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NORA BINSULTAN

**A COMBINED SOCIOLOGICAL-CDA ANALYSIS OF TRANSLATION
IN THE LEGAL FIELD WITH REFERENCE TO SAUDI FAMILY-LAW
PROVISIONS IN CANONICAL *ḤADĪTH* COLLECTIONS**

Abstract

Translation in the legal field is a complex process that involves not only linguistic transfer but also cultural transfer. It requires a multi-layered approach to analyse linguistic and sociological aspects. These forms of transfer are arguably the most discussed but the least fully analysed in the current literature on the translation of legal or para-legal documents. Therefore, this study is an effort to explain the various factors that affect the translation of canonical *ḥadīth* collections (sayings and actions of the Prophet Muhammad), which are often used in the Saudi legal system. The study adopts Fairclough's Critical Discourse Analysis (CDA) framework to investigate and analyse the influence of linguistic, sociological, and communicational issues on the Target Texts. Additionally, the study combines CDA with Bourdieu's concepts of 'capital', 'field' and 'habitus' in the legal context to reveal the means and process of influence in translation without diverting attention from the complex and challenging features of legal language, particularly the language of Islamic Law. For this purpose, a collection of *ḥadīths* from *Ṣaḥīḥ al-Bukhārī* and *Ṣaḥīḥ Muslim* were selected as the corpus for analysis. These *ḥadīths* are categorised as proto-legal texts and are considered major sources of legislation in Saudi Arabia, particularly in family law. This study attempts to highlight the factors that resulted in discrepancies in *ḥadīth* translation products and provides an insight into the degrees of effectiveness of these factors on the *ḥadīth* translation process.



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PROVISIONS IN CANONICAL *ḤADĪTH* COLLECTIONS**

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DURHAM UNIVERSITY

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Note on Transliteration

For the transcription of Arabic, this thesis follows the IJMES transliteration system.

The symbols used to transcribe Arabic sounds are as follows:

IJMES TRANSLITERATION SYSTEM FOR ARABIC, PERSIAN, AND TURKISH

CONSONANTS

A = Arabic, P = Persian, OT = Ottoman Turkish, MT = Modern Turkish

	A	P	OT	MT		A	P	OT	MT		A	P	OT	MT
ء	—	—	—	—	ز	z	z	z	z	ك	k	k or g	k or ħ	k or n
ب	b	b	b	b or p	ژ	—	zh	j	j				or y	or y
پ	—	p	p	p	س	s	s	s	s				or ğ	or ğ
ت	t	t	t	t	ش	sh	sh	ş	ş	ح	—	g	g	g
ث	th	ṡ	ṡ	s	ص	ṡ	ṡ	ṡ	s	ج	l	l	l	l
ج	j	j	c	c	ض	ḍ	ḍ	ḍ	z	م	m	m	m	m
چ	—	ch	ç	ç	ط	ṭ	ṭ	ṭ	t	ن	n	n	n	n
ح	ḥ	ḥ	ḥ	h	ظ	ẓ	ẓ	ẓ	z	ه	h	h	h ¹	h ¹
خ	kh	kh	h	h	ع	‘	‘	‘	—	و	w	v or u	v	v
د	d	d	d	d	غ	gh	gh	g or ğ	g or ğ	ي	y	y	y	y
ذ	dh	z	z	z	ف	f	f	f	f	ا ²	a ²			
ر	r	r	r	r	ق	q	q	ķ	k	آ ³	ā ³			

¹ When h is not final. ² In construct state: at. ³ For the article, al- and -l-.

VOWELS

ARABIC AND PERSIAN				OTTOMAN AND MODERN TURKISH	
Long	ا	or	آ	a	<div style="display: flex; align-items: center; justify-content: center;"> <div style="font-size: 3em; margin-right: 10px;">}</div> <div>words of Arabic and Persian origin only</div> </div>
	و		u	u	
	ي		i	i	
Doubled	آي		iyy (final form i)	iy (final form i)	
	آو		uww (final form u)	uvv	
Diphthongs	او		au or aw	ev	
	اي		ai or ay	ey	
Short	ا		a	a or e	
	و		u	u or ü / o or ö	
	ي		i	i or i	

For Ottoman Turkish, authors may either transliterate or use the modern Turkish orthography.

List of Abbreviations

ST:	Source Text.....	2
TT:	Target Text.....	2
CDA:	Critical Discourse Analysis.....	4
TL:	Target Language.....	4
Lit:	Literally	6
CE:	Common Era.....	6
SL:	Source Language.....	21
LSP:	Language for Special Purposes.....	38
SFL:	Systemic Functional Linguistics.....	73
MRs:	Members' Resources.....	86
NA:	Not Applicable.....	171

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Statement of Copyright

The copyright of this thesis rests with the author. No quotation from it should be published without the author's prior written consent and information derived from it should be acknowledged.

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Dedication

To my parents, brothers and grandparents

Chapter 1: Introduction

This chapter identifies the research gap based on critical analysis supported by evidence from the literature. It introduces *Sharīʿa* (Islamic Law)¹ and, in particular, the Saudi legal system. *Sharīʿa* encompasses a complete legal system that covers many categories, including family relations, criminal law, war, ethics, property law and international relations among many others, which are generally applied in most Islamic countries. These principles greatly influence both the public and the private aspects of the lives of Muslims.

This chapter consists of six sections: (1) Statement of the Problem, (2) Significance of the Study, (3) Corpus, under which the concept of *ḥadīth* and the Saudi legal system are explored, (4) Research Questions, (5) Methodology and, finally, (6) Structure of the Thesis.

1.1. Statement of the Problem

Many scholars of legal translation focus on legal terminologies and the challenges such terms pose to the translation process. For instance, Chromá (2011), Goeffroy-Skuce (1997), Gortych-Michalak and Grzybek (2013), Grzybek (2009) and Hamlaoui (2010), concentrated on the issues of polysemy, homonymy and synonymy of legal terms as these may cause ambiguity and misunderstanding. Other researchers, such as Šarčević (1985) and Harvey (2000), investigated culturally bound terms and the differences between various legal systems. The issue of translating the passive-voice structure in legal texts was addressed by, among others, Ho (2010) and Knežević and Brdar (2010). The phenomenon of collocation in translating legal texts from Arabic into English is also dealt with by Henka (2014). However, other grammatical features of nouns, such as doublets, triplets and noun modifiers, compound nouns and gender-biased terms are still, to the best of my knowledge, under-explored and require further analysis. Studying the linguistic challenges in the translation of legal texts is undeniably important. Nevertheless, most of the studies

¹ Any round brackets represent a translation of the Arabic transliterated term.

on legal translation overlook, to some extent, the relationship between these linguistic issues and difficulties and the way translators deal with them and the reasons behind the choices they make.

The relationship mentioned above is almost unconsidered and overlooked in the studies that focus on legal translators and their social surroundings. Some researchers, such as Inghilleri (2005), studied translation from a sociological approach, but paid little attention to the linguistic features, adapting, instead, Bourdieu's concepts to analyse the social practices. The analysis includes a consideration of Bourdieu's concepts in Translation Studies within the legal, educational, historical and literary fields. Sertkan (2007) examined how ideology, particularly a religious-conservative one, influences the translators' lexical choices, but the study somehow ignores the impact of other factors, such as grammar and style, on the translator's decisions. The recent work by Shahsavari and Naderi (2015) tackles the influence of ideology in Translation Studies by adapting Fairclough's (2001) approach of investigating ideological differences between the source text (ST) and the target text (TT), albeit with a focus on only one value of Fairclough's method, i.e. the experiential value, on a small size of samples.

A review of the literature that pinpoints the existing gap in the area of translating Islamic legal texts, which this study attempts to fill, is provided in Chapter Two. However, in brief, a relatively high volume of studies (e.g. Emery, 1989; Bocquet, 1998; Morris, 1995; Farghal and Al-Shorafat, 1996; Madsen, 1997; Garzone, 1999; Engberg, 2000; Šarčević, 2000a; Alcaraz and Hughes, 2002; Harvey, 2002; Asensio, 2003; Cao, 2007; Newman and Husni, 2015; Zidan, 2015) discuss the challenges at the textual level – linguistic and stylistic ones – without considering the social context in which these translation challenges occur. Studies that approach translation through a sociological analysis tend to be conducted in isolation from the relevant linguistic analysis, i.e. legal texts. For the purpose of this study, it is important to emphasise that any minor linguistic change in the translation in the legal context, caused by translators' decisions and their linguistic, cognitive and social dynamics, can alter the ST's intended meaning and effect. Therefore, translation studies in the legal context should be expanded outside the confines of the text and combine linguistic analysis with the sociology of translation through Bourdieu's concepts of

'field', 'habitus' and 'capital'. By applying these concepts, Translation Studies is examined as part of a whole system that consists of texts and actors. These actors are the agents who produce, support, oppose and censor these texts.

By using this comprehensive approach, the culture of a particular society can be taken into account along with its language, which is a key element in the field of legal translation. Thus, this study analyses legal contexts through two dimensions, the micro- and macro-levels. In this study, legal translation refers to the translation of Islamic Law texts, which serve as an exemplary case study for understanding the translators' choices relating to the concept of sociology.

1.2 Significance of the Study

Various fields of cultural production, including translation, have been examined using Bourdieu's concepts. Although his conceptual tools have been used in Translation Studies (see Hanna, 2016), no attempts have been made to apply them in practice to study the translation of legal discourse from Arabic into English. This study highlights the importance of targeting the sociolinguistic aspects of translation in the legal contexts by looking beyond the language of the text and analysing legal translation from different perspectives. Applying this approach reveals the possible reasons behind translation differences, i.e. changes between the ST and the TT, and proves that these reasons impose different degrees of power on the translation product. Additionally, this study attempts to clarify the role of *ḥadīth* in the Saudi legal system. In the Islamic world, particularly in Saudi Arabia, the *ḥadīth* acts not only as one of the main sources of religion, but also as a source from which laws are based and derived. Our main concern here is family law. Thus, the study shows the effectiveness of this particular role of the *ḥadīth* on translation decisions (see Chapters Four and Five). Tackling these methodological and functional gaps in studying the *ḥadīth* results in significant conclusions on the legal status of *ḥadīth*.

The reason for choosing Saudi Arabia as a case study is two-fold. The first is that *ḥadīth*, the focus of this study, is a fundamental source of the Constitution of Saudi Arabia. In Saudi Arabia, the Qur'ān (the sacred book of Islam) and the *ḥadīth* are the two main sources of *Sharī'a*. Therefore, the translation of *Sharī'a* into other

languages is a tool through which non-Arabic speakers can understand and interpret Saudi law and its legal judgements. Due to this, translators of this genre are usually aware of the strong connection between Islamic Law and *ḥadīth*. Second, Saudi Arabia is a prominent Islamic country. This is because Makkah, the holiest city of Islam, is located in western Saudi Arabia.

This study addresses people who are interested in *Sharīʿa*, translation of legal and para-legal documents or translation from a sociological perspective. Such a perspective is achieved through reconciling Critical Discourse Analysis (CDA) and Bourdieu's theory of practice in legal discourse to understand the complicated relationship between the different elements of the translation process, the text, the translator and the social context. In addition, it highlights a type of legal text, divine law, which is different from secular legal texts. Furthermore, the study investigates how this discourse is translated by non-Arabs and Arabs. This helps in understanding the possible reasons for the discrepancies found in and between the translations, particularly in a sensitive genre such as Islamic Law translation. Religious texts, and Islamic texts are not an exception, are generally sensitive, and, thus, they are challenging when it comes to translation. Their sensitivity lies in their particular religious and legal features and any error in conveying their meanings may result in serious consequences. Sensitivity is also, in many cases, a context-ideological driven issue. For example, a translation may be acceptable for a particular religious group but unacceptable for others, and vice versa. Inappropriate translation of a legal text could even lead to lawsuits. Based on this, translators should carefully modulate a TT to reduce the possibility of misinterpretation.

Translation in the legal field is a complex process of transmitting one dual semiotic system (source law and language) into another (target law and language), so it is crucial that a translator's interpretation of a ST conveys only the information found in the source legal text. The culturally rooted message in the ST must be reflected in the TT with the source's culture and law remaining comprehensible to the target language (TL) recipients. This rendering depends on the translator's ability and capability in both the source and target dual semiotic systems (Chromá, 2014).

1.3 Corpus

It is crucial to overview the corpus of this study to determine the rationale of the corpus and the importance of its translation. It also provides explanations of the presence of Saudi Arabia in this study as an effective contributor in the translation of *ḥadīth*. The corpus of this study consists of a representative collection of proto-legal texts, which are *Ṣaḥīḥ al-Bukhārī* (by al-Bukhārī) and *Ṣaḥīḥ Muslim* (by Muslim), and their English translations by different translators.

1.3.1 What is *Ḥadīth*?

The Arabic word *ḥadīth* literally means ‘narrative, talk or story’. According to the transmitters of *ḥadīth* (*muḥaddithūn*), "it stands for what was transmitted on the authority of Prophet Muhammad, his deeds, sayings, tacit approval, or description of his [features] meaning his physical appearance" (Goldberg, 2012: 99). Each *ḥadīth* comprises a text (*matn*) and a chain of transmission for that text (*isnād*). In Islam, there are different branches, such as *Sunni*, *Shīʿi*, and other various types of schools (eponyms),² which refer to different collections of *ḥadīth* (Saloot et al., 2016). For example, "any speech, discussion, action, approval, and physical or moral description attributed to the Prophet" are considered to be *ḥadīth* in the *Sunni* branch (Batyrzhan et al., 2014, cited in Saloot et al., 2016: 114).

In Islam, *ʿilm al-ḥadīth* (the science of *ḥadīth*) is aimed at determining whether a *ḥadīth* is valid (i.e. correct) or not (Melchert, 2002). *Muṣṭalaḥ al-ḥadīth* (the classification of *ḥadīth*) is a criterion for the acceptance of *ḥadīth*, as over time more narrators were associated with each *isnād*. Verdicts on a *ḥadīth* determine its category: *ṣaḥīḥ* (authentic), *ḥasan* (acceptable), *ḍaʿīf* (weak), or *mawḍūʿ* (fabricated).

² Within Islam, there are five schools of law (*madhāhib*): the *Mālikī*, the *Ḥanafī*, the *Shāfiʿī*, the *Ḥanbalī* and the *Jaʿfarī* (al-Madanī, 1999). In Saudi Arabia, the secondary sources of Islamic Law are divided into four schools of law, chronologically ordered. These Schools are: (1) the *Ḥanafī* School (the earliest School and named after the scholar Abū Ḥanīfa al-Nuʿmān Ibn Thābit of Kufa, Iraq, in the 8th century), (2) the *Mālikī* School (the next school in order of time and founded by Mālik Ibn Anas of Medina, now Saudi Arabia, in the 8th century), (3) the *Ḥanbalī* School (named after the Iraqi scholar Aḥmad Ibn Ḥanbal of Baghdad, Iraq) and (4) the *Shāfiʿī* School (founded by Abū ʿAbd Allāh Muḥammad Ibn Idrīs al-Shāfiʿī of Medina, now Saudi Arabia, in the early 9th century) (Al-Rodiman, 2013).

Generally, many Muslims in the Middle East and Islamic world follow the *Ḥanafī* School. *Ḥanafī* School is "reported that its followers make up more than an impressive 1/3 of the world's Muslim population" (Kakoulidou, nd.: 8). *Mālikī* School is followed by Muslims in MENA. While *Ḥanbalī* School is followed by most of Saudis and some Syrians and Iraqis (*ibid.*: 12). The *Shāfiʿī* School is followed by some Saudis, Egyptians, Indonesians, Malaysians, Jordanians, Palestinians and Filipinos (*ibid.*: 10).

In this regard, many scholars, such as Al-Kabi et al. (2005), Ghazizadeh et al. (2008), Harrag and El-Qawasmeh (2009) and Alkhatib (2010), presented various classification approaches of *ḥadīth* to define a set of rules by using different data sources. Additionally, a very interesting survey on the classification of *ḥadīth* is presented by Robson (2002), in which he introduced the seven grades of *ṣaḥīḥ ḥadīths*: (1) al-Bukhārī's and Muslim's grades, (2) al-Bukhārī's grades, (3) Muslim's grades, (4) grades not given by either but fulfilling their conditions, (5) those fulfilling al-Bukhārī's conditions, (6) those fulfilling Muslim's conditions and (7) those that are considered sound in the opinion of other authorities. He also presented the category of *ṣāliḥ* to be a grade substandard to *ḥasan*, pointing out that this view is not common. Furthermore, *ḥadīth qudsī* (a sacred tradition) gives words spoken by Allah, as differentiated from *ḥadīth nabawī* (prophetical tradition), which entails the words of the Prophet. Also, Robson (*ibid.*) offered some technical terms mainly dealing with *isnād*, arranging them in five groups, with reference to: the number of transmitters, the nature of the *isnād*, the special features of the *matn* or the *isnād*, the acceptable traditions and the rejected traditions.

Ṣaḥīḥ al-Bukhārī and *Ṣaḥīḥ Muslim* are recognised by the most of the Islamic world to be the two utmost authentic collections among the six collections of the Prophet's Sunna [lit. custom]. They form the "*Ṣaḥīḥayn*," or the "*Two Ṣaḥīḥs*" [lit. *The Two Authentic Ones*], because they include only *ḥadīths* that can be traced directly to the Prophet (Brown, 2007). Thus, in this study, these collections are chosen rather than other authentic collections, such as *Sunan Abī Dāwūd*, *Sunan al-Tirmidhī*, *Sunan al-Nasāʿī* and *Sunan Ibn Māja*, because of their validity, reliability and comprehensive nature. What makes *Ṣaḥīḥ al-Bukhārī* and *Ṣaḥīḥ Muslim* unique are their authors' meticulous attention to detail in the compilation of *ḥadīths*. Imām al-Bukhārī (810-870 CE) and Imām Muslim (818-875 CE) had far stricter rules than other scholars for accepting a *ḥadīth* as authentic, requiring the chain of narrators of a *ḥadīth* to be verified as authentic before including it in their compilation. They lived a couple of centuries following the Prophet's death and worked systematically to gather their *ḥadīths*, with every collection painstakingly examined for compatibility with the Qur'ān and for accuracy of *isnād*. *Ṣaḥīḥ al-Bukhārī* is divided into 97 books containing 7563 *ḥadīths*, while *Ṣaḥīḥ Muslim* involves the same number of *ḥadīths* distributed across 54 books (Āl al-Shaykh, 1999: 670, 1218).

