Significance of Knowledge of the Lexical and Structural Features of the Legal Language in Translating English Legal Texts into Arabic.
A Case Study of Students, Faculty of Law, University of Sinnar, Sudan (2017)

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Department of English
Faculty of Education- Hantoub

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Date of Examination: May 2018
Dedication

To the soul of my mother who struggled to bring me up,

To my father’s concern, powerful and keen guidance,

To my wife and my lovely daughters,

To my Dear and Sisters in my beloved family,

To my friends and my colleagues.
Acknowledgements

Firstly thanks and praise is foremost to almighty Allah for giving me the ability to complete this research.

I would like to express my greatest thanks and appreciation to my main supervisor Dr. Hassan Ali Eissa for his effort, guidance, and patience. His interventions were absolutely valuable. His experiences assisted me and were source of ideas.

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My appreciation goes to my dearest colleagues, the staff members in the Dept of English – University of Sinnar.

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Abstract

The importance of legal translation stems from the importance of translation as a process of transferring the meaning from one language into another while preserving the spirit of the transmitted text. This depends on the knowledge of the legal texts that are specific and therefore the knowledge of the structure of the legal language and its features is essential for the students in the Faculties of Law. The current study aimed to find out the differences between general and legal English considering the lexical structures and to identify the importance of the knowledge of the difference on general and legal English affect translation, then to Focus on the lexical features affect when translating legal text from English to Arabic by Faculty of law students. To achieve such objectives the study adopted experimental method while the study used two tools first one is students' pre and after test as the second one is the teachers’ interview in collecting data. The sample of the study consisted of eighty (80) students randomly selected, faculty of law – University of Sinnar. The study proved some results which are: increasing 'knowledge among law students on the lexical features of legal language has positive effect on students' performance, percentage of students who passed the after test is 85% instead 38% in the post test. Special and prominent difference between legal language and general language was occurred e.g. the use of the word sentence in legal context differs from general one. Understanding of the differences between legal and ordinary language by legal translation students will affect positively to carry out precise and good translation this agreed by 100% of the teachers. The concept of legal translation among Faculty of law students plays an important role that improves translation. Finally the study concluded in recommendations which are; Teachers should focus on the knowledge of the legal translation among Faculty of law students. Faculty of law students should be aware about the difference between ordinary and legal language because of the special and complex use of terms and lexicons in legal language, The legal translation curricula among universities should consider and contains enough knowledge about lexical and structural differences between English Arabic as like as differences between general and legal language, The teaching of legal translation courses should be done by professional and qualified teachers. Conducting future studies on the importance of teaching specialized lexicons in law (English / Arabic) for the students in the Faculty of Law. Analytical study in the legal language used in international agreements when translating from English to Arabic. Arabic and English Formation of the Legal Texts: Comparative study.
أهمية معرفة السمات المعجمية والهيكلية للغة القانونية في ترجمة النصوص القانونية من الإنجليزية إلى العربية (دراسة تطبيقية لدى طلاب كلية القانون – جامعة سنار – ولاية سنار – السودان (2017))
عبار عبد الله أحمد سليمان

ملخص الدراسة
تنبع أهمية الترجمة القانونية من أهمية الترجمة بكونها عملية نقل وتحويل للمعني من لغة إلى أخرى مع المحافظة على روح النص المنقول وذلك يعتمد على المعرفة بالنصوص القانونية التي تتسم بالخصوصية ولذلك تعد المعرفة ببنية اللغة القانونية وميزاتها أمرًا أساسيًا لطلاب كلية القانون. هدفت الدراسة إلى معرفة الفروق بين اللغة الإنجليزية واللغة العربية المستخدمة في النصوص القانونية وفقًا للهيكل المعجمي وكذلك التعرف على أهمية معرفة الفروق لدى لد طلاب كلية القانون في اللغة الإنجليزية والقانونية التي تؤثر على ترجمة النصوص القانونية من الإنجليزية إلى العربية، يركز على الميزات المعجمية التي تؤثر بعدة ترجمة القانونية من الإنجليزية إلى العربية من قبل طلاب كلية القانون. استخدمت الدراسة المنهج التجريبي لجمع البيانات، الأولى هي الاختبار القبلي والثانية هي المقابلة مع الأساتذة. تكونت عينة الدراسة من جزئين، الأول ثمانين (80) طالباً تم اختيارهم عشوائياً من كلية القانون – جامعة سنار، والثاني عشرة (10) من الأساتذة الذين يقومون بتدريس مقرري الترجمة القانونية لطلاب كلية القانون. جامعة سنار.

توصلت الدراسة لعدة نتائج: إن زيادة معرفة طلاب كلية القانون بالخصائص اللغوية للغة القانونية في اللغتين الإنجليزية والعربية يؤدي بشكل إيجابي على أداء الطلاب عند الترجمة. حيث يوافق جميع الأساتذة على هذا بنسبة (100%). أثبتت الدراسة اختلاف بارز بين اللغة الإنجليزية القانونية واللغة الإنجليزية العامة (لغة غير القانونية) في النص القانوني تعني(حكم قضائي) بينما تعني في النص العام (جملة). أن فهم الاختلافات بين لغة القانون واللغة (غير القانونية) من قبل طلاب كلية القانون يؤثر بشكل إيجابي على القيام بالترجمة بصورة دقيقة ووافرة حيث ارتفعت نسبة نجاح الطلاب في الاختبار بعدي إلى 85% بدلًا عن 38% في الاختبار القبلي. كما توصلت الدراسة إلى أن مفهوم الترجمة القانونية لدى طلاب كلية القانون يلعب دوراً METHISSAً في تنفيذ الترجمة التدريسية المثلى حيث يوافق جميع الأساتذة على ذلك من خلال المقابلة التي أجريت معهم بنسبة (100%). وعلى ضوء هذه النتائج توصي الدراسة بضرورة تنبيه الطلاب إلى ترجمة معرفة الترجمة القانونية بين طلاب كلية القانون، على طلاب كلية القانون أن يكونوا على دراية بالفرق بين اللغة الإنجليزية واللغة الإنجليزية القانونية بسبب الاستخدام الخاص والمختلف للكلمات والمعجم باللغة القانونية. ترتى الدراسة تصميم مناهج للترجمة القانونية في الجامعات بحيث تحوي وتحتوي على المعجمة الكاملة حول الاختلافات المعجمية والهيكلية بين اللغة الإنجليزية واللغة العربية مثل الاختلافات بين اللغة الإنجليزية العامة (غير القانونية) والقانونية. كما توصي الدراسة بأن يركز المدرب على تدريس اللغة القانونية إلى الأساتذة المحترفين والمؤهلين والمختصين في المجال، إجراء دراسات مستقبلية في أهمية تدريس المدرب المختص في اللغة القانونية، لطلاب كلية القانون. دراسة مقارنة في اللغة القانونية المستخدمة في الاتفاقات الدولية عند الترجمة من الإنجليزية للعربية. دراسة مقارنة لصياغة النصوص القانونية باللغة العربية والإنجليزية.
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CHAPTER ONE
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1.0. Background

The general linguistic features of legal English and its complexity lie in the fact that it imbued with legalism i.e. archaic technical terms and the overuse of synonymous, redundant expressions as well as long and complex sentences written in the passive voice.

One of the most important means of communication or transmitting the information is language, this is through giving a certain message from addresser to addressee in a particular situation (depending on numerous contextual aspects). Legal Translation is understood as the translation of technical material within the field of law correspondingly legal language is a distinct language easy to some extent to those who are familiar with it, but it is of certain difficulty for those who are unfamiliar with. In other words legal language is characterized by specific language type and, therefore, specific terminologies. So, the one who would be translator of this particular type of language must broaden his/her knowledge of special lexical features of legal language and this will be the chief concern of the study.

Studies of legal translation tend to focus on the notions of language and culture, namely, that the development of legal language is inextricably linked to the legal culture in which that language has developed. Therefore, legal terms can only be understood by those familiar with the legal culture to which they belong. Legal translation is considered as distinct from the translation of other text genres. Recent scholarship suggests that the quest for “equivalence” in legal translation should be abandoned since there cannot be absolute correspondence or equivalence of legal terms across different legal systems.

The approaches to legal translation have been mostly oriented towards the preservation of the letter rather than effective rendering in the target language, legal texts having always been accorded the status of ‘sensitive’ texts and treated as such. A challenge to the unquestioned application of a ‘strictly literal’ approach to legal translation came only in the nineteenth and early twentieth century's (Sarcevic 2000, 24). Thus, a change in perspective occurred with a gradual shift towards a more flexible attitude, increasingly characterized by recipient-orientatedness. In this context, the translation of a legal text will seek to achieve the identity of the intended meaning
between the original and the translation, i.e. the identity of the propositional content as well as the identity of the legal effect (Sager 1993, 180) while at the same time pursuing the objective of reflecting the intents of the person or body that has produced the original. This corresponds to identify the propositional content of the illocutionary and perlocutionary force, and of intentionality (de Beaugrande-Dressler 1981).

1.1. Statement of the Problem
Translation of legal texts is definitely not an easy task, thus, the problem of the study stems from the necessity of understanding the legal language and its lexical and structural features that is what the process of legal translation into Arabic depends on, the challenge is to convey and trigger the meaning of the propositional content as well as the identity of the legal effect.

1.2. Objectives of the study
The study aims to achieve the following objectives:
1. To explore the significance of knowledge of the legal translation concept among legal translation students.
2. To find out the differences between general and legal English considering the lexical structures.
3. To identify the effect of the knowledge of the difference in general and legal English affect translation.
4. To focus on the lexical features affect when translating legal text from English to Arabic by legal translation students.

1.3. Questions of the study
1. What is the Significance of teaching the concept of translation to students of legal translation?
2. What are the differences between general and legal English considering the lexical structures?
3. To what extent does the difference between general and legal English enhance the process of translation among legal translation students?
4. How can the lexical features of legal language affect the process of legal text translation from English into Arabic?

1.4. Hypotheses of the study
1. The modality of a good translation of legal English texts into Arabic is influenced by the whole concept of translation among legal translation students.
2. The language of law differs from ordinary (general) language according to the structures of lexical items.

3. The knowledge of the difference between general language and legal language enhances clear and precise translation among legal translation students.

4. The special features of legal language affect the process of legal translation from English into Arabic among legal translation students.

1.5. Significance of the study
The major theme running through the study is how well legal English and its translation into Arabic function as a means of communication. Many of the other uses or goals of legal language, including the goal of winning cases, may limit or conflict with that central aim. So the primary concern of this study is therefore a pedagogical one, consisting of examining and assessing students' errors when translating between English-Arabic-English . Thus, the study is also be significant to translators, lawyers and all those who work in the field of law.

1.6. Methodology of the Study
The researcher, in this study, will adopt the experimental analytical method. 2 test were designed and distributed to (80) of the legal translation students in the faculty of law – University of Sinnar who constituted the sample of the study as they are selected randomly. The researcher will use the pre-test and after test as a first and used the written interview as a second tool. The interview was distributed to the 10 of the teachers who constitute the staff members in the department of English language, faculty of Education, University of Sinnar the results of the two tests will be analyzed and discussed as the response of the teachers will be discussed.

1.7. Limits of the study
This study will be limited to the significance of legal English lexical features in translating English legal texts. It will be carried out in the Sudan where the samples of the study are going to be selected from the University of Sinnar among students of legal translation. This study will extend during the years 2014 – 2017.
CHAPTER TWO
LITERATURE REVIEW
CHAPTER TWO
LITERATURE REVIEW

Part 1

2.1.0. Introduction:

This chapter contains five parts in which the first part consists of a brief introduction about the components of the whole chapter. The second chapter draws comprehensive picture about the definition and concept of legal language and its structure also this part discusses the nature of legal language and then the researcher tries to present an introductory point about legal translation and pragmatics, also shedding light on the notion and features of legal language and professional and pedagogical translation. The second part concludes by drawing a significant comparative discussion between the general features of Arabic legal language and the general features of English legal language comparing the syntactical, structure and systems of each language. The third part describes the language of contracts according to their definition, formation and characteristics. Also in this third part of chapter two the researcher tries to illustrate some discussion on the translation of some randomly provided contractual texts from English into Arabic. The fourth part of this chapter is a descriptive section in which researcher explain the legal language of Agreement which is mainly based on the use of (Modals) and the techniques of translating such modals into Arabic. The fifth and final part in this chapter is about the sources of literature reviews "previous studies" in which six works were selected by the researcher and vary between local, regional and international studies.
Part two:

2.2.1 Concept of Legal language (Text):

This part is written to give complete ideas and description of the legal language specially English and Arabic, including how it get to be the way that it is, its present characteristics, and the nature of legal language. The major theme running through this part is how well legal language can be functioned as a means of communication. Many of the other uses or goals of legal language, including the goal of winning cases, the law's desire to appear objective and authoritative, and lawyers' use of language as a marker of prestige and badge of membership in the profession, may limit or conflict with that central aim. Thus, the researcher is going to focus on this part on the nature and characteristics of legal English in order to facilitate the understanding of such a language when translating into Arabic.

Legal language has been widely discussed and has presented the interests of scholars over many years. In this space researcher will preview the notice of some scholars beginning with (Mattila, 2006,6) who drew the relation between language and law he states that “Law is necessarily bound to language, and in that sense legal language has existed as long as the law. In certain contexts, the language aspect of the law dominates: legal translation, legal lexicography, and legal rhetoric”. Then (Crystal and Davy, 1969, 193) Suggest that legal discourse, from general point of view, is the type of discourse employed by lawyers, courts, judges, police, legislators and lawmakers. Therefore, this kind of discourse does not only state in plain words the conditions of pacific social coexistence among human beings, the prevalence of order, prevention of crime or cruelty, "but also regulates the foundations of social relationships such as marriage, contracts, agreements and civil rights such as wills and inheritance". A more comprehensive definition of what constitutes a legal text would cover documents, which are, or may become, part of the judicial process: for instance, contracts, wills, court documents, witness statements and expert reports, which are bread-and-butter activities for lawyers and legal translators Kasirer (2000, 65) noted.

Garzone (2003:3-4) indicates that legal discourse has ritualistic, archaic and extremely formal features. Systematic resort is made to standardized forms, often archaic and uncommon in ordinary plain texts, stock phrases, rigid collocations and specialized cohesive devices for anaphoric and cataphoric as well as homophoric and
inter-textual reference. Also legal language has been called a "sublanguage ", a "dialect" or a "language" by some linguists, and "register" by others (Van Dijk 1981,279-288) describes legal language as has been called a "sublanguage ", a "dialect" or a "language" by some linguists, and "register" by others are frozen patterns of language which do not tolerate much variation in form as in (Baker 1992,65) while (Hatim and Mason 1997, 190) are even sometimes referred to as routines. Another feature of legal discourse that sets it apart from other kinds of specialized discourse is its intricacy and obscurity, reflecting the complexity of legal thought and reasoning, but also the verbosity and haughtiness traditionally associated with the legal and judicial professions (Mellinkoff 1963, 25).

Legal texts are formulated in a special language that is subject to particular syntactic, semantic and pragmatic constraints. Furthermore, legal language is system bound, and hence is perceived of as a product of a specific history and culture. The language of the law mainly involves "parole" rather than "langue". Recognizing that "parole" is inseparable from "judicial acts", the language of law can be described as a "language of action". Sarcevic states that "the primary role of language in normative legal texts is to prescribe legal actions, the performance of which is intended to achieve a specific goal" (Sarcevic 2000,133). Similarly, Beaugrande and Dressler also regard a legal text as a "communicative occurrence" produced at a given time and place and intended to serve a specific function. It is the function of legal texts that makes them special: they are instruments of law (1981,3). The written legal text is, above all, intended to be read, and understood perhaps only after several rereadings. Crystal and Davy (1969, 194) express this idea as follows:

1. It is essentially visual language, meant to be scrutinized in silence: it is, in fact, largely unspeakable at first sight, and anyone who tries to produce a spoken version is likely to have to go through a process of repeated and careful scanning in order to sort out the grammatical relationship which give the necessary clues to adequate phrasing.

2. Legal language has its fixed conventions: one law is linguistically very similar to another and variations are minimal. According to Joos (1962, 87), legislative language clearly falls in the category of formal or even frozen style. Identifying the linguistic characteristics, or style indicators, of legal English on the basis of which it is possible to define it as formal or frozen, and distinguish it from other variants, has been one line of investigation during the last few years. It often contains a number of characteristics not commonly found in everyday language. Some of them may give rise to ambiguity
in the meaning of the text, thus causing problems in the comprehension and the translation of those texts. As one of the varieties of legal texts, contracts not only share many of these characteristics, but also contain others that may be unique to their genre. English legal language, like its Arabic counterpart, is a complex type of discourse. The "Plain English Campaign" has had some effect on legislature and judiciary, which have been forced to clarify and simplify legal language. Such notion has been totally absent in Arabic legal language, which, in most Arab countries, follows a Western legal system whose conventions of language and style are considered too sacred to be challenged yet. However, in the West, many lawyers continue to argue, with some justification, that technical accuracy is an essential prerequisite of good justice, and that if linguistic precision is watered down to suit the demands of an uncomprehending majority, legal uncertainty will disappear (Sarcevic 2000).

2.2.2. Origins of legal language:

All legal systems develop certain linguistic features that differ from those ordinary languages. Lawyers and judges may develop a language that is different from entirely ordinary speech. This typically, the legal profession uses language that contains substantial amount of technical vocabulary and a number of distinct features, and this is why such legal texts or language are seem to be difficult for the lay public to understand specially when translating from English into Arabic and this is why the study stresses to focus on the origin of legal English formation and the development of legal language over centuries.

2.2.2. The Anglo-Saxons:

The Anglo-Saxons pushed the Celtic language to the fringes of Britain. Some Anglo-Saxon words or legal terms have survived to today, including writ, ordeal, witness, deem, oath and moot. Words had an almost magical quality in Anglo-Saxon legal culture. Their law used alliteration and conjoined phrases, a practice that has, to a limited extent, survived to the present (as in rest, residue and remainder). The increasing linguistic complexity of Anglo-Saxon laws led to more complicated legal language, suggesting that the complexity of legal language may to some extent simply reflect an increasingly complicated society. Latin and the Advent of Christianity Christian missionaries landed in 597 and (re)introduced Latin. Latin terms that entered legal language in this period includes words like clerk. One impact of Christianity was
to encourage the use of writing, which was later to have a tremendous impact on the law. Although Latin was incomprehensible to most of the population, it enhanced communication at a time when there was no standard for written English. The Scandinavians Vikings raided the English coast, and eventually settled down. Legal terms from Norse include the word law itself, but otherwise the language did not have a large impact on legal English.

2.2.2The Celts:

There are virtually no remnants of the legal language of the original Celtic inhabitants of England, although there are some indications that it was poetic and not particularly comprehensible for ordinary people, a theme that continues to resonate.

2.2.2.3 The Norman Conquest and the introduction of French:

William the Conqueror Invades England the Norman Conquest in 1066 placed French-speaking Normans in virtually all important positions in England; French thus became the language of power. Virtually all English words relating to government are originally French. The Normans initially used Latin rather than French as a written language of the law. Only around 200 years after the conquest did French statutes appear. They remain French until the 1480s. Strong evidence that the courts operated in French did not appear until the end of the 13th century. The use of French in courts seems tied to the expansion of jurisdiction of royal courts during this period; royal courts were logically conducted in French, which was still the language of the aristocracy and royal household at this time. In a sense, therefore, adoption of French for legal purposes could initially have promoted communication with those most affected by royal law.

At the same time that French was in ascendancy as the language of the law, use of Anglo-French as a living language was beginning to decline. It is probably no accident that this was also the period when a professional class of lawyers arose. Soon after 1400, Anglo-French was virtually extinct as a living language, but it had become firmly entrenched as the professional language of lawyers.

The Continuing Use of Latin throughout this period, Latin continued to be used as a legal language. It came to be known as "Law Latin," and included various legal terms of French origin, as well as English words when clerks did not know the Latin. Legal maxims, even today, are often in Latin, which gives them a sense of heightened dignity and authority. Names of writs (mandamus, certiorari) and
terminology for case names (versus, ex rel., etc.) are still in Latin, perhaps a reflection of the use of Latin for writs and court records until the early 18th century.

Law French eventually became a language used only by lawyers, and became known as "Law French." Early efforts to abolish it in court proceedings failed. Possible reasons for the retention of Law French after its demise as a living language include claims that it allowed for more precise communication, especially with its extensive technical vocabulary; the dangers of having ordinary people read legal texts without expert guidance; the conservatism of the profession; and a possible desire by lawyers to justify their fees and to monopolize provision of legal services. If nothing else, it reflects the conservatism of the profession at the time.

Some of the characteristics of Law French that have left traces in today's legal language include addition of initial e to words like squire, creating esquire; adjectives that follow nouns (attorney general); simplification of the French verb system, so that all verbs eventually ended in -er, as in demurrer or waiver; and a large amount of technical vocabulary, including many of the most basic words in the legal system. Law French eventually was reduced to around 1000 words, forcing lawyers to add English words to their French texts with abandon, According to Shadia,(2012 , 38)

2.2.2.4 The resurgence of Legal English:

Jewayria (2015,46) cited The Demise of Latin and Law French Use of Latin and Law French for legal purposes gradually declined, and was given a final coup de grâce in 1730. The Increasing Importance of Writing and Printing Legal language was originally entirely oral. If there was a writing of a legal event, it was merely a report of the oral ceremony. Eventually, the writing became a type of authoritative text, the dispositive or operative event itself. What now mattered was what was written, and what was said became largely or entirely irrelevant. This progression can be seen in written reports of court proceedings, which first merely documented an oral event, but which later became the event itself, so that what is said in an appellate court in the language of today is legally immaterial; what matters is the written opinion. Printing contributed to these trends by allowing for a standardized and widely-available version of the written text. Now all that matters is the enacted text of a statute, or the published version of a judicial opinion, which has led to an ever increasing fixation on the exact words of legislation, and has permitted the development of the doctrine of precedent.
Further Developments in England As pleadings became written, rather than oral; they also became subject to increasing textual scrutiny and were often rejected for the smallest linguistic slip. This encouraged use of formbooks, which had a conservatizing effect on legal language by promoting continuing reuse of antiquated phrasing. And legal documents became ever longer as clerks and lawyers charged by the page. In part for these reasons, the legal profession began to find itself in low repute. Legal English throughout the World English colonizers transported legal English throughout the British Empire, including North America. Despite antipathy towards lawyers and the English, the Americans maintained English legal language. Many Articles were linguistically very convoluted and full of legalese. Thomas Jefferson (1986,38) advocated improving the style of statutes, although did not really follow through. The Declaration of Independence and American Constitution are elegant and relatively simple, but in general, American legal language closely resembled that of their former colonial masters. The same is true in other former English colonies. To a large extent, the retention of English legal language is closely related to the retention or adoption of English common law. People who adopt concepts from another culture tend also to adopt the words used to describe those concepts.

As law French was not invented by lawyers similarly today's legal English is not invented for the purpose of monopolizing the profession. It developed naturally, under the influence of diverse languages and cultures, as well as the growing complexity of the legal system and the shift from predominantly oral to mainly written communication. Yet to some extent, legal language does have the effect of enabling lawyers to retain their virtual monopoly on providing legal services. The fact is that, laymen remain dependent on lawyers for creating and "translating" legal texts made it hard for lawyers to abandon their distinctive language.

2.2.3 The nature of legal language:

To explain the nature of legal language, it is necessary to explain a very essential point which is the differences between legal and ordinary language. Shadia (2012, 33) explains that Lawyers seem to have developed some linguistic quirks that have little communicative function, and serve mainly to mark them as members of the legal fraternity. Pronunciation and Spelling as Markers of Group Cohesion the odd pronunciation of defendant (with a full vowel in the last syllable, rhyming with ant)
and the spelling judgment (consistently without an e) seem to serve as a marker of group cohesion. Ironically, when pronouncing words of Latin or Law French origin, the recent trend is not to follow the expected traditional pronunciation of the legal profession (i.e., as though the words were English), but rather to use the articulation taught in foreign language classes. The reason may be that the traditional legal pronunciation sounds unsophisticated to the modern ear, and lawyers are very concerned about appearing prestigious.

