

The Impact of Culture on Translating Legal Documents in Iraq

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Abstract

This study critically evaluates the translation quality of legal documents pertaining to marriage, divorce, inheritance, and agency contracts before the re-correction process performed by the sworn translator at Basrah Federal Appeal Court. It highlights the essential role of legal translators, especially sworn translators, in accurately rendering culturally and religiously sensitive terms embedded in personal status contracts. Given the potential legal consequences of mistranslations—such as disputes over rights and obligations—the study underscores the need for precision and comprehensive understanding of both source and target legal systems and languages. Employing Newmark’s translation model, which balances semantic fidelity and communicative clarity, the research applies a qualitative textual analysis to the translated contracts to identify common difficulties and errors encountered by translators. The study is systematically organized into five chapters: the introductory background and objectives; theoretical framework covering legal language and translation concepts; detailed methodology including sample collection; an in-depth practical analysis of contract translations highlighting challenges; and concluding with recommendations and suggestions for further research. This approach ensures a thorough assessment of translation quality in the context of Iraqi legal practice.

Keywords: Legal translation, sworn translators, personal status contracts, marriage contract, divorce contract, inheritance law, agency contract, translation quality, Iraqi legal system.

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تقييم ترجمة الوثائق القانونية التجارية من محكمة الاستئناف في البصرة تأثير الثقافة على ترجمة الوثائق القانونية في العراق

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المستخلص

تُقيم هذه الدراسة جودة ترجمة الوثائق القانونية المتعلقة بعقود الزواج والطلاق والإرث والوكالة قبل عملية التصحيح التي يُجريها المترجم المحلّف في محكمة استئناف البصرة الاتحادية. وتُبرز الدور الحيوي الذي يؤديه المترجمون القانونيون، ولا سيّما المترجمون المحلّفون، في نقل المصطلحات ذات الحساسية الثقافية والدينية بدقة ضمن عقود الأحوال الشخصية. ونظرًا لما قد تسببه الترجمة الخاطئة من تبعات قانونية، مثل النزاعات حول الحقوق والالتزامات، تؤكد الدراسة على أهمية الدقة والفهم العميق لكلا النظامين القانونيين واللغتين المصدر والهدف. وقد اعتمدت الدراسة نموذج "نيومارك" في الترجمة، والذي يوازن بين الأمانة الدلالية والوضوح الإيصالي، مع تطبيق تحليل نصي نوعي للعقود المترجمة بهدف الكشف عن أبرز التحديات والأخطاء التي يواجهها المترجمون. وتنقسم الدراسة إلى خمسة فصول تغطي: الخلفية العامة وأهداف البحث، والإطار النظري الذي يتناول مفاهيم اللغة القانونية والترجمة، والمنهجية بما في ذلك آلية جمع العينات، والتحليل العملي المفصل لترجمات العقود وبيان التحديات، ثم تنتهي بالخلاصة والتوصيات والمقترحات لدراسات مستقبلية. ويهدف هذا النهج إلى تقديم تقييم شامل لجودة الترجمة القانونية في سياق الممارسة القانونية العراقية.

الكلمات المفتاحية: الترجمة القانونية، المترجمون المحلّفون، عقود الأحوال الشخصية، عقد الزواج، عقد الطلاق، قانون الإرث، عقد الوكالة، جودة الترجمة، النظام القانوني العراقي.

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1.Introduction

This study investigates the complexities of legal translation, a specialized discipline that requires more than mere fluency in languages; it demands a profound understanding of the legal systems, structures, and cultural frameworks of both the source and target languages. Legal texts are not just linguistic constructs but are rooted in legal reasoning, institutional norms, and cultural traditions. The research is particularly concerned with the translation of legal discourse from Arabic into English within the Iraqi legal context, where cultural and religious elements deeply influence legal expressions and terminology. The issue of cultural specificity poses a major challenge, as many legal terms—especially in matters of personal status such as marriage, divorce, and inheritance—are shaped by Islamic jurisprudence, tribal customs, and Iraq’s evolving legal structures. These culturally embedded terms often lack direct equivalents in English, increasing the risk of mistranslation or misinterpretation, which can lead to serious legal consequences. The study aims to explore the impact of such cultural elements on the translation of legal texts, emphasizing the importance of cultural awareness and contextual understanding in achieving accurate and meaningful translations.

To examine this issue, the study adopts Peter Newmark’s translation model, which provides a framework for balancing semantic fidelity with communicative clarity. Through this model, the researcher conducts a qualitative analysis of authentic legal contracts—specifically marriage, divorce, and inheritance documents—sourced from the Basrah Federal Appeal Court and translated by official bodies such as the Ministry of Foreign Affairs. These samples are analyzed to assess the accuracy of legal translation and identify recurrent challenges. The research proceeds from the hypothesis that culture fundamentally shapes legal systems, and that legal translators must go beyond literal translation to convey meaning that aligns with the legal logic and social values of the target culture. Terms such as “هي زوجتي ومدخولتي بصحيح العقد الشرعي” or “طلاق خلع” represent legal and religious concepts that must be translated with both legal precision and cultural sensitivity.

This study comprises both theoretical and practical components: the former outlines the preliminaries, significance, aim, hypothesis, and procedures of the research, as well as a conceptual overview of how Iraqi culture influences the translation of legal discourse. The practical component involves in-depth analysis of the translated contracts, using Newmark’s five-part model to evaluate the accuracy and effectiveness of

the translations. The scope of the study is limited to legal documents translated between Arabic and English, focusing on the intersection of language, law, and culture in Iraq. Given the blend of civil law, Islamic Sharia, and tribal tradition in Iraqi legal practice, this study holds critical relevance for understanding how cultural values shape legal interpretation and translation. The motivation behind the research stems from the author's academic and practical engagement with legal texts, and from a recognized gap in the existing literature regarding the impact of Iraqi cultural and religious elements on legal translation. Ultimately, the study aspires to improve the quality, reliability, and cultural appropriateness of legal translations, thereby contributing to clearer legal communication and greater fairness in multilingual legal contexts.

2. Legal Language Defined

LL is a specialized variety of language used by individuals working within the legal profession, including judges, lawyers, legislators, and legal scholars. It serves not only as a means of communication within legal institutions but also as a tool for structuring legal norms and procedures. While it is grounded in ordinary language, LL departs from everyday usage in several significant ways. It incorporates archaic expressions, rigid syntactic structures, and specialized terminology that have evolved over centuries to ensure precision and reduce ambiguity (Tiersma 142). These features distinguish LL from general discourse and make it a sublanguage—a linguistic system with its own lexical, syntactic, and semantic norms, tailored to legal functions (Tiersma 143; Mellinkoff 9).

In common law countries such as the United States, Canada, Australia, and South Africa, legal English has developed under the influence of Latin and French legal traditions. The persistence of Latin maxims and French-derived terms reflects historical legal borrowings that continue to shape modern legal discourse (Williams 1946; Gibbons 2003). Consequently, many legal terms in English have retained their Latin roots, such as *habeas corpus*, *mens rea*, and *prima facie*, which not only convey precise legal meanings but also underscore the historical continuity of legal institutions (Haigh 27).

Moreover, the role of collocations in LL cannot be overstated. Collocations—frequently recurring combinations of words—are central to the coherence and acceptability of LTs. Legal collocations such as “binding agreement,” “statutory interpretation,” and “due diligence” are more than stylistic choices; they encode specific legal concepts that may not be easily rendered into other languages without loss of meaning (Biel 2010b, 163; Kjaer 509; Goźdz-Roszkowski 139). This highlights the

importance of mastering such fixed expressions in legal translation and drafting.

Ashok Kelkar's categorization of five legal discourse contexts emphasizes the dynamic nature of legal communication. These include interactions between judges and lawyers, internal judicial deliberations, courtroom procedures, client consultations, and agreements among private individuals (Tandon & Behl 4). Each context necessitates a different register and degree of formality, further complicating the mastery of LL.

It is also crucial to acknowledge that LL is not a distinct language per se, but rather a specialized form of various national languages. For instance, legal discourse in India may occur in English, Hindi, or regional languages such as Marathi, depending on the jurisdiction and context. However, despite the linguistic diversity, the legal register remains identifiable by its terminological precision, formal tone, and structural rigidity (Gibbons 6). As Professor Ganesh Devy aptly notes, legal language should be viewed more as a documentary form than a communicative medium—it functions to record, prescribe, and authorize rather than to express or persuade in a traditional sense (Tandon & Behl 5).

Additionally, understanding the historical development of legal language is essential for its effective use and translation. The formation of legal English has been shaped by socio-political events, such as the Norman Conquest and the influence of Roman law, which introduced layers of terminology and legal reasoning that remain integral to modern legal systems (Crystal & Davy 1986; Williams 1946). Without grasping this historical depth, the learner of LL may struggle to comprehend its intricacies or apply it accurately in contemporary legal contexts.

In conclusion, LL is a complex and historically rich variety of language that requires specialized knowledge to understand and use effectively. Its distinct features—including rigid structures, specialized vocabulary, and contextual usage—reflect its functional role within the legal system. For legal professionals and translators alike, mastery of this sublanguage is essential for ensuring clarity, precision, and the faithful representation of legal norms across languages and jurisdictions.

