Mediation and the legal translator's obligation in the face of differing legal systems in Algeria: theoretical benchmarks.

وساطة المترجم القانوني والتزاماته تجاه اختلاف الأنظمة القانونية في الجزائر: توجيهات نظرية.

BENCHERIF Mohammed Hichem[*1]; KADAOUI Soumia[2]

[1]- Nour Bachir University Center; El-Bayad (Algeria).
Email: *m.bencherif@cu-elbayadh.dz*
[2]- University of Oran1 (Algeria).
Email: *Kadaoui.soumia@edu.univ-oran1.dz*

Received:24/11/2023; Accepted:05/12/2023; Published:18/12/2023.

Abstract:
The aim of this research is to explore the differences between the legal systems in Algeria and their impact on the work of legal translators. The study is grounded in specific theoretical frameworks that guide the methodology. Legal translation is viewed as a communicative act wherein the translator serves as a mediator and conciliator between two conflicting legal systems. To address the dilemma of bijuridism, translators must fulfill specific obligations, possess deep knowledge of both legal systems, and conduct thorough documentary research to produce translations that are linguistically and legally equivalent.
Keywords: Documentary research; legal systems; mediation translator; obligations.

الملخص:
يتمثل الهدف من هذا البحث في معالجة مسألة الاختلافات بين النظم القانونية في الجزائر وأثرها على عمل المترجم القانوني. وهو يستند

إلى جوانب نظرية بحتة تستخدم كدليل منهجي. من هذا المنظور، ينظر إلى الترجمة القانونية على أنها فعل تواصلي يقوم فيه المترجم بدور الوسيط والموفق بين نظامين قانونيين مثيرين للجدل. ولكي يتمكن المترجم من التغلب على معضلة ثنائية النظام القانوني، يجب عليه الوفاء بالتزامات معينة، وأن يكون على دراية عميقة بالنظامين القانونيين، وأن يعرف كيفية إجراء البحوث الوثائقية من أجل إنتاج ترجمة متكافئة من الناحيتين اللغوية والقانونية.

الكلمات المفتاحية: الأنظمة القانونية؛ المترجم؛ الالتزامات؛ الوساطة؛ البحث الوثائقي.

Introduction:

The legal system serves as the crucible where the law and its language undergo refinement, acting as the contextual space where legal concepts manifest and the terminology they embody takes shape, a uniqueness observed in every country. Furthermore, legal systems within the same legal family, such as the Romano-Germanic family, exhibit diversity. The specificity of a legal system reflects the traditions of a particular nation or state through its institutions, history, and culture.

Legal systems are specific to the societies in which they are formulated, and each society and each system has a cultural, social, and linguistic structure that has developed individually according to its circumstances and different concepts. Moreover, legal rules and the application of the law in any society reflect social differences (Deleuze, Bertran. 2004, p. 44).

Legal systems also significantly affect the translation process when difficulties differ from system to system, as each legal system has its own vocabulary for expressing concepts and organizing rules. It has its own techniques for expressing and interpreting standards. It is intimately linked to the social system that determines the application of the law and defines the function of the law in society (Cao, Deborah, p. 24). Legal

translation can be divided into two categories. The first involves translating texts from one legal system into another, as well as from one source language into another. Many scholars hold the view that "the only difficulty in legal translation is the diversity of legal systems" (Gémar, 1979, p. 44) because of the significant and intricate challenges involved in translation at this level. Working with legal writings that are a component of the nation's varied legal and linguistic systems makes legal translation more difficult. Similar to Canada, challenges pertaining to the original legal conceptions and goals should be addressed through the application of comparative law (Page 2238, Gémar, 2012).

At the second level, translation occurs from the source language into the source language while staying within the same legal framework. Multiple languages are used, for example, when translating contracts from French or English into multiple languages for the UN. The challenges are summarized as follows: language barrier. inadequate command of translation methods and ignorance of the various branches and systems of law. Therefore, it is essential that the translator's training include complete legal knowledge in order for him or her to produce a document that is both linguistically and legally equal, respects the intricacy of the target legal language, and takes the target audience's culture into consideration.

Aim and Significance of the Study:

The primary aim of this study is to delve into the intricate connections among legal systems, language, and translation, specifically focusing on the French and Muslim legal systems in Algeria. The significance of this research lies in gaining insights into how legal translators can effectively navigate and overcome systemic legal differences to produce translations that are both linguistically and legally precise. Additionally, the study aims to illuminate the concept of Algerianization in the legal system and the corresponding responsibilities of legal translators within this framework.