This discussion helps in defining the *ḥadīth* and serves in acknowledging its function and status within the Islamic world. At this point, it is important to emphasise that this study is not about *ḥadīth* literature; rather, it focuses on *ḥadīth* translation. Before explaining the legal functions and status of *ḥadīth*, particularly in Saudi law, it is important to provide a brief overview of the legal system in Saudi Arabia.

1.3.2 The Saudi Legal System

In Saudi Arabia, where Islam is the most powerful force in the country influencing almost everything including law and education, the legal system is underpinned by *Sharīʿa* (Lippman, 2012: 25). Saudi Arabia is a monarchy based on Islam (Champion, 2003). The Saudi Basic Law of Governance, which was adopted according to Royal Decree No. A/90 in 1992, declares Islam to be the country's religion and the Qur'ān and Sunna to be its constitution (Article 1) and that the government's authority is stemmed from the Qur'ān and the Sunna (Article 7) (Al-Rodiman, 2013: 3). Under Article 48, the courts are to apply the rules of *Sharīʿa* in accordance with the Qur'ān and the Sunna. Any statutes decreed by the ruler cannot contradict these (Al-Jarbou, 2004).

Āl al-Shaykh (2005), who highlights the importance of *Sharīʿa* within the legal system in Saudi Arabia, presented three principles that make it a rich source that regulates the country and establishes people's rights. The first principle is the religious aspect of *Sharīʿa*. Thus, Muslim legal professionals will act not only according to the law but also to their religious beliefs. Second, *Sharīʿa* depends on clear proof and evidence and not conjecture. According to Article 180 of Law of Criminal Procedure, "A court shall base its judgment on the evidence produced during the trial. The judge shall not base his judgment on his knowledge of the facts, nor on facts contradicting such knowledge" (Bureau of Experts at the Council of Ministries, 2001). Another principle of *Sharīʿa* is the unity of its sources as it is a divine law, which is based on the equality of all Muslims regardless of their social class or status.

Early moves by King ʿAbd al-ʿAzīz, the founder of Saudi Arabia, towards a modern system of government and new laws brought into focus the development of Saudi Arabia’s legal system. The legal system in the Najd region, at the heart of Saudi Arabia, was completely based on *Sharīʿa*. However, King ʿAbd al-ʿAzīz extended his rule over the *Hijāz* region, the Western part of Saudi Arabia, in 1925, where the legal system was Ottoman-oriented. He issued a decree in 1925 stating that Ottoman Laws would continue to be effective (Nasīb and al-Ḍuwayyān, 2018). This decision had significant credibility because of its role in anchoring religious principles (Metz, 1993). Traditionalist and modernist movements are observed in the history of the Saudi legal system (Al-Jarbou, 2007: 191-192). The importance of the application of *Sharīʿa* and of resorting to the main sources of the Qurʾān and the Sunna is supported by the traditionalists. They are mainly represented by the *ʿulamāʾ* at Islamic universities, Sharīʿa Court judges, the Board of the Senior *ʿulamāʾ* which issues *fatwas* (legal opinions or counsels that are based on *Sharīʿa*), *al-Majlis al-Aʿlā li-l-Qaḍāʾ* (the Supreme Council of Justice), which is at the summit of the *Sharīʿa* judicial structure, and independent *ʿulamāʾ* who are not within the structure of the government (see *ibid.*).

The modernist movement is promoted by members of educated elites, technocrats and legal professionals such as lawyers and law professors. The Council of Ministers and the Shūrā Council are the main government institutions that are making the effort to modernise the legal system. According to Bulloch (1993: 7), establishing the Shūrā Council was extensively welcomed by the Arab World.

Modernists believe that Saudi Arabia should focus its attention on the practical demands of a commercialised world, asserting that the impact of globalisation and international trade demand laws that can deal with critical issues in a way that relying on traditional ideas cannot. One of their main ideas is to categorise all aspects of the legal structure relating to all parts of life. This would decrease the difficulty of implementing different schools of thought in Islamic jurisprudence and would lead to a uniform legal system.

Many laws have been enacted in the criminal, administrative, and commercial fields. These laws were linked to the comprehensive development of the country.

Importantly, the term *nizām* (legislation) has been used rather than the term *qānūn* (law), which is used in other legal systems to refer to man-made laws (see Brown, 2012). Additionally, the term *ṣulṭa tanẓīmiyya* [lit. regulatory authority] has been used to refer to the legislative authority (Ansary, 2008).

Another kind of codification has been based on the experiences of other legal systems, especially the Egyptian legal system (see Brown, 2012). Thus, there is a duality in the applied laws in the Saudi legal system. Alongside the provisions of *Sharīʿa* that are found in jurisprudence books, the existing Saudi legal system contains laws based on foreign laws, which may not contradict the provisions of *Sharīʿa* (see Marar, 2004; 2006). Also, *Sharīʿa* Courts have been obliged by the government in judging cases and disputes to rely on the jurisprudence of the *Ḥanbalī* school of thought. Further illustration about this reliance and the status of *ḥadīth* in the Saudi legal system are provided in the following section.

The Saudi Ministry of Justice ensures that what is being implemented is fully in accordance with Islamic Law and its provisions in order to ensure the security and stability of the country. This can be illustrated in the provisions of The Law of Procedure before Sharīʿa Courts, Royal Decree No. M/21. Article 1 states,

Courts shall apply to cases before them provisions of Shari'ah laws, in accordance with the Qur'an and Sunnah of the Prophet (peace be upon him), and laws promulgated by the State that do not conflict with the Qur'an and Sunnah, and their proceedings shall comply with the provisions of this Law. (Bureau of Experts at the Council of Ministries, 2000)

In addition, Article 1 of the Provisions of Law of Criminal Procedure, Royal Decree No. M/39 states,

Courts shall apply Shari'ah principles, as derived from the Qur'an and *Sunnah* (Traditions of Prophet Muhammad peace be upon him) to cases brought before them. They shall also apply state promulgated laws that do not contradict the provisions of the Qur'an and *Sunnah*, and shall comply with the procedure set forth in this Law. The provisions of this Law shall apply to criminal cases that have not been decided and to proceedings that have not been completed prior to the implementation thereof. (Bureau of Experts at the Council of Ministries, 2001)

This means that no one in the Saudi legal system has the authority to change provisions derived from the Qur'ān or the Sunna. According to Article 188 of Law of

Criminal Procedure, “Any action that is inconsistent with the principles of Shari'ah or the laws derived therefrom shall be invalid” (Bureau of Experts at the Council of Ministries, 2001). Also, Article 201 of the same law states, “A judgment shall be reversed if it contradicts the text of the Qur’ān or Sunna or the consensus of Muslim jurists.”

To illustrate this, Saudi law is strongly dependent on Islam in its legal matters. For instance, *Sharīʿa* regards witness as a key element of proof and considers those who give false witness to be committing a great sin and breaching the law. Thus, they face a penalty as stated in Article 167 the Law of Criminal Procedure (Bureau of Experts at the Council of Ministries, 2001). According to *Ṣaḥīḥ al-Bukhārī* (Khan, 1997: 353),

Narrated ʿAbdullāh bin ʿAmr رضي الله عنهما: The Prophet صلى الله عليه وسلم said, "The biggest sins are: To join others in worship with Allāh; to be undutiful to one's parents; to kill somebody unlawfully; and to take an *Al-Ghamūs* oath" (*Ṣaḥīḥ al-Bukhārī*, Book 83, *ḥadīth* 6657)

In the *ḥadīth* above, "*al-ghamūs* oath" (a liar's oath) refers to the false vow and witness taken by somebody deliberately to mislead people (Ibn al-Athīr, 1979: 679). Furthermore, each claim requires clear proof which includes swearing, i.e. another means of proof. According to *Ṣaḥīḥ al-Bukhārī* (Khan, 1997: 345),

Narrated by ʿAbdullāh عنه رضي الله عنه: "The Prophet صلى الله عليه وسلم said, "Whoever swears falsely in order to grab the property of a Muslim (or of his brother), Allāh will be angry with him when he meets Him" (*Ṣaḥīḥ al-Bukhārī*, Book 83, *ḥadīth* 6659)

Thus, those who swear and do not tell the truth face legal consequences, which are mainly based on Islamic principles (see Article 166 in the Law of Criminal Procedure). Another element of Islamic principles in Saudi law deals quickly with legal cases.

Saudi Arabia refuses any rule that contradicts the Qur’ān and the Sunna (Hussain, 2011). Thus, the Kingdom's supreme law is declared to be the Qur’ān and the Sunna. These sources are regarded as the basis on which the whole core of *Sharīʿa* is structured (Forte, 2000: 38). In addition to the Qur’ān and the Sunna, two other sources – *ijmāʿ* (consensus by jurists about a point of law) and *qiyās* (analogical

reasoning to implement a recognised law to a new situation not mentioned in the original law) – are generally agreed upon by Muslim jurists (Esposito, 2001: 2). Figure 1.1 clarifies the derivation of *Sharīʿa* legal decisions.

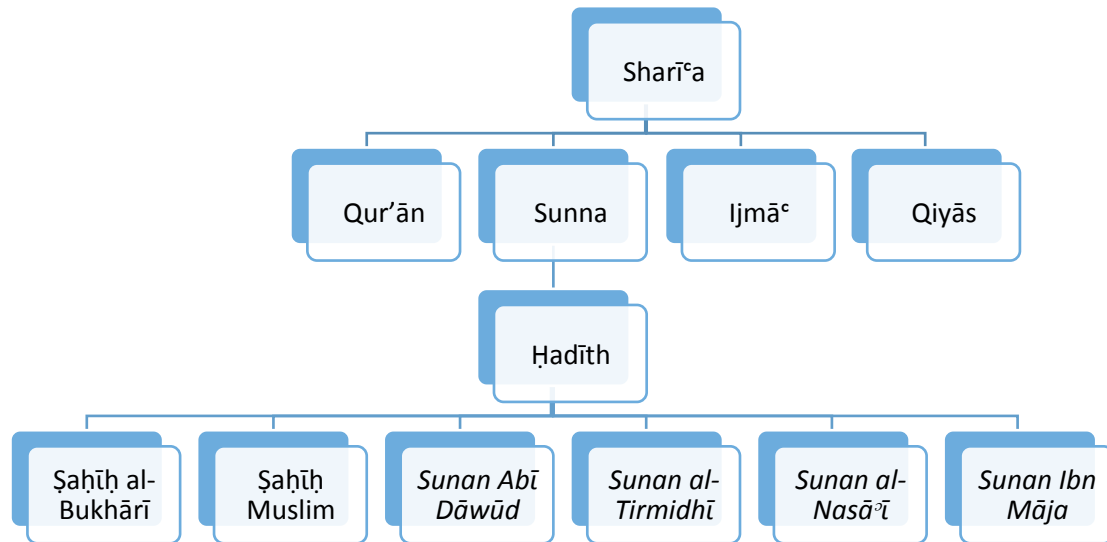


Figure 1.1: Main Sources of Sharīʿa

In practical terms, when faced with a legal question, particularly concerning proper conduct, *uṣūl al-fiqh* (legal theory) dictates considering first the Qurʾān and then the Sunna, as demonstrated in the *ḥadīth* collections, in order to ascertain if either source could resolve the question. If no clear answer is apparent in either, then the matter should be examined to ascertain if it has been addressed earlier in the form of a consensus of opinion (i.e. *ijmāʿ*) (Khan, 2014). *Maqāṣid al-Sharīʿa* (the aims or purposes of Islamic Law) is used in works of legal theory and refers to the idea that *Sharīʿa* encompasses aims or purposes. If *Sharīʿa* is correctly implemented, these aims will be achieved (see Calder and Gleave in Bearman et al., 2002). If there is still no clear answer given by the *Sharīʿa*, then it is permitted to ‘analogue’ based upon *qiyās* (analogy) or the revealed sources to reach a result, bearing in mind that the solution might not reach consensus, a case called *ikhtilāf* (Khan, 2014: 19).

According to Vogel (2000), under Saudi law, court decisions do not only depend on Saudi law but also on the *mufī* (a religious scholar). A distinction between the different roles of the *qāḍī* (judge) and the *mufī* is clarified by Ibn Qayyim al-Jawziyya (1991: 37-38) stating that the *mufī*’s *fatwa* declares a common law (*Sharīʿa ʿāmma*)

regarding both the requestor and others. In the case of the judge (*ḥākim*), his governing (*ḥukm*) is specific (*khāṣṣ*), not prevailing to anyone but the two parties. The *muftī* interferes in a ruling that is usually worded and commonly applicable (*ḥukm ʿām kullī*). The *qāḍī* makes a certain judgment (*qaḍāʾ muʿayyan*) on a particular individual, and his judgment is certain in terms and obligatory; meanwhile the *fatwa* of the scholar is common in terms and not obligatory.

In the Islamic world, the *muftīs*, before the sixteenth century, were “viewed as the ulama’s highest representatives to the caliphate’s courts of law, and worked alongside the qadi, who represented the caliph” (Khan, 2014: 33). By the late sixteenth century, the *muftī*’s authority was controlled by the state, from which independence was diminished or entirely eliminated (*ibid.*: 34). Legal opinions were issued by The Council of Senior Scholars in The Permanent Committee for Scholarly Research and *Iftāʾ*. By the nineteenth century, “the symbiotic relationship between the caliphate and the ulama had all but given way to executive power, which came to serve as the sole source of authority within and among nationstates, a trend that has largely remained unchanged” (*ibid.*). During the nineteenth century the Islamic world, due to calls for modernization, started to conduct alterations to its legal system, which resulted in a set of reforms generally called the *Tanzīmāt* (reorganisations) (*ibid.*). According to Khan (*ibid.*),

this new legislative body served to further weaken the relationship between the caliph and the ulama. This setback to the ulama was compounded by a more devastating blow delivered in 1877, when the Ottoman Empire enacted the Majalla (also known as the Mecelle), the first attempt to codify Islamic law in statutory form.

Khan (*ibid.*: 34) added:

The effects of the Majalla’s implementation were profound. It set the tone for how Islamic law was understood within the Ottoman Empire, and remains in partial effect throughout vast portions of the Middle East. The Majalla’s most powerful effect was the codification itself, which involved committing to paper a comprehensive compendium of law, placing the power of lawmaking in the hands of a politically-oriented legislature, thereby striking a severe—if not fatal—blow to the ulama’s authority.

Jurists’ ability to apply knowledge and theory to practice means that they must be knowledgeable in the Qur’ān and *ḥadīth*, history and different schools of law, as well as other disciplines, such as logic, and specialised areas, such as commerce (Nasīb

and al-Ḍuwayyān, 2018). The task of the judiciary is to explicate concrete laws from the Qurʾān and the Sunna, and so they remain at the head of legal norms in Saudi Arabia, where no regulations may contradict *Sharīʿa* (Abderrahman, 1988). Furthermore, jurists may exercise their own reasoning (*ijtihād*) to understand the law if no answer is found in the sources (Al-Rodiman, 2013: 1). Divergent judgements arise in apparently identical cases because judges are empowered to disregard previous judgements and apply their personal interpretation of *Sharīʿa* through *ijtihād* (Otto, 2010: 56). Commins (2006: 115) argued that there is an assumption against overturning a decision on *ijtihād* because it focuses on the core of the law in the hands of judges and makes an appeal unable to overrule a judge's decision. The role of *ijtihād* has thus caused calls for the *Sharīʿa* to be codified for accuracy and certainty (Murphy, 2010).

Royal Decrees are the other main source of Saudi law and are referred to as legislation to indicate their subordinancy to *Sharīʿa* (Campbell, 2007), supplementing *Sharīʿa* in fields such as labour, corporate and commercial law (Otto, 2010: 155). Traditional tribal law and custom continue to be valuable; for instance, judges apply tribal customs related to marriage and divorce (Ertürk, 2009). The basic judiciary of Saudi Arabia consists of the *Sharīʿa* Court, whose judges and lawyers are part of the *ʿulamāʾ* alongside extra-*Sharīʿa* government tribunals, which manage disputes related to particular Decrees (Esposito, 1998: 110). Final appeals from the *Sharīʿa* Court and government tribunals are made to the king (Campbell, 2007).

There are three primary divisions within the Saudi *Sharīʿa* Courts: the Supreme Judicial Council, Courts of Appeals, and First-Instance Courts (Ansary, 2008). The Supreme Court is the highest appellate court in Saudi Arabia. According to Article 11 of the Law of the Judiciary, Royal Decree No. M/78, the jurisdiction of the Court is to review judgments and decisions. Courts of Appeals consist of General Courts, Criminal Courts, Family Courts, Commercial Courts and Labour Courts. Article 17 of the Law of the Judiciary states that:

Courts of appeals shall review appealable judgments rendered by first instance courts and shall decide, after hearing the statements of litigants, in accordance with the procedures provided for in the Law of Procedure before Sharia Courts and the Law of Criminal Procedure. (Bureau of Experts at the Council of Ministries, 2007)

The Courts of First Instance are the trial courts regulated by the Law of Procedures before the *Sharīʿa* Courts, supplemented by the Law of Criminal Procedures.

According to the the Saudi Basic Law of Governance (1992), the regulatory authority has the power to set the laws and legislation within the confines of *Sharīʿa* and according to the legislation of the Bureau of Experts at the Council of Ministers and the Shūrā Council. Article 44 reads: “Authorities in the State shall consist of: Judicial Authority; Executive Authority; Regulatory Authority. These authorities shall cooperate in the discharge of their functions in accordance with this Law and other Laws. The King shall be their final authority.” Furthermore, Article 67 reads:

The regulatory authority shall have the jurisdiction of formulating laws and rules conducive to the realization of the well-being or warding off harm to State affairs in accordance with the principles of the Islamic Shari'ah. It shall exercise its jurisdiction in accordance with this Law, and Laws of the Council of Ministries and the Shura Council.

Thus, Saudi law goes through several stages before it is applied: proposing, discussion, voting, confirmation, ratification, publishing and enforcing (Aḥmad, 2004). These laws provide a detailed explanation of the basic legislation in the country and clarify the duties of each organisation and their authorities. They also elucidate the sanctions for breaking the legislation. However, these laws are general as they cover all branches of law. There are a few regulations specific to certain branches of law, such as, criminal, financial, personal affairs and labour; however, there is no regulation which deals with family issues, which gives the Saudi legal system a unique status. A list of Saudi laws can be found on the official website of the Bureau of Experts at the Council of Ministers (2016).

In summary, there is no standard legislature in Saudi Arabia: new laws originate primarily from the Council of Ministers of the Shūrā Council, and the King can issue Royal Decrees without consultation by either of these bodies, though he is subject to compliance with the basic tenets of *Sharīʿa*. Thus, the Saudi legal system is described as *Sharīʿa*.