2.Literature Review

The evolution of legal language is intricately tied to the historical development of legal systems and the sociopolitical contexts in which they emerged. LL, as a subset of specialized language, evolved alongside the formation of legal institutions and reflects the linguistic, cultural, and institutional shifts across different periods. The English LL in particular

offers a compelling case of linguistic stratification and historical layering, drawing from Old English, Latin, French, and Norse origins.

LL began to take shape in England during the early Middle Ages when Latin was the dominant language of administration and law. After the Norman Conquest of 1066, French became the language of the ruling class and the courts, while Latin remained the language of ecclesiastical and scholarly writing. This trilingual system persisted for centuries, resulting in a hybrid legal lexicon that includes Latin legal maxims, French procedural terms, and Old English core vocabulary (Tiersma 1999, p. 27; Mellinkoff 2004, p. 45).

The influence of Norman French is particularly evident in procedural and administrative terminology—terms such as “attorney,” “estate,” “verdict,” and “court” all trace their roots to Anglo-Norman French. Latin, on the other hand, contributed significantly to the conceptual and doctrinal language of the law, providing abstract terms like “habeas corpus,” “mens rea,” and “res judicata” (Crystal and Davy 1969, p. 202). This historical layering has resulted in a vocabulary that is both technical and archaic, often resistant to modernization and simplification.

LL also bears the marks of institutional continuity. LTsin England and other common law jurisdictions continued to use traditional expressions for centuries. Even after the decline of Latin and French as spoken languages, their usage persisted in legal contexts due to the perceived precision, authority, and tradition they carried (Bhatia 1993, p. 102). This inertia of legal language contributed to its formal, rigid structure and its resistance to change.

However, the late 20th century witnessed significant reform movements aimed at demystifying LL. The Plain English Movement, originating in the United States and spreading to the UK and Australia, sought to simplify legal documents to make them more accessible to the public. Legislative reforms, such as the Woolf Reforms in 1999, emphasized the use of clear and plain language in civil procedures, replacing terms like “plaintiff” with “claimant” and introducing user-friendly court forms (Tiersma 1999, p. 210; Butt and Castle 2006, p. 38).

Modern scholars have also pointed to the global spread of English as a LL especially in post-colonial states where English continues to function as the medium of legal instruction and practice. This has led to a globalization of legal English and the emergence of hybrid legal varieties influenced by local legal traditions and native languages (Mattila 2013, p. 67; Galdia 2017, p. 113).

In sum, LL is not simply a product of legal reasoning but a historical artifact that embodies centuries of legal practice, social hierarchy, and

institutional legacy. Its evolution reflects the cultural, linguistic, and political trajectories of legal systems. Understanding the historical roots of legal language is thus essential not only for accurate legal interpretation and translation but also for reforming it to serve the needs of modern legal communication.

3.The Importance of Legal Language

LL holds a pivotal role in legal systems worldwide, serving as the medium through which legal concepts are articulated, legal obligations are communicated, and judicial decisions are justified. The need for LL has grown significantly, particularly in multilingual and multicultural societies, where legal language enables effective communication among legal professionals and between institutions and laypersons (Cao 12). Its precise and unambiguous character makes it indispensable in ensuring legal certainty and preventing misinterpretations in both national and international legal contexts.

LL is not only a tool of legal practitioners but also a central focus of translation studies, as legal translation requires a high degree of linguistic and conceptual accuracy. The ability to translate legal texts effectively is essential to safeguarding access to justice, especially for those who are not proficient in the official language of legal proceedings. As Carr et al. argue, LL allows non-native speakers to communicate with public service providers and access essential services such as healthcare, education, and legal aid (Carr et al. 1997).

Moreover, LL is foundational to the very existence of law. Without language, law cannot exist, be interpreted, or enforced. Tiersma underscores this point by stating, “Our law is a law of words. Words are also a lawyer’s most essential tools” (Tiersma 1). Language not only conveys legal norms but constitutes them through legal speech acts such as promises, contracts, verdicts, and legislation. Consequently, LL has evolved to exhibit specific characteristics such as precision, formality, impersonality, and logical sequencing, which are essential for drafting authoritative legal texts (Mair 45; Mellinkoff 24).

The teaching and study of LL pose challenges due to its dense syntax, archaic expressions, and system-specific terminology. As Gibbons explains, LL has developed specialized vocabulary and structures that are crucial for expressing complex legal concepts. These terms reflect not only the content of the law but also the unique legal culture from which they emerge (Gibbons 286). For this reason, LL varies significantly across legal systems, necessitating a comparative perspective in legal linguistics.

Recent scholarship has emphasized the growing significance of legal language in both domestic and international contexts. Researchers such as Kasonde, Lorz, and Bieliakov have contributed to understanding how legal language functions in different legal traditions (Smith 67). Additionally, advancements in the field of forensic linguistics have highlighted the role of language analysis in criminal investigations, courtroom discourse, and legal interpretation, further reinforcing the interdisciplinary importance of LL (Solan and Tiersma 2012).

Furthermore, movements toward legal reform have recognized the need to simplify LL to enhance public understanding. The Plain Language Movement, which began in the 1970s, aimed to replace convoluted legal jargon with clearer expressions, thus making legal documents more accessible to the general public (Bázlik and Ambrus 9; Tiersma 1999). These reforms reflect a broader recognition of the social function of law and the necessity of making legal communication more democratic and inclusive.

In conclusion, LL is not merely a technical means of communication but a dynamic, evolving system that reflects the legal, cultural, and historical contexts in which it operates. Its mastery is essential not only for legal professionals and translators but also for ensuring that legal systems function fairly and transparently.

4. Classifications of Legal Language

Legal language (LL) encompasses various forms that reflect its diverse legal functions. According to Cao, LL can be classified into normative, performative, and technical types, each serving a specific legal purpose (Cao 2007, 13–20).

1. Normative Legal Language

Normative LL sets legal standards and defines rights and obligations. It appears in statutes and regulations aimed at regulating behavior and maintaining legal order (Cao 2007, 12; Jenkins 1980, 98).

2. Performative Legal Language

Grounded in speech act theory, performative LL enacts legal consequences through language itself, such as court rulings or marriage declarations (Cao 2007, 14; Austin 1962; Searle 1969).

3. Technical Legal Language

This form relies on specialized vocabulary and structure, including Latin terms and archaic expressions, often inaccessible to laypersons (Tiersma 1999, 105), and ensures precision in legal communication.

Beyond this tripartite classification, LL is examined through its nature, features, functions, and genres.

4.1. The Nature of Legal Language

- Uniqueness: Specialized terminology and rigid structure (Bhatia 1993, 102).
- Tradition: Historical terms reflecting legal evolution (Tiersma 1999, 76).
- Purposefulness: Aimed at creating and interpreting norms (Cornu 2005, 21).

4.2. Features of Legal Language

- Register: Highly formal with variation based on audience (Gibbons 2003, 7).
- Formatting: Structured use of layout elements (Charrow et al. 2001, 145).
- Lexicon: Includes legalisms, doublets, and foreign terms (Mellinkoff 1963, 24).
- Syntax: Long, complex sentences and passive forms (Bhatia 1993, 108).

4.3. Functions of Legal Language

- Referential: Communicates legal rules clearly (Mattila 2013a, 28).
- Conative: Directs or prohibits conduct (Solan and Tiersma 2012, 42).
- Metalinguistic: Explains legal concepts and terminology (Šarčević 1997, 37).

4.4. Genres or Types of Legal Texts

- Statutes: Codified laws by legislatures.
- Contracts: Binding agreements.
- Wills: Legal instruments for posthumous property transfer.
- Courtroom Language: Judicial reasoning and procedural discourse (Galdia 2009, 66).

Understanding these classifications enhances legal text interpretation and supports effective translation, as LL is both a communicative and structural foundation of law.

5. Requirements of Legal Language Effective legal communication depends on key principles that ensure legal texts are clear, precise, and enforceable.

1. Clarity and Precision

Clarity prevents misinterpretation, while precision involves accurate use of terminology. Keating (2019) emphasizes that using plain language improves understanding and reduces risks caused by complex legal expressions.

2. Transparency

Transparent language clarifies rights and obligations, minimizing disputes. According to Languages Unlimited, transparency in translation is essential for compliance and protecting parties' interests through clear and honest communication.

3. Consistency and Stability

Consistent terminology supports legal stability and avoids confusion. Coupette et al. (2021) caution against repetitive or ambiguous phrasing, which weakens the clarity and reliability of legal documents.

4. Linguistic Competence and Cultural Awareness

Legal translators need both linguistic and legal-cultural expertise. Turatsinze (2012) highlights the role of plain, gender-neutral language in achieving clarity, especially in cross-cultural legal contexts. Cultural awareness ensures translations maintain their intended legal effect across jurisdictions.

6.Characteristics of Legal Language

Legal translation represents a distinctive field within intercultural communication, characterized by a complex system of legal concepts and ideas that are deeply embedded in language and culture (Snell-Hornby 43; Cao 23). The interplay of language and law reflects the historical and social evolution of societies, where legal terminology often carries meanings shaped by customs, religion, and other societal factors (Šarčević, Wagner, and G  mar 2013; Pozzo 186). This complexity is heightened by the mixed nature of many legal systems, which combine imported legal structures with indigenous normative frameworks. Translating legal language therefore requires managing terminology that originates from diverse sources and adapting it into a different linguistic and cultural context (Serry 134; Wagner and G  mar 2008).