Research Goals:

The current study seeks to:

1-Investigate the characteristics of the legal system, focusing on differences between the French and Muslim legal systems.

2-Analyze how the legal system in Algeria has evolved through the process of Algerianization, highlighting key changes.

3-Specify the tasks and responsibilities of legal translators when translating legal texts in Algeria.

4-Study the concept of mediation in legal translation, emphasizing its role as a communication process beyond linguistic aspects.

5-Explore how documentation impacts the accuracy and effectiveness of legal translation.

Research questions:

How are the French and Muslim legal systems different, and how does this affect legal translation in Algeria?

What major changes result from the Algerianization of the legal system, and how do these changes influence the work of legal translators?

What specific tasks and obligations do legal translators have when translating legal texts in Algeria?

How does mediation function in legal translation, and how does it improve communication in this context?

What is the role of documentation in legal translation, and how does it contribute to the accuracy and success of the translation process?

Given the aim, significance, research goals, and questions outlined in this study, we address the central issue: How can a legal translator produce translations that are both legally and linguistically similar while overcoming systemic differences in the law?

Recognizing that legal systems encapsulate the context in which terms are produced, we assert that a competent translator must possess comprehensive knowledge of these systems. Beyond literal translation, the process involves more than substituting terms; it demands the application of extralinguistic knowledge—comprising a nuanced understanding of legal

systems like Islamic law in our study and the French civil law system—and linguistic expertise, including the manipulation of legal terms and phraseology. Familiarity with legal formalism, such as the textual mold from which the legal text originates (contract, judgment, constitution, etc.), is also essential. To address these aspects, our study is structured as follows:

Firstly, we will look at the concept of the legal system, paying particular attention to the French and Muslim legal systems. Secondly, we will look at the concept of the Algerianization of the legal system, outlining the main changes. Thirdly, we will show the obligations of the legal translator, in particular the tasks that must be fulfilled in order to approach the translation of legal texts. In addition, we will talk more about the notion of mediation in legal translation, proving that this is a communication operation and not a purely linguistic one. Finally, we will discuss documentation and show its contribution to legal translation. In conclusion, we will present the relationship that exists between the elements discussed in our article and the smooth running of the translation activity in legal translation. It should be pointed out that this research is purely theoretical, as legal translation in Algeria requires groundwork.

1-legal system:

Before delving into the intricacies of the legal system, it is imperative to grasp the essence of the term "system." Terré (2015) provides a comprehensive definition, portraying a system as "a set of organized elements or a set of things" (p. 58). This concept transcends disciplines, initially finding resonance in constant relationships such as the solar system or the ecosystem—a notion rooted in ancient Greek thought.

Throughout the annals of history, the semantic scope of the term "system" has undergone a profound evolution. Its trajectory has shifted from celestial bodies and natural environments to a focal point within the realm of law. Terré underscores this evolution, highlighting a progression towards understanding the law as a system governed by rules. This metamorphosis gained momentum through the lens of

comparatists who propelled the meaning of "system" to articulate the notion of a legal family. As Terré elucidates, this transition marks a transformative journey from constant relationships akin to the solar system to a refined understanding of the law as a system intricately woven with rules (p. 58).

In this respect, it is worth noting the existence of several legal families or legal systems, including the Romano-Germanic family, which encompasses the French legal system, and the common law family adopted by Great Britain, the United States of America, Canada, and others. It is a system based on judicial activity, in particular decisions taken by judges, as opposed to the French civil law system, in which the law occupies a high position (Terré, p. 60,61).

Furthermore, "the legal systems of Continental Europe cannot be regarded as uniform modern of Roman law. Modern civil law countries may have rules which are precisely the opposite of Roman law" (Siems,2022, p3).

Added to this is a religious system that considers religion to be the source of legislation, as is the case in Islamic countries, which base their legal system on the Koran, the Sunna, and jurisprudence.

One of the definitions of the legal system was described by Terré (2015, p,60,61), who thought that the legal system was seen as a mosaic of logical social relations that function as a unified and legally regulated unit. This definition referred to the establishment and application of legal norms by the authorities, the application of rules based on feedback from the authorities, such as complaints, and legal reflection to develop new norms (Terré,2015, p. 55).