1.3.3 *Ḥadīth* and its Use in the Saudi Legal System

In this study, the selection of the two *Ṣaḥīḥs* is deliberate, since the main source of legislation in Islamic countries, Saudi Arabia in particular, is derived from the Qur'ān and the Sunna. Unlike other references of understanding the Prophet's life, both the selected *Ṣaḥīḥ* collections highlight a clear legal tenor (Khan, 2014: 17). *Ḥadīth* has been regarded as the second source of law since the fourth Islamic century, complementing the Qur'ān (Reinhart, 1983), which provides few explicit legal injunctions. The Sunna, i.e. *ḥadīth*, can either be a clarification of the Qur'ān or an addition to it (as-Sibā'ee, 2008). In this context, the details of Islamic Law are taken from *ḥadīth*, and many beliefs of Islamic theology and dogma are taken from it (Brown, 2009). *Ḥadīth* also provides examples of the practical applications of these laws and explains their injunctions and objectives. For example, Allah makes the *zakāt* tax obligatory in the Qur'ān without specifying the types of wealth on which it should be levied or mentioning the minimum amount of wealth that makes the tax obligatory. But the Sunna makes all this clear, as Kamali (2003: 12) stated that the Sunna is a source of law regardless of its acceptance because it comes from the Prophet in the form of *ḥadīth*. Additionally, *ḥadīths* are not an abstract order but rather demarcate the lines around fixed laws (Smirov, 1996: 349).

Although the Qur'ān and the Sunna are written, they are not codified as a form of positive law, and in many circumstances, they do not necessarily define the law, but provide indications (*dalālāt*; singular, *dalāla*) and rulings (*aḥkām*; singular, *ḥukm*) that lead to the causes (*ʿilal*; singular, *ʿilla*) (Al-Rodiman, 2013: 6). Jurists must apply these indications and rulings on questions with no ready answers, and this flexibility allows them to employ *ḥadīth* as an active instrument to various situations and places. Although both sources are accepted by Muslims as the primary source of divine law, their components are not all legal. As Khan (2014: 18) argued, the chapters of *ḥadīth* can be religious and non-religious. Yet, only the Sunna of the legal nature is deemed to form part of *Sharīʿa* (Hussain, 2011: 36). In other words, *ḥadīths* contain pure religious subjects, life style and legal judgements, and those that have legal impact form *Sharīʿa*. In this context, Khan (2014) divided the Sunna into three categories: the first related to the Prophet's role as Allah's Messenger, the second to his role as head of Madinah, and the third to his role as arbiter of legal

disputes. As a Prophet, Muhammad demonstrated the Qur'ān and made further legally binding statements about religion, establishing rules on matters where the Qur'ān was silent. Similar to Khan's classification of the Sunna, Muḥammad Shahrūr, a contemporary Muslim scholar, divided Prophetic statements into five categories. One of these categories includes the statements about legal injunctions (*ḥadīth al-aḥkām*) that comprise all legal injunctions and pieces of legislation the Prophet issued (Duderija, 2015). There has been considerable research on most *ḥadīth* collections as to their reliability as source for the law. Two examples are *al-Musnad* by Imām Aḥmad Ibn Ḥanbal and *al-Athar* by Imām Abu Ḥanīfa (Nadwi, 2005). Also, Lucas (2008) assessed the legal function of the six books of *ḥadīth* in order to compare the various methods of *ḥadīth* scholars for determining the law of divorce.

In 2010, the Saudi government announced its intention to codify *Sharī'a*. However, this is yet to be implemented. This means that the Saudi jurists still make their judgments directly from the Qur'ān and the Sunna. Indeed, there are certain areas where Islamic Law is applied mostly, such as family law, which falls within the general jurisdiction of the *Sharī'a* Courts (Otto, 2010). In contrast, other sectors, such as financial matters, do not adhere fully to Islamic Law. In the Saudi court decisions in 2015, family-related cases, e.g. divorce and child custody, were found to be the most recurrent theme where *ḥadīth* was used (Ministry of justice, 2015).

The Saudi legal system primarily follows the *Ḥanbalī* School of Law, which was founded by Imām Aḥmad Ibn Ḥanbal (780-855 CE), who had a strong reputation as a traditionalist and theologian with a strict view of the law (see Philips, 2006). It is also regarded as the most comprehensive school and noted for its literalist interpretation of the Qur'ān and *ḥadīth* (Campo, 2009). According to the Supreme Judicial Council of Saudi Arabia, *Sharḥ Muntahā al-Irādāt* (Explanation of the Act of Will) and *Kashshāf al-Qinā' 'an Matn al-Iqnā'* (Explanation of the Means of Persuasion) are two of the most recent *Ḥanbalī* books that are considered reliable and were authored by the well known *Ḥanbalī* jurist Manṣūr Ibn Yūnus al-Bahūtī al-Ḥanbalī. These books are highly dependent on *ḥadīth*, which prove the use of *ḥadīth* in the legal system. Thus, in case of conflict or controversy on legal issues, the Qur'ān and the Sunna remain the core references (The General Presidency of Scholarly Research and Ifta, 1992), and reliable *ḥadīth* collections are always the

final resort (see Wāṣil, 2007 for further insights about the use of *ḥadīth* in courts). Another illustration of the use of *ḥadīth* in law can be seen in Article 38 of the Basic Law of Governance, which states that all legal sanctions are applied according to Qur'ān and *ḥadīth*. Additionally, Article 45 states that Qur'ān and *ḥadīth* are the main sources of legal opinions in Saudi Arabia, and *ḥadīth*'s use in the Saudi legal system can be noticed in many legal documents and practices (see the Saudi Court Decisions, 2015).

In terms of the criteria used for selecting the textual sample from the Sunna, this study focuses on the laws pertaining to family, which cover areas related to marriage, divorce, alimony, inheritance, child abuse, custody and support. Two different translations of the two *Ṣaḥīḥs* are compared and linked to the social factors, translators and publishers, which affected their production. Further details are provided in Chapter Three.

The Saudi family law is known as 'personal status law'. It is under the auspices of the Court of First Instance in the Saudi Judiciary and was promulgated by Royal Decree No. M/78 on 1 October 2007. The choice of the topic is due to the growing number of family disputes in the Kingdom, where the number of divorces has increased significantly, with more than 30,000 divorces taking place in the Kingdom every year, equivalent to 82 every day (Abdul Ghafour, 2015). In addition, family issues are regarded as one of the most fundamental issues in any society, particularly in Saudi Arabia, where the family is traditionally considered as the main pillar of human relations. Therefore, family disputes are a matter of much concern. As previously discussed, the context of family-related matters is highly dependent on the Qur'ān and the Sunna, as both sources contain the rules that govern family relations. In relation to other branches of law in Saudi Arabia, family-law jurists always refer to Qur'ān and *ḥadīth* in making judgements (Ministry of justice, 2015).

1.4 Research Questions

This study addresses three research questions, based on the gap in the research:

1. How are ideological stances manifested in the selected TTs?

2. What is the relationship between linguistic decisions and the social dispositions of the translators?
3. What is the relationship that connects both the linguistic and the social findings to the contextual level?

1.5 Methodology

To answer the research questions, this study utilises Fairclough's CDA framework to analyse the linguistic features of the corpus and link it to ideology. Fairclough (2001) developed an analytical framework consisting of ten main questions along with a number of sub-questions. In addition, this study combines CDA with Bourdieu's concepts of capital, field and habitus in the legal context. CDA is a multi-disciplinary approach. It not only demonstrates how textual, stylistic and genre features are used in certain patterns, but also takes account of the social, historical and cognitive contexts of a text. Combining these elements in an analysis offers a more comprehensive understanding of the discourse. Moreover, this analysis explains the indirect ideologies that are hidden within the text. Discourse analysis has a key role in translation and can be used not only to investigate the sociology, communication and linguistics of a particular text, but also to analyse the text carefully (McCarthy, 1991). Thus, CDA is an appropriate tool to develop a better understanding of the ST and the quality of the translated TT.

The linguistic analysis is divided into three categories, namely vocabulary, grammar and textual structure. The analysis is conducted in three stages: a description of a detailed linguistic analysis of texts, an interpretation of the relationship between the linguistic findings and the social context and an explanation of the relationship that connects both the linguistic and the social findings to the contextual level (Fairclough, 2001). Fairclough (*ibid.*) distinguished between three types of value – experiential, relational and expressive – that the formal features of text may have. A formal feature of experiential value is the ideological representations of knowledge and beliefs in the contents. Relational value is associated with the social relationships that are embodied in the discourse. A formal feature of expressive value is the producer's evaluation of a discourse, social identities and subjective values.

It is important to highlight that there is a potential relationship between CDA and Bourdieu's concepts as 'habitus' reflects the experiential value, 'capital' reflects the relational value and 'field', the expressive value. These relationships can produce an in-depth analysis of a text by providing an understanding of the linguistic and sociological levels and how they interact. Also, the relationship between social power and language is a feature in both approaches. The choice of these approaches can be justified in terms of the tools and concepts they provide, which are applicable to the corpus of this study. Additionally, they greatly help in answering the research questions and analysing the linguistic and social aspects of the corpus. This is because this study not only focuses on bilingual translation but also on the social powers imposed on it. CDA does not provide a detailed social explanation, whereas Bourdieu's concepts do. Chapter Three provides a detailed picture of the method of integrating the two theories.

1.6 Structure of the Thesis

Chapter Two critically reviews the literature pertinent to English and Arabic legal languages with a special focus on *Shari'a*. It also highlights the features of legal discourse, and a review of legal translation practices is provided. The chapter also discusses the challenges translators face in both legal systems and addresses the most common methods and strategies used in Arabic and English legal translation.

Chapter Three explores the use of CDA and Bourdieu's framework to analyse two textual sources from *Shari'a* focusing on family law. The two approaches are reviewed as potential tools that can help analyse the factors affecting the legal translation process, product and their efficiency. Both approaches are analysed in-depth in order to reach an integrated methodology that helps answer the research questions and successfully achieve the research objectives. The chapter also addresses how Bourdieu's variables are integrated with CDA in analysing the two different textual sources taking into consideration the sociological and linguistic factors.

Chapter Four analyses the data and the variables at the micro-level. A critical description of the data is presented, followed by a comparative linguistic and

sociological analysis of the translators and the selected sources. The analysis focuses on the two stages of description and interpretation of the data.

Chapter Five presents the macro-level analysis. It explains the different levels of power on the selected translations, namely societal, institutional and situational. It also investigates the translation, religion and law fields inside the Saudi social space and their relationships. A discussion that links both micro- and macro-levels of analysis is provided at the end of the chapter.

Chapter Six discusses the findings related to the linguistic structures and the underlying ideologies in the translations of the selected corpus. It also summarises the objectives and methods of the analysis and recaps the main findings of this study. The original contribution of this thesis to legal discourse analysis in English and Arabic is highlighted and suggestions for further research are furnished.

Chapter 2:

Legal Language and Translation

This chapter provides a brief introduction to legal translation and its distinctive position among other genres of translation. The relationship between language, culture and law is highlighted. The chapter also sheds light on both English and Arabic legal jargon and registers, as well as on their historical development. Thereafter, differences and similarities between English and Arabic legal texts are investigated in terms of syntactic, semantic and stylistic features. The chapter also reviews the development of key legal translation theories. Different approaches in Translation Studies and their limitations are also addressed with a focus on the strategies applied in *ḥadīth* translation.

2.1 The Relationship between Law, Language and Culture

There has been a solid relationship between language and law. In modern societies, most legislation is written, laid down in statutes or found in court judgments; consequently, law and language are closely interrelated. The question is: How do these elements function together?

Language is essential to law in two ways. First, it articulates laws and legal norms, and, second, it is a tool used to carry out the business of law (Tiersma, 2009). Cultural elements appear in the text at all levels, from the terms to the text structures and styles. Consequently, legal translation combines culture, language and law. In Translation Studies, scholars focus on the importance of conveying language and culture. For instance, Nida (1964) underscored the importance of both linguistic and cultural differences between the source language (SL) and the TL. Later, the term “cross-cultural event” was introduced by Snell-Hornby (1988: 46) in support of Vermeer’s (1989) description of translation as a form of cross-cultural action in a new situation and different conditions as opposed to the mere transcoding of words and sentences between languages. Cultural transfer widens the scope of translation by conveying not only the language, but also the cultures of the ST and the TT. Legal translation is considered as an act of communication in which the transfer is not limited to the words, but also contains the message from the ST to the TT. The

success of a communication process is subject to the receiver's understanding of the message (Šarčević, 2000b). Accordingly, Sager (1997) argued that current translation theory has to take into account the cultural distinctions between the ST and the TT in addition to the purpose of the TT. As an attempt to approach the concept of equivalence, Sager (*ibid.*: 26-27) introduced a translation approach based on communication theory to challenge the fixed view of linguistic equivalence between the ST and the TT to facilitate communication across cultures.

Thus, legal translation is culturally bound and involves more than terminological and syntactic issues. As Cao (2007: 5) argued, it has to be considered a complex process of human behaviour that cuts across culture and language. More than mere technical transcoding, it is an “an act of communication in the mechanism of the law” (Šarčević, 2000a: 55). Botezatu (2016: 111-112) argued,

In each culture, law represents different ways of thinking, being determined by the socio-cultural and political contexts in which it is used and reflected through the system of law, linguistics, changes in society. Legal systems are formed in different cultural contexts and largely reflect the political history of each country, the legal discourse being conditioned by the cultural conditions emerging from it.

He (*ibid.*: 112) added

Ignoring the cultural genesis and the legal tradition of each system can generate differences and confusion related to legal concepts because they come from different hermeneutical traditions. It can be considered that the legal language, as a cultural phenomenon, is susceptible to different interpretations and semantic nuances.

Šarčević (2000a: 5) indicated that “the basic unit of legal translation is the text, not the word.” In other words, the terminological equivalence has a crucial role to play; however, 'legal equivalence' may be of an even greater importance. As a consequence, legal translators have to look outside the linguistic limits of a text and transfer the ST's intended meaning as closely as possible because the analysis of a legal text is strongly dependent on the legal system in which it is set. A discussion about legal translation and its distinctive features and challenges is provided later in this chapter, and a brief overview about legal systems and the development of legal language serves in understanding how it emerges and functions.

2.2 Legal Systems

Traditionally, law is divided into two main categories, national and international. The former reflects the values and traditions of a certain society, whereas the latter controls interactions among the national laws. Globally, common law and civil law are the two major legal systems. Common law, which consists of laws developed by judges, originated in England and is associated with English-speaking countries. Legal terms are naturally dynamic and will change according to the development of human knowledge and technologies. According to Griffith (1997), when judges make case decisions based on principles, they are creating common law. In contrast, civil law is used in most continental European countries dealing with private rights and disputes between individuals. Originally, it was rooted in Roman law. According to Cao (2007), general codes and statutes inform particular cases in the civil law courts.

Furthermore, Cao (2007) distinguished between the two systems in terms of length and nature. Common law judicial decisions, as compared with civil law, are made in a longer process, whereas civil law naturally and stylistically is more formal. The diversity in style and language between these two legal families is one of the main challenges in translating a legal terminology. Consequently, a good understanding of the SL and the TL legal systems can improve the accuracy of translation.

A legal system is a collection of legal concepts. Each legal system has its own language of the law, which makes translating them very challenging. This problem can also occur when different legal systems using the same language are involved (Dall'Omo, 2012). For example, Arabic is the dominant legal language for the different legal systems in Saudi Arabia, Lebanon and Egypt.

As discussed, *Shari'a* is a religious legal system based on Islam. This legal system is recognised internationally and is applied by some Islamic countries. The categories and subjects of Islamic Law are branches of *fiqh*. The concept of *fiqh* literally means the ability to understand the legal source of legislation taking into consideration the complexity of the context. This concept greatly contributes to enriching the literature of legislation by allowing judges not only to abide by the text but also more importantly to respond practically and objectively to the context.

Sharīʿa language and concepts are complex, and as a result, there are different interpretations by different experts, ultimately leading to different rulings.

Sharīʿa differentiates in one very major way from the legal traditions of the West: it relates to every aspect of the lives of Muslims as it helps them understand how they should lead almost everything in their lives, while Western laws are largely confined to matters relating to contract, crime, individual rights and civil relationships. According to Hallaq (2002: 1707), *Sharīʿa* defines

not only the Muslim way of life, but also the entire culture and psyche of Muslims throughout fourteen centuries. Islamic law governed the Muslim's way of life in literally every detail, from political government to the sale of real property, from hunting to the etiquette of dining, from sexual relations to worship and prayer. It determined how Muslims conducted themselves in society and in their families; how they designed and ordered their cities and towns; and, in short, how they viewed themselves and the world around them. If Islamic civilization, culture, or state ever constituted a regime of any kind, it was one of nomocracy. There has never been a culture in human society so legally oriented as Islam.

In other words, *Sharīʿa* covers topics that seem private and noticeable to the exterior observer; Muslims merely wish to ensure that their actions follow Islamic Law and rites. Islamic Law has its own distinctive processes of categorising legal norms similarly to other legal systems, but it advanced into the progressing contexts of Muslim communities and their political systems (Mansfield, 1981). A discussion of its characteristics is provided in section 2.2.3.1.

2.2.1 Legal Language vs Language of the Law

Legal language and language of the law are two key concepts that need clarification to avoid misinterpretation. Mellinkoff (2004: 3) described the language of the law as “the customary language used by lawyers in those common law jurisdictions,” while according to Dall’Omo (2012: 74), legal language “has the aim of regulating human behaviour and society through obligations, permissions and prohibitions.” Both languages are used in the legal field and thus are interrelated; lawyers speak legal language based on the language written in law. Although there is a strong connection between the two terms as the language of the law has an influence on legal language, a discussion of the differences between these concepts by scholars is provided in the following sections.

Kurzon (1997: 120-121, cited in El-Farahaty, 2015) made a distinction between the two terms by stating that language of the law is “the language or the style used in documents that lay down the law,” such as contracts, wills and statutes, while legal language refers to “the language that is used when people talk about the law.” It can be written, such as legal textbooks and judgments, or spoken, such as lawyers' speeches and judges' opinions (see Figure 2.1). However, this distinction fails to define the key terms, such as 'language' and 'legal language'.

