



Article scientifique

Article

2025

Published version

Open Access

This is the published version of the publication, made available in accordance with the publisher's policy.

Phraseology and Terminology Challenges and Approach to Translating Divorce Decrees

Halimi Mallem, Ismahene Sonia

How to cite

HALIMI MALLEM, Ismahene Sonia. Phraseology and Terminology Challenges and Approach to Translating Divorce Decrees. In: International journal for the semiotics of law, 2025. doi: 10.1007/s11196-024-10239-8

This publication URL: <https://archive-ouverte.unige.ch/unige:182379>

Publication DOI: [10.1007/s11196-024-10239-8](https://doi.org/10.1007/s11196-024-10239-8)



Phraseology and Terminology Challenges and Approach to Translating Divorce Decrees

Sonia A. Halimi¹ 

Accepted: 4 December 2024
© The Author(s) 2024

Abstract

In the context of international mobility and migration, where highly sensitive documents relating to personal status or qualifications need to be translated, a certified translation of official documents is on the increase. A certified translation requires the involvement of a sworn translator who guarantees the exact reproduction of official documents to be registered with a foreign authority. As a personal status document, divorce decrees must also be translated with rigorous standards in order to be recorded elsewhere. The rules governing Arabic divorce decrees are codified separately in Arabic civil codes and refer to the Family Code or Personal Status Code. Matters related to personal status are subject to religious considerations and contain religiously charged terms that are strictly defined in accordance with the Islamic law and require special attention when translated. This paper aims to explore translation challenges of a particular type of Arabic civil status deed, namely divorce decrees. For this purpose, the study first explains the most prominent concepts relating to certified translation and to Arabic divorce decrees. A number of Arabic divorce decrees are then subjected to a descriptive analysis to define shared linguistic features and to outline the relevant translation techniques in dealing with religiously embedded terminology and phraseology. The relevance of this analysis is assessed by examining a French certified translation of an Arabic divorce document in order to draw meaningful conclusions about the approach to translating this legal genre.

Keywords Certified translation · Official documents · Legal translation · Arabic translation · Legal terminology · Cultural terms

✉ Sonia A. Halimi
Sonia.Halimi@unige.ch

¹ Faculty of Translation and Interpreting, University of Geneva, Geneva, Switzerland

1 Introduction

Over the years, the profession of translator has evolved into a variety of different professional sub-groups around the field of specialisation, such as sworn translators in private offices or public services, institutional translators in international organisations, literary translators working for publishing houses, and so on. The range of translation fields has expanded as knowledge has become more specialised and all kinds of contacts between people, cultures, economies and legal systems have become more intense than ever before. For a variety of reasons, people with global mobility are confronted with the administrative or legal system of the host country and need to rely on translation, for example in relation to requirements for the validation of official documents. A certified translation¹ is required to ensure the recognition and registration of official documents between the home and host administration or justice system.

In the taxonomies proposed by scholars to describe the legal discourse, ‘official documents’ [16] or ‘private legal documents’ [5, p. 83] that are subject to certified translation, are included as a separate category of legal texts. This category includes documents whose primary function is to create, confer, modify or negate legal rights and obligations and to record such rights and obligations [5]. Certified translation touches on the legal and administrative framework in the context of international mobility - economic, academic, political, etc. - and its impact on the way highly sensitive official documents are translated [11]. Consequently, a high demand for the translation of official documents has been documented due to globalisation and international mobility [23]. For example, when applying for family reunification permits, immigration, work or study visas, foreign authorities require the translation of official documents. A certified translation may therefore be required for any personal status document issued in another country in a different language, regardless of its nature, as part of a procedure before administrative bodies. In some cases, it may be a private letter or telephone message between two parties to a legal dispute, or a medical certificate attesting to the inability of the person concerned to work, etc. Thus, there is no limit to the types of documents for which official translation services are requested by or on behalf of private individuals. They can be classified as follows: administrative documents (birth and death certificates, driving licenses and residence permits, identity cards and passports, commercial and criminal records, etc.); legal documents (marriage contracts, divorce decrees, wills, articles of associations, etc.); financial documents (bank statements, audit reports, balance sheets, etc.); medical documents (doctors’ reports, medical examinations, laboratory reports, etc.); non-official documents (letters handwritten, telephone, e-mail, websites, publications and brochures, audio recordings, etc.) [14, 16]. Because of their crucial role in proving a person’s identity and civil status to the various authorities, some official documents are naturally subject to certified translation more frequently than others in administrative and legal proceedings.

In 2000, Mayoral Asensio [16] studied official documents, highlighting the main aspects of the certified translation profession and the peculiarities of its practice.