In the contemporary context, Von de Kerchove (2005) aptly underscores that the legal system of a given state is marked by "its sovereignty over its irrevocable space, its uniqueness, and its independence from the legal systems of other states" (p. 43). In the present era, the legal framework of a state is defined by these essential attributes—sovereignty, uniqueness, and independence from external legal systems (Von de Kerchove 2005, p. 43).

It can mentioned that "Legal pluralism is a phenomenon of legal interaction that occurs in the legal system in a nation-state. This fact often causes differences in norms due to the diversity of legal traditions even though these differences in norms" (Sumardi and others, 2021, p433).

In addition to the diversity of legal systems in the world and even within a country, Gémar (2012) has divided the legal and even linguistic systems into four groups; in each group, we find a particular country, and we can find a country in more than one group:

1-Group of monolingual states and legal systems: France, Brazil, and Mexico.

2-Group of States with dual legal egal system: Canada, Belgium, Finland Cameroon, and Switzerland.

3- Group of States with dual and multilateral legal and linguistic systems: Canada and Belgium

4- The group of States is bijuridical or multijuridical: Canada and Sri Lanka.

2-Algerian legal system:

Due to the relationship between French colonialism and colonized Arab countries such as Algeria, Morocco, and Syria, French civil law and language have directly influenced the legal and linguistic systems of these countries, even though they were generally subordinate to Islamic law with different doctrines, such as Malekite and Ibadite in southern Algeria.

In addition to being clearly influenced by morals and customs (Benachenhou, 2012, p. 20), it is crucial to acknowledge the profound impact of French colonialism on the legal and linguistic systems of Algeria. Benachenhou (2012) aptly points out the notable influence, highlighting the adoption of French civil law despite the coexistence of Islamic law doctrines such as Malekite and Ibadite (p. 20). Following the French occupation of Algeria, historical events unfolded with legal ramifications. The French state, cognizant of the existing legal framework predating colonial intrusion, made a commitment on July 18, 1830. This agreement signified a pledge to uphold the laws in force before the onset of French colonialism. As stipulated, the

French state vowed to oversee the application of these laws, emphasizing that every Algerian should be adjudicated in accordance with Muslim law (Bessadi, 2012, p. 29). This complex interplay between French civil law and Islamic legal doctrines reflects the intricate legal landscape shaped by historical and cultural forces in Algeria.

Between 1888 and 1942, the dual legal system was used by the judiciary and the first instance conciliation courts (Soulh), which decided cases concerning the Algerian population (Bessadi,2012. p. 29) At the time, the courts applied Islamic law, particularly with regard to testimony, which was presided over by an Algerian (indigenous) judge. However, these courts had little in common with the French courts because they had no prerogatives. Algerians did not have access to judicial posts and legal assistants such as court interpreters and notaries, which had always belonged to the French, until the promulgation of Decree 21 of April 1866, which ordered the opening of the above-mentioned posts to Algerians or non-citizens under French colonialism. (Bessadi, 2012, p. 29). French colonialism applied Islamic law in matters of inheritance, personal assets, and wakf, but this system quickly began to lose ground because of the French administration's difficulty in dealing with criminal cases (Benachenhou, p. 25, 2003).

The colonial administration initially retained Islamic law for general and tribal law, particularly in Kabylia, as the legal framework governing relations between citizens, whether Amazigh or Arab, in accordance with decree 1 of October 1854 and order no. 23 of November 1944 on the administration of Islamic justice (Benachenhou, p. 25, 2003).

However, French colonialism progressively replaced Islamic law with French colonial law, adapting and emptying Islamic law of its content, which then became Algerian Islamic law (Benachenhou, p.25, 2003).

Despite the coexistence at the beginning of the colonial era of two legal systems, the first of which was the local "indigenous" system and French civil law, French judges tended to apply the French system because of their ignorance

of Islamic law, which was applied in the Ottoman caliphate, as Algeria was one of its emirates. At that time, the French justice system appointed the so-called "Al-Qaid" to rule on cases concerning the Algerian people. The Jews had their own justice system made up of monks, in which the French authorities intervened to assess their judgments (Botems, ,2014, p. 34). However, the French coloniser felt the need to draw up a law governing relations between citizens amongst themselves and the administrative authorities with the inhabitants, the Jews, and the French, especially as agricultural or other land was in the possession of the Algerians(Botems, 2014, p.40).

