
28. Issues addressed in Arabic legal translation: a future perspective

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1. INTRODUCTION

Legal translation studies have undergone, in the last two decades, expansive developments in research methodology, which have taken legal translation research out of the exploratory type, product-oriented approach and descriptive research. Those advancements have generated various research questions to explore the complexity of their operations in different contexts and fill the gaps in existing theories related to different fields, such as law, translation studies, linguistics, cultural studies, etc.¹ Recent contributions have proposed new models and research methods that reflect the reality of current situations in the field while integrating wider historical, social, ideological, political and ethical settings.

Legal translation from Arabic into English and vice versa is still under-researched and has not received proper attention by scholars. The evidently noticeable linguistic differences between Arabic and English on the phonological, morphological, syntactic, semantic and stylistic levels unequivocally pose problems when rendering texts from and into the said two languages. Such differences are due to the distinction in the language family tree, as Arabic is a Semitic language, whilst English is an Indo-European language. Consequently, Arabic legal texts, whether based on Islamic Law or secular laws, are seen as different from English legal texts from the linguistic, cultural and legal perspectives. Conversely, evidence suggests that certain Arabic modern codes, particularly in multilingual international settings, are influenced by French and English patterns, especially on both lexical and stylistic levels.² With this in mind, emphasis should be placed on the situational dimensions to establish the context for the translation process and ensure consistency with the purpose of the product.

From the research methodology angle, Arabic legal translation research is essentially exploratory. The majority of Arabic legal translation studies are qualitative-approach oriented. Based on contrastive text analysis, they mostly address linguistic and cultural features of Arabic legal texts as opposed to those of their English counterparts, alongside the various challenges of translating them in terms of layout, lexical, syntactic, textual and discursive variables.

The present chapter seeks to address concisely the early Arabic legal translation studies and the most recent ones in order to determine where the Arabic legal translation research stands in the ongoing methodological developments in the field of legal translation studies. It also

¹ Łucja Biel, Jan Engberg, María R. M. Ruano, and Vilemini Sisoni, *Research Methods in Legal Translation and Interpreting: Crossing Methodological Boundaries* (New York/London: Routledge, 2019).

² Sonia Halimi, "Arabic Legal Phraseology in Positive Law and Jurisprudence: The Historical Influence of Translation," *Comparative Legilinguistics* 46 (2021): 37–64.

discusses the potential shifts in Arabic legal translation research that would give rise to diverse methodological approaches to be adopted in the field of Arabic legal translation studies. The chapter aims to answer the following two research questions: (1) What are the main issues that have been addressed by Arabic legal translation studies and the research methodological approach(es) adopted therein? (2) What are the potential shifts in Arabic legal translation research that would result in employing diverse methodological approaches in the field of Arabic legal translation studies?

To answer the research questions above, the chapter is organised in three sections. Section 2 provides a relatively succinct account of both the early and most recent studies, which mainly explore the linguistic, legal and cultural issues/problems associated with Arabic legal translation and the techniques/strategies available to minimise translation loss. Section 3 offers a new future perspective concerning potential shifts in research related to Arabic legal translation, which would entail the use of diverse methodological approaches, including quantitative method and mixed method to be adopted in this particular field. Special emphasis is placed on corpus-based approach and comparative approach and how their use would enrich the field of Arabic legal translation through generating and answering multiple research questions. Finally, the present chapter claims that Arabic legal translation research will add comprehensiveness and be in consistency with other research in legal translation if it is not restricted to a single methodological approach that is linguistically-driven and product-oriented. This would operate major shifts in methodological approaches, objects of study and research questions, including the reality of the dual context of national and international conditions in which Arabic legal translation is evolving.

2. EARLY AND MOST RECENT ARABIC LEGAL TRANSLATION STUDIES

Legal translation studies have, in the last decades, witnessed an undeniable development in the type of research methodology and the issues covered. Studies on legal translation have adopted different research approaches, such as comparative law, discourse analysis, phraseology, corpus linguistics, cultural studies and translator training. They have also integrated historical, ideological, cultural, political and social issues. The Arabic legal translation research that has been carried out up to now is essentially exploratory, based mainly on qualitative research approaches, with a few studies drawing on corpus-based research, as will be presented in this section.

Studies that address Arabic legal translation date back to the 1990s. One of the first works investigating Arabic legal texts from the linguistic perspective is Emery's contrastive text analysis. The linguistic features of Arabic legal documentary texts are examined through comparing them to their English counterparts at different language levels, such as lexical, grammatical, syntactic, stylistic and discursal levels. The paper concludes that Arabic legal texts exhibit their own linguistic features despite the influence of foreign language models. Awareness of such syntactic and stylistic discrepancies and cognisance of the

language-universal features of legal discourse may scaffold the trainee translators to arrive at acceptable translations of Arabic and English legal texts.³