¹ Henceforth, the term “certified translation” includes “official translation” and “sworn translation”.

He proposed a taxonomy of official documents on a holistic scale and discussed the challenges they pose for translation, suggesting useful routine solutions and recommendations to obtain a comprehensive overview of the appropriate choices according to the type of text taking into account the cultural and legal contexts. Wang [25] examined the standards of translation of notarised Chinese certificates, highlighting the meandering of the transmission of names, given their great importance in the local culture. The importance of correct transliteration of Chinese personal names and addresses was emphasised in order to enable clear identification of the parties involved. The author concluded that a certified translation should adhere to both the formal requirements and stylistic conventions of a particular culture in order to meet the expectations of the final recipient. More recently, Taibi & Ozolins [23] looked at the quality and fidelity standards in the translation of official documents by evaluating 300 English translations of official documents written in Arabic, Chinese, and Spanish, including diplomas, driving licenses and birth certificates, etc. (100 documents and two experts in each language). They concluded that although the translations met the relevant quality standards to a high degree, a small percentage of translations fell below the expected standard. The shortcomings concerned not only the accuracy of information, but also formal deficiencies such as “failure to include a translator statement (public authenticator’s disclaimer), and failure to describe or translate the official features of the source document” (897). As far as the translators’ approach is concerned, Hjort-Pedersen [13] carried out an empirical study on a corpus of English translations of Danish wills. She showed that professional translators tend to use both source and target techniques when translating performative utterances in the original wills. The principle of relevance was proposed as a guideline for the choice between source and target language orientation in the translation of speech acts in Danish wills into English. In Arabic, very little research exists on the difficulties posed by the translation of Arabic official documents, or the approaches privileged by sworn translators to deal with the various types of documents to translate. The recent studies [1, 9] focused on the strategies used in translating the terms and phrases of marriage contracts from Arabic into English, highlighting the challenges to deal with cultural specificities.

Hence, the variety of official documents to be translated led us to limit our research to a specific civil status document, namely divorce decrees. The features of this particular legal genre in relation to its terminology and phraseology and the processes of its translation in Arabic have not, to our knowledge, been the subject of any study. Therefore, a selection of decrees was made in order to highlight the terminological and phraseological characteristics of divorce decrees and to explore challenges of their translation. To this end, two main questions were posed:

- 1) What are the main Terminological and Phraseological Features of Arabic Divorce Decrees?
- 2) What are the main Translation Challenges and Strategies for Arabic Divorce Decrees?

In an attempt to answer these questions, the study begins by explaining the most prominent aspects of the certified translation. It then highlights Arabic divorce

decrees' characteristics and depicts common features between them. The translation of a divorce decree is then subjected to a descriptive analysis, with a particular focus on terminology and phraseology, in order to draw meaningful conclusions about the approach to translating this Arabic civil status document.

2 Some Realities about Certified Translation

Legal documents are closely linked to the culture in which they originate. They often follow specific patterns that are embedded in the legal culture of the particular legal context. Personal status documents often follow a standardised pattern. The principle of official translation is that the translated document must reflect everything in the original that goes beyond the linguistic dimension, even if these boundaries are not always clear. This applies in particular to “text (be it handwritten or typewritten), drawings, signatures, (legible or illegible), letterheads, stamps and seals, erasures and alterations, interruptions in the original, etc.” [16, p. 71]. While it is agreed that the accuracy of the semantic transfer is undeniably crucial, the quality is not only about how well the translation reflects the linguistic content. Certified translation must take into account the extent to which it enables any authority requesting it to use it in order to achieve the original purpose. In this regard, the quality is then measured by “how well it allows the reader of this translation (in another country and perhaps a quite different institutional context) to use the translation to grant or not grant an equivalent status in the receiver society.” [23, p.5]. Creativity in this field is therefore a standard that is constantly changing, depending on the type of document, its purpose and the host context.

The other reality is that sworn translators must provide authentic translations with their seal and signature because they are authorised professionals, in most cases accredited by a competent governmental body. As such, they are responsible for the authenticity of the translation, which gives it the same status and legal effect as the original document. On this basis, the practice of certified translation is organised by legal and regulatory frameworks that deal with the conditions of access to the profession and the general conditions for the acceptance of this type of translation [15]. What is noticeable, however, is that the frameworks do not provide guidelines for the quality standards of translated official documents. In practice, the reality of the profession is that quality standards for certified translations are not clearly measured against definite criteria [16, 23]. This gap may be due to the great diversity of documents, which makes it difficult to define comprehensive and uniform standards. This is also due to the fact that many administrative and institutional bodies are involved in delivering or receiving the certified document according to different local regulations and practices, leading to inconsistencies in quality assurance and in approaches and procedures [23]. Furthermore, the profession has not been subject to global standards regulating its practice, although, in most parts of the world, official translators are often required to pass a qualification test and/or be sworn in by their ministry or administration [23].

