

LEGAL ARABIC VOCABULARY PROFILE: REFLECTING LEGAL CULTURES AT THE AGE OF GLOBALIZATION

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Abstract

The paper explores specifics of mutual balancing legal terminology within trilingual settings, including Arabic, English, Russian environments. The study goes in line with the needs of experts and specialists who work within the above settings to adequately understand and use language tools for processing legal information coming from the Arab world. Moreover, increasing globalization requires even more careful approach to processing legal information when the process takes place within multicultural settings. The analysis of the legal language of Arab countries within multilingual settings is necessary for incorporating the Arabic legal culture concepts into the orbit of comparative studies of legal vocabulary. The above explains the current importance of the research. The research goal is twofold; first, it aims to characterize those layers that form the Legal Arabic vocabulary profile. Second, it strives to map those changes that are required to render the legal terms meaning and find functional equivalents to balance traditions of diverse legal cultures that are expressed through Arabic, English and Russian. The research materials included parallel legal texts in Arabic, English and Russian, and bilingual legal dictionaries for the mentioned languages. The research combined theoretical and empirical studies. Literature review focused on the latest developments regarding Legal Arabic Vocabulary. Empirical studies included analysis of transformations offered in texts and dictionaries in search for functional equivalents of legal terms. The research methodology rested on the comparative approach to analysis, followed functional and cultural equivalent principles in the course of exploring the essence of multilingual legal terminology. The research findings made it possible to characterize the major layers of Legal Arabic vocabulary and identify some ways that reflect Legal Cultures expressed in Arabic, English and Russian at the age of globalization. The research findings can be of use for lawyers and translators who work in multilingual legal environments, incorporating the Arabic, English and Russian languages

Keywords: legal concepts, multilingual setting, legal culture

1 EXTRATEXTUAL FACTORS LEADING TO THE MODERN LEGAL TERMINOLOGY FORMATION

There are several words for the term "law" in the Arabic language. One of them is Sharia, the other is Kanun. Both these terms are characterized with specific connotations and refer to certain periods in the Arabs' history. Both these terms are reflected in legal terminology and are deep-rooted in the Arabs' consciousness.

It is a well-known fact that Sharia was established with the advent of Islam among the Arab tribes, the law was a complete equivalent to everything in the whole of world, although, it should be mentioned that before emerging of the law as a social phenomenon the tribes used to be guided by tribal customs. Sharia is commonly translated as Islamic law; however a more accurate variant of translation would be "a divine law,

given by earlier Christians and Jews". It was given as a fixed variant beyond any alterations before the end of the Day of Judgment. Since the Holy Scripture was sent down in Arabic, it was vested with a "sacred" status. This fact had several implications: first of all it gave rise to a negative attitude towards the loanwords; secondly, further development of specifically Arabic terms was much hampered in the future.

The word Kanun came into the Arabic language with translations of Greek works in the period of the Abbasid caliphs. It should be pointed out that this was the period of substantial expansion of Arabic language's vocabulary which was due to many borrowings from the Greek and Persian languages. At the same time, all writing including correspondence in the Arabic Caliphate became to be done in Arabic which prompted the development of the epistolary style. Authors share the opinion of some researches who believe that the term kanun was used in this particular time and place by contrast to sharia.

The next stage, which played an important role in the formation of Arabic legal vocabulary, was the revival phase of "Nahda." The main specific feature of that period in terms of vocabulary expansion and development was determined by Arabs' realization and recognition of their lagging behind the rest of the then developed world, and their commencement of taking over the achievements of Europeans in science, culture and literature. The mentioned process was inevitable accompanied by adoption of the European terminology systems, including terminology related to legal domain. However, as has been discussed above the borrowings were not calked: the Arabs tried to find an equivalent in their own language, because of "holy status" of their languages. It is worthy to mention that the efforts to preserve the purity of the national language took such a scale that it resulted in establishment of many Academies of the Arabic language in Arabic world. For example, the first Academy of Sciences was established in Damascus (the periodical editions of the Academy have been published since 1921). In 1934, Egypt established the Academy for the Study of Arabic with its own printing organ. The third center for specialized studies of the Arabic language is the Academy of Sciences (established in 1947). (Bodnar, 2002, p.84) Currently such type academies specifically dealing with language's purity preservation and vocabulary issues can be found in almost every Arab country such as Jordan, Tunisia, etc. For each country, the legal terminology is "formed" and "approved" by its own Academy. However, the main challenges associated with translation of legal terminology from Arab into English and Russian are not only caused by extra linguistic factors related to difference of legal systems, but also by diglossia and bilingualism in majority of Arab Countries.

