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## *Issues of equivalence in the Moroccan legal text*

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**Abstract:**

This article aims; first of all, to explore good practices relating to the translation of a particular textual genre, in this case the legal text, in particular via two angles of attack, namely, on the one hand, the challenges of interpretation and the quest for the legal semantic core. And on the other hand, the problem of equivalence, its theoretical underpinnings as well as its practical implications. Also, the Moroccan legal text will be questioned in the light of translation theories, in particular the types of difficulty and cultural specificities inherent to legal terminology in a context permeated by legal rules inspired by Islamic law, specifically Malekite dogma, coexisting with Moroccan customary law, French law, and international law. Finally, it amounts to asking ourselves what we do when we translate a legal corpus.

**Keywords:** hermeneutics, interpretation, equivalence, comparative law, translation, jurilinguistics, legal translation.

## قضايا التكافؤ في النص القانوني المغربي

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### ملخص:

تهدف هذه المقالة ؛ بادئ ذي بدء ، لاستكشاف الممارسات الجيدة المتعلقة بترجمة نوع نصي معين ، في هذه الحالة النص القانوني ، ولأسيما من خلال زاويتين ، وهما ، من جهة ، تحديات التفسير والبحث عن الجوهر الدلالي في النص القانوني. ومن جهة أخرى، مشكلة التكافؤ وأساسه النظرية وآثاره العملية. كما سيتم مساءلة النص القانوني المغربي في ضوء نظريات الترجمة، ولأسيما أنواع الصعوبات والخصوصيات الثقافية الملازمة للمصطلحات القانونية في سياق تتخلله القواعد القانونية المستوحاة من الشريعة الإسلامية، وتحديداً العقيدة المالكية، المتجاوزة في الفضاء القانوني المغربي مع العرف المحلي والقانون الفرنسي والقانون الدولي. وأخيراً، فإن هذا المقال يحول أن يجب عن التساؤل حول ما نفعله عندما نترجم النصوص قانونية.

**كلمات مفتاحية:** التفسير ، التكافؤ ، القانون المقارن ، الترجمة، اللسانيات القانونية، الترجمة القانونية.

## 1. INTRODUCTION

The Moroccan legal space is characterized by the multiplicity of its affluence and the diversity of its sources. Indeed, in addition to Muslim law, which is essentially inspired by the precepts of the Holy Koran, the hadiths of the prophet Mohammed and his tradition, Moroccan law is strongly inspired by French and international law and in some limited cases by customary law.

Due to the social nature of the law, translating a legal text amounts to transferring a social cultural product into another cultural container. These specificities make legal translation a perilous activity, requiring its own theoretical arsenal and methodology. To this end, the proximity or even cohabitation between the three legal norms within Moroccan law, namely Muslim law, customary law and the influence of the Napoleonic Code, undoubtedly contribute to extending the spectrum of interpretation and thus the problem of equivalence. The translation operation, however, deals with texts whose content, more or less specialized, falls within a specific, essentially pragmatic field. Language is the common denominator, with all its ambiguities, gaps, and limitations, which are due to the nature of the human mind. However, these signs, which are susceptible to different meanings and multiple nuances, remain subject to interpretation. Hence the difficulty inherent in the translator's task of grasping the meaning of the source text in its finest nuances and reproducing it, conveying it, in other words, conveying it in an equivalent manner in the target text. How then is equivalence achieved in legal translation, especially in the case of two legal systems that coexist, yet are different because they were born in different spaces, each with different socio-political conditions? What is translated in legal translation? Are legal translations equivalent to the original texts? What is equivalence?

## ***2. Legal hermeneutics***

### ***2.1 Aspects of legal text interpretation***

Interpretation, in other words a thought of understanding, in more scholarly terms hermeneutics aims, in the first place, at an objectivity of knowledge. Moreover, the legal field is the field of objectivity, by excellence, since laws are nothing other than norms that tend to escape subjectivity as much as possible.