Finally, from the perspective of the translational approach, the certified translation obviously falls within the field of the communicative approach, as it informs the host

environment of a specific status with its contextual meaning in such a way that both the content and the language are comprehensible to the reader [18]. At the same time, all features of the source context are taken into account so that the reader has sufficient knowledge of the source content to deal with the document. The translation of a civil status document therefore conveys, as accurately as possible, information not only about the holder of the document, but also about the laws and values of the home institution. It is intended for a new audience who will make a decision on the matter in accordance with their own set of laws and values. However, the distinctiveness of laws between most systems, and particularly family law [4], where functional equivalence is difficult to achieve, requires due attention to legal terminology, which is an essential part of a legal document. The problem is more acute when the language of the original document is culturally embedded and refers to cultural concepts. Therefore, translation techniques for the rendering of culture-based content should ensure that cultural concepts are unambiguous to the end user but reflect their native cultural context in a way that “allows the end user, usually someone of the legal profession, to interpret accurately the legal reality of the ST.” [24, p.243].

In practice, many techniques are used to handle terminology in a single document, ranging from literal translation to transliteration and descriptive equivalence. However, when dealing with culturally loaded terminology, it is difficult to simultaneously achieve accuracy and ‘the foreign text’s singularity’ [10, p.51] through the indiscriminate use of translation techniques. In legal terminology, the literal approach can lead to the creation of artificial terms that have no legal meaning in the target system, and the use of borrowed terms can make the translation appear artificial and opaque to the receiving authority/judges, who risk rejecting it on the grounds that it is invalid or irrelevant [19]. Divorce judgments in Arabic illustrate well the difficulties of translating culturally charged terminology and phraseology. The question then arises as to whether there is a translation technique that can render cultural terms and phraseological expressions in a way that ensures comprehensibility and reflects the cultural anchoring of the source terminology. This is discussed below in the analysis of an official French translation of an Arabic divorce decree. Before that, attention will be focused on the presentation of Arabic divorce decrees and their salient cultural specificities.

3 Divorce Decrees

A divorce decree is a civil court judgment. Like all court judgments, it consists of many pages and is set out in a particular order of paragraphs corresponding to court decisions. Although the first instance divorce judgments consulted are written in a compact way, with no visible distinction between the different parts of the judgment, they are divided into distinct parts including the following components: (a) a preamble; (b) the facts, or the statement of the case, including the history of the dispute and the claims and pleas in law of the parties before the court; (c) the merits of the case and the reasoning on which the judge bases his or her assessment of the evidence and the application of the rules of law relevant to the resolution of the dispute; and

(d) the operative part which is the decision of the court, based on the claims and the elements contained in the reasoning.

The rules governing family and inheritance law (marriage, birth, descent, inheritance) are codified separately in the Arabic civil codes under the heading of ‘personal status’ and refer to the Family Code or Personal Status Code. As personal status issues are subject to religious considerations [6, 17], the codes are derived from the Holy Qu’ran and the Sunna (the legal decisions, deeds, and utterances of the Prophet Muhammad), both of which constitute the *Shari’a*. Under the law, a marriage is dissolved by the death of one of the spouses or by termination. All the provisions in family or personal status codes define divorce in the same way as the dissolution of the matrimonial bond, carried out by the husband and wife, each according to his or her own conditions, under the supervision of the judiciary. Divorce is described in detailed provisions with reference to its categories and degrees as defined by the Islamic law, which do not only influence the effects of the dissolution of the marriage but also delimit its nature. Divorce can then take two forms: 1) the *revocable divorce* (Talaq Raj’i) which implies the possibility of resuming the marriage without a contract during the waiting period after the divorce (*’iddah*), and 2) the *irrevocable divorce* (Talaq Ghayr Raj’i), which is itself divided into two categories: a) a *minor irrevocable divorce* (Talaq Bain Baynunatun Sughra), which implies the possibility of resuming the marriage with a new contract, and b) a *major irrevocable divorce* (Talaq Bain Baynunanatun Kubra), which means that it is forbidden for the two spouses to resume the marriage. Other types of divorce are supervised by a judge, mainly divorce by mutual consent *divorce by mutual consent* (Talaq bi Al-Taraadhi) or *divorce with compensation* (Talaq Khul’i).