In the same context, the idea of adapting property law emerged following the French occupation of Algeria in 1830, when the French authorities began to attract European centenarians by granting them concessions to motivate them to stay and live in Algeria. The first of these was the acquisition of farmland belonging to the Indigènes and Jews or to the Ottoman Dey. As a result, the French coloniser tried to prove that property could be subordinated to the authority of the coloniser and placed at his disposal (Botems, 2014, p. 40).

But the French found no books translated into French or written in French to enable them to understand that Islamic law was of Ottoman origin, whose source was not written but oral. There were translations of concepts of Islamic law in India and the Ottoman caliphate, which followed the Hanafite doctrine relating to Imam Abiy Hanifa al-Numan (deceased 150H), on the other hand, in Algeria, there was a Malékite doctrine. According to Botems,(2014, p. 54), the famous translation on which the West relied is that of "Tableau général de l'Empire Ottoman, 4" "volumes, Paris 1788, which was inspired by "Ibrahim Halabi." In his book, Ahsan stressed that Islamic law had no written source other than the Qur'an and that Islamic law came into being through Imam Abu Hanifa during the 12th century. He also defended the universality of Islamic law despite the multitude of jurisprudences of the four imams: Malik, Ibn Hanbul, El Shafei and Abu Hanifa(Botems, ,2014, p,41).

In addition, the colonial administration explored Islamic law and tried to assimilate its concepts by translating the 'abridged' Mokhtasir Khalil from Arabic into French, but in the eyes of the French, this was not enough. The Marcel Morand project, which he founded on the basis of critical ideas from the Mokhtasir, adapted his concepts of Malikite thought to French law and the traditions of the Western world. After the work of numerous French jurists and academics, the project appeared in the form of Moron law at the beginning of the nineteenth century, which attempted to consolidate the French civil legal system and replace it with Islamic law (René, 1974, p. 16–17).

3-French legal system:

The Romano-Germanic legal system, which includes the Latin and Germanic countries, was based on the principles of Romanian law, in particular the legacy of Emperor Justinian. The universities of the European states developed this system in the 8th century to become the set of norms governing human behaviour in these societies, but the rules of conduct were more related to justice and morality. However, the rules of conduct had more to do with justice and morality. In order to determine the content of these rules, legal thinkers fashioned the object of legal science(René, 1974, p. 16–17).

The emergence of the French legal system in the 19th and 20th centuries reflects its positive nature, deeming the law as the paramount source of legal authority. Moulin and Larorêt (2009) underscore this perspective, highlighting the profound influence of the French Revolution of 1789 on shaping the legal framework. According to their observation, the French legal system is deeply rooted in the principles of justice and equality that emanated from the revolutionary fervor (p. 2). Thus, the legal landscape in France, as illuminated by Moulin and Larorêt, positions the law as the ultimate cornerstone, echoing the transformative ideals born out of the revolutionary spirit.

The French legal system has a different understanding and appreciation of legal actions. Although influenced by religion and morality, the French civil tradition is totally independent. The law confuses numerous notions, such as that

of "good faith", which is binding during the conclusion of the contract (Moulin, Larorêt,2009, p. 06). The law makes decisions based on actions that have legal consequences for the individual and are enforced by legal institutions that do not exist on a religious or moral level. One of the characteristics of this system, apart from the sovereignty of the law, is that the laws of countries such as France were first created to manage relations between citizens in matters of civil law, which jurists consider to be the father of laws, and then other laws were created relating to other branches of law (René, 1974, p. 17).

In addition to the importance of the legislative process in the French civil tradition, in particular the civil legalization of Napoleon's 1804 civil code, which is an important source of French law (Terré, 2015, p.60), This codification is more practical, free, and individualistic; it grants a special place to civil justice; that is, it banished the advantages previously granted to social classes such as the bourgeoisie(Terré, 2015, p. 83).

Over the course of its evolution, Napoleon's codification, as emphasized by Terré (2015, p. 88-89), underwent numerous reforms aimed at aligning it with the evolving aspirations and needs of the French people. It is essential to acknowledge the profound influence of French civil legalization not only within the context of the Romanian-Germanic family but also on a global scale, extending its impact to regions such as the Arab states, including Algeria. The adaptability and continuous refinement of this legal framework highlight its enduring significance and widespread implications in shaping legal systems beyond the borders of France.