Interpretation through its mechanisms and tools becomes our common language, in that it allows us to analyze the process of the translating activity and the result of the operation of interlinguistic transfer, marking out through these operations the paths of understanding and indicating the milestones of appropriation despite the gaps between theory and hermeneutic praxis. Through a hypotyposis of Umberto Eco's quotation, "translation is the language of Europe", we would be tempted to say that interpretation is the language of humanity, in the sense that it is the true manifestation of intelligence and intelligibility, particularly in the context of specialized translation, in this case legal translation, where interpretation becomes a last resort in the face of socio-cultural contexts that have left their mark on legal norms at the time of their genesis.

It should always be emphasized that the translating operation is the practical corollary of interpretation, another intuitive, conceptual and mental element. In other words, interpretation will only have a concrete existence through translation, whether it is internal, i.e. intralinguistic, or external, i.e. interlinguistic, as the French philologist and Latinist Jacques Perret explains in this very precise passage: "Reading and translating are two things; before thinking of translating a text, one must first have understood it for oneself. And no doubt it almost always happens that it is only in the effort to translate it into one's own language that the personal, ineffable understanding ... of a foreign text becomes definitively clear to any reader " (Perret, 1960, p.11).

Although legal translation has characteristics that distinguish it from other forms of translation, we must ask ourselves about the possible interaction between law, especially comparative law, and hermeneutics. This leads us to wonder about the nature of interpretation and the conditions of its realization in the case of the legal text, in this case Moroccan law.

As François Ost, author of “Le droit comme traduction”, explains, "if translation is rich in a solid methodology, it also carries with it an ethic - an ethic of 'hospitality'. Indeed, like any translating activity, the legal translation operation is made of awareness of one's own limits, respect for the word of the other and cooperative dialogue.

It is obvious that the legal text is not the sum of specialized terms specific to a given area of law, it is above all a vision of the world and a standard decided by the authority invested. As Montesquieu says so well in “De l'Esprit des Lois”, one should be able to grasp the quintessence of laws, the spirit of laws, the semantic core that is revealed through the hermeneutic paradigm. Moreover, for Umberto Eco, negotiating in translation means counting losses and compensations. We know that several solutions are available to the translator when he is placed in front of the original text; he can opt either for a translation that closely follows the wording, the words, or for a freer approach. In other words, the letter or the spirit. Translating the text to extract meaning and significance in order to produce a satisfactory translation from the point of view of both the letter and the spirit is the translator's very function.

From a philological point of view, hermeneia means, in Greek mythology, "to bring the dark to light". Hermes, the messenger of the gods, is the one who invented language as a medium for interpretation. Hence, many hermeneutics think and believe, not without reason, that language itself is interpretation, and not simply the object of interpretation.

Paul Ricoeur has often shown that in the first treatise of "The Logic of Aristotle", the "Peri Hermeneias", and the second work of the organon, to use a term from medieval scholasticism, that it is language itself that is interpretation. We relate to things by means of signs. This is the first hermeneutical relationship.

Translating is a difficult thing, affirmed Gérard Cornu, author of the legal vocabulary, but translating legal texts, he said, is even more difficult, because "where they add up, bilingualism and bijuralism bring complexity to a paroxysm". By acquiring a particular language, the law seeks to give the norm the effectiveness and imperative nature necessary to organize life in society. Indeed, the concern for organization is a characteristic shared by law and language, insofar as the norm governs both areas. Better still, law can only acquire its normative force through language; in other words, the linguistic norm is grafted onto the legal language to give legal texts or documents that make use of the law a pragmatic and sacramental force.

Before outlining some milestones for the translation of legal texts, it is appropriate to consider the language of law as a language of specialization. The problem of translation applied to the legal text is posed in these terms. The next step is to consider practical, even concrete, solutions to the problem posed to the translator by the translation of legal texts.

For the sake of history, as they say, in the middle Ages and during the Italian Renaissance, schools of glossators, commentators, distinguished themselves by their approach to the interpretation of "laws" (mainly Justinian's Corpus Juris Civilis). Indeed, glossators were medieval jurists whose teaching method consisted in analyzing legal texts in the form of glosses, originally interlinear or marginal, elucidating the meaning of words, a kind of writing on writing.

This is, in fact, the idea of the palimpsest if we borrow the concept consecrated by Gérard Genette, a legal palimpsest. Legal translation would be a kind of rewriting of norms already fixed mainly at the level of form and content.