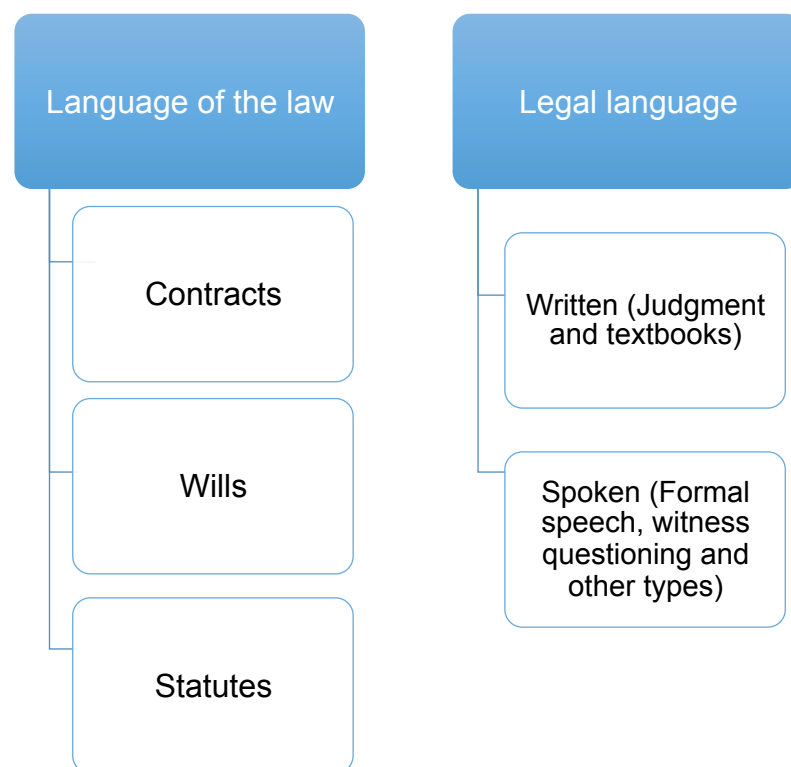


Figure 2.1: Kurzon’s Classification of Legal Discourse (Kurzon, 1997: 121)

In contrast, Trosborg (1997: 20) views the language of the law as an element of legal language. A classification is provided, which involves several sub-languages of legal language, such as the language employed in legal documents, courtrooms, textbooks, formal speeches and law talks as legal language (see Figure 2.2). Trosborg (*ibid.*) argued that each legal sub-language has different characteristics, which vary according to the purpose of communication. For example, the language used by lawyers inside a court will differ from the language used in a law firm.

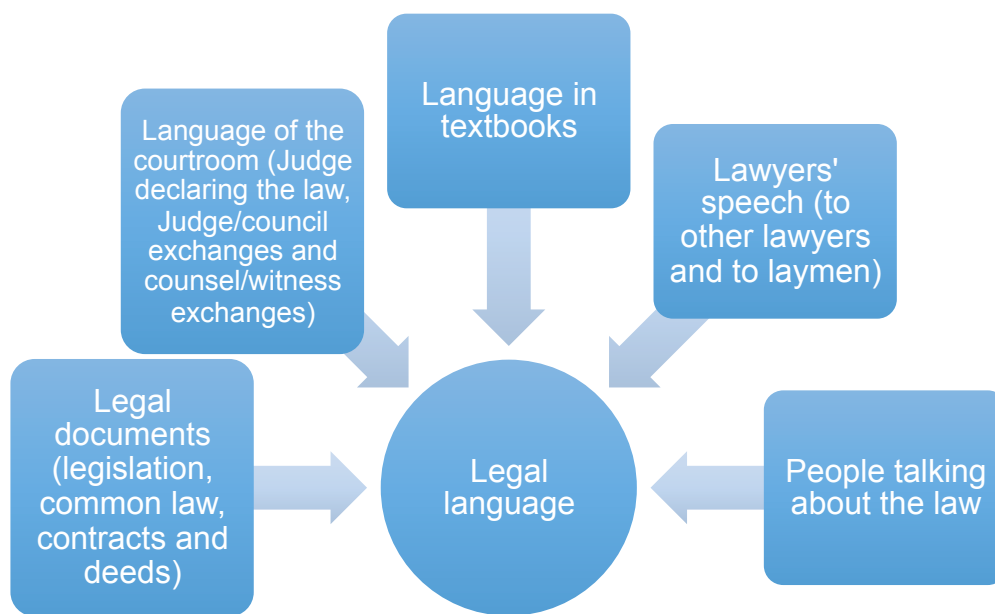


Figure 2.2: Trosborg's Classification of Legal Discourse (Trosborg, 1997: 20)

Meanwhile, Cao (2007: 9-10) introduced a different classification of legal texts. They are divided according to the subject matter of the texts into legislative, judicial, legal scholarly and private legal (see Figure 2.3).

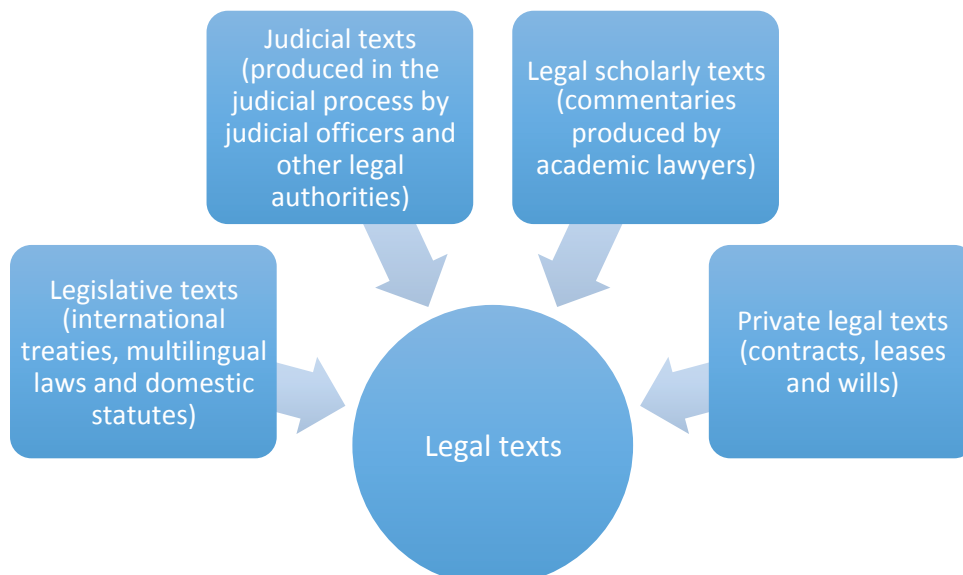


Figure 2.3: Cao's Classification of Legal Texts (Cao, 2007: 9-10)

Although Cao's classification of legal texts may appear more comprehensive than Kurzon's and Trosborg's, it lacks any focus on the legal language. This is because it considers legal language as a language that covers all communications in all legal settings. Scholars, such as Bocquet (1994) and Asensio (2007), classified legal texts differently. Thus, Bocquet (1994, cited in Šarčević, 2000a) divided them primarily into prescriptive and descriptive. The former describes a course of an individual action, such as conventions, contracts and treaties, while the latter includes judicial decisions, such as actions, appeals and requests. In contrast, Asensio (2007) focused on the text's degree of speciality; for instance, he classified the private legal texts as 'official documents' and UN documents as 'diplomatic documents'. From the discussion on the various classifications, it becomes clear that there is no conclusive classification of legal texts. Moreover, these classifications fail to acknowledge other types of legal documents, such as religious constitutions.

Significantly, the research into legal language has adopted different approaches. For example, textual analysis in the US has inspired researchers in legal language in Europe, while in Russia, legal linguistics is essentially based on linguistic science (Mattila, 2006). Contrastive analysis of French and English legal languages is widespread in Canada, while German research focuses on the characteristics and use of various types of languages for special purposes (*ibid.*). A historical perspective of legal language by Mellinkoff (2004) offers a critical account of the development and present state of the language of law. He discussed how the legal profession has strived to make law more precise, shorter, more intelligible and more durable. Mellinkoff's use of historical perspective provides important observations, helping in understanding the peculiarities of law, concerning its terminology, phraseology, expressiveness, among many others.

Legal language conveys messages and facts of the law. Through this language, the content of laws and judgments can be recognised (Mattila, 2006). Additionally, legal language, or legalese, is regarded as a special purpose language or jargon. This means that legal terms and concepts vary according to different legal systems and their branches of the law (*ibid.*). Legal documents contain specific laws and systems; therefore, their language should be precise and direct. According to Hoffmann (1979,

cited in Cabré, 1993: 133), a special language is a “linguistic phenomenon” peculiar to particular conditions and context.

Moving to Arabic legal language, there are many types of Arabic legalese, which vary according to their context. According to ʿAbd al-Bāqī (2015), Arabic legal language can be divided into three languages: academic, juridical and legislative. The first refers to the language used in textbooks and academic journals, the second type includes the language of legal memorandum and warrants, while legislative legal language is the language of wills, constitutions and contracts.

The term 'legal language' is used in this study to reflect the language used in legal discourse, particularly the language of *ḥadīth*. A legal language and a legal writing are different in every language. An overview of English and Arabic legal languages is provided in the following sections.

2.2.2 English Legal Language

English legal language has developed sometimes in parallel to, but often independent of, other aspects of the English language. Languages evolve over time as archaic terms drop out of the language and grammatical structures shift to reflect changing statuses of competing dialects. Legal language, on the other hand, evolves through a legal, not an ordinary, linguistic process.

English legal language contains a lot of Latin terminology used in legal agreements, contracts and court opinions (see Macleod, 1998). As Christianity spread, the English Roman Catholic Church's use of Latin for the written law gave it prominence. Thus, Latin was used in legal matters "by means of Canon Law, through which the Church regulated religious matters, such as marriage" (Tiersma, 1999: 16). English legal documents contain Latin for written pleadings and records, French for oral pleadings and English for hearing witnesses, a concept known as “legal trilingualism” (*ibid.*: 33-34). In this context, Beveridge (2002: 57) suggested that “what we know today as legal English did not begin its life as English alone, but rather was predominantly French and Latin.” Moreover, Bach and Cable (2002: 10) mentioned that “half of the English vocabulary is derived from Latin, be it directly or indirectly.”

Sometimes, all three languages would appear in one legal document. These languages also reciprocally influenced each other.

Furthermore, French was the language of statutes (Tiersma, 1999: 20-23), and virtually all English government words derive from French. As a result, many French terms are used in legal English, such as "appeal, attorney, claim, complaint, counsel, court, damage, default, defendant, demurrer, evidence, indictment, judge, jury, justice, party, plaintiff, plea, sentence, sue and verdict" (Stanojević, 2011: 71).

Lexically, legal terminologies are unique in terms of complexity and formality. The main lexical feature of legal language is the use of technical terms, which have a strong cultural connotation (Alchini, 2012). Kurzon (1997: 125) stated that "complex concepts require complex language." In addition, Hiltunen (1990: 84) stated that legal terminology is "fairly scarce" due to the vague and abstract quality of nouns and verbs. Legal terminologies can be divided into three sub-types, which are purely technical, semi-technical and everyday vocabulary.

Mellinkoff (2004: 19) described English legal terminology as "mystical, sacerdotal, and dignified." It is also characterised by being archaic, as the roots can be traced back to Old and Middle English. For instance, "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" and are borrowed from Old English (Fakhouri, 2008: 17). According to Mattila (2006), the stability of legislation is what causes legal language to be archaic. Additionally, legal terminologies are characterised by being culture-bound and technical, which makes translating them a challenging task (Dall'Omo, 2012).

Legal language has many characteristics of which accuracy and precision are regarded the most important; there is no room for ambiguity in legislation. Consequently, consistency of legal terms is essential to the accuracy of legal messages. For example, replacements between cataphoras and other words in a legal sentence could cause confusion about its meaning (Mattila, 2006).

According to Van Dijk (1981: 279-288) and other linguists (such as Bhatia 1997; Maley 1994; and Crystal and Davy 1969), syntactically English legal language is characterised by several features. One feature is nominalisation, which refers to the use of nouns in preference to verbs. Legal drafters also tend to use passive rather than active forms because it allows lawyers to be indirect and formal (Haigh, 2004), but this risks a lack of clarity. Phrasal verbs, often used in a quasi-technical sense, also play a large role in legal English; for instance, "parties enter into contracts" and "put down deposits" (Fakhouri, 2008: 23).

In addition, the most peculiar feature of English legal language is the use of modal verbs such as 'shall', 'should', 'may' and 'must'. It also employs further structural devices such as conditionals and adverbs (e.g. 'probably', 'possibly' and 'perhaps') to express these meanings. Goodrich (1987) suggested that legal texts are featured by modality and their prevalent forms are imperative and axiomatic. Thus, Charrow et al. (1982: 186) argued that "Courts have managed to totally confuse and twist the meanings of 'shall,' 'may,' 'must' and 'will,' so that 'may' has been interpreted to have the mandatory meaning ('must'). 'Must' or 'shall' have been interpreted as 'may,' and 'shall' has been interpreted as 'may,' 'must' or 'will'." To illustrate this, the modal 'shall' is to mainly transfer obligation; for instance, 'the court shall enter an order'. However, it could be used as an explanatory modal in another sentence; for example, 'The landlord shall have fully complied with the obligation to notify the tenant if there is a problem in the property'. The choice of using a specific modal in a legal document depends on the legal requirements of that document. This adds more flexibility to the use of these modals in a legal context.

Furthermore, there is a high concentration of archaic suffixes in the morphology of legal English. For example, the use of the suffix '-ee' is used in legal language to create some nouns, such as 'assignee', 'lessee' and 'mortgagee'. Although the use of '-th' is now quite rare, it still exists in modern legal texts, particularly in pleadings, such as, 'cometh now plaintiff' and 'this indenture witnesseth'.

English legal language is characterised by phrases such as 'rest, residue and remainder', 'any and all' and 'each and every'. This is known as alliteration which Giannoni and Frade (2010: 63) explained as a set of words in a phrase that begins

with the same particular sound, as in the phrase, 'to have and to hold'. This device was meant to help society, mainly illiterate at the time such phrases were coined, remember concepts more easily.

Finally, English legal language uses doublets and triplets, in order to deliver what is generally a single legal concept. According to Fakhouri (2008: 19), examples of this include "'will and bequeath', 'cease and detest', 'null and void', 'fit and proper', 'perform and discharge'". However, such structures must be treated with caution as they do not necessarily have a single meaning in all cases (Van Dijk, 1981).

2.2.3 Arabic Legal Language

Arabic legal discourse also has its distinctive characteristics and structures. Before presenting these features, it is important to highlight the influence of European languages on Arabic to acknowledge the presence of lexical borrowing (*taʿrīb*). Foreign words have entered Arabic in two main periods; the modest influence of Greek during the mediaeval translation movement from the 9th to the 11th centuries, and French, Italian and English in the 19th century (Newman, 2002). In addition, prior to the 19th century, Turkish and Persian also entered Arabic vocabulary in a limited way. The impact of these languages was restricted to specific fields, e.g. philosophy and medicine for Greek and military for Turkish (see, Newman (2002) for a detailed discussion about this influence).

As discussed earlier, different legal systems can exist within the same language; for instance, Arabic speaking countries have different legal systems and concepts despite using the same language. Thus, Arab legislative bodies are named differently despite having the same function. In Kuwait, it is referred to as *majlis al-umma*, in Lebanon it is *majlis al-nuwwāb*, while in Sudan the term used is *al-majlis al-waṭanī*. This makes the legal translation process more complex, since different legal concepts are used in the same language in various ways.

Arab countries apply Islamic Law to different degrees and different dependence on *Sharīʿa* in their legal systems. Countries, such as Saudi Arabia, consider *Sharīʿa* as the only source of law, whereas countries, such as Egypt, consider it as the main

source of law (see Article 2 of the Egyptian Constitution). Thus, Arabic legal discourse contains culture-specific and system-based terms, and Arabic legal language is characterised by Islamic terms. For example, most legal documents in Arabic use Islamic terms, such as *ʿidda*, (the waiting period following the death of a woman's husband), and *zakāt* (the obligation of donating a certain proportion of wealth annually for charitable purposes). Moreover, some documents, e.g. marriage contracts, start with a religious reference such as “*bi-smi Allāh al-raḥmān al-raḥīm*” (In the Name of Allah, the Compassionate the Merciful) and “*al-ḥamdu li-Allāh rabb al-ʿālamīn*” [lit. Praise be to Allāh, Lord of the Worlds]. Also, religious remarks occur at the end of legal documents, such as “*wa-Allāh waliyy al-tawfīq*” (May Allah grant success) and “*wa-Allāh khayr al-shāhidīn*” [lit. Allāh is the best witness]. An example of culture-specific and religious terms and phrases in marriage contracts is “*ʿalā sunnati Allāh wa-rasūlihī*” [lit. According to the Sunna of Allāh and his Messenger]. Another distinctive feature, which is the result of cultural differences in the Arabic discourse, is the use of titles and references to represent formality. For instance, “*khādim al-ḥaramayn al-sharīfayn*” (The Custodian of the Two Holy Mosques) and “*ḥafīẓahu Allāh*” (May Allah save him).

In Arabic legal texts, similar to English, doublets are used to increase emphasis, such as “*tuḥlinu wa-tuṣarriḥu*” (announce and declare). Moreover, binomials (collocations of antonyms, synonyms or near-synonyms) are common in Arabic. Binominals in Modern Written Arabic are primarily a stylistic choice; for example, “*ʿājilan am ājilan*” (sooner or later) and “*dhahāban wa-iyāban*” (back and forth).

Legal Arabic expresses modal meanings through various lexical items “studied by rhetoricians and semanticists within the field known as ‘Science of Meanings’” (*ʿilm al-maʿānī*) (Al-Mukhaini, 2008: 2). In this sense, it constitutes a semantic, but not a semantic-grammatical category.

Arabic sentences can be categorised into nominal and verbal sentences. Legal Arabic uses long complicated nominals extensively; for example, “*mā yuqarriruhu al-majlis bi-l-ijmāʿ yakūnu mulzaman li-jamīʿ al-duwal*” [lit. The unanimous decision of the Council shall be binding on all States]. Nominalisation is used to add inclusiveness in writing. Therefore, it is more common in constitutions, legislation

and in international documents than in contracts. Additionally, conditionals, stipulative terms, obligations and rights are usually features of Arabic legal texts. The most common conditional particle is “*idhā*.” Legal Arabic shows complexity by using both coordinated clauses and embedded and relative clauses started with one of the relative pronouns “*alladhī*” and “*allatī*.” Arabic legal register usually expresses modality by sentence initial lexical verbs as in “*yajūzu*,” “*la yajūzu*,” “*yaḥẓuru*,” “*yajibu*.” Suleiman (1999) calls these modal expressions rather than modal verbs.

