

WHAT IS LEGAL TRANSLATION? In the eighth and ninth centuries, the Abbasid era witnessed the golden age of translation, especially during the reign of the caliph al-Mansur (d. 775) who 'commissioned a number of English and Arabic legal discourse and legal translation 9 translations and set up a translation chamber' (Baker and Hanna, 2009:331), al-Rashid (d. 809) who 'supported translation activity and enlarged the translation chamber set up by al-Mansur and al-Ma'mun (d. 833) who founded the most celebrated centre of translation in Arab history' (ibid.). Not enough literature is available about the translation activities in the period from the thirteenth century up until the sixteenth century after the disintegration of the Islamic Empire which resulted in 'the establishment of rival caliphates in Egypt and Spain' and 'a series of barbaric onslaughts by the Mongols eventually culminated in the destruction of Baghdad and the slaughter of the caliph and his officials by Hulagu in 1258' (Baker and Hanna, 2009:334). Kunitzch (quoted in Montgomery, 2000:126) summarizes the main techniques of adaptations, which were apparent in the language of the Arab translators as follows: o phonetic transcription o transcription with added prefixes o replacement by common Arabic o substitution by Arabic words that are related to but do not exactly parallel Greek o substitution to older Arabic names o simplifications for the sake of memory o descriptive phrases that explain a transcribed name according to the Greek myth. Islamic Law has clearly stated the obligations of the Muslims in all areas of life and the penalties to be inflicted for offences and irregularities.<sup>5</sup> Treaties exist in the Muslim tradition after the Prophet's hijrah; in 628 (6 AH), Prophet Muhammad signed the treaty of Hudaibiyyah between the Medina Muslims and people of Quraish in Mecca. English and Arabic legal discourse and legal translation 7 Between 529 and 534, Corpus Juris Civilis<sup>3</sup>, one of the influential Roman jurisprudence texts, was translated into numerous languages after its initial literal translation into Greek pursuant to emperor Justinian's approval. Bahumaid (1994:135) and Holes (2004:311) list other ways, though not so different from Elmgrab's list, for coining new terms in that era: (i) derivation / al-ishtiqaaq; (ii) compounding / al-tarkiiib; (iii) analogy / al-qiyaas; (iv) metaphor / al-majaaz; and (v) Arabicization for proper names and foreign terms. In eleventh century France and Italy, the Justinian Corpus Juris Civilis, which was written in Latin, was taught in the universities by 'using monolingual glosses which expressed the whole passage through textual interpretation or commentary and it continued during the period' (Sarcevic, 1997:27). In the Umayyad era, under the rule of Abd al-Malik Ibn Marwan (d. 705), Arabic was established as the uniform official language of the Empire, replacing Greek in Damascus, Pahlavi in Iraq, and Coptic in Egypt (Baker and Hanna, 2009:330). These techniques were discussed later by Safadi (d. 1363) who described the two main methods of translation as follows: Arabic-English-Arabic Legal Translation The translator studies each individual Greek word and its meaning, chooses an Arabic word of corresponding meaning and uses it. The translator considers a whole sentence identical in meaning without concern for correspondence of individual words. The nineteenth century witnessed a new era in translation supported by the reformer ruler Mohamed Ali and led by the school of Alsun (tongues) that Rifa'ah<sup>10</sup> English and Arabic legal discourse and legal translation 11 Al-Tahtawi established. The seventh century witnessed the rise of Islam, the Qur'an being its Holy Book and Muslims' reference, which has two main branches: 'the beliefs and the Code of Laws' as explained by Shaltout (1987:87, 119) below: The greater number of laws which make up the Islamic code are classified under these two

headings: worship and dealings. Translation in the Arabic tradition flourished in the Umayyad caliphate (661–750) and reached its peak in the Abbasid era (750–1258) as Steiner (1998:272) argues: 'translation is said to have reached its peak either in the 2nd century AD in Alexandria or in the 8th and 9th century in Baghdad'. Translation from European languages (for example French) to Arabic and Turkish of technical, scientific, literary texts were among the translation activities at the time as well as geography, astronomy and mathematics. When the Anglo–Saxons invaded England in the fifth century AD, contracts and pleadings could be traced to their reign and they 'formed laws in their primitive language that was rigid in both meaning and form' (Gu, 2006: 110). Hunayn Ibn Ishaq (d. 873), an outstanding figure in the history of the Arabic translation theory in general and in the Abbasid period in particular translated works of Plato, Aristotle, Galen and Hippocrates from Greek into Arabic. Official translation activities for texts written in Syriac and Sanskrit also took place under the leadership of Hunayn Ibn Ishaq (Delisle and Woodsworth, 1995: 112). Legal translation can also be traced to the second century BC. Mattila (2006:7) comments that 'the first legal text translated from one language to another, and which has survived until today, is the peace treaty in two languages between the Egyptians and the Hittites, dating back to 1271 B.C.'. Not only were philosophy and logic translated at that time, but also other subjects were widely translated such as 'mathematics, astronomy, medicine, chemistry and politics' (Baker and Hanna, 2009:330). The increasing interest in translation in the Abbasid era has made scholars aware of the importance of developing translation methods and their linguistic competence. He (ibid.:495–498) listed other methods of forming new words in Arabic which include: Arabicization (al-taʿrib), blending (al-naḥt) and borrowing. Borrowing from Greek and Persian was one of the useful techniques: 'Greek philosophical and scientific works were translated into the lexicon of medieval classical Arabic' (Holes, 2004:306). Among these borrowed terms from Greek are: faylasuf / philosopher; namus / law, principle; qanun / law and others from Persian are ustaz / teacher; sijill / register (ibid.).