In this wake, let us recall that the period of legal glossators began with the rebirth of the study of Roman law, in Bologna, at the end of the 11<sup>th</sup> century. One of their first tasks was a reconstruction of the laws contained in the Justinian Code, by means of a comparison of existing manuscripts. In fact, the University of Bologna in Italy gave birth to a "Legal Renaissance" in the 11<sup>th</sup> century, when the Corpus Juris Civilis was rediscovered and systematically studied. It was an interpretative Renaissance. Subsequently, these were fully developed, notably by the angelic doctor, Thomas Aquinas.

Since then, interpretation has always been at the center of legal thought. Moreover, the importance of language in law has led to in-depth reflection by jurists accompanied by eminent works in legal philosophy, semiotics and legal linguistics. However, questions continue to be asked about the nature of the language to be used in a given legal system.

Whether written or spoken, all legal procedures revolve around words and terms. It is therefore essential to convey the message in a clear and detailed manner to avoid ambiguity or confusion about the terms of a contract or court case. However, with so many details to be incorporated into every document, it can become quite difficult to understand them in a single, dense language of so-called legal jargon. However, legal translation is not simply a literal matter of substituting words and phrases from one language to another. The two main aspects of legal translation that make it such a difficult and demanding profession are that the translator must be able to understand the legal terminology used in the source and target languages as well as the nuances of the law in the two countries where both languages are used. In this sense,



Hugues Rabault states that "the formulation of legal norms in the form of sacred texts is common, notably, to the Greeks, Latins and Hebrews" (Rabault, 2007) which explains to a large extent the solemn and sacramental style of the legal texts of these and other cultures.

Knowledge of the law allows the translator to adapt creatively to references to legal terms in the document he or she translates that have no immediate equivalent in the legal system of the country where the target language is common. There may be no equivalent at all, in which case it is the translator's responsibility to work around the differences and difficulties inherent in the technicality of legal language. Describing the challenges of legal translation, Jean-Claude G mar states that "the word tree, such as the emerged tip of the iceberg that reveals only a fragment of its gigantic mass, hides the forest of concepts, which rest on a base of several floors, catacombs where the mystery of their origin lies. Most of the time, one believes to grasp the truth of the words while we only fly over the foam of the meaning, hidden in the depths of language", (G mar, 2015).

## ***2.2 Legal theories of interpretation***

Law being a social phenomenon, a given cultural product, specific to each society and having a unique invoice. G mar specifies to this effect that "the discourse of law carries a cultural dimension that is reflected not only in the words or terms specific to a legal system, but also in the way they are expressed". (G mar, 1979, p.38).

Moreover, like any translation, the translation of legal texts requires both linguistic and extralinguistic knowledge, which may lead us to the importance of the interaction of the hermeneutic paradigm with the legal corpus from a translational and jurilinguistic perspective.

In this sense, Claude Bocquet states that "it has not been possible since the 1970s to talk about law without knowing linguistics and without referring to it", (G mar, 1979, p.37). According to G mar, jurilinguistics "consists in applying a linguistic treatment to legal texts in all their forms.

Jurilinguistics should not be confused with the study of the law of language, languages or linguistic rights [...], since it is a question of studying or analyzing the law or a right, and not its mode of expression: language", (Gémar, 2005). Legal practice illustrates the activity of hermeneutic understanding. The judge who decides a case by interpreting a law in a given context is engaged in the exercise of interpretation. Hans-Georg Gadamer and Paul Ricœur, two leading post-Heggerian hermeneutic philosophers, both considered law as a central point for developing their diverse and varied approaches to philosophical hermeneutics. Indeed, the deep links between law and hermeneutic philosophy have existed for a long time, parallel to the tradition of religious hermeneutics since the time when religion and law were first distinguished.

Alongside general translatology, there is room for translatalogical reflection applied to specialized fields called upon to account for specific features. Also, functionalist theories have revolutionized traductology by analyzing translation as a pragmatic communication process in which the source and target texts may have different purposes or functions. Thus, the translator, as a mediator of interlinguistic and intercultural communication, must seek an equivalence that makes the target text functional in the receiving culture.