2.2.3.1. Lengthy and complex sentences:

Numerous studies show that sentences in legal language are quite a bit longer than in other styles, and also have more embeddings, making them more complex. Sometimes there seems to be an attempt to state an entire statute or linguistic principle in a single sentence, as illustrated by Sudanese laws against insuring lotteries. Such a statute can easily be broken down into more digestible pieces with no loss in content, so there is no justification for such long sentences today.

Wordiness and redundancy Lawyers are very prone to use wordy and redundant phraseology, including what is sometimes called boilerplate. Lawyers also tend to use ponderous phrases (such as at slow speed or subsequent to) where a single word would suffice (slowly; after). On the other hand, sometimes legal language is not overly wordy at all, but highly compact or dense. The economic incentives and strategic motivations under which lawyers operate seem to be significant here: when clients are paying a large fee, there is a motivation to be verbose; when a document is written for a busy court, however, lawyers realize they have to get to the point quickly.

Conjoined phrases: Conjoined phrases consist of words like by and and or, as in I give, devise and bequeath the rest, residue and remainder... They have been used since Anglo-Saxon times. Conjoining words is still extremely common in legal language. One reason for such lists of words is to be as comprehensive as possible. They also can add emphasis. But they can lead to ambiguity because of the rule of interpretation that every word should be given meaning and nothing treated as surplus age. Thus, careful communication requires that lawyers use such conjoined phrases with care. Unusual sentence structure Lawyers make use of unusual sentence structures, as in a proposal to effect with the Society an assurance, which is taken from an insurance policy. Often these unusual structures result in separating the subject from the verb, or splitting the verb complex, which can reduce comprehension.
Negation: Legal language seems to use an inordinate amount of negation. To some extent this may result from the tendency to regulate by prohibition; judges prefer negative injunctions, for example. Research reveals that especially multiple negations impair communication and should be avoided.

Impersonal Constructions: A related characteristic of legal style is impersonal constructions. The best example is avoidance of first and second person expression (I and you). Using the third person in statutes does make some communicative sense (as in Sex offenders shall register with the police...) because the statute "speaks" not only to sex offenders, but to the police and the courts; you might therefore be inappropriate or ambiguous. Elsewhere (as in the tendency of judges to refer to themselves as the court rather than I) it creates an impression of objectivity and authority, thus helping to legitimate the legal system. The panels of judges seem less reluctant to use we, and will even use this pronoun to refer to a decision made by their predecessors long ago.

Many of the quirky or stylistic features of legal writing serve little or no communicative function and could easily be dispensed with, especially because they may reduce comprehension.

2.2.3.2. The tendency towards precision:

One of the main justifications for a distinct legal language is that it is capable of extremely precise communication, using these techniques:

Avoiding Pronouns:

Player Promises That Player Will Play. "One means of gaining precision is to repeat nouns (e.g., player), rather than using a pronoun (e.g., he) after a person or thing is introduced. Pronouns can sometimes have ambiguous reference, so this technique can indeed enhance precision. Lawyers, however, avoid pronouns almost routinely, even where no ambiguity is possible. Avoiding pronouns does have an unintended benefit: it reduces the use of sexist language.

Undermining Precision:

The Masculine Shall Include the Feminine" Legal documents often declare that the masculine includes the feminine, the singular includes the plural, or that one tense includes the other. This may originally have functioned to reduce verbosity, as suggested by Jeremy Bentham (1996,55) but it obviously can undermine precise communication when reference to a specific gender, number or tense is desired. Perhaps legal language is not always so precise, after all.
**Strategic Imprecision:**

Obscuring the Actor through Passives and Nominalizations Passive sentences allow the speaker or writer to omit reference to the actor (as in the girl was injured at 5:30) cited by (Tajeldin 2014.56). One reason lawyers use passives is for strategic reasons: to deliberately de-emphasize or obscure who the actor is. Passives are therefore impersonal, giving them an aura of objectivity and authoritativeness; this may explain why they are common in court orders. They are less common in contracts, where the parties typically wish to spell out exactly who is to do what, and thus have an interest in precise reference to the actors.

Nominalizations are nouns derived from verbs (e.g., injury from the verb injure). Like passives, they can be used to obscure the actor (the injury occurred at 5:30). A legitimate function of nominalizations is that they allow the law to be stated as generally and objectively as possible. Lawyers often use passives and nominalizations strategically, however. They avoid them when they wish to be as precise as possible, and use them when they wish to be deliberately imprecise.

2.2.3.3 Flexible, General, or Vague Language:

Some legal terms are not precise at all, but are noted for their generality, flexibility, or even vagueness (e.g., reasonable or due process). Flexibility has a valid communicative function; a term like reasonable can change with the times and circumstances. Because it can change with the times, flexible language is characteristic of constitutions. It may also be valuable when lawyers wish to be as comprehensive as possible. Yet sometimes a term like obscene or indecent is felt to be too pliable, because it gives great discretion to the decision maker; the Supreme Court has tried to limit that flexibility by tying obscenity to community standards. Flexibility is likewise less appropriate in criminal statutes in general, because people ought to know in advance what is legal and what is not. Lawyers also are nervous of overly flexible language, because it may be interpreted in an unintended way in the future.

2.2.3.4 The Tension between Flexibility and Precision:

Lawyers are often torn between the conflicting goals of flexible communication (through the use of general language) and precision (often by using word lists of specific examples). Sometimes it is possible to avoid the vagueness problems inherent in flexible terms by using a word list, which tends to allow for more
precise communication. This is illustrated by a hunter harassment statute, which a court struck down on vagueness grounds when it forbade harassing hunters in general terms, but later upheld after the legislature added a specific list of prohibited activities. But aiming for precision by using lists has its costs. There are several interpretive maxims, including noscitur a sociis, ejusdem generis, and expressio unius, which all tend to restrict, rather than expand, the interpretation of items in a list. Elsewhere, flexible language has sometimes proven preferable to precise lists, as shown by developments in the prudent investment rule. Lawyers consequently aim to achieve the best of both worlds by using phrases like any X, including but not limited to a, b, and c, thus marrying the general and the specific, but there will inevitably be tensions between the two.

Legal language can, in some ways, communicate quite precisely. But other characteristics undermine precision, and certain features can be used strategically to be deliberately imprecise. Furthermore, lawyers may opt for flexible communication, which is in some ways the opposite of precision and is often in tension with it.

2.2.4. Lexicons of legal language:

Another way in which the language of the law is claimed to promote clear and concise communication is through a specific legal vocabulary.

2.2.4.1 Legal archaisms and Latin words:

Legal English include many words and terms that was borrowed from Latin such as (effidavit – post facto- sinedie – sui jury – sine quoi) . A common criticism of the legal vocabulary is that it is full of antiquated words. These include archaic morphology (further affiant sayeth not); the legal use of same, said, aforesaid, such and to wit; use of the subjunctive, especially in the passive (be it known); and words like herewith, there under, and whereto. Although these expressions often had a legitimate function in the past, the claim that archaic words or expressions should be preserved because they are somehow more precise than ordinary language which is simply not defensible.

2.2.4.2 Linguistic Creativity

As numerous of opinions and tendencies used to describe legal language as quite archaic, many other old legal terms have died off as the concepts to which they refer became obsolescent. In fact, some areas of the legal lexicon are very innovative, as in terms like zoning and palimony. Such terms give the law the ability to deal with
novel circumstances and legal developments. Asylees, Escapees and Tippees another example of linguistic creativity in legal language is the frequent formation of new words ending in -ee, which contrast to those ending in -or (mortgagee/mortgagor). Although these pairs are confusing for the lay public, they can enhance communication within the profession by filling lexical gaps that exist in ordinary language.

2.2.4.3 Legal language: Conservative or Innovative

Legal language is neither hopelessly conservative nor remarkably innovative. Often there are reasons for using antiquated vocabulary. Like religious language, the language of the law is quite conservative with regard to sacred or authoritative texts, which adherents are reluctant to change or even to translate for fear of affecting the meaning. The fact that courts have authoritatively interpreted a term does inspire caution, of course. Further, using proven language over and over can be economic. A less palatable reason is that because archaic language is hard for most people to understand, lawyers sometimes have a financial incentive to use it to help justify their fees. Yet when dealing with new legal concepts for which there is no existing word, lawyers do not hesitate to create novel terminology. As a result of these conflicting motivations and goals, legal language is an odd mixture of archaic alongside very innovative features.

2.2.4.4 Formal and Ritualistic Terminology:

The legal lexicon also has many formal or ritualistic words and phrases. One function of such language is to emphasize that a proceeding is separate from ordinary life. Often ritualistic language frames a legal event by signaling the beginning and the end. In private legal documents, ritualistic and formal language indicates that something like a will is an important legal act, sometimes called the ritual or cautionary function of legal formalities. Of course, this function could be fulfilled by means that are more comprehensible. In fact, taken to extremes, formal language is simply pompous and serves little function besides its possible prestige value.

2.2.4.5 The use of do and shall:

When do is used in a declarative sentence, it is normally to add emphasis. This is not its function in legal language (e.g., The People of California do enact...) Here, it marks that something is a performative. The adverb hereby (as in the People of California hereby enact...) fulfills the same function: indicating that by saying enact,
the legislature by those very words engages in the act of enacting. Because do is
anachronistic and unusual in this usage, it should be avoided; hereby can easily
communicate performativity, where necessary according to (jewaria 2015, 90).

Shall is also used in an unusual sense in legal language. It is commonly said
that legal use of shall does not indicate the future, but the imposition of obligation. But
shall appears to function also in promises or declarations. In reality, shall seems to
mark that the phrase in which it occurs is part of the content or proposition of a
performative phrase. Thus, in a contract the parties perform the act of promising by
signing the contract; the content of their promises is indicated by shall. Shall does
have the function of indicating that the document in which it occurs is legal, which
may help explain its pervasiveness in legal language. Generally, however, the meaning
of shall can be communicated more comprehensibly by must or will or is.

2.2.4.6 Jargon, Argot and Technical Terms:

Sarcevic (2000, 77) explains that it is sometimes said that the legal vocabulary
is full of argot. Argot is generally used to communicate in secret among a small group;
this does not properly typify legal language. Others claim that legal terminology is
largely jargon. Ordinary the term jargon is used to refer to language of a profession
that is not sufficiently precise to qualify as a technical term (e.g., conclusory). Jargon
can be useful in facilitating in-group communication, but should obviously be avoided
in communicating with the public.

If the distinctive legal vocabulary actually enhances communication, it must be
mainly through technical terms, or terms of art. It is sometimes claimed (as M.Farhan
1998,12) that legal language has few true terms of art. Any law dictionary reveals that
there are large numbers of technical terms, however. Those who claim otherwise may
have too strict a notion of the precision required for a technical term. As long as an
expression has a relatively exact meaning, is used by a particular trade or profession,
and promotes brevity of expression, it fulfills an important communicative function
and can properly be called a technical term. Such terms are less exact in law than in
the hard sciences because legal terms typically refer to concepts that change over time,
or are slightly different in divergent jurisdictions. And they may be modified by
judicial decisions. Contrary to expectations, judicial decisions, by following the intent
of the drafter over the "plain meaning" of a word, often make the meaning of the word
less precise. Courts and the legal profession could work together to make legal
terminology much more exact, but it would come at the cost of negating the intentions of speakers who use a term in a different sense. Legal terminology will therefore never be as precise as the profession might hope.

2.2.4.7 Relationships among Words:

In ordinary English words exhibit certain systematic lexical relationships. The same is true for legal language, but with a number of deviations that can trap the uninitiated. One way that words can be related is as homonyms, or via polysemy. In either case, one word or sound sequence has two or more meanings. This can cause communication problems when legal terms have both an ordinary meaning and a divergent legal meaning (as in consideration or personal property). These words, which I call legal homonyms, are particularly problematic because laymen are very likely to (mis)interpret them in their ordinary sense, and even courts are sometimes unsure whether the ordinary or technical meaning was intended.

According to Sabra (2011,33)Words can also be related as synonyms, which refers to words with very similar meanings. On the one hand, lawyers are told to avoid synonyms or elegant variation. Using a different word is assumed to invoke a different meaning. On the other hand, lawyers have a great love for long lists of synonyms, especially in conjoined phrases. Lists of synonyms can thus create interpretative problems. A final relationship is antonymy, or lexical opposites. Legal language has a tendency to create such opposition where it does not normally occur. Speech and conduct overlap in ordinary language, but American courts now treat them legally as opposites: if something is speech, the First Amendment applies; if an action is mere conduct, it does not. Yet it must be confusing for the layperson to read that burning an American flag is free "speech."

2.2.5. Interpretation and meaning:

There are several ways to govern the relationship between interpretation and meaning especially when meaning differs from ordinary language, like these techniques:

2.2.5.1 Definitions:

Definitions nowadays are normally descriptive, which means they are based on usage. In common law countries, no one has the authority to dictate how a word ought to be used, which would constitute a prescriptive definition. Definitions in legal
language, however, are prescriptive because here there is an institution that can dictate how a word ought to be used: the legislature.

These are called declaratory definitions. They also occur in contracts and other legal documents. Such definitions can promote more precise drafting by stipulating that one of several possible meanings is intended. But they are also hazardous, because the reader may not always realize that what seems to be an ordinary word is defined in a specific--sometimes, aberrant--way. There are also incorporating definitions, which are not really definitions at all. They simply take a large amount of text and define it as X, allowing the text to be removed from the body of the statute and placed with the definitions. Although the practice can minimize redundancy in the text, it can also make less transparent and harder to find.

2.2.5.2 Reference

Reference is important to the law; the law of trademarks is largely about preserving the unambiguous reference of marks. Ambiguity of reference can also cause problems in wills. To avoid referential ambiguity in legal documents, lawyers often use what is called declaratory reference, declaring in a document that Garcia shall refer to Hilda Garcia (1982,19), an individual residing in San Antonio, Texas. Linguists also distinguish between referential descriptions (a specific person or thing) and attributive descriptions (whoever meets the description). This is quite relevant in the law of wills, where a gift of my car could be either referential--the car I now own--or attributive (whatever car I own at death). Further, legislation is almost always written in an attributive (thus, objective) way, applying to any person who fits a description. This can be abused, however, as when a tax break that seems to be attributive in fact refers to a specific person or entity.

2.2.5.3 Meaning:

Legal interpretation differs in several ways from ordinary understanding. In ordinary language, what really matters is what a speaker means by an utterance (speaker's meaning), rather than what a word or utterance means (word or sentence meaning). Irony provides a good example, because here the sentence meaning (I love being hit on the head by a brick) is highly misleading. In theory, legal interpretation of private documents also focuses on the speaker's meaning, but this is undermined by the evidentiary limitations of the parol evidence rule. With statutory interpretation, courts now often look to the intent of the speakers (legislative intent). Yet referring to
legislative intent is controversial, especially in the theory of interpretation called
textualism, which has revived the plain meaning rule. The plain meaning rule excludes
consideration of extrinsic evidence when the meaning of a statute is plain from a
reading of the text itself. This is completely inconsistent with ordinary language
interpretation, which uses any cues it can--such as shared background knowledge or
information on the circumstances of an utterance--to determine the speaker's
meaning. But the plain meaning rule is not entirely irrational; it derives to some extent
from the historic shift from oral to written communication. We tend to interpret
written texts differently from speech. Someone who writes a text often tries to make it
as autonomous as possible, so that any information needed to interpret it is contained in
the text itself. This is often necessary, because the reader of a text may be in a very
different location, at a very different time, and may know little or nothing about the
circumstances surrounding the writer. Logically enough, legal documents are written
to be very autonomous. One view of the plain meaning rule, therefore, is that judges
will assume that the drafter was successful in creating an autonomous document, so
that ideally extrinsic evidence should not be needed. At least as an initial assumption,
this seems sensible.

Another reason for legal interpretation to place less emphasis on the speaker's
meaning is the problem of collective authorship, as well as the fact that one or more of
the authors may be dead or otherwise unavailable. Furthermore, legal interpretation
must deal with the problem of gaps, when the text is silent on a particular point. In a
spoken conversation, one interlocutor can ask the other to fill the gap. With most legal
documents, courts must find some other means of deciding what to do when the text is
silent. Courts thus necessarily construct meaning where there was none before, rather
than simply interpreting the text. This is sometimes difficult to spot because courts
prefer not to act in overtly authoritative ways, so they continue to speak of
interpretation while actually engaging in construction.

A final difference between legal and ordinary interpretation derives from the
fact that an interpreter must always keep in mind the rules and conventions used by the
speaker or writer. There is a symbiotic relationship between encoding and decoding
language. The evidence accumulated in this part suggests that legal writers do indeed
use language and drafting conventions that are distinct from ordinary language. An
example is that normally if someone uses synonyms, we assume he/she is engaging in
elegant variation and that the synonymous terms refer to the same thing. Legal drafters
generally try to avoid such variation; the legal interpreter will thus assume that the synonyms in fact refer to something different. Most students of legal interpretation have concentrated on what courts do, but they should perhaps pay more attention to the legal language and conventions of the drafters.

### 2.2.6 Variation in legal language

#### 2.2.6.1 Legal Dialects:

Dialects reflect linguistic variation on the basis of geography. Legal language is not a dialect, but it does have dialects of its own in that it varies according to place. Some of this dialectal variation results from differences in legal systems; English lawyers speak of solicitors and barristers, a distinction not made in the United States. Elsewhere, the concepts are similar, but words for them are different (British company law versus American corporate law). In countries such as India, legal English is infused with many terms for indigenous legal concepts. Thus, even though legal language is quite conservative in some senses, in other ways it again reveals itself as a relatively flexible means of communication by readily adapting to the situation in which it is used.

#### 2.2.6.2 Spoken legal language:

Legal language further varies depending on whether it is spoken or written. The most salient characteristics of legalese--archaic vocabulary, long and convoluted sentences, use of passives and nominalizations--are far more evident in written legal language. Written language is also more compact and dense. Spoken legal language tends to be less formal overall. An oral judgment by an English judge is perhaps the most formal type of spoken legal English. Oral arguments to a court tend to be in Standard English, while addressing a jury might very well be in a regional variety of English that is aimed at identifying with the local population. As with medieval lawyers, choice of language variety in specified domains is dictated to some extent by tradition, but these days strategy also plays an important role.

#### 2.2.6.3 Telegraphic Speech:

Telegraphic speech leaves out all words that could be supplied by context; it is common in telegrams and headlines. It is often heard in the courtroom (lawyer: Objection! Judge: Overruled), but also in some quite formal settings, as at the end of an opinion (appeal dismissed). It again illustrates that lawyers can cut out excess verbiage when its suits their purpose.
2.2.6 4. Legal Slang:

Despite claims that their speech habits are very formal, even pompous, lawyers not infrequently use legal slang. Slang enhances group cohesion and is often shorter (thus more "linguistically efficient") than more formal language. Examples include rogs for interrogatories, TRO for temporary restraining order, SLAPP suit for strategic lawsuit against public participation, and idioms like grant cert for grant a writ of certiorari.

2.2.6 5 Variation and Genre:

There are various genres, or types, of legal writing. They illustrate again that legal language is not monolithic, but can vary substantially depending on the situation. Pleadings, petitions, orders, contracts, deeds and wills can be called operative legal documents because they create and modify legal relations. They tend to use a great deal of legalese. Expository documents are those that explain the law, including office memoranda, judicial opinions, and client letters. They tend to be in formal but Standard English, with little legalese, except that they do use many technical terms. Especially judicial opinions have a fair amount of stylistic freedom, making use of metaphors and sometimes even poetry. Persuasive documents include briefs to a court and memoranda of points and authorities; their language is similar to expository documents. It is interesting and ironic to observe that documents drafted more directly for clients (operative documents like wills and contracts) seem to contain the most legalese, while those directed to colleagues within the profession (expository and persuasive documents) contain relatively less.

2.2.7. The exact definition of legal language:

Legal language has been called an argot, a dialect, a register, a style, and even a separate language. In fact, it is best described with the relatively new term sublanguage. A sublanguage has its own specialized grammar, a limited subject matter, contains lexical, syntactic, and semantic restrictions, and allows "deviant” rules of grammar that are not acceptable in the standard language. However we describe it, legal language is a complex collection of linguistic habits that have developed over many centuries and that lawyers have learned to use quite strategically.

In the courtroom

2.2.7.1 Pleadings: Constructing the legal narrative

Narratives:
A very general narrative structure, sufficient for our purposes, begins with some background information, continues with a chronological description of a series of events that leads to a problem or crisis. The narrative ends with the resolution of the problem or crisis.

**Pleadings:**

The pleading stage, which begins a lawsuit, is where the plaintiff tells his story to the court. As a narrative, it is incomplete in at least two important ways. Unlike an ordinary story, which is asserted as truth, the story told in a complaint is merely alleged to be true; its truth remains to be established at trial. And it is incomplete in the sense that there has not yet been a resolution of the problem or crisis; this depends on the outcome of the trial.

The defendant can respond to the pleading in various ways: arguing that the story in the complaint is not legally adequate, or that the decision maker does not have the authority to offer a resolution (jurisdiction). Another option is to admit that the story is adequate, but to challenge its truth by denying the facts, or offering a counter narrative.

Pleadings tend to be extremely ritualistic in language. In medieval times, what mattered was not so much the content of a pleading as the words that were used; one slip could be fatal. Pleading remains formal and ritualistic, but currently the content has become far more important than the form.

Once the pleadings have determined that the plaintiff’s story is legally adequate, the trial--to determine the truth--can begin.

**Testimony and truth:**

Many cases do not actually go to trial, but are settled. In criminal law, the settlement process is called plea bargaining, a process that can be quite informal and has developed a jargon or slang of its own.

When a case does not settle, it proceeds to trial. Various rituals signal that a trial is about to commence. The first order of business in a jury trial is the voir dire of the jurors. The search for truth can then commence. Most of the examples in the next two chapters derive from two murder trials, including that of O.J. Simpson.

**2.2.7.2 Language Variation and Code-Switching in the Courtroom:**

Just as lawyers switch between language varieties when writing, they do the same when speaking in the courtroom. Normally, choice of one variety over another
depends on the topic of conversation, or the ability of the hearer to understand a particular type of speech. Yet using a particular variety of language also has social implications in that we judge people by the language they use. Furthermore, use of a common variety of language can create a sense of group cohesion. Lawyers are inclined to use standard English in court when they wish to appear intelligent and competent, and regional varieties of English when they wish to bond with a jury.

**Questioning of Witnesses:**

Witnesses come to court to tell their own story, which forms part of the larger narrative that is on trial. Although they generally prefer to tell their tales in narrative form, the legal system forces them to testify through a rigid question and answer format, which allocates control over testimony to the examining lawyer.

**Direct Examination:**

Direct examination generally begins with giving the witness an opportunity to present a very brief narrative. The examining lawyer then generally follows up with increasingly coercive or controlling questions, including wh-questions, which limit the witness to a brief response, or yes/no or alternative questions, which allow only two possible responses.

Lawyers use such questioning strategically, to ensure that all and only legally relevant facts are told, as well as to keep problematic facts from emerging, if possible. Careful questioning can also enhance precise communication by clarifying ambiguities in a witness's answer, or by asking the witness to explain unusual terminology.

**Cross-Examination:**

Cross-examination allows an even more coercive question type: leading questions. Such questions are not tied to any specific form, but have in common that they suggest a single answer. One function of such questions is to muddy the waters by undermining the clarity of the witness's communication during direct examination. Or they can be used to undermine credibility by eliciting a clear statement that can later be contradicted by other evidence, as Simpson's lawyers did during cross-examination of Detective Mark Fuhrman.

**The Language of Questioning:**

Lawyers are well aware that if they wish to communicate effectively with the jury through questioning, they must generally use ordinary English, not legalese. Their language tends to be fairly formal, however, to convey to jurors that they are intelligent.
and competent. Out of the presence of jurors, as during sidebar conferences, lawyers tend to be less formal and may even use slang, perhaps to emphasize that although they are adversaries, they belong to the same profession.