The other main study addressing linguistic issues is Farghal's and Shunnaq's investigation on 13 postgraduate students' performance in English-Arabic legal translation. The students, after two-year legal translation training, have been subjected to examination, which reveals problems in layout, tenor and syntax. The lack of knowledge specific to the translation of legal texts, at both macro and micro levels, demands the inclusion of legal translation subject in translation training programmes. Having considered the results of the paper in question, it should be noted that due to the small size of the research sample used, in addition to the absence of strict standards for quality control and establishing validity, the results cannot be generalised or replicated.⁴

At a lexical level, Alwazna examines how precision can possibly be tested in legal translation. A set of different translation methods, such as formal correspondence, functional equivalence, borrowing and descriptive paraphrases can be applied in Arabic legal translation. Different Islamic legal terms can accurately be rendered into legal English using the said methods. The papers argue that the precision of legal translation may well be achieved when the target text produces the same legal effect as that conveyed by the source text. This should be taken as the main goal for legal translation exercised for application purposes and should be considered a primary criterion against which the precision of legal translation should be tested.^{5, 6}

In a large-scale study, Alwazna translates three books of Ḥanbalī Shari' a Code into English, studying closely the language of the Arabic legal code in terms of content, lexicon and style in addition to the difference in language between codes and books of Islamic jurisprudence or sermons. Diverse linguistic and cultural issues/problems associated with Arabic-English legal translation are explored and analysed, with special reference to religious legal translation. It is argued that the translator should always base his/her translation strategy on the state of his/her audience to ensure full comprehension and successful conveyance of the translation. It is also claimed that the language of Islamic jurisprudence has been evidently developed to be suitable for formulating codes consisting of legal articles.⁷

From a discourse analysis perspective, Alwazna addresses chiefly the methods and strategies used in legal translation. Three legal articles quoted from the *Ottoman Majalla* and translated by Hooper (1933) from legal Arabic into legal English are meticulously addressed, seeking to explore and analyse the methods/strategies employed by the translator in rendering the said articles into English. The paper concludes that a single legal article may warrant divergent methods/strategies based on the differences in the legal provisions specific to each

³ Peter G. Emery, "Legal Arabic Texts: Implications for Translation," *Babel* 35, no. 1 (1989): 1–11.

⁴ Mohammed Farghal and Abdullah Shunnaq, "Major Problems in Students' Translations of English Legal Texts into Arabic," *Babel* 38, no. 4 (1992): 203–10.

⁵ Rafat Y. Alwazna, "Testing the Precision of Legal Translation: The Case of Translating Islamic Legal Terms into English," *International Journal for the Semiotics of Law* 26, no. 4 (2013): 897–907.

⁶ Rafat Y. Alwazna, "Testing the Precision of Legal Translation," In *Proceedings of the Third International Conference on Law, Translation and Culture*. Paper presented at the Third International Conference on Law, Translation and Culture, Hangzhou, China, eds. Le Cheng, Lisa Hale, and Jin Zhang (Marietta, GA: The American Scholars Press, 2013), 251–56.

⁷ Rafat Y. Alwazna, *Translating Ḥanbalī Shari' a Code from Arabic into English* (Deutschland: LAP LAMBERT Academic Publishing, 2013).

legal system, the differences in the legal language peculiar to each legal system as well as the type of the target readership.⁸

From a terminological point of view, Alwazna carries out scrupulous analysis on an example of terminological incongruency between Islamic Law and the law originally written in English. Sufficient explanation of the terminological incongruency found between the Islamic legal term: مال (*māl*) and the English term usually used as its equivalence: “property” is offered. The paper concludes that functional equivalence, which ensures reproducing the intended legal effect in the receptor language, is what must be applied in translating laws. If functional equivalence is impossible to adopt between specific legal systems, other appropriate translation strategies may be utilised for the sake of accomplishing the intended legal result from the translation of a particular legal term between two different legal systems.⁹

In the same year, Alwazna guest edited a special issue for *The International Journal for the Semiotics of Law* on “Islamic Law: Its Sources, Interpretation, its Economics, Finance and the Translation between it and Laws Written in English”. The sources of Islamic Law are succinctly presented, placing special emphasis on the fact that the Qur’ān encompasses about 500 legal verses that lay down legal provisions, while the non-legal verses do also second the establishment of Islamic legal system. An overview of the papers published in the issue is presented, with a conclusion that conceptual differences do always emerge when rendering a particular legal text from one legal system into another.¹⁰

From a cultural perspective, Alwazna tackles the impact of culture on Islamic legal statements and its implications for translation. Legal culture is seen as the conceptual legal views shared by law professionals. It impacts heavily on the legal language and makes it difficult to translate. Different Islamic legal statements are provided, such as: بَارَكَ اللهُ لَكَ (*bāraka Allahu lak*), إِنْ شَاءَ اللهُ (‘in shā’ a Allah) and بِإِذْنِ اللهِ (*bi’idhni allah*), elucidating their legal and cultural content and analysing how they can best be rendered into legal English. The paper concludes that Islamic legal culture exercises great influence on Islamic statements to the extent that such statements may possess a legal meaning which might not be understood by the target audience, especially if the target reader is not cognisant of Islamic legal system and its legal culture. Hence, the translator needs to exert a remarkable effort in uncovering the cultural impact on such culture-specific statements to the target reader so that he/she may understand the intended meaning of such statements.¹¹