Another peculiarity of divorce in Islamic law is that a divorce pronounced outside the court, known as Talaq Kharij al Mahkama (out-of-court divorce), is considered valid as long as it follows the rules prescribed by Islamic law. However, it must be formalised and registered with a court, to make it enforceable through TaSdiq al Talaq (divorce certificate). The Iraqi and Jordanian Personal Status Codes, for example, clearly state that if a husband divorces his wife out of court and does not register the divorce, he must return to court within one month to register it. Failure to do so is punishable under the penal code. On the other hand, some Islamic jurisdictions prohibit the pronouncement of an out-of-court divorce without the permission of a judge. The practice of extrajudicial divorce is considered a criminal offence under some family laws [3] although there is no general agreement on the issue of uttering divorce out of court in the Arabic-speaking countries.

As we can see, each type of divorce has different legal consequences. When a divorce is granted, the nature and extent of the dissolution is set out in the judgment. All the decrees examined, and presumably all divorce decrees issued under the family code based on the Islamic law, refer to the nature and degree of divorce. It is clear that the terminology used in divorce decrees is religiously and culturally embedded. When translating a divorce decree, it is expected that the gradation of meanings of divorce terminology as a system-specific with legal implications will be reflected in each target language. Divorce terminology not only reflects the specifics of the local legal institution. It also draws on religion, which constitutes structured social relations [27]. Naturally, the cultural distance between the source language and target

languages makes it difficult to achieve equivalence in a translation process. Šarčević [22] explains that a certain loss of meaning is inevitable when translating texts containing culture-bound terms. How do we deal then with the Arabic culture-bound terminology and phraseology in relation to divorce?

To answer this question, a comparison was made between 10 Arabic divorce decrees in terms of culturally embedded terminology and phraseology in order to lift the veil on the linguistic features they share. A certified French divorce decree, translated from Arabic, was then examined to identify translation choices in relation to embedded terminology and phraseology. On the basis of both findings, an approach to the translation of Arabic divorce decrees is proposed.

4 Method

The study relies on two stages to provide empirical answers:

- 1) Comparing the main features of selected real divorce decrees in Arabic. The terminology and phraseology are analysed in their proximity to the religious background.
- 2) Analysing a real certified divorce decree. Based on the same features as in the comparison, an analysis of the translation choices is carried out.

4.1 Material

The corpus of the study consists of 10 real authentic divorce decrees from a selection of Arabic-speaking countries, i.e. the Algerian, Egyptian, Iraqi, Kuwaiti and Moroccan jurisdictions. The practical criterion for selecting the divorce decrees was their availability on the Internet. All are used for comparison purposes. In addition, a certified French translation of an Arabic divorce decree is used. The French translation was commissioned independently of this study by a litigant in a court case for registration with the French judicial authorities. All data were collected and analysed manually.

4.2 Divorce Decree Terminology

Terminology is a major difficulty in legal translation [5]. The degree of accuracy and terminological relevance in the translation of official documents is determined by the accuracy in dealing with linguistic and formal conventions [16, 24] as well as the completeness and clarity of the terminology transfer, which is closely linked to the meaning of the concepts as they live in the source legal reality. This is all the more important for Arabic legal discourse, as the Arabic legal language of personal status issues is subject to religious considerations. In the divorce decree, the religiously charged terms are strictly defined in accordance with the Islamic law.

What is observed in practice is that there are terms related to divorce that have been lexicalised by transliteration, considering that the legal meaning is understood from the context, e.g. *Iddah* (waiting period). Some terms have been coined and

naturalised, that is linguistically introduced as new terms in the target legal system, e.g. *irrevocable divorce* (*Talaq Raj'i*). The spread of literature dealing with culturally bound concepts may have led to this transfer of terminology. Contact between legal systems through the practice of certified translation may also have contributed to this. In addition, the translation of many Arabic family and personal status laws into French and English has certainly facilitated the lexicalisation of culture-bound concepts or the coinage of new counterparts. Whatever the case, the result has been the introduction of terms and new meanings into the target legal system. However, these transliterated terms are culturally loaded. Without a description, they raise the question of comprehensibility if the receiver is not familiar with the concept. If the term is only coined in the target language, the extent of its cultural anchoring and complex legal dimension is simply erased. Moreover, the new term may still not be understood in the absence of “historical connotations in the target”. ([2], p.242).

