

## **Difficulties Facing Iraqi EFL Learners in Translating Legal Terms from English into Arabic**

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### **Definitions of Translation**

Translation is a branch of applied linguistics which deals with linguistic and extra-linguistic factors. It is a process of communication where there is a transference of a message from a source language to a target language.

There is no agreement on the definition of translation ,nor are translation theorists agreed on the types and models of translation. Thus, the researcher exposes some definitions to translation.

Translation is a science based on scientific facts. In addition to this, it is an art. Hence, it is the science that implies artistic aspects. Guire (1980:5) cited that Quirk (1974) puts translation as "one of the most difficult tasks that a writer can take upon himself."

From this, we may state that translation involves far more a working acquaintance with two languages and is aptly assumed up by Levy(1963) as cited in Gentzler(1993:61) when he states:

Translation is not a monistic composition ,but an interpenetration and conglomerate of the structures ,on one hand ,there are the semantic content and the contour of the original ,on the other hand, the entire aesthetic features bound up" with the language of the translation.

Catford (1965:20-22) adds two more definitions to translation .We may consider his words :"...the replacement of textual material into one language(SL) by equivalent textual material in another language (TL)". It is clear here that translation is unidirectional .That means it always performs a given direction from the source language to the target language.

The second definition by Catford points out that translation is performed only at one level .This means ,either at the phonological or at the graphological level ,or at any level of grammar and lexis .Let us consider his words carefully

:"....replacement of SL textual material by equivalent TL material at only one level . "

Generally, although translation has a central core of linguistic activity, it also belongs to semiotics as discussed by Hawkes (1977) as cited in Guire (1980:13) means : "the science that studied sign systems or structures ,sign processes and sign functions ." .Translation involves the transference of meaning of one set of language signs into another set of language signs.

The words of all languages overlap and leave gap of meaning. This is exposed by Benjamine(1923:164)as cited in Newmark (1982:18)when he states "Translation goes beyond enriching the language and culture of a country which it contributes to ,beyond expressing and analyzing the most intimate relationships of languages with each other and becomes a way of entry into a universal language ".

Some scholars believe that it falls outside the domain of scientific investigation .Therefore ,Wills (1982:65) concedes "...there are serious difficulties involved in designing a paradigm for the science of translation which would withstand the test of the theory of the science and which would be capable of furnishing verifiable results. "

Nida(1985:119) is neutral in deciding whether translation is a science or not .Let us consider his verbatim words :

Translation is also a science in the broad sense of the term, for it is an activity which may be systematically described and related meaningfully to various disciplines .In the strict sense of the word ,however ,translation is not a science but a technology, for it is built upon a number of scientific disciplines including psychology, linguistics, communication theory, anthropology, and semiotics .

Newmark (1988:73) is skeptical about the scientific treatment of translation as a whole : " In fact ,translation theory is neither a theory nor a science, but the body of knowledge that we have and have still to have about the process of translation ."

Accordingly, translation is a branch of applied linguistics which deals with linguistic and extra linguistic factors .This means that it deals with words and structures in addition to its concern with thoughts and what is hidden beyond the words .We may clearly feel this throughout the definition of translation by both Hartmann(1972:242) and Williams(2002:21)when Hartmann defines it as " the process or result of converting information from one language

or language variety to another." .While William concedes that ".....it is not simply a matter of words and phrases but of different factors like mood, habits which affect the way in which given words and phrases work on these who share the same language."

Translation, according to our opinion ,is the branch of applied linguistics which works on all levels, i.e., the levels of syntax, morphology and phonology .In addition ,we may say that there are no fully identical languages .Thus ,the original text would lose some of its originality.

### Types of Translation

There is no one accurate translation of a given text because there are no fully corresponded languages .This means that two translators may translate from the same source text and into the same target language and yet the results may be very different. The reason behind this variation is due to the purpose of translation; the translation team and the target language audience for whom the translation is intended.

Neubart (1983) as cited in Newmark(1988:68) states that one word of a source language text and a target language in translation is rarely corresponded semantically and grammatically hardly ever. Neubart then elaborates that it is useful to distinguish 'literal form ' 'word to word ' translation .We may examine his words : "word-for-word transfers SL grammar and word order as well as the primary meaning of all the SL words into the translation and it is normally effective only for brief simple neutral sentences."

Cohen et. Al.(1999)as cited in Support Services (2003 :4) says that one of the issues in understanding the terminology relates to the ways in which 'lay people' understand what is involved in acts of translation or interpretation .So, he states that " ....often there is an expectation or even a demand that texts or utterances be conveyed word for word or verbatim in other languages."