Furthermore, Arabic legal language tends to serve lexical cohesion through repetition of the same lexical item. For example, “*yuwaqqiʿu al-ṭarafān hādha al-ʿaqd wa-yaltazimu al-ṭarafān bi-nuṣūṣihi wa-ʿinda ḥudūṭhi khilāfin yaljaʿu al-ṭarafān ilā lajnati al-taḥkīm*” [lit. The parties shall sign this contract and the parties shall abide by its provisions. In case of dispute, the parties shall resort to the arbitration committee] (Emery, 1989: 4-5).

Although legal Arabic texts are similar to their English ones, the two registers differ considerably because of differences in form, structure, style, meaning and organisation. Emery (1989: 10) stated that Arabic legal language is more grammatically cohesive (through reference and conjunction) and its vocabulary is less passive and archaic.

Arabic and English legalese share features that differ in their degree of usage. Specifically, both legal languages involve elements of cohesion. As Halliday and Hasan (1976) argued, references and lexical repetition are the major elements of cohesion. Lexical repetition is expressed through words, phrases and clauses. It is termed “reiteration”, which is the insertion of a lexical item similar to another one mentioned previously in the same text or context. This could be “a synonym, near-synonym, superordinate or general word” (*ibid.*: 278). In legal English, pronouns are replaced with lexical repetition “because pronouns can have ambiguous reference, the legal profession tends to shy away from them” (Tiersma, 1999: 72). In legal Arabic, Emery (1990: 130, cited in El-Farahaty, 2015: 45) considered lexical repetition to be “a feature of written Arabic which manifests itself in many forms: lexical recurrence, root-echo or paronomasia, binomials, clausal structures.” Recurrence is used to achieve two major cohesive functions, textual and rhetorical

(Jawad, 2009). It is employed in different text types for different purposes; for example, for persuasion in argumentative texts and for accuracy in legal documents.

A further common element is reference, which is generally used in legal discourse. In English, references include 'hereunder', 'hereafter', 'herein', 'such', 'aforesaid', 'this' and 'that'. In contrast, Arabic prefers pronominal references as a cohesive tool (Baker, 1992).

English and Arabic legal sentences can share certain syntactic features. For example, English legal sentences, like the Arabic counterparts, are complex. They consist of conditional, purposive, adverbial, or concessive clauses preceding the main clause. Written legal English is very nominal, while legal Arabic is very verbal. This can be illustrated by "*yaltazimu al-ṭarafu al-awwal*" (the first party is committed), as the verb 'is' comes after the subject 'the first party' in the English sentence, while Arabic sentences can begin with a verb, e.g. '*yaltazimu*'. An additional feature of both languages is the choice of tense; legal English and legal Arabic, both use the present simple tense.

According to Halliday and Hasan (1976), the textual function of a language is related to its choice of passive, not active, vocabulary. Lyons (1968: 375) listed three categories of passive in English: passive with a specific agent, with a non-specific agent or without mentioning the agent. In legal language, English uses agent-less passive sentences. In contrast, the Arabic passive, as highlighted by Cantarino (1975), is used to place "greater emphasis upon the action and its object" (Bostanji, 2010: 44).

Stylistically speaking, both languages adopt the same layout. Taking treaties, resolutions and contracts as examples, both the SL and TL documents begin with a preamble and end with the signature of the relevant parties. In addition, the use of long sentences is apparent in both languages.

2.2.3.1 *Sharīʿa* and its Language

After discussing the special characteristics of the Arabic language, it is crucial to spotlight the language of *Sharīʿa*. First, it is important to note that the terms 'Islamic Law' and '*Sharīʿa*' are used interchangeably in this study, as they are technically viewed as synonymous concepts, including both the Qur'ān and the Sunna.

Islam and Arabic are closely connected, as Arabic is the language of the Qur'ān and the Sunna. The language of *Sharīʿa* is an interdependent language that includes many borrowed terms and concepts with similar roots to other areas of Islamic science. For example, Qur'ānic disciplines and concepts are found in *ḥadīth*, which includes many special terms. All of these are found in the language of *Sharīʿa*; thus, this language could include several meanings that relate to various interpretations.

Because of the close relationship between law and language, linguists have found not only that language changes depending on what legal norms are expressed, but also the extent to which legal norms can be affected by language (Edzard, 1997). One example taken from the realm of international relations is that of the term *ṣulḥ*, which, although rarely used, is sometimes translated as 'treaty'. The Arabic word *ṣulḥ*, however, is problematic in this context because one of the most important instances of its use is the so-called treaty of *Ḥudaybiyya*, concluded between the two cities Makkah and Madinah during the Prophet's stay in the latter. The peace treaty was restricted to a period of ten years but was broken after only two years following an attack by a Makkah-aligned clan on allies of Madinah (Bsoul, 2008). Some scholars have set even lower time limits to such a treaty (Holt, 1980). It is possible that this has led the term "*ṣulḥ*" to become charged with notions of time limitation. Edzard (1997: 81) found that the treaty of *Ḥudaybiyya* is considered the source for the 'ten-year rule', i.e. a rule defining peace with non-Muslims as only temporary. This could have significant consequences for international agreements and lead to their misinterpretation. One problem for translators of Classical Arabic legal language is the lack of tools to interpret the highly technical and specialised language used by scholars like Muḥammad Ibn al-Ḥasan al-Shaybānī (749/50 – 805 AH). There is, as Lewis (1977) argued, no adequate historical dictionary of classical Arabic as it was used at that time. This is due to three reasons. First, some

dictionaries of classical Arabic were compiled by scholars more than one thousand years ago and are thus not always suited for modern research. Second, those scholars did not explain the meaning that was in use at the time of compilation of the dictionaries, and thus, both meaning and legal-social context had changed. Third, most dictionaries focus on poetry and literature, and so explanations of legal language are rare and may not recognise the legal-technical meaning of a given term (*ibid.*).

2.2.3.2 The Language of *Ḥadīth*

Since *ḥadīth* is a source of *Sharīʿa*, it shares its language of Arabic. However, *ḥadīth* has unique and different linguistic and rhetorical characteristics when compared to other legal texts, such as interrogation forms, and ancient Arabic language. The language of *ḥadīth* is highly expressive because it is narrative, as it represents the story in which a particular command was issued by the Prophet. It contains expressive phrases, such as the structure of opinion and oaths. Additionally, *ḥadīth* has rich and comprehensive ideas, which cover all matters of a Muslim's life. These ideas are expressed in concise language. For instance, let us consider the following *ḥadīth* (al-Khattab, 2007: 423):

It was narrated that An-Nawwās bin Sam'ān Al-Anṣārī said: "I asked the Messenger of Allah صلى الله عليه وسلم about righteousness and sin, and he said: '*Al-Birr* (righteousness) is a good character, and sin is that which wavers in your heart and you do not want the people to find out about it.'" (*Ṣaḥīḥ Muslim*, Book 45, *ḥadīth* 6516)

The phrase '*Al-Birr* (righteousness) is a good character' has a deep meaning as the Prophet stresses that good manners represent virtue and righteousness. Good manners refer to believing in Allah and obeying His commands. It also involves respecting others, honouring parents, being honest, helping others and other good morals. The phrase stresses the crucial importance of good ethics, which prevent people from encountering problems. Thus, the language of *ḥadīth* has a very profound meaning. Other important features of *ḥadīth* are the strong structure of its sentences, its freedom from contradictory ideas, and its accuracy in conveying the meaning. Many linguistic books, such as *al-Nihāyatu fī Gharībī al-Ḥadīthi wa l-Athari* [lit. The Final (Say) about the Science of Strange Ḥadīths], have highlighted the well-written structure and the special terms of *ḥadīth*. Additionally, *ḥadīth* contains many

metaphors and similes. For example, the following *ḥadīth* contains four similes (Khan, 1997: 211):

Narrated Abū Mūsā Al-Ash'arī: Allāh's Messenger صلى الله عليه وسلم said, "The example of a believer who recites the Qur'ān (and acts on its orders), is that of a citron which smells good and tastes good; and the example of a believer who does not recite the Qur'ān (but acts on its orders), is that of a date which has no smell but tastes sweet; and the example of a hypocrite who recites the Qur'ān (and does not acts on its orders), is that of *Ar-Raihān* (an aromatic plant) which smells good but tastes bitter; and the example of a hypocrite who does not recite the Qur'ān (nor acts on its orders), is that of a colocynth plant which has no smell and is bitter in taste." (*Ṣaḥīḥ al-Bukhārī*, Book 30, *ḥadīth* 5427)

Similes create an image for readers and support the intended effect of the *ḥadīth*. Repetitions, emphasis and warning structures are other recognised characteristics of *ḥadīth*. *Al-Bayānu wa-l-Tabyīn* by the medieval Abbasid Muslim scholar al-Jāḥiẓ (2013) is one of the best works in which he described the epiphanies, rhetorical speeches and the uniqueness of the Prophet's sayings. Moreover, the language of *ḥadīth* is expressed by using different modes of sentences, for example, imperative, declarative and interrogative.

These characteristics of the language of *ḥadīth* are a result of it being a language produced by the Prophet. Therefore, translators must acknowledge the special features of the language of *ḥadīth* and try to produce a similar effect in the TL.

2.3 Characteristics of Legal Discourse

There are several fundamental criteria that legal language has to meet, of which precision and emotional neutrality are the most important. Baker (1992: 63) uses "the frozen patterns of language" to represent the archaic and formal features of legal context. In this context, Hatim and Mason (1997: 158) prefer to call the formulaic structures, typical ritualistic and archaic features of legal discourse "routines." Legal writing is subject to very strict stylistic conventions and constraints at all levels, from macro- to micro-structures. These features, according to Garzone (2000: 3), can be translated only when "parallel routines" are possible in the TL. The preservation of these fundamental features is essential in the translation of *ḥadīth*.

Legal language is a technical language, which is used by a specialist profession. In particular, legal language is used as an instrument of social management, which reinforces the authority of the law. It acts as a medium in a legal situation and controls a legal status. This means that legal language has the power of making or changing a judgement in a case. This power could be only effective within the legal field and is recognised by legal professionals. In other words, legal language is an instrument of deeds that can completely change the course of a life or even end it, such as with the death penalty. In contrast, the power of other technical languages is in expressing opinions and rights. For example, media language has the power of persuading the audience of a particular point of view.

Thus, many scholars consider legal translation to be a translation of a language for a special purpose (LSP), because it entails specialised terms produced particularly by a specialist. Bowker and Pearson (2002: 25) noted, it is “more accurate to talk about LSP in the plural (i.e. languages for special purposes) since different LSPs are used to describe different areas of specialised knowledge.” Generally, the effective translation of legal matters requires excellent knowledge of the subject matter, due to the sensitivity of the implications of such a product (Hjort-Pedersen and Faber, 2005).

The function of special-purpose texts is to be informative (Reiß, 1971). Informative function is primary in *ḥadīth* as it conveys rules given by the Prophet. In this context, translation scholars started to focus on the pragmatic aspects of texts by analysing their function. Thus, according to Sager (1990), the communicative function is important in LSP texts, which is maintained by connecting the sender and the receiver. Two secondary communicative functions can be identified: interrogative and directive. The former requires “a reversal of roles so that the sender seeks information from, rather than offers information to the recipient,” whereas the latter is “an attempt to elicit modification of behaviour via an effect on knowledge” (Sager, 1990: 102, cited in Šarčević, 2000a: 8).

As with all special-purpose texts, legal texts serve certain functions. Although the function of the legal texts distinguishes them from other LSP texts, theorists fail to recognise their primary functions, which are regulatory and informative, or as Kelsen (1991: 149-155) describes them, prescriptive and descriptive. Classifications of legal

translation tend to emphasise merely on the function of the SL, ignoring the function of the TL. According to Reiss's view on text typology (2000), legal texts represent information and facts, while Newmark (1982: 164) posited that legal texts have expressive, imperative and directive functions. Expressive function focuses on the author and his/her style, i.e. these are sender-oriented texts, whereas imperative and directive functions are addressee-oriented by encouraging specific readers to perform particular actions or imposing certain norms of conduct. Moreover, Sager (1993) stated that the legal texts are informative for the general reader and directive for a specific reader.

However, Cao (2007, cited in Millán and Bartrina, 2013) argued that such classifications of legal translation require modification. Thus, Cao (2007: 10-11) argued that for legal translation purposes with a special focus on the function of the TL, the classifications should be for normative purposes (which includes multilingual legal instruments), for informative purposes (to provide information to the target readers) and for legal or judicial purposes (both informative and descriptive and involves many legal subtypes). Newman and Husni (2015: 95) also added a further category, 'metalegal', which refers to texts, such as textbooks, that are concerned with legal topics. In fact, it is difficult to describe all legal texts having one or two specific functions, but rather each text has its own function or functions according to the situation and purpose of that text. For instance, any convention between two countries could be written for the purpose of mutual agreements on a specific matter, but it could be used as a source of information on the rules applicable to individuals or analysed for educational purposes.

Legal language can also be divided into genres according to the branch of law. According to Bhatia's (2006) classification, legislation is the main genre, which is "a model world of rights and obligations, permissions and prohibitions" (Bostanji, 2010: 31). Judgments and cases are regarded as legal genres, which can be considered as the application of legislation. As Bhatia (2006: 4) stated, judgments put discussions of justice in writing, bridging reality and the lawful "model world." Two further genres are the target genres and academic genres. The former involves a collection of professional genres, such as contracts and agreements, while the latter are used in legal training, such as textbooks and examination essays (*ibid.*). A

distinctive feature of legal translation, which distinguishes it from other types of technical translation, is that it is system-specific. Interrelated elements within this system are culture, language and law (Newman and Husni, 2015).

After discussing the various classifications of legal language and its special characteristics in different legal systems, such as Arabic and English, an exploration of the translation practices of this genre is crucial to acknowledge the lack of research in the field.

2.4 Legal Translation

Translation interacts with every field of language involving religious, medical, literary and economic. In addition to these fields, legal translation has become an area of specific research. Legal translation is a complex process that involves not only lexical transmissions but also cultural ones. This translation genre has a distinctive set of features and interactions requiring higher levels of recognition and awareness than those required by other genres. Considering the current debates on the most appropriate translation strategy, the key outcome is to produce an effective and communicative TT.

Legal translation is not limited to linguistic transfer as it also prioritises the transfer of the legal message, effect and format from one language into another. This might be also true to other types of translation; however, it is the variety of legal systems and the political consequences of misinterpreting legal concepts and formats that make conveying these aspects crucial. As with all human communications, legal message is subject to certain obstacles, loss and failure to deliver the message, known as 'interference' (Mattila, 2006: 34). Part of this interference results from variations in legal rules and concepts in the different legal systems. In order to avoid misinterpretation across comparative translation, an awareness of the similarities and differences between legal concepts is necessary (*ibid.*). As Šarčević (2000a) argued, the source legal system cannot be easily transposed across differences in history and culture to the target legal system. Thus, differences between legal systems have to be considered during the translation process in order to achieve the purpose of the translation.

In this context, Dall'Omo (2012) distinguished legal texts from other types of texts by their nature and their specialised terms. Thus, legal translation is usually considered to be a form of technical translation (see Section 2.3). Moreover, legal translation deals with documents, such as contracts, agreements, constitutions and wills, which each have their own features and style. According to Harvey (2002), a legal text is generally any document used in the judicial process.

In addition, the context of the legal texts has to be taken into consideration. For example, in Saudi Arabia most of the legal rules are based on Islamic Law, whereas the law in some other countries are mostly secular. For the reason that Islamic Law deals with special texts that carry specific holiness, translation in the field may become problematic (Al-Harabsheh, 2013); translators may lose the correct meaning of the ST or impose their ideology on translations. Translators of different religions or cultures may misunderstand the meaning of the ST as it may not be part of their native language and culture (*ibid.*). Islamic Law translation poses many challenges. Undoubtedly, the translation of Islamic terms and concepts requires accurate transfer of the meaning to the target readers. Translating *ḥadīth* needs two skills: knowledge of religious matters generally and the interpretation of *ḥadīth* particularly, and linguistic skills.

2.4.1 The Peculiarity of Legal Translation

The literature is rich with evidence that legal translation has its own challenges and features. Scholars, such as Danet (1976; 1980), Morris (1995), Garre (1999), Tiersma (1999), Šarčević (2000a), Mellinkoff (2004), Haigh (2004), Conley and O'Barr (2005) and Cao (2007), discussed the technicality of the legal discourse and its features. Unsurprisingly, specialists in a particular discipline find other disciplines to be more resistant to scepticism and speculation than their own (Joseph, 1995). In this context, it is true that each translation genre has its own distinctive features and challenges, but the nature of these challenges differs. For example, the impact of errors and issues faced by legal translators might be higher than any other type of text; the translation of legal documents requires a maximum amount of accuracy. Legal translation includes the translation of important documents, such as litigation

materials, technical patent confirmation, evidence documents, financial statements, birth certificates, deposition records, application letters, constitutions and business contracts. A legal document is a mirror that reflects the system of the country in which it is produced. This means an inaccurate translation of such a document may result in a misleading reflection of the country and might cause political issues. Thus, translators should possess knowledge of legal terminology and requirements of foreign legal systems. As terms are grounded in country-specific legal systems, numerous factors can influence a translator's ability to produce an accurate translation. Indeed, most noticeable resource textbooks on legal translation are dedicated exclusively to terminological queries, while characteristic concerns tend to be overlooked (Fakhouri, 2008). Some of these textbooks are assessed in the following sections. Overall, legal translation is one of the most difficult endeavours for translators.

Research in legal translation focuses on the quality of the translation product. However, a different approach, which analyses legal translation from the perspective of translators and their employers, is also applied. This is illustrated in the work of Albi and Ramos (2013), which consists of fourteen papers that introduce legal translation in the private sector, public institutions and international organisations. The papers tackle the culture-bound nature of legal language and argue that human mobility across the world is increasing the need for translations. Moreover, they describe the advantages of cooperation between freelance translators and law firms that give greater consideration to the qualifications of freelance translators. Additionally, the general legal framework for legal interpreting and translation in criminal proceedings demands professional development, which improves the quality of the legal message. Moreover, researchers, such as Ramos and Millet (cited in Albi and Ramos, 2013), examined legal translation in different institutions, such as the EU, the UN, the International Criminal Court, Interpol and the World Trade Organisation. Their conclusions are that lawyer-linguists and translators must have a rare blend of skills, devote more time to their tasks, use modern translation tools and must cope with consistency, accuracy and productivity while translating. Their research demonstrates how legal translation practices and strategies can differ across institutions. They provided a clear picture about professional practices and

discussions, but their conclusions are not a surprise. It could be useful to enhance this discussion with empirical data and support the research with empirical evidence.