The process of legal translation can be understood as creating a "Third Space" — an intermediary cultural and linguistic domain where elements from both the source and target legal cultures interact and evolve (Rutherford 211; Ika and Wagner 120). This space is inherently fluid and ambiguous, serving as a dynamic platform for negotiation and cultural exchange.

Studies focusing on English legal language emphasize its formal characteristics, including a tendency toward lengthy, complex sentences and an impersonal tone. Legal English often utilizes archaic phrases and formulaic expressions, reflecting its roots in historical legal tradition. The complexity of syntax, such as the frequent use of nominalizations, compound sentences, and conditionals, poses significant challenges for comprehension (Gustafsson 1975; Crystal and Davy 1969). Additionally,

omissions in verb forms, a phenomenon known as “voice deletion,” further complicate the clarity of LTs (Danet 1980).

A notable feature of LL is its prioritization of precision and unambiguity over stylistic elegance. Complex constructions, including post-modifying elements, are strategically employed to ensure that the intended meaning is conveyed with maximum clarity (Crystal and Davy 1969, 205). Overall, the specialized vocabulary, historical layers, and syntactic intricacies of LL contribute to its recognized difficulty, necessitating a high level of expertise for accurate interpretation and translation (Mellinkoff 1963; Bázlik and Ambrus 2008).

7.Problems of Legal Language

As has already been discussed in previous literature, LL should never be equated with ordinary language. Translators and interpreters are highly conscious of this distinction, yet the general public often misunderstands the nature of their work. Many clients believe translation is simply the conversion of words from one language to another, unaware that each branch of translation has its own challenges and requirements. Legal translation, in particular, is strongly tied to ethical considerations, which distinguish it from other domains. Of course, ethical responsibility is a shared value across all branches of translation, but in legal contexts it becomes far more pressing, since legal texts directly affect people’s rights and duties. Hence, client education has become an essential part of the profession: translators often stress that their work is highly specialized and cannot be compared to other types of interpreting or translation (Mikkelsen, 2010).

A significant body of research has confirmed that LL creates considerable challenges for comprehension, especially for laypersons. This is mainly because legal documents frequently employ rhetorical and technical styles of writing that differ from ordinary communication. Government employees, court officials, and judges often rely on specialized terminology, impersonal constructions, archaic or unusual words, modal verbs, and excessively long and complex sentences. These features collectively form barriers to understanding. Gonzalez et al. (1991, p.384) point out that what makes legal interpreting especially complex is the necessity of retaining even the smallest non-semantic detail—such as hesitations, pauses, or hedges—because such elements may carry legal weight. Unlike other types of interpreting, legal interpreters cannot omit or simplify; they must reproduce the source message in full detail to achieve equivalence. This naturally places translators in difficult linguistic situations, where precision is demanded under constraints of time and context.

The major challenges of LL can be summarized under several categories:

1. Uncertainty of Meaning: Many legal terms are ambiguous or open-ended, which generates serious translation problems. For instance, the English word right has multiple meanings: entitlement, correctness, moral authority, or even a direction. Within LL, this term is considered vague and context-dependent, which complicates its accurate rendering in another language.

2. Language Deficiency: Translators often face difficulties linked to insufficient knowledge of both linguistic and cultural aspects. A lack of expertise in either area may cause misinterpretation or distortion of legal meaning. This deficiency may stem from gaps in legal terminology, inadequate training, or limited awareness of the socio-cultural framework in which the law operates.

3. Unfixed Meanings of Words: Some legal terms evolve over time, creating dual or multiple meanings. For example, the term asylum previously denoted a place of refuge or protection, but today it is also commonly associated with institutions for the mentally ill. Importantly, both meanings continue to coexist, which poses a dilemma for translators who must decide which sense is relevant in context.

4. Specialized Words: Legal professionals often use terms that diverge from their everyday usage. For example, the word sentence is commonly understood as a grammatical unit, but in legal discourse it refers to judicial punishment. Such differences highlight the professional jargon of LL and demand that translators correctly identify the legal sense rather than the ordinary one.

5. Archaism: Scholars have long noted that legal English preserves a large number of archaic terms. Crystal and Davy (1969, p.207) observed that legal documents are “studded” with words and phrases no longer used in everyday English but still prevalent in law. Archaism gives legal texts a sense of tradition, continuity, and authority (Oruma, 1983, p.20).

According to Veretina-Chiriac (2012, p.53), these old forms are a deliberate stylistic choice, used to enhance precision and formality. Common examples include hereafter (meaning “after this”) and forthwith (meaning “immediately”). While some of these are relatively transparent, others are difficult for laypersons to understand. Tiersma (1994) further explains that terms like herein or therein serve to condense lengthy phrases such as “in this document” or “in that clause,” thereby promoting economy of expression. Archaism, therefore, reduces verbosity but simultaneously increases comprehension problems for those unfamiliar with legal style.

In conclusion, legal language is distinguished by a set of complex features that make it both precise and difficult. Ambiguity, technicality, specialized vocabulary, evolving word meanings, and archaism all contribute to a style that serves legal precision but complicates understanding for ordinary people. These challenges confirm the crucial need for translators to combine linguistic expertise with cultural and legal awareness. As highlighted by Dakhil and Hawel ,overcoming the problems of LL requires not only mastery of both languages but also sensitivity to the cultural and historical foundations of legal discourse. LT, like other domains, has been influenced by many factors such as globalization, immigration, and global commerce. These factors have contributed to shaping legal interpreting (LI), making it one of the most demanding types of translation. It is therefore important to highlight the connection between globalization and translation, since globalization significantly affects our lives and cultures. Moreover, it has a direct impact on the translator's profession and personal life (Dakhil and Hawel 701).

8. Challenges of Legal Language in Multicultural Contexts

Legal language (LL), as both a reasoning tool and a mechanism of social regulation, presents unique challenges in multicultural legal systems where diverse languages, traditions, and values intersect. These challenges complicate not only domestic legal practices but also multilingual translation and interpretation. Below are key challenges observed in such contexts:

1. Conceptual Mismatches between Legal Systems

LL often contains culturally specific legal concepts that lack direct equivalents in other systems. Terms like “equity” or Islamic notions such as qisas and diya resist accurate translation due to their embedded cultural and moral dimensions (Šarčević 2000, 20; Gémar 2016, 136). The absence of conceptual equivalence can create legal uncertainty, particularly in multilingual jurisdictions like Switzerland and Canada (Mattila 2013, 122).

2. Multilingual Drafting and Legal Ambiguity

In jurisdictions with multiple official languages (e.g., EU, South Africa, Iraq), ensuring consistency across language versions is difficult. The principle of “equal authenticity” leads to vague drafting and terminological compromises, often weakening legal clarity and requiring judicial interpretation (Cao 2007, 101; Bhatia et al. 2008, 118).

3. Cultural Bias in Legal Translation

Legal ethnocentrism may emerge when dominant legal cultures influence the translation of legal texts. Postcolonial settings and

religiously embedded concepts (e.g., mahr, khul') often suffer from reductive or inaccurate rendering in translation, affecting legal understanding and research (Galdia 2009, 31; Hassan and Khalifa 2017, 92). A culturally informed translation approach is essential.

4. Interpreter Bias and Procedural Fairness

Court interpreters may unintentionally distort testimony due to linguistic limitations or personal biases, thus undermining procedural fairness (Berk-Seligson 2002, 45). Although certification and training programs exist in some countries, interpreter standards remain inconsistent.

5. Linguistic Minorities and Access to Justice

Language barriers significantly limit access to justice for linguistic minorities. In countries like Iraq, groups such as Kurds and Turkmen often lack legal services in their languages (Al-Khafaji 2022, 61). International human rights instruments call for institutionalized legal interpretation as a constitutional right, not a discretionary service.

9. The Role of Legal Language in Sharia-Based Legal Systems

Legal language (LL) in Sharia-based legal systems derives its authority from divine sources—Qur'an, Sunnah, and juristic tradition—granting it a unique blend of theological and juridical weight. Unlike secular systems, Sharia LL is both normative and devotional, intertwining spiritual and legal dimensions.

1. Linguistic Sacredness and Juridical Authority

Sharia LL is marked by the sanctity of Qur'anic Arabic, where terms like ḥudūd, 'aqd, or ṭalāq carry not only legal function but spiritual significance (Kamali 2008, 37). Given the immutability of Qur'anic language, interpretation requires a deep interplay of linguistic, juristic, and historical analysis (Hallaq 2009, 112).

2. Arabic as the Medium of Revelation and Legal Deliberation

Arabic holds epistemic and legal primacy due to its role in divine revelation. Legal systems like Iraq's use Arabic not just administratively, but to reflect the theological authority of the Qur'an. This status complicates translation, as key terms often lose doctrinal nuance outside their original linguistic and cultural context (El-Awa 2016, 54).

3. Fusion of Normativity and Ritual in Legal Language

Sharia LL often merges legal obligations with religious rituals. Actions like ṭalāq or mīrāth are both legally binding and spiritually framed. Legal validity may depend on intention or moral context, as noted by Ibn Qudāmāh (vol. 7, 218), requiring language that conveys both legal structure and ritual depth.