Jakobson(1959:14) classifies translation into three types 'interlingual translation, intralingual translation and intersemiotic translation ' . Intralingual translation ,the source language is replaced by equivalent material from the target language. He believes that there is no full equivalence is possible .On the other hand, intralingual translation ,he refers to interpreting the verbal sign in a certain language by another set of verbal signs in the same language .While his intersemiotics, is a form of transmutation in which one interprets certain verbal signs by signs of a non-verbal system.

Newmark(1982:8)points out that translation is of two main types which are 'communicative' method and 'semantic' method. Concerning the first type ,he

states "...the translator aims at producing the same effect on the TL receiver as that of the original SL text on the SL receiver." This is actually not different from 'free' or 'literary' translation. The translator has to do his best in order to make the conceptual and cultural content of the original more accessible to the reader. As far as semantic type is concerned, he states: " it tries to render the source language formal and textual meaning of the original texts as accurately as the semantic and syntactic structures of the original SL texts, the semantic type of translation . " This type concentrates on the message itself rather than on its effect or force .

### Difficulties of Translation

In translating a text from one language into another ,there is some sort of ambiguity .Ambiguity can be understood in two ways, it is either lexical ambiguity, if it is a single word; or structure ambiguity when it occurs in a sentence or a clause .For example, ' note' means 'a musical tone' or ' a short written record ' (Quiroga,1989:3).

Arnold(1995:2) admits that it is useful to think of these problems under certain headings : (i)Problems of ambiguity .(ii)Problems arise from structural and lexical differences.(iii) Multi words units like idioms and collocations:

Ambiguity is a pervasive phenomenon in human languages ,it is very hard to find words that are not at least two ways ambiguous ,and sentences which are several ways ambiguous are the rule, not the exception .

This reveals that a sentence containing two words ,each of which is two ways ambiguous may be four ways ambiguous and one with three words may be eighteen ways ambiguous and so on . Lado(1957:3)puts an emphasis on the difficulties in learning a foreign language when he states:

Individuals tend to transfer the form and meaning Of their native language and culture to the for Language and culture ,both productively when attempting to speak the language and receptively when attempting to grasp and understand Language as practiced by natives .

Generally speaking ,the acquisition of the foreign language has bearings on translation problems .When the individuals' learning through the native language the native language ,his knowledge of the world ,his perception ,his abstract thinking are in the native language .When a foreign language is learnt as well ,the difficulties become formidable as the learner is faced with a different linguistic system and cultural setting.

Another problematic area is the translation of scientific texts .This cannot be achieved unless the translation is undertaken by a specialized or experienced translator .One of the most serious problems that may face the translator of scientific works is idiom .To this ,we may add metaphor which can rarely be recognized in science and which is a very common phenomenon in scientific language in general (Translation Studies:2002:17).

We may conclude that translation is not impossible since this well-known human activity has been practiced between different languages of the world since ancient times , by which man conge red the barrier of language .On the other hand ,it is not a smooth or straightforward activity that can easily be carried out.

Bennet(1968) as cited in Illyas(1989:123) defined culture as:" the reflection of the total behavior of a society " .He also points out that the vocabulary of a language manifests the culturally important areas whether religious ,aesthetic ,ritual etc .The Arabs for instance ,have a variety of names for dates ,swords lions ,horses ,etc . On the other hand , English has a variety of linguistic signs associated with the sea.

### Legal Translation

Giuliana(2000:3) states:" legal translation is the translation of texts within the field of law .As law is a culture dependent subject field , legal translation is not a transparent task ." .This means that only professional translators specializing in legal translation should translate legal documents .The mistranslation of a passage in a contract , for example ,may lead to lawsuits and loss of money.

The translator of legal documents should keep in mind the legal system of the source language ( SL) is structured in a way that suits the culture ,and the target text (TT) should be read by someone who is familiar with the other legal system and its language (Susan:2000:5).

Generally ,there is a confusion between the names of some of the translation standards used in legal practice .Not many lawyers and judges are familiar with

the terminology used in translation theory ,and they often ask court interpreters and translators to provide verbatim translation.

Legal translation refers to the translation of texts within the field of law .Legal translation is considered to be one of the most challenging especially areas ,combining the creativity of literary translation with the terminology precision of technical translation .Problems in legal translation may crop up due to the specificity of legal language ,differences between legal systems and the regional nature of legal terminology .( AmericanTranslators Association:2011)

The job of translating a legal text into a foreign language is , therefore littered with a series of obstacles ,and therefore ,only professional translators specializing in legal translation should translate legal documents .Most forms of legal writings and contracts in particular, seek to establish clearly defined rights and duties for certain individuals . It is essential ,therefore, to ensure precise translation of these rights and duties in the translation process.