**Implications of the Questioning Process:**

Questioning is not a neutral and transparent process of obtaining information. Narrative answers are generally more accurate than fragmented responses, for example. The wording of a question can influence the responses given by witnesses, according to psycholinguistic tests. Research also confirms that leading questions can influence the recall of witnesses. While objections by counsel can limit these influences, suggestive questioning is particularly problematic when it is used to subtly coach witnesses, out of the presence of a jury or opposing counsel.

The way that questions are answered can also influence the perceived credibility of the witness, the examining attorney, or both. Witnesses who speak in a powerful style (using little hedging and hesitation, for example), as well as those who speak formal standard English, tend to be evaluated as more intelligent, competent, and truthful. This is especially problematic for witnesses who cannot easily change their speech style. Ironically, trial lawyers have become aware of the research and are attempting to incorporate it into their trial strategies.

**Creating a Written Record:**

The testimony of witnesses is transcribed by a court reporter. It is not truly verbatim and complete. One reason is that nonverbal information is not consistently included, although lawyers will sometimes ask that the record reflects nonverbal information. More troubling is that reporters sometimes "clean up" the language of lawyers and judges, to enhance their feelings of prestige.

As in other areas of the law, the written text of the record has become what matters once the trial is over, making the actual oral event virtually irrelevant in subsequent proceedings. Lawyers consciously try to create an advantageous record through their questioning strategies. And as with other written legal documents, the record tends to be interpreted as an autonomous text. Thus, in perjury prosecutions, courts fixate on the language of the record to determine whether a witness made a false statement, largely ignoring the speaker's actual intentions.

**Instructing the Jury:**

In many proceedings, it is members of the public--the jury--who must decide the truth of the plaintiff’s story. To some extent, the jury must also decide whether the
story is legally adequate. Judges tell the jury how to go about this task by means of jury instructions. Unfortunately, most jury instructions are essentially written legal language, though presented orally, and thus do not communicate the law very well to the lay members of the jury. And judges seem to prefer formal language to appear objective by distancing themselves from other participants.

The reasonable doubt instruction is especially problematic; there is substantial evidence that jurors do not understand it very well, in part because it tracks the language of an 1850 case. Unfortunately, judges are extremely reluctant to explain the instructions in ordinary language, treating them as sacred text, and generally rereading them verbatim if the jury inquires regarding their meaning.

Resolving the Conflict:

Just as lawyers use stories to present their cases, research indicates (as J.Kasirer2000,65) that jurors use them to determine the truth. The "truth" determined by the verdict is not factual truth, however, but "declared truth," which governs all later legal proceedings. After this "truth" is established, the judge is in a position to complete the unfinished narrative of the complaint by offering a resolution (or denying one) in her judgment.

2.2.7.3 Reforming legal language:

Members of the public have been frustrated with legal language for quite some time. There has also been criticism from within the profession. In this section we discuss efforts to reform the language of the law. This can happen either via simplification (making the language of lawyers much more like ordinary language) or translation (leaving legal language essentially as it is but providing better translation to the public in ordinary language, when needed). Ultimately, we will probably need a bit of each.

A.1. what makes legal language difficult to understand?

Numerous studies show many of the ways in which legal language causes problems in comprehension, especially for a lay audience. Technical vocabulary, unusual and archaic words, impersonal constructions, use of modals like shall and may, multiple negation, long and complex sentences, and poor organization are all problematic. In fact, virtually all features of legal English seem to impede communication with the public.

A.2 plain English:
Given that legal language does not communicate very well with the public, what has the profession done about it?

A.3 Internal Legal Language:

Internal legal language refers to communications directed at other legal professionals. Here, the need to reform would seem less compelling. Yet even internal communications are generally made on behalf of a client, who has a right to know what is being asserted on her behalf.

One area where the courts have explicitly recognized that people have a right to know what legal languages means is criminal statutes, which must place the "average person" on notice that something is illegal. It is doubtful, however, that people really understand such statutes. Unfortunately, it may not be realistic to expect the average person to understand statutes. Understanding a statute requires more than plain language; a person must also have some background knowledge of the legal system and relevant judicial decisions. Still, we should strive to make statutory law as clear as possible. In fact, a fair amount of progress has been made; law schools teach plain English principles and drafting manuals encourage such practices. There has been progress in non-English speaking countries, like Sweden and Japan, as well. Overall, the organization and format of statutes has dramatically improved, and there is far less legalese. Unfortunately, statutes are ever more complicated in terms of substance. Better drafting practices in some ways allows them to become longer and longer.

Progress with other types of internal legal language is more mixed. Pleadings are still very formulaic. On the other hand, judicial opinions have greatly improved in style (though perhaps somewhat less in the United Kingdom).

A.4 Consumer Documents:

Members of the public have an even greater interest in understanding consumer documents, which directly affect their rights and obligations. Evidence shows that consumers do not understand legal documents like credit agreements and insurance policies very well.

A.5 The Plain English Movement:

The Plain English Movement, part of the consumer movement, grew out of the notion that people should be able to understand important consumer documents. The movement was inspired by a revised promissory note introduced by Citibank in the
1970s, and eventually led to a fair amount of plain English legislation. Similar reforms occurred in countries like Australia and the United Kingdom.

A.6 Plain English Legislation:

Is legislation the most effective way of promoting plain English? The earliest such statutes were phrased in very general or flexible terminology, requiring documents simply to be "clear and coherent." Later legislation aimed for greater specificity and precision by use of the list approach, establishing a list of guidelines like the use of active verbs, short sentences, and no cross references. But guidelines are only as good as the people who apply them, and are hard for judges to review. A somewhat different approach is objective, requiring that documents meet certain readability criteria, like the Flesch test. This test is easy to apply because it merely measures the average length of sentences and words. Scholars have criticized it because there is no direct relationship between word or sentence length and comprehension. Yet if we assume that writers are acting in good faith and not trying to fool the test, it does seem to measure comprehension fairly well. In the long run, more complex and accurate computer programs will probably be available to accomplish this task.

Some Remaining Challenges:

Although the Plain English Movement has made substantial progress in improving the language of consumer documents, there are other types of documents that affect the rights and obligations of the public but are still typically in legalese. These include wills, medical consent forms and consents to search, releases of liability, legal notices, and warnings. The movement still has work to be done.

b. Communication with the jury:

In a sense, jurors who receive jury instructions are also consumers. And like consumers, they do not understand the legal language that is read to them very well.

b.1 Confusion and its Consequences:

There is a substantial body of research showing that pattern jury instructions poorly communicate the law to the jury. Revised instructions raise the level of comprehension significantly. This is an important point, because we cannot expect jurors to follow the law when they do not understand it. Unfortunately, courts are very reluctant to deviate from tried-and-true instructions which track the language of a statute or have been approved by an appellate court, even if that approval came many decades ago. Judges who try to explain the instruction in plain language typically are
overruled. Jury questions about the instruction are generally answered by simply rereading the antiquated language of the original. Yet legal accuracy is pointless if jurors do not understand the instruction very well in the first place. Perhaps the only real possibility for reform is the committees that draft pattern instructions in many states. Several such committees have indeed tried to improve comprehension, but progress has been uneven. Often change is controversial, leading to maintenance of the status quo.

b.2 Capital Instructions: Comprehension As a Matter of Life or Death

Nowhere are the consequences of poor communication more dramatic than in capital cases. Constitutionally, capital juries must have guidance in carrying out their task. Because the guidance comes largely in the form of obscure jury instructions, it is often sorely lacking. For example, many state death penalty laws instruct jurors to weigh mitigating and aggravating evidence. But mitigate is a formal word that many people do not understand, and aggravate is a legal homonym: it has an ordinary meaning (annoy) that differs in an important way from its legal meaning (a reason to put someone to death). There is evidence that many jurors do not understand these terms very well, even though they are essential in deciding whether to recommend the death penalty.

The problem is not just comprehension of individual words. A survey by Professor Hans Zeisel (1999,46) found that jurors did not sufficiently understand several points conveyed by the Illinois pattern instructions, including the critical point that they were to balance mitigating and aggravating factors. This evidence was offered to the federal courts in the habeas corpus petition of James Free, a condemned murderer. A federal district court was convinced that Free's jury was indeed confused, and vacated his death sentence. Before the Free case could be appealed, another inmate on Illinois's death row, the notorious serial killer John Wayne Gacy, argued that his jury had received the same instructions and that his sentence--on the grounds of the Zeisel survey--should also be set aside. He lost in the trial court, and lost again on appeal. Finally, Free's case came before the Seventh Circuit. The court rejected the Zeisel survey, in part because there had been no control group that received revised instructions. Of course, there is strong evidence that as a general matter, revision of instructions using plain language principles invariably increases comprehension. Indeed, a later study using a control group showed that revising the Free instructions resulted in significantly better understanding.
Of course, the law is complex; the investigation into jury instructions indicates that the ordinary public will never understand all aspects of it perfectly, even if stated in plain language. But jurors can and should understand their task much better than they now do.

Finally, legal language includes some very complex linguistic practices of an ancient profession. Because legal English itself is not monolithic, and is used to attain various goals, our assessment of its usefulness will depend on a large number of considerations. Some of its features are nothing more than time-worn habits that have long outlived any useful communicative function. Other characteristics arguably serve some function, such as signaling that an event is an important proceeding, or enhancing the cohesiveness of lawyers as a group, but should be abandoned because they detract too much from the paramount goal of clear and efficient communication. In yet other cases, lawyers approach language strategically, actually preferring obscurity to clarity; obviously, such usage impedes the overall goals of the legal system and its language. More problematic are features that clearly enhance communication within the profession but mystify outsiders. Here, we may need to weigh how important it is for the lay public to understand the language at issue. In the final analysis, legal language must be judged by how clearly and effectively it communicates the rights and obligations conferred by a constitution, the opinions expressed by a court, the regulations embodied in a statute, or the promises exchanged in a contract. While ordinary people may never understand every detail of such legal documents and law should be stated as clearly and plainly as it can be. Democracy demands no less.

2.2.8 The notion of legal language:

The approaches to legal translation have been mostly oriented towards the preservation of the letter rather than effective rendering in the target language, legal texts having always been accorded the status of sensitive texts and been treated as such. A challenge to the unquestioned application of a strict literal approach to legal translation came only in the nineteenth and early twentieth century (Sarcevic 2000, 24). Thus, a change in perspective occurred with a gradual shift towards a more flexible attitude, increasingly characterized by recipient-orientedness. In this context, the translation of a legal text will seek to achieve identity of intended meaning between original and translation, i.e. identity of propositional content as well as identity of legal effects (Sager 1993: 180) while at the same time pursuing the objective of reflecting
the intents of the person or body that has produced the original. This corresponds to identity of propositional content, of illocutionary and perlocutionary force, and of intentionality (de Beaugrande-Dressler 1981: 3-11; 113). In actual practice of legal translation, the criteria guiding the translator’s choices are prevalently functional, in that account is mainly taken of the function that the translated text will have to perform in the target culture. Hence, in the translation of contracts, regulating the relationships between subjects in different nations, the original text agreed between the parties is not necessarily authoritative; a contract as such, will be interpreted according to the law governing it, regardless of the language in which it is written, and will be drawn up according to the rules and drafting conventions of the national law applicable to it. The source text offers the input on the basis of which a new autonomous text is created in the translation language taking into account mainly the needs of the final users and the requirements of the context (Garzone 2003: 8).

Translating legal texts is regarded by many researchers as one of the most arduous endeavors, "combining the inventiveness of literary translation with the terminological precision of technical translation" (Harvey 2002). This is mainly due to the specificity of legal language and, in particular, the system-bound nature of legal terminology. Legal documents entail specific laws, rights or obligations, their language layout and wording should be precise, expressive and can have no other interpretations apart from the ones stated. Unlike literary language, legal language needs no ambiguity or figures of speech. It is, thus, according to some linguists, the least communicative. Written legal documents are characterized by brevity, economy and neatness. This neatness and clarity are namely intended to prevent fraud, additions, omissions or alterations in the text Crystal and Davy (1969,54).

Like other disciplines, legal translation has its own vocabulary and can be regarded as a discipline on its own. There are specific forms and stabilized procedures for translating court proceedings, law, legal contracts and agreements. The text is formulated in a special language or sublanguage that is subject to special syntactic, semantic and pragmatic rules (Sarcevic 2000:8). Thus, a legal translator must be able to use language effectively to express legal actions and achieve the desired effect.

For this to be achieved, the translator's goals should not be confined to lexical or syntactic precision, but, more importantly, he/she should strive to integrate pragmatic considerations into the overall communicative process.
2.2.8.1 The Notion of Legal Language – Real or Fictitious

The notion of legal English as a variety of language (Tiersma 1999, 49) has often been used in order to highlight its differences from the stereotypical interpretation of ordinary language, without assuming that it may for this reason be seen as a different language. Legal language has also been defined as a dialect, but this designation does not appear appropriate if the idea of dialect is understood to refer primarily to notions of geographical location. From another perspective, Tiersma (1999, 133) also mentions legal dialects and distinguishes, for instance, between the legal English spoken in British contexts and American contexts. Some interesting examples related to (in particular lexical) differences between the two spheres are mentioned in Tiersma (1999, 134): —Sometimes one word has different meanings in various jurisdictions. In American legal English, a judgment is the disposition or outcome of a case.

In England judgment also refers to the statements of reasons for the disposition, something that American lawyers call an opinion. An appellate court affirms or reverses a lower court's judgment in the United States, while it allows the appeal or dismisses it in England. A brief is an argument to the court in the United States, while it is a written case summary for the guidance of a barrister in England. Corporate law in America is company law in England. Legal idioms may also differ from place to place. An American lawyer is admitted to the bar, while a British barrister is called to the bar and may eventually talk silk (become a Queen's Counsel). (Tiersma 1999, 134).

The terms, jargon or argot, are also occasionally used to identify specific professional languages, but they often tend to be associated with an aura of complexity and incomprehensibility. Similarly, expressions Legal Texts such as legal lingo and legalese tend to be attributed a relatively negative connotation and are not frequently used. With particular (but not exclusive) reference to the language used in the courtroom, Danet (1980) talks about language in the legal process, and Levi and Walker (1990) often use the expression language in the judicial process. On a practical note, scholars have also remarked that there has been a tendency to avoid the term legal in order to circumvent potential confusion with lawful (Mellinkoff, 1963)

2.2.9. Legal translation:

When talking about legal translation the first thing to consider is what makes it necessary and why it is so important. Growing interactions among states, coming
together inside those more and more significant bodies known as international organizations or as single subjects of international law, and among citizens of an increasingly interconnected world, gives translation a newly found weight in everyday life. We are less and less bound to a state dimension and increasingly feeling as belonging to an international reality, this is why all aspects of life are nowadays subject to translation and law is no exception. Now, what is the object of legal translation? Legal translation concerns all that has to do with the legal world, from the transcription of a press conference held after a summit to the introduction of a new EU regulation. Each and every text bears peculiar traits and has to be handled with more or less care according to function and legal force, and therefore the effect it is meant to produce, if some. Nevertheless, they share some features that make up what is called the Language of law, which will be focus in the third chapter. There is a debate going on, on whether legal language should be treated as a technical language on its own or as ordinary language used for, and adapted to, special (legal) purposes, what is sure is that it does resemble ordinary language and that, again according to texts and their role, it can be more or less technical and consequently understandable to the layperson. We will thus focus on those official writings that, producing legal effects, are more complex and have to obey to more restrictive and rigid rules, both from a formal and substantial point of view, with respect to an article, for instance, even if coming from a specialized journal. Legal translation can come to light at different levels: on a national basis, in the case of a bilingual or multilingual country, on an international basis, i.e. when an international organization is concerned or in the case of an international treaty wanted by two or more countries that do not share the same language, or even when regulating legal relationships among privates coming from different legal systems and/or speaking different languages. We are talking about national legislations, international legal instruments and private legal documents that will be the topic discussed in the second part of this chapter. But not before having dealt with the prominent features of the legal text.

2.2.9.1 Pragmatics and Legal Translation

This section scrutinizes the translation of contracts from a pragmatic and functional perspective through an empirical data analysis, incorporating discussion of the findings simultaneously. It investigates the applicability of pragmatics to the translation of contracts through comparing and criticizing the output of three
professional translators. The assessment is carried out by arbitrating their adeptness to maintain the intended meaning and the communicative act effectively, guided by the context and illocutionary force aimed at.

Pragmatics is the study of the relationship between the linguistic sign and its user, that is to say, the study of how people use language to communicate. Pragmatics deals with meaning in context and maybe the study of aspects of meaning not covered in semantics.

If we take legal language to be the sign and society as the user of that sign, we will be looking at elements like function, context and comprehension.

Nord (1997, 35) describes the adequacy of a translation in the following terms:

This means the translator cannot offer the same amount and kind of information as Source-text producer. What the translator does is offer another kind of information in another form [...]. Within the framework of Skopostheorie, "adequacy" refers to the qualities of the Target text with regard to the translation brief: the translation should be "adequate" to the requirements of the brief.

When deciding on the most efficient translation strategy to be used, the context of the translation, its purpose (skopos) and the nature of the text and the text receivers can be quite decisive. However, the translation commission can contribute significantly to the quality and functionality of the translation by providing the translator with information about the intended targettext functions, addressees, the prospective time, place and motive of production and reception ofthe text (Nord 1997, 137).

In translating legal texts, equal intent has priority over equal meaning. There are two forms of intent: macro-and-micro-intent. While the macro-intent of a text is often identified as its general communicative function, the micro-intent is the specific purpose of a particular text, i.e., what it is attempting to achieve or author intent. Hence, legal translators must strive to produce a text that expresses the intended meaning and achieves the legal effects intended by the author. In the legal domain, this is known as legislative intent. In contracts, this is known as the intent or will of the contracting parties. These observations on the one hand shed light on the markedly sensitive nature of legal texts, which contributes to making their translation particularly critical and challenging, and on the other emphasizes the significance of pragmatic considerations in settling on the right translation strategy to adopt. Accordingly, the translator's primary task is to produce a text that can be interpreted and applied as
intended by the legislator. Based on that, a sufficient communication process within
the mechanisms of the law can be said to have taken place when the translated versions
of a single text are interpreted and applied uniformly as intended by the contracting
parties (Sarcevic 2000, 73)

2.2.9.2 Purposes of legal translation:

Although the translation of legal texts is among the oldest and most significant
and the most immensely produced all over the world, legal translation has long been
neglected in both legal and translation studies (Sarcevic 2000). many branches of
special purpose translation, legal translation was often overlooked due to its alleged
state of subordination. In this age of multilingualism and communication revolution,
the legal translator plays a major role in the process of communication within diverse
legal systems. "Translation of legal texts leads to legal effects and may even induce
peace or prompt a war” (Sarcevic 2000, 1). Nowadays, the demand for legal translation
is more pressing than ever. As an answer to the increased emphasis, many international
judicial bodies have recognized everybody's right to use their own language legal
issues.

Traditionally, translation has been considered as an interlingual transfer process. As
defined by Catford (1965: 1), translation is "an operation performed on languages: a
process of substituting a text in one language for a text in another." Liberated from the
constraints of traditional translation straightjacket, the translator is "no longer a passive
mediator whose main task is to reproduce the source text (Wilss 1988, 3; Honing and
Kussmaul 1982: 14 cited in Sarcevic 2000, 3). Translation is now regarded as a "cross-
cultural event" (Snell-Hornby 1988,46) and the translator as an active participant in the
communication process." The translator is a text producer who creates a new text on
the basis of the communicative factors of reception in each situation" (Sarcevic 2000,
3).

The translation procedures adopted for legal texts are subordinate to the pragmatic
conditions they have to meet. However, strict literal translation is not necessarily the
only rule for this category of texts. In a context that is characterized by the absence of
legal force of the translated version, there may be situations where a free approach can
be taken, if the aim is only that of making the addressee of the target text aware of the
function of the original in the source-language culture. In this case, the function of TT
is completely different from that of the ST.
When talking about legal translation one should not make the mistake of thinking it is just a matter of transcoding words from one language to the other, not only because literal translation in the domain of law is impossible and more than that unadvisable and ineffective, but also for some implications related to the obvious but not evident, difference in terms of target and source and all the annexed implication they bring with them. It may sound unnecessary to point out, but a text is written for an intended receiver and when translating it into another language, the receiver will obviously change. Leaving the mother tongue aside, the intended receiver of a translation is usually homologous to the receiver of the source text but when dealing with legal texts it is not necessarily the case. This is due to the fact, law is not universal but it still is deeply related to its national dimension. So that, even when considering international law, the cultural and social background of the receiver of the translation will be, in all likelihood, different from the one of the receiver of the original. This brings us to two considerations: first of all that a translation can either be target or source oriented, and then that according to this and to the aim that is meant to be achieved by the translation, translation strategies may change.

In addition to this, since the birth of legal translation, experts have been debating about the role of the legal translator, about whether he/she should be a jurist or a linguist, about his/her relationship with source and target legal texts, and the discretionary power he/she should enjoy. The challenging nature of the legal translator’s job comes, by the way, from the essence of legal translation itself, as we will see in the first paragraph of this chapter. We will then deal with the delicate and multitasked role of the legal translator.

2.2.9.3 Legal Translation Definition:

Regardless of the nature of the text one should translate, the principle is the same: to convey a message from one text to the other, so that it can be understood by its addressee(s), the receiver, which has to be identified clearly by the translator before starting his/her job. This is due to the fact the approach to translation largely depends on the nature of the receiver, and that legal translation in particular, is concerned with the delivery of the message, regardless to the way it was conveyed in the original text. In very truth, the receiver oriented approach alone presupposes a minor degree of fidelity to the original text. It follows, the approach to translation, especially in our case, is pragmatic: the only thing that really counts is meaning, a meaning the translator should be able to deliver to the receiver, no matter how.
First of all with translation we may designate both a result, the translated text, and a process, the act of translating, where by translating we mean take what is written in one language and turn it into an equally meaningful text written in another language. Traditionally, translation should follow three rules, mentioned by Tytler 1999,43 in his Essay on Principles of Translation:

1. Translation should give a complete transcript of the ideas of the original work
2. Style and manner of writing should be of the same character with that of the original
3. The translation should have all the ease of the original composition.

In other words he is referring to the importance of meaning, that should be rendered equally in the target text; form and style of writing, that should respect the rules laid down by the original document, and finally the fact that the message should be conveyed as clearly as in the source text. All this can obviously be applied to legal translation, with some reserves about correspondence of style and form. Beside the fact they are generally speaking less important in legal translation (as in all translations for special purposes) than in literature, their importance is related and depends on the receiving legal system rather than concerning the source text. Style should be adapted to the rules governing the drafting within the target legal system in order to be sure the text will be understood, interpreted and applied correctly, i.e. respecting will and intents of the legislator. What is missing in this definition, and what actually typifies legal translation is purpose and result.

It realizes that immediately when looking at the classification Holmes(1986,13) made, based on the relation the translation has with the source text. He identifies different translation typologies according to the fidelity they bear respectively to form, function and sense. Regardless to the subject, in order to produce an accurate translation, a certain degree of conformity should be kept with all these aspects and it is also true they are not only related to one another, but also interdependent. Nevertheless, it is impossible to achieve all of them at the same level. As we are about to see, legal translation, shows a major commitment to function. We will then go through the other outstanding features of legal translation, namely its being multifaceted, bound by its legal side, swayed by context and, after all, nothing but law.

2.1.1 Legal Translation as translation for special purposes: a functionalist approach.
On a general level, when favouring function, the translator aims to attain the same (or at least a similar) result of the original; this is exactly what happens with legal translation. As already mentioned, we can talk about it as a special purpose translation, meaning the subject of translation is not ordinary but technical, it is written using a special language and it is addressed to specialists, even though the ultimate receiver of a legal text can be anyone.

Legal translation is a special purpose translation, then, the goal of which is to preserve the meaning of the source text and lead to the same results in practice. It falls under a specialist category, technical translation, since it involves the use of a special language (technically speaking a LSP, language for special purpose) within a technical context, namely the one of law. It is therefore distinguished both from ordinary language and from special languages of other domains. Being inscribed in the discipline of law, for legal translation we can speak about Language for Legal purpose (LLP). LLP is a peculiar kind of LSP, as we will see in chapter 3.1, and due to its relation with ordinary language, legal translation shares features both with general and technical translation. As we already saw when talking about legal texts, legal translation has a double purpose, we can either have legal translation for normative or descriptive purposes and this is the consideration from which our entire discourse originates.

