

## Difficulties Encountered in Translating Some Legal Texts from Arabic Into English

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Translation is both a social and cultural phenomenon, it can neither exist outside a social community and it is within society, nor it can be viewed as a medium of cross-cultural fertilization. This paper aims to investigate the difficulties that a translator may face when dealing with legal texts such as marriage and divorce contracts. These difficulties can be classified according to the present paper into syntactic, semantic, and cultural. The syntactic difficulties include word order, syntactic arrangement, unusual sentence structure, the use of modal verbs in English, and difference in legal system. As to the semantic difficulties, they involve lack of established terminology, finding functional and lexical equivalence, word for word translation, synonymous and antonymous words, wordiness and redundancy, loan words, neologism, and paraphrasing. Concerning the cultural difficulties, they relate to differences in traditions and norms, religion and social terminology as well as faiths and doctrines. This paper falls into two parts: part one is theoretical and tackles the definition and significance of legal translation, characteristics of legal texts, the techniques used in legal translation and types of legal texts; whereas part two is practical and deals with the general difficulties of legal texts with special reference to marriage and divorce contracts. It shows the syntactic, semantic and cultural analysis of different forms of marriage and divorce contracts that are translated from Arabic into English. It has been found that translating such legal documents as marriage and divorce contracts pose great difficulties that are due to the differences in legal systems of the two languages. In addition, cultural differences play a major role in mistranslating some terms, for example the words "لا رهم", "كدر وأص درغب ي نون ة ب ن ا ن ط ق لا", ". The difficulties may arise from the lack of equivalence in both the source and target languages; therefore the translation will be inadequate and inaccurate. Finally, the paper proposes an alternative translation, which sounds more adequate, accurate and equivalent than the given one.

**Keywords:** legal translation, legal text, marriage and divorce contracts, syntactic semantic and cultural difficulties, equivalence

### PART ONE: THEORETICAL REVIEW

#### ***Legal Translation: Definition and Significance***

Legal translation is considered one of the trickiest translations known. Generally, legal translation is that kind of translation that is concerned with law. It is described as a category in its own right, combining the inventiveness of literary translation with the terminological precision of technical translation. It is a complex process which requires special skills, knowledge and experience on the part of the translator since it involves knowledge of two fields, that are law and language together with the fact that the translator should possess accuracy,

speed, knowledge of laws of different cultures, knowledge of vocabulary and confidentiality. Legal translation covers general laws, contracts, patents, tenders, judicial transcripts, appeals, statements, sales deeds and certificates.

In addition, legal translation involves certificates of accuracy, witness statements, depositions, trusts, wills, articles of incorporation, litigation documents, immigration documents, property exhibit labels and in some cases attendance in court by the translator(s). The legal translator should keep in mind that the legal system of the source text (ST) is structured in a way that suits that culture and this is reflected in the legal language; similarly, the target text (TT) is to be read by someone who is familiar with the other legal system and its

language .In other words , the translator should be highly aware of the fact that when translating legal materials, especially contracts, it is significant to establish certain individuals' specific duties and rights so that accurate correspondence of these duties and rights in the source and target texts are correctly transmitted.

The importance of legal translation lies in connecting people from different backgrounds. The increase of contact and exchange between people and states resulted in the wide use of this vital tool. In fact, it is not necessary to be used in different states or continents, but also to make it possible for people in bilingual countries to communicate. Furthermore, it is multifold since it allows different cultures to connect, interact and enrich one another, it also contributes to the resolution of medical, political and other professional, social and individual. (Šarčević , 2000, 140)

### Characteristics of English Legal Language

Alcaraz (2002 , 5) proposes general characteristics of legal language for the translators to keep in mind when faced with any types of legal documents, they are as in below:

1. Legal language is conscious of precedent, conservative, slow to change, formulaic.
2. It is definite, precise and technical.
3. It tends to spell things out with painstaking attention to minute details
4. It is characterized in all its aspects by formality.
5. The formality of certain legal concepts demands a corresponding complexity in sentence structures.
6. Many foreign expressions are found in the legal language, especially Latin and Greek.
7. Archaic diction of legal English.
8. Lexical repetition or redundancy and wordiness.
9. Unusual use of words: " the same ", " such " and " said ".
10. Frequent use of doublets.
11. Lengthy and complex sentences.

### Types of Legal Texts

Generally, Legal texts are written in special style and contain plenty of legal terms. According to Hiltunen (1990: 81) , there are three different types of legal writing :

- (a) Academic texts which consist of journal articles, essays, proposals , theses and dissertations.
- (b) Juridical texts which cover court judgments or law reports , juridical transcripts, appeals, power of attorney, contracts, trusts , wills , pleadings , orders and judgments.
- (c) Legislative writings which consist of acts of Parliament, Treaties, constitution , pacts and agreements.

This paper is concerned with the second type only specifically contracts of marriage and divorce.