Analysing the translation of legal labour terms employed in Saudi news headlines into Saudi English newspapers, Alwazna and Sidiya confirm the effectiveness of the use of borrowing as a translation technique for this type of legal translation. Three commonly used legal labour

⁸ Rafat Y. Alwazna, “Important Translation Strategies Used in Legal Translation: Examples of Hooper’s Translation of the Ottoman Majalla into English,” In *The Ashgate Handbook of Legal Translation*, eds. Le Cheng, King Kui Sin, and Anne Wagner (Surrey: Ashgate Publishing Limited, 2014), 237–54.

⁹ Rafat Y. Alwazna, “Problems of Terminology in Translating Islamic Law into Legal English,” In *Meaning in Translation: Illusion of Precision*. Paper presented at the Conference of Meaning in Translation: Illusion of Precision, Riga, Latvia, eds. Larisa Ilynska and Marina Platonova (Newcastle Upon Tyne: Cambridge Scholars Publishing, 2016), 211–21.

¹⁰ Rafat Y. Alwazna, “Islamic Law: Its Sources, Interpretation and the Translation of it into Laws Written in English,” *International Journal for the Semiotics of Law* 29, no. 2 (2016): 251–60.

¹¹ Rafat Y. Alwazna, “Culture and Law: The Cultural Impact on Islamic Legal Statements and its Implications for Translation,” *International Journal of Legal Discourse* 2, no. 2 (2017): 307–23.

terms in Saudi newspapers are investigated, which are: إقامة (*iqāma*), كفيل (*kafil*) and هروب (*hurūb*). The paper claims that even though adopting the borrowing technique in the translation of specific Arabic legal labour terms in news headlines into English has proved fruitful for such terms are directed to special readership and hence produce the intended effect, adding some explanations of these terms may help broaden the readership of the newspapers. This also assists those interested in gaining better understanding of the Saudi labour law to attain relevant information specific thereto.¹²

From the perspective of the concept of untranslatability of legal terms, which stems from terminological incongruity, Alwazna presents different tasks carried out by comparative law specialists, legal translators and terminologists, showing how these groups may cooperate to resolve the issue of untranslatability of legal terms. Legal, cultural and linguistic translation measures on which the choice of the translation technique(s) may be grounded are adopted, explaining the importance of each measure in the process of decision-making and technique-selection in Arabic-English legal translation. Based on the said translation measures, it is crucial to employ a combination of different translation techniques to surmount the issue of untranslatability of legal terms for one technique does not seem to be able to serve the purpose in question. Amongst such techniques are: loan translation, coinage, descriptive paraphrases and translation by omission. The paper concludes that since there are multiple translation techniques based on legal, cultural and linguistic measures, conceptual asymmetry should no longer be considered untranslatable and the practice of legal translation should be seen as a pivotal tool for surmounting obstacles to achieve proper legal communication. Differences found in different legal systems should be viewed as an important part of the equation between the legal systems in question, rather than a hindrance that leads to the impossibility of legal translation.¹³

Testing the efficacy of the integrative model proposed by Prieto Ramos (2014) in overcoming terminological problems of Arabic-English legal translation, Alwazna shows the need for comprehensive translation methodology that acts as a body comprising all the major criteria required for decision-making. There are major steps comprised by the model, which should be followed by translators when dealing with terminological problems of legal translation. These lie mainly in analysing the source text legal term, conducting comparative legal and linguistic analysis and carrying out acceptability analysis of reformulation options. Upon testing the said model against the translation of several Islamic legal terms into English, the paper concludes that the said model seems practically useful in coping with terminological incongruity in Arabic-English legal translation insofar as it encompasses all the steps and criteria needed for adopting plausible strategic translation decisions.¹⁴

Based on a comparative-contrastive approach, El-Farahaty analytically discusses parallel legal texts of both English and Arabic, in an attempt at looking closely into the aspects of legal

¹² Rafat Y. Alwazna and Fatima Sidiya, "The Use of Borrowing as a Technique in the Translation of Arabic Legal Labour Terms Employed in the Headlines of Saudi English Newspapers," *International Journal of Law, Government and Communication* 3, no. 12 (2018): 1–15.

¹³ Rafat Y. Alwazna, "Translation and Legal Terminology: Techniques for Coping with the Untranslatability of Legal Terms between Arabic and English," *International Journal for the Semiotics of Law* 32, no. 1 (2019): 75–94.