Traditionally, when dealing with special purpose translation, the main objective was to transfer the meaning of the source text to the target text with content prevailing on form, and translation strategies were chosen accordingly. This was the rule until Vermeer came along, in the 1970s, with his skopos theory. According to his theory, when translating a text the first thing to take into account is the function it has, i.e. the effect that it is meant to produce on the receiver. Showing that the same text could be translated differently depending on its communicative aim (skopos in Greek), he created an alternative to the meaning-based translation. His departure point was the conviction that the function of the target text is always different from the one of the source text since the receiver is different. Some contested Vermeer’s idea, saying it is not applicable to special purpose translation since having by definition a pre-set end, the one of the original text and the one of the target text will coincide. This is mostly true, but it is not seldom the case the same text will have a different purpose according to the target it is addressed to. The concept at the basis of Vermeer’s assumption is the
fact the meaning itself of the text will change according to its function, depending in turn on the cultural and social context and the communicative situation. Consequence of this, is the leading principle of the theory, namely the fact the function of the translation is the main criterion to determine which translation strategy should be adopted. By saying so he is also assuming a literal approach to legal translation is not wise because it does not take in account all that has to do with non-linguistic aspects, in our case the legal principles, and all those cultural implications behind it. The condition to achieve a functionally adequate result would be, according to the German scholar, a negotiating process through which translator and the person who commissioned the translation should put their minds together to establish clearly the purpose of the translation. More precisely, what the translator should consider in order ascertain the functions of the translation are: Sender, his/her role and intention, receiver, receiver’s expectations, text medium, place, time and last but not least, intent. The major concern for the translator is therefore the target text, giving to the source text a new found role, more similar to guidelines than a Bible to follow thoroughly. The principles of the skopos theory may be applied in three different ways, having therefore three different dimensions. First of all it can be employed during the translational process, and therefore to its outcome, then straight to the result of the translation and consequently to it functions, and last but not least to the way of translating and thus to the intent behind it. In order to understand the skopos theory completely, we should take a step back and spend a couple of words on a complementary functionalist theory: Reiss theory based on text typology. She defined translation as a communicative bilingual process aiming to reproduce in a target language an equivalent text to the source one. According to Reiss, this process includes a mean, i.e. the text in the source language and the one in the target language, and a medium, the translator. She also affirms translation means inevitably a change in the conveyed message due to the impossibility of finding perfectly equivalent solutions(59). Each text typology should be translated in a specific way, associating then a particular translation strategy to a given kind of text. Vermeer’s theory indeed combines its own principles to Reiss’s theory, giving us a receiver oriented functionalist approach depending on the typology of legal texts.
2.2.10. Functions of legal text:

The main function of a legal text, as we already saw when talking about legal texts, is mainly prescriptive: when writing a juridical document, the legislator or the parties of an agreement of any sort (be it bi- or multilateral, among public subjects or privates etc) establish rules aiming to produce a legal effect.

2.2.10. 1. Bound:

Related to its prescriptive function is the fact that legal translation is the most rule-bound and constraint-marked domain of translation. One may even dare say it is also the most problematic, not only because of its inflexibility but also for its implications of social, cultural, linguistic and methodological nature. As we will see in detail, law is a social phenomenon, the product of one culture, and should therefore always be considered in relation to the environment which produced it, since it is only in the light of it that one can understand a legal text properly. Plus, it is only through a full understanding that one can hope to produce an exact translation. On top of that, law is strictly bound to language that is not only the mean through which it is conveyed but the way it is realized. Texts are, in fact, not (or not only) a means to explain law but its concrete realization, its principal tool. Language is indeed “means, process and product.

Legal translation becomes necessary in more than a situation and most importantly for different purposes. A legal text may need translation, as already mentioned, for informative and prescriptive purposes, with differences of outcome in terms of legal force as well. Translation may be needed at an international level, during the drafting of a bilateral or multilateral treaty involving parties speaking different languages, or during the writing of a contract, for the same reason, as well as at a domestic level in the case of a bilingual or multilingual country, both for its law and for the regulation of disputes among people belonging to different language communities. Non-binding texts (such as judicial decisions) may be translated as well, creating a precedent in common law countries and for a merely informative purpose in the others. Law, doctrine, private law documents, judicial decisions may be, then, translated in any language just to be accessible to everybody and of course for educational purposes. We could then say, legal translation has a multiform nature, due on the one side to the variety of the juridical contexts that may make it necessary (different from the cultural
and social environment that produces it), and the multiplicity of the legal texts that may be object of translation

2.2.10. 2. Swayed:

Differently from other disciplines that are characterized by unique interpretation and meaning, regardless of the environment that produced it, law is indissolubly related to context. A text should not be taken as separate from the situation that produced it, and narrowing the field the same is true for words – one word could bear a different meaning according to the text in which it is placed. Here is the reason why we can say the basic unit for (legal) translation is not the word but the text on the whole, and affirm literal translation is definitely not the right choice when translating a legal text. Non literal is not synonym of free, by the way, because free translation is as much as unconceivable when talking about law. House put forward the idea an analysis of the situation should take place before translating. It should be carried out on two levels: focusing on the user of the language and on the use of the language on the whole. To draw the exact meaning from the text, considering the context is essential. But which is the context one should take account of? We are undoubtedly speaking about “local context” but, again, it is not enough. First of all one should consider the legal context, meaning the legal system that produced the text, and the one that is going to receive it, and then we have the cultural and the social context, because the way a society is organised in a given country influences the way in which law is conceived and applied.

As Gémar maintains, legal translation has to pay a particular attention on: the nature of the text (law, contract, treaty, sentence); its charge notionelle, meaning not only contents but also the impact the notions contained in the legal text will have on the receiver and on the target legal system on the whole; its function and last but not least its destination. The accuracy of the translation will thus depend on the way the translator managed to cope with these aspects.

2.2.10.3 Pedagogical Translation Vs Professional:

Different translation models and approaches have sought to eradicate translational misunderstanding; yet, each of them has engendered more controversies than solving existing ones. Mistranslation and translational problems are still a persistent obstacle to the translator and therefore for the translation instructor. Instructors, in their turn, are frequently confronted not only with texts that are
problematic owing to linguistic and/or socio-cultural boundaries between the source language (SL) and the target language (TL) but also with the problem of teaching according to the needs of the different students' concerned. The translation instructor's task is most often twofold: (i) to explain the linguistic difficulties embedded in the source texts, and (ii) to explicate the translation strategies required to render the source text (ST) into the target text (TT). For instance, if a SL text involves a cultural problem it would require first an explanation of the cultural meaning of the lexical item concerned and then the finding of an equivalent meaning in the TL.

The demand to teach according to the needs of the different students concerned is also important. These can be either syntactic, lexical (terminological), and/or pragmatic depending on the objectives of the course and students' aptitude. However, these needs, as Smith (1991, 24 25) points out, are at present independently provided for by conventional translation theory. A sufficient degree of flexibility, he argues, will require active interaction rather than the passive reception of the instructor/analyst within the existing models. Error analysis offers in this case the appropriate tool to check upon the students' needs and relate them to translation theory.

A pedagogical approach is an important purpose to which translation has been put for a long time as translation has been proposed as a means for learning foreign language as Leonardi V (2010 p 85,87) stated. As translation for many centuries was an established technique in foreign language teaching hence, pedagogical translation is the pedagogical uses of language teaching methods while following faster technological progress and an ever increasing belief in the role of lexicalization and memorization in language performance. Similar reason is nowadays increasing popularity in translation theory and practice. it can be concluded that the methods (corpora) have an important role in the education of translators.

Professional Translation, According to Gouadec (1989, 1990), one of seven types of translation which can be used by professional translators to respond to the various translation requirements which can arise during the course of their work. In professional translation the whole of ST is transferred into TL, with no alteration to the content or the form of the original document. Clearly, there is an important line in which at least a pedagogy translation leads to the improvement of translating context that described as professional translation.
2.2.11. Features of legal texts:

As an author argues, “the legal text has its own characteristics which distinguish them which appear in the style and the vocabularies. So, even though they are peculiar to the legal system they are expression of, we may say legal texts share some features, regardless of the language in which they have been written, as well. If it is true that what makes legal texts different from other kinds of texts is the language in which they are drafted (meaning here not English, Dutch or French but legal language as opposed to ordinary language), it is also true that this is not the only thing. The paramount distinctive feature of legal documents strictu sensu is undoubtedly their constraining nature, the decisions of the legislator being reflected in law. Constraints not only for the addressees of the texts, but also implicit constraints for the translators, different according to the kind of text. Related to this, legal texts tend to follow peculiar stylistic and structural rules, that need to be observed not only by the text producer, to whom they are natural and taken for granted, but by the legal translators as well. This acquires more and more importance when dealing with some texts in particular (e.g. treaties and contracts), in which form is as relevant as content.

Generally speaking, legal texts relevant to this work are “all documents which are or may become part of the judicial process, we are therefore referring not only to the word of the legislator, expressed through binding acts, but also the word of the participants of the legal process (judges, lawyers, witnesses..), and everything used and coming to light in a courtroom, from the texts consulted by judges to attain the judgments, to their interpretations and verdicts, the doctrine they make reference to, and so on and so forth.

Different classifications may be done according to the approach we decide to have with legal texts. A legal approach will give us first of all a distinction between authoritative and non-authoritative texts and then a distinction in terms of involved subject and scope of action. From the linguistic point of view what should be considered are language implications and the nature of discourse of the text we are analyzing.

Several classifications have been put forward by linguistics experts when trying to define legal texts but, as we will see throughout this entire work, it all seems to derive from function. So, first of all a legal text is a special purpose text. I have now to establish which is the function or are the functions of it. Linguists such as Jumpelt and
Reib (1996,23) came to the conclusion legal texts are nothing but informative texts, i.e. texts in which the aim is to provide the reader with some information. I do agree with Sarcevic (2000,15) when she says, they got it wrong, or to say the least they did not catch the full nature of legal texts: their function may vary according to context and typology. It follows, legal texts may have an informative purpose but this is definitely not the only function they have. I would rather say, their main function is normative, or regulatory as Sarcevic said, since they normally do prescribe how people should or should not behave, commonly through the use of the imperative. But if taken out from their context and put, let’s say, in a textbook, the function they acquire is different: the same words and concepts are not there to produce any effect except the one to educate the student. The same is true for doctrine that is commonly included in normative texts but is not productive of juridical effects, at least not directly. So, the function of a legal text does not depend on something intrinsic, but has to be traced back to the communicative situation, the context which produced it and the one that is about to receive it. As a consequence, the same text can be authoritative and then have a prescriptive function for the citizen that has to abide it, but may have a purely informative purpose for a citizen of a third country that is not bound by that legislation. We do agree, then, that what makes legal texts special is the function they have. As Sarcevic (2000,56) notes, in legal theory, language has two functions: regulatory (i.e. prescriptive) and informative (i.e. descriptive). Accordingly, legal texts may be divided into primarily prescriptive, primarily descriptive but also descriptive, and purely descriptive. The first group includes the first documents that come to our minds when speaking about legal texts: legislative texts, that is to say “regulatory instruments containing rules of conduct or norms, this is the case of laws and regulations, contracts, codes, treaties and conventions, in other words documentary sources of law. The second category comprises “judicial decisions and instruments used to carry on judicial and administrative proceedings making up a sort of hybrid category, containing both functions, whereas in the third one we may find all of those non-binding texts that cannot be referred to as sources of law but rather as documents about law, that may however have a more or less direct and visible impact on law. We are talking about doctrine, essays and articles written by legal experts, as well as textbooks. This classification seems to perfectly overlap the one made by Bocquet in his La traduction juridique: Fondement et méthode, where he distinguishes normative texts from judicial text and doctrine, attaching a specific mood to every classification: performative,
descriptive and descriptive of other text of legal nature. What is important to underline here, is that their influence and authority may vary according to the law system in which they are inscribed.

Structure depends on the kind of text we refer to, that is why linguists found it necessary to categorise legal texts.

Talking about authority, it may be a term of classification, too, distinguishing authoritative from non-authoritative legal texts. We could say that authoritative texts are legal texts strictu sensu, i.e. the ones bearing the most important and distinctive feature of legal texts: efficacy. Authoritative texts are meant to produce legal effects and include documents such as national and international legislations (including constitutions, codes, statutes, international agreements, charts, conventions..), private legal texts (e.g. contracts, deeds and wills), judicial texts and texts produced in trials (e.g. orders, judgments and decrees, pleadings, all of which tend to present their own stereotypical format, i.e. they tend to follow a predetermined structure, responding to some unwritten rules consolidated through practice, and which remains more or less the same regardless to the language of the text. Translators need, therefore, a legal competence, including being familiar with the format of the legal texts and, as much obvious as it may seem, they need to have clear in mind the function of each of its parts, to be effective text producers. For at the end of the day this what they are, their role being writing a new text, independent from the original one even though sharing contents, meaning and objectives.

Conversely, non-authoritative texts include all those texts written in the domain of law but which have no legal force. They should not be mixed up with non-authentic translations that are translations of authoritative texts with no value in terms of enforcement and cannot be used as helping tool for interpretation. Common to both is, by the way, the purpose, which is not prescriptive but mainly informative. Regardless of the stylistic peculiarity of each legal system, on a broader level, legislative texts are usually made up of preliminary, principal and final provisions.

Text and language are, as a matter of fact, strictly bound and it is difficult to speak about legal texts without making some considerations about legal language. This is why, even though a specific paragraph is dedicated to language issues, it is worthy anticipating some consideration here, as well. One feature shared by all kind of legal texts is the prescriptive role of language, aiming to the fulfilment of a specific goal. This is true, as we will see, for national legislative texts, international treaties and
contracts, all aiming to modify the behaviour of the parties through the imposition of obligations, permissions, authorisations and/or prohibition, put forward in the principal provisions, i.e. the body of the text. The prescriptive nature of law, manifested through language, witnesses legal texts are no ordinary speech, even though they look like one. Some implications make them different, one above all the effects it is meant to produce. In linguistic terms this means legal productions are invested of illocutionary force, making legal speeches themselves producers of law. Anticipating what we will deal with more in detail in this part, starting from a small unit, legal rules are commonly made up of two parts: prescriptive and descriptive. The first is the prescriptive statement of law, the characterizing part, including the norm itself and concerned mainly with expressing legal content; on the other hand we have the description of the fact-situation, meaning the condition under which what is provided for in the first part takes place. Linguistically speaking, it is the principal verb in the statement of law which determines whether the legal actions have the illocutionary force of ordering, permitting, prohibiting or empowering. To lessen the degree of directness of legal norms implicit performatives are usually employed instead of explicit performatives.

Contextualising these assumptions to legal texts, it follows that what is common and clearly visible is the formal way in which they are drafted. G. Cornu(1978,35), law teacher and jurist, in his work Linguistique Juridique, recognizes almost the same categories put forward by Bocquet, to which he adds the discours coutumier and lingers over the linguistic features of each group. As far as law is concerned, he points out that a sort of art legislative exists, responding to the same essential rules: clarity, brevity and concision. The tone used in legal texts of this kind is usually neuter and this is of course related to the objective nature of law. He then focuses on some stylistic effects used by the legislator in order to stress what is essential, such as putting the verb or the sanction at the beginning of the sentence or using the passive voice, or writing pedagogically using repetitions, absolute terms and redundancies.

This is a linguistic classification, just one side of the coin; a purely legal one, would have made another distinction, based on the branch of law the texts belong to. The reason why is every branch (constitutional, commercial, administrative, criminal, civil, contractual, property, tort law etc.) has developed its own special language and way of writing. But we do not have to think neither from a merely linguistic nor from a merely
legal point of view. When considering translation, we have to keep in mind that we are
dealing with a two-sided subject, placed halfway between law and language. Plus, we
have to proceed having in mind both source and target texts (but this is true also for
language, cultural background, legal systems etc as we will see), and the translator
should know in which perspective he should operate, always with a view to the
expected effects. According to the purposes of target legal texts, legal translation can
be classified in three categories. Firstly we have translation for normative purposes
which refer to the creation of parallel texts of laws. The translation, having the same
legal force of the source text will enjoy the status of nothing but law itself. This
happens with domestic legislation in bilingual and multilingual countries, and with
international agreements on an transnational level. As we will see later on, these are
usually drafted in one language and then translated in the other(s), but they may also be
drafted simultaneously in both (or more seldom all) the official languages, as it
happens for European law. In order to be considered authoritative, these texts should
go through the authentication process prescribed by law. We then have translation for
informative purposes, with descriptive functions. Translations of monolingual
countries legislation fall in this category, the only text bearing any force of law remains
the original one while the target text has been created just to make the document
accessible in one or more other languages. It is created for reference only and cannot
be asserted as proving anything. This classification continues with legal translation for
general legal and judicial purposes, that can be placed halfway between the other two:
even though their function is mainly descriptive, they may be used in court as part of
documentary evidence.

For as non-sense as it may seem, the fact of a text being available and authentic
in more than one language does not necessarily make it a translation, at least not
officially. Peculiar cases are Canada, where national legal texts are simultaneously
drafted both in English and French resulting in what is known as co-drafting, and the
European Union, which does not translate after the entry into force and the publication
of the texts, but formally drafts them in all its official languages. These texts will
therefore not be considered translation, but once again we should talk of versions, all
enjoying the same status. And it is not even always the case that all translation has
force of law. We may find ourselves reading a translation of a legal text, be it of
international, national or private relevance that not only is not binding but has no legal
power and meaning at all. It cannot be used by judges for interpretation, nor be referred
to in order to appeal to one’s rights. An international agreement may be translated in whichever language basically for informative purposes, so that the texts can be accessible not only to people speaking the official languages.

The distinction between authoritative and non-authoritative is true for translation as well. As we will see in detail in the next paragraphs, translations do not enjoy the same status: some of them have exactly the same force of the original texts from which they are produced; some others are born just for informative purposes. Their function once again changes according to context, receiver and legal system.

2.2.11 General Features of legal English:

It is hard to fully appreciate the nature of legal language without having some familiarity with its features. The following sections describe the general characteristic features of English and Arabic legal language.

2.2.11.1 Lexical Features

English legal terminology is naturally Anglo-Saxon with all the characteristic features of native vocabulary. "The range of vocabulary in legal language is extremely wide, since almost anything may become the subject of legislation" (Crystal and Davy 1969:207). According to Malinkoff and other linguists (Van Dijk: 1981, Crystal and Davy 1969, Malinkoff 1963), legal language has the following lexical features:

1 Frequent use of Old and Middle Age English words:

Archaic expressions borrowed from old English, and are not normally used in modern Standard English, except for legal documents and perhaps poetry, are one of the distinctive features of legal language. Words such as, hereof, thereof, and whereof (and further derivatives, including -at,-in, -after, -before, -with, -by, -above, -on, -upon etc) are not often used in ordinary English. They are used in legal English primarily as a way of avoiding the repetition of names of things in the document, very often, the document itself, for example, "the parties hereto" instead of "the parties to this contract". Moreover, -er, -or, and -ee name endings in names and titles, such as employer and employee, or lessor and lessee, in which the reciprocal and opposite nature of the relationship is indicated by the use of alternative endings. This practice is derived from Latin (Van Dijk, 1981:279).

2. Use of argot:

Mellinkoff (1963:11-23) argues that the context plays an important role in determining the language of the law. For instance, he came to a conclusion that the
language used in contracts, notices, and jury instructions, which is addressed to both lawyers and laymen is not the same language used among lawyers or in specialized legal documents, books or articles, because in this case, the use of argot or specialized language was needed. Amongst these are alleged, due care, purported etc.

3. Frequent use of formal words and phrases:

Mellinkoff (1963) believes that the use of "formal words" is a distinctive feature of the language of the law. They are characterized by being dignified, ceremonial, and polite expressions. The preference of "shall" over "will" is seen as a formal feature in "Law shall prevail". In drafting, non-standard terms are never used. Instead, highly formal words are usually employed. For instance, the word deem instead of consider, the word liable instead of responsible (Squires & Rombaur 1982:103).

4. Deliberate use of words and expressions with flexible meanings:

Malinkoff (1963) refers to a distinguishing feature in the language of the law, which is the choice of terminology; lawyers make use of a good number of flexible words and phrases in their legal writings. Amongst these are the following: adequate, approximately, clean and neat condition promptly etc.

5. Terms of art

Legal English employs a great deal of terminology that has a technical meaning and is not generally familiar to the layman e.g. waiver, restraint of trade, restrictive covenant, promissory estoppel, contributory negligence, judicial notice, injunction, prayer etc (Van Dijk, 1981:279).

6. Phrases expressing extreme precision:

These can be categorized as follows:
(i) absolute, such as: all, none, never;
(ii) restrictions, such as: and, no more and no other purpose;
(iii) unlimiting phrases, such as: including but limited to, shall not be deemed to limit etc (Malinkoff 1963:11-23).

7. Everyday English words that when used in law have different meanings from the everyday usage.

For example, the familiar term consideration refers, in legal English, to contracts, and means, an act, forbearance or promise by one party to a contract that
constitutes the price for which the promise of the other party is bought (Oxford Dictionary of Law). Other words often used in peculiar contexts in legal English include construction, prefer redemption, furnish, hold, and find. (Malinkoff 1963:11-23). An example due to Van Dijk about the use of common terms with uncommon meaning is the term Assignment which is used in legal contexts to refer to the transference of right not to its more familiar sense "task.

8. Use of doublets and triplets.

There is a curious historical tendency in legal English to string together two or three words to convey what is usually a single legal concept. Examples of this include "will and bequeath", "cease and desist", "null and void", "fit and proper", "perform and discharge". Such constructions must be treated with caution, since sometimes the words used mean, for practical purposes, exactly the same thing, and sometimes they do not quite do so (Van Dijk 1981:285).

9. Unusual prepositional phrases:

Van Dijk (1981:285) reports a high frequency of "as to" in American legal English, and finds intensive occurrence of in event of" instead of "if" and "any".

10. Lack of punctuation:

One of the most unusual aspects of old legal drafting is the almost complete lack of punctuation. This was due to a widespread belief among lawyers and judges that punctuation was unimportant, potentially confusing, and that the meaning of legal documents should be gathered solely from the words used and the context in which they were used (Van Dijk, 1981:279).

11. Use of unfamiliar pronouns.

For example, the same, the said, the aforementioned etc. The use of such pronouns in legal texts is interesting since very frequently they do not replace the noun, which is the whole purpose of pronouns, but are used to supplement them. Legal drafter would rather repeat the same noun over and over again instead of using a pronoun. Such tendency is alleged to help with accuracy and precise reference (Haigh 2004, 5).

2.2.11.1.2 Syntactic Features:

At the sentence level, legal English sentences "are, almost without exception, complex" (Crystal and Davy 1969:203).
Legislative texts are known for as long and complex sentences, typical use of qualifications to express complex contingencies. In order to make legislative statements not only simple, clear and unambiguous, but all-inclusive also, these qualifications are inserted at various points in the syntax of legislative statements. They also tend to introduce excessive information load at various points in the syntax of such statements, thereby creating barriers to effective understanding of such statements. In order to be able to understand and, to some extent, translate legislative provisions, whether from one language to another or from one audience to another, one is inevitably required to take into account these difficulties (Bahtia 1997:208).

Syntactically, English legal language, according to Van Dijk (1981: 279-288) and other linguists such as Bahtia (1997), Crystal and Davy (1969) and Maley (1994) is characterized by the following features:

1. **Nominalization:**

   It is commonly accepted that the extensive use of nominalization is a marked characteristic of legal English (Bhatia 1997; Crystal and Davy 1969). Nominalization is the use of nouns in preference to verbs as in Maley (1994) states that nominalization is most likely to be used in procedural sections in passive clauses with agent deleted. Crystal and Davy (1969: 205) identify the following distinctive features regarding the use of nominals in legal English:
   a. There is a marked preference for postmodification in the nominal groups, as in "any installment then remaining unpaid of the rent" (postmodifiers are shown in italics).
   b. By contrast, the use of premodification other than determiners is refrained.
   c. Many of the nominals (for example, proposal, declaration, and termination) are themselves either abstract or not referring to some physical object.