### Techniques and Strategies used in Legal Translation

The techniques used in translation generally vary and sometimes , more than one technique is used in a certain translation depending on the kinds of terms in the text . According to Al-Suliman (2014: 120), there are seven techniques which can be used in legal texts. They are as in below:

#### Functional Equivalent

Generally, it indicates the coherent relationship between the communicative values of SL and TL; also the relationship among words, sentences, terminological expressions and grammatical structures. In a specific way, that is in legal translation, it ,means for a translator to translate a legal term in a certain language with a functionally equivalent term in another language .But in some cases, a certain language may have more than one legal system such as Arabic, which uses: " Religion, Law of Napoleon, French Law, Martial Laws ). Here the translator must find a functional equivalent between the required legal systems. For instance,

(SL)	(TL)
Arabic لائحة جوابية	American legal system : motion
	British legal system : Reply to Defense

### Lexical Equivalent

This technique can be used when the first technique is not possible to be used for the difference of legal systems. Below is an example:

SL	TL	Lexical Definition
Moroccan Legal System قضاء المجلس الأعلى	Supreme Court Highest Court in the country	The court of cassation
Iraqi Legal System المحكمة الاتحادية العليا		A court that is higher than the court of cassation

The term " supreme court " has two different equivalents that depend on the legal system of the country, i.e. in the Iraqi legal system it is equivalent to

" أ ل ع ال ة ح ا ل ك م ة م ح ال "

But, it is called " لى الأ ع ل س م ح ال ض ا ق " in the Moroccan legal system. If the translator is not quite aware of the legal

system of the country of the ST he may face difficulty in rendering some terms into the TT. Sometimes when the ST (Arabic) is translated into TT (English) , it makes a difference whether the TT is directed to American or English culture , that is due to the fact that using the terms and institutions of different cultures using the same language may be different .

For instance, the word "سجن" in the ST can be translated into "prison" in the British system while in the American system it is "penitentiary". (Rey, 1995: 88).

### General Difficulties of Legal Translation

In this paper three major general difficulties of legal translation can be identified; namely, syntactic, semantic and cultural difficulties. Syntactic difficulties can be subdivided into: word order, syntactic arrangement, unusual sentence structure, the use of modal verbs in English and difference in legal system. However, Semantic difficulties can be subdivided into the lack of established terminology, lack of functional and lexical equivalence, word-for-word translation, wordiness and redundancy, loan words, neologism and paraphrasing. The cultural difficulties can be subdivided into differences in traditions and norms, differences in religion and social terminology.

### The Semantic Difficulties

According to Alcaraz and Hughes (2002: 5) legal terms are dynamic and their meanings change due to the changes in the social and cultural environment and the development of human knowledge and new technologies. Furthermore, Legal terms are symbolic or representational signs that refer to things or ideas found in the world of reality, physical or mental and they may be one-word units or compound units. These concepts can be further divided into three subcategories: purely technical legal terms, semi-technical terms and non-technical legal terminology (Ibid:16)

### The Syntactic Difficulties

It is claimed that the syntax of legal English is quite simple. The heavy nominal constituents make it complicated (Hiltunen, 1990:69). In addition, legal texts consist of long sentences that contain a great number of coordinated and especially subordinated clauses. (Ibid:70)

Therefore, reading and comprehending legal texts are difficult which leads to the idea that long sentences in English tend to be separated by a semi-colon. This may emphasize the important part of the sentence and make it more understandable. The legal sentences are characterized as being very long and complex. In addition, they contain some hidden expressions which make them more complicated. For example, in the marriage contract the below sentence seems very long and complex:

ST: ق ق ح ت زوج ال ؤ ص ش ق ق ح ت طاق ب لى ع ل ا ط ع واق من :  
دى /  
... ئة مد مأون ا ن دى ل د ا ك ت  
ة طاق ب لى ع ل ا ط ع واق من دى ل ق ق ح ت م ا ك ... كمة مح ل ع ت اب ال  
ق ق ح ت  
م ب محررة ال سن ل ئة ب م ال ؤ ب ط ال شهادة وال لزوجة ل ؤ ص ش ق ال  
ة عرف  
ق و ت ف ت هما ب رغ نهما ع ئوب من او ان طرف ال دى أب صحة ل ت ش ف م  
ل وها خ د ا ك ؤ ن ق ان وال ؤ شرع ال ع موان اب ت هما عرف ان عد وب زواجهما  
نهام  
ق ق ف ر ت ال ز ج ت ت ال الأمراض من ل و ه خ نهما م ل ك ر ر ق م ا ك  
TT:

From the identification card the identity of the husband Mr. ... was confirmed to me, I, the marriage officer of ... under the jurisdiction of ... court and it was as well confirmed to me from the identity card of the wife that certificate of age estimation issued by ... the two parties or those representing them expressed their desire to have their marriage registered and

after I made sure they understand the impediments in Islamic and / or civil law and confirmed there were no such impediments and further stated no one of them was suffering from any of the diseases that may be reason for separation. Generally, in terms of word order both Arabic and English have different systems; namely, in Arabic the verb is placed at the beginning of a sentence whereas in English it is placed in the middle of a sentence. The translator should be quite aware of this fact.