2.5 Challenges in Legal Language and Translation

Although legal translators are still guided by fidelity to the ST, it is no longer their only concern (Šarčević, 2000a). Translators must be able to understand the legal effect intended beyond the meaning of each word and create the same effect in another language (Šarčević, 1989). Thus, achieving equivalence should include stylistic, lexical and communicative levels. Legal translation requires accuracy, clarity and naturalness. If the translated product is vague and does not flow easily, misinterpretation can occur and the ST message will not be conveyed accurately.

Variations among legal systems create a challenge in legal translation. For example, if a marriage contract is translated from Arabic into English without sufficient knowledge of the legal systems in the two countries concerned, the legal message may not be delivered effectively. In particular, the failure to find a precise legal concept and to correctly structure the legal message across legal systems are two of the main challenges encountered in comparative legal translation (Šarčević, 2000a). The differences are exacerbated by differences in language and culture. Hagège (1985: 352, cited in Cronin, 2013: 47) pointed out:

Each language has a triple form of distinctness. Firstly, each language has a separate and distinct set of linguistic structures and by extension, to a greater or lesser extent, different linguistic representations of reality. Secondly, each language community has a specific set of social practices that are articulated through language. Thirdly, each language community is a discourse community or set of discourse communities that expresses history, culture, and beliefs systems through the discourses that have evolved within the community.

In terms of linguistic challenges, legal translators encounter structural issues in relation to the structure of the sentence and tense, for instance, in the use of the passive voice and complex sentences. A further challenge for the translation of legal documents is the specificity of its terms. Similarly, the use of archaic and foreign vocabulary can hinder the ST's intended meaning (Mattila, 2006). Furthermore, legal terminology has different levels of polysemy, which is the variation of concepts of a specific term (*ibid.*). Polysemous terms appear in both legal and everyday language.

A number of scholars highlight the fact that “within the same language, it occurs that the same term designates different concepts in different systems” (polysemy); or, if the concept is the same, it may be “designated by different terms in different jurisdictions” (Šarčević, 2006: 27). The polysemy of words allows for the misinterpretation of a legal text; the translator may encounter the problem of a word with different meanings in both the SL and the TL. Although this is not restricted to legal translation, ambiguity in a legal document could have unintended consequences; for instance, it could affect relations between countries or lead to an unjust judgment. Researchers, such as Hamlaoui (2010), focused on the polysemic nature of English words, which can create misinterpretation when translating legal documents from English. Hamlaoui argued that contexts play a vital role in translating polysemous legal terms. In contrast, Fujii (2013) focused on linguistic issues in translating legal agreements and contracts from Japanese into English through the use of literal translation. Fujii showed the importance of adopting an integrated approach of both literal and free translation with special care necessary for the linguistic and cultural features of both legal systems. Similarly, Sytenko (2014) examined the functional, stylistic, semantic and linguistic features of translating business contracts. However, there is limited coverage of the problems encountered. By the same token, Harvey (2002) pointed out the culture-bound terms and provided a wider definition of legal translation in order to discuss its special status.

Other studies concentrate on the function of legal documents, including the genre of the text and the purpose of the translation. For example, AlMarri (2009) examined the three Arabic translations of the 1820 General Treaty of Peace with the Arab Tribes, as each of the three translations serves a different purpose. This study demonstrated that differences in context and cause of legal treaties may lead to differences in translation, resulting in varieties in discourses between the three translations. Delekta (2013) shed light on an important genre of legal documents, consumer warranties, of which buyers generally have a limited knowledge. She analysed 110 warranties for consumer goods and examined the structure and linguistic features, but a detailed analysis on the linguistic and lexical levels is missing. The studies demonstrate that linguistic and stylistic translation challenges occur across legal documents but that the degree of difficulty changes according to the agents who produce the TT and the purpose of the translation. In this context,

the present study highlights that the different qualifications among the TT producers, which result in differences in their products.

Moving to the cultural challenges in legal translation, a few researchers focus on cultural transfer in legal translation, which refers to different situational features (Abdellah, 2002). Emily (2005), for instance, introduced the difficulties in the translation of law and highlighted that cultural elements of the SL cannot be fully transferred. She calls for literal translation and further interpretation according to the situation. Yet this approach may not be the most effective method of translating a legal document as it can lead to ambiguity. Similarly, Wang (2008) used the translation of the common law from English into Chinese to investigate the two senses of cultural transfer, and linguistic and conceptual adjustment of the TL. The analysis shows that cultural transfer is connected with transcoding, as culture is, for the most part, embodied in language. Simonnæs (2013) differentiated between language and law by analysing their similarities and differences. This was achieved by comparing different concepts embedded in the SL and the TL legal systems and cultures. These studies emphasise the importance of considering culture in legal translation. However, legal translation needs to be contextualised by analysing social factors, which are tackled in this study.

Some researchers focus on legal translation challenges at the structural and lexical levels while highlighting the importance of legal translators' awareness and qualifications. For example, Al-Najjar (2011) focused on novice translators translating contracts and agreements in Jordan. He revealed that novice translators face challenges in terms of semantics, style and grammar. Al-Najjar (*ibid.*) showed that a translator's competence plays a key role in overcoming translation challenges. Beach (2013) highlighted the lack of qualified translators who have industry knowledge and experience when translating business contracts between Chinese and English. In order to mitigate these issues, he suggested adapting literal translation and ensuring that legal translators have the necessary qualifications to tackle the issues they encounter in the translation process. The studies reveal that some legal translators adopt literal translation strategy to avoid translation issues, but applying this approach is not always the correct solution as it might result in

vagueness and false interpretations. Thus, researchers should analyse the reasons behind such issues by focusing on the context of the text.

Ho (2010) analysed the transference of the passive voice from English into Chinese in two grammatical levels, the sentence-level syntax and the verb-phrase level syntax. The study finds that during the transference of the grammatical voice, awareness of the TL norm is very important during the translation process. This echoes with the “creativity in legal translation” proposed by Šarčević (2000a: 161), which argues that legal translators must have a detailed knowledge of both the SL and the TL.

More specifically, Kahaner (2003) produced a broad discussion about terminological and structural issues, e.g. culture-bound terms and the system-bound nature of legal texts, between different languages and legal systems. In order to overcome such issues, Kahaner (*ibid.*) suggested a number of important characteristics of professional legal translators by asserting that they must be partly linguists, legal scholars, detectives and be able to decode the ST and reconstruct its meaning in the TT. The discussion highlights the importance of the cooperation between lawyers and translators in order to produce a well-translated product. However, his discussion is very broad and does not focus on a particular language or culture. The research highlights that educated and cooperative legal translators minimise the number of challenges in the translation process. Nevertheless, the present study pinpoints the lexical challenges in various legal translations with additional focus on the structure and the context.

Whereas translation is commonly considered to be a creative act, mentioning this in legal translation is usually frowned upon. Pommer (2008) explored creativity and reintroduced it with regard to legal translation and highlighted the requirements of translating legal documents. Thus, according to Harvey (2000), translating legal texts is like linking the creativity of literary translation with the accuracy of translating technical terminology. Important questions can be raised: does a complete awareness of the ST intended message and a highly-skilled legal translator result in achieving an equivalent TT? Or are there any other factors that need to be analysed to convey the ST meaning?

Orozco-Jutorán and Sánchez-Gijón (2011) pinpointed various types of problems facing legal translators, mainly the lack of legal knowledge. They provided a classification of these problems that includes lack of knowledge on the lexical level, textual characteristics of legal documents, agents involved in the translation setting and legal consequences of the translation. They also recommended the use of legal specialists to solve these problems and analysed the necessary tools when seeking appropriate solutions. However, they called for some other solutions, such as an awareness of the context of the translation and the features of the communicative situation. Such considerations influence the way in which a text is translated. The importance of knowledge and the awareness of legal translators has also been discussed by Wolff (2011). After exploring the legal translation approaches and focusing on the issues in the translation process, one challenge highlighted is to convey the legal text as a fragment of a living legal system. Wolff (*ibid.*: 228) moved in the direction of creativity in legal translation by what is described as a “stretch and snap” effect, which refers to a great degree of flexibility when dealing with legal texts. This effect provides legal translation with a distinctive place in general translation theory. Approaching legal translation with Wolff’s view contributes to delivering the legal message more effectively. Although translators’ awareness can decrease translation difficulties, they must be active and aware of global developments. Goddard (2009) contended that there are requirements for legal translators and lawyers in an internationalising legal world, such as the increasing supranational legislation. These requirements call for the need for more legal knowledge and skills, such as legal education and training.

A further challenge highlighted by Byrne (2007) is that of typical translation errors, such as the issues of liability and negligence, and the legal consequences of such errors. Byrne (*ibid.*) suggested that a clear understanding of the translator’s duty and ability between translators and their clients is needed. Although awareness is important, improving translators’ performance and skills might overcome any translation error. Furthermore, Kocbek (2008) illustrated the sensitivity of legal translation and its special requirements. He elaborated the need for the involvement of legal translators in international communication. Arguing in a similar vein, Sonawane (2015) underlined the need for legal translation and the issues faced by

translators. He very briefly highlighted the major challenges the translator may face when translating legal documents and international legal texts, especially when the translation is between two different languages belonging to two different cultures. He briefly pinpointed the peculiar linguistic, structural and cultural characteristics of such legal texts. In fact, these challenges need to be further discussed in order to arrive at useful methods by which to develop the legal translation product.

From the literature, it can be concluded that translating legal texts has a number of linguistic, stylistic and communicative challenges. These challenges might be mitigated by applying an integrated translation approach, which conveys the ST meaning and effect. Moreover, rapid global developments are increasing professional requirements on legal translators and lawyers. Gémar (2006) confirmed that a translator should have the aptitude of a comparative jurist and the knowledge of a linguist. In addition, Wagner (2003) indicated that legal translators must realise all the mechanisms of law in theory and practice. Furthermore, legal translators must be able to understand the various meanings of words and sentences, as well as their legal effect, and be able to transfer these meanings into the language of another legal system. Legal translators need skills and knowledge of law to be able to solve legal issues and analyse legal texts (Šarčević, 2000a). Thus, investigating translators' social contexts along with their legal awareness offer a better understanding of their translation decisions. Exploring the translation process, its levels and factors can minimise the occurrence of errors in translation and explain any change that occurs in the translation product, particularly in the legal discourse. After exploring legal translation challenges, it is crucial to focus on the challenges of legal translation between Arabic and English.

2.5.1 Challenges in Arabic and English Legal Translation

In the field of legal translation between English and Arabic, there are several discernible cultural and linguistic differences resulting from the dissimilarities in the two systems. Many terms in Legal English can only be inferred against a Common-Law background (Triebel, 2009), and thus do not have a direct equivalent in Islamic or Arab Civil Law, both of which are involved in legal Arabic. Islamic Law is applied in countries such as Saudi Arabia, whereas countries, such as Egypt, apply both

Islamic and Civil Law. According to Hatim (1997: 14), legal documents contain sections of various “formulaic nature,” and the translator must be aware of these conventions in both languages. Weston (1983) added that cultural and institutional reasons increase the difficulty of differences in concept across languages. Weston supports the argument that contextual differences between two languages, particularly the two legal systems, result in various translation challenges. Revealing these differences should result in a better understanding of the changes that might be applied in the translation product.

Legal translation from English into Arabic requires greater attention as they do not belong to the same language tree. This requires more awareness and experience on the part of the legal translators in order to achieve the closest equivalent effect (al-Shaykhli, 2012). Some researchers focus their attention on the differences between Arabic and English legal discourses and the issues that can rise. For example, Zidan (2015) argued that familiarity with technical terminology of the ST and TT is not sufficient but should be accompanied by awareness of the subject matter. Fakhouri (2008) conducted a study on the contractual translation issues between Arabic and English with special reference to pragmatic and functional perspectives. She investigated three Arabic contracts: an employment contract, a real-estate sales contract and a lease contract. Each was translated by three specialised legal translators to produce nine different translations. By comparing all nine versions, she showed that the application of pragmatism and functionalism to legal translation can give the translators valued insights as they act as active participants in this communication process. Moreover, competence in translation presupposes an in-depth understanding of legal jargon and careful consideration of a text’s function, especially in the case of neutralised contractual force. Nevertheless, a comparison of larger scale texts would provide more representative findings.

Current studies on legal translation between Arabic and English deal with the lexical and syntactic issues, legal communication and equivalence. For example, El-Farahaty (2008) introduced the common lexical, syntactic, textual and cultural challenges faced by legal translators while translating between English and Arabic. In another study (2015), she provided a good reference to legal texts, their challenges and techniques used in translating them between this pair of languages.

The underlying hypothesis for El-Farahaty's study is that the discrepancy between the features of Arabic and English legal discourse creates certain lexical and syntactic issues in legal translation. She (*ibid.*) concluded that the application of the strategies of analysing translationally-parallel legal texts, such as transposition, modulation and adaptation, and a solid knowledge of the linguistic structures of the SL and TL are important. This is because they enable the translator to locate legal texts in their social and legal contexts. Similarly, Alwazna (2014) discussed Arabic/English linguistic difficulties in legal translation. He suggested that in translating a unique English legal concept, such as Common Law, translators may provide the definition, transliteration and explanation of the SL term. This is done in order to familiarise readers with the legal meaning and implied concept of the term. Al-Nakhalah (2013) investigated the challenges faced by English language students of Al-Quds Open University in the legal translation process between Arabic and English; however, his analysis is based on limited samples. It was found that the students encountered many issues in the translation process and terminology, which could be minimised by acknowledging the cultural and linguistic differences. Al-Nakhalah's conclusion proves the necessity of translators' experience. This means that differences in experience result in differences in translation, which are examined in the present study. Mohammad et al. (2010) applied communicative and functional approaches in the translation of contracts between Arabic and English to show the importance of achieving the required communicative goal. They concluded that the chosen approaches are effective as the translator enjoyed the role of active participant in legal communication. Al-Aqad (2012; 2014) analysed the translation of marriage contracts from Arabic into English by identifying the cultural and linguistic equivalence used in such texts. Al-Aqad (*ibid.*) focused on the quality of the translated versions and the changes applied in the translation process. A wider corpus is needed however as he only analysed five forms of marriage contracts.

In the same manner, Al-Mukhaini (2008) focused on the translation of modality in English and Arabic legal discourse. The study concludes that both languages can provide syntactic and semantic means of realisation, although their realisation of modal expressions is different. However, the study ignores other linguistic features, such as the passive voice. Another work that tackles a linguistic feature between Arabic and English legal texts is by Henka (2014). This study examines the problem

of rendering collocations in English/Arabic legal contexts in order to offer useful guidelines in this matter. He argued that literal translation of collocations can cause translation problems, such as the ambiguity of meaning. His argument is logical because Arabic and English have different rules of collocations, and therefore, literal translation will cause vagueness.

More specifically, Bostanji (2010) conducted a study about legal translation practice in Saudi Arabia. The study compares the structural and stylistic features between the Arabic and English legal discourse. It also discusses the difficulties that legal translators encounter, such as culture-specific legal terms, and the necessity for mutual cooperation between lawyers and translators. He found that translating commercial contracts between Arabic and English constitutes significant linguistic and stylistic difficulties for the Saudi legal translators. The main reason for this might be that the translators' native language is Arabic, there is a lack of enough second language and legal acquisition, or sufficient consultation with legal English experts. Although, the focus of this study is on the Saudi legal translators, it lacks a sociological analysis of the agents in the translation process. Alwazna (2013) provided a translation of the *Ḥanbalī Sharīʿa* code from Arabic into English. He investigated the linguistic and cultural translation issues and discusses strategies to overcome such issues.

Overall, the literature that investigates legal translation between Arabic and English is valuable. This genre has numerous translation difficulties that are associated with the situation, purpose and translators. In fact, the significance of these aspects in legal translation has resulted in the majority of scholars emphasising the importance of cultural awareness, in addition to an awareness of the linguistic barriers between the two languages, which is particularly true for legal translation between Arabic and English because of important differences in their legal systems. Nevertheless, focusing on the textual and cultural differences is not sufficient, a deeper investigation of the diversity of the translators' sociological backgrounds is necessary in order to offer a complete explanation of the translation decisions. In the following section a focus on the challenges in Islamic Law translation is provided as it shapes the corpus of this study.

2.5.1.1 Challenges in *Ḥadīth* Translation

As frequently highlighted, *ḥadīth* is a unique text which requires full-acknowledgement of its special features and language. *Ḥadīth* translation started from the lifetime of Prophet Muhammad when non-Arabic speakers came to him seeking advice (see al-Bayhaqī, 1994). Later, after the death of the Prophet, and upon the request of the Caliphs, scholars started to translate *ḥadīth* (al-Lālikāʿi, 2001; al-Firyābī, 1997). *Ḥadīth* translation continued to be a main concern of scholars, such as al-Khaṭīb al-Baghdādī (1938) and al-Ḥāfiz Ibn Ḥajar al-ʿAsqalānī (2011), who stress the need to explain the target meaning and keep certain Arabic terms with interpretations in the TL. Abū Ḥāmid al-Ghazālī (1993) stated that conveying the meaning of *ḥadīth* without mentioning the accurate terminology can hinder the intended meaning. Thus, Arab scholars and translators during those periods preferred to transliterate the Islamic terms alongside an accurate explanation in the TL (further strategies in *ḥadīth* translation are presented later in this chapter). The present study highlights if the selected translators followed this translation strategy or chose a different approach. This can serve to highlight reasons behind their translation decisions.

As highlighted, translating *ḥadīth* is difficult and translators need to fully understand the genre in order to reach the most equivalent translated product. Some features of *ḥadīth* language and the main principles by which to understand its meaning are discussed previously. Al-Azzam (2005: 76) argued,

As Ḥadīth came to explain the Qur'ān and its new technical terms, these terms are also frequently used in the Ḥadīth texts. The technical terms to be explained are various and deal with different issues. The prophetic Ḥadīth includes almost all the new technical vocabulary of the Qur'ān with further explanation. Ḥadīth is difficult to translate into other languages, though it does not pose the same challenges as the Qur'ān. What is clear from the translation of Ḥadīth is that Ḥadīth [sic] are mostly concerned with *ma'ānī* (meanings), and *lafẓ* (expression) is not a central issue as is the case of the Qur'ān.

Al-Harashseh (2013: 108) postulated

Religious translation is one of the most problematic types of translation, because it deals with special texts that have its [sic] own holiness. These texts are highly sacred and sensitive, as they are God's words. Therefore, a great difficulty lies in translating them into a Target Language (TL). At one

level, there is a possibility of losing the meaning of the Source Text (ST) or part of it. At another level, the translation of the ST can be subjected to change, because of the influence of the ideology of the translator on his/her translation. This may occur when the translator has a different religion or culture.