It can be seen from the translating operation that the lawyer and the translator have the same quest, in this case the meaning of the discourse. Moreover, the mechanisms inherent in the two disciplines, in this case law and translation, reveal that they are disciplines of interpretation par excellence. The jurist seeks to ensure the coincidence between the internal or real will and the declared will. The translator, on the other hand, seeks to ensure the author's communicative aim, in other words, his or her will to say.

On this basis, in law some systems focus on the internal will and others on the declaration of will, while in translation the interpretative paradigm is important in the sense that reasoned understanding is a *sine qua non* of the translating activity. In fact, Eugène Nida argues that translation consists in finding “The closest natural equivalent” (Nida, 1964, p.12)

The elements of analysis of G mar's typology are, in fact, the normative or binding nature of the legal text, the discourse (or language) of the law, the diversity systems, the problem of legal documentation and the socio-political aspects of legal systems, and the multidisciplinary approach to legal translation. Legal hermeneutics is now pre-eminent because the law provides the institutionalized foundation for social cohesion in a multicultural environment. The rule of law seems to rest on legal texts that have a unique and persistent meaning over time, but it is precisely this assumption that philosophical hermeneutics challenges. Hence, interpretation can be used as a method, that is, to investigate which hermeneutic theory to adopt and apply to legal translation. In this wake, Newmark distinguishes the cultural equivalent which corresponds to the more or less approximate translation of an equivalent cultural trait from the source language into the target language (Newmark, 1988, p.82).

### 3. Equivalence in Moroccan law

#### 3.1 Essence of legal equivalence

Establishing terminology equivalence is one of the key issues in translation. The typology of equivalence, as well as the typology of legal texts, differs from one theorist to another. There are many theorists who define translation in terms of equivalence. John Cunnison Catford posits that translation could be defined as the replacement of textual elements in one language by equivalent elements in another language, translation could be defined as the "replacement of textual materials of a language by equivalent materials in another language," (Catford, 1965, p.67). For his part, Eugene Nida believes that translation consists in producing, in the target language, the natural equivalent closest to the source language's message, both semantically and stylistically. Indeed, any translator who sticks to the appearance of words, terms, and not to the meaning of the legal message they convey, runs the risk of realizing only imperfectly, if at all, the legal equivalence of the messages. In translating the law, one cannot avoid comparing the rights involved. This leads us to affirm that legal translation is an exercise in comparative law requiring comparative analysis.

Chapitre ii: du divorce judiciaire pour d'autres causes

الباب الثاني التطلاق لأسباب أخرى

Absence du conjoint	الغيبه
Vice rédhibitoire chez le conjoint	العيب
Serment de continence ou le délaissement	الايلاء و الهجر

**Table 1: Exploitation of Judicial Divorce Culturems in the Moroccan Context**

Concerning this example, it is clear that the French terminological equivalents of the Arabic terms relating to judicial divorce render the meaning, but by no means all the semantic and cultural burden. They say almost the same thing because, as Umberto Eco explains, even if the subject is not the same, the translating activity, the process, the obstacles, the doubts remain the same. Eco states, in fact, "We would like to give this first reassuring answer: saying the same thing in another language. Except that, first of all, it is difficult to define what "saying the same thing" means, then because, when faced with a text to be translated, one does not know what the thing is. Finally, in some cases, we come to doubt what it means to say" (Eco, 2006, p. 7).

Rather, equivalency refers to the degree to which the statement can be received in the target language and culture as a "true" or "false" statement, the equivalent of the source text. To better explore the dynamics of legal interpretation by focusing on key topics in the philosophical literature. First, we consider Gadamer's critical distinction between a legal historian writing about a law of the past and a judge ruling in accordance with the law. Although arising from the same phenomenology of understanding, it would be a mistake to equate legal decision-making with a historical inquiry into a meaning that was fixed in the past.

Also, the notion of equivalence has given rise to theories ranging from untranslatability to the perception of the translated text as a text that may have a different function from the original, to prescriptive and hermetic approaches. Some scholars argue that law and theology are particular forms of hermeneutics because of their need to interpret legal tradition or scriptural texts. Moreover, the problem of interpretation has been at the heart of legal theory since at least the 11<sup>th</sup> century.