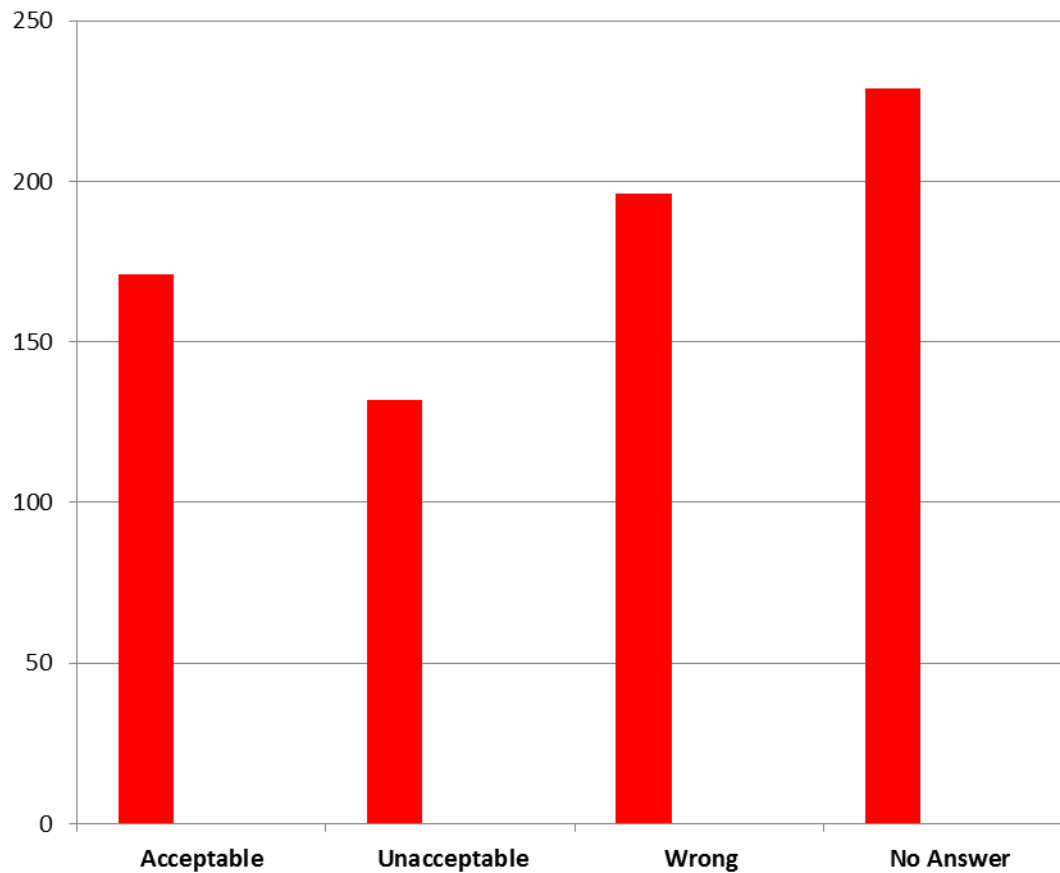
#### Analysis & Discussion of The Results

Out of the results of correcting the test papers , the researcher has classified the answers into three main categories which are : right ,wrong and no answer .The test paper includes 28 legal terms exposed to the fourth year students of both sexes at Shatt al Arab college University in the English Department. the first main category is subdivided into two types as acceptable and unacceptable .The numbers and percentages of the answers of each category are shown below in Table ( 1 ):

Table (1) The Numbers and Percentages of the Answers of Each Category

Category	No. of Answers	%
Acceptable	171	23.48
Unacceptable	132	18.13
Wrong	196	26.94
No answer	229	31.45
Total	728	100%

This is clarified in a diagram below



This diagram shows the number and percent of each category

Acceptable:

As shown in Table (1), 'acceptable' as the first subcategory of the examinees' answers means that the answer is not only right but accurate and it can be considered as a standard translation. This subcategory means that the examinee has reached or approximated the dictionary translation of the legal terms.

Unacceptable :

Unacceptable which is the second subcategory of the examinees' answers means that the translation or answer is right but it does not give the accurate or adequate meaning. Thus, this subcategory means that the examinee has just nearly approximated the acceptable translation or the dictionary meaning. This means that the translation given by the examinee is right but it is not a legal translation.