This shows that the functional adaptation and the search for convergent concepts across systems is difficult to apply due to the intrinsic differences in current personal status laws. The mere application of the technique of naturalisation/coinage or transliteration/lexicalisation of cultural terms is an oversimplification that undermines the complexity of divorce law in Arabic-speaking countries, especially when one considers that family law in general, and divorce law in particular, differ on the most basic features of divorce, such as the length of the marriage prior to divorce, the length of the grounds for separation, the principle of fault, and so on [4]. In the absence of cultural counterpart, a description of the culture-specific legal concept and/or its function allows a term to be understood in the target language by means of a descriptive substitution followed by a transliteration [22]. This approach conveys the meaning and preserves the uniqueness of the original cultural background and its legal specificity in the originating system. In this way, the certified translation retains both the complex meaning of the term and the comprehensibility of the translated document. In order not to overload the document and make it difficult to understand for the new audience, the transliteration of each cultural term may be given once in brackets or in italics after the descriptive substitute, which will then be used alone throughout the document. All things considered, the reader of the translated document will understand the text and its function “on the terms of the source language culture” [13, p.226]. Thus, a faithful approach that ponders between the readability of the text and its legal reality, would not miss “its socio-legal significance” [26, p.229]. The translator should then endeavour “to preserve something of the difference of the foreign law-text on account of the recognition and of the respect that one owes it, especially as one purports to displace it across languages.” [10, p.517].

4.3 Divorce Decree Phraseology

Alongside legal concepts that give meaning to the law, legal language reflects forms and word combinations that constitute phraseological patterns. Legal phraseological patterns illustrate the way in which the substance of legal texts is formulated [8] and constitute the linguistic repository of the cultural traditions of a given language [7]. Phraseological formulae depend on the genre of legal discourse declined in many categories, and legal Arabic is no exception to this principle [12]. In particular, per-

sonal status documents, such as marriage contracts and divorce decrees, are marked by Islamic jurisprudential language, which is reflected in phraseologisms related to religious knowledge.

Phraseologisms are difficult to translate due to their cultural specificity and various sociolinguistic factors [7]. Non-similarity and non-equivalence of phraseological units is more likely to be the rule in legal translation [21]. Studies agree that the translation of phraseological units is achieved by semantic or functional equivalence, which accepts a certain degree of asymmetry, including a single word equivalent [20, 21], due to differences in languages, legal realities and legal thinking. The question is whether the lack of comparable phrases affects the accuracy and comprehensibility of the translated texts. This will be discussed below.

The Arabic divorce documents consulted contain a high degree of idiomaticity which contributes to the stylistic connotations of this particular legal genre, as the following samples show. Although the Arabic decrees were issued in different countries, each with its own legal system, many formulaic expressions are common to them and reflect complex meanings. They do not have comparable expressions in the target language. For certain expressions, techniques of semantic description [18] or aggregation of several meanings into one [16] seem to be a relevant solution to avoid semantic opacity in the translation and thus rendering it unpalatable and unreadable. In this way, the original meaning is sufficiently understandable to be accepted by the receiving system.

In sample (1), the formulaic doublets relating to the validity of the marriage are present in the divorce decree. An aggregate translation can be envisaged to reflect the explicitness intended in the original through a global meaning.

Sample (1).

a. Zawjatuhu Shar'an wa Qanunan.

his wife religiously and legally.

=> his wife.

b. Bi Sahih Al-'aqd Al-Shar'i.

by a valid and religious contract.

=> by a valid contract.

In sample (2), expressions with a metaphorical meaning seem to characterise the Arabic divorce decree. A literal translation produces an unnatural expression. Semantic equivalence [18] can be considered to render the meaning.

Sample (2).

a. ISlah That Al-Bayn.

reconciling the close relationship.

=> reconciling the two parties.

b. Ihkam Silat Al-Rahim.

tightening the ties of kinship.

=> maintaining family ties.

c. Fi 'iSmati Zawjiha wa Ta'atihi.

under the husband's bond of marriage and his obedience.

=> in a marital relation.

The analysis also revealed the presence of figurative expressions, used in an archaic way to subordinate the status of the wife to the sole spousal relationship.

In sample (3), the expressions use an explicit figure of speech which, if translated, would be impenetrable in the foreign system.

Sample (3).

a. Zawja Matrukat Al-Firash.

abandoned in bed.

=> separate.

b. Laha min Zawjiha Awlaad.

she has children from her husband.

=> has children from the marriage.

c. Laha min Firash Al-Zawjiya Awlaad.

she has children from the marital bed.

=> has children from the marriage.

When dealing with the terminology embedded in religion and the phraseology imprinted by a jurisprudential style, the translator must find the right balance between highlighting the particularities of the foreign system and maintaining the comprehensibility of the document in the target system.