Keane (1997: 49) posited, "Religious language is deeply implicated with underlying assumptions about the human subject, divine beings and the ways their capacities and agencies differ." In this regard, Ugwueye and Ezenwa-Ohaeto (2011: 174) stated, "Religious or sacred language is vested with a solemnity and dignity that ordinary languages lack." They (cited in Al-Harashseh, 2013: 108) also argued that "religious language is a dead language, because it uses and transfers the same phraseologies, vocabulary and beliefs from one generation to another." Al-Harashseh (2013) also explained that the language of Islamic texts (*ḥadīths* included) is difficult to translate as it is "associated with basically assumptions about human matters and divine beings; it is also problematic, because it interacts with invisible being." He (*ibid.*) concluded:

religious language is characterized by inertia, as it has the same and unchangeable terms and concepts. Moreover, the attempt of generating new terms or concepts is risky, because of the severe criticism from the part of religious scholars. This is why a translator of religious texts has to be careful in the process of word selection.

Moreover, there are general principles in translating the genre in Saudi Arabia, because it involves *Sharīʿa*. These principles are related to the translators, the translation and the legislation. According to al-ʿAgīl (2008), legal translators had to be Muslim, sane, knowledgeable about Islam's principles and rules as well as faithful in rendering the *ḥadīth*'s intended meaning. They had to master two types of knowledge: linguistic and legislative. They had to be experts in Arabic language to fully understand any legal judgement within the sources of law. Meanings of different lexical items can overlap, thus, translators should consult interpretations of *ḥadīth* that address the meanings of such words, which can explain how various meanings determine the final meaning of the lexical item. Additionally, translators have to be experts in the TL in order to accurately render the Arabic legal concepts into their TL equivalents and produce a natural TT. Translators should be religiously well-informed in order to identify denotative equivalents and connotative meanings of Islamic terms. Nida (1964) maintained that translators of religious texts must

recognise that sincerity alone may not be sufficient. They must not only be keen in both the languages involved and the subject matter, but also aware of their own strengths and weaknesses. For example, if a legal translator fails to acknowledge the intended goal of *Sharīʿa*, a failure in producing an equivalent TT will occur. Legal translators should also know the different Islamic sects, schools and branches to help them recognise the various meaning of concepts in these sects. In relation to the translation product, the TT must be a near equivalent to the ST and involve every intended meaning without any addition or omission. Failing to meet these principles could result in invalidating the translation because of the incorrect transference of *Sharīʿa*. In addition, it will lead to legal difficulties for not conveying the main sources of law faithfully (Wāṣil, 2007).

Another challenge in *ḥadīth* translation is in obtaining accurate lexical and cultural equivalent. Translators may struggle to decide which cultural challenges should be prioritised: the cultural aspects of the SL and TL or perhaps a combination of both. Another challenge is obvious in the inability of the TL equivalent to render the implied meaning in the SL equivalent. For instance, a word like “*infāq*” (spending), one of the main concepts constituting the Islamic economic system, relates to the purpose and intention of spending which are not included in the word 'spending' (Mahmoud, 2015: 8). Other terms along with their derivatives in the Qurʾān and the Sunna reflect the same connotation of meaning with focus on different shades of giving; for example, “*ṣadaqa*” is used for charitable giving, “*ʿaṭā*” is handing out and “*iṭʿām*” is giving food (*ibid.*). Such lexicographical knowledge is an essential requirement for the translator of any text, especially the *ḥadīth* where nuances of the meanings of terms should be reflected clearly.

Furthermore, *ḥadīth* language includes cultural-bound terms not only related to the Arabian culture but to particular Islamic customs (Al-Azzam, 2005). The relation between the Arabic language and Islam is interrelated and impossible to be preserved in translation, resulting in translation of content at the expense of others. An understanding of the emotiveness and sacredness of *ḥadīth* terms must also place the term within its time of formation. Nida and Taber (1969) argued that some of the most basic challenges in Bible translation point to a translator's inaccurate view of the SL and the TL. This is also true with other religious texts, such as *ḥadīth*.

The cultural struggle between an Islamic Arabic concept and its English equivalent is another problem faced by the translator in translating Islamic Law concepts. Words and phrases that are culturally bound have been the main issue for translators who deal with Islamic texts since such words or expressions are exclusively grounded in one culture. Translators, then, encounter the issue of translating such untranslatable words (Mahmoud, 2015). Translators also encounter difficulties in semantic collocations. Farghal and Shunnaq (1999) believe that most collocations in religious texts, like the Qur'ān and the *ḥadīth*, carry culturally-specific linguistic and semantic features that cannot be translated with accuracy in the TL.

Mehawesh and Sadeq (2014) argued that *ḥadīth* language contains deeper meaning than is understood by the speaker. They claimed that religious expressions are difficult to translate accurately because of their relationship with holiness. They assumed that these expressions are more easily understood by speakers who understand the language and related culture than those who do not. Khammyseh (2015) highlighted three issues. The first is cultural voids between Arabic and English, which is the most difficult to overcome. The second is the lack of equivalence in the TL for Islamic expressions. The third is the differences between both languages, particularly in syntax. Khammyseh concluded that some causes for these problems are the translators' lack of experience in the culture of TL users, of knowledge in both languages' structures and of specialist references. Some solutions are suggested, such as training, design materials, specialists in this translation genre, and making correlations between translation students and TL users.

In summary, *ḥadīth* translation involves many linguistic, semantic and cultural challenges. Thus, translators should be able to fully comprehend such texts and their rhetorical features in order to be able to accurately and adequately translate their peculiar meanings in the TL and to avoid any sort of misunderstanding and miscommunication (Gutt, 1991). To overcome the challenges explored previously in legal translation, in general, and *ḥadīth* translation, in particular, translation scholars have adopted the strategies discussed in Section 2.6.

2.6 Methods and Strategies Used in Legal Translation

Traditionally, when dealing with special-purpose translation, transferring the meaning from the ST to the TT was seen as the fundamental objective, and translation strategies were chosen accordingly. In this context, translation in the legal context adopted a source-oriented rather than a target-oriented strategy. However, this strategy had to take into account the fact that the use of legal texts is governed by special regulations in the mechanism of law (Šarčević, 2000a). Due to the fact that legal documents are strongly communicative, it is more effective to combine both source-oriented and target-oriented approaches in order to fulfil the required meaning.

As discussed previously, translating legal documents involves the translation of linguistic and non-linguistic concepts. Law, like translation, is subject to various interpretations. This means that both lawyers and legal translators seek a full understanding of the ST message. In this context, literal translation may not convey the intended meaning. Some scholars adopt a word-for-word translation of legal texts (El-Farahaty, 2008), which may be appropriate for informative texts, such as laws and wills (Newmark, 1982). In other cases, Newmark (*ibid.*) stressed that formality in the TL should be maintained for the TL readers and requires a target-oriented communicative approach.

The move towards a target-oriented approach started with Vermeer, who introduced Skopos theory. Vermeer (1996) argued that literal translation is not necessarily the most appropriate strategy for legal texts and believes that a free translation approach could be applied. According to this theory, the first element that should be considered during the translation process is the translation purpose, rather than elements such as language and style.

Yet critics, such as Chesterman and Wagner (2002), Snell-Hornby (1988) and Munday (2016), argued that Vermeer's approach cannot be applied to special purpose translation because the function of the ST is different from that of the TT. In particular, they argued that Skopos theory is complex and question its application to

legal texts. However, differences between the purposes of the ST and the TT is not always relevant, as Šarčević (2000a: 18-19) argued:

the function of the special purpose translations is usually the same as that of the source text ... By suggesting that the translation strategy of a legal translation can be determined solely on the basis of function, Vermeer disregards the fact that legal texts are subject to special rules governing their use in the mechanism of the law.

However, Vermeer's translation theory contributes to the literature by offering a non-traditional strategy that could be combined with other strategies, such as Nida's (1964) and Newmark's (1988) equivalence approaches that can improve the translation product.

As a result of the criticisms, Bassnett and Lefevere (1990: 4) introduced the 'cultural turn' in translation. They highlighted the importance of the role of culture and social background and their influence on Translation Studies. This shift opened the doors for studying translation as cultural, political and social acts that are linked to local and global relations of power and domination (Cronin, 2003). Following the influence of the cultural turn, translators now give greater attention to other non-linguistic features in the text by focusing on the target reader.

In the light of the text genre, debate continues over whether or not legal translation should adopt a specific approach and what is the most appropriate strategy to achieve equivalence. For example, Garre (1999) suggested that an integrated approach of more than one translation theory could be applied according to legal text. In contrast, Harvey (2002: 180) argued, "achieving an equivalent impact on the target reader, which may justify substantial changes to the original text to respect the stylistic conventions of the target legal culture." A similar target-oriented approach is Reiss's theory on text typology (Munday, 2016), which argues that each text type should be translated using a specific translation strategy. A combination of Vermeer's and Reiss's theories results in a receiver-oriented functionalist approach depending on the type of the legal text. According to Nida (2001), while no translation theory has been generally accepted, there are several guiding theories on translation and evaluating translated texts.

Identifying the legal typology and the function of the text are the main factors in choosing the appropriate translation strategy for producing a TT that conveys the intended ST purpose. For instance, authoritative legal texts that create, modify, or terminate the rights of individuals or institutions come in a variety of genres, each with its own stereotypical format containing one or more legal speech acts to carry out its intended functions, such as agreements through contracts, the transfer of property at death through wills, and the transfer of property during the lifetime of its maker through deeds. According to Gotti (2007: 19),

the primary objective of legal translation, which is that the target recipient should be provided with as explicit, extensive and precise legal information in the target language as is contained in the source text, complemented (by the translator) with facts rendering the original information fully comprehensible in the different legal environment and culture, and serving the purpose of translation.

Adequacy is an important factor in all translation fields, but it becomes more important in translating legal documents due to the fact that these documents are mostly informative, tackle serious matters and defend the rights of individuals or groups. Equivalence continues to be an area of debate in Translation Studies, particularly in the study of legal translation. The Law Drafting Division of the Department of Justice in Hong Kong defines equivalence as adequacy and acceptability (Emily, 2005). This definition, however, lacks precise standards of what constitutes 'adequate' and 'acceptable'. A more comprehensive definition was introduced by Šarčević (2000a: 12) which is “a double operation consisting of both legal and interlingual transfer.” Issues with equivalence are tackled on many levels, starting with a term to different levels of text-based documents.

Differences in the lexical, grammatical and cultural aspects all cause equivalence issues. Koller (1995) argued that equivalence could be reached during the translation process when there is a link between the ST and the conditions of the TT. Although complete equivalence is difficult to achieve, translators are expected to produce a TT that has the same legal effect of the ST by transferring the legal message and style. According to Šarčević (2000b), for the reason that legal texts are governed by rules about their usage in law, these rules must always be considered when choosing an approach to translating a legal text. Šarčević (*ibid.*) further contended that in order to determine criteria for the selection of translation strategy

for a legal text, communicative factors should be analysed over function. In fact, analysing the legal text by considering its type, function, linguistic and communicative factors may result in a near equivalence of the ST.

Linguistically speaking, a number of academics believe that equivalence is achieved when the same legal effect is transferred. Therefore, the application of a literal approach is deemed unsuitable (Dall'Omo, 2012). According to Šarčević (1989), the functional equivalence of a legal text must convey the same legal effects. She argued that since legal language is precise, source-oriented literal translation approach may help in preserving the letter of the law. However, due to the diversity of the linguistic and cultural materials in both the ST and TT, one-to-one equivalence is impossible (Šarčević, 2000a).

Cheng and Sin (2008) applied a semiotic approach in order to achieve lexical equivalence when translating legal terms. They argued that such an approach can achieve total equivalence. Biel and Engberg (2013) investigated a number of research methods in legal translation and recent developments in the field. Their analysis of practical decisions and corpus-based methods shows an interest in the decisions made by legal translators. They revealed that there is growing interest in the communicative, cognitive, pragmatic and social aspects of legal translation, demonstrating that methodologies of legal translation should meet the interdisciplinary nature of legal translation.

Equivalence remains a controversial issue in the Western tradition. In Germany, the cultural approach of translation is the most widely used, as it regards translation as a communication action that is target-oriented (Snell-Hornby, 1990). In addition, Koller (1995, cited in Rek-Harrop, 2008) supported the foreignisation approach, which transfers the features of the ST to the TT. He rejected the functional approach for a number of reasons; one key reason is that it is target-oriented, which may not be the best approach for legal translation. However, Garzone (2000) argued that a functional approach could be considered as the most effective approach for translating legal texts. Garzone (*ibid.*) believes that the generality of the theoretical formulations of this approach and its flexibility in enabling the translator to take account of the unique nature of legal texts, and particularly of their pragmatic

features, give priority to functional considerations in the practice of legal translation. Additionally, Šarčević (2000a) argued that the communicative, rather than the textual or linguistic, level in legal translation should be given more attention. Generally, when favouring function, attaining the exact or at least a similar result of the ST is the ultimate goal.

In the realm of the translation strategies between Arabic and English legal discourse, different approaches are applied in the translation of three types of legal terms archaic, religious and culture-based, and doublets and triplets (see El-Farahaty, 2016). For example, in translating archaic terms into Arabic, translators adopt explanation or explication. Garzone (2000: 3) also suggested that it can be done “by making resort to parallel routines in the target language.” For instance, “‘hereunder’ and ‘hereinafter’” may be translated respectively into “*fīmā yālī*” (in what follows) and “*fīmā baʿd*” (in what comes after) (El-Farahaty, 2016: 477). Omission is also used in translating archaic terms without affecting the ST meaning, such as ‘I hereby declare’ into “*uʿlinu*” (I declare). Additionally, translators may resort to functional adaptation (Asensio, 2003). For example, the terms ‘solicitor’ and ‘barrister’ have two distinctive meanings in English; however, in Arabic the term “*muḥāmī*” (lawyer) is used. Thus, translators adopt functional adaptation by translating ‘barrister’ into “*muḥāmī fī al-maḥkamati al-ʿulyā*” (a lawyer in the Supreme Court).

In terms of strategies adopted in *ḥadīth* translation, James Robson, who translated *Mishkāṭu al-Maṣābiḥ* (as *Mishkat Al-Masabih* (1991)), and Ezzeddin Ibrahim and Denys Johnson-Davies, who translated *Matnu al-Arbaʿīna al-Nawawīyya* (as *An-Nawawī's Forty Hadīth* (2010)), argued that a full-recognition of Islamic culture and the language of *ḥadīth* are essential in the translation task. They also stressed the necessity of mastering the linguistic features of the TL, i.e. English. The translators stated that they often adopted literal translation to ensure accuracy of conveying the sayings of the Prophet. They also applied transliteration and added footnotes to render the exact religious terms and provided an interpretation of them. Ibrahim and Johnson-Davies (2010) claimed that this strategy is the best way to convey the religious terms that cannot be easily rendered into the TL. This is in line with Weston (1983) and Harvey (2000), who proposed the use of transliteration for legal texts targeting a particular readership to avoid ambiguity.

Transliteration is the conversion of words in one language to another by finding the close approximation in sound. This is done when meaningful corresponding words do not exist in the TL, and it is intuitive because the translator transcribes the SL characters or sounds in the TL alphabet exactly as it is pronounced, a strategy called transference or transcription. This strategy is perhaps the most commonly used in translating religious and cultural terms, as seen in the example of the standard Arabic word for 'God', 'Allah', which has been accepted in English. Hassan (2013) argued that transliteration is the sole appropriate translation strategy if the cross-cultural equivalent does not exist, but other researchers believe that it can have a negative impact on non-Muslim western readers who are not well knowledgeable in Arabic and Islamic studies (ElShiekh, 2011). According to Alwazna (2013), transliteration may reduce the usability of the TT as a stand-alone legal document as the reader will constantly be confronted by ST words.

Footnotes can also provide details about a culture-specific item and must convey the connotative and denotative meaning in the translated concept. Footnotes are an appropriate strategy when dealing with concepts that need to be fully clarified for the TL reader that cannot be achieved through transcription, classification or paraphrasing.

A further translation strategy is paraphrasing to render fixed legal terms that have no direct equivalence (Al-Qinai, 1999). Alcaraz and Hughes (2002) considered paraphrasing or expansion a strategy that can be used when the TL structure requires exegesis to produce the appropriate equivalence. According to Wai-Yee (2002: 79, cited in El-Farahaty, 2016: 482), descriptive equivalence or paraphrasing is preferred "if a one-to-one translation could not reveal the legal meaning or distinguish the legal term from other similar terms." Paraphrasing interprets a concept from a different legal system in this TL legal system. An example from *Sharī'a* is the term *ʿidda* (the prescribed period a woman must wait to remarry, the period depending on whether her husband died or she is divorced). Šarčević (2000a) viewed these techniques as compensating for terminological incongruity. This strategy, however, can be disadvantageous because it produces a significantly longer TT than the ST, diverting the reader's attention from the TT's continuity.

Also, word-for-word translation strategy is used in relation to some Islamic Law documents and is one-to-one linguistic and conceptual equivalent. This strategy views the word as a unit of translation and assumes structural equivalence between two languages. It is literal translation, a kind of interlingual synonymy in which each word in the SL has a corresponding word in the TL. The strategy can be used in the translation of non-culture-specific items in Islamic texts. This issue applies to the translation of “*ṣiyām*” into 'fasting', “*dhikr*” into 'remembrance', “*raḥma*” into 'mercy' and “*salām*” into 'peace' (Mahmoud, 2015: 13). The problem with this strategy is that the TT is difficult to understand by TL readers. Literal translation of religious items also requires caution as it can create a difference in attitude towards the other (ElShiekh, 2011). Therefore, this approach should not be used in Islamic Law translation unless there is an urgent need to do so.

Domestication and foreignisation are two strategies adopted in the translations of religious and culture-specific terms and phrases, such as Allah/God. The former is “an ethnocentric reduction of the foreign text to target-language cultural values” (Venuti, 2008: 20)—bringing the author back home—while the latter is “*resistancy*, not merely because it avoids fluency, but because it challenges the target-language culture” (*ibid.*: 24) – sending the reader abroad. It is the preferred strategy of Schleiermacher (2004: 49). Both strategies are studied in this research to reveal any hidden ideology applied by the selected translators. In addition, omission is applied in Arabic/English legal translation when such phrases are not relevant to the target culture; for example, the *basmalla* “*bi-smi Allāh al-raḥmāni al-raḥīm*” (In the Name of Allah, the Compassionate the Merciful), which appears at the beginning of some Arabic legal documents. In the translation of doublets and triplets, literal translation and transposition are the most commonly applied strategies. One example is “*al-aḥkāmu wa-l-shurūṭ*” (terms and conditions).