2. **Passives:**

   Legal drafters have a tendency to use passive forms rather than active forms because "passive permits an indirect and formal tone with which lawyers instinctively feel comfortable" (Haigh 2004: 37). However, this can lead to lack of clarity.

3. **Wh- deletion:**

   the deletion of wh-form is common in legal English e.g.: herein (which is).

4. **Conditionals:**

   Crystal and Davy (1969) point out that complex conditionals are very common in legal English.
5. **Prepositional phrases:**

heavy occurrence of prepositional phrases in legal English as in to give time for the payment of any purchase (Van Dijk 1981: 282).

6. **Sentence length and complexity:**

the length and complexity of sentences in legal register in English is seldom found in other registers. For example:

To sign agreements, conveyances, transfer, declarations, affidavits, petitions, statements and another other documents in my name and on my behalf that are necessary to affect a sale of the property. (Haigh 2004: 39)

7. **Unique determiners:**

Crystal and Davy (1969) and Van Dijk (1981) report the use of unfamiliar determiners like such and said.

8. **Impersonality:**

Texts are typically cast in the third person. According to (Haigh 2004: 37) it is inappropriate to use he/she in a document to refer to a person whose sex is unknown. In such cases, a number of gender-neutral pronouns such as anyone, everyone and no one and a number of other workarounds can be used.

9. **Negatives:**

multiple negatives are common in legal English register. They are expressed in unless", "except etc (Haigh 2004: 39)

10. **Binominal and multinominal expressions:**

These are parallel structures, i.e. two words belonging to the same form or class. According to Mellinkoff (1963), legal draftsmen attempt at precision both "by choice of particular words and phrases, and by devices of composition such as numbering, lettering, indexing " (1963: 22). For the first option, he outlines a number of ways by which choice of words and phrases is usually affected in legal drafting. One of such ways is "the use of multiple specifications of legal devices, factual situation, qualifications, applications "(Mellinkoff 1963: 23). Emery (1989) describes them as collocations of synonyms or near synonyms, such as genus and species.
11. **Unusual word order.**

At times, the word order used in legal documents appears distinctly strange. For example, "the provisions for termination hereinafter appearing or will at the cost of the borrower forthwith comply with the same." There is no single clear reason explaining this phenomenon, although the influence of French grammatical structures is certainly a contributing factor.

12. **Use of phrasal verbs.**

Phrasal verbs play a large role in legal English, and are often used in a quasi-technical sense. For example, "parties enter into contracts, put down deposits, serve upon other parties, and write off debts", and so on.

13. **The Usage of shall may and may not:**

Shall is used in official documents to show a law, command, promise, etc. For example, "All payments shall be made by the end of the month", shall here is different from the auxiliary verb which indicates the future tense." May is used to refer to the possibility that someone may do something in a certain way, or that something may be done in a certain manner. For instance, "The Second Party may assign this Agreement to the third party without a prior written consent of the First Party". May not is used to indicate the opposite as in "The Second Party may not assign this Agreement to the third party without a prior written consent of the First Party." (Sabrah 2003:49-50)

13. **Morphological features – word formation:**

The use of suffix ee which was borrowed from French to indicate the person who is a recipient or object of an action like the word (lessee) that means that holds a lease. In law language many words are coined in this pattern such as (detainee – condemnee – expellee - patentee ).

14. **compounds that consist of N+Adj**

Attorney general – secretary general – notary public.

**Parallel and synonyms:**

The legal English contains many synonyms such as: (Rules and Regulations – Terms and conditions – conditions and provisions – if and when – liable and responsible.

**Parallel and synonyms:**

General and special – Plaintiff and defendant- part A and part B – right and obligation – creditor and debtor.
2.2.11.1.3. Discourse-level Features

In English legal discourse, the discourse level features substantially differ from those of other forms of discourse in English. The formality of the style and its strict wording design, long sentences, and intention of avoiding ambiguity, make the English legal register a structure of its own, i.e. a unique fusion of scientific and literary style. According to Van Dijk (1981: 279-288), legal English is characterized by the following features at discourse level:

1. Anaphora-

Although pronouns are avoided in legal registers, repetition of personal subject nouns are used to avoid ambiguity.

2. Connection;

Archaic terms referring to specific times, places, persons or things such as “herein after" and "aforesaid", work as cohesive devices.

3. Substitution

Ellipsis is very rare in occurrence in legal English registers, yet there are few examples of both cohesive devices Wh deletion is seen as a feature of ellipsis.

4. Lexical cohesion-

Lexical reiteration in English register is outstanding. Since pronouns are avoided, lexical items are mostly repeated within the sentences or successive sentences.

2.2.11.2 General Features of Legal Arabic:

In comparison to English legal discourse discussed above, Arabic legal discourse has its own idiosyncratic features and distinctive structures. Legal Arabic texts are similar in many aspects to their English counterparts. Nonetheless, because of the linguistic differences between the two languages in form, structure, style, meaning, and organization etc, the two registers differ considerably. Emery (1989: 10) states that: Arabic legal texts exhibit their own features of structure and style. They make more use of grammatical cohesion (through reference and conjunction) and of finite structures than their English counterparts, and less use of passives. In addition, they are not characterized by the use of archaic vocabulary and morphology. The two languages differ in their patterns of nominisation, creation of binominals and in their use of highlightening and text markers. A closer look at the legal register of the two languages will demonstrate that Arabic legal texts make more use of grammatical
cohesion through reference and conjunction and of infinite sentences than their English counterparts do. Arabic legal texts make less use of passive constructions and archaic expressions. Farghal and Shunnaq (1991) report that the syntactic choice, i.e. none-finite phrases which are found in English are non-existent in Arabic, for Arabic possesses only clauses, i.e. finite clauses. As regards layout i.e. text structure and organization, the legal register (and of course other registers) in English and Arabic differ from each other to a large extent. Whereas English relies heavily on paragraphing and organization of sentences in terms of punctuation, capitalization and italicization, Arabic rarely does so. Although Arabic has many forms: Kufic, Naskh, Diwani, etc., they all tend to follow the same way of writing structure and paragraphing in different texts. The fact that nearly all Arabic words are written in cursive and so separate letters are not used (except in some acronyms and abbreviations), does not allow for capitalization (Emery 1989).

Arabic legal language is generally characterized by the following features:

2.2.11.2.1 Lexical Features:

Arabic legal language, like English legal language, has its own technical terminology (Emery 1989). The following are most prominent lexical features of Arabic legal language:

1. **Doublets:**

   In Arabic, word pairs used as redundancies to serve emphasis are common as in:

   إن هذه المؤسسات تعلن وتصدر

2. **Binominals:** Emery defines them as collocations of antonyms, synonyms or near-synonyms (Emery, 1989: 9). In Arabic legal texts, binomials are not necessarily more common than other Arabic registers. The motivation for using binominals in Modern Written Arabic is primarily stylistic. Emery's examples are "soon or later", "peace and security", "round trip".

3. **Descriptive epithets:** such epithets are intended to lay emphasis on and further modify the noun. This example mentioned by Emery (1989: 10).

   يؤكد الأطرافان الساميان المتعاقدان
Part three

2.3.0 Contracts definition:

Contracts are formal agreements between two or more parties to exchange performances in a given situation for a specific purpose. The legal actions to be performed or not performed are set forth in the substantive provisions in the form of obligations, permissions, authorizations and prohibitions, all of which are enforceable by law (Sarcevic 2000: 133-134).

In today's world, contracts are the legal documents ordinary people are likely to be most familiar with. A contract does not have to be formally written down and signed to be legally binding. Oral contracts are valid in law though there may be difficulty in proving them if there are no witnesses. Given this freedom of form, there are some basics that distinguish contracts from other forms of agreement and which must be present for a contract to be recognized as such and thus enforceable. In the first place, there must be an agreement between two parties, who may be individuals or groups, nonprofessionals or juristic experts. This agreement is often described as a "meeting of minds" (Alcaraz and Hughes 2002: 126). Second, there must be valuable consideration given and received by each party. In other words, each party promises to give something in exchange for the other party's promise to give something else in return. Normally, this consideration takes the form of money, goods or services, but it may be practically anything so long as it has some identifiable worth. Thus, in this mutual offer and acceptance, each of the two parties may be viewed as both or "promisor" and "promisee". Third, the parties must intend their promises to be acted on and to be legally binding. Insignificant or vague actions are not constructible as contracts, nor are promises to undertake the impossible. Fourth, the subject matter of the contract must not be illegal or "tainted with illegality"; so called "contract killings" are not contracts in law. Fifth, the contract must be freely entered into by both parties and both should be of equal bargaining power. Any agreement brought on by fraud, unreasonable influence or oppressive means may be set aside, as may an unfair bargain or one-sided agreement bargain (Alcaraz and Hughes 2002: 126-127).
According to Alcaraz and Hughes (2002: 127-132), although there can be immeasurable disparities.

2.3.1. Contracts generally have the following textual features:

2.3.1.2. Commencement or premises

In the prefatory section, there is commonly some descriptive phrase identifying the type of undertaking. Parties of the contract are usually identified in this section.

2.3.1.3. Recital or preamble

In very formal contracts, parties usually recite the reasons that led them to construct such contract. Commercial contracts sometimes follow this tradition by supplying details of parties' identities, interests and relations to one another and the overall purpose of the contract.

2.3.1.4. The operative provisions

This section begins with a clause pronouncing the existence of an agreement between the parties and giving force to it by using a performative verb such as agree, promise, undertake etc. The rest of the section is devoted to detailed specification of overall bargain and parties.

2.3.1.5. Definitions

If the parties believe that definitions are necessary in order to make their intentions clear, they can be invariably contained in the operative provisions.

2.3.1.6. Consideration

This section is dedicated to clarifying the nature of the mutual exchange of benefits between the two parties. Therefore, it is the legal sense of the term consideration as in "in consideration of" which means in exchange that is intended here.

2.3.1.7. Representation and warranties

This clause asserts any matter of fact necessary to guarantee the good faith of each party, such as assurances as to the quality of the goods sold or services provided, the right of each party to act in the contract, and the legal assumptions on which the contract is entered into.

2.3.1.8. Applicable law

It is common, especially in commercial contracts, for the parties to state which set of laws is to govern the agreement. It also clarifies which courts are competent in case of dispute.
2.3.1.10. Severability
This is an optional section in which parties may agree that if any part of the contract is deemed inoperative or unlawful, the rest of the agreement will remain valid and binding.

2.3.1.11. Signature
The signatories' names are printed legibly above or below their signatures, and if any of the parties are juristic persons, his/her professional capacity is appended.

2.3.1.12. Schedules
These are known as "exhibits", "appendices" or "annexes". They contain miscellaneous information of interest to the parties (e.g. shipping documents, technical specifications, power of attorney, or other similar materials).

2.3.2. Sender/Receiver Relations in Contracts
Contractual communication is unique in that the relative intentions of the parties are expressed onto print through the assistance of someone who is learned in law. In contracts, the parties are specified in the introduction and by their signature; as each part accepts the agreement as enforceable by the court. Basically, the parties to the contract are both senders and receivers. The parties are senders in that before the contract is drawn up by a lawyer, they have agreed on the subject matter of the contract, its content and the particular conditions involved. They are receivers in that they verify and witness the agreement by their signature, and thus approve the contents of the contract (Trosborg 1997).

Apart from the parties to the contract themselves, there may even be another receiver of the contractual message, namely the court. This potential receiver may be the third party of the communicative process of the legal discourse as realized in contracts. It forms the basic scope for the individual contract and its inherent authoritative status imposes restrictions on the parties, as the contents of the contract have to be in conformity with the legal framework.

There seems to be asymmetrical power relations between the potential receivers and the parties to the contract as their scope and liberty of action is restricted and limited by the mere institutional authority of partly the rules of contract law, and partly the courts constructing and administrating such rules (Trosborg 1997: 56-57). The next part will illustrate the translation of contracts from a pragmatic and functional perspective through an empirical data analysis, incorporating discussion of the findings.
simultaneously. It investigates the applicability of pragmatics to the translation of contracts through comparing and criticizing the output of three professional translators. The assessment is carried out by arbitrating their adeptness to maintain the intended meaning and the communicative act effectively, guided by the context and illocutionary force aimed at.

Moreover, the chapter also appraises the bearing of functional theories on the translation of contracts through the analysis of TT produced by student translators and comparing them with the ones produced by a professional translator. The TT is accorded new functions in new comprehensively different contexts. For this purpose, a legal thriller novel and a newspaper advertisement are selected as alternative genres harboring new functions and addressed to new receivers.

2.3.3. Contracts interpretation:

The most fundamental tenet regulating the interpretation of contracts is that the interpretation of a contract is the determination of the common intent of the parties.”

As a corollary, "when the words of a contract are clear and explicit and lead to no invisible consequences, no further interpretation may be made in search of the parties' intent. While these provisions clearly state the primary goal of the interpretative process, certain principles or "tools" of interpretation have been provided by the authors of the Sudan Civil Code and by the courts. Whether legislatively or jurisprudentially provided, these principles of contractual interpretation are important both to the practitioner and the business person who is called upon to ascertain the meaning and import of a contract. "The threshold inquiry is whether the contract's terms are ambiguous or explicit. If the language of the contract provisions is found to be explicit and unambiguous, no additional evidence can be considered. On the other hand, when the contract terms are unclear or ambiguous, "the court may go beyond the original agreement to determine the true intent of the parties. The principles hereinafter discussed do not exist in a vacuum. They are, to be sure, only principles or "tools" to be employed in the overall context of the interpretative process. It is for this reason both helpful and necessary to review certain jurisprudential statements of the principles by which contracts are to be interpreted. "Legal agreements have the effect of law upon the parties, and as they bind themselves they shall be held to a full performance of the obligations flowing therefrom. Freedom of contract signifies that parties to an agreement have the right and power to construct their own bargains.... In a free
enterprise system, parties are free to contract except for those instances where the
government places restrictions for reasons of public policy. To determine the parties' intent, a court must look to the words and provisions of the contract first; when words and provisions are clear and explicit, no further interpretation may be made in search of the parties' intent, but, even when the language of a contract is clear, a court should refrain from construing the contract so as to lead to absurd consequences.' However, construction of contracts "does not authorize perversion of language or the creation of ambiguity where none exists and does not authorize courts to make a new contract where the language employed expresses the true intent of the parties(s). In stating that no "further" interpretation is appropriate when "the words of a contract are clear and explicit and lead to no absurd consequences," Louisiana Civil Code article 2046 recognizes that the threshold inquiry as to a contract's clarity is itself a process of interpretation. "For that reason, Article 2046 provides that no further interpretation is needed instead of providing that no interpretation at all is to take place.

2.3.4 Contract Formation

2.3.4.1. Preliminary Agreements

According to the Sudanese Civil Code formation 1927, a "contract is formed by the consent of the parties established through offer and acceptance. This article embodies the notion of "meeting of the minds," which is required to form a valid contract. As a general proposition, except for those contracts which, as a matter of law and validity, must be in writing, a contract need not be in writing to be enforceable." Moreover, unless the parties have contemplated otherwise, the contract need not be in a certain form.

It is not uncommon for parties to enter into a preliminary or interim agreement prior to the execution of a more formal agreement. In these cases, the issue might arise whether the parties are bound prior to the execution of the later agreement or, in some cases, if the later agreement is never executed.

One arguing against the existence of a binding agreement prior to the execution of the later, more formal or comprehensive agreement will urge that-the first document is nothing more than an "agreement to agree" and that, without the confection of the second agreement, there is no binding contract. On the other hand, it may be argued that the parties are bound by the preliminary or interim agreement, notwithstanding that a more formal agreement has not been executed. The courts have held that "an
agreement between parties, where their minds have met upon all essentials, constitutes a contract between them and binds them at once although they may have agreed that they would thereafter execute a formal instrument containing the terms of their present agreement. Where it has been agreed between the parties that an agreement shall be reduced to writing, the contract is not complete until it is written and signed by all the parties.

In Chevron U.S.A., Inc. v. Martin Exploration Co., Is the language of a written agreement characterized the agreement as "preliminary" and seemed to suggest that the execution of a more formal or comprehensive agreement was intended by the parties. The court of appeal held that this reference to a "preliminary" agreement and other language which suggested further negotiation between the parties, made the agreement an "agreement to agree" which was not enforceable. The supreme court reversed, finding that use of the word preliminary "does not preclude the agreement from being final until later agreements are reached, or from being the only agreement in the event that no other agreements are confected." Moreover, the supreme court found that the reference in the so-called "preliminary agreement" to a document "finalizing the points listed above" did not evince an intent to be bound only upon the execution of a later instrument. Nor did "negotiations" an allusion to future render the preliminary agreement non-binding. To the contrary, the court held that the document was binding because it sufficiently reflected the intent of the parties to be bound.

Whether or not the parties intend to be bound if a subsequent written agreement is not executed is a question of fact. As such, it is subject to the "clearly erroneous" standard of review.

2.3.4.2. Reformation of a Contract

If, upon a proper interpretation of a contract, the contract is found not to express the intention of the parties, an action might lie to "reform" it in order that it might be made to express the true intention of the parties. "Reformation of a contract is an equitable remedy available to a contracting party when the instrument recites terms to which neither party agreed. Even if the language utilized is clear and unambiguous, parol evidence is admissible to establish that the contract does not embody an agreement to which there was mutual assent."

In order for reformation to be a remedy, the error must be mutual. A "mutual mistake" was defined in M.R. Building Corporation v. Bayou Utilities, Inc. as "a
mistake shared by both parties to the instrument at the time of reducing their agreement to writing, and the mistake is mutual if the contract has been written in terms which violate the understanding of both parties; that is, if it appears that both have done what neither intended."

Where the error exists in reference to an immovable subject to alienation, the right to seek reformation follows the immovable.' However, a "third party taking rights on the faith of the public record is protected and cannot be held to provisions which might be contained in a document after it is reformed for simple error."'

2.3.4.3. Express Contractual Provisions

1. Limitations on Freedom of Contract Imposed by Public Policy

Under Sudanese Civil Code article 25, parties are free to contract for any object that is lawful, possible, and determined or determinable." This is a corollary to the proposition that persons may not by their juridical acts derogate from laws enacted for the protection of the public interest. Any act in derogation of such laws is an absolute nullity. These rules articulate the principle that "freedom of contract" is limited only by those parameters which the legislature imposes in order to promote public policy. Hence, there are some contractual provisions which, despite the clear intention of the parties, are unenforceable as a matter of law. In such cases, the concept of "contractual interpretation" is not relevant except to determine that a given provision is in fact implicated by public policy.

2. Construction Affected by Explicit Language

The parties to a contract might affect the interpretation of the agreement by using language that indicates which, of several disparate provisions, is to take precedence over the other. The most common verbiage of this type is the phrase "anything herein contained to the contrary notwithstanding," or words to that effect. When used, this phrase indicates that the provision which follows the opening phrase is to be given effect to the exclusion of any other provisions, which would otherwise seem to be in conflict therewith. The parties should take care not to use the phrase more than once in order to avoid conflict.

As one court has observed, the "use of triple words is apparently characteristic of the legal profession. Thus, the party who drafts the agreement will often prepare an act of sale to state that the vendor does "sell, bargain, transfer and convey," rather than (as would be legally sufficient) merely "sell. Why say in one word that which can be
said in more than one word? The use of the triple words..., was designed to be all-inclusive and applicable to any event, condition or contingency. When one of the words clearly and unmistakably expresses the intent of the parties as to a given situation or condition, the other two words, designed for other and different contingencies, do not detract therefrom or make ambiguous that which is certain.

Another means of bringing emphasis to the importance of a particular provision is to state that the "provisions of this paragraph are a material consideration to [the concerned party], without which [the concerned party] would not have entered into this Agreement," or words to that effect. Stated as such, at least in theory, a court could find a want or failure of consideration (cause) if, for any reason, the involved clause could not be enforced or is breached. Words to this effect are akin to a contractual invocation of the provisions of Sudan Civil Code article 1949.

Parties to commercial transactions which are seriously negotiated often attempt to preempt application of Article 2056, which provides that an ambiguous provision should be construed "against the party who furnished its text" by incorporating a provision to the contrary.' Many conventional agreements contain preamble paragraphs which, while not essential to the object of the contract, do serve to set forth an explanation of the overall intention of the parties. The Louisiana Supreme Court has observed that "the clauses of a contract which begin with the word 'whereas' simply state the reasons for the confection and the mental intent of the parties. That portion of a contract which follows the word 'therefore' is simply the response to the reasoning and the mental intention of the parties.

2.3.5. Province of Courts in Contractual Interpretation

Prior to a consideration of the various principles or "tools" which a court might employ in the interpretation of a contract, it is important to briefly note what a court may not do under the guise of interpretation.

The courts of Louisiana have long stated that it "is not within the province of any court to relieve a litigant of a bad bargain. Its only province is to render judgment in conformity with the law and evidence." This is an obvious corollary to the principle enunciated in Louisiana Civil Code article 1983, that contracts have the effect of law for the parties." Moreover, a "provision susceptible of different meanings must be interpreted with a meaning that renders it effective and not with one that renders it ineffective.
An example of the application of this principle is *Tahoe Corporation v. P & G Gathering Systems, Inc.* The plaintiff was the seller under a contract to sell natural gas to the defendant. The contract stipulated a purchase price subject to escalation provisions. However, the defendant was able to sell the gas which it purchased from Tahoe on the open market for significantly more money, to the perceived detriment of the plaintiff who was locked into the contract price. The plaintiff sued the defendant gas purchaser contending, among other things, that the plaintiff should be released from obligation to sell gases at prices which it considered unfair or inequitable. The court rejected this demand, noting that "no one expected the unprecedented rise of gas prices. Tahoe cannot expect the courts to rescind its legally binding contract just because its business judgment was poor."

A court may not, under the guise of interpretation, make contracts for the parties litigant. "The duty of the court is to interpret and enforce the agreement as confected by the parties thereto." Thus, although "a doubtful or ambiguous contractual provision is subject to interpretation by a court in an attempt to ascertain the true intent of the parties, it is well settled that a court is not empowered to make a contract for the parties."

### 2.3.6.0 Standard Form Contracts

The construction of a "standard form contract" is governed by Sudanese Civil Code article 2056. (140. In case of doubt that cannot be otherwise resolved, provision in a contract must be interpreted against the party who furnished its text. A contract executed in a standard form of one party must be interpreted, in case of doubt, in favor of the other party.) "These are generally called "adhesion contracts." Broadly defined, a contract of adhesion is a standard contract, usually in printed form, prepared by a party of superior bargaining power for adherence or rejection of the weaker party. Often in small print, these contracts sometimes raise a question as to whether or not the weaker party actually consented to the terms."

"While Article 2056 requires an interpretation of a "standard form of one party ... in favor of the other party," this rule "applies only to the case where doubt as to the meaning of a contract cannot be otherwise resolved.Hence, this notion of the resolution of doubt by other means "necessarily refers to preceding articles in the Code governing interpretation of contracts."

### 2.3.6.1 Ambiguity Construed Against Draftsman
In addition to the "standard form contract," Article 2056 is also concerned with the resolution of a "doubtful provision." It has long been held in Sudan that any doubt or ambiguity as to the meaning of a contract must be eliminated by interpreting the contract against the party who prepared it.

The underlying premise here is that a party to a contract who "furnished its text" is in the best position to articulate with some clarity the terms of "the deal," failing which the drafting party will be held to suffer the consequences of any uncertainty or lack of clarity which that party might have avoided. In other words, caveat scrivener!

In B. F. Edington Drilling Co. v. Yearwood," a written agreement furnished by a driller provided that the driller would install a pump "to produce 1000 gpm." Since this language was ambiguous, the driller (who prepared the contract) was held to have guaranteed that the well would in fact produce 1000 gpm, rather than that pump furnished by driller would be capable of producing that amount. Since the well did not so produce, the driller's demand for recovery of contract price was denied.