¹⁴ Rafat Y. Alwazna, "The Efficacy of the Integrative Model Proposed by Prieto Ramos (2014) in Surmounting Terminological Problems of Arabic-English Legal Translation," *International Journal for the Semiotics of Law* 35, no. 2 (2022): 737–52.

discourse peculiar to the said languages and exploring the translation techniques employed. A thorough description of legal translation features specific to both English and Arabic is given based on empirical research, strategic two-way comparisons between the ST and the TT as well as corpus data analysis. Several topics are addressed, including a historical background of legal discourse particular to both English and Arabic and a deep analysis of legal literature at lexical and syntactic levels, coupled with examples and excerpts quoted from a wide range of legal texts and supported by practical discussion.¹⁵

At a lexical level, El-Farahaty addresses the commonly difficult areas in the translation of English legal texts into Arabic. Legal translators should be fully aware of the different types of lexicon they cope with and whether they are general, specialised, abstract, archaic or functional. This would help translators arrive at the most appropriate procedure(s) applicable for their lexical legal issues. The paper reaches the conclusion that in order for legal translators to achieve acceptable legal translation from the lexical perspective, they should be cognisant of the type of lexical term they are dealing with and should also be conversant with the different translation procedures to be able to use the appropriate procedure(s) in the right lexical situation.¹⁶

Drawing on corpus linguistics and Arabic legal translation research, El-Farahaty and Brierley carry out an interdisciplinary study on the rendering of the term: كرامة (*karāma*) and its collocates in Arabic-English constitutions, seeking to verify whether or not there is a mutual understanding of the concept designated by the term “*dignity*” in Arabic-English legal translation. The denotative meaning of the term “*dignity*” is discussed in light of International Human Rights Law, the Qur’ān and the Bible. The paper claims that while the indefinite noun: كرامة (*karāma*) is rendered into English with the use of the term “*dignity*”, the definite noun: الكرامة (*alkarāma*) is translated into English with the use of the qualifying adjective added to the term “*treatment*”, particularly in negative structures. The paper also argues that the positive connotations of the term: كرامة (*karāma*) in opposition of the negative connotations of the term: الكرامة (*alkarāma*) are ensured via their statistically crucial collocates ascertained through stringent metrics in Sketch Engine. The paper also concludes that the concept specific to “*dignity*” as designated by كرامة (*karāma*) and its variants in the constitutions assumes positive and negative human rights according to International Law.¹⁷

Using corpus-based analysis approach, El-Farahaty and Elewa carry out research on deontic modality of obligation and prohibition in Arabic-English constitutions. The way in which commitments and rights are expressed by way of deontic modality of obligation in translated and non-translated corpora is meticulously investigated. The paper argues that the deontic modal expressions of prohibition and obligation vary and are articulated via nouns, adjectives, verbs, particles, prepositions and phrasemes. When rendering deontic modal expressions from Arabic into English, translators should follow the variations of the source language and should not adhere strictly to the conventions of deontic modals of obligation in the target language. The paper also concludes that translation of prohibition in the corpus varies, using a variety of

¹⁵ Hanem El-Farahaty, *Arabic-English-Arabic Legal Translation* (London: Routledge, 2015).

¹⁶ Hanem El-Farahaty, “Translating Lexical Legal Terms Between English and Arabic,” *International Journal for the Semiotics of Law* 29, no. 2 (2016): 473–93.

¹⁷ Hanem El-Farahaty and Claire Brierley, “An Interdisciplinary Corpus-Based Analysis of the Translation of كرامة (Karāma, ‘Dignity’) and its Collocates in Arabic-English Constitutions,” *JoSTrans: The Journal of Specialised Translation* no. 32 (2019): 121–45.

“shall” in negative constructions. The variation of the translation of modal verbs from Arabic into English is attributed to the context or the style used in each constitution.¹⁸

Building on cognitive science research, Halimi uses the notion of frames as a proof of concept to map the investigation process in three criminal justice realities: the Algerian, Egyptian and French Criminal Procedures. A thorough analysis of the preliminary examination process is specifically carried out by mapping all related stages and presenting concepts on organisational frames. Findings reveal that frames allow quickly reviewing different stages of the preliminary examination and comparing the variations between system-based concepts. When national laws interact with one another, frames appear to be useful in identifying conceptual gaps and highlighting problems of contextualisation in translation. Propositions of compensation are presented in Arabic according to contextualised communicative parameters. Examples of French criminal procedure concepts are given, such as *garde à vue*, *détention provisoire*, *juge des libertés et de la détention* and their Arabic correspondents to highlight problems of terminological heterogeneity and discrepancy. Possible solutions are presented to overcome inconsistencies in Arabic criminal terminology and present relevant contextual variables in translation. The specificities are underscored at the procedural level of which the legal translator and legal expert are required to be aware in order to avoid conceptual inaccuracies, terminological discrepancies and awkward calques.¹⁹

With a view to rethinking the English–Arabic legal translation training, Halimi presents a framework for a specific competence acquisition in legal translation. While machine translation outputs are proliferating, the demand for expert reliable legal translators is higher than ever, requiring competence-based training in the field of legal translation. A task-guided framework is provided for developing the subject-area competence at the earliest stage of an English–Arabic legal translation course. Three crucial stages in the study of legal translation graduate courses are highlighted, each of which is linked to the development of a particular legal translation competence; legal concept processing is for subject-area competence, documentary research is for instrumental competence and legal rhetoric is for communicative and textual competence. The present argument is supported by examples and solutions to illustrate and resolve the most problematic phases in text analysis at the conceptual level. Special emphasis is placed on the relevance of developing subject-area competence in translation not only by addressing linguistic features of the text, including terminology, phraseology and discursive conventions, but also through taking into account the extratextual constraints related to legal systems, branches of law and the target community. This is to ensure meaning relevance, terminological consistency and stylistic appropriateness.²⁰