The French legal system also has the privilege of having been formally separated in 1905 from the Christian religion, which has long been applied in relations between individuals. For example, the execution of a religious oath is no longer required in the French justice system (Moulin, Larorêt ,2009 p. 06). In addition, the French system is binding in nature and relies on legal norms as a basis for judging any act. We note that in the French civil tradition, legal thought is characterized by the

abstract use of rules, predictions, inferences, and intellectual processes based on legal logic (Cao, 2007, p.24).

4-Algerianisation of the legal system:

Following Algeria's independence on July 5, 1962, the state was faced with the problem of a legal vacuum following the evacuation of the country's military forces, the French community, and the colonists. In the interest of keeping this vacuum filled, the Constituent Assembly unanimously approved the renewal of the French civil legal system in force at the time.

However, there were hundreds of conditions so as not to undermine national sovereignty by adapting its provisions to the specific nature of Algerian society. The text was adopted by the Constituent Assembly on December 31, 1962, and is based on French laws, legal concepts, and legal techniques associated with legal thought, such as logic, syllogism, and French legal concepts (Kalfoune, 2004, p. 09).

With the aim of changing the legal system inherited from French colonialism, the state has proceeded to Algerianize the legal system by training lawyers and professions linked to justice and the judiciary and creating legal institutions that take into account the process of adopting laws according to the aspirations of the people and their religious beliefs and traditions(Bessadi, 2012, p. 26).

The process of Algerianisation of the justice system has been accompanied by Arabisation, despite the retention of French as the language of law (Bessadi, 2012, p. 27), especially as the French legal language reflects the French civil tradition of French colonialism throughout its existence. It is worth mentioning that the legal system is a mixed system and a combination of the French legal system of civil tradition and Islamic law, and there are those who describe it as a composite legal system "consisting of elements of a different system of values and logic. (Bouraoui in Bessadi, 2012, p. 29) Although the modern French civil system and Islamic law are conceptually different, they both create a special legal culture that is imbibed by legal practitioners, legal bodies, and even an ordinary citizen

as a legal actor motivated by his duties and rights (Bessadi, 2012, p. 29). However, there is a common denominator; each system is written based on the rule of law.

The French legal system derives from the law, but the Islamic system derives from the Koran, the Sunna and jurisprudence, in particular the Malékite doctrine (Bessadi, 2012, p. 29). But the continuation of the French civil law tradition after independence has not been spared criticism because of its consideration as a colonial legacy as well as the dominance of the French language as the main channel of law, which has led some to say that Algeria has changed the legislature and has not changed the legislation, which has widened the gap between French and Arabic speakers(Bessadi, 2012, p. 29).

5- Translator's obligations:

The legal community generally believes that the translator cannot translate a legal text because of his ignorance of the law. Consequently, some jurists demand that the translator have legal knowledge, and the translator must bow to the jurist, in particular the judge, who may refuse or modify his translation because of the primacy of the legal aspect over the linguistic aspect (Gémar, 1995, p. 154). On the other hand, Gémar (1995, p. 157) considers that a lawyer is not qualified to do legal translation even if he or she is fluent in both languages because legal or other translation requires mastery of the techniques and methods of translating a particular text, as well as theoretical translational concepts that refine the translator's skills. In the same context, Sarcevic (1997, p. 09) believes that the legal translator should have the ability to use legal language effectively in order to express legal acts that produce the desired legal effects.

On the basis of Gémar's legal classification of obligations (1995, p. 156, 159) the translator's obligations are classified into three categories according to the type of legal text involved in the translation.

There are three types:the first obligation: The legal translator has the theoretical means of translation and linguistics to produce a good translation of the legal text. Legal

language contains methods, phrases, and synonyms that the translator can make better use of, enabling him to present a text in which he does not repeat the same term but can propose a synonym. However, Gémar (1995, p. 157) warned against this in contractual language, which should be translated with terminological precision, but this would lead to what he called a double error—a legal and linguistic error.

The second and third types of obligations proposed by Gémar (1995, p. 57) consist of respecting the consequences, the obligation of results, and the obligation of means. There is a legal translator as a civil servant. There is an international translator involved in international treaties and a translator interested in contracts or private law. The results and guarantees to which the interpreter is bound vary, but the common denominator is to expect a result from the legal interpreter and to ensure the quality and efficiency of the translation. There is a third type of legal text that requires the existence of a result, namely texts of legal doctrines or schools of thought that are the basis of legal thought and legal science.