### 2.3 HISTORICAL BACKGROUND OF LEGAL DISCOURSE AND LEGAL TRANSLATION IN THE ENGLISH TRADITION

English legal discourse goes back to Ancient Greece with philosophers such as Socrates and Plato advocating freedom and democracy. Middle English commonly used in the period after the Norman Conquest until 1476 is characterised by the existence of many phrases which continued to exist until now such as thereby, hereinunder, herewith, etc. Esposito (1998:4) argues that: The Arabs placed great emphasis on tribal ties, group loyalty or solidarity as the source of power for a clan or tribe. Texts from China, Persia, Greece and India were translated from Syriac, Persian, Sanskrit and Greek into Arabic. (Salama–Carr, 2006a: 124) Arab translators tended to use both source-oriented and target-oriented methods of translation. (quoted in Guttas, 1998: 142; and Montgomery, 2000: 122) Endress (quoted in Guttas, 1998: 146) summarizes the characteristics of translation, 'guide fossils', as he calls them as follows:

- o The use of loan-words and transliterated Greek. When Napoleon invaded Egypt in 1798, he brought his own foreign interpreters 'for reading out his decrees' and 'interpreting lawsuits and read out letters and statements' (ibid.). Thus, the majority of translation activities during Napoleon's three year invasion were of 'official documents and legal decrees' (ibid.). In Byzantium, the first bilingual encyclopaedic dictionaries were introduced for the purposes of replacing Latin with Greek (Mattila, 2006:7). During the Celtic invasion of the British Isles before the birth of Christ, England witnessed the

existence of Celtic lawyers 'perpetuating a customary law in a learned archaic language' (Mellinkoff, 1963:36). In this context, Sarcevic (1997:24) comments: 'not only do the legal systems of the western world have their roots in Roman Law, but the translation activities under Emperor Justinian also leave their mark on the history of legal translation'. 2.4 HISTORICAL BACKGROUND OF LEGAL DISCOURSE

AND LEGAL TRANSLATION IN THE ARABIC TRADITION The existence of legal discourse in the Arabic tradition dates back to Babylon with the establishment of the code of Hammurabi. Hence, legal translation can be traced to Babylon (2001 BC) with the establishment of Hammurabi's translation centre which hired employees to work on translation. The latter includes dealings within the Muslim Community, the family, monetary dealings, with non-Muslims both as individuals and nations. Watt maintains that 'one of the difficulties met with by the translators during the 9th century was that there was little original writing in Arabic on topics dealt with in the books they translated' (1972:32). Al-Jahiz (d. 869) author of Kitab al-Haywan and other outstanding books, views the process of translation as follows:

???? (quoted in Salama-Carr, 2006a: 124) The translator must demonstrate the same lucidity of expression and the same level of knowledge as the author that he translates. Since legal translation is bound by each language's culture, it is not merely the transcoding between the SL and the TL or as Cao (2007: 10) puts it 'rendering of legal texts from the SL into the TL'. The linguistic legal effects of French did not ease straightaway and they continued to have an impact for nearly a century before the real transition to using English took place when 'the domination of the law by French and Latin was over and in 1731 a new English for lawyers' law was passed' (Beveridge, 2002:59). Magna Carta was so influential that other countries managed to have similar documents of their own such as the United States' Bill of

Rights in 1791 (Garre, 1999: 15-16). Awareness of the role of legal translation increased from the nineteenth century onwards up until the advent of the twentieth century. During the first decade of the nineteenth century, Napoleon established his civil code known as the Napoleonic Code (1804) which, though not the first code, has been so successful that it has left its impact on the law of many other countries such as Germany. In 637 (15 AH), the Caliph, Umar Ibn Al-Khattab (d. 644), signed a treaty with the Patriarch of Jerusalem. They were very keen on introducing new terms to the Arabic language through one-to-one-word correspondence, or as Elmgrab (2011:493) puts it, *ishtiqaq* (derivation). Legal discourse continued to exist all over the world and it became more effective in the twentieth century with

the establishment of the League of Nations in 1919 and the United Nations in 1945, and Arabic becoming one of the UN six official and working languages in 1973. It involves all the legal sub-text types which are used in various legal settings, whether a court, a national or international organization, a law book, a legal report, a birth certificate, a contract, among many others. A revolt against Latin was led in the thirteenth and fourteenth centuries in Germany, Italy and France. English as the language of the court proceedings started in 1362 and with the introduction of Magna Carta which 'became the great precedent

for putting legislation into writing'. Following the introduction of the printing press in 1476 and the acceptance of the London Standard as the standard form of written English, statutes began to be printed in English (Beveridge, 2002:58). Before the advent of Islam in the Arabian Peninsula, the law of the tribe was the only acknowledged law. The establishment of Bayt al-Hikmah (the House of Wisdom) in the ninth century helped in the progress of the translation activities. They had faced a terminological problem