4. Contemporary Applications in Iraqi Personal Status Law

Iraq's Personal Status Law No. 188 (1959) illustrates the enduring impact of Sharia LL. Terms like *mahr*, *'idda*, and *rij'ī ṭalāq* are used without translation, reflecting their *fiqh* origins (Ali and Jamal 2015, 91). Translating such terms into English—e.g., “*khul'*” as “wife-initiated divorce”—often results in oversimplification, requiring careful contextualization in bilingual legal settings.

10. Legal Translation

Legal translation is a highly complex domain due to its intersection with language, law, and culture. While general definitions like Newmark's (1991) and Nida and Taber's (1965) provide foundational insights into meaning transfer and dynamic equivalence, legal translation requires deeper precision. Halliday (2001) emphasizes textual, rather than lexical, equivalence as essential for legal accuracy.

Given that legal language is a specialized sublanguage, its translation must be accurate, functional, and consistent. Taylor (1998) classifies legal texts as LSPs, while Newmark (1981) warns against literal, sentence-by-sentence translation, particularly of idiomatic or culturally embedded expressions.

Skopos Theory (Vermeer, 1984) highlights the importance of purpose in translation, especially in bridging differences between legal systems like common law and civil law (Šarčević 2000). As globalization expands cross-border legal interactions (Gotti and Šarčević 2006), ensuring legal-functional equivalence becomes crucial, especially where translated texts carry legal authority (Beaupré 1986).

Simms (1997) outlines the legal translator's dual role: preserving legal meaning and adapting it to the target legal system. Chromá (2007) adds that successful legal translation requires interpreting the source culture and aligning it with the target system's expectations.

Cao (2007) reinforces the need for translators to be both bicultural and bijural to resolve conceptual gaps and ensure legal accuracy. Ultimately, legal translation is not merely linguistic—it is a legal act that demands linguistic skill, legal knowledge, and cultural sensitivity to prevent serious practical consequences.

11. Translating Legal Types

Legal translation encompasses diverse text types, each requiring a distinct approach based on its legal function and context. Cao (2007) identifies three main categories: operative legal documents (e.g., contracts, wills), academic legal literature, and normative instruments like laws and treaties. Each category carries different degrees of legal consequence and demands varying levels of terminological precision.

Translating operative texts necessitates both linguistic and legal expertise, as errors can cause serious procedural or legal issues. Academic legal texts, while not legally binding, influence legal theory and practice, and mistranslations can mislead legal interpretation (Gémar, 1995). Normative texts, such as statutes and treaties, require exceptional accuracy due to their binding authority, especially in multilingual legal systems (Šarčević, 2000).

Biel (2014) adds the concept of “institutional legal translation,” which emphasizes procedural and terminological consistency in official settings like courts and ministries. Prieto Ramos (2014) expands this with a multidimensional model, stressing how text type, institutional context, and communicative purpose shape translation strategies.

Technological advancements, including legal informatics and CAT tools, especially in EU institutions (Koskinen, 2008), further influence legal translation practices. Hence, legal translators must be not only linguistically and legally proficient but also technologically adaptive and culturally aware.

Ultimately, legal translators serve as mediators between legal cultures, ensuring that legal meaning is preserved and effectively conveyed across linguistic and jurisdictional boundaries.

12. Translating Legal Texts

Legal translation comprises various text types, each shaped by its legal purpose and institutional context. According to Cao (2007), legal texts fall into three main categories:

1. Operative Legal Documents – These include contracts, wills, judgments, and powers of attorney, which are legally binding. Errors in their translation can result in ambiguity or procedural failures. Translators must ensure both conceptual and functional equivalence by mastering legal terminology and understanding the relevant legal systems.

2. Academic Legal Literature – Texts such as textbooks and commentaries are vital for legal education and comparative studies. Though not binding, mistranslations may distort legal theory, especially when cited in reforms or judgments (Gémar, 1995).

3. Normative Legal Instruments – These include statutes, constitutions, and treaties, which often hold equal authority in multilingual systems. Šarčević (2000) stresses the importance of preserving legal intent and terminological precision (p. 19).

Expanding on Cao’s framework, Biel (2014) introduces institutional legal translation, referring to work done within legal institutions that requires adherence to templates and consistency (p. 12). Prieto Ramos

(2014) adds a multidimensional approach that links text type with institutional context and communicative function. For example, translating a private contract differs from translating a law for public use, requiring genre awareness and strategic flexibility.

Technological advances have also impacted legal translation. As noted by Koskinen (2008), tools like automated drafting and CAT systems within the EU affect both format and standardization. Thus, modern legal translators must be legally, linguistically, and technologically competent.

In essence, legal translation is a dynamic, multidimensional process that demands deep legal, cultural, and institutional awareness. The translator serves as a mediator, ensuring legal meaning is preserved across languages and legal systems.

13.Contract Translation

Legal translation encompasses diverse text types, each defined by specific legal functions and institutional contexts. Cao (2007) classifies these into: operative legal documents, academic legal literature, and normative legal instruments (p. 9). Contract translation belongs to the first type, involving legally binding texts such as contracts, wills, and court judgments. Errors in such translations can lead to ambiguity or judicial errors, necessitating both legal expertise and linguistic precision to ensure conceptual and functional equivalence.

The second type—academic legal texts—though not legally binding, supports comparative legal analysis and education. Mistranslations here may misrepresent doctrines, particularly when referenced in legislation or case law (Gémar, 1995). The third type includes statutes and treaties, where legal and terminological accuracy is paramount due to the binding authority of translations, especially in multilingual jurisdictions (Šarčević, 2000, p. 19).

Building on Cao's typology, Biel (2014) introduces institutional legal translation, practiced in courts and legal organizations, requiring adherence to templates and terminological discipline (p. 12). Prieto Ramos (2014) adds a multidimensional approach that connects text type, institutional setting, and purpose, emphasizing that different strategies apply depending on whether the translation is for litigation or public dissemination.

Recent advancements in legal informatics—such as automated drafting and CAT tools—have influenced translation practices in multilingual institutions like the EU (Koskinen, 2008). This underscores the need for translators to be legally, linguistically, and technologically proficient.

Ultimately, contract translation reflects the broader complexity of legal translation. It demands more than language skills; it requires legal understanding and cultural awareness to ensure that legal meanings remain intact across systems.

13.1. Marriage Contracts

Marriage contracts in Islamic law—‘aqd al-zawāj—are not merely legal documents but sacred covenants rooted in Qur’anic injunctions and cultural customs (Abdel-Haleem, 2004; Jaafar-Mohammad and Lehmann, 2011). These contracts often begin with religious phrases and Qur’anic supplications, reflecting the spiritual sanctity of marriage. Translating these elements requires more than literal linguistic equivalence; it involves mediating between religious meaning and legal form across legal systems. Scholars such as Nida and de Waard (1986) and Weld-Ali et al. (2023) note that religious discourse is culturally encoded, which complicates achieving equivalence in translation. Further, the legal formulaicity of contracts (Newmark, 1982) demands a balance between fidelity to source structures and clarity in the target legal language. For Islamic marriage contracts, translators must choose whether to retain sacred language literally or adapt it contextually, particularly when functional equivalence is insufficient. While fidelity to the source text remains central (Šarčević, 1997), communicative strategies and legal awareness are essential for achieving both legal and cultural integrity in translation.

13.2. Divorce Contracts

Divorce contracts, especially those involving talaq, introduce unique translation difficulties due to the absence of direct equivalents in English legal terminology. The term talaq encapsulates a Sharia-specific mechanism that does not translate neatly into Western legal frameworks. Translators often rely on strategies like equivalence (e.g., “Islamic divorce” or “unilateral repudiation”) or indirect translation (Jia, 2020), which involves reformulating the meaning for cultural accessibility. Such translations may include explanatory phrases that preserve the legal-religious significance without distorting the original intent. Moreover, syntactic and structural adjustments (Nida, 1964) are often necessary to align Arabic legal discourse with English legal style. Effective translation in this context demands sensitivity to both legal precision and religious nuance, ensuring that key terms are neither misrepresented nor stripped of their cultural and legal depth.

13.3. Inheritance Contracts

Inheritance contracts exemplify the intersection of inheritance law and the law of obligations, two domains that function under divergent legal logics. Inheritance law views the estate as a distinct legal entity—recognized in civil codes such as those of Latvia and the United States—whereas the law of obligations prioritizes mutual consent and subjective interpretation, as reflected in German and Swiss legal systems. This dichotomy complicates the legal classification and translation of inheritance contracts, which embody features from both frameworks. Translators must navigate this duality while maintaining clarity about the legal subject involved. A clear distinction between mandatory and discretionary legal provisions becomes crucial in establishing the legal scope of the contract. This hybrid nature of inheritance contracts demands a functional interpretive approach that integrates testamentary intent with contractual logic without compromising legal coherence.

13.4. Agency Contracts: General and Special Agency Contracts

An agency contract is a legal agreement whereby one party, the principal, delegates authority to another party, the agent, to act on their behalf in legal or business transactions. This relationship is governed by specific rules and principles that determine the scope of authority, duties, and liabilities of both parties (Miller 45).

The agency contract enables the principal to have actions performed in their name by the agent, with legal consequences binding the principal as if they had acted personally (Smith 102). It is widely used in commercial, legal, and personal matters to facilitate representation and delegation of tasks.