In addition, the obligations vary depending on the type of text translated by the legal translator. In the translation of common law texts, the obligation is one of means, but the obligations of result and guarantee are multiplied. In the translation of private law texts, the obligation of means is not 100% required. "The client expects the translator mainly to reproduce the legal content of the source text, i.e., to produce a text that is equivalent and functional in the target legal system. (Gémar 1995, p. 158). Similarly, there are legal practitioners such as Moskowitz (in Pelage 2007, p. 19) who believe that the translator must achieve the functional equivalence of the two messages and preserve the same information content, i.e., that the message is unchanging. This position is strongly shared by functional translation theorists such as Reiss. To do this, the translator must "understand" the original message and reproduce it on the basis of equivalence.

Legal translation is not an exceptional case, according to Bocquet (2008, p. 88), who felt that a legal translator should be

accustomed to legal texts written in his or her mother tongue so that he or she can form a linguistic terminological knowledge base, or thematic knowledge of the law, i.e., the legal context in which the text is set. Smith (in Cao, 2007, p. 37) believes that the legal translator should have a good knowledge of the original and target legal systems, knowledge of legal terminology, and mastery of drafting techniques. In the same line, Wagner (in Cao, 2007, p. 37) stipulates that the legal translator should distinguish between the nuances of meaning in the original language and reproduce this meaning with its layers in the target language in an honest and spontaneous manner. In addition, he required the legal translator to be familiar with the stages of drafting, interpreting, and applying the legal text. For Weisflog (in Cao, 2007, p. 37), the translator must have in-depth knowledge of the national legal system if he or she is translating into a multilingual country with diverse legal systems.

According to Sarcevic (1997, p. 71), lawyers expect the legal translator to produce a legal text with the same legal effects, not a text with the same meaning. We are talking here about equivalence, while Herbots (in Sarcevic, 1997, p. 71) requires the legal translator to produce the same legal semantic charge.

6-Legal translator as mediator:

Etymologically, the notion of mediation refers to that of intermediary and therefore of link (Delamotte, 2020, p. 23). The actors, above all the linguistic roles of certain people within an action requiring mediation (Delamotte, 2020, p. 24), such as the legal translator, who intervenes between two languages and legal cultures, is a mediator who tends to reconcile two individuals belonging to two different legal systems. "The concept of "mediation" seems to be acquiring particular importance. We see mediation as a process set in a specific space and time that is triggered by a professional need and results in a product whose aim is to satisfy that need"(Tolosa, Gallego, 2018, p. 348).

It should be mentioned that Sarcevic (1997, p. 71) praised the unprecedented change in the status of the translator, who is

now perceived as a mediator between the author of the original text and the reader of the target text and even as a producer of the target text, which represents a shift from a negative role to an effective role with double the responsibility. In addition, Sarscevic congratulated Canada on the role it has played in the development of legal translation, to the point where the legal translator has become a co-writer with legal writers when it comes to translating legislative texts.

Sarcevic also insisted on taking contextual factors into account when translating, interpreting, and applying legal texts, which were not previously known in translation theory. Sarcevic, (1997, p. 87). In addition to the above, the legal translator in the communicative perspective of legal translation advocated by Sarcevic should reproduce the intentionality of the writer of the original text expressed according to the type of text; if we are talking about legalisation here, the legislator, if we are talking about international conventions, the state is party to the contract and the parties to the contract and the notary or any legal substitute.

In the face of the differences between legal systems, the translator should play a mediating role by seeking to preserve the legal effect of the original text and reproduce it in a textual form close to the parallel text in the target system, i.e., respect the editorial rules of legal texts; if it is a translation of a law, an acceptable translation should be produced in linguistic and formal terms. In addition, the translator's in-depth knowledge of the original and target legal systems, the French civil law system and the Islamic law system, particularly in terms of history, concepts, institutions, and doctrine, facilitates the production of a good translation; e.g., justice of the peace in French law is translated by Mahkamat Es Solh.

7-Documentary research:

Documentary research in translation in general and in legal translation in particular is of great importance because it is considered to be the cognitive baggage of a legal translator. This baggage provides the translator with the information necessary to carry out the translation, particularly when

translating legal terminology, which reflects legal concepts whose definitions and names often vary in the legal systems of origin and purpose. The process of understanding a text for a legal translator is different from that of an ordinary reader, who has little interest in the deeper meaning of the text and only a superficial or preliminary understanding, but the legal translator must look for the exact meaning of words and must "mobilize his knowledge of the language and the subject and often carry out appropriate documentary research so that his reading is not limited to deciphering"(Pelage, 2007, p 18).