Another important characteristic is avoiding the use of impersonal construction, i.e., the pronouns "I", "you" or "we". But the judges prefer to use the pronoun "we" which represents their decisions that are issued from the bodies. For instance, in a divorce contract below:

ST:  
لأحوال ل ... كمة مح ل ع ت اب ال ... ت ب ك م ب ق موث ال ... ح ن ذ ا أمم ...  
، ؤ ص ش ق ال  
خ ال ... م الأ سم ا ... نة مه ال ... د س ال ضر ح  
TT:

... in my presence and by me, I am ...Notary of ... , adjunct to ... , Court of civil status, I have present by me ..., occupation ... and his mother's name is ... Here the translator mistranslates the pronoun "ح ن" and renders it into "I" which is not appropriate and equivalent to the ST. Therefore "we" should be used instead of "I".

On the other hand, legal language, according to Hiltunen (1990: 76), has a large number of passives. This structure poses a difficulty when translated from Arabic into English. For example:

ST:  
من لا ك ن ب (ع) ه سول ور الله نة س لى ع شرع ال زواج ال قد ع م ت قد ل  
...

TT: This legitimate contract was concluded according to the Muslim religion, the God's ruling and the prophet Mohammed's Sunna between the following two parties:

### The Cultural Level

One of the difficulties that a translator may encounter when dealing with Arabic marriage contracts is that when such term as:

"سلام وال صلاة ال ؤ ل ع ه سول ور الله نة س لى ع" appear in the legitimate marriage contract. Here the translator should notice that this term is culture-specific and it is more related to the Muslim religion and specifically the prophet Mohammed's Sunna. It can be rendered into: "According to the Muslim religion, the God's rulings, and the prophet Mohammed's Sunna". Another difficulty in terms of culture can be seen when the word "مأون" occurs in the marriage contract. It is rendered into "marriage officer" which is not quite accurate and equivalent.

It can be translated into "authorized person" which can be very accurate and equivalent, but it loses the cultural flavour, i.e., religious taste. However, many equivalents might be used such as: "registrar of marriage" or "marriage registrar" or "marriage officer" or "marriage official" and "marriage recorder". All these terms refer to one person who is legally authorized. The most equivalent term might be "registrar of marriage" which means religious registrar.

One important term that poses difficulty in translation is "ث" which can be interpreted in Arabic differently such as: "previously married" or "previously wedded woman" or "deflowered" and "a woman whose husband died". This term can be interpreted according to the doctrine or sects, for example: for the Ahnaaf "ب ث" refers to a woman who did not

marry whereas for Al-Shafiya and Al-Hanabila , it refers to a woman who has either legal sexual intercourse or illegal sexual intercourse.

Nevertheless, the term Mahr “ مهر ال ” or Al-Sadaaq “ ال ” can cause a problem in translation. Generally , Mahr “ ال ” can be defined as a dowry given by the man to the woman he is about to marry . It is part of Muslim marriage contract .It can never be demanded back under any circumstances. Different terms may be used like “ dowry “ or “ dower”, “bridal money “ , or “marriage portion “ or “ endowment “ which all refer to the SL word “ مهر ال او صداق ال ” but “ dowry “ is generally used as well as “ dower “. These words are used according to the context of the situation . In other words , “ bridal money “ is used in a political context while “ marriage portion “ or “ endowment “ is used in a financial context .

On the other hand , in the divorce contract the term “ مؤخر “ can be rendered into “ expense of the after marriage period “ It can be observed that the divorce contracts or certificates have many different forms. One of these forms is “ دخول ال براء ال اب ل قاب م ن ائ ب طلاق فة وث “ which is related to the Islam religion , should be translated into “ irrevocable divorce in return for Non – liability after consummation of marriage “. In one form of divorce contract, the expression “ صغرى ة نون ب نه م ت ان ب دق “ seems quite odd and needs to be explained clearly .Thus , it can be translated into “ divorce of minor degree “ which means in Islam that a husband can return his wife or “ minor irrevocable divorce “. In Islam, there are different forms of divorce which can be seen in the table below with the translation :

The Sunnah Divorce	طلاق السنة
Innovative Divorce	طلاق البدعة
Divorce by Authorization	طلاق التفويض
Three Simultaneous Pronouncements of Divorce	طلاق الثلاث
Escape Divorce	طلاق الفرار
Implicit Divorce	طلاق الكناية
Unintentional Divorce	طلاق المخطئ
Non- deliberate Divorce	طلاق الناسي
Divorce by mutual consent	طلاق بالتراضي
Final Divorce	طلاق بائن
Approved Divorce	طلاق حسن
Oral Divorce	طلاق شفهي
Divorce for property	طلاق على مال
Divorce with mutual consent	طلاق الخلع

In the divorce contract, there appears to be another difficulty in rendering the term “ دة ع “ which means the legally prescribed waiting period before remarrying . In other words , it is a period a woman must observe after the death of her husband or after a divorce during which she may not marry another man . The period is three months after a divorce and four months and ten days after the death of a husband , it is calculated on the number of menses that a woman has . It is more equivalent and accurate to transliterate the term into “ Uddah” and then give an explanation of its meaning as mentioned above.