While the rule is very clear that, in the event of an ambiguity, the contract is to be construed against the party "who furnished its text," some courts have stated that ambiguities in a lease are to be mechanically construed in favor of the lessor and against the lessee. If, in these cases, the text was furnished by the lessee, then the cases properly apply this rule of interpretation. However, since these cases do not reveal any factual inquiry about who actually provided the text, it is not proper to cite these cases for the proposition that ambiguities in a lease are, in all contexts and under all circumstances, to be resolved in favor of the lessor and against the lessee. To illustrate, there are certain institutional landlords: in Louisiana which provide their own lease form which is both sophisticated and unique. Experience suggests that these lessors greatly resist any suggestion that the form should be modified or revised, even, in some instances, to the end that the lessor will decline to lease rather than amend its form. In these cases, it is totally illogical to construe any ambiguity in such a lease in favor of the lessor (who provided the text) and against the lessee (whose requests for contractual relief were rejected).

Where a contract is the result of negotiation between the parties, the rule is not dispositive as there is no single drafter against whom the contract is to be interpreted. For example, in Shell Offshore, Inc. v. Marr,'4 s the court stated that "neither party is deemed to be the scrivener when, as here, the initial draft is modified and remodeled in
a series of exchanges between the parties to produce an execution draft reflecting give
and take between obligor and obligee.

Additionally, a contract need not be construed in its entirety against one or the
other party. Thus, in one situation where a contract was found to be on the letterhead of
one party (who presumably drafted or at least prepared it), an ambiguous sentence
contained in the contract was construed against the other party who, according to the
court, had drafted that particular sentence." It is, perhaps, for this reason that some
transactional lawyers retain in their files drafts or telecopies which reflect the
negotiating process and the specific contributions of each party to the negotiated
contract.

Finally, if despite an application of the other rules, there remains "doubt that
cannot be otherwise resolved," the "contract must be interpreted against the oblige and
in favor of the obligor of a particular obligation.

2.3.7.1 Purely Technical Terms

These are terms found exclusively in the legal sphere and have no application
outside it. Lexical units of this type are distinguished from the others in that they have
long remained semantically stable within their field of application. Hence, they may be
said to be the least troublesome terms for translators. However, they can be crucial in
the context in which they occur, since the rest of the text dealt with will fail to cohere
until such terms have been catered for. These terms are recognized as legalisms that are
usually listed in legal dictionaries.

Table (1) shows some examples on this category:

Table (1)

Purely technical terms

<table>
<thead>
<tr>
<th>Original</th>
<th>Translator (A)</th>
<th>Translator (B)</th>
<th>Translator (C)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(بموجب وكالة)</td>
<td>Vide a power of attorney duly regulated by the Notary Public</td>
<td>According to power of attorney authenticated by the Notary Public</td>
<td>According to power of attorney arranged with Bethlehem Notary Public</td>
</tr>
<tr>
<td>من الاصل المنجز على</td>
<td>Of the building erected on the plot</td>
<td>Of the building instructed on a land</td>
<td>Of the building raised on the lot of land Of</td>
</tr>
</tbody>
</table>
2.3.7.2. Semi-technical or Mixed Terms:

This second group consists of words and phrases from the common stock that have acquired additional meanings by a process of analogy in the specialized context of legal activity. These terms are much more numerous and are constantly growing in number as the law changes to meet the continuously changing needs of the society. Moreover, they are semantically more complex, presenting the translator with a wider range of choices, since group one words in one language may be translated by group two terms in another. Translators dealing with terms of this kind, face the familiar dilemma raised by connotation, ambiguity, partial synonymy and the fact that the
precise nuance is often context-dependent. Table 2 lists some examples on this category.

Table (2)

Semi-technical or mixed terms

<table>
<thead>
<tr>
<th>Original</th>
<th>Translator (A)</th>
<th>Translator (B)</th>
<th>Translator (C)</th>
</tr>
</thead>
<tbody>
<tr>
<td>مصادق عليها من مكتب منظمة التحرير الفلسطينية</td>
<td>Duly authenticated by the PLO Office</td>
<td>authenticated by the PLO Office</td>
<td>endorsed by the PLO Office</td>
</tr>
<tr>
<td>مقدمة</td>
<td>Preamble</td>
<td>Introduction</td>
<td>Introduction</td>
</tr>
<tr>
<td>مدة الإيجار</td>
<td>Tenancy term</td>
<td>Period of rent</td>
<td>Duration of lease</td>
</tr>
<tr>
<td>وعليه يلتزم المستأجر بما يلي</td>
<td>And hence the lessee shall abide by the following</td>
<td>The lessee must be committed with the following</td>
<td>Therefore, the tenant complies with the following</td>
</tr>
<tr>
<td>شاهد-كفيل</td>
<td>Witness-sponsor</td>
<td>Witness-sponsor</td>
<td>Witness-guarantor</td>
</tr>
</tbody>
</table>

An example in this group is مصادق عليه which in text (1) was translated as "authenticated" by two translators while the third translated it as "endorsed" which is a synonym yet a poorer choice given the context. The verb "endorse" can mean, among many other things, to sign one's name as payee on the back of a check in order to obtain the cash or credit represented on the face. In this context, which is the power of attorney being authorized, translator (C) was not context-sensitive and hence, failed to convey the intended meaning.

The word مقدمة in text (1) was translated as "introduction" by two of the translators and as the more formal term "preamble" by the third. Though the second expression is more commonly used in English contracts, however, the back translation of it in Arabic is "تمهيد" and not "مقدمة" (Sabra 2003, 108). Still, one cannot possibly see why "introduction" will not be just as valid and effective. After having surveyed more than five English contracts ranging from the '80s to very recent ones, we noticed a growing tendency to use "introduction" rather than "preamble".

In text (2), the phrase مدة الإيجار was translated differently by all three translators. It was translated as "tenancy term" by one, "duration of lease" by another and "duration of rent" by the third. The three translations can be said to be equally effective.
According to Sabra (2003), all three of them can be used interchangeably. However, the term "lease term" is the most traditionally used term.

In text (2), the phrase مدة الإيجار was translated differently by all three translators. It was translated as "tenancy term" by one, "duration of lease" by another and "duration of rent" by the third. The three translations can be said to be equally effective. According to Sabra (2003), all three of them can be used interchangeably. However, the term "lease term" is the most traditionally used term.

By the same token, the word المستأجر was translated as "tenant" by one translator, while the other two translated it as "lessee". After surveying a number of English contracts cited in Sabra (2003), we noticed that more recently drafted contracts use "tenant" more frequently than "lessee". كفيل was also translated into three different terms. One is "to render a financial guaranty", the other is "sponsor" and the third as "attorney". Considering the context فإنه يقوم بتقديم كفيل ملئ للتوقيع علي هذا العقد the best translation would have been the term guarantor defined by Merriam Webster's Dictionary of 1996 as "a person or entity that agrees to be responsible for another's debt or performance under a contract if the other fails to pay or perform." The terms "sponsor" and "attorney", on the other hand, do not harbor the above intended meaning specific to this particular context.

Surprisingly the same word at the end of the same texts was translated as "guarantor" by the same translator who chose to translate it before as "attorney" though the two refer to the same person.

As revealed by the above examples, in this category of legal vocabulary, pragmatic and textual considerations play a slightly more substantial role than in the first category.

2.3.7.3. Everyday Vocabulary in contracts:

This third group consists of terms in general use regularly found in legal texts. Such terms are more commonly found in one area of the law or one legal genre rather than others. These terms, which are most frequently used in contracts, are usually easier to understand than to translate because they tend to be contextually bound. In translating such terms, the translator has to observe the potentially intended meaning of the original as well as the stylistic and contextual constraints. It may occasionally happen that a group-three word is best translated by a group-one or a group-three equivalent. There are many examples in this category, from virtually all parts of the
three contracts. Such terms were more freely translated by the three translators. Table 3 lists examples on this category.

Table (3)

**Everyday vocabulary in legal texts**

<table>
<thead>
<tr>
<th>Original</th>
<th>Translator (A)</th>
<th>Translator (B)</th>
<th>Translator (C)</th>
</tr>
</thead>
<tbody>
<tr>
<td>وحيث أن الفريق الثاني رغب في شراء الشقة المذكورة وتوابعها</td>
<td>Whereas the Second Party is desirous of purchasing the said flat and all its appurtenants.</td>
<td>And since the second party wants to buy the above mentioned apartment</td>
<td>And since the second party is willing to purchase the aforementioned with its complements</td>
</tr>
<tr>
<td>وحيث أن لدى الفريق الثاني الرغبة في هذه الوظيفة</td>
<td>And as the second party is interested in this job</td>
<td>And since the second party is completely ready to fill this position</td>
<td>And the second party is willing to practice this post</td>
</tr>
<tr>
<td>وافق الفريق الأول على تعيين الفريق الثاني</td>
<td>The first party has agreed to hire the second party</td>
<td>The first party has agreed to employ the second party</td>
<td>The first party has agreed to appoint the second party</td>
</tr>
<tr>
<td>يعتبر يوم الجمعة عطلة أسبوعية عطلة أسبوعية</td>
<td>Friday is the official holiday</td>
<td>Friday is a holiday</td>
<td>Friday will be the weekend</td>
</tr>
<tr>
<td>يتبعه الفريق الثاني بان يكون سلوكه متفقا مع الأخلاق الحسنة</td>
<td>The second party will make a promise to act in good behavior</td>
<td>The second party guarantees to have good conduct</td>
<td>The second party binds himself that his conduct will be applicable to the good morals</td>
</tr>
</tbody>
</table>

An example is the word **شقة** which will mean the same regardless of the context of its occurrence. This word was translated with synonymous terms by the three translators. It was translated as "flat" (the British preference) by one and its American kin "apartment" by the other two. Such choice should always be informed by the actual target receiver and the target culture.
Another similar example is the word "وظيفة" translated with three synonymous variables "job", "position" and "post". In the context of their occurrence, employment contract, all three choices are satisfactory.

The underlined term in the sentence "وافق الفريق الأول علي تعيين الفريق الثاني" was also translated into different terms. These are "hire", "employ" and "appoint". All three translations can be valid with a slight difference in the degree of formality.

Another example is the phrase "يوم الجمعة عطلة رسمية" translated as "official holiday", "holiday" and "weekend". These are all acceptable variants in view of the relaxed informal context of occurrence.

The same goes for the phrase "الأخلاق الحسنة" which was also translated as "good behavior", "good conduct" and "good morals".

As illustrated above, the translation of everyday terms found in legal texts is less standardized allowing the translators to choose from a variety of equally functional synonyms.

2.3.7.4. Synonyms and Quasi-synonyms

Synonyms and quasi-synonyms are another case where conventions override reason. Synonymous binominals contain a list of two or more synonymous words. In Arabic contracts, synonymous binominals are frequently used merely for stylistic reasons (Emery 1989). For instance in text (1) the phrase "الشروط والأسس" was translated by translator (A) as "terms and conditions" and by translator (C) as "terms and bases". Translator B, on the other hand, used only one variant that is "conditions."

Another example in text (2) is the phrase "فعالية وواقعية" which was again translated by translator (A) as "actual, efficient" and by translator (C) as "practical, real..." while translator (B) used a single word "effectively" to capture all the intended nuances of meaning effectively. In text 2 the phrase "يملك كامل الأهلية الشرعية والقانونية التي تمكنه من إجراء التعاقد" was translated by translator (A) as "legal competence". Translator (C) chose to preserve the number of words in the original using "legal and lawful competence" which has quite the same meaning as that in the original.

Another example is "لإجراء وتنفيذ هذا الاتفاق" which translator (A) translated as "To perform and carry out". Moreover, translator (C) used "To carry out and execute". Translator (B), however, opted for simplification by choosing a comprehensive one-word alternative "To perform".
Most of the binominal synonyms in the corpus are what Mellinkoff (1982) regards as "worthless doubling". Again, simplification is recommended here as well, which in this case means using only one of the variants in the target language.

2.3.8. Legal Formulas

Most languages have formulas that traditionally separate the different blocks of information in a contract. They announce the information that follows, give internal organization to the text, introduce and close the document, … etc (Asensio 2003). In many cases such formulas are old and have lost their denotative meaning. To translate their individual words according to their dictionary meaning is liable to produce nonsense; their literal translation is very ineffective. Replacing these with their functional equivalents can be much more efficient. Examples of these formulas and their different renderings by the three translators include

While translator (A) used the term that is more formal "whereas", translator (B) used the word "since" which is an everyday, but still a valid, equivalent. Translator (C), alternatively, did away with the whole term and just omitted it altogether. Many legal writing textbooks recommend that "whereas" be eliminated. Moreover, as David Mellinkoff points out in his entry "whereas" in Dictionary of American Legal Usage, "[w]orst of all, as lawyers stubbornly cling to whereas, it has become an unneeded pejorative for the profession. Those lawyers and their whereass."

Again, translator (A) translated the word حيث أن الفريق الأول بموجبة الوكالة as "Pursuant to", which may sound more impressive than "according to" as translated by the other two translators; nonetheless "according to" is just as valid and efficient.

The word وعلى was translated by translator (A) as "In witness thereof" as an attempt to emulate target language conventions which, by the way, are dying out. Hence, it can be considered genuinely superfluous. This does not mean that the two other translations "Thereupon" and "whereof" are less valid or acceptable.

After surveying a number of recently drafted English contracts, it is evident that, in recent legal drafting, such formulas are more growingly abandoned and replaced with more functional, simpler equivalents that do not affect the interpretation or the validity of this part in any particular way. Felsenfeld and Siegel (1981, 64) write in this regard that "the archaic words whereas and hereby and the wordy phrase pursuant to are three of the worst examples of legalese. Yet these words are still
prominently used in statutes, honorary resolutions, ordinances, and executive orders. At long last, why not let them die?"

2.3.8.1. References

In contracts, references are often highly redundant. For the sake of efficiency in style, we can sometimes omit them or replace them with grammatically simpler, shorter references without affecting the intended meaning. The clause 

وجب أن الفريق الثاني رغب في شراء الشقة المذكورة وتوابعها

was translated as Whereas the Second Party is desirous of purchasing the said flat and all its appurtenants.

The rendering is, obviously, too literal and too cautious. The clause was translated in a simpler more relaxed manner using a shorter yet more adequate reference And since the second party wants to buy the above mentioned apartment.

In translating this section 

إستعمال المأمورية بالصورة والطريقة المطابقة والمحددة بالعقد

once again, translator (A) was too literal and too formal:

- using the leased property in the method and the way complying with and as determined herein.

Instead of just referring to the contract at hand, he, unnecessarily, used the compound particle "herein". A simpler version is

- To use the rented place in the way specified in the contract

A further example of the use of an unusual preposition is in the translation of the clause 

رائب أخرى تفرض على المستأجر وفقاً للقوانين المعمول بها

any other taxes that may be imposed onto the lessee as per the laws in effect.

Another rendering is any other taxes imposed on the lessee according to rules. Pragmatically, "on" is just as efficacious; It conveys the same meaning intended in the original.

2.3.8.2. Here- and-There Compounds:

Here-and-there compounds are usually used to specify every possible interpretation of the legal text. In contracts, hundreds of characteristic compound particles that are seldom used in daily life are excessively and most of the time unnecessarily used since the context can reduce the number of possible interpretations other than the one intended. Deciphering these compound particles according to this simple rule is recommended. Whenever the particle begins with "here", it refers to the document at hand; whenever it begins with "there", it refers to a former document previously mentioned. However, this is not always the case.
Translator A translated the term "وعليه" as "in witness thereof" referring to later parts of the contract not to an aforementioned document. Translator B translated it as "thereupon" expressing the same meaning by using fewer words. In most cases, such particles can be omitted or replaced by simpler terms since they do not add any new meaning.

To conclude, it can be asserted that translating legal jargon in contracts stretches over a continuum that includes both literal or formal translation at one end and free or dynamic translation at the other end. Purely technical terms can obviously be translated more formally, while everyday vocabulary can be translated more dynamically. Semi-technical or mixed terms, however, can be said to occupy the middle ground between the two opposite ends depending on their context of occurrence. In translating other problematic areas of legal contracts such as synonyms and quasisynonyms, formulas, here-and-there compounds...etc, simplification, paraphrasing and omission can produce more sufficient and more communicatively successful translations.

2.3.9. Contract Translation and the Change of Function

The 1970s and '80s witnessed a shift from the static linguistic typologies of translation towards more functionalist and communicative approaches. Skopos is Greek for ‘aim’ or ‘purpose’ and it was first introduced by Hans Vermeer in the 1970s as a technical term referring to the purpose of translation and the process of translating (Vermeer and Reiss 1984). Like other texts, a legal text is a communicative occurrence produced at a given time and place and is intended to serve a specific function (de Beaugrande and Dressler 1981, 3).

Identifying the function of translation as the main criterion for determining the translation strategy, Han J. Vermeer postulated his purpose-oriented theory, which has modernized translation theory by offering an alternative to traditional translation. Vermeer's Skopos theory departs from tradition by recognizing translations in which the function of the target text differs from that of the source text. According to Vermeer, "the source and target receivers always differ because they inevitably belong to different linguistic and cultural backgrounds" (Nord 1988, 49 cited in Sarcevic 2000, 79). The skopos rule reads as follows: translate, interpret, speak, write in a way that enables your text/translation to function in the situation in which it is used and with the
people who want to use it and precisely in the way they want it to function” (Vermeer 1989, 20).

Nord (1997, 35) describes the adequacy of a translation in the following terms: "This means the translator cannot offer the same amount and kind of information as the source text producer. What the translator does is offer another kind of information in another form." Within the framework of Skopos-theorie, "adequacy" refers to the qualities of the TT with regard to the translation brief: the translation should be "adequate" to the requirements of the brief. When deciding on the most efficient translation strategy to be used, the context of the translation, its purpose (skopos) and the nature of the text can be quite decisive. However, the translation commission can contribute significantly to the quality and functionality of the translation by providing the translator with information about the intended target-text functions, addressees, and the prospective time, place and motive of production and reception of the text (Nord 1997, 137).

In this connection, Vermeer (1986, 34) proposes the example of an insurance contract which is translated differently depending on its intended function: if the translation is to have legal validity in the target country, it will require a ‘legal equivalence’ approach, while if it is commissioned by a client who aims at gaining a better understanding of the source text, the translation will simply be a footnoted explanation of the original. In other words, it is the function the target text is expected to perform in the target context that will determine the translation strategy used in the process of translating. “What the Skopos states is that one must translate, consciously and consistently, in accordance with some principle respecting the target text. The theory does not state what this principle is: this must be decided separately in each specific case” (Vermeer 1989/2000, 228). Observing a skopos during the translation process means ensuring that the TT fulfils the skopos outlined by the commission. If it is functionally and communicatively adequate, the skopos model can result in the same text being translated differently in different circumstances.
2.3.9.1 Legal Texts in Newspaper Advertisement:

Newspaper advertising is two types: business and classified advertisements. Business or retail advertisements are usually used to sell something. Classified advertisements, however, are posted by ordinary people who pay to place their classified ads in newspapers in order to offer services, announce an event or to make something public. Such type of advertisements is often written in a journalistic style making it read like an article instead of an advertisement (Keeble 1994).

The following example was published on 1st July 2007 in Al-Quds Daily Newspaper. In this example, a number of legal texts such as the power of attorney texts and agreements were alluded to, though not mentioned. This advertisement is intended to warn, hence the title "Warning", external parties who falsely claim to be the rightful owners of the land specified in the text. In this text, being composed by a lawyer, some features of legal writing are being used. For example, "بموجب الوكالة العامة" or "pursuant to general power of attorney" which is a phrase commonly used in real estate sales contracts. Moreover, the use of quasi-synonyms such as "بموجب العطل والضرر" or "breakdown and damage" which is also very common in lease contracts. The text was concluded by the formulaic phrase "لقد أصدر من أنذر" or "you are hereby warned" which is typical in this kind of advertisements.

Example (1):

![Example Image]
Example (2) is a translation done by one of the students in the faculty of law to function as a newspaper advertisement. This translation may just be a sufficient translation given the function set by the commission or, in this case, the assignment.

Example (2)

The back translation of example (2) is:

Disclaimer

Procter and Gamble International Company, based in Switzerland, announces to its clients in Palestine that a power of attorney has been officially granted to the Palestinian attorney ------ ---------- as the legal representative of the company in any trials or legal proceedings before the courts in Palestine. In addition, he has been granted full authorization to represent the company for all kinds of Palestinian courts, including the magistrate court, court of first instance, court of appeal and court of cassation. This is in addition to the completion of the judicial review before the official bodies including the executive bodies, with respect to any claims or lawsuits established by the company or held against it in Palestine.

In the same context, the lawyer mentioned above has all the legal authority to represent the company in any trial in addition to the broad powers that he has to defend
the company, including but not limited to, submitting all kinds of documentations and naming, examining, contesting and discharging exemption experts as well as presenting and contesting written or oral evidence, presenting all kinds of petitions, motions, objections or pleas or any other legal or judicial action or procedure including filing counter-claims before any competent judicial bodies. In addition, he is also empowered to authorize other lawyers (in part or in full) with his indicated authorities that stem out of Power of Attorney signed by the two parties. In addition, the company does not acknowledge the existence of any other legal representative in Palestine. Therefore, it was necessary to disclaim.

4th April 2006

In example (2), the student translator was able to approximate the target text to texts of similar nature and function that are often published in Palestinian daily newspapers. Such texts usually appear as classified advertisements the purpose of which is to make an announcement by ordinary people, lawyers or companies to clear disputes caused by false claims or illegal actions or to prevent dispute from happening in the first place. These texts are generally titled with the word "تنويه" which is literally "disclaimer". They also are usually concluded with the formulaic phrase "لذا إقتضي التنويه.". The translator of the above text was able to recognize the genre and hence succeeded in molding the target text into it. The text's legal character was also fairly preserved though not with the same degree of intensity and formality as the original or as any other legally binding translation. Again, the company's address was discarded as well as the date and the signature spots at the end. Besides adding a functional title and conclusion, the translator also added the sentence "ولا تقر الشركة بوجود أي ممثل قانوني آخر لها في فلسطين" meaning "And the company does not acknowledge the existence of any other legal representative in Palestine" which is familiarly used in this particular genre. Simplification in this context is highly desirable, taking into consideration its audience, which can be ordinary people such as customers and retrailers or other companies' lawyers and advocate.

Another example is Example (3):

 إعلان
نفيوض رسمي
تعلن مجموعة شركات بروكتر و كامبل أن المحامي ------------- هو الممثل لهذه الشركات بموجب نفيوض رسمي في الأراضي الفلسطينية وهو المحول قانونيًا و قضايئا في الدفاع عن هذه الشركات أو رفع قضايا الادعاء
The back translation of example (3) is:

**Announcement**

**Power of Attorney**

Procter and Gamble Group of Companies announces that the lawyer ------------------ is the representative of these companies according to an official delegation in the Palestinian territories and is authorized legally and judicially to defend of these companies or to file prosecution cases and legal claims for these companies and he is authorized to provide all necessary documents and evidence and to fill out forms before any judicial or legal body. He is empowered to appoint other lawyers to work with him.

In example (3), the student translator did not use the formulaic title and conclusion for such texts. Moreover, he seems to have summarized the original text and have only kept the main points. This may be in harmony with the newspaper advertising genre, which is known for being simple and widely understood by everybody. Given the purpose of such advertisement, it seems that this text can succeed in performing its intended function and be incorporated into its target context, which is, in this case, a different genre.

Another example is Example (4)

**Announcement**

**Power of Attorney**

Procter and Gamble Group of Companies announces that the lawyer ------------------ is the representative of these companies according to an official delegation in the Palestinian territories and is authorized legally and judicially to defend of these companies or to file prosecution cases and legal claims for these companies and he is authorized to provide all necessary documents and evidence and to fill out forms before any judicial or legal body. He is empowered to appoint other lawyers to work with him.

In example (3), the student translator did not use the formulaic title and conclusion for such texts. Moreover, he seems to have summarized the original text and have only kept the main points. This may be in harmony with the newspaper advertising genre, which is known for being simple and widely understood by everybody. Given the purpose of such advertisement, it seems that this text can succeed in performing its intended function and be incorporated into its target context, which is, in this case, a different genre.