Agency contracts are generally divided into two main categories: general agency and special agency. These types differ primarily in the extent of authority granted to the agent and the duration of the agency relationship (Johnson 78).

14. Methodology

“A model is to a theoretical framework or conceptual representation that describes and analyzes the translation process and the factors involved in it.”(Bassnet,2014).

Newmark (1981) addresses the first textual approach to interpretive work. According to him, in most cases, it is not good to have more than one sentence, unless the first two parts are read. In addition, translators must be more prepared because the text is linguistically and culturally complex. A word should be translated as a sentence, not as a word, if the translator is honest or sincere. Grammatical words and certain parts cannot be translated for good reasons. Based on Peter Newmark's translation theory, the main goal of his model is to achieve a "similar

effect" between the ST and the TT. In other words, Newmark's five-part model aims to produce a translation that elicits a response or reaction in the target audience similar to what the original text elicited in the source audience.

After a lot of searching and reading processes, it was discovered that Newmark's plan of criticism (also known as the five-part model) was the most suitable model for assessing the study's data. Despite its age, this model is the most thorough because it suggests condensed procedures for examining the material that is being criticized. It fully satisfies the analysis's objectives since it provides the five crucial parts for the research: the text analysis, the translator's purpose, comparing the ST with the original, to figure out whether the translator who is the legal-translator in this study has succeeded to convey the original meaning of the ST or not the evaluation of the translation and the translation's future.

15.The Model of the Study

After a lot of searching and reading processes, it was discovered that Newmark's plan of criticism (also known as the five-part model) was the most suitable model for assessing the study's data. Despite its age, this model is the most thorough because it suggests condensed procedures for examining the material that is being criticized. It fully satisfies the analysis's objectives since it provides the five crucial parts for the research: the text analysis, the translator's purpose, comparing the ST with the original, to figure out whether the translator who is the legal-translator in this study has succeeded to convey the original meaning of the ST or not the evaluation of the translation and the translation's future. The detailed five parts are the following:

15.1 Text Analysis

According to the first part of this model, an analysis of the ST must be done and the intention of the author must be determined when a specific passage is included, i.e. a Koranic verse, a verse of a specific verse, a popular name, people, people, etc. The scholar briefly deals with the "topic or theme" of the text, as the author deals with it in the context, and maintains the quality and authority of the ST (Newmark 186).

15.2 The Translator's Purpose

The second part of this model is the purpose or perspective of the translator. Newmark here asserts that the researcher tries to see the TT from the perspective of the translator. In this sense, we should

not think about the movement of the text towards the ST, but about the reasons and factors that lead the translator to move to the TT. There are things that are acceptable in a certain culture, but are completely unacceptable in another. In this case, the critic or researcher must understand these things and how the translator can approach in the TC, evaluating "to what extent the text is deculturalized" (186-87).

15.3. Comparing the Translation with the Original

In the third part of this plan, Newmark shows that the scholar or critic must consider how the translator finds solutions to the problem in the original translation and how he was able to deal with it. cultural issues between standard translation and standard translation. The problems that can be found in the translated version should be solved "under general headings" (187). He adds that in this part the researcher should not mark the translated extracts as faithful or not faithful translations.

15.4.The Evaluation of the Translation

In this part, Newmark states that the researcher must evaluate "the referential and pragmatic accuracy of the translation according to the translator's standards." You should ask yourself whether the translated version clearly reflects the translated text or not. It emphasizes that the main aspects of the translated text, such as its "facts or ideas", especially cultural matters, must be represented faithfully and well. Furthermore, he adds that one must consider whether the purpose of the translated text has been achieved or not. It should be clarified that if the original work was written to express a feeling, then this feeling should appear in the translated version, or if the translated text presents particular cultural aspects or important events, then it is important for the translator to see exactly why the translated text was written (188).

The second step of this part is the researcher's assessment of the "referential and pragmatic accuracy" of the translated text according to his standards. The most important element in this stage is the assessment of the "quality and extent of the semantic deficit" if it exists in the translated work, determining the strength of the translation. (189)

15.5. The Future of Translation

The translated version's future makes up the final section of this model. To evaluate the translation's significance and acceptability, it is necessary to determine if the original work merited translation in the first place and "what kind of influence will it have on the language, literature.."(Newmark, 189).

16.The Approach of the Study: Quantitative and Qualitative

Every study has to follow an approach or even more where there are quantitative studies and qualitative ones while other studies follow the mixed. According to Creswell , the quantitative research is an inquiry into an identified problem, based on testing a theory, measured with numbers, and analyzed using statistical techniques. The goal of quantitative methods is to determine whether the predictive generalizations of a theory hold true (41). The goal of quantitative methods is to determine whether the generalizations predicted by the theory are true. Instead, research based on qualitative research methodology aims to understand a social or human problem from multiple perspectives. On the other hand, a study based on a qualitative research process aims to understand a social or human problem from several perspectives. Qualitative research is carried out in a natural environment and involves a process of building a complex and holistic picture of the phenomenon being studied(42).

Choosing the right research method in any research should be based on the problem being researched, the resources available, the skills and training of the researcher and those involved in the research. Although some studies combine quantitative and qualitative methods in a "pure" format, there are significant differences in the assumptions underlying these approaches, including the processes of data collection and analysis.

17.Data collection

First of all, it is worth mentioning that the direction of data collection is the basis of this study. Examinations of legal interpreters in Iraq will be used by government agencies. The main focus of the study, the primary data was first derived from the Iraqi government institutions, e.g. Basrah Federal Appeal Court ,as translated written documents to meet the specific requirements of the current study.

In this section the researcher seeks to gather and measur information on variables of interest in an established and formal manner. It is a crucial component of the research process that enables researchers to answer research questions and evaluate outcomes (Creswell 111).

The data collection stage involves determining the information needed, selecting appropriate data collection methods, designing relevant instruments, sampling the target population, and recording the data in a structured format. Common data collection techniques used in research include surveys, interviews, observations, experiments, and analysis of secondary sources. Effective data collection is essential for ensuring the reliability, validity, and generalizability of the research findings (Saunders et al. 160). It lays the groundwork for the subsequent data

analysis and interpretation phases, ultimately contributing to the overall quality and rigor of the research study.

Then, the second phase of data collection process is the jury evaluations in which there is a directed questionnaire to the professors of Department of Translation find out the acceptability of the audience.

18. Data Analysis

The researcher should use a comparative model. In their book *The Map: A Beginner's Guide to Doing Research in Translation Studies*, Jenny Williams and Andrew Chesterman argue that the comparative model provides an important opportunity to put ST and TT side by side and to uncover problems and cases of inconsistency, that is, whether "ST = TT" or not. This is done by comparing them to each other (49). Therefore, Newmark's five-part model was used to achieve this possibility.

The data are analyzed through three techniques: research analysis that completes the first three parts of the Newmark Five-part model, jury evaluations and questionnaire.

19. The Researcher's Analysis

The first part of the researcher's analysis in the Newmark model is text analysis, which focuses on the source text. During this process, the researcher explains the text and identifies any issues in an attempt to prepare the reader for the translation stage (Williams and Chesterman, 6).

The second part is the translator's purpose, as the researcher needs to know the reasons that prompted the legal translator or the contract drafter (author) to make these errors in the translations, whether these errors are grammatical, linguistic or cultural. It is certain that cultural errors are due to the translator's ignorance of legal terminology.

The third part of the model is comparing the TT to the ST. Through the comparison process, the researcher has found the gaps between the ST and the gaps TT and determined the type of the shift. i.e. deletion, addition, changing...etc. The comparison between the first original version and the legal translated one is considered the core of the analysis process of this study and it paves the way to the next steps to achieve their purposes.

20. The Data Analysis of the Study

This section presents a systematic analysis of the legal contracts translated by official translators at the Basrah Federal Appeal Court. The corpus comprises marriage, divorce, inheritance, and agency contracts, each examined to evaluate the accuracy, fidelity, and legal adequacy of their English translations. Special emphasis is placed on the pervasive

influence of cultural and religious elements, which are deeply embedded in Iraqi legal documentation and frequently challenge translators in preserving the intended legal meaning in the target language (TL).

The analysis primarily seeks to identify, classify, and interpret translation errors that may distort or diminish the legal force of the original Arabic text. These errors are categorized into linguistic, terminological, syntactic, and cultural–conceptual types. Linguistic errors involve unsuitable lexical choices or incorrect grammatical structures that obscure or weaken the legal effect. Terminological errors stem from the mistranslation or misinterpretation of specialized legal terms rooted in Islamic jurisprudence or Iraqi customary law. Cultural–conceptual errors occur when culturally bound legal concepts—such as *mahr*, *‘idda*, or *ṭalāq raj‘ī*—are inaccurately rendered, particularly where no precise equivalent exists in the TL legal system.

A comparative analytical approach is employed, juxtaposing the source Arabic texts (ST) with their official English translations to reveal discrepancies and assess their potential impact on meaning. This approach further evaluates the practical legal consequences of such errors, recognizing that inaccuracies in legal translation can lead to misinterpretation or misapplication of legal rights and obligations, whether in domestic judicial proceedings or in cross-border legal contexts.