## CONCLUSION

Generally, translators must use legal language effectively to express legal concepts in order to achieve the desired effect. In other words, the translator must be able to understand not only what the words mean and what a sentence means but also what legal effect it is supposed to have. The study highlights some difficulties in the translation of some legal texts, namely those of marriage and divorce contracts. These difficulties emerge from differences of the legal systems of the SL and TL. The main difficulties are due to semantic, syntactic and cultural levels. The cultural differences play a major role in mistranslating some terms such as “ عدة “ , “ كر ال ب “ , “ ب ث “ , “ ق دس م ال ل ل الإك “ , “ مهر ال “ , etc. , “ ب رى ك او صغرى ة نون ب ن ائ ب ق طلاى “

In order to avoid lack of equivalence in both the SL and TL , the translator should transliterate some legal terms that are cultural and give some explanation or propose an effective equivalent. In terms of syntactic level, the translator has to conform the syntactic structure of the SL with that of the TL. The translator should make decisions and avoid lengthy explanatory notes by incorporating all the information into the main body of the translated contract, instead where it is possible he should give functional equivalence

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## APPENDIX (I) Samples of Marriage Contract

### نموذج (1) مأذونين وثيقة عقد زواج

رقم الدفتر.....

رقم الوثيقة.....

قيد بسجل الأحوال المدنية برقم ..... بتاريخ...

يوقع المأذون أسفل كل صورة ويبصم عليها ببصمة إبهام الزوج والزوجة

من واقع الإطلاع على بطاقة تحقيق شخصية الزوج تحقق لدى = تأكد لدى أنا مأذون مدينة ..... التابع لمحكمة ..... كما تحقق لدى من واقع الإطلاع على بطاقة تحقيق الشخصية للزوجة و الشهادة الطبية المبينة للسن المحررة بمعرفة مفتش الصحة أبدى الطرفان أو من ينوب عنها رغبتهما في توثيق زواجهما وبعد أن عرفتهما بالموانع الشرعية والقانونية أكدا خلوهما منها كم قرر كل منهما خلوه من الأمراض التي تجيز التفريق

انه في يوم الأربعاء الموافق.....

بحضوري وعن يدي

محكمة ..... للأحوال الشخصية للولاية على النفس

انعقد الزواج الآتي بين

الزوج السيد/ ..... المباشر لعقد زواجه بنفسه

العنوان الذي يرغب الزوج في توجيه الإعلانات إليه فيه.....

وبعد أن قرر أنه لا توجد في عصمته زوجة أخرى

بيان صفة وكيل الزوجة وحالها من حيث البكارة والثيوبه البكر البالغة بوكالة والدها المذكور في عقد زواجها في قبض عاجل الصداق وعقد العقد والاتفاق على مؤخر الصداق واستلام الوثيقة.

(انعقد الزواج) على صداق قدره ..... الحال منه .... المؤجل منه ..... باق بذمة الزوج لحين حلوله شرعا.

زواجا شرعيا على كتاب الله وسنة رسوله (صلى الله عليه وسلم) بإيجاب وقبول شرعيين صادرين بين الزوج ووكيل الزوجة.....

الشروط الخاصة.....

اتفق الزوجان على.....

لا يوجد.....

رقم وثيقة التأمين الخاصة بالأسرة.....

وذلك كله بشهادة كل من.....

تحررت هذه الوثيقة من أصل وثلاث صور سلمت إحداها إلى الزوج/ وكيله، والثانية إلى الزوجة/ وكيلها والثالثة إلى مكتب سجل مدني ..... والأصل حفظ بالدفتر.

يكتب الصداق جميعه، الحال منه والمؤجل بالأرقام والحروف

يجوز للزوجين الاتفاق على أية أمور بشرط ألا يكون الاتفاق على أمر يحل حراما أو يحرم حلالا.

(Text 31)

## The Hashemite Kingdom of Jordan

## Marriage Contract

The Religious Court of:

- 1) Date of Contract:
- 2) Place of Contract:
- 3)

Full Name:

The male spouse, a bachelor/married man of legal age and of sound mind:  
The female spouse, a virgin/non-virgin of legal age and of sound mind:

Town:

Place of Residence:

Age:

Nationality:

Profession:

4)

Documents of Age Verification and Eligibility:

5)

Amount and Type of Dowry:

Down-Payment:

Deferred Payment:

Extras:

6) Method of Payment:

7) Contract Initiators:

8) Witnesses of Contract, Representative and Identification:

9) Special Conditions by either Spouse:

10) Condition Fulfilment Indemnity:

11) Approval of Guardian or Permission of Court:

12) Contract Formula: The representative for the female spouse (her father) said, addressing the aforementioned male spouse, "I have given my daughter.... to you in marriage for a dowry the down-payment of which is.... the extras of which are mentioned above and the deferred payment of which is....".  
The male spouse immediately replied, "I accept your daughter in marriage and confirm the dowry's down-payment, deferred payment and extras stipulated above".