Another example is Example (4)
Part four:

2.4.1. Modality: Concept and Definition:

In this part researcher will provide a comprehensive view about the, concept and definition of modality, modality as a language universal and characteristics among legal texts. It has been argued clearly that modality as a concept refers to the way that languages indicate a speaker's evaluation of the state of affairs in a given utterance, i.e. the expression of a speaker's degree of belief in or commitment to a proposition. In this sense, modality is considered as a signal of the speaker's/writer's involvement in what s/he says or writes. This involvement takes various forms realized linguistically in various categories of meanings or semantic roles known as modal categories. These categories have been approached from different perspectives: philosophical, semantic and linguistic. However, and following Hoey (1997,1) there is a considerable interpenetration between these approaches, as researchers have fundamentally different research aims and proceed at different levels of abstraction. For instance, Palmer's (1990,1) description of modality as an essentially 'semantic-grammatical' category is potentially paradoxical unless modality refers to a very restricted set of modal auxiliary verbs. Even within this set, there are cases where semantic and grammatical criteria are of conflicting rather than complementary nature. Trying to account for modality within both the semantic and syntactic frames creates a dilemma. Kiefer (1994,25,14) holds a philosophical perspective when he talks about modality as "the relativization of the validity of sentence meanings to a set of possible worlds. Talk about possible worlds can thus be construed as talk about the ways in which people could conceive the world to be different". For this reason modality is perceived as a universal linguistic phenomenon despite the different means in which it is realized. This notion of universality will be discussed later in this part.

In order to understand the philosophical point of view made by Kiefer towards modality we need to distinguish between two aspects of this category as illustrated in the Encyclopedia of language and linguistics: what is actually said, i.e. the 'dictum' and how it is said, i.e. the speaker's/writer's cognitive, emotive and/or volitive attitude towards what is said, i.e. 'modus' or what is traditionally called 'mood of expression'. A sentence such as:

1- It is hot outside.
May be paired with the following moods:

1.a. I think that it is hot outside.
1.b. I believe that it is hot outside.
1.c. I know that it is hot outside.
1.d. I hope that it is hot outside.
1.f. I doubt that it is hot outside.
1.g. It must be hot outside.
1.h. It might be hot outside.
1.i. It could be hot outside.
1.g. It needn't be hot outside.
1.k. It shouldn't be hot outside.
1.l. It is probably hot outside.
1.m. Perhaps it is hot outside.
1.n. It is possible that it is hot outside.
1.o. It is certain that it is hot outside.
1.p. It is likely that it is hot outside.

The philosophical attitude towards modality correlates with one major type of modality known as 'Epistemic', which refers to logical/belief modality and "the status of the proposition in terms of the speaker's commitment to it" (Palmer, 1986:54-5). This commitment often is derived from a situational source of information for the speaker's utterance called 'evidence'. This evidence takes the form of situational signal which the speaker perceives as such and reflects his judgment towards what he says. From a linguistic point of view, modality is treated as a 'semantic' term that is realized as "a grammatical category, similar to aspect, tense, number, gender, etc." (Palmer, 1986:1). Others such as Hoey uses the term 'modality' to refer to "the entire semantic field of modal contrasts whether these be realized lexically, grammatically, or prosodically", (Hoey, 1997:38). This particular trend in defining modality is of special importance to the present work as it links modality to a range of semantic and pragmatic criteria which are considered relevant to its definition. This importance is derived from the fact that translation in general and legal translation in particular has to account for these criteria so as to establish the 'dynamic equivalence' required for maximum assurance of translation quality. In this particular regard, Speech Act Theory (SAT) seems of special interest for the purpose of analysis proposed in the present
work. The relevance of this theory to the present work will be discussed later in this chapter of the study.

In discussing modality from a linguistic perspective, linguists also refer to other linguistic and semantic categories, e.g. mood, aspect, tense, etc., (Lyons, 1977; Palmer, 1986; Huddleston, 1984). However, and although the researcher does believe in the reality of this relation, still holds the view that it is of little importance to the present work. This is simply because this study is solely directed towards the realization of modality in terms of series of notional logical constructs such as subjectivity vs. objectivity, factuality vs. non factuality, proposition vs. event and possibility vs. necessity, and permission vs. obligation, which are embedded in legal texts and which represent the core dimensions of these texts. All these notions will be discussed within the framework of Speech Act Theory (SAT) in relation to three basic parameters, namely 'authority', 'knowledge' and 'power'. For this reason, and for the purpose of the present work, modality is treated as a notional and conceptual category besides its being a syntactic one. The only revenue for the syntactic dimension to be injected in the present work is the realization of these notional constructs in the source text (ST) and target text (TT).

One further reason for the exclusion of the syntactic dimension refers to the fact that modality as a syntactic (grammatical) category as is the case with mood is found in some but not all languages" (Lyons, 1977, 848). With particular reference to English and Arabic, modality exists as a syntactic as well as a semantic category in the former, but solely as a semantic category in the latter; hence, the exclusion of the syntactic dimension. Otherwise, this will deprive the comparative analysis of the constant element which is mandatory for the comparison between the two languages. English and Arabic represent a good example for this case. It is this conceptualization of modality that the researcher is going to adopt for the purpose of this work. Based on the above discussion it is essential to emphasize a clear-cut procedural assumption for the purpose of this work: modality is taken to mean as a notional universal concept common to all human languages regardless of their means of realizing it. Evidence to this universality is provided in the following section.

2.4.2. Modality as a Language Universal:

One basic assumption which underlies the present work is that modality is a universal linguistic category with different realization. This notion of universality
constitutes the constant required for the analysis and comparison the researcher intends to carry out later in this work. On the other hand, the variation of realization would serve as the variable needed to trace in search for instances of loss and mismatch between SL legal texts and their TL translations with regard to modal expressions. In my opinion, the reason that can be brought up to justify this assumption is that both logical and semantic modal concepts and notions are common to human thought and communication.

Therefore, these concepts should be expressed in one way or another in any language. One caution that needs to be stated here relates to the adequacy with which similar notions and concepts are expressed in different languages. Thus the researcher holds the view that the translation of modality between English and Arabic - especially in legal texts - demands a special attention which justifies the present work. In this regard, Lyons' (1977: 791) statement serves this argument: "The ambiguity found in sentences containing 'must' and 'may' is also found in comparable sentences, in other languages. This suggests the existence of modality, together with its accompanying difficulties, in most languages. Arabic is not an exception".

In more specific terms, Arabic, like English has modal qualified expressions although the two languages differ in the realization of this category. This assumption is based on two other assumptions. First, semantic modal concepts are common to human discourse in general and legal one in particular. Second, these concepts should find one way or another in the language.

Having the divergence modality realization between English and Arabic in mind, the subject is bound to be a source of difficulty to those who translate between English and Arabic, especially to those working on legal texts in these languages. Mere presentation of the different uses and meaning of modal expression in each of the two languages seems of little help. Instead, a clear conceptual understanding which tries to relate them to the situational and pragmatic meaning is required. This requirement – I strongly believe - would be fulfilled when a juxtaposition of representative sample of English legal texts and their Arabic translation is made.

2.4.3. Analysis of selected modal auxiliaries in English:

This section provides a detailed description of selected modal auxiliaries in English, i.e. must, can and should.

1. Must:
Must” is semantically the strongest out of all modal auxiliaries. It is used to show:

* Probability or to make a logical assumption, as in:
  - The accused must be out of town. His neighbors haven’t seen him for a while. This is an example of the use of „must” in epistemic modality. Here „must” is used by the speaker/writer to make a firm judgment on the basis of some evidence (the fact that the neighbors have not seen the accused for a while). „Must” offers a reasonable conclusion (Palmer 2001, 25).

* Necessity or obligation, as in:
  - All citizens must pay taxes.

It is worth drawing attention to the specificity of this sentence and comparing it to the following sentence:
  - All citizens have to pay taxes.

2. Can:

Modal auxiliary „can” is also semantically strong, however, less than „must”.

It has the following meanings:

* Suggestion of a possibility or giving an option, as in:
  - Senior citizens can apply online.

Example (63) implies that senior citizens are allowed to apply online, so they have the possibility to apply online but they do not the obligation to do so. This is the deontic meaning of „can”.

* Ability, as in:
  - The representative can speak three foreign languages.

Example implies that the representative have the internal disposal of speaking three foreign languages. In this meaning „can” may be sometimes substituted by „be able to”.

* Asking for or giving permission, as in:
  - The students can leave now, the class is over.

Example presents alethic meaning of „can” and suggests that the students have the permission to leave because of the objective circumstances (the class is over) indicate that. There is one more auxiliary verb, namely
“may” that presents the same modal meaning and is therefore very often used as a synonym of “can”.

* Showing impossibility, as in:

Senior citizens cannot apply online.

Example presents the negative form of the modal auxiliary “can” and it conveys impossibility. It is worth mentioning that while “mustn’t” does not negate the modality, “can-not” does negate it. If one does not want to negate modality but only proposition, he or she should use “may not”.

Modal auxiliary “can” has its past tense form which is “could”. It is usually used to show past ability, as in:

* The representative could speak three foreign languages when he was young. “Could” is also used to:

* ask polite questions:

  - Could you sign this document, please?

* show possibility (and impossibility):

  - The authorities could (not) be in the position to answer the question. – They had (did not have) the essential information to do so.

  However, these meanings of “could” in the author’s opinion are not very likely to appear in legal texts. The last use of “could”, namely suggesting a probability or opportunity or giving an option is expected to be present in legal texts. Example is presents this use of “could”:

  The president could try consulting the minister of defense in the case of a coup d’état.

**Should:**

Should” has also a weaker modal meaning than “must” and it does not express necessity, as many people probably think. “It expresses rather extreme likelihood, or a reasonable assumption or conclusion” (Palmer 1979: 59) It is used to show:

* Advisability, as in:

  - The poor should apply for the financial aid.

* Obligation:

  - The poor should submit the application for financial aid by the end of the month.
* Expectation:

- The poor should receive the financial aid within 30 days.

There are two important aspects of the modal auxiliary „should” . First of all, it is formally used as the past tense of „shall” but only in the reported speech. Secondly, „should” can be sometimes used interchangeably with the semimodal „ought to” , as in:
- You should pay for it tomorrow.
- You ought to pay for it tomorrow.

In this context both forms „should” and „ought to” semantically relate to „must” because they mark epistemic necessity. However, „must” seems to lay an absolute obligation, not envisaging non-compliance. „Should” and „ought to” express less absolute obligation and do not exclude non-compliance” (Palmer 1988: 132). It is also worth mentioning that „should” is more common in informal settings and therefore „ought to” is more likely to appear in legal texts. These aspects should be taken into account when translating and analyzing legal texts.

When it comes to the negative form of „should” – „shouldn” t” , it does not negate the modality of „should” but only the proposition. In order to negate the modality of „should” one could use „needn” t” or „needn” t have + past participle” (in the past tense). Compare:
- The poor shouldn” t apply for the financial aid. (There is a tentative obligation not to act).
- The poor needn” t apply for the financial aid. (There is absence of obligation in general).

Past tense is indicated by the following formula: should + have + past participle, as in:
- The poor should have applied for the financial aid.

This example implies that the poor failed to realize a necessary action.
Part five:

2.5. Previous studies:

In this study, the researcher found many considerable studies that have been conducted locally, regionally and internationally in the field of legal translation which have led – according to the researcher's point of view – to the development and progress at the level of carrying out the legal translation process. It is one of the most obtainable points that studies conducted in the field of legal translation in general are very appreciated in amount when compared with the studies conducted and discussed compare the structure of legal language specially that discussed the lexical structure which seem to be slight number of the studies around this field. So, some of these studies have evaluated the practicality and reliability of the English-Arabic translating legal texts. And then how can the job of translation among the different pair of language at the semantic and syntactic levels. These works and studies were collected and published in different ways internationally, regionally and locally and were presented in these ways:

a. Books:
Most of these books are a collection of what had been written and done in the field of legal translation, as the book of A Linguistic Analysis of Some Problems of Arabic-English Translation of Legal Texts Which was

b. Conferences:

c. Journals:

The first study is local thesis under the title: the problems of the application of machine translation with reference to lexical semantic outputs in legal and medical terms, published in 2012.

PhD thesis- Omdurman Islamic University, Family institute – by Shadia Ahmed Sherfi Eltyeb, and supervised by Dr. Abdelrahman Adam Hamid (U of K) – Faculty of Arts – Translation and Arabicization Unit.

The study was implemented in the field of machine translation (MT) to meet main objectives of how the researcher investigated the capability of MT as one of modern tools designed for the purposes of carrying out Translation.

The study adopted the descriptive method where the researcher made a comparison between pair of texts in legal and medical context then the researcher used Google translation as a modified and developed free sample.
The study has investigated many words in legal and medical texts using Google translation in their Translation, the main findings of the study are:
1. There is a problem in translation of legal semantics using machine translation.
2. The correct selection in the legal text showed that legal machine translation is not a reliable.(recommendations)

The researcher in this study found that it is very important in this study to handle with the essential part of this chapter which discusses the structure of the legal text. that it is very important to assess the legal text components in this study the researcher distributed nineteen words into one hundred twenty two places throughout the text then after analyzing these words it shows that the major problem of reliable and good legal translation is to get well knowledge about the lexicons and their semantics.

The second study is an international under the title The translatability of English legal sentences into Arabic using Google translation, by: Mohammad Al Shehab (Jadara University in Jordan).

Published by European Centre for Research Training and Development UK.

Objectives of the Study:
The foremost purpose of this study is to shed light on Google Translation (GT) translatability for English legal articles (sentences). It also aimed at analyzing errors committed by GT when translating from English into Arabic. the study seeks to answer the following question: To What extent does the correctness of translatability of Google in translating English legal sentences into Arabic? .This research adopts Šarčević (2000) functional equivalence that can be categorized into three levels: near equivalence, partial equivalence and non-equivalence. In data analysis the researcher adopted the qualitative analysis; the researcher analyzed the Arabic GT for the English articles.

The study results showed that the evaluation of GT is not fixed; it frequently enhances its systems by adding new languages and concepts Using GT for translating English legal sentences into Arabic is a new trend in the field of empirical research. In this respect, six English legal sentences were validated, and entered into Google to be translated into Arabic.
The researcher notices that the analysis of Google translation shows that translation for English legal sentences into Arabic is good with the level of partial equivalent. It poses a number of problems in translating the archaic English terms, in dealing with passive voice, and, as previously mentioned, in translating the modal shall. Although GT performance is never likely to reach the level of professionals, it can provide a quick translation for English-Arabic languages. While this study has not managed to analyze more English legal sentences, the evaluation done has been indicative and suggestive.

An international study under the title: A Linguistic Analysis of Some Problems of Arabic-English Translation of Legal Texts, with Special Reference to Contracts
By Ahmad Abdelmoneim Youssef Masry Zidan
This book first published 2015
Cambridge Scholars Publishing
Lady Stephenson Library, Newcastle upon Tyne, NE6 2PA, UK
This research aims to provide a description of legal language, including its development and its distinctive features. It also deals with the characteristics of legal text type in Arabic and in English with special reference to the language of contracts and the problems of translation between the two languages.

In this book the researcher gets nutrias information about The Notion of Legal Language – Real or Fictitious and the Definition of Legal Texts and the features Nature of Legal Language specially when relating to the lexical structure of legal language. Purpose of Translation of Legal Texts also the researcher found it very useful when this book elaborating and giving a full explanation of Syntactic Features of English Legal Texts with Reference to Contracts.

The next study is a local under the title: Arabic and English Formulation of Legal Texts:-A contrastive Study- scientific paper published in 2007 by Journal of Open University of Sudan ,by Fadl Allah Ismeil .
In this descriptive study, the main objective was to illustrate the difference in formulation between Arabic and English legal texts. That is because such difference constitutes one of the problem areas that translators, and indeed ordinary readers, normally encounter in legal texts.

In this study the researcher notices that the work falls into two main parts. The first part deals with the macro—structure of legal texts to show similarities and dissimilarities amongst them. The target of the second part is to specify more essential
language matters in which the writer innovates the method adopted is to cite an English text and its Arabic translation consecutively, followed by an English back translation of the Arabic itself to demonstrate the differences between the Arabic translation and the original English text. This is considered as the main point in this study the researcher found it useful.

University Kasdi merbah Ourgala
Faculty of Letters and Foreign Languages
Department of English Language
Publically defended On:04 / 07 /2014.
In this study the main objective was to sheds light on most common and most widespread problems that may face the translation in rendering collocation.

In this study the researcher desires to draw clear guidelines that help reducing mistakes when translating collocations. This research seeks to reduce the gravity of translation of collocation which comes as a result of the huge gap between both Arabic and English language whether on lexical or semantic level, as well as great diversity between Western and Arabic cultures.

The last study is a regional and it is under the title: Translating contracts between English and Arabic: Towards a more pragmatic outcome.
By:Abdel Karim Mohammad, Nabil Alawi and Maram Fakhouri
Department of English, An-Najah National University, Nablus, Palestine.
Accepted in 28.3.2010

This study divided into two parts. The first part aims at demonstrating how pragmatic and functional considerations are important in legal translation. The corpus the researchers relied on consisted of nine translated versions of three authentic contracts. A Real-Estate Contract, a Contract of Lease and an Employment Contract were commissioned to be translated by three professional translators certified by the Palestinian Ministry of Justice asking them to translate these texts the way they would usually deal with legally binding, official documents.

The second part explores the relevance of Vermeer's Skopos theory to the translation of contracts through a small pilot study that compares the work of translation students
with a broad, theoretical background and a professional translator uninformed about theories of translation. A group of graduate students of translation and applied linguistics and a professional translator were assigned to translate a "Power of Attorney" legal text from English into Arabic. They were all asked to translate the same text into a different context where it would be performing a new function.

The researcher notices approaches to legal translation have been mostly oriented towards the preservation of the letter rather than effective rendering in the target language, legal texts having always been accorded the status of ‘sensitive’ texts and treated as such.

This study demonstrates how standardized legal language features can still be tamed to serve the ultimate goal of successfully communicating the message across languages as intended and as commissioned. Unlike previous studies that were devoted to systemizing and mathematizing legal translation, this study focuses on communicative and functional approaches to contractual translation between English and Arabic.
CHAPTER THREE

METHODOLOGY OF THE STUDY
CHAPTER THREE

METHODOLOGY OF THE STUDY

This chapter is designed to discuss the methodological procedures of conducting this study. To achieve such points the researcher has adopted the experimental methodology. This chapter includes the explanation of the sample selection which was the test in this study and then conducting the reliability of these tests and their validity and finally analyzing these test indicators into findings.

3. 1 Sample of the study

The population of this study was represented by the students of the legal translation in the sixth semester, faculty of Shariaa and law, University of Sinnar to carry out the study. The number of those students were 140 where 80 one of them were selected as a random sample then latter the researcher selected a pilot sample of those 80 students (10) in order to conduct the reliability and validity of the test. Those students have just finished the first introductory course of legal translation in semester five as a part of the faculty syllabus. Therefore the students were expected to be able to comprehend, appreciate and express their ideas on legal language structure and legal translation. In addition 10 teachers who constitute the department of English language and routinely teach the legal translation course – were selected to be interviewed.

3. 2 Tools of the study:

Two tests were designed by the researcher (pre - test and post- test) in order to measure the knowledge of the students toward legal structure and translation process. These two tests were designed to extract the required information from translation students. Then the interview was designed to explain the required information about the differences between legal and ordinary English hence it was subtracted for 10 teachers of legal translation who have been teaching the courses of legal translation in English language department.

3. 3 Contents of the two tests:

The first test (pre- test) was designed to determine the primary knowledge of the students toward legal language and legal translation thus the first test was consisted of ten questions which were focused onto two major points of the study (knowledge of legal language and the process of legal translation itself), this test was subtracted to the students in a simple way to some extend at the beginning of the course. The second test (post- test) is designed to determine to what extent do the students improve their
knowledge of legal language structure and legal translation, specially this test was distributed for them at the end of the course after they have finished studying the legal translation course as an essential part of the faculty syllabus. As the researcher himself teaches the course. This test question was designed in more difficult and complex way in order to compare the first test records of students comparing with the second ones of the students who are suppose to receive a quiet enough pit about legal language structure and translating into Arabic. Both records of the students were compared and analyzed and took as strong evidences of findings.

3.4 validity of the test:

In this study the researcher adopted the face validity as it is straight forward type of validity in order to achieve the validity of both tests. These tests were subtracted and given to three senior staff members in the department of English language – faculty of Education, Sinja – University of Sinnar, after reading the two tests they suggested some amendments which were directly made by the researcher and the they proved its validity.

3.5 Reliability of the test:

Whereas the reliability of a certain test is the degree of which such a test suit what is designed to measure. Hence this study discusses and focuses on an exact certain area which the understanding of legal language structure, therefore, the researcher chooses to adopt Spearman Correlation Formula in order to approve the reliability of the tests, which is a statistical procedures that uses certain equation ' calculation 'and co-efficiency and designed to approve the reliability of the tests. As it has been mentioned before 10 of the students were chosen as a pilot sample from the total population of the study 80 students, in order to conduct the reliability of the two tests as follow:

<table>
<thead>
<tr>
<th>No</th>
<th>Student number</th>
<th>Test I marks</th>
<th>Test II marks</th>
<th>X</th>
<th>Y</th>
<th>D</th>
<th>D²</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>SHL/15/106</td>
<td>79</td>
<td>84</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>SHL/15/007</td>
<td>75</td>
<td>76</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>3</td>
<td>SHL/15/057</td>
<td>57</td>
<td>61</td>
<td>6</td>
<td>9</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td>4</td>
<td>SHL/15/058</td>
<td>71</td>
<td>91</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>4</td>
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<td>6</td>
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<td>7</td>
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<td>8</td>
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<tr>
<td></td>
<td>9</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>10</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sum</td>
<td>42</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Spearman ranging formula of correlation:**

\[
R = 1 - \frac{6 \times \sum D^2}{N(N^2 - 1)}
\]

**Description:**

\[
R = \text{Reliability.}
\]

\[
X = \text{Rank in first test.}
\]

\[
Y = \text{Rank in second test.}
\]

\[
D = \text{Difference between two ranks.}
\]

\[
N = \text{Number of pilot sample.}
\]

\[
R = 1 - \frac{6 \times 42}{10(100 - 1)}
\]

\[
R = 1 - \frac{256}{990} = 0.74141414
\]

\[
R = 0.742
\]

Spearman reliability formula for this data is 0.742 which proved that the two tests were found to be reliable.

**3.6 The contents of teachers' interview:**

The objectives of this interview are to find out the teachers' opinion about the legal English structure and the motivation among students to understand this strange
structure of language. The first, second, third and fourth questions of the interview were related to the structure of legal English and Arabic. The fifth, sixth and seventh questions covered the lexical items of legal English and its characteristics. The eighth, ninth and tenth questions were directly concerned about the students knowledge improvement in legal English structure and the improvement of their carrying out modal legal translation. The last open-ended question (eleventh and twelfth) were made up to state the teachers point of view on legal translation and legal English structure complexity. This teachers interview was documented in writing.

3.6.1 The validity of the teachers' interview:

In this study the researcher has chosen the face validity consulting three experts in the concerned field as referee for the validity of the interview, the referee were staff members in the University of Sinnar, faculty of education, department of English language. They suggested some amendments as they finally approved its' validity.

3.6.2 The reliability of the teachers' interview:

The total number of respondents to the teachers' interview is ten. To apply statistical program for testing reliability of the interview, sample should be large in number. In this study it's not possible to use such type of reliability testing, therefore the researcher applied the teachers' interview depending on its' validity confirm.

3.7. Procedures of the test:

The first test was subtracted to (80) students in the sixth semester by the beginning of the semester in the first lecture where the researcher is a permanent lecturer of legal translation, in the department of English language – faculty of Education – University of Sinnar. The researcher distributed the tests to the students himself and taught the students the legal translation course. The after-test was distributed to the students by the end of the course. In both tests the researcher used to tell the students about the purpose of the tests and he advised them to answer the test question clearly as demanded and checked them in case of any inquiries or explanation. After completing their answers, the researcher keeps the students answer and latterly he made one list include the two mark of the first test and second one.