According to Croatian professor Susan Sarcevic "legal competence includes not only a thorough knowledge of legal terminology, but also a thorough understanding of logical principles, logical reasoning, problem-solving ability, text analysis ability and knowledge of the target and source".

Chapitre ii: du divorce révocable (rijii) et du divorce irrévocable (bain)

الباب الثاني الطلاق الرجعي و الطلاق البائن

Acte de reprise	وثيقة الرجعة
Code de procédure civile	قانون المسطرة المدنية
Divorce irrévocable (Bain)	طلاق بائن
Divorce pour défaut d'entretien	التطليق لعدم الإنفاق
Divorce pour serment de continence	التطليق للإيلاء
Divorce révocable	طلاق رجعي
Procédures légales relatives à l'exequatur	الاجراءات القانونية بالتبديل بالصيغة التنفيذية
Rétablissement les liens conjugaux avec son épouse	مراجعة الزوجة

**Table 2: Exploitation of the Culture of Revocable and Irrevocable Divorce in the Moroccan Context**

Indeed, terms relating to divorce have a strong cultural connotation, especially given their religious origins. Indeed, they are terms related to Muslim law and constitute the content of Morocco's Family Code, promulgated in 2004.

Thus, for didactic purposes, translators must be able to identify and produce all forms of obligations, prohibitions, declarations of permission and authorization in the target legal system. In addition, translators need training in legal hermeneutics. Although they do not interpret texts as judges do, they must be able to predict how the text will be interpreted by the authorities, i.e. the courts. The need for legal hermeneutic training should not come as a surprise, because, as Gadamer repeatedly points out, every translator is an interpreter, interpreting in the sense of a hermeneutic.

This process makes it possible to identify the elements that remain after the passage of a message from one language to another and, by the same token, to establish the link of equivalence that exists between the translation and the original. Sarcevic confirms that legal translation is "an act of communication in the mechanism of law". Rightly, a special theory of legal translation is needed, a theory that takes into consideration legal criteria. From a pragmatic point of view, the target text must contain elements for intercultural communication.

In practice, there are three ways of translating law: the first, literalist or "dowsing", is the one most commonly followed by lawyers. It consists in rendering the strict meaning of the text, without adaptation: the original text is preferred.

The second corresponds to what Jean René LADMIRAL calls "targeting", a situation in which the translator avoids the letter in order to address the addressee and renders the meaning of the text.

A third consists in achieving a "functional equivalence" of the texts. As its vocation is more targeting than sourcing, it lies between the first and second way of translating a legal text.

We can note the main features and criteria favored by each approach:

- a) Formal approach (idea of sourcing): the principles of accuracy, of adequacy, correspondence, fidelity and identity;
- b) Functional approach (targeting idea): interconnection between the text culture, legal system and language of reception; translator active and creative; mediator between cultures, languages and texts; oriented towards the target audience; translation: act of communication; important: legal effects of the translated text.
- c) Hermeneutic approach: translate; understand and interpret; translator: receiver of the source text and producer of the target text; the translator is the interpreter of the text and uses methods that only the judge can use. May apply; no objective interpretation independent of the receiver.

This leads us to say that translation is part of a communication scheme and the specialized reader must bear in mind the quality of the recipient of the message. The fact that law is a social system explains some of the difficulties specific to legal translation, while other difficulties arise from the relationship between law and other disciplines.

Legal language is one of the most complex specialist languages. Its translation is therefore also complex. Language is the vehicle for the expression of law. This vehicle of expression is subject to a large number of stylistic, syntactic, semantic and lexical rules.

Moreover, Jean-Claude G mar pointed out the main problems encountered in legal translation in general. Firstly, he points out the normative and binding nature of the legal text, which limits the translator's initiative in manipulating and sorting the available language treasure. Also, the ad hoc legal terminology is specific, requiring the legal translator to be initiated into this varied field, in addition to the socio-political diversity of legal systems and the variety and diversity of legal systems involved; not forgetting that the field of law is characterized by the existence of polysemic terms, which are difficult to transfer to other socio-cultural contexts. To this end, the legal translator must have both linguistic and legal training, and at least an introduction to the principles and rules of law, economics, sociology, history, and philosophy, since legal translation encompasses several types of texts ranging from public law to private law, with both internal and international branches.

