (4) translation of case law.<sup>22</sup> In terms of status, legal translation is considered on the basis of the binding / non-binding law dichotomy, e.g. statutes vs. legal scholarship.

In the supranational institutional setting, Prieto Ramos (2014) has finely defined three interrelated contexts that reflect text production in relation to the World Trade Organisation, the European Union and the United Nations. While attempting to summarise previous taxonomies that complement each other, a multidimensional approach to legal text classification is presented that reflects the interconnectedness of legal functions, text types and text genres. The relationship between these components shapes the translated output. Although there is no universal classification of legal texts, the variety of metalanguage used to denote function-based categories does not reflect a significant overlap between the main categories. Core categories are common to existing taxonomies, including legislative, judicial, academic and private law texts.

It is only natural that documents translated into Arabic in the UN environment fall within existing taxonomies and categories. Components of each text category should shape the translated output. However, it should be noted that the variable of text-context, and therefore its genre, is not always taken into account when making translation decisions and, in particular, when using the relevant terminology. Many variations in terminology are found regardless of the text category to which they belong. They raise three types of terminological problems, namely heterogeneity, inconsistency and confusion in the use of terms, which are thoroughly illustrated by Halimi (2017), and which may undermine the applicability and reliability of terminological data. Thus, the identification of translation situations, i.e., text function and genre, leads to strategic translation decision, as the appropriate use of terminology depends significantly on these components.

## 4. Method

We assume that, in addition to a generic approach regulated by institutionalised guidelines, all instances of interrelationship between laws

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<sup>22</sup> Cao, *Translating law*, 7-13.

in an international legal setting need to be considered in order to set the context of translation. Once the legal context thereof is identified, contextualised translation decisions are made according to two approaches in Arabic legal translation:<sup>23</sup>

- 1) A *descriptive approach* that presents relevant variables for institutionalised terms that are generic, aiming at terminological consistency and uniform interpretation of common legislation in many official languages. The descriptive approach also applies to the unified and standardised management of Arabic terminology when transferring concepts belonging to non-Arabic speaking legal systems.
- 2) An *intralinguistic contrastive analysis* to identify correspondences or inconsistencies for a terminological choice that is related to national systems, seeking consistency with the national systems and uniform interpretation in many official languages.

Therefore, a thorough analysis of legal translation situations will be carried out to identify challenges and directions for consistent Arabic terminology management in the legal field.

#### ***4.1. Legal translation situations in the UN setting***

While the translation instances in relation to the UN documents are diverse, the choice of terms involves different approaches. Three main situations of translation decision-making in relation to Arabic legal texts are presented, thus coinciding with Prieto Ramos's (2014) translation contexts in relation to the World Trade Organisation (WTO), European Union (EU) and United Nations (UN) frameworks. In the field of international institutional translation, where most of the documents produced are equally translated into official languages, it is not surprising that the analysis of multi-genre legal corpus ends with the same streaming, consisting of:

- 1) Translation situations involving the use of international law-based terminology created through international negotiations. The terminology in this framework is generic and culturally neutral<sup>24</sup>. It

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<sup>23</sup> Halimi, "Contextualising Translation Decisions in Legal System-bound and International Multilingual Contexts. French-Arabic Criminal Justice Terminology," 20-46.

<sup>24</sup> Galeazzi, Nicole. "Les difficultés linguistiques propres aux mutations de la norme: les problèmes de traduction." In *Les mutations de la norme, le renouvellement du*

is based on a universal approach to the generalisation of consensus-based concepts. International binding instruments such as conventions and treaties are the primary framework for this use. A common institutional approach is privileged in order to harmonise terminology from a universal perspective.

- 2) Translation situations that require country-specific terminology that falls under an Arab legal system. The Universal Periodic Reviews or periodic reports of States to the UN are an important source of system-anchored concepts, the transfer of which requires a nationally based localisation of terms. A contrastive process of concept transfer is then favoured.
- 3) Translation situations that require an informed choice of the most widely used and widely understood terminology in the context of transferring foreign system concepts into Arabic. For the purpose of unification and standardisation of Arabic terminology, an Arabisation process that gives priority to general understanding, regardless of the specifics of the legal system, is preferred.

On the basis of the predefined translation contexts, the three situations will be explored in order to identify possible solutions for overcoming inconsistencies in Arabic legal terminology.

## **5. Harmonisation of Terminology for the International Setting**

Harmonisation of terminology is a key factor for the correct understanding and universal recognition of international legal concepts. In the UN context, international instruments have a universal vocation. In the spirit of international law, instruments are autonomous in nature and purpose. They aim to apply internationally agreed rules that transcend national legal systems. By signing and ratifying a treaty, States undertake to incorporate and apply its precise content in their domestic law. This is the principle of the binding nature of treaties or conventions (*pacta sunt servanda*). By virtue of its universal effect, the terminology characterising the agreed legal concepts is considered, by ricochet, to be universal and comprehensible in any legal framework. Given the binding nature of the documents, the translation is based on literal formulations in order to avoid an approximation of meaning that could lead to problems of interpretation

or even incompatibility. The linguistic choices made in the transmission of accepted common concepts are influenced by the desire to establish an international discourse in order to achieve the universality of concepts. On this basis, the language used is subject to a strict translation process that does not allow for any variation or bias arising from linguistic usage, to ensure that the concepts are equivalent in all languages. To overcome possible linguistic inconsistencies, the UN translation service coordinates with working groups and legal experts to share knowledge,<sup>25</sup> and may rely on feedback from country delegates<sup>26</sup>. But the issue is more subtle. While the universally oriented texts are developed on the basis of an independent conceptual framework, they may be at the intersection of branches of national law. But if they may overlap, semantic subtleties remain. For example, the concept of a pre-trial chamber is present in all judicial structures to determine the facts and law to be applied prior to trial. However, the International Court of Justice assigns a role and function to the chamber that probably goes beyond national structures. Therefore, the term Pre-Trial Chamber الدائرة التمهيدية *Al-Daira Al-Tamhidiya* is used in a comprehensive manner in order to remove any possible ambiguity regarding its relationship with national laws.

To illustrate how semantic subtleties are overcome by the application of a common institutional framework, the example of the United Nations Commission on International Trade Law (UNCITRAL) is given. While addressing trade issues with a common objective, this Commission has worked to develop a consistent terminology related to international concepts that can be implemented without regard to the legal terminology of national laws, as these lead to important differences in the application of rules.

### ***5.1. UNCITRAL documents and terminology harmonisation***

The UNCITRAL, whose mandate clearly refers to the modernisation and harmonisation of the rules governing international business,<sup>27</sup> has made great strides in harmonizing the law by assimilating and consolidating

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<sup>25</sup> Zhao, Xingmin, and Deborah Cao. "Legal Translation at the United Nations." In *Legal Translation in Context: Professional Issues and Prospects*, ed. Anabel Borja Albi and Fernando Prieto Ramos (Oxford: Peter Lang Verlagsgesellschaft, 2013), 203–220.

<sup>26</sup> Vieillard Guillaume. *La contribution de la Commission des Nations unies pour le droit commercial international (CNUDCI) à l'harmonisation et l'uniformisation du droit commercial international*. (Dijon: Université de Bourgogne, 2014), 266.

<sup>27</sup> "About UNCITRAL", United Nations Commission on International Trade Law, accessed March 4, 2024, <https://uncitral.un.org/en/content/homepage>