I.... the registrar authorised to perform marriages in.... having ascertained that the conditions have been fully met, and that eligibility is established, have executed this contract in the manner detailed above.

Signature of the Authorised Registrar:

Identification and Representation Witnesses.

Male Spouse or Representative:

Female Spouse or Representative:

Guarantor for Implementation of Conditions:

Endorsement of the Court:

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النص رقم (٣١)

## عقد زواج

المحكمة الشرعية في .....

١. تاريخ العقد في .....

٢. المكان الذي جرى فيه العقد .....

٣	الزوج - الرجل البالغ - العاقل - الأعراب	الاسم الكامل	البلد	مكان الإقامة	العمر	الجنسية	الصناعة
٤	الزوجة - البنت - بكر / ثيب البالغة العاقلة	ممتلكات تحقق السن وعدم الموانع					
٥	المهر ونوعه	المعجل					
٦	كيفية دفع المهر	المؤجل					
٧	المباشران للعقد	توقيع المهر					
٨	شروط أحد الزوجين الخاصة						
٩	شهود العقد والتعريف						
١٠	التعلاء على الشروط						
١١	موافقة الولي أو إذن المحكمة						
١٢	صيغة العقد : قال وكيل الزوجة والدها مخاطباً الزوج المذكور نفسه زوجها وأختك موكلتني ابنتي..... على مهر معجل قدره..... وتوايه المذكورة ومهر مؤجل قدره..... فاجلب الزوج المذكور فوراً ولنا قبلت ورضيت بزواجها وتكاتها لنفسي على						
	المهرين المذكورين وتوايهما.						

لنا ..... ماكون عقد زواج في ..... قد أجريت هذا العقد على الوجه المفصل أعلاه  
بعد التحقق من استكمال الشروط وعدم الموانع.

شهود التعريف والوكالة الخاصة الزوج أو وكيله الزوجة أو وكيلها التوقيع على الشروط تصديق المحكمة  
.....  
.....  
.....

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(Text 47)

Roman Catholic Bishopric Secretariat  
Northern District  
(City)  
(Country)

No.  
Record No.

### Marriage Certificate

From Record No.411

I, (name), the Bishopric Deputy for Roman Catholics in the Archimandrite Northern District, having examined the records certifying that Mr. ...., born in Washington on Sunday 9 March 1933, and Miss....., born in (city/town)(country) on Saturday 5 August 1943, were joined in holy matrimony in the presence of Father..... the pastor of (city/town) on Thursday 2 August 1959.

Accordingly, this certificate was issued to them on 2 September 1959 to confirm the above.

النص رقم (٤٧)

### النيابة الأسقفية للروم الكاثوليك

في اللواء الشمالي  
(المدينة) - (القطر)

رقم :  
رقم السجل :

### شهادة زواج رسمية

نقلًا عن السجل رقم ٤١١

أنا،.....، النائب الأسقفي للروم الكاثوليك في اللواء الشمالي الأرشمندري..... بعد الإطلاع على السجلات تبين أن السيد..... المولود في واشنطن نهار الأحد في التاسع من آذار لعام ١٩٣٣ والأنسة..... المولودة في (المدينة) (القطر) في نهار السبت الخامس من آب ١٩٤٣ نالا بركة الإكليل المقدس في حضرة الأب..... خوري الرعية في (المدينة) نهار الخميس الواقع في الثاني من آب ١٩٥٩.  
في (المدينة) نهار الخميس الواقع في الثاني من أيلول ١٩٥٩.  
ولبيان أعطيت لهما هذه الشهادة في الثاني من أيلول ١٩٥٩.

## APPENDIX (II)

## Samples of Divorce Contract

## عقد طلاق صادر عن موثق

رقم التسجيل ..... نموذج رقم ..... (عدل)

مقيد برقم ..... (طلاق) صفحة.....

بتاريخ.....

إنه في يوم ..... الموافق ..... عام ..... هجري، الموافق ..... عام ..... ميلادي، الساعة .....

أمامنا نحن ..... الموثق بمكتب ..... التابع لمحكمة ..... للأحوال الشخصية، حضر السيد ..... المهنة ..... اسم الأم ..... وهو بالغ من مواليد ..... مدينة ..... بجمهورية مصر العربية بتاريخ ..... ومحل إقامته ..... قسم ..... ويحمل بطاقة إثبات شخصية رقم ..... صادرة من ..... بتاريخ ..... ورافقه زوجته ..... ثيب، بالغة، واسم والدتها ..... من مواليد ..... في ..... بجمهورية مصر العربية، محل الإقامة ..... بطاقة إثبات شخصية رقم.....