4.4 Divorce Decree Translation

The relevance of the previous findings is examined by analysing a five-page certified translation made according to a real mandate independent of the present study. A qualitative analysis of the translation shows that it is based on a communicative approach where the contextual meaning is rendered in an acceptable and comprehensible way to the target readership [18]. It closely follows the linguistic conventions of the target language, making the translation understandable and easy to read. The principle of semantic or functional description is also applied to phraseology. However, the distinctive feature of the divorce decree, which is characterised by culturally marked terminology, is not taken into account. There is no description of the specificity of the cultural terms. Only one term, Iddah, was lexicalised/transliterated and then followed by a descriptive phrase.

Sample (4).

a. Khilala Al-'iddah.

pendant la période de Idda (délai de viduité).

=> during the waiting period.

In sample (4), the term Al-'iddah refers to the period during which a woman waits and abstains from marriage, after the separation of the spouses or the death of the husband. The culture-bound term, Al-'iddah, was transliterated followed by a discursive substitute *délai de viduité* (waiting period for divorce). In this example of translation, the contextual meaning of the concept is clearly provided by the transliteration as an important indication of the specificity of the culturally embedded term.

In sample (5), the term Talqa Oula Baina li Al-Shiqaq (irrevocable divorce for discord) was naturalised/coined in French, *divorce irrévocable pour motif de discord*, to convey a denotative meaning of the concept. However, it is not lost its legal specifics and cultural connotation.

Sample (5).

a. Talqa Oula Baina li Al-Shiqaq.

divorce irrévocable pour motif de discorde.

=> irrevocable divorce for discord.

The term divorce *irrévocable pour motif de discorde* has no cultural or historical connotation in the French target system. A translation by the discursive substitution, implying the use of a transliteration followed by a discursive counterpart, i.e. *Talqa Oula Baina li Al-Shiqaq* (first irrevocable divorce for discord), would mark its cultural anchorage in the original procedure. In addition, the particular degree of the divorce, a first divorce (Talqa Ula) was omitted. This particularity seems to be considered by the translator as a minor detail for the hosting procedure. A first irrevocable divorce presupposes the resumption of the conjugal life through a new act of marriage. Although, the mention of the degree of the divorce has no immediate impact on its application in the reception procedure, since the status of the divorced spouses does not change, it is important to preserve the semantic equality and contextual meaning of the original information by specifying its degree. An irrevocable divorce more than three times dissolves immediately the marriage and prevents the renewal of the marriage contract.

Similarly, in the following examples, divorce-related terms such as *Al-Hadhana*, custody of the children, *Al-Nafaqa*, right to maintenance, and *Silat Al-Rahim*, family ties, are assimilated in the French target system to *garde des enfants*, *pension alimentaire*, and *liens de parenté*, respectively.

Sample (6).

a. Tuhadidu Al-Nafaqa wa Ujrati Hadhana.

fixe la pension alimentaire et la rémunération de la garde de chacun.

=> to set the amount of the child support (the right to alimony).

b. Bi Isnad Al-Hadhana.

confie le droit de la garde.

=> to give the right to custody.

c. Ihkam Silat Al-Rahim min Al-Nodham Al-'am.

le maintien des liens de parenté relève de l'ordre public.

=> the maintenance of family ties is a matter of public order.

By naturalising these terms according to a communicative approach, the translation focuses on the purely functional equivalence of the concepts in the host procedure, regardless of how different they may be in the original system. In the absence of a transliteration marking the cultural anchorage of the terms, the judgement is linguistically assimilated to the right to maintenance, custody and family ties in the host system. The inherent cultural aspect of these concepts, which encompasses a religious dimension as intended in divorce decrees, is missing from the translated document.

Choosing the technique of naturalisation, except for one term, *Iddah*, the translation appears to be completely assimilated to the language of the receiving system. The translation choices are made using culture-free items leading in a way to the deculturalisation of cultural items [18]. This pragmatic approach is an approximate solution [16] used even if it is not an optimal choice. The translated divorce document clearly reflects a pragmatic tendency towards compliance by the target language.

5 Conclusion

Studies on the certified translation of personal status documents from and into Arabic are underrepresented. The present work aimed to propose an understanding of the specificities of a particular genre of personal status documents, namely the divorce decree. By examining a sample of Arabic divorce documents from a selection of countries, the study aimed to compare common features of prevailing terminology and phraseology, and to discuss the translation challenges. It explained the importance of choosing a technique based on legal, linguistic, and cultural considerations in order to preserve the uniqueness of the foreign text. The discussion provided an opportunity to analyse the translation strategies used in a document translated from Arabic into French.