Mahmoud (2015) calls for gloss translation, which characterises formal equivalence where form and meaning are kept as faithfully as possible wherein a translator can give an explanation of thought and means of expression of the SL context. Mahmoud (*ibid.*) contradicted the concept of the nearest natural equivalent, reflected in Nida’s (1964) dynamic equivalence, in the translation of Islamic religious items in primary

courses because he believes that thought-for-thought over word-for-word translation should be the last option in these cases. Nida (*ibid.*) adopted this approach to emphasise the cultural context of the Biblical language. But this strategy may alter any word mentioned in the Qur'ān and the Sunna in translating Islamic religious items in primary sources. Mahmoud (2015) argued that translation of Islamic religious expressions from Arabic into English is considered acceptable if the SL and TL expressions are culturally equivalent, and thus affirmed that transliteration followed by explanation is the best strategy for culture-specific items.

2.7 Summary

There has been considerable debate over the use of the above strategies in Islamic Law discourse, and translators have adopted strategies according to the type of difficulty encountered. Translation of such texts should be as faithful as possible in both form and content, not a word-for-word translation or free recreation from the ST. Because the significance of religious terms is based on the place and time of their creation, various strategies should be used when the TL does not provide the appropriate terminology, and these terms can be considered as borrowings or rendered through transliteration (Al-Azzam, 2005). Additionally, translators must understand the ST and transfer it faithfully, accurately and integrally into the TL without adding or omitting a single part of the original content. Dickins et al. (2002: 178) argued, "The subject matter of religious texts implies the existence of a spiritual world that is not fictive, but has its own external realities and truths. The author is understood not to be free to create the world that animates the subject matter, but to be merely instrumental in exploring it."

From the discussion about legal translation approaches and the theories of equivalence and function, it is worth highlighting that translation strategies vary according to the legal text type and its function and from one institution to another. Therefore, there is no fixed theory of legal translation, and legal translators should consider the function and features of a given text because each text is unique. Of course, this makes legal translation a challenging task. For the purpose of this study, reviewing the translation trends in the legal discourse helps in establishing a link

between these trends and the translators' decisions. In other words, translators' translation strategies reflect their purposes and positions in the field.

A review of the theoretical approaches that are adopted in this study is provided in the next chapter in order to justify the choice and show their applicability to answering the questions of this research.

Chapter 3:

Methodological and Theoretical Framework

This chapter discusses the methodology adopted in this study and the conceptual framework for analysing data in relation to the translations and translators in the subsequent chapters. An introduction of the theories is provided with a review of their application in Translation Studies by focusing on CDA and its usefulness in analysing the discourse both linguistically and sociologically. The chapter further illustrates the possibility of applying frameworks borrowed from sociology in translation, with a focus on Bourdieu's framework and its concepts of 'habitus', 'capital', and 'field'. This review explores the most appropriate method for answering the research questions. In addition, the chapter establishes criteria for the inclusion and exclusion of the chosen corpus supported with examples. Overall, this chapter explains the subjects and scope of the research, the type of research, the theoretical framework and the description of the research tools.

3.1 The Corpus

As mentioned in Chapter One, the corpus upon which this study is based consists of four translated versions of two *ḥadīth* collections, *Ṣaḥīḥ al-Bukhārī* and *Ṣaḥīḥ Muslim*, used in the Saudi legal system. These books have been translated by many translators. Two translations of each book were chosen in order to investigate the differences in the output and the possible reasons behind these differences. The chosen translators are Muḥammad Muḥsin Khān and Muḥammad Maḥdī al-Sharīf for *Ṣaḥīḥ al-Bukhārī*, and ʿAbd al-Ḥamīd Ṣiddīqī and Nāṣir-l-ddīn al-Khaṭṭāb for *Ṣaḥīḥ Muslim*. The reasons for choosing them are due to the availability of information on the translators' professional background and the high reputation of the publishers within their social space. Also, an attempt is made to choose old and new translations in order to see the differences that may occur in different time periods and explore if the degree of power is similar. In the field of translating the relevant Islamic texts, two early translation projects produced by Khān and Ṣiddīqī, two of the first scholars who had concern for the translation of Islamic texts, stand worthy of examination. Translators who have different backgrounds and nationalities, Arabs

and non-Arabs, are selected to investigate how translators who are outside the ST social space are influenced by it.

3.2 Scope of Research

Islam as a legal system is diverse and covers many issues. It also relates to various countries in the Middle East, Far East, Central Asia and Africa. It involves many languages including Arabic, Turkish, Persian, Malay and many others. Nevertheless, this study is confined to examining the representations of Islam as a legal system by analysing translated texts from Arabic into English in the Saudi context, where these texts have been produced. This study intends to place these translations within the social context in which they are embedded, and to investigate the particular participants of the legal system. It also discusses the differences between the translators despite their common religious allegiance, as they have different social backgrounds and mother tongues.

The study focuses on contractual law in Saudi Arabia, particularly family law. The focus is primarily on family contracts and their various phases. The analysis starts with the stage of engagement and its rules, then moves on to marriage contracts and conditions. Thereafter, the contract can take one of two different paths, either the death of one of the parties (spouse) or a divorce. In the first situation, the contract goes to the next stage, which is inheritance law and wills, while after a divorce comes the stages of custody and expenditure. Thus, family contractual laws follow a path through various stages, each of which has its own rules and conditions. In each stage, the related *ḥadīths* are selected and categorised for data collection.

3.3 Type of Research

Literature on legal translation encompasses few representations on its methods and strategies, although notable exceptions include Šarčević (2000a) and Garzone (2000). Reflecting Holmes' (2004) map of Translation Studies, legal translation studies have traditionally focused on product-oriented descriptive research, i.e. analysing existing translations. Furthermore, research in the field "has been predominantly qualitative rather than quantitative" (Biel and Engberg, 2013: 2). In the past years, greater attention has been highlighted in process-oriented descriptive

research (see Hjort-Pedersen et al., 2010). In addition, function-oriented studies, which analyse the cultural and social aspects of translation reception in the TL legal cultures, are also important and well received (see Lambert, 2009).

Legal translation research has been stimulated by developments in legal studies, comparative law, functional linguistics and terminology, opening up new research perspectives and themes, concepts and methods. Research has moved the focus from traditional topics "such as the incongruity of legal terms and limits of translatability, to the communicative, pragmatic, cognitive and social aspects of legal translation" (Biel and Engberg, 2013: 8). There has also been a shift from prescription to description, observed in corpus-based translation studies (see Baker, 1995: 231), and corpus-based methodologies have been increasingly combined with other methods in a promising new approach. According to Biel (2010: 1), the corpus-based approach is often defined as "a machine-readable representative collection of naturally occurring language assembled for the purpose of linguistic analysis." It is primarily a quantitative method but it also integrates qualitative aspects to hypothesise about data provided by the corpus and to form generalisations about language use (quantitative-driven qualitiveness).

For the purpose of this study, a bilingual parallel corpus, consisting of texts both in the source and target languages, is adopted to provide reliable resources for finding translation equivalents, translation practices and procedures used by the translators. This approach facilitates the application of CDA and Bourdieu's concepts of capital, field and habitus in the legal context as it specifies the linguistic patterns to be examined. Thus, this study utilises a qualitative approach to provide a contextual interpretation of the possible reasons behind the incompatibilities between the translations. Trochim's (2001: 158, cited in Brook, 2012: 97) view on qualitative methods is taken into consideration:

For some qualitative researchers, the best way to understand what's going on is to become immersed in it. Move into the culture or organization you are studying and experience what it is like to be part of it. Be flexible in your enquiry of people in context. Rather than approach measurement with the idea of constructing a fixed instrument or set of questions, allow the question to emerge and change as you become familiar with what you are studying.

The scope of this study is qualitative, collecting data about the context in which translations are produced and discovering their subjective aspects (Borja et al., 2009). The qualitative approach is exploratory in nature and allows for better understanding of the issues related to the translation of legal discourse and, particularly, the discursive effect that the role of law, religion and translation have on the production of legal texts in a universal context. Quantitative method (data count) is also used to a certain extent to examine the compatibility of its findings with the findings of the qualitative method (see Saldanha and O'Brien, 2014).

3.4 Data Collection

As previously indicated, the study utilises two main sources of the Sunna, *Ṣaḥīḥ al-Bukhārī* and *Ṣaḥīḥ Muslim*, as they contain many *ḥadīths* related to family matters in different chapters. *Ṣaḥīḥ al-Bukhārī* contains five chapters on family law: the book of wills and testaments, marriage, divorce, supporting the family and laws of inheritance. Family issues in *Ṣaḥīḥ Muslim* are mentioned in six chapters: the book of marriage, suckling, divorce, invoking curses, the rules of inheritance and wills.

Prior to data collection, it is important to build criteria to specify the corpus size. These criteria are based on two main characteristics:

1. Relevance to family law.
2. Inclusion of a legal judgement or rule.

In relation to the first condition, only *ḥadīths* that are directly relevant to family issues were selected. The second condition refers to *ḥadīths* that have a legal impact. This is applied by understanding the *ḥadīth* carefully and consulting the most common reliable interpretations of the Sunna used in the Saudi legal system, e.g. al-Bahūtī's *Sharḥ Muntahā al-Irādāt (Explanation of the Act of Will)* (1993) and/or al-Bahūtī's *Kashshāf al-Qinā' ʿan Matn al-Iqnā' (Explanation of the Means of Persuasion)* (1983). Also, the selected *ḥadīths* are compared with the *ḥadīths* mentioned in al-Ṣanʿānī's *Subulu al-Salām: Sharḥ Bulūghī al-Marām* [lit. The Ways of Peace: Explanation of Reaching the Ultimate Goals] (2006) and al-Ṭabarī's *Ghāyatu al-Iḥkāmī fī Aḥādīthi al-Aḥkāmī* [lit. The Purpose of Decisiveness in the Ḥadīths of the Juristic Rulings] (2015). These books are considered to be the most reliable of legal

ḥadīths and used by the Saudi lawyers to ensure that all legal *ḥadīths* are included. This approach improves the understanding of the *ḥadīth* and its usage in Saudi law.

Other references are also consulted to understand the *ḥadīth* and to acknowledge the various methodologies of some of the best legal minds in Islam in order to demonstrate how such laws were derived. An important reference is *Bidāyatu al-Mujtahidi wa-Nihāyatu al-Muqtaṣidi* (*The Distinguished Jurist's Primer*) (1995) by Ibn Rushd al-Ḥafīd (1126-1198), occupying a special place among the authoritative books of Islamic Law and is planned to guide the jurist for the task of being an independent jurist (*mujtahid*), who deduces the law and lays down rules to be followed by judges. In this book, Ibn Rushd (*ibid.*) tackled most of the matters of Islamic Law and described the law. This book provides a useful guide for analysing the corpus, as it transcends the boundaries of different schools and analyses the opinions and methodologies of famous Muslim jurists. Using these resources helped in selecting family-law *ḥadīths*, understanding the various interpretations and then comparing the explanations with the translations. Similarly, al-Maqdisī's (1146-1203) book, *Umdat al-Aḥkām min Kalāmī Khayri al-Anāmī* [lit. The Reliable Reference of the Juristic Rulings of the Speech of the Best of All Human Beings] (1985), is used for guidance for the data collection, as it contains some of the most authentic *ḥadīths*. They are chosen from *Ṣaḥīḥ al-Bukhārī* and *Ṣaḥīḥ Muslim* and categorised by topic so that scholars can extract and deduce Islamic rulings from them. After applying the previous points in collecting the data, one of the former judicial scholars (judges) and currently a well-known lawyer in Saudi Arabia, ʿAbd al-ʿAzīz al-Qāsim was consulted to ensure that the chosen data are valid and used in law.

Understanding the language of the *ḥadīth* and its meanings is vital for building a solid foundation for analysing the data. This is because it helps in being familiar with the different legal terms and their uses. For this purpose, a number of key books are consulted, such as al-Ashqar's *al-Wāḍiḥ fī Uṣūl al-Fiqh* [lit. The Clear (Book) in the Principle of Jurisprudence] (1984), Ibn Badrān's *al-Madkhalu ilā Madhhabī al-Imām Aḥmad Ibn Ḥanbal* [lit. The Introduction to the Eponym of Imām Aḥmad Ibn Ḥanbal] (1981), al-Naqārī's *Muʿjamu Mafāhīma ʿIlma al-Kalām al-Manhajīyya* [lit. Dictionary of the Concepts of the Science of Speech] (2016) and Ibn al-Athīr's *al-Nihāyatu fī*

Gharībi al-Ḥadīthi wa l-Athari [lit. The Final (Say) about the Science of Strange Ḥadīths] (1979).

To show the legal effect of the *ḥadīths*, family law oriented *ḥadīths* is the main criterion considered when selecting the corpus. A number of *ḥadīths* are related to family law, but they do not include any legal judgment, for example:

Ṣaḥīḥ al-Bukhārī, Book 68, *ḥadīth* 5336:

Zainab further said: I heard my mother, Umm Salama saying that a woman came to Allāh's Messenger and said, "O Allāh's Messenger! The husband of my daughter has died and she is suffering from an eye disease, can she apply *koḥl* to her eyes?" Allāh's Messenger replied, "No," twice or thrice. (Every time she repeated her question) he said, "No". Then Allāh's Messenger added, "It is just a matter of four months and ten days. In the Pre-Islāmic Period of Ignorance a widow among you should throw a globe of dung when one year has elapsed." (Khan, 1997: 165).

Ṣaḥīḥ al-Bukhārī, Book 68, *ḥadīth* 5338:

Narrated Umm Salama: A woman was bereaved of her husband and her relatives worried about her eye (which were inflamed from a disease). They came to Allāh's Messenger and asked him to allow them to treat her eyes with *koḥl*, but he said, "She should not apply *koḥl* to her eyes. (In the Pre-Islāmic Period of Ignorance) a widowed woman among you would stay in the worst of her clothes (or the worst part of her house) and when a year had elapsed, if a dog passed by her, she would throw a globe of dung. Nay, (she cannot use *koḥl*) till four months and ten days have passed." (Khan, 1997: 166).

Ṣaḥīḥ al-Bukhārī, Book 68, *ḥadīth* 5339:

Narrated Umm Ḥabība: The Prophet said, "It is not lawful for a Muslim woman who believes in Allāh and the Last Day to mourn for more than three days, except for her husband, for whom she should mourn for four months and ten days." (Khan, 1997: 166).

The above *ḥadīths* specify the period a woman must observe after the death of her husband, and the regulations she should follow during this period. Such *ḥadīths* are not included in the corpus because they do not include legal verdict. In contrast, other *ḥadīths* are included in the corpus because they have a legal judgement. For instance:

Ṣaḥīḥ al-Bukhārī, Book 68, *ḥadīth* 5261:

Narrated 'Āishah: A man divorced his wife thrice (by expressing his decision to divorce her thrice), then she married another man who also divorced her. The Prophet was asked if she could legally marry the first husband (or not). The Prophet, replied, “No, she cannot marry the first husband unless the second husband enjoys the sexual relation (consummate his marriage) with her, just as the first husband had done.” (Khan, 1997: 122).

The above *ḥadīth* shows a legal rule in marriage and divorce. If spouses do not abide by this rule, this will be treated as a breach of the law.

Furthermore, certain *ḥadīths* related to other branches of family law, such as wills, do not contain legal judgements. For example:

Ṣaḥīḥ Muslim, Book 25, *ḥadīth* 11/1630:

It was narrated from Abū Hurairah that a man said to the Prophet: “My father died and he left behind some wealth but he did not make a will. Will it expiate for him if charity is given on his behalf?” He said: “Yes.” (al-Khattab, 2007: 369-370).

Disobeying the Prophet's instructions in the above *ḥadīth* does not result in breaching any regulations. Similarly, the following *ḥadīth* provides guidance to Islamic morals rather than being a legal rule:

Ṣaḥīḥ al-Bukhārī, Book 85, *ḥadīth* 6724:

Narrated Abū Hurairah: Allāh's Messenger said, “Beware of suspicion, for it is the worst of false tales and don't look for the other's faults and don't spy, and don't hate each other, and don't desert (cut your relations with) one another. O Allāh's slaves, be brothers!” (Khan, 1997: 380-381).

A table that includes all family-law *ḥadīths* in both *Ṣaḥīḥs* is included in Appendix 1. The number of *ḥadīths* related to family law in the two *Ṣaḥīḥs* is 422 (approximately 33,600 words), which form the corpus of this study. Figure 3.1 shows the number of data selected in each *Ṣaḥīḥ* categorised by theme.

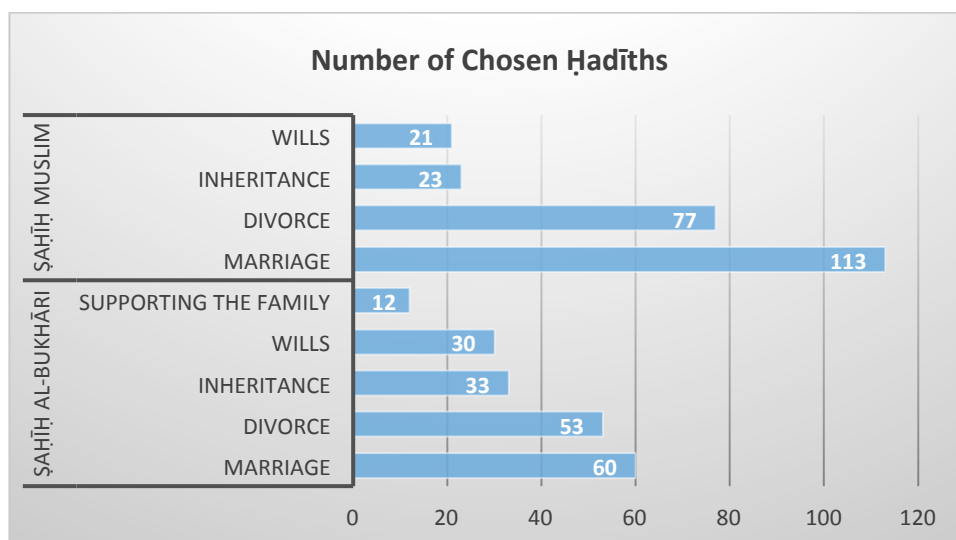


Figure 3.1: The