Wrong :

It is the second main category of the examinees' answers. This category shows clearly that the answer is totally wrong .

No Answer:

It is the third main category of the examinees' answers .This category shows that the examinee has not only brought a wrong answer but he absolutely has no idea about the meaning or translation of that term .

### Discussion of Results

After checking the test papers answered by the examinees , the answers are classified into three main categories as right ,wrong and no answer as mentioned above .Concerning the first main category ,the researcher has noticed that there are two types of answers which are acceptable and unacceptable .There are (171) answers show that they all acceptable with a percentage of (23.48 %) .This indicates that only those students of the fourth year of the department of English are adequate enough in translating legal terms .This can be clarified by randomly chosen samples of answers .For example ,the legal term 'Guardian' is translated as " wasi " ' وصي ' .Another acceptable answer is the legal term ' Immunity ' which is translated as "mana'a " ' مناعة ' .Also the term ' Alimony ' is translated as "nafaqaa zawjia " ' نفقه زوجيه ' .In addition ,the term 'conviction 'is translated as " Idanaa " ' ادانه ' . There are many other instances which show that the students have got the acceptable, accurate or standard translations .

Concerning the second subcategory which is unacceptable, the answers are right but they are not adequate as legal translations .Many samples of unacceptable translation as chosen randomly can add certain clarifications to this subcategory .The legal term ' Argument' is translated as " munaqasha " ' مناقشه ' .which is not adequate enough as a legal translation because its legal translation as used by man of law or lawyers as ' murafa'a' مرافعه .Another legal example ' Guardian ' which is translated as " murshid " ' مرشد ' and we know its acceptable translation is 'wasi' as mentioned previously . 'Burglary ' which is translated as " sariqat al binaya " ' سرقة البناء ' ,in Arabic ' whereas its acceptable legal translation is ' satoo' سطو

In addition , the legal term 'Coercion ' is translated as ' unif ' and in Arabic as ' عنف ' whereas its acceptable legal translation is ' ikrah' اكره.

Also , the legal term "Annulment' is translated as " fasikh aqd al zawaj "



And in Arabic as ' فسخ عقد الزواج ' whereas its acceptable legal translation is ' ibtal ' ابطال and there are many other unacceptable examples translated by the students of English which show clearly that they are not adequate enough to produce acceptable legal translation .

The second main category indicates clearly that the examinees absolutely do not know the acceptable and adequate meaning of the terms .Thus ,the number of the wrong answers by the examinees is (196 ) with a percentage of ( 26.94%) .We may expose here some samples of such answers .

The legal term " Admission " is translated by one examinee as ' hiyadi ' حيادي and translated by another examinee as ' inkar',in Arabic as ' انكار ' whereas its acceptable legal translation is 'iqrar' اقرار. Also the legal term "Appellate Court "is translated as ' distoor qatha'i ' and in Arabic can be written as ' دستور قضائي ' whereas its acceptable legal translation is ' mahkamat isti'naf ' محكمة استئناف. There are also many other examples which clearly show that the examinees here totally ignore the right and acceptable translation .

Concerning the last category ,it is said that the examinees absolutely have no idea about such terms. They ignore even a similar or approximate meaning .The number of the answers under this category is ( 229 ) with a percentage of ( 31.45%) .

## Conclusions

The results reveal that the students of the department of English lack a legal sense in translating legal terms .They can approximate the acceptable legal translation but not in an adequate legal level .This means that translating legal terms needs an experienced translator in law .Even in our daily life, when we talk with a lawyer for example ,we feel that he tends to use certain expressions which are different from those used by other laymen .

The numbers and percentages reveal this fact .Out of seven hundred and twenty eight terms(728), only one hundred and seventy one terms are translated properly and accurately with a percentage of ( 23.48 %).Moreover, one hundred and thirty two terms ,though right , are not acceptable or standard translation ,i e, they only approximate the general meaning .Thus, this translation is not legal .The largest numbers and percentages lie in both categories :wrong and no-answer .Hence, one hundred and ninety six terms are translated wrong. Moreover, two hundred and twenty nine terms are left without answer .The last two categories show clearly that the students of the department of English are facing certain difficulty in translating legal terms .

## **Recommendations**

The researcher recommends to lay more emphasis on the legal translation in the Department of English especially with the translation material . Thus, the researcher recommends the following s:

1-Simplifying of translation process for the students by following efficient techniques .

2-Teaching and introducing translation difficulties and problems in details .

3-paying attention to idiomatic difficulties.

4-Teaching the students the principles of translating from English to Arabic.

5-Put the emphasis on the legal extracts and terms while teaching the translation syllabus .