بعد التأكد من شخصيتهما أمام الشهود الآتية أسماؤهم:

1- الاسم ..... المهنة ..... الجنسية مصري من مواليد ..... في ..... مقيم في ذات العنوان ..... الذي تقيم به الزوجة ويحمل بطاقة شخصية رقم ..... بتاريخ.....

2- الاسم ..... المهنة ..... الجنسية مصري من مواليد ..... في ..... مقيم في ذات العنوان ..... الذي تقيم به الزوج ويحمل بطاقة شخصية رقم ..... بتاريخ.....

و لقد خاطبت الزوجة المذكورة زوجها بقولها: إنني أبرئك – يا زوجي من مؤخر الصداق كما أبرئك من نفقتي وكذلك من كافة حقوقي الزوجية واطلب منك أن تطلقني بناءً علي ذلك.

ولقد أجابها الزوج علي الفور: أنت طالق مني طلاقاً بائناً.

بناءً عليه، أوضحت لها أنا الموثق بأنها الآن محرمة عليه ولا تحل له إلا بعقد زواج جديد وصداق جديد بعد موافقتها وقبولها بإعادة الزواج منه.

تم إبرام هذا الفسخ لعقد الزواج في ..... علي يد موثق ..... قسم ..... وتم سداد الرسوم.

الشهود المطلق الموثق



(Text 38)

In the Name of God the Compassionate the Merciful

Office of the Chief Islamic Justice  
Religious Court of.....No.:  
Date: //14 AH  
Corresponding to: //19

## Certificate of Conditional Divorce

In the Legal Council convened in my presence, I..... the Religious Judge of..... received the legally capable..... and..... known by identification by the legally capable..... and after they had confirmed the existing state of matrimony between them, he resolved, stating:

If..... the woman present, pays to me the sum of..... within the period of..... and categorically and totally absolves me from..... every claim, petition and lawsuit, she will be divorced from me by one irrevocable statement of divorce after which she will be free to remarry.

The aforementioned wife..... has accepted this and is willing to implement its contents within the said period. I have had ascertained to me the state of matrimony between them on the basis of Marriage Certificate No. .... dated..... issued by the Religious Court of..... Accordingly, it has been decided to record this as confirmation.

Done on: //14 AH  
Corresponding to: //19

Clerk: Religious Judge of.....

101

النسب رقم (٣٨)

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

القاضي رقم : / /  
التاريخ : / / ١٤هـ  
والمكان : / / ١٩م  
محكمة ..... الشرعية

## طالاق محقق

في المجلس الشرعي المقفول لدي أنا ..... قاضي ..... الشرعي  
حضر المكلف شرعاً ..... و .....  
المعرفان بتعريف المكلفين شرعاً .....  
وبعد أن تصادقا على قيام الزوجية بينهما قرر ..... قاتلاً إذا دفعتم لي  
من ..... خلال مدة ..... وأبرأ نفسي من .....  
أبراء علماً .....  
مانعاً لكل حق ودعوى ونزاع تكون طالقة مني طالقة واحدة باتتة تلك بها نفسها وقد قبلت  
الزوجية ..... المذكورة ذلك واستعدت لتنفيذ مضمونه خلال  
المدة المذكورة وقد تأكد لي قيام الزوجية بينهما بموجب وثيقة عقد الزواج رقم .....  
تاريخ ..... الصادرة عن محكمة .....  
الشرعية، وعليه تقرر تسجيله للإعتداد عليه.

تحريراً في / / ١٤هـ  
وفسق / / ١٩م

القاضي الشرعي الكاتب

100

(Text 40)

In the Name of God the Compassionate the Merciful

Office of the Chief Islamic Justice  
Religious Court of.....No.:  
Date: //14 AH  
Corresponding to: //19Certificate of Irrevocable Divorce before Consumption  
of Marriage

In the Legal Council convened in my presence, I....., the Religious Judge of....., received the legally capable....., and after his identification by the legally capable..... he resolved, stating:

I wish to divorce my wife..... voluntarily and of my own free will, being fully aware and of sound mind. And I state that my aforementioned wife, with whom I have not consummated the marriage and have not been alone, is irrevocably divorced from my matrimonial authority and my contract of marriage once and for all and I request that be recorded and that she be notified.

Whereas a state of matrimony previously existing between them, non-consumation of the marriage and not being together have been ascertained to us by his avowal and the testimony of the aforementioned identifiers, I have informed him that he has concluded an irrevocable divorce of..... degree of irrevocability from his aforementioned wife..... and that she is not permitted to him except by a new contract and dowry, that she has no legally prescribed waiting period before remarrying and that she may marry whichever suitable Muslim she pleases as of the date stated below as long as this is not impeded by Islamic or Civil Law, and it has been decided to inform her of this.