From a historical perspective, Halimi examines Arabic legal phraseology formation from the standpoint of positive law and jurisprudence. Based on certain Arabic codes and general legal principles, it is claimed that phraseological constructions in Arabic legislative and statutory texts are largely influenced by the translation process of Roman Law texts. However,

¹⁸ Hanem El-Farahaty and Abdelhamid Elewa, “A Corpus-Based Analysis of Deontic Modality of Obligation and Prohibition in Arabic/English Constitutions,” *Estudios de Traducción* 10 (2020): 107–36.

¹⁹ Sonia Halimi, “Contextualising Translation Decisions in Legal System-bound and International Multilingual Contexts. French-Arabic Criminal Justice Terminology,” *Translation and Translanguaging in Multilingual Contexts* 3, no. 1 (2017): 20–46.

²⁰ Sonia Halimi, “Rethinking the English-Arabic Legal Translation Course: Restructuring for Specific Competence Acquisition,” *International Journal for the Semiotics of Law* 32, no. 2 (2018): 117–34.

scholarly literature still relies, to some extent, on formulae used in the Islamic jurisprudence. To illustrate this, an account of the historical role of translation in the construction of certain Arabic phraseologisms is offered. An examination of the general legal principles of different phrases is conducted in relation to their counterparts anchored in Islamic jurisprudence, known as *legal maxims*, along with their corresponding expressions in positive law in Modern Standard Arabic. The paper concludes that the phraseology present in many Arabic positive laws is fully adapted to corresponding formulations in the Roman Law, stemming from a historical translation process that accompanied the codification movement at the beginning of the twentieth century. Additionally, the influence of Islamic jurisprudence language on scholarly literature remains. The analysis leads to the conclusion that phraseological patterns constitute a key stylistic feature that illustrates the way in which the substance of legal texts is formulated. Therefore, knowledge of phraseology formation and its historical background is a key tool for a proper use of phraseologisms, whether in drafting or translating.²¹

From a linguistic perspective, Zidan offers a relatively comprehensive account of legal language, particularly the language of contracts, seeking to explore the primary features that characterise the language of contracts through establishing textual and non-textual criteria. It is claimed that the origins of difficulty in the translation of legal texts emanate from the divergence in the legal sources, linguistic aspects and cultures. Having mastery over the terminology specific to both the source and target languages is not ample to qualify a legal translator and make him/her professional. Indeed, legal translation competence demands instruction in translation theory and training in the subject-matter as well as the linguistic aspects of legal discourse. The paper concludes, having viewed legal translation as a process of communication, that the legal translator's role is contingent upon the particular language relationships creating the communicative situation.²²

From a legal and a lexical angle, Altarabin addresses the translation of English legal and lexical features into Arabic. Special attention is paid to certain problems that confront legal translators, such as intra-system divergences, lexical challenges, connotative meaning, contextual meaning, translators' cognisance of legal terminology and the lack of uniformity in interpreting and implementing legal instruments. It is asserted that intra-system differences affect the whole process of rendering legal texts from one legal language into another as legal systems typify the laws applied to states, which, of course, differ from one state to another. The paper confirms that the issue of uniform interpretation and implementation of legal documents between English and Arabic is unequivocally impossible due to the divergence in legal terminology, legal system and place of law implementation.²³

Following a practical approach, Altarabin discusses in detail a variety of different translation strategies alongside lexical, syntactic and stylistic aspects of English and Arabic legal, technical and media texts supported by practical translation examples and authentic documents

²¹ Sonia Halimi, "Arabic Legal Phraseology in Positive Law and Jurisprudence: The Historical Influence of Translation," *Comparative Legilinguistics* 46 (2021): 37–64.

²² Ahmad A. Zidan, *A Linguistic Analysis of Some Problems of Arabic-English Translation of Legal Texts, with Special Reference to Contracts* (Newcastle upon Tyne: Cambridge Scholars Publishing, 2015).

²³ Mahmoud Altarabin, "Translating English Legal Lexical Features into Arabic: Challenges and Possibilities," *Arab World English Journal for Translation & Literary Studies* 2, no. 2 (2018): 199–209.

extracted from different sources. The work is directed to students as it contains exercises and glossaries of translated terms.²⁴

3. SHIFTS IN ARABIC LEGAL TRANSLATION RESEARCH

As illustrated in the previous section, Arabic legal translation studies draw mainly on a contrastive linguistic approach whose aim is to explore differences and similarities between any given pair of languages, mainly English-Arabic-English or French-Arabic-French. The contrastive analyses are carried out essentially at the terminological (concept meaning) and phraseological (collocations) levels, and, to a lesser extent, the syntactical (sentence structure) level. The research concerned thus focuses chiefly on discourse analysis, contrastive text study and terminological contextualisation.

The screening of the main studies prompts us to operate a shift from exclusively descriptive and comparative-contrastive linguistics to a more empirically-based research that is implemented in a rigorously set design. Such a shift would provide an exit from findings presented in an exploratory way, some of which remain broad and scattered. This is particularly important now as the growing development of studies in legal translation requires mixed method and quantitative-based approaches to be applied.²⁵ Recently, scholars have held the point of view that legal translation studies have reached the stage of consolidating existing research methods and models²⁶ and exploring new disciplines.²⁷

Arabic legal translation studies have research questions that are yet to be explored due to the Arabic interlinguistic variation from one legal system to another. Legal information should also be handled differently due to the evolution of social, legal, political and cultural realities, as well as variations in sources of law. The contribution of Arabic legal translation research to the discipline may lead to the development of theoretical models and research methods that would involve both empirical and discursive data, as well as delineate linguistic and extralinguistic parameters, which are substantial to the Arabic language, but still cover different legal systems.

A shift in Arabic legal translation research can start by applying de facto theoretical models in order to reflect the reality of practical problems in Arabic settings, while drawing on integrated approaches to legal translation. Two deep-level analytical approaches, which can be explored for their multi-perspective aspects, are the integrative process-oriented approach for

²⁴ Mahmoud Altarabin, *The Routledge Course on Media, Legal and Technical Translation: English-Arabic-English* (New York: Routledge, 2020).

²⁵ Lucja Biel, Jan Engberg, Maria R. M. Ruano, and Vilemini Sosoni, *Research Methods in Legal Translation and Interpreting: Crossing Methodological Boundaries* (New York/London: Routledge, 2019).

²⁶ Fernando Prieto Ramos, "Parameters for Problem-Solving in Legal Translation: Implications for Legal Lexicography and Institutional Terminology Management," In *The Ashgate Handbook of Legal Translation*, eds. Le Cheng, King Kui Sin, and Anne Wagner (Surrey: Ashgate Publishing Limited, 2014), 7–21.

²⁷ Catherine Way, "The Challenges and Opportunities of Legal Translation and Translator Training in the 21st Century," *International Journal of Communication* 10 (2016): 1009–29.

legal translation competence development proposed by Prieto Ramos²⁸ and currently tested within the field of Arabic-English legal terminology by Alwazna²⁹ and the multi-perspective research framework propounded by Biel³⁰ for researching legal translation. The relevance of such analytical models lies in their use of interrelated quantitative and qualitative approaches, a mixed method that is now even more necessary for Arabic legal translation studies. They also provide the possibility to explore extensively diverse and integrated parameters, including the Arabic diverse contextual dimensions and intralinguistic contrastive processes that Arabic legal translation may imply.

A shift can also operate through diversifying research objects and approaches, including corpus-based and comparative methodologies; two methods whose relevance and validity have been amply confirmed by studies' findings. By its inferential nature, the corpus-based approach can bring in new insights and consolidate what has previously been uncovered in the field of Arabic legal translation through discursal, linguistic and comparative studies. On the other hand, comparative methodology, which consists of mapping legal concepts via scrutinised analysis of source legal concepts, helps operate relevant choices of counterparts and construct a solid knowledge base that benefits knowledge acquisition.

Comparative-oriented and corpus-based studies are particularly needed for encompassing new research hypotheses. This may give rise to developing theoretical models which can apply to a particular context and background of Arabic legal translation.

4. CORPUS-BASED APPROACH

Corpus linguistics is a research method that has been thoroughly applied in the field of legal translation. Possibilities of developing Arabic legal translation studies can hinge upon advancements in corpus linguistics, which has proved its relevance in interlingual and intralingual contrastive studies.³¹ In legal translation, recent studies conducted using corpus methods have shown that applying corpora provides causal explanations and generalises findings to a wider audience of interest.³² Corpora-related methods also pave the way for presenting results and conclusions that are neither grounded in purposefully designed situations by the researcher, nor are they founded on isolated occurrences that are cherry-picked. With the witnessed growth of the use of Arabic in the digital sphere, there is a pressing need for building large corpora either in the institutional or private legal sector to provide meaningful descrip-

²⁸ Fernando Prieto Ramos, "Parameters for Problem-Solving in Legal Translation: Implications for Legal Lexicography and Institutional Terminology Management," In *The Ashgate Handbook of Legal Translation*, eds. Le Cheng, King Kui Sin, and Anne Wagner (Surrey: Ashgate Publishing Limited, 2014), 7–21.

²⁹ Rafat Y. Alwazna, "The Efficacy of the Integrative Model Proposed by Prieto Ramos (2014) in Surmounting Terminological Problems of Arabic-English Legal Translation," *International Journal for the Semiotics of Law* 35, no. 2 (2022): 737–52.

³⁰ Łucja Biel, "Researching Legal Translation: A Multi-Perspective and Mixed-Method Framework for Legal Translation," *Revista de Llengua i Dret, Journal of Language and Law*, no. 68 (2017): 76–88.

³¹ Reinhard R. K. Hartmann, "Contrastive Textology and Corpus Linguistics: On the Value of Parallel Texts," *Language Sciences* 18, no. 3–4 (1996): 947–57.

³² Gianluca Pontrandolfo, "Corpus Methods in Legal Translation Studies," In *Research Methods in Legal Translation and Interpreting: Crossing Methodological Boundaries*, eds. Łucja Biel, Jan Engberg, María R. M. Ruano, and Vilemini Sosen (New York/London: Routledge, 2019), 13–28.

tions of Arabic legal discourse. Triangulations of methods and sources are then necessary to include pragmatic features, such as speech acts or vague language, which are not covered by corpus-based analyses.³³

The most recent studies are at their first tentative steps towards corpus-based investigations. El-Farahaty and Elewa have used a parallel corpus of Arabic-English Constitutions and a monolingual corpus of English Constitutions, to investigate how commitments and rights are expressed by way of deontic modality of obligation. The object of the study is, however, still restricted to an investigation of linguistic features through comparative-contrastive analysis of Arabic modal expressions with their English counterparts, missing to show how the study results can impact practice.³⁴

In a small-scale corpus-based investigation of Arabic legal phraseology, Halimi shows the historical impact of translation on drafting Arabic positive laws. On the other hand, the analysis of general legal principles suggests that the Islamic jurisprudence has left its discursive marks on non-legislative texts. Such analysis could provide more robust and comparable results if based on a larger corpus of codes and legal principles in Arabic. A large amount of Arabic translated legal texts, either legislative or judicial, are not digitalised yet, making them arduous to utilise text collections for research purposes. Until then, no subsequent generalisation can be achieved.

5. COMPARATIVE APPROACH

As an intersystemic linguistic process, legal translation implies knowledge and awareness of the law in the relevant legal systems related to the intercultural and interlingual situation of communication.³⁵ Systemised methods and strategies developed to acquire legal knowledge and resolve related translation problems are mostly based on a comparative-law approach. This approach is viewed as the most apropos method to ensuring motivated translation choices and substantiated research conclusions.³⁶ Awareness of the source and target legal systems brings about required actions of comparison between system-related conceptual elements involved in the translation. A motivated terminological choice is then reached using the appropriate strategy/technique according to the intended effect of the translated text.

It is largely agreed that legal contexts in which a particular translation is required can fall within four distinct settings: international public law, international private law, judicial context and scientific context. Operating translation choices for Arabic legal discourse in any of these contexts reveals substantial interlingual and intralingual variants in terminology. It also casts light on the absence of comparable concepts. Such comparative exercise helps determine the differences between concept representations of Arabic legal systems on the one hand, and Arabic and non-Arabic legal systems on the other hand, drawing on substantiated

³³ Stanislaw Goźdz-Roszkowski, "Corpus Linguistics in Legal Discourse," *International Journal for the Semiotics of Law* 34, no. 5 (2021): 1515–40.

³⁴ Hanem El-Farahaty and Abdelhamid Elewa, "A Corpus-Based Analysis of Deontic Modality of Obligation and Prohibition in Arabic/English Constitutions," *Estudios de Traducción* 10 (2020): 107–36.

³⁵ Deborah Cao, *Translating Law* (Clevedon: Multilingual Matters, 2007).

³⁶ Sylvie Monjean-Decaudin, *La traduction du droit dans la procédure judiciaire. Contribution à l'étude de la linguistique juridique* (Paris: Dalloz, 2012).

decision-making while striving to ensure terminological harmonisation as much as possible. This helps overcome the obstacles of terminological incongruency.

Indeed, the abundance of existing terminological and phraseological variants uncovers inconsistencies that highlight three main problems for translation decisions: heterogeneity, discrepancy and confusion.³⁷ In order to avoid the ambiguity that arises from multiple choices, comparative-based strategies of translation are to be adopted for proper rendering according to each translation situation. The comparative methodology induces motivated choices and standardised solutions in case of conceptual elements that are not represented or determined in Arabic laws. It also brings about coherent translation decision-making when coping with heterogeneity between Arabic legal systems. The importance of comparative-based strategies for coherent translation decision-making can be illustrated by the following two cases.

A notable case of inconsistency in existing Arabic legal terminology is related to the French Law concept: *témoïn assisté*, which lacks a comparable concept in Arabic legal systems. Both the *Lexique des termes juridiques français-arabe-anglais*,³⁸ the sole legal dictionary that refers to the concept, and the UN documents, fail to present any satisfactory counterparts. The term is not listed in the UN term base. The first proposed counterpart consists of an unsuccessful paraphrase: شاهد مدعى عليه (*shāhidun mudda'ā' alayh*). When defined in the legal dictionary, this term makes no sense. The other counterpart appears in UN documents and consists of literal translation: شاهد مؤزر (*shāhidun mu'āzir*).

In order for the legal translator to ensure choosing the appropriate term that designates the intended concept, one has to consider ISO's³⁹ criteria for term coinage, including linguistic appropriateness, linguistic economy and derivability. Based on the foregoing, the choice of the word: مستعين (*musta'īn*) could be deliberately based on an idiomatic expression commonly used in Arabic when discussing *the right of an accused to be assisted by a lawyer* الاستعانة بمحام (*alīsti'ānatu bimuhām*) or الاستعانة بمترجم (*alīsti'ānatu bimutarjim*). The concept gap can be counterbalanced by a generic term: شاهد مستعين بمحام (*shāhidun musta'īnun bimuhām*). Taking ISO's criteria into account, priority should be given to designating the source concept consistently in order for the message to be conveyed accurately and intelligibly. With this in mind, the comparative method is a key tool. This solution highlights the irrelevance of literal translation at the expense of knowledge-based choice.

Differences in legal concepts reflect the distinctions between legal systems, and are crucial in the study of Arabic legal language. However, terminological variation is not necessarily generated by conceptual asymmetry. In an international translation situation, for instance, several Arabic terminological variants may be given as interchangeable counterparts for a specific concept.⁴⁰ Given such terminological variation, the translation decision-making needs to be coherent. Thus, the commonly-used term may be a solution to ensure general

³⁷ Sonia Halimi, "Contextualising Translation Decisions in Legal System-bound and International Multilingual Contexts. French-Arabic Criminal Justice Terminology," *Translation and Translanguaging in Multilingual Contexts* 3, no. 1 (2017): 20–46.

³⁸ Lena Menhem, Bassil Chamel, Claire Bechara, and Romy Rahmé, *Lexique des termes juridiques: français, arabe, anglais* (Paris: Dalloz; Beyrouth: Librairie du Liban, 2010).

³⁹ ISO 704: 2000, ISO 1087 1: 1999 and ISO 1087 2: 2001

⁴⁰ Sonia Halimi, "Contextualising Translation Decisions in Legal System-bound and International Multilingual Contexts. French-Arabic Criminal Justice Terminology," *Translation and Translanguaging in Multilingual Contexts* 3, no. 1 (2017): 20–46.

comprehension and avoid potential exoticism as such term is familiar to the layman within the Arabic readership. Emphasis should consequently be placed on terminological harmonisation.

Addressing such questions should inform us of relevant ways of identifying conceptual common characteristics amongst Arabic legal systems that may give rise to the harmonisation of terminology. Asymmetry, on the other hand, may be analysed to determine whether it emanates from a fundamental difference in concepts or merely represents variation in terminology.

6. CONCLUDING REMARKS

This chapter presents the state of knowledge in the field of Arabic legal translation studies through offering a relatively brief account of the most important Arabic legal translation studies that date back to the 1990s until current times. The chapter argues that, up to now, the landscape of Arabic legal translation has mostly been shaped by discourse analysis, contrastive text analysis and contrastive lexical studies. A shift from merely exploratory and qualitative studies may open new research perspectives for Arabic legal translation. It is reasonable to believe that new insights into the field could come to light through viewing legal translation developments from the standpoint of different research frames: quantitative and mixed methods on the one hand, and comparative and corpus-based approaches on the other hand.

Applying such methodological approaches to the field of Arabic legal translation research would promote significant growth and bring about dynamic changes in Arabic legal translation studies. This could be achieved through diversifying its perspectives and reframing Arabic legal translation-related questions based on major methodological advancements. It is reasonably expected that new research on Arabic legal translation would move on from linguistically oriented studies to include extralinguistic variables that are anchored into historical, social, cultural, political and ethical settings. Arabic legal translation also needs substantial exploration of the varied research approaches that rely not only on qualitative method, but also investigate problems through the lenses of quantitative method, corpus-based method, comparative approach and mixed method. Building on that, qualitative as well as quantitative data could then be generalised for a larger sample and reproduced with different variables in other experiments.

Taking this on board, it would be possible to conduct large-scale research, using new technologies and sophisticated tools to test hypotheses on large collections of representative texts. Corpus-based research, which uses large collections of texts and advanced processing tools, may provide accurate findings in fields closely related to translation. These fields include terminology, phraseology and stylistics within a broad extralinguistic context.

From an interdisciplinary perspective, comparative approach is meant to guide motivated translation choices and substantiated research conclusions. The thorough analysis of source legal concepts helps making relevant choices of counterparts, scrutinised concept mapping and the construction of a solid knowledge base that benefits knowledge acquisition. Presently, the terminological heterogeneity observed in Arabic legal dictionaries or institutional websites evidently restricts the reliability of the presented information. From a comparative perspective, the approach brings to light the extent of asymmetry in the organisation of different legal systems. Practically, the transition from one national legal setting to another may highlight substantial divergence in the conceptual organisation alongside terminological incongruency. Finally, despite the long history of Arabic legal discourse, there seems to be a conspicuous

lack of legal translation data and insufficient empirical research to reflect the actual state of the field.

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