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Appendix

Male

Female

Translate the following English terms into Arabic depending on their definitions:

English Term	Definition	Translation
Acquittal	- when a judge or a jury finds that the person on trial is not guilty	
Action in rem	-proceeding"against the thing" as compared to personal actions(in personam). Usually a proceeding where property is involved .	
Admission	saying that certain facts are true.But not saying you are guilty.	
Adoption –	– the way to make the relationship between a parent and child legal when they are not related by blood .	
Aggravated battery	unlawful use of force against another such as using a dangerous weapon	
Alimony	money the court orders you to pay to a spouse or ex-spouse	
Alteration ,forgery by	adding erasing,or changing a document with the specific intent to cause it to appear different from what it originally was intended to be to cheat another	

	person.	
Annulment	a legal action that says your marriage was never legally valid because of unsound mind,incest , incest ,bigamy ,being too young to consent ,fraud ,force or physical incapacity .	
Appellate court	acourt that can review how the law was used to decide a case in a lower court.	
Argument	remarks made by an attorney to a judge or jury on the facts of the case or on points of law .	
Assingnment of support rights	when a person who gets public assistance agrees to give the state any child support they get in the future .The person gets money and other benefits from the state .So the state can use part of the child support to pay for the cost of that public assistance.	
Attorney of record	the lawyer whose name is listed in a case record as representing someone in the case .	

BAR-	all of the lawyers qualified to practice law .For example,a state bar includes all of the lawyers qualified to practice law in that state	
Battery ,Spousal	an offensive touching or use of force on a spouse without the spouse's consent.	
Burglary	when someone unlawfully breaks into or enters a building or home .and they intend to or do commit a theft or other serious crime .	
Child pornography	any obscene material that depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct .	
Coercion	–compulsion ,constraint ,compelling by force or arms or threat.	
Condemnation	the legal process by which the government takes private land for public use,paying the owners a fair price .	
Confiscate	–to seize or take or take private property for public use( the police took the weapon)	
Constitution	the central law of our country that sets up the creation ,character and organization of its power and how that power is exercised .The rule ,principles ,description of the government"s power	

	,and the main rights that the people of a country or state have .	
Conviction	when a judge or jury finds a criminal defendant guilty .	
Court ,Juvenile	–a court having jurisdiction over cases involving children under a specified age ,usually 18 .Cases generally involve delinquent ,dependent and neglected children .	
Defraud	–to make a misrepresentation of an existing material facts ,knowing it to be false or making it recklessly without regard t whether it is true or false .To practice fraud ,to cheat or trick .To deprive a person of property or any interest,estate ,or right by fraud ,deceit or artifice .	
Embezzlement	taking property by a person to whom the property has been entrusted .	
Felony	a serious crime that can be punished by more than one year in prison or or by death .	
Guardian	– aperson appointed by will or by law to assume responsibility for incompetent	

	adults or minor children .If a parent dies ,this will usually be the other parent .\if both die ,it probably will be a close relative .In juvenile dependency cases ,once a guardian is a ppointed ,dependency may be terminated .	
Immunity	a right to be excepted from duty or penalty .	
Lineup	a police identification procedure by which the suspect to a crime is exhibited,along with others,before the victim or witness to determine if the victim or witness can identify the suspect as the person who committed the crime	



## الصعوبات التي تواجه طلاب اللغة الانكليزية في عملية الترجمة القانونية من اللغة الانكليزية الى اللغة العربية .

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### الخلاصه

تهدف هذه الدراسة الى كشف وتشخيص المشاكل والصعوبات التي تواجه طلاب اللغة الانكليزية في كلية شط العرب الجامعة في البصرة، في عملية الترجمة القانونية من اللغة الانكليزية الى اللغة العربية. كما يحاول الباحث في وضع الحلول المناسبة للتغلب على مثل هذه الصعوبات ،ومعرفة مدى امكانية طلاب اللغة الانكليزية في ترجمة مثل هذه المصطلحات كترجمه قياسيه او مقبوله .

تقدم هذه الدراسة اولا مقدمه استعراضيه مثل الطلاب الذين يجري عليهم الاختبار ، افتراضية الدراسة، الاختبار ووسيلة الاختبار .

تقع هذه الدراسة ايضا تحت عناوين نظريه عده مثل تعريف الترجمة وانواعها ومشاكلها بالا ضافه الى الترجمة القانونية .

اضافة الى ذلك ، تكشف الدراسة تحليلا عمليا واحصائيا لنتائج الاختبار وتنتهي بالنتائج والتوصيات ثم