Because of the abundance of information in the legal field that legal translators must consult, they must select the main sources for use during the translation process according to their degree of importance. In a bilingual and bijural country like Canada, legal terminology and definitions are numerous. Consequently, Gémar (1980, p136) prioritized the sources concerned by documentary research with a view to identifying the meaning of legal concepts in the original legal system, and then proposed the translation of these concepts into the target legal system.

Gémar (1980, p136) divides his typology of documentary sources in the legal field into two subsections. The first section comprises binding sources, which are in turn divided into legislation and case law. The second section of secondary sources contains both usages and currents of legal thought, terminology lists, encyclopedias, and dictionaries. In addition to legal documents such as contract forms, court decisions, and administrative documents, In addition, Bocquet (2008, p. 15) believes that it is necessary for legal translators to find specialized dictionaries that include "contextualized terminology", to avoid making mistakes, as some legal dictionaries list incorrect meanings, which inevitably leads to a false translation. This is because they give the translator several equivalents that are based on probability and not on the exact meaning. In practice, Bouquet urged the translator to use monolingual dictionaries and terminology databases to better understand a particular concept. In addition, the professional

translator must establish his own lexicon in which he adds terms and translates them whenever possible.

8- Discussion on Key Findings:

In this section, we delve into a comprehensive examination of legal systems, investigating their intricate interactions and mutual influences. Our focus is specifically on the Romano-Germanic, Algerian, and French legal systems, where we analyze their complexities and the transformative effects of Algerianization. Emphasizing the pivotal role of legal translators and the importance of documentary research in unraveling legal terminology, our findings contribute to a more profound theoretical understanding of the multifaceted dimensions within the realm of legal systems. These insights build upon the points highlighted previously, providing a cohesive narrative of our theoretical exploration.

Legal System:

The concept of the legal system is explored, emphasizing its historical evolution from organized elements to a system based on rules. The existence of various legal families or systems, including Romano-Germanic and common law, is acknowledged. The importance of religious systems, particularly Islamic law, is highlighted. Terré's exploration of the legal system as a mosaic of logical social relations aligns with the discussion, emphasizing the diversity of legal systems and their evolution over time.

Algerian Legal System:

The historical context of Algeria's legal system, influenced by French colonialism, Islamic law, and subsequent Algerianization, is examined. The transition from dual legal systems to the dominance of French colonial law is outlined, and the complexities of post-independence legal developments are discussed.

The examination of Algeria's legal system aligns with Terré's concept of legal families and their adaptation over time, showcasing the impact of historical events on legal frameworks.

French Legal System:

The French legal system, rooted in the Romano-Germanic tradition, is discussed in detail. The positive nature of French law, its evolution from Napoleon's civil code, and the separation from Christian religion in 1905 are highlighted. The discussion emphasizes the adaptability of the legal code to the needs of the French people.

Terré's insights into the evolution of the French legal system find resonance in the discussion, particularly in emphasizing the ongoing reforms to align with societal aspirations.

Algerianization of the Legal System:

The process of Algerianization post-independence is explored, focusing on the retention of French legal concepts with adaptations to suit Algerian society. The mixed nature of the legal system, combining elements of French civil tradition and Islamic law, is discussed. This aligns with Gémar's classification of legal systems into groups, illustrating the complexity of legal classifications and the coexistence of multiple legal influences.

Translator's Obligations:

The role of legal translators as mediators is emphasized, discussing the translator's obligations in terms of means, results, and guarantees. The importance of legal knowledge for translators and the need for contextual understanding are highlighted. Gémar's classification of translator obligations emphasizes the translator's responsibility in achieving functional equivalence in legal translation.

Legal Translator as Mediator:

The concept of legal translators as mediators between different legal systems is explored. The shift from a negative role to a co-writer with legal writers is discussed, emphasizing the translator's responsibility in producing target texts that satisfy professional needs. Sarcevic's view of the translator as a mediator is reinforced by the fact of acknowledging the translator's evolving role in the legal translation process.

Documentary Research:

The significance of documentary research in legal translation is underlined. The role of legal translators in consulting primary and secondary sources, specialized dictionaries, and establishing personal lexicons is discussed to ensure accuracy in translation. Gémar's typology of documentary sources emphasizes the importance of selective and informed documentary research in legal translation.