3.7.1. Procedures of data analysis:

The analysis of the data in the current study is depended on comparing the two students' marks in the two tests. Each student has two marks in the first test and second test.
CHAPTER FOUR
DISCUSSION OF DATA ANALYSIS
CHAPTER FOUR
DISCUSSION OF DATA ANALYSIS

4.0 Introduction:
This chapter is designed to cover data presentation and analysis. It therefore represents the description and discussion of the data that were collected from the students using the student two tests and then the teachers' interview as it were represented as study tools of data collecting.

4.1 Descriptive Statistics of the students two tests:
The respondents' achievement varied to the two tests according to the percentage of the failure and pass. Table (4.1) shows the number and percentage of participants in the two tests among the students of law, University of Sinnar.

Table (4.1):
The distribution of the students marks in the two tests.

<table>
<thead>
<tr>
<th>Category</th>
<th>Marks</th>
<th>1st Test</th>
<th>2nd Test</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Frequency</td>
<td>Percent</td>
</tr>
<tr>
<td>A</td>
<td>100-80</td>
<td>1</td>
<td>1.25%</td>
</tr>
<tr>
<td>B</td>
<td>60-79</td>
<td>31</td>
<td>38.75%</td>
</tr>
<tr>
<td>C</td>
<td>50-59</td>
<td>36</td>
<td>45%</td>
</tr>
<tr>
<td>F</td>
<td>0-49</td>
<td>12</td>
<td>15%</td>
</tr>
<tr>
<td>Total</td>
<td>80</td>
<td>100%</td>
<td>80</td>
</tr>
</tbody>
</table>

In the above table which illustrates the range of marks and grades obtained by the students in the first test and in the second test – as mentioned the total number of the students were 80. In the space this researcher will explain the results of the first test compared with the second test results according to four categories in order to facilitate the analysis and contrast process.

The first category which is named as category (A) shows that only one student achieved the highest mark in the first test which was 80 with percentage 1.25, whereas in the second test, result shows that 15 students were enlisted in category (A) as they
have got more than 80 in the second test with percentage 18.75, the most mentioned in this side is that the top mark in the second test was 91 recorded by another student who was in the first test attained 71 which means that he also recorded the noticeable highest increase which is 21 marks as illustrated in the following graphic.

**Graph (1): shows the increase of the students in category (A).**

Category A = the number of students who achieved more than 80 in both test.

The second category which named as category (B) shows that the numbers of the students who scored more than 60 in the first test are 31 with percentage 38.75%. Whereas the numbers of the students who scored more than 60 in the second test, are 45 with percentage 56.25%. Thus the percentage of students in this category has increased from 38.75% to 56.25%.
Graph (2): shows the increase of the students in category (B):

Category B = the number of students who achieved more than 60 in both test.

The third category which is named as category (C) shows that the numbers of the students who scored more than 50 in the first test are 36 with percentage 45%. Whereas the numbers of the students who scored more than 50 in the second test, are 17 with percentage 21.25%. Thus the percentage of students in this category has decreased from 38.75% to 56.25%. The researcher noted that the decreasing of this category is because of the noticeable increasing in category A and category B.
Category C = the number of students who achieved more than 50 in both test.

The fourth category which is named as category (F) shows that the numbers of the students who scored less than 50 in the first test are 12 with percentage 15%. Whereas the numbers of the students who scored less than 50 in the second test, are 3 with percentage 3.75%. This category illustrates the number of the students who get the lowest marks are decreased from percentage 15% to 3.75%. The researcher noted that the students in this category are according to academic norms and regulations failed to pass both tests.
Graph (4): shows the decreasing of the students in category (D):
Category F = the number of students who achieved less than 50 in both test.

4.2 Description and discussion of the teachers' interview:

The answer provided by the teachers in response to the questions of interview were carefully read and examined by the researcher.

4.2.1 To what extent are legal translation students familiar with the concept of legal language?

All teachers agreed that legal translation students' concept of legal language is poor they have also agreed that most of the student do not know about the concept of legal language specially those students who have recently started to study legal translation.

4.2.2 What is the knowledge level among legal translation students about the differences between legal and ordinary language?

All teachers agreed that the knowledge level among legal translation students about the differences between legal and ordinary language is law, so the interview showed that 7 of teachers stated that knowledge level of legal translation students is weak while 2 of the teachers stated that it is very low while one of the teachers stated that it is generally low.
4.2.3 What are the difficulties that may face legal translation students?

8 of the teachers have agreed the the difficulties may face legal translation students to are the complexity of the structure of legal language itself and its' special terms and phrases, while 2 of the teachers have agreed that the difficulties may face legal translation students are the special terms and lexicons in legal register.

4.2.4 What is the importance of motivating legal translation students to understand the structure of legal language?

All of the teachers have totally agreed that it's important to motivate legal translation students to understand the structure of legal language. Thus some of the teachers proposed many topics that may motivate students while others describe the students’ motivation as a key role in good translation.

4.2.5 What is the importance of teaching legal translation students the structural difference between English and Arabic When teaching them legal translation?

All teachers agreed on the importance of teaching legal translation students the structural difference between English and Arabic when teaching them legal translation, as they agreed that it can widen their knowledge and decrease translation errors among students.

4.2.6 To what extent is it important to teach legal translation students the lexicons?

All teachers agreed that it is important to teach legal translation students the lexicons as they stated that the essential core of legal translation is to have the enough knowledge about lexicons.

4.2.7 What is the importance of teaching legal translation students the structural features of English and Arabic?

All teachers agreed that it is important to teach legal translation students the lexical structure of English and Arabic specially when translate from English to Arabic and vice versa because lexical structure in English is differ from Arabic one.

4.2.8 What is the importance of dividing the legal translation course into three main categories (contract, Agreement and MOU)?
7 of the teachers agreed that it is important to divide the legal translation course into three main categories such as contract, Agreement and MOU while 2 of the teachers stated that it is not probably important whereas 1 of the teachers stated that it is not important rather than it is important to first let the student understand the concept of legal translation process.

4.2.9 What are the aspects of knowledge that legal translation students should have?

The answers of the teachers of this question vary: 3 of them stated that it depends on teaching language structure in both (English and Arabic) while 3 of the teachers supposed that students should improves their skills by practicing and translate many other legal texts out of the course requirements, whereas 4 of the teachers explained that such improvements can be done through practicing many vary text in certain legal specified legal language.

4.2.10 to what extent do you agree that understanding the translation process itself is an essential factor of modal and good translation?

All teachers agreed and confirmed their agreement on that the understanding of translation process itself is an essential factor of modal and good translation.

4.2.11 what is your opinion about teaching legal translation, in general?

4.2.12 what is your suggestion(s) to improve the students’ skills of carrying out legal translation?

The answers of the teachers to the above two open-ended questions were all discussed around the importance of legal translation which should have it seriously in academic system and curricula and legal translation course should be taught by professional teachers.

4.3 Discussion of the results in Relation to the Hypothesis of the study

4.3.1 Testing Hypothesis (1)

The modality of a good translation of legal English texts into Arabic is influenced by the whole concept of translation among legal translation students.

The first hypothesis is supported by the students tests as shown in table 4.1 as the students were exposed to the first test and they have studied and understood the legal
English and Arabic formation students performance in the first test as it illustrated in graph 1 and 2 while the failure percentage in graph 4 decreased which strongly supported this hypothesis. Also this hypothesis is supported by the teachers answer toward interview who agreed that students must know the concept of legal language illustrated in 4.2.1, 4.2.2, 4.2.3 and 4.2.10

4.3.2 Testing Hypothesis (2)

*The language of law differs from ordinary (general) language according to the structures of lexical items.*

The second hypothesis is supported by the teachers answer on interview that is 4.2.4 and 4.2.5.

4.3.3 Testing Hypothesis (3)

*The knowledge of the difference between general language and legal language enhance clear and precise translation* among legal translation students.

The third hypothesis is supported by the students test results in table 4.1 which evidently shows improvements in their performance in test 2 compared with the first one. *Also this hypothesis is supported by the teachers’ answers on interview in 4.2.2, 4.2.3 and 4.2.9.*

4.3.4 Testing Hypothesis (4)

*The lexical features of legal language affect the process of legal translation from English into Arabic among legal translation students.*

The fourth hypothesis is supported by the results of the students tests as illustrated in table 4.1 and graph 1, 2 and 4. This hypothesis is also proved by the teachers’ responses on interview in 4.2.6 and 4.2.7.

In the following chapter conclusion, findings and recommendations will be presented.
CHAPTER FIVE
CONCLUSION AND RECOMMENDATIONS
CHAPTER FIVE
CONCLUSION AND RECOMMENDATIONS

5.0. Introduction

This chapter is designed to present the conclusion, findings and recommendations. In this study the researcher adopted the experimental analytical method. Moreover the suggestions for future studies are also included in this chapter.

5.1. Conclusion

This study aimed at investigating the significance of knowledge of the lexical and structural features of the legal language in translating English legal texts into Arabic among legal translation students. In order to collect the concerned data in this study, the researcher used two tools: a pre-test and post-test for the legal translation students and the interview for the teachers of legal translation. The data collected were analyzed using the experimental analytical method. Based on the analysis of the collected data from using both tools and depending on the discussion of this data, the study has reached the following findings.

5.2. Findings

1. The increasing of the knowledge on the lexical features of legal language in both English and Arabic among the students of legal translation will positively affects on legal translation students' performance when translating English legal texts into Arabic as in table 4.1 showed students marks were highly increased in the second test. Also it is supported by 100% of the legal translation teachers.

2. Special and prominent differences between legal language and ordinary language occurred and found which is supported by 100% of the teachers who totally agreed upon such differences.

3. Understanding of the differences between legal and ordinary language by legal translation students affects positively in carrying out precise and good translation which is supported by the students’ results in table 4.1 and proved by teachers' response on interview 90%.

4. Knowledge of the concept of legal translation among legal translation students plays an important role: it helps students in carrying out modal and good translation
which is reflected in the result of the students in the second test which was noticeably improved as illustrated in table 4.1 and in graphs 1, 2 and 4. Also this finding approved by 100% of the teachers who confirmed a strong agreement on the importance of legal translation concept among students.

5.3. Summary of the findings

Building on its' investigation of the Significance of Knowledge of the Lexical and structural Features of the Legal Language in Translating English Legal Texts into Arabic among legal translation students the study find out it important enough to make the students understand Lexical and structural Features of the Legal Language in order to enable them carry out modal translation.

5.4. Recommendations

After stating the findings of this study, the researcher would like to make the following recommendations:

1. Teachers should focus on the knowledge of the legal translation among legal translation students.
2. Teachers must intensify the understanding of the lexical and structural differences between English Arabic.
3. Legal Translation students should be aware of the differences between ordinary and legal language because of the special and complex use of terms and lexicons in legal language.
4. The legal translation curricula among universities should consider and contain enough knowledge about lexical and structural differences between English Arabic as well as differences between general and legal language.
5. The teaching of legal translation courses should be done by professional and qualified teachers.

5.5. Suggestions for further studies

The researcher would like to suggest the following topics for further studies:

1. The importance of teaching legal translation students legal English structure focusing on contracts Register.
2. Some features of legal English structure focusing on International Agreement and MOUs- an analytical study.
3. Legal Translation Teachers' attitudes toward teaching legal translation.
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صبره محمود محمد علي، 2003. ترجمة العقود المدنية ط 1
مصر: دار الكتب القانونية
A. write the equivalent Arabic meaning in front of each of the following terms:

<table>
<thead>
<tr>
<th>No</th>
<th>English</th>
<th>Arabic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Article</td>
<td>خالي القبول</td>
</tr>
<tr>
<td>2</td>
<td>Code</td>
<td>مذكور انفا</td>
</tr>
<tr>
<td>3</td>
<td>Contract</td>
<td>مذكور انفا</td>
</tr>
<tr>
<td>4</td>
<td>Party</td>
<td>خالي القبول</td>
</tr>
<tr>
<td>5</td>
<td>Evidence</td>
<td>غش وخداع</td>
</tr>
<tr>
<td>6</td>
<td>Landlord</td>
<td>بائع واسقط وتنازل تحكيم</td>
</tr>
<tr>
<td>7</td>
<td>Claim</td>
<td>ما لم يتفق علي غير ذلك</td>
</tr>
<tr>
<td>8</td>
<td>Acceptance</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Implied</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Loan</td>
<td></td>
</tr>
</tbody>
</table>

b. Match A with B:

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consent</td>
<td>ما لم يتفق علي غير ذلك</td>
</tr>
<tr>
<td>Arbitration</td>
<td>خالي القبول</td>
</tr>
<tr>
<td>Fraud and deceit</td>
<td>مذكور انفا</td>
</tr>
<tr>
<td>sell, and transfer Grants,</td>
<td>غش وخداع</td>
</tr>
<tr>
<td>unless otherwise agreed to</td>
<td></td>
</tr>
<tr>
<td>Hereafter</td>
<td></td>
</tr>
<tr>
<td>Free and clear</td>
<td></td>
</tr>
</tbody>
</table>

C. Translate the following texts into Arabic:

The Constitution of the Republic of Sudan includes, in addition to Article 6 mentioned above, explicit guarantee of the right to freedom of expression in Article 42 thereof...
Whereas Landlord desires to lease the Premises to Tenant upon the terms and conditions as herein contained.

The judge, during the consideration of the alimony case, may decide a temporary alimony estimate for the wife from her husband. This decision will be enforceable given that the above decision is a ramification of the original verdict.
Appendix (2)
2nd test

This test is designed for academic purpose.
Please answer all questions:

A. write the equivalent Arabic meaning in front of each of the following terms:

<table>
<thead>
<tr>
<th>No</th>
<th>English</th>
<th>Arabic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Litigation</td>
<td>بلد</td>
</tr>
<tr>
<td>2</td>
<td>Defendant</td>
<td>عمل وفعل</td>
</tr>
<tr>
<td>3</td>
<td>Plaintiff</td>
<td>حسب ما هو مذكور انفا</td>
</tr>
<tr>
<td>4</td>
<td>power of attorney</td>
<td>بموجب هذه الوثيقة</td>
</tr>
<tr>
<td>5</td>
<td>legal capacity</td>
<td>عند وفاة</td>
</tr>
<tr>
<td>6</td>
<td>Sentence</td>
<td>يحافظ علي</td>
</tr>
<tr>
<td>7</td>
<td>resjudicata</td>
<td>بما تقدم/يذلک</td>
</tr>
<tr>
<td>8</td>
<td>Testimony</td>
<td>يشار إليه لاحقا</td>
</tr>
<tr>
<td>9</td>
<td>Lease</td>
<td>بحسب الاحوال</td>
</tr>
<tr>
<td>10</td>
<td>Conviction</td>
<td>لاغ وباطل</td>
</tr>
</tbody>
</table>

b. Match A with B:

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Keep and maintain</td>
<td>بلد</td>
</tr>
<tr>
<td>Save and remain</td>
<td>عمل وفعل</td>
</tr>
<tr>
<td>upon the death of</td>
<td>حسب ما هو مذكور انفا</td>
</tr>
<tr>
<td>Null and void</td>
<td>بموجب هذه الوثيقة</td>
</tr>
<tr>
<td>Act and deed</td>
<td>عند وفاة</td>
</tr>
<tr>
<td>As fore said</td>
<td>يحافظ علي</td>
</tr>
<tr>
<td>As the case may be</td>
<td>بما تقدم/يذلک</td>
</tr>
<tr>
<td>Clause</td>
<td>يشار إليه لاحقا</td>
</tr>
<tr>
<td>Hereby</td>
<td>بحسب الاحوال</td>
</tr>
<tr>
<td>Whereof</td>
<td>لاغ وباطل</td>
</tr>
</tbody>
</table>
Translate the following text and expression into Arabic:

This Agreement is made and entered into this Sunday, corresponding to 13/3 / 2007.

By and Between:
First: Mr. Ahmed Ibrahim ,nationality Sudanese herein represented by Mr. Tarik Salim in his capacity as the attorney of the Lessor who has the power of proxy, Residing at Sinnar (First Party - Lessor)
Second: Mr. Omer Hassan nationality Sudanese passport No :9999 Residing at Sinnar (Second Party - Lessee).

If the Lessee breaches any of the provisions herein set forth, this Agreement shall be rescindable without need to notice or warning and the Lessee shall pay the whole due rent for the remainder term.

The General Assembly refers to its resolution No 35/206N of December 1980. It also expresses its grave concern about the inhuman oppression of women and children beneath apartheid.
Appendix (3)

This is an interview designed as a tool to collect data in order to evaluate the Significance of Knowledge of the Lexical and Structural Features of the Legal Language in Translating English Legal Texts into Arabic, as part of PhD study.

Dear, Teacher

You are kindly requested to answer the following questions in the intended given spaces, make sure that your cooperation is highly appreciated and your participation is of great help and will only be used for the purpose of this study.

The researcher

Name:…………………………………………… Post:………………

Please answer all of the following questions.

1. What is the legal translation students' concept of legal language?

2. What is the knowledge level among legal translation students about the differences between legal and ordinary language?

3. What are the difficulties that may face legal translation students?

4. What is the importance of motivating legal translation students to understand the structure of legal language?

5. What is the importance of teaching legal translation students the structural difference between English and Arabic When teaching them legal translation?

6. To what extent is it important to teach legal translation students the lexicons?
7. What is the importance of teaching legal translation students the lexical structure of English and Arabic?

8. What is the importance of dividing the legal translation course into three main categories (contract, Agreement and MOU)?

9. What are the knowledge improvements that legal translation students should have?

10. To what extent do you agree that understanding the translation process itself is an essential factor of modal and good translation?

11. What is your opinion about legal translation teaching, in general?

12. What is your suggestion(s) to improve the students' skills of carrying out legal translation?
Appendix (4)
Students’ sheet marks in 1st and 2nd test:

جامعة سنار
كلية الشريعة والقانون
برنامج البكالوريوس

رمز المقرر: 0308015
الفصل الدراسي: 5
اسم المقرر: الترجمة القانونية
أستاذ المقرر: أ.عمر عبدالله
<table>
<thead>
<tr>
<th>الرقم</th>
<th>اسم الطالب</th>
<th>درجة الاختبار الأول</th>
<th>درجة الاختبار الثاني</th>
</tr>
</thead>
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<tr>
<td>SHL/15/001</td>
<td>انتساب محمد عثمان علي</td>
<td>76</td>
<td>65</td>
</tr>
<tr>
<td>SHL/15/004</td>
<td>إبراهيم رحمة الله إبراهيم محمد</td>
<td>71</td>
<td>54</td>
</tr>
<tr>
<td>SHL/15/007</td>
<td>أبوكر بشير حامد محمد</td>
<td>76</td>
<td>64</td>
</tr>
<tr>
<td>SHL/15/008</td>
<td>أبو در أحمد شعبان أحمد</td>
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<td>55</td>
</tr>
<tr>
<td>SHL/15/009</td>
<td>أبوذر باكر محمد علي أحمد</td>
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<td>52</td>
</tr>
<tr>
<td>SHL/15/010</td>
<td>أثار بشير مكي فضل</td>
<td>72</td>
<td>61</td>
</tr>
<tr>
<td>SHL/15/011</td>
<td>اجلال عبد الله عبد الله عبد الله</td>
<td>81</td>
<td>69</td>
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<tr>
<td>SHL/15/012</td>
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<td>51</td>
</tr>
<tr>
<td>SHL/15/013</td>
<td>أحمد حساب الرسول أحمد موسى</td>
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<td>39</td>
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<tr>
<td>SHL/15/018</td>
<td>أحمد حسن أفودي بخت</td>
<td>66</td>
<td>50</td>
</tr>
<tr>
<td>SHL/15/022</td>
<td>أحمد كمال أحمد الفوض</td>
<td>55</td>
<td>42</td>
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<tr>
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<td>أحمد محمد عبود الدورمحمد</td>
<td>79</td>
<td>66</td>
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<tr>
<td>SHL/15/025</td>
<td>ادم أحمد مصطفى محمد</td>
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<td>52</td>
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<tr>
<td>SHL/15/027</td>
<td>ادم زكريا عبد الله عثمان</td>
<td>70</td>
<td>54</td>
</tr>
<tr>
<td>SHL/15/029</td>
<td>ادم عبد الله عثمان نصر</td>
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<td>53</td>
</tr>
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<td>66</td>
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<td>SHL/15/031</td>
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<td>80</td>
<td>66</td>
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<td>SHL/15/032</td>
<td>اساوع عبدالفضل عبد الله أحمد</td>
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<td>33</td>
</tr>
<tr>
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<tr>
<td>SHL/15/034</td>
<td>أسعدك رونس عبد</td>
<td>71</td>
<td>51</td>
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<tr>
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<tr>
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<td>65</td>
</tr>
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<td>50</td>
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<tr>
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<td>28</td>
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<tr>
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<td>52</td>
</tr>
<tr>
<td>SHL/15/044</td>
<td>المدادي المهدي السيد خليل</td>
<td>59</td>
<td>50</td>
</tr>
<tr>
<td>SHL/15/045</td>
<td>المدادي علي حيدر نصر</td>
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<td>56</td>
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<tr>
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</tr>
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<td>83</td>
<td>61</td>
</tr>
<tr>
<td>SHL/15/048</td>
<td>النذير أحمد إبراهيم</td>
<td>64</td>
<td>54</td>
</tr>
<tr>
<td>SHL/15/049</td>
<td>النور عال مدار العوض البيكي</td>
<td>52</td>
<td>38</td>
</tr>
<tr>
<td>SHL/15/051</td>
<td>الياس علي هارون عبد الله</td>
<td>67</td>
<td>55</td>
</tr>
<tr>
<td>SHL/15/052</td>
<td>أمثال عادل كمال الدين محمد فرح</td>
<td>58</td>
<td>50</td>
</tr>
<tr>
<td>SHL/15/053</td>
<td>أمية ابراهيم عمال الدين</td>
<td>59</td>
<td>59</td>
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<tr>
<td>الرقم</td>
<td>الاسم الطالب</td>
<td>الدرجة الإختبار الأول</td>
<td>الدرجة الإختبار الثاني</td>
</tr>
<tr>
<td>-------</td>
<td>--------------</td>
<td>------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>SHL/15/056</td>
<td>امنة عمر أحمد عباد</td>
<td>66</td>
<td>38</td>
</tr>
<tr>
<td>SHL/15/057</td>
<td>امنة دعاء الله أحمد علي</td>
<td>56</td>
<td>39</td>
</tr>
<tr>
<td>SHL/15/058</td>
<td>امنية شيرالدين رحمة الله قسم السيد</td>
<td>82</td>
<td>40</td>
</tr>
<tr>
<td>SHL/15/059</td>
<td>امية عبدالحليم حمد الله الأمام</td>
<td>71</td>
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</tr>
<tr>
<td>SHL/15/060</td>
<td>ايمن حسن عطية امامة</td>
<td>60</td>
<td>42</td>
</tr>
<tr>
<td>SHL/15/061</td>
<td>ايمن صديق بشير اسحق</td>
<td>51</td>
<td>43</td>
</tr>
<tr>
<td>SHL/15/062</td>
<td>باستاف نكى يوسف</td>
<td>35</td>
<td>44</td>
</tr>
<tr>
<td>SHL/15/063</td>
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</tr>
<tr>
<td>SHL/15/065</td>
<td>بشير عوض سليمان</td>
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<td>47</td>
</tr>
<tr>
<td>SHL/15/066</td>
<td>بطان ادم سليمان ادم</td>
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<td>48</td>
</tr>
<tr>
<td>SHL/15/067</td>
<td>بكري سعيد ركبا</td>
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</tr>
<tr>
<td>SHL/15/068</td>
<td>تهيل الهادي محمد ادريس</td>
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<td>50</td>
</tr>
<tr>
<td>SHL/15/069</td>
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<td>51</td>
</tr>
<tr>
<td>SHL/15/070</td>
<td>جبريل احمد سالم صالح</td>
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<td>52</td>
</tr>
<tr>
<td>SHL/15/071</td>
<td>هليلة شمس الدين الصنعي محمد</td>
<td>54</td>
<td>53</td>
</tr>
<tr>
<td>SHL/15/072</td>
<td>جهاندرازاحم احمدعلي</td>
<td>64</td>
<td>54</td>
</tr>
<tr>
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