2 THE MEANS AND PRINCIPLES OF LEGAL TERMINOLOGY FORMATION

In this section we will provide a brief overview of the major means of incorporating new legal terms into the Arabic language. It should be mentioned that direct borrowings were far less common phenomenon for the Arabic language than for the majority of European languages as borrowings were regarded as contamination of the language's "purity". The necessity of incorporating legal terms into the vocabulary sparked the extensive use of other lexical means among which the following can be identified:

- Derivation

(aurahs) شروعة - selling

(auhsar) رشوة - bribe

- Word-binding by two words (idafa)

(lamis'az) لاملأ سأل - capitalism

(salamim al-mat'him) سلميم المتهمين - extradition

- Arabization

(nunak) نقانون - law, it's word came from Greek language, and were adopted to Arabic words

(kannana, taknin) قنن, تقنين - legislation

- descriptive method (decompression)

Drunk driving – قيادة سياره سكران (narkus ahuqi'as araayas tadaiq) (literal: driving car and it's driver is drunk)

Alibi - ta tabsi) بات ال تغيب عن المكان (tagayub 'an almakaan) (literal: acknowledgment for your absence in smth place)

Bench book – المراجع ال تي ي س تخدم ال قاضي (itaslajla ianhta iydaaqla umidhatsay ital 'uijaaramla) (literal: references that the judge uses during the session)

- transliteration

DENNIS H. (A hearing to determine if there is sufficient evidence to sustain a juvenile court petition) – دنيس د – ايش

AD LITEM (Comes from Latin meaning for the “purposes of the lawsuit.” For example, a guardian ad litem is a person appointed by the court to protect the interests of a minor or legally incompetent person in a lawsuit.)
ادل ي تم –

Protocols - ولا تير روت وك -

Regarding the last means of term formation it should be pointed out that the Arabs tried to avoid transliteration believing that their own language provided enough linguistic resources to accurately reflect the world outlook.

Discussing the issues of legal terms' formation we cannot avoid mentioning polysemy as one of the factor greatly contributing to legal vocabulary diversity. Polysemy is regarded by many scholars as one of the specific features of the Arab language in general and it is rather proliferous phenomena in legal terminology as well. The reason for this was that, for every legal term to be incorporated, the Arabs tried to find an equivalent in their own language. For example, we will consider the word "minister". In Russian, this word was borrowed from the French language and transliterated by Cyrillic alphabet - министр. The Arabs, on the contrary, took their word for this term “vazir”, thus the word had acquired an additional meaning. Another reason is the formation of many nouns through the substantiation of participles and adjectives. One and the same participle or adjective in Arabic can become the basis for several names-terms from another language.

3 CHALLENGES IN LEGAL TRANSLATION

Legal translation is one of the most difficult types of translation as it is, legal translation in trilingual setting Arabic – English - Russian it becomes even more challenging. One of the most obvious challenges is lack of isomorphism that is one-to-one legal terms correspondence in the three languages under study. To some extent that can be explained by difference of legal systems that are constituted and function on different legal principles. The situation is exacerbated by the fact of languages' pertaining to different language families and groups: Arabic belongs to Semitic language family; Russian and English - to Indo-European language family (within which English belongs to German Group of languages, while Russian - to Slavonic group of languages). Linguistic differences alongside with legal systems incongruities pose considerable translation challenges on various language (syntactic and lexical) as well as extralinguistic levels.

In the cause of the research we have analyzed 14 parallel legal texts in Arabic, English and Russian with the view of identifying empirically the main translation challenges. All texts were authentic, though of descriptive nature, and referred to civil law. We identified and grouped the experienced translation difficulties into the following clusters.

Polysemy

وكيل (wakiil) – attorney, agent, proxy, attorney.

Depending on the context the term can have more than one variants of translation into Russian – адвокат (lawyer), поверенный (attorney), законный представитель (legal representative).

وضع (wada'a) – settlement, development, status, draft.

Russian possible context-bound translation equivalents are установление, положение, позиция, планирование

Synonymy

Discussing this cluster it should be noted that synonymy in the Arabic language appeared not only due to many regional dialects, but also due to impressive number of Academies whose efforts to find the most accurate lexical equivalent resulted in emerging of various lexical representations of virtually the same phenomenon.

accord, agreement - إتفاق , تراض , مصالحه (musaalahat, taradi, ittifaq) Russian translation equivalents are примирение , согласие , соглашение , договоренность (agreement) تراض , согласие (agreements pl). The mentioned lexical units can also be translated as “contract” (договор).