Now, it is time to present the extracts from the first table, which are three in number and contain various errors, including incorrect choice of word, lack of knowledge of legal language and social norms

Cultural and societal nuances

**Table-1-
Contract No.1**

Marriage Contract :Marriage Certificate 28 /11 /2024 , No.58

ST	TT	Types of Mistakes	The Sworn Translator's Editing
1. عقد الزواج	Marriage Certificate	Incorrect choice of word	Marriage Contract
2. وقع الإيجاب والقبول بينهما	mutual consent	Lack of knowledge of legal language and social norms	Offer and acceptance

3. باقى بئمة . الزوء عئء أقرب الأجلين	remaining in the husband's possession upon the arrival of one of the two terms	Cultural and societal nuances	The husband will remain indebted with the late dowry till the time of death or divorce whichever of the two happens first.
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Analysis :1

The ST “عقد الزواج” is a foundational legal expression in Islamic and Iraqi personal status law, denoting the formal marriage contract concluded between two competent parties. This contract is not merely ceremonial or symbolic; it is the primary legal instrument that establishes the marital relationship, defines the rights and obligations of the spouses, and includes key elements such as the mahr (dowry), the witnesses' testimony, and the approval of the religious or legal authority. Its legal force is immediate and binding upon its execution, and it constitutes evidence of the marriage itself.

In the TT, the term was rendered as “Marriage Certificate.” While this phrase may appear appropriate in common usage—particularly in Western legal systems—it is legally and culturally inaccurate when used to translate “عقد الزواج” in the Iraqi context. A Marriage Certificate typically refers to a secondary document, issued by a governmental civil registry, which serves only as official confirmation that a marriage has taken place. It does not include contractual stipulations and is not signed by the parties as the legal basis of their union.

This terminological confusion can lead to serious misinterpretations, particularly in comparative legal settings, where contracts and certificates are treated as distinct legal instruments. Mislabeling the original marriage contract as a certificate may undermine its enforceability, confuse legal practitioners, or cause problems in international legal procedures such as immigration, divorce proceedings, or estate matters.

Furthermore, in Islamic jurisprudence, the contract (عقد) is what gives rise to the rights and duties of the marriage. It is an act of offer and acceptance (إيجاب وقبول) executed before witnesses, and its authenticity carries significant religious, legal, and social implications. As such, the precise term “Marriage Contract” is indispensable for preserving the

document's legal identity. According to the sworn translator, the appropriate translation of “عقد الزواج” is: Marriage Contract.

This term reflects both the contractual nature of the document and its binding legal status, maintaining consistency with legal terminology in both Iraqi and international contexts.

In conclusion, translating “عقد الزواج” as “Marriage Certificate” is not only terminologically flawed, but also legally problematic, especially in documents intended for cross-border legal recognition. The sworn translator's rendering—“Marriage Contract”—is the correct, contextually appropriate, and legally sound choice, ensuring both clarity and fidelity to the source legal system.

Analysis:2

The ST “وقع الإيجاب والقبول منهما” is a legally loaded expression rooted in Islamic jurisprudence and reflected in Iraqi personal status law. It signifies the formal and reciprocal declaration of consent between the prospective spouses—the husband and the wife—during the marriage contract procedure. This verbal or written exchange is not merely a symbolic gesture but constitutes the core contractual act through which the marriage becomes valid and binding under Islamic law.

The legal concept of *ijab* (offer) and *qabul* (acceptance) represents a performative contractual mechanism: the offer by one party (typically the bride's guardian or the bride herself) and the explicit acceptance by the other party (the groom), executed in the presence of qualified witnesses and often officiated by a religious or legal authority. According to authoritative jurists such as Al-Sanhūrī, this structured act transforms mutual willingness into a legally enforceable relationship (Al-Sanhūrī, 1952, Vol. 4, P. 34).

The translation of this phrase as “mutual consent”, while partially conveying the general idea, fails to meet the legal and cultural specificity required for formal documentation. “Mutual consent” is a broad term that could apply to any voluntary agreement in Western legal systems. It does not capture the procedural rigor or religious requirements underpinning *ijab wa qabul*, which are treated in Islamic law as essential pillars (أركان) of the marriage contract—not mere informal agreement.

Furthermore, the legal system in Iraq—while influenced by civil law traditions—relies heavily on Sharia principles in matters of personal status. As such, it mandates explicit verbalization or documentation of *ijab* and *qabul* for the contract to be legally recognized. Failing to accurately reflect this in translation could diminish the enforceability or legitimacy of the contract in cross-cultural legal evaluations. According

to the sworn translator, the appropriate rendering is: Offer and acceptance.

This translation, though concise, captures the essential legal action at the heart of Islamic matrimonial contracts and aligns with both the linguistic function and juridical weight of the original Arabic.

In conclusion, translating “وقع الإيجاب والقبول منهما” as “mutual consent” lacks the legal precision and doctrinal depth required in formal legal contexts. The sworn translator’s version—“Offer and acceptance”—preserves both terminological accuracy and cultural authenticity, making it the preferred choice for faithful and enforceable legal translation.

Analysis:3

The ST “باقٍ بذمة الزوج عند أقرب الأجلين” is a legally significant clause found frequently in Iraqi and Islamic marriage contracts, especially in reference to the deferred portion of the mahr (dowry). This phrase reflects a suspended financial obligation that becomes legally enforceable upon the occurrence of one of two specific events: either the death of the husband or the dissolution of the marriage through divorce—whichever occurs first.

As explained by Al-Sanhūrī, the concept of الذمة (legal liability) denotes a binding financial responsibility that remains in effect until fulfilled or legally extinguished (Al-Sanhūrī, 1952, Vol. 6, P. 711). The term “عند أقرب الأجلين” adds a conditional temporal clause, meaning that the trigger for enforceability is not arbitrary but based on a fixed future contingency, either death or divorce—whichever comes sooner. This mechanism serves both legal and ethical purposes within Islamic jurisprudence, offering the wife financial security while ensuring the husband remains bound by his contractual duties.

The TT “remaining in the husband’s possession upon the arrival of one of the two terms” is legally inaccurate and linguistically misleading. The phrase “in the husband’s possession” implies physical custody of an asset, which contradicts the nature of a deferred mahr as a non-physical debt. Moreover, the vague reference to “one of the two terms” lacks explanatory clarity and may confuse legal readers unfamiliar with Islamic contractual practices. According to the sworn translator, the more appropriate rendering is: The husband will remain indebted with the late dowry till the time of death or divorce whichever of the two happens first.

This formulation maintains legal precision, reflects the binding nature of the debt, and clarifies the conditional timing for enforceability. It aligns with both Iraqi legal drafting practices and international standards

for translating contingent contractual obligations, especially those rooted in personal status law.

In sum, accurate translation of such clauses is essential to preserve the enforceability and legal integrity of cross-cultural marital contracts. Using terms that faithfully represent both the legal obligation (debt) and the triggering events (death or divorce) ensures clarity and protects the rights of the parties involved in accordance with both Sharia and civil law.

Now, it is time to present the extracts from the second table, which are four in number and contain various errors, including cultural nuances , societal norms lack of knowledge and incorrect choice of word.

Table -2-

Contract No.2

Divorce Contract: VERDICT 3 / 6 / 2024 , No.4071

ST	TT	Types of Mistakes	The Sworn Translator's Editing
1. ادعى المدعي ان المدعى عليها هي زوجته الداخل بها شرعاً وقانوناً	The Plaintiff has claimed that the Defendant is his legitimate wife, with whom he has consummated marriage	Cultural nuances and societal norms	His wife with whom he had consummated marriage
2. وقد طلقها خارج المحكمة وامام رجل الدين	and has divorced her outside the court by religion man	Cultural nuances and societal norms	Sharia Marriage/Divorce Registrar
3. الطلاق البائن	Irrevocable divorce	Lack of knowledge	Irrevocable/or absolute divorce
4. والذي وقع قبل الدخول	that took place before consummation of the marriage	Incorrect choice of word	Occurred before consummation of marriage

Analysis:1

The phrase “زوجه الداخل بها شرعاً وقانوناً” is a recurring legal expression in Iraqi marriage contracts and serves as a formal declaration that the

marital bond between the parties has not only been lawfully concluded but also fully realized through consummation, in accordance with both Islamic jurisprudence and civil law. The term “الداخل بها”, which translates to “with whom consummation has occurred,” holds particular significance in Islamic legal doctrine. As emphasized by Al-Sanhuri, consummation (الدخول) is a decisive act that completes the legal and practical effects of the marriage contract, triggering important legal consequences such as the wife’s right to the full deferred dowry, her entitlement to maintenance, and the husband’s full financial responsibilities within the marriage (Al-Sanhuri, 1952, Vol. 5, P. 118).

Moreover, this phrase has direct implications for divorce proceedings. In cases where consummation has not occurred, the financial and procedural obligations of the husband toward the wife may differ significantly. However, once consummation is established, the legal framework governing divorce becomes more extensive, including mandatory observance of the waiting period (‘iddah) and full dowry settlement. This indicates that the phrase is not a casual descriptive reference, but rather a legally operative statement confirming the transition from contractual engagement to a fully enforceable marital relationship.

The additional component “شريعاً وقانوناً”—meaning “according to Sharia and civil law”—reflects the dual legal system underpinning Iraqi personal status law, which integrates Islamic norms with state-sanctioned civil legislation. This dual reference ensures that the marriage is both religiously valid and legally recognized by the courts, thereby granting the couple enforceable rights related to inheritance, divorce, and other family law matters.