The analysis of the "letter and spirit" dichotomy is similar to the language and law couple, and is in fact the very object of jurilinguistics. As soon as one undertakes to translate a legal text, the comparison of rights is involved, and the translation operation then becomes an exercise in comparative law.



The language of law is composed of words that constitute the legal language. The vocabulary of law reflects the civilization that produced it. The more advanced it is, the richer, more complex and diversified it is. However, it varies from one language to another. Languages abound in terms of everyday language, which also has a specialized meaning. The meaning, connotations, values and semantic particularities they carry are the result of a long tradition, the reflection of a culture. Below is an example of the terminological exploitation of the Moroccan family code (Arabic-French), demonstrating the cultural variation in the French equivalent of the culturems relating to dowry in Muslim law, particularly in a context imbued with the Sunni-Malekite dogma.

(la dot)Chapitre ii: du sadaq	
الباب الثاني الصداق	
<i>Chouar</i>	شوار
Consommation du mariage	البناء
Divorce sous contrôle judiciaire	طلاق في زواج التفويض
Partie échue du <i>Sadaq</i>	الحال من الصداق
<i>Sadaq</i> à terme	الصداق المؤجل
<i>Sadaq</i> ne se prescrit pas	لا يخضع الصداق لاي تقادم
Serment	اليمين
Vice réhibitoire constaté chez l'un des époux	عيب في الزوج/الزوجة

**Table No. 03: Exploitation of dowry culturems in the Moroccan context**

Clearly, the terms of the dowry and its modalities are part of the larger chapter of engagements and marriages governed by the Moroccan Family Code, which came into force in 2004 and which draws heavily on Muslim law, particularly with respect to marriage, including the dowry. The term is different from its Western semantic connotation and scope. Moreover, the term "dowry" does not have a true meaning in the Arab-Muslim context, i.e., it is not a real equivalent of the term "Sadaq", but rather an equivalent of the term as long as it is a "culturem".

### ***3.2 Legal Terminology***

Indeed, legal terminology is varied and drawn from a variety of sources. Some terms are derived from everyday and everyday language, but once invested with the legal function, they are endowed with a particular meaning, while others exist only within the legal framework. This is what Henri Meschonnic explains in this regard: "Reduce language to information - to the schemes of information theory - to an instrument of communication, and you lose the signifier, the subject, the enunciation", (Meschonnic, 1999, p.93).

Other terms are borrowed or inherited from other languages, particularly in the case of French, Latin and Greek. Moreover, the meaning of terms is often fixed according to a particular context.

The specificity of the language of law thus makes the translation of legal texts a textual genre coupled with a separate textual typology that escapes the principles generally recognized in translation law. For his part, the jurist Norbert Rouland, in his book *Legal anthropology*, studies the "cultural variation" that characterizes the human species, affirming that "to forge his identity, man produces difference". These cultural particularisms form a stumbling block and a stumbling block on the road to linguistic equivalence. The terminology of law is vast and comes from a variety of sources. Many terms come from everyday language but have a special meaning, while others exist only within the legal framework. According to Susan Sarcevic, "The language of law also conveys concepts that are specific to a tradition, a culture or a system, and which have no equivalent in other languages and systems" (Sarcevic, 1997, p. 36). It should be noted that "It should be noted that all legal texts have ideological implications to some degree" (Sarcevic, 1997, p.52).

According to Hans Kelsen, an eminent jurist and legal philosopher: "legal terminology contains a great ideological intensity apart from the social order". For Pierre Lerat "Legal translation is a technical activity, in the sense that it involves a "specialized" language that is different from both everyday language and other fields. The translating operation poses particular difficulties for the translator due to the nature of the language of law", (Lerat, 1995, p.45). Thus, law is not an exact science, and its language suffers from the polysemy that reigns in the social sciences. According to G emar, the layperson will only understand a legal text if he or she has been initiated into the cult of law, its language, institutions, mechanisms and modes of operation. Moreover, the polysemy that characterizes legal language contributes to accentuating the mystery that surrounds law. On the other hand, legal language is syntactically structured at the level of phrasing so that it is recognized as such, if only from a formal point of view.

