

**Translating *Ḥanbalī Sharī‘a Code* from Arabic into English:
The Books of “Sale”, “Hire” and “Loan” in
Majallat al-Aḥkām al-Shar‘iyya
by al-Qārī (died in 1359 H 1940 A.D.)**

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ABSTRACT

Translating Islamic legal texts into English has always been an interesting and complex process. This thesis provides a translation of parts of *The Ḥanbalī Sharī‘a Code* in *Majallat al-Aḥkām al-Shar‘iyya* by al-Qārī (d. 1359 H 1940 A.D.) from Arabic into English. It seeks to explore and analyse some linguistic and cultural issues and problems associated with the translation of this particular code. This will also involve the study of transforming Islamic fiqh texts into legal codes. The present thesis reveals important implications of the concept of codification in Saudi Arabia. A number of Saudi judges and lawyers make use of the code concerned and advocate the principle of codifying Islamic Law in Saudi courts. Another crucial implication of the concept of codification lies in the change that has taken place in the language of Islamic jurisprudence in terms of content, lexicon and style.

Pivotal lexical, grammatical, syntactical and cultural issues and problems have emerged in the translation of the code from Arabic into English. Lexical problems are due to semantic voids and lack of equivalence in the TL. ST terms refer to concepts specific to Islamic Law, which are totally different from those of Western Law written in English and have *ipso facto* posed important problems in the translation of the code. The lack of comprehensive bilingual dictionaries, the lack of authoritative term banks for Islamic Law terminology in English and the peculiarity of the code as it employs specific terms as synonyms are all thorny translation issues which have been addressed in this work.

The difference in grammatical and syntactical aspects between legal Arabic and legal English, particularly in definiteness, tense, voice, number, verbal nouns, collocation, the use of conditionals, verb function and sense of prepositions, has unequivocally given rise to restructuring in the TT. The translation has also yielded crucial cultural issues and problems, such as the use of performative statements in the ST, the distinction made in the ST between city dwellers and country people, cultural exoticism, culture-bound terms, the time gap between the ST and the TT, money with its ancient Islamic referents and custom as a culture-dependent practice. All these have been created as a result of the difference in legal culture between the ST and the TT. Various strategic approaches have been adopted in the TT to minimise translation loss and ensure that the right legal effect is produced in the TT, which is the same as that conveyed in the ST. Amongst these strategic approaches are: literal translation, functional translation, transliteration, translation by addition/omission, pronominal/nominal referencing, substitution, lexical repetition, descriptive paraphrases, explicitness, change of word form, fronting/backing, sentence break and lexical expansion.

KEYWORDS: code, cultural, legal, linguistic, problems, systems.

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