Done on: //14 AH  
Corresponding to: //19

Clerk: Religious Judge of.....

105

النسب رقم (٤٠)

بسم الله الرحمن الرحيم

الرقم : / /  
التاريخ : / / ١٤  
ولسق : / / ١٩  
قاضى القضاة  
محكمة ..... الشرعية

## وثيقة طلاق بائن قبل الدخول

في المجلس الشرعي المعقود لدي أنا ..... قاضي ..... الشرعي  
حضر لدي المكلف شرعاً .....  
التعريف عليه من قبل المكلفين شرعاً .....  
قائلاً أنني أريد طلاق زوجتي .....  
بطوعي واختياري وأنا لست مدهوشاً ومتشع بكامل قواي العقلية. فأقول زوجتي المذكورة التي  
لم أدخل ولم أدخل بها طالق من عصمتي وعقد نكاحي طلاقاً واحدة بآئنة أطلب تسجيله  
وتبليغها.وحيث تحقق البيا سبق الزوجية بينهما وعدم الدخول والخلوة الصحيحة بإقراره وإفادة  
المعرفين المذكورين فقد أقيمت أنه وقع منه طلاق بائن بينونة صغرى على زوجته  
المذكورة.وانها لا تحل له إلا بعد مهر جديد ولا عدة عليها ولها أن تتزوج بمن شأبت من المسلمين  
الأكفاء اعتباراً من يوم تاريخه أدناه ما لم يمنع من ذلك مانع شرعي أو قانوني وتقرر تبليغها  
ذلك.تحريراً في / / ١٤  
ولسق / / ١٩القاضي  
الكتاب

104

النص رقم (٤٢)

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الرقم : / /  
التاريخ : / / ١٤  
وقس : / / ١٩  
قاضي القضاة  
محكمة ..... الشرعية

### وثيقة

### ملاق بائن مقابل الإبراء بعد الدخول

في المجلس الشرعي المعقود لدي أنا ..... قاضي ..... الشرعي  
حضر المكلفان شرعاً .....  
المعرفان من قبل المكلفين شرعاً .....  
وبعد أن تصادقا على قيام الزوجية بينهما والدخول الشرعيين، وهما متمتعان بكامل قواهما  
العقلية وغير مدعوشين ولا مكرهين. قررت .....  
إبني أبرأت زوجي ..... هذا الحاضر معي من .....

مقابل أن يطلقني طلاقاً أملاك به نفسي فأجابها فور إبرائها له مخاطباً لها وأنت طالق مني على  
ذلك وحيث صدر هذا الإقرار من الزوجين بحضور المعرفين المذكورين وهما بالحالة المعترية  
شرعاً فقد أفهمت المطلق أن زوجته .....  
المذكورة الحاضرة قد بانئت منه  
بنوينة صغرى ما لم تكن هذه الطلقة مسبوقة بطاقتين وأفهمت المطلقة أن عليها العدة الشرعية  
اعتباراً من تاريخه.

تحريراً في / / ١٤  
وقس : / / ١٩

قاضي ..... الشرعي

الكاتب

108

(Text 42)

In the Name of God the Compassionate the Merciful

Office of the Chief Islamic Judge  
Religious Court of.....

No.: / /  
Date: / /14 AH  
Corresponding to: / /19

### Authorisation of Irrevocable Divorce in Return for Non-Liability after Consumation of Marriage

In the Legal Council convened in my presence, I....., the Religious Judge of....., received the legally capable..... and..... identified by the legal capable....., and after they confirmed the state of legal matrimony existing between them and the legal consumation of the marriage, and that they are both of sound mind, fully aware and acting of their own volition, the aforementioned Mrs. .... resolved, stating:

I absolve my husband....., who is here present with me, of responsibility for ..... in return for his divorcing me so that I may remarry.

Immediately upon her absolving him, he addressed her, stating:

You are accordingly divorced from me.

Whereas this avowal issued from the two spouses, being legally competent, in the presence of the aforementioned identifiers, I have informed the divorcer that his aforementioned wife..... here present is divorced from him by a divorce of minor ..... degree provided that this divorce is not preceded by two other statements of divorce, and I have informed the divorcee that she must commence the legally prescribed waiting period before remarrying as of this date.

Done on: / /14 AH  
Corresponding to: / /19

Clerk: Religious Judge:

109

(Text 42)

In the Name of God the Compassionate the Merciful

Office of the Chief Islamic Judge  
Religious Court of.....No.: / /  
Date: / / 14 AH  
Corresponding to: / / 19Authorisation of Irrevocable Divorce in Return for  
Non-Liability after Consummation of Marriage

In the Legal Council convened in my presence, I....., the Religious Judge of....., received the legally capable..... and..... identified by the legal capable..... and after they confirmed the state of legal matrimony existing between them and the legal consummation of the marriage, and that they are both of sound mind, fully aware and acting of their own volition, the aforementioned Mrs. .... resolved, stating:

I absolve my husband....., who is here present with me, of responsibility for ..... in return for his divorcing me so that I may remarry.