Conclusion:

At the end of this article, we note that legal translation is not just a question of terms, as some lawyers think, but a linguistic and extralinguistic activity at the same time. Considering the different legal systems in Algeria, the translator should play the role of mediator in the communicative approach to legal translation. The translator will be able to carry out this communicative mediation through informed and methodical documentary research, with a view to finding equivalents with the same legal effect. In addition, the translator should be aware of the various types of obligations mentioned in this article so that he can fulfill his ethically accepted mission.

Bibliography:

1- Benachenhou, Y. (2012). ***Traduction comparée du terme adoption et conséquences juridiques***. In E. de la Fuente (Ed.), Traducteurs et interprètes certifiés et judiciaires: droits, devoirs et besoins. Actes du 6e forum international sur la traduction certifiée et l'interprétation judiciaire. Paris: Elena de la Fuente.

2- Bessadi, N. (2012). ***Le droit en Algérie entre héritage colonial et tentative(s) d'algérianisation***. In A. Mohand-Amer & B. Benzenine (Eds.), ***Le Maghreb et l'indépendance de l'Algérie***. Algérie: CRASC.

3- Bocquet, C. (2008). ***La traduction juridique: Fondement et méthode***. Belgique: De Boeck Supérieur.

4- Botems, C. (2014). ***Le droit musulman algérien à l'époque coloniale, de l'invention à la codification***. Genève: Slatkine érudition.

5- Cao, D. (2007). ***Translating Law***. USA: Multilingual Matters Ltd.

6- David, R. (1974). ***Les grands systèmes de droit contemporain***. France: Dalloz.

7- Deleuze, N., & Bertran, A. (2004). ***Introduction générale au droit: le droits positif, les droits subjectifs, l'action en justice***. France: Jeunes Editions.

8- Delamotte, R. (2020). ***Les sciences du langage face à la notion de médiation. Diversité des approches, L'essentiel de la médiation Le regard des sciences humaines et sociales***. Brussels: Éditions scientifiques internationales.
9- Gémar, J-C. (1979). *La traduction juridique et son enseignement. Aspects théoriques et pratiques*. ***Meta***, 24(1), 35–53.
10- Gémar, J-C. (1980). *Le traducteur et la documentation juridique. Meta: journal des traducteurs / Meta*: ***Translators' Journal***, 25(1), 134–151.
11- Gémar, J-C. (1995). ***Traduire ou l'art d'interpréter, Langues, Droit et Société: éléments de jurilinguistique*** ; Tome 2. Canada: Presses de l'université du Québec.
12- Gémar, J-C. (2012). ***Le traducteur juridique et l'« asymétrie culturelle»***. In E. de la Fuente (Ed.), Traducteurs et interprètes certifiés et judiciaires: droits, devoirs et besoins. Actes du 6e forum international sur la traduction certifiée et l'interprétation judiciaire. France: Elena de la Fuente.
13- Kalfoune, T. (2015). ***Le domaine public en droit algérien: réalité et fiction.*** France: Editions le Harmattan.
14- Moulin, F., & Larorêt, E. (2009). ***Introduction au droit***. France: Editions Dunod.
15- Terré, F. (2004). ***Introduction générale au droit*** (10th ed.). France: Dalloz.
16- Pelage, J. (2007). ***La traduction des discours juridiques. Problématiques et méthodes***. France: Autoédition.
17- Sarcevic, S. (1997). ***New approach to legal translation***. The Hague, Boston: Kluwer International law.
18- Siems, M, (2022). ***Comparative Law***, Cambridge, 3 edition, India.
19- Sumardi,D, Lukito,R, ur Ichwan,M. (2021) *Legal Pluralism Within The Space of Sharia: Interlegality of Criminal Law Traditions in Aceh*, Indonesia: ***Jurnal Hukum Keluarga dan Hukum Islam*** Volume 5 No. 1.
20- Tolosa, M., Igualada1, D. G. H. (2018). *L'enseignement de la traduction spécialisée De l'espace-temps de la médiation au modèle*. FORUM. ***Revue internationale d'interprétation et de traduction / International Journal of Interpretation and Translation***, 16(2), 341–361.
21- Von de Kerchove, M. (Ed.) (2005). ***H.L.A, Hart. Le concept de droit***. Bruxelles éditions.