The conceptual framework underlying a divorce decree relies on Islamic foundational sources, the Qur'an and Sunnah regarding divorce-related concepts. All the divorce decrees examined are written in a strict formality in terms of culturally embedded terminology and phraseology, and exploit a theoretical language turned towards Islamic jurisprudence. A number of documents contain rare formulae that are characteristic of a language that suggests an earlier period uses. Figurative expressions such as in sample (3) are rare in the present except to suggest a jurisprudential language.

In terms of translation strategies, we sought to determine, in this analysis, how far an approach to rendering culturally specific terms and phrases in divorce decrees might lead to cross-source and cross-target interactions. What was the cost of losing the sophistication of the source text for the naturalness and comprehensibility of the target text? Due to the significance of divorce-related concepts and their religious grounding, a communicative approach is not sufficient. A technique that incorporates both source and target considerations is important to render an understandable content while preserving its cultural dimension. The principle of descriptive substitution can serve as a guide for legal translators in their translation choices when it comes to rendering cultural terminology contained in Arabic divorce decrees. On the other hand, semantic description can be applied in the translation of Arabic phraseologisms, as comparable phrases do not always exist in the target language, as shown in this study.

As far as the translated divorce document is concerned, the analysis showed that the translation adopts a communicative approach in rendering culturally embedded terms. It sought to naturalise complex concepts through term coinage, such as first irrevocable divorce or divorce waiting period, a kind of a conceptual assimilation resulting from the creation of new concepts in the target language. Naturalised concepts also include custody (Hadhana) or child support (Nafaqa), which are perceived as functional counterparts, despite subtle differences. However, this tendency to naturalise terminology undermines the understanding of culturally unrelated personal status laws. A divorce decree is a specific legal genre, deeply rooted in religion-based structures, which requires a different approach to translation than, for example, a bilateral contract. This distinctive nature needs to be taken into account in any translation process, paying particular attention to the culturally charged concepts of divorce and how to achieve the readability of the translated document while preserv-

ing the source reality that the concepts of divorce represent. Unlike any Arabic personal status document whose content is rooted in the Islamic law, the cultural aspect brought by divorce-related terms is as important as the semantic accuracy of the document. Therefore, a discursive substitution, including a descriptive counterpart and a transliteration, seems to be a relevant way to achieve the double objective.

Funding Open access funding provided by University of Geneva

Code Availability Algerian Family Code: https://droit.mjustice.dz/sites/default/files/code_famille.pdf. Accessed 6 August 2024. Egyptian Personal Status: <https://el-borai.com/wp-content/uploads/2014/03/Personal-Status-Law.pdf>. Accessed 3 September 2024. Iraqi Personal Status: https://www.refworld.org/themes/custom/unhcr_rw/pdf-js/viewer.html?file=https%3A%2F%2Fwww.refworld.org%2Fsites%2Fdefault%2Ffiles%2Fattachments%2F5c76654f4.pdf. Accessed. 2 September 2024. Kuwaiti Personal Status: <https://www.e.gov.kw/sites/kgoarabic/Forms/QanoonAlAhwalAlMadaniyah.pdf>. Accessed 2 September 2024. Moroccan Family Code: [https://www.cspj.ma/uploads/files/maktaba/07/%D9%85%D8%AF%D9%88%D9%86%D8%A9%20%D8%A7%D9%84%D8%A3%D8%B3%D8%B1%D8%A9%20\(1\).pdf](https://www.cspj.ma/uploads/files/maktaba/07/%D9%85%D8%AF%D9%88%D9%86%D8%A9%20%D8%A7%D9%84%D8%A3%D8%B3%D8%B1%D8%A9%20(1).pdf). Accessed 15 August 2024.

Declarations

Competing Interests The author declares to have no conflict of interests and guarantees the originality of the work and the authenticity of all data.

Open Access This article is licensed under a Creative Commons Attribution 4.0 International License, which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons licence, and indicate if changes were made. The images or other third party material in this article are included in the article's Creative Commons licence, unless indicated otherwise in a credit line to the material. If material is not included in the article's Creative Commons licence and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>.

References

1. Al Aqad, Mohammed. 2014. Translation of legal texts between Arabic and English: The case of marriage contracts. *Arab World English Journal* 5(2): 110–121.
2. Alwazna, Rafat Y. 2014. 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*, ed. Le Cheng, King K. Sin, and Anne Wagner. 237–254. Surrey: Ashgate Publishing Limited.
3. Arif Ishak, Muhammad, and Marina Abu Bakar. 2024. Outside the court: Decoding divorce challenges and solutions at Shariah Court of Baling, Kedah. *International Journal of Academic Research in Business and Social Sciences* 14(4): 759–772. <https://doi.org/10.6007/IJARBS/v14-i4/21229>
4. Bradley, David. 2006. Family Law. In *Elgar Encyclopedia of Comparative Law*, ed. Jan M. Smits. 259–272. Cheltenham/ Massachusetts: Edward Elgar Publishing.
5. Cao, Deborah. 2007. *Translating law*. Clevedon: Multilingual Matters.
6. Chehata, Chafik. 1965. Les survivances musulmanes dans la codification de droit civil égyptien. *Revue internationale de Droit comparé* 17: 839–853.
7. Colson, Jean-Pierre. 2008. Cross-linguistic phraseological studies. An overview. In *Phraseology: An interdisciplinary perspective*, ed. Sylviane Granger, and Fanny Meunier. 191–206. Amsterdam: John Benjamins Publishing Company.