According to the sworn translator, the more accurate rendering is: His wife with whom he had consummated marriage

This translation, while grammatically sound, does not fully convey the religious and civil legal implications embedded in the original Arabic phrase. Nevertheless, it maintains the core meaning and is acceptable in formal documentation, especially when paired with contextual clarification in accompanying legal analysis. In cross-cultural legal contexts, the translator’s rendering may be sufficient in conveying the essential idea, though additional explanation—like the one above—is often required to capture the full legal and cultural weight of the Arabic original.

Analysis2:

The Arabic term “رجل الدين” (rajul al-dīn), as found in Iraqi divorce contracts, is a term of legal significance that transcends a mere reference

to a religious figure. In this specific context, it identifies an Islamic cleric who exercises both religious and procedural legal authority in personal status matters such as marriage and divorce. This dual authority stems from the integration of Islamic jurisprudence into Iraq's civil legal system, particularly in family law. As Al-Sanhūrī explains, religious officials entrusted with matters of personal status assume a quasi-judicial role that enables them to carry out acts such as officiating marriages or documenting divorce outside formal court settings (Al-Sanhūrī, 1952, Vol. 6, P. 45).

While Iraq's Personal Status Law No. 188 of 1959 centralizes the jurisdiction over divorce within civil courts, the involvement of religious authorities remains embedded in legal practice, especially in cases processed outside the courtroom (*khārij al-mahkama*). In such instances, a "رجل الدين" may be called upon to witness or draft a divorce document (وثيقة الطلاق), which is then later submitted for court authentication. His signature and participation carry both religious legitimacy and legal weight, ensuring the validity of the proceedings under both Islamic and state law.

In legal translation, rendering the term literally as "religion man" is highly problematic. Not only is this phrase linguistically incorrect, but it also fails to convey the formal institutional role of the cleric. It may suggest that the individual is merely a devout person without recognized authority, thereby obscuring his function as a certifying official. In international legal contexts, such ambiguity may call into question the authenticity of the document and hinder its acceptance in foreign jurisdictions. According to the sworn translator, the more accurate rendering is: Sharia Marriage/Divorce Registrar.

This translation captures the cleric's dual role as both a religious authority and a legally empowered registrar, in line with Iraqi practice and Islamic legal tradition. It ensures that the target audience understands the official nature of the cleric's involvement and the legal validity of the document in which his title appears. In conclusion, the term "رجل الدين" should not be translated literally, but rather in a manner that accurately reflects the cultural and legal systems from which it arises.

Analysis3:

The Arabic legal expression "طلاقاً بائناً" (*ṭalāqan bā'inan*) occupies a significant position in Iraqi personal status law as derived from Islamic jurisprudence. It refers to a form of divorce that is final and severed, meaning the marital relationship between the two spouses is considered legally and religiously terminated in a way that prohibits reconciliation

unless a new marriage contract is established. This concept is addressed in detail by al-Sanhuri, who affirms that such a divorce — whether issued after the third pronouncement, prior to consummation, or in return for compensation (khul‘) — dissolves the marriage definitively and nullifies the husband’s right to return to his wife during the waiting period (‘idda), unless a new contractual agreement is entered into (Al-Sanhuri, 1952, Vol. 6, P. 53).

Unlike “revocable divorce” (ṭalāq raj‘ī), in which the husband may unilaterally restore the marriage during the ‘idda without a new contract, the “ṭalāq bā’in” eliminates that right entirely. The finality of this divorce has substantial legal consequences concerning the rights and obligations of both parties, including maintenance, remarriage procedures, and the financial implications of dowry and custody. According to the sworn translator, the more accurate rendering is: Irrevocable / or absolute divorce.

This translation preserves the legal finality implied in the Arabic term “بائن” and reflects the procedural and religious constraints that characterize this type of divorce under Iraqi and Islamic law. It also maintains consistency with standard terminology used in sworn legal translations, ensuring the phrase is both legally accurate and suitable for cross-border or international legal recognition.

Analysis4:

The Arabic legal phrase “وقع الطلاق قبل الدخول” is a structurally concise yet legally consequential expression widely used in judicial divorce documents in Iraq and other jurisdictions applying Islamic family law. It means that the divorce was executed before the consummation of the marriage, a distinction that has major legal, financial, and procedural implications under Islamic jurisprudence and Iraqi personal status law.

In Islamic legal doctrine, the concept of “al-dukhūl” (الدخول) signifies the act of physical consummation following the formal conclusion of the marriage contract. This event functions as a legal threshold that determines the activation of several post-marital rights and duties. As clarified by jurists such as Al-Sanhūrī, consummation is not merely a cultural marker, but a determinant of the wife’s entitlement to full or partial dowry, as well as the applicability of waiting periods and other legal outcomes. Specifically:

- If divorce occurs before consummation, the wife is generally entitled to half the mahr (dowry), as per Qur’an 2:237.
- The wife is exempt from observing the ‘idda (waiting period).
- Inheritance rights and other mutual obligations between the spouses are curtailed or nullified.

This clear distinction is reflected in the phrase “وقع الطلاق قبل الدخول” which encapsulates the legal status of the marriage and its early dissolution.

Despite its clarity in Arabic, the phrase is often mistranslated into English as: “that took place consummation of the marriage”.

This rendering is not only grammatically incorrect, but legally inaccurate and semantically unclear. It misleads the reader by failing to indicate the temporal order of events and misrepresents the fact that the divorce occurred before consummation—not that consummation took place. According to the sworn translator, the more accurate rendering is: Occurred before consummation of marriage.

This translation succeeds in conveying the essential legal meaning of the Arabic phrase in a direct and accessible manner. While concise, it preserves the temporal sequence and legal status implied in the original Arabic. However, in cross-cultural or international legal contexts, especially where the concept of consummation holds different or minimal legal relevance, it may be useful to supplement this phrase with brief clarification when needed—particularly in certified or explanatory translations.

In summary, the phrase “وقع الطلاق قبل الدخول” is not merely a chronological statement; it carries legal weight that impacts dowry entitlement, procedural rights, and post-divorce obligations. The sworn translator’s version—“Occurred before consummation of marriage”—is both linguistically sound and legally faithful, making it suitable for formal legal documents while maintaining the integrity of the original concept.

Now it is time to show excerpts from Table third, which are two in number and contain an error which are lack of knowledge of legal language and incorrect choice of word and legal mistake.

Table-3-
Contract No.3
Inheritance Contract: CERTIFICATE of LEGAL
INHERITANCE
6/ 5 / 2025 , No.293

ST	TT	Types of Mistakes	The Sworn Translator’s Editing
1. انحصار إرثه الشرعي	that his legal heirs are limited	Lack of knowledge of legal language	His legal inheritance shall be confined to
2. علماً أن والديه متوفيان قبله	It is noted that his parents passed away	Incorrect choice of word and legal mistake	To be noted his parents died before him

	before him.		
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Analysis:1

The Arabic phrase “انحصار إرثه الشرعي” refers to the formal judicial process in Islamic law that determines and confirms the rightful heirs of a deceased person, affirming that no other heirs exist beyond those named. It carries both legal authority and religious significance, as it aligns with the Qur’anic rules of inheritance and the broader principles of nasab (lineage) and farā’id (fixed shares).

In the contract at hand, this phrase has been translated as “that his legal heirs are limited.” This differs from the translation used in the previous inheritance document, where the phrase was rendered more clearly. The inconsistency not only reveals a lack of terminological coherence on the part of the translator but also leads to a possible misrepresentation of the legal function of the term. The use of “are limited” may misleadingly imply a subjective or arbitrary restriction on heirs, rather than the outcome of a formal legal procedure grounded in Sharia law.

Such a mistranslation can generate confusion in legal systems unfamiliar with Islamic inheritance structures. In Western contexts, “limited heirs” might suggest a discretionary or informal limitation, whereas in Islamic culture, the “limitation” is a judicial confirmation rooted in fixed legal and religious mandates. This underscores a broader cultural-linguistic gap: Arab-Islamic legal texts emphasize collective lineage and divinely ordained shares, while Western inheritance law often revolves around testamentary freedom and individual rights.

To ensure legal precision and cultural fidelity, a more accurate and consistent translation would be: “His legal inheritance shall be confined to ” which reflects the legal authority and religious structure of the Arabic phrase without risking cultural misinterpretation.

Analysis:2

The Arabic phrase “علماً أن والديه متوفيان قبله” is commonly used in inheritance documents to indicate that the deceased’s parents had already passed away, and therefore do not qualify as heirs under Islamic inheritance law. In this contract, the phrase is translated as: “It is noted that his parents passed away before him.” While grammatically correct, this translation may fall short of conveying the legal significance embedded in the original Arabic expression.

In Arab-Islamic legal context, such statements serve more than informative purposes—they function as legal declarations confirming the exclusion of certain relatives from inheritance due to predeceasing the decedent. In contrast, the English phrase “It is noted that...” may be interpreted as a neutral remark rather than a legally significant statement. This could lead to misunderstandings in non-Islamic legal systems where the presence or absence of such relatives might affect the distribution of the estate only if explicitly addressed. To avoid cultural and legal misinterpretation, a more precise translation would be: “To be noted his parents died before him” which preserves the declarative legal tone and accurately reflects the role of this phrase in inheritance determinations under Islamic law.