Immediately upon her absolving him, he addressed her, stating:

You are accordingly divorced from me.

Whereas this avowal issued from the two spouses, being legally competent, in the presence of the aforementioned identifiers, I have informed the divorcer that his aforementioned wife..... here present is divorced from him by a divorce of minor ..... degree provided that this divorce is not preceded by two other statements of divorce, and I have informed the divorcee that she must commence the legally prescribed waiting period before remarrying as of this date.

Done on: / / 14 AH  
Corresponding to: / / 19

Clerk: Religious Judge: 109

النص رقم (٤٢)

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الرقم : / /  
التاريخ : / / ١٤هـ  
ووفق : / / ١٩م

قاضي القضاة

محكمة ..... الشرعية

## وثيقة

## طلاق بائن مقابل الإبراء بعد الدخول

في المجلس الشرعي المعقود لدي أنا ..... قاضي ..... الشرعي  
حضر الكاثلان شرعاً .....  
المعرفان من قبل المكاتلين شرعاً .....  
وبعد أن تصادقا على قيام الزوجية بينهما والدخول الشرعيين، وانهما متمتعان بكامل قواهما العقلية وغير مدهوشين ولا مكرهين، قررت ..... المذكورة قاتلة :

أبني أبرأت زوجي ..... هذا الحاضر معي من .....

مقابل أن يطلقني طلاقاً أملاًك به نفسي فأجابها فور إبرائها له مخاطباً لها وأنت طالق مني على ذلك وحيث صدر هذا الإقرار من الزوجين بحضور المعرفين المذكورين وهما بالحالة المعتبرة شرعاً فقد أقيمت المطلق أن زوجته ..... المذكورة الحاضرة قد بانك منه بينونة صغرى ما لم تكن هذه الطلقة مسبقة بطلقتين وأقيمت المطلقة أن عليها العدة الشرعية اعتباراً من تاريخه.

تحريراً في / / ١٤هـ  
ووفق / / ١٩م

قاضي.....الشرعي

الكاتب

108

## المستخلص

تعد الترجمة ظاهرة اجتماعية وثقافية معاً لأنها لا يمكن أن تتواجد خارج المجتمع بل أيضاً داخله كما أنها لا يمكن أن تكون وسيطاً لتلاقح ثقافات مختلفة. يهدف هذا البحث إلى تقصي الصعوبات التي يواجهها المترجم عندما يتعامل مع نصوص قانونية كعقود الزواج والطلاق. ويمكن أن تصنف هذه الصعوبات إلى ثلاث أنواع: الصعوبات النحوية والدلالية والثقافية. تتضمن الصعوبات النحوية ترتيب الكلمة والترتيب النحوي وتركيب الجملة غير الاعتيادي واستخدام الأفعال المساعدة في اللغة الانكليزية والاختلاف في النظام القانوني. أما فيما يتعلق بالصعوبات الدلالية فأنها تتضمن النقص في علم المصطلحات المحدد والعتور على المكافئ المعجمي والوظيفي والترجمة الحرفية والكلمات المترادفة والمتضادة والإسهاب والحشو والكلمات الدخيلة والبدعة اللغوية وإعادة الصياغة. أما بالنسبة للصعوبات الثقافية فإنها ترتبط بالاختلافات في التقاليد والأعراف والدين والمفردات الاجتماعية وكذلك المعتقدات والمذاهب. يقسم هذا البحث إلى قسمين: يتناول القسم الأول الجانب النظري ويتعامل مع تعريف وأهمية الترجمة القانونية وصفات النصوص القانونية والأساليب المستخدمة في الترجمة القانونية وأنواع النصوص القانونية. بينما يتناول القسم الثاني الجانب العملي ويهتم بالصعوبات العامة للنصوص القانونية إذ يعرض التحليل النحوي والدلالي والثقافي لشكلين مختلفين من عقود الزواج والطلاق المترجمة من اللغة العربية إلى اللغة الانكليزية.

توصل البحث إلى أن ترجمة وثائق قانونية كعقود الزواج والطلاق تطرح صعوبات كبيرة والتي تعود إلى الاختلافات في الأنظمة القانونية للغتين. بالإضافة بارزاً في سوء ترجمة بعض المصطلحات، فعلى سبيل المثال "البكر"، "الثيب"، "المهر المعجل والمؤجل" "عُدة إلى أن الاختلافات الثقافية تلعب دوراً"، "طلاق بائن بينونة صغرى أو كبرى". قد تأتي هذه الصعوبات من النقص في المكافئ اللغوي في كل من اللغة المصدر واللغة الهدف لذلك ستكون الترجمة غير دقيقة وغير ملائمة. وأخيراً يقدم البحث ترجمة بديلة والتي يمكن أن تكون أكثر ملائمة ودقة وتكافئ من الترجمة المعطاة.