8. Cotterrell, Roger. 2006. *Law, culture and society. Legal ideas in the mirror of social theory*. Aldershot: Ashgate.
9. Ghazi, El. Omar and Bnini Chakib. Major translation methods used in legal documents: Translation of a marriage contract from Arabic into English. *Arab World English Journal for Journal Translation & Literary Studies* 3(2): 122–138, <https://doi.org/10.24093/awejtls/vol3no2.11>
10. Glanert, Simone, and Pierre Legrand. 2013. Foreign law in translation: If truth be told... In *Law and Language*, ed. Michael Freeman and Fiona Smith, 513–32. Oxford: Oxford University Press.
11. Halimi, Sonia. 2021. Arabic legal phraseology in positive law and jurisprudence: The historical influence of translation. *Comparative Legilinguistics* 46: 37–64.
12. Halimi, Sonia. 2023. Translation in pretrial phases of the judicial process. Developing a norm-based framework to train translators working with Arabic. *International Journal of Legal Discourse* 8/1: 53–75. De Gruyter Mouton.
13. Hjort-Pedersen, Mette. 1996. Legal translation and the Principle of Relevance. *Multilingua* 15(4): 361–371. <http://ojs.lettras.up.pt/index.php/LLLD/article/view/1659/1470>
14. Martínez, Barceló M. T., and I. Delgado Pugés. 2016. La Traducción assermentée en Espagne et en France: Aspects « privés » et étude comparative. *Revista De Llengua i Dret* 66: 124–135. <https://doi.org/10.2436/rld.i66.2016.2836>
15. Mayoral, Asensio Roberto. 2000. (Official) Sworn Translation and its functions. *Babel* 46(4): 300–331.
16. Mayoral, Asensio Roberto. 2003. *Translating Official documents*. Manchester: St Jerome.
17. Najjar, Ibrahim. 2005. Le code civil et les droits des pays du Proche-Orient. *Revue du droit des affaires en Afrique*. Institut international de Droit d’expression et d’inspiration françaises.
18. Newmark, Peter. 1988. *A Textbook of translation*. London: Prentice Hall.
19. Orozco-Jutoran, Mariana. 2014. The EULA’s labyrinth: Mapping the process. *Across Languages and Cultures* 2(15): 199–217.
20. Pontrandolfo, Gianluca. Investigating judicial phraseology with cospe: a contrastive corpus-based study. In *New Directions in Corpus-based Translation Studies*, ed. Claudio Fantinuoli and Federico Zanettin, 137–160. Berlin: Language Science Press.
21. Ruusila, Anna Lindroos Emilia. 2016. Conditio sine qua non: On phraseology in legal language and its translation. *Language and Law/Linguagem E Direito* 3(1): 120–140.
22. Šarčević, Susan. 1985. Translation of culture-bound terms in laws. *Multilingua* 4(3): 127–133.
23. Taibi, and Mustapha and Uldis Ozolins. 2023. Quality and Integrity in the translation of Official documents. *Perspectives* 31(5): 882–899. <https://doi.org/10.1080/0907676X.2022.2053176>
24. Vanden Bulcke, Patricia, Armand, and Héroguel. 2011. Quality issues in the field of legal translation. Perspectives on translation quality. In *Text, translation, computational Processing*, ed. Ilse Depraetere. 211–248. Berlin/Boston: Mouton De Gruyter.
25. Wang, Karolina. Sworn translation of Chinese notarial certificates. *Comparative Legilinguistics* 23: 19–28.
26. Wolff, Leon. 2011. Legal translation. In *Oxford Handbook of Translation studies*, ed. Kirsten Malmkjaer, and Kevin Windle. 228–242. Oxford: Oxford University Press.
27. Woodhead, Linda. 2011. Five concepts of religion. *International Review of Sociology Revue Internationale de Sociologie* 21: 121–143. <https://doi.org/10.1080/03906701.2011.544192>

Publisher's Note Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.