Now, it is time to present the extracts from the fourth table, which are three in number and contain various errors, including lack of knowledge, cultural nuances and social norms and incorrect choice of word.

Table-4-**Contract No.4**

**Agency Contact: LIMITED POWER OF ATTORNEY 19 / 3 /
2025 , No.41**

ST	TT	Types of Mistakes	The Sworn Translator's Editing
1. وكالة خاصة	Limited Power of Attorney	Lack of knowledge	Special Power of Attorney
2. ولاية جبرية (وصاية جبرية)	The Forced Custodian	Cultural nuances and social norms	Compulsory/Involuntary Guardianship
3. توقيع الموكل: التوقيع والبصمة	Signature of principal: fingerprint & signed	Incorrect choice of word and legal mistake	Signature of Authorizer: Fingerprint and signature

Analysis:1

The Arabic term “وكالة خاصة” designates a legal authorization through which a principal delegates specific and limited powers to an agent for handling particular legal or personal matters. Unlike a general power of attorney that grants wide-ranging authority, this type of agency is confined to narrowly defined tasks or decisions. In Iraqi legal practice, such authorizations often pertain not only to financial or administrative

matters but may also extend to sensitive personal or familial issues, such as representing someone in marital or inheritance proceedings.

When translated as “Limited Power of Attorney,” the term may appear accurate within common law systems, yet it fails to reflect the deeper legal and cultural connotations present in civil law jurisdictions like Iraq. This translation introduces potential ambiguities, as it is commonly associated in English-speaking contexts with commercial or corporate functions, whereas in Iraqi legal culture, the concept may include duties influenced by social norms or religious obligations. The risk of misinterpretation is especially high when the term is encountered by legal professionals unfamiliar with the particularities of Arab or Islamic legal traditions.

Although “Limited Power of Attorney” may serve as a functional equivalent in certain contexts, it does not fully capture the specific intent or the cultural-legal depth of “وكالة خاصة” in Iraqi law. A more accurate alternative would be “Special Power of Attorney,” which preserves the idea of limited scope while aligning with terminology familiar in civil law systems. This choice enhances cross-cultural legal clarity and ensures that the original meaning is not diminished or misunderstood.

Analysis:2

In Iraqi legal terminology, particularly within the context of family and personal status law governed by Islamic jurisprudence and civil law, there is a clear distinction between the terms “ولاية” (Wilāyah) and “وصاية” (Wiṣāyah). These terms hold specific legal and cultural meanings, as noted by Al-Sanhouri, a prominent legal scholar in Arab jurisprudence.

1. Wilāyah (ولاية) refers to a legal guardianship automatically conferred, typically exercised by the father or paternal grandfather over a minor child. This authority is inherent and obligatory, encompassing responsibilities related to the child’s education, health, and general upbringing. In English, this concept is most accurately described as “legal guardianship” or “paternal authority.” The father or grandfather’s role is recognized as fundamental in the child’s legal and personal affairs (Al-Sanhouri, 1969).

2. Wiṣāyah (وصاية), on the other hand, refers to a court-appointed guardianship or trusteeship. This occurs when the natural guardian (typically the father) is deceased or legally incapacitated, and the court steps in to appoint a guardian to manage the minor’s affairs, whether concerning their personal welfare or property.

The translation of “The Forced Custodian” is legally inadequate and fails to accurately reflect the nuance of the original Arabic terms. The

use of “forced” in English carries a negative connotation and does not align with the legal, cultural, or Islamic significance of the guardianship relationship. The term “custodian” in English often implies physical care, whereas in the context of legal guardianship, the term needs to encompass the broader, more formal role of making significant decisions for the minor.

In the context of international legal translation, especially in cross-border custody disputes, the translation of such terms must respect the legal principles embedded in both systems. A more appropriate translation would “Compulsory/Involuntary Guardianship”

The translation of “The Forced Custodian” is legally imprecise and culturally insensitive. The term fails to capture the full legal authority and cultural significance of the Arabic terms “ولاية” and “وصاية.” Instead, terms such as “legal guardian” for Wilāyah and “court-appointed guardian” for Wiṣāyah would better preserve both the legal clarity and cultural context necessary for accurate legal translation. Additionally, replacing terms like “forced” or “compulsory” with more neutral language such as “by law” or “mandatorily” would improve both the linguistic and legal fidelity of the translation.

This approach reflects a better understanding of the nuances in Islamic family law, as noted by legal scholars such as Al-Sanhouri, who emphasized the importance of preserving both the legal and cultural integrity in the translation of legal concepts (Al-Sanhouri, 1969).

Analysis:3

The Arabic phrase “(توقيع الموكل: التوقيع والبصمة)” is a standard legal formulation in Iraqi documentation, particularly in powers of attorney and other notarized instruments. It refers to the method by which the principal (الموكل) validates the document—specifically through the combination of a written signature and a fingerprint. This dual mode of authentication is a culturally and legally embedded practice that serves to reinforce the identity of the signatory, especially in cases involving illiterate individuals or situations requiring heightened evidentiary assurance.

However, the provided English version contains notable issues:

- Typographical Error: The term “singed” is a spelling mistake; it means “burned slightly.” The correct word is “signed”.
- Phrasing: The structure “fingerprint & signed” is awkward and lacks legal clarity or formality.
- Punctuation: The use of a colon (:) followed by an ampersand (&) is informal and not suitable for legal texts.

In Iraqi legal culture, especially in personal or notarized documents like powers of attorney, it's common to request both a signature and fingerprint to avoid identity disputes or ensure stronger verification—especially if the individual is illiterate or if additional legal certainty is required.

The phrase “Signature of principal: fingerprint & signed” fails to meet legal and linguistic standards. A more accurate and culturally appropriate rendering would be: “Signature of Authorizer: Fingerprint and signature”, which ensures legal clarity, corrects the typographical error, and maintains alignment with the formal tone of legal documentation.

21. Conclusions

This study examined the impact of cultural factors on the translation of Iraqi legal contracts—marriage, divorce, inheritance, and agency—through the analysis of twenty documents translated by sworn translators at the Basrah Federal Appeal Court, using Peter Newmark’s five-part model. The key conclusions are:

1. Culture as a Core Factor – Cultural elements from Islamic jurisprudence and tribal customs are central to Iraqi legal contracts; literal translation often leads to loss or distortion of meaning.

2. Risk of Legal Ambiguity – Misrendering culturally bound terms such as talaq, mahr, iddah, and inheritance terms like awl and radd can create serious legal misunderstandings.

3. Need for Cultural Awareness – Many sworn translators prioritize technical equivalence over cultural adaptation, producing rigid translations that fail to convey intended meaning.

4. Translation as Cultural Mediation – Translators act as mediators between legal systems and cultural contexts, especially in personal status contracts.

5. Limitations of Newmark’s Model – The model is useful for identifying errors but lacks explicit cultural evaluation criteria.

6. Impact on Legal Validity – Errors in translating culturally loaded terms can affect enforceability and recognition of contracts in cross-border contexts.

In sum, successful translation of Iraqi legal contracts requires both linguistic precision and cultural competence.

22. Recommendations

1. Integrate Cultural Competence in Training – Include modules on Islamic law, Iraqi legal traditions, and cultural norms in legal translation programs.

2. Collaborate with Experts – Work with legal scholars and cultural consultants to ensure accuracy in culturally bound terms.

3. Develop Culturally Sensitive Guidelines – Provide clear strategies for when to translate literally, adapt culturally, or use explanatory notes.
4. Expand Newmark's Model – Add explicit cultural evaluation criteria to legal translation assessment tools.
5. Create Annotated Bilingual Glossaries – Include cultural explanations for key terms to reduce inconsistency.
6. Establish Review Committees – Courts should have panels of translators, legal experts, and cultural specialists to validate sensitive translations.

23. Suggestions for Future Studies

1. Investigating the Impact of Religious Terminology on the Translation of Islamic Legal Contracts: A Comparative Study.
2. Cultural Loss and Compensation Strategies in Translating Iraqi Personal Status Contracts into English
3. The Role of Tribal Terminology in the Translation of Legal Documents in Southern Iraq
4. Developing a Culturally Sensitive Translation Model for Iraqi Marriage and Divorce Contracts
5. Challenges of Translating Inheritance Terminology in Islamic Law: A Case Study of Iraqi Legal Texts
6. The Influence of Legal Pluralism on Translation Strategies: Islamic, Civil, and Customary Laws in Iraqi Contracts.

Notes:

- (1) The researcher brings a total of 20 contracts, 16 are from Basrah Federal Appeal Court and the remaining from the sworn translator Lect. Ahmed Falih Rabeea.
- (2) The sworn translator is Lect. Ahmed Falih Rabeea/Dept. of Translation/College of Arts/Univ. of Basrah.
- (3) The in-text citations and bibliography follow MLA 9th edition format.
- (4) The head and the members of the Evaluation Jury, representatively, are Lect. Ahmed , Asst. Prof. Dr. Dhahir Jafar Khaz'al and Asst.prof. Nadia Odah Sultan,all of them are from Dept.of Translation / College of Arts/Univ.of Basrah.

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