Also, the phenomenon of polysemy, more or less pronounced depending on the domain, is inherent to language. It is sometimes hidden under trivial features, such as a seemingly banal word, as an example these three terms of Moroccan law: Provisional / commemorative / action. Moreover, the use of technical terms has undeniable advantages, not the least of which is the precision of the language and the conciseness of the message. Each field has its own, including the law.

**Table n°04: Exploitation of culturems of general provisions of**

Livre VI : de la succession		الكتاب السادس : الميراث
Titre premier dispositions générales		القسم الأول احكام عامة
Contrepartie		معاوضة
Dettes du de cujus		ديون الميت
Droits grevant les biens réels faisant partie de la succession		الحقوق المتعلقة بعين التركة
Droits successoraux		المواريث
Frais funéraires dans les limites des convenances		نفقات تجهيز الميت بالمعروف
Libéralité		تبرع
Liquidation de la succession		تصفية التركة
Mort présumée		الموت حكما
Mort réelle		الموت حقيقة
Succession est l'ensemble des biens ou droits patrimoniaux laissés par le cujus		التركة مجموع ما يتركه الميت من مال او حقوق مالية
Testament valide et exécutoire		الوصية الصحيحة النافذة
Un jugement de présomption de décès a été rendu		صدر حكم باعتبار ه ميتا

## Inheritance in the Moroccan Context

Following the example of other themes of the Moroccan family code, in force since 2004, the theme of succession, in other words inheritance, is invested with cultural and religious values. Better still, for other topics such as marriage and divorce, elements of positive law are found in parallel with Muslim law, whereas for inheritance, the provisions and terminology have an absolute reference in Muslim law, which makes it difficult if not impossible to find correspondents, and it is also difficult to find equivalents, which is explained in Table 04 by the transliteration of Arabic terms with an Islamic religious reference.

Indeed, the legal text, by its prescriptive nature, often carries effects likely to implement some form of responsibility, of obligation. This aspect alone should suffice to distinguish the legal text from others. This is in addition to the double operation that takes place at the time of each legal translation, i.e. the interlinguistic and interjuridical transfer.

The translator then resorts to a more or less thorough terminological analysis, depending on the degree of specialization of the term, and for this, he or she uses a specialized language. This notion is not new, since Ferdinand de Saussure already spoke of "special languages", including legal language. Legal language has syntactic characteristics that easily distinguish it from other languages of the language of other fields. It uses the same syntactic rules as the current language. There is no syntax or grammar specific to the language of law. However, the language of law, like poetry, has syntactic structures that make it easily distinguishable from everyday language and other languages specialty languages. The following characteristics apply mainly to texts normative documents such as articles of law, regulations, acts, judgments.

#### **4. CONCLUSION**

To translate, one must not only know and understand the terms of the field in question and the notions they convey, but also the words of the everyday language, in other words: the language or (lexicon) and the discourse or (speech) specific to specialists in this field, i.e. the way of saying things in this specialty, the way of assimilating, appropriating and restoring them, in other words, interpreting them. The complexity of legal translation is not only a matter of terminology; it is also a matter of the way in which it is also linked to the legal system, to the very culture of legal systems. The translation of legal texts requires an excellent knowledge of national and foreign legal systems, of procedural terms that often have a solemn character and have no correspondence in the common language. The specificities of procedural terms can lead to translations without legal meaning.

The great problem encountered by translators of legal texts is that they have to translate terms belonging to a large number of fields and, therefore, they must have research skills that can help them access specialized information and terminology when necessary. Even if a term belongs to only one domain, it may have two or more equivalents in the target language.

Finally, by way of recommendation, translation presupposes by its essence equivalence and a fortiori legal translation which works on the linguistic transfer of a socio-historical experience. It is advisable to proceed by jurilinguistic analysis and comparison of legal texts and their essences and sources before proceeding with the time-consuming activity because in fact it is not a question of translating the law but rather of translating a legal norm from a given culture and language to another culture and language.

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