English word “document” as a generic term can have a range of context specific translation variants which are synonyms in Arabic, but both in English and Russian can be translated differently وثيقة , محرر , سند , مستند –

شهادة (shahadat, hudjat, wasirat, sikk, mustanad, sanad, muharrar, wathiqat); свидетельство, показание на суде, письменное удостоверение, аттестат, диплом, удостоверение личности (court evidence, diploma, identity card), حجة довод, доказательство, аргумент, документ на право владения (argument, deed of title) وصيرة – документ (на право собственности) (deed of title), ورقة – бумага, документ, кредитный билет, ценная бумага, обвинительный акт, (paper, document, securities, indictment) صك – документ, расписка, обвинительный акт, документ на мандат, чек, (document, receipt, indictment), مستند – расписка, документ, (document, receipt), سند – расписка, документ, вексель, денежное обязательство, облигация, (document, receipt, promissory note, bond), محرر – письменные бумаги, донесения (writs, reports), وثيقة – документ, акт (document, act). As can be seen from this example almost every Arabic synonyms shown above can be translated as “document”

disclaimer – the most common equivalent of this term in Russian is «отказ» - Arabic equivalents are (tanasul, tanaazul, nukran, tahallin)

تصل, تنازل, نكران, تخل

annotation شرح, تعليق, تفسير (sharh, ta'liik, tafsir) -

This term is of Latin origin consequently Russian equivalent has the same root morpheme «аннотация»? however, there is another context-bound variant of translation – «примечание»; second variant is closer in meaning to English word “note”.

Legal systems incongruities

Since legal terms reflect legal realities specific to different systems (English terminology refers to Common Law system, Russian terms represent concepts specific to Romano-Germanic legal system, Arabic terms refer to Islamic Law and Civil Law) finding accurate translation equivalent is problematic and sometime requires the translator to provide explanations. For instance, one of the difficult terms is the term *Nikah* that generally can be translated into English as marriage and as “брак” into Russian. However alongside with this term there is another term *zauadj* which also means marriage. *Zauadj* is closer to marriage in the European sense; it requires official registration of marriage as common both in Common Law system and in Romano-Germanic. The Arabic term *nikah* has no analogy in European legal culture. It means religious marriage, which requires no official registration, but is performed in the presence of two witnesses and bride's father or guardian. The same is the case for the divorcing process.

Religious lexical layer in legal texts

As has been mentioned before the “divine” status of the Arabic language is one of the cultural background specificities which penetrates all spheres of language use including legal language. The insertion of religious lexis into legal texts is rather a common practice. Thus the term *basmala* can be often found in the beginning of legal text, including such documents as trade bills (Bodnar, 2002, p.27).

Similarly, Arabic documents may rather frequently contain such religion expression as:

إن شاء الله (in sha'a allah) – God willing.

علي كتاب الله و سنة رسوله ('alya kitaabi allahi wa sunnati rasulihi) - According to the Holy Book of Allah and the Sunnah of His Messenger.

وعلي مذهب أبي حنيفة (wa a'lya mazhabi abi hanifa) - According to the doctrine of Abu-Hanifa (Hanem El-Farahaty, 2015, p.36).

flourish of rhetoric in Arabic texts.

Rhetoric has always been highly valued among Arabs. This also projected on legal texts, particularly in salutation parts, documents' endings and wishing parts.

Some misunderstanding problems are also associated with abbreviations, which is basically due to the lack of capital letters in the Arabic language. By way of practical guidance it is worthy to mention that when writing the term in order to avoid misunderstanding, its English equivalent is commonly given in brackets after the Arabic term. This is a common practice for the legal documents intended for international use.

4. CONCLUSION

Legal terminology in the Arabic language substantially differs from that in English and Russian languages which poses serious challenges in translation. The very difference in legal systems makes the translation an onerous task since legal vocabulary is not only system specific, it also reflects legal culture. Thus legal

translation within the trilingual setting considered should be focused not only on conveying the meaning, but transferring the legal effect from source language into the target one. The Age of Globalization sets new challenges in the context of developing closer ties with Arabic Middle East which goes hand-in-hand with legal formalization of such relations. From this perspective finding solutions for translation difficulties associated with differences in legal terminology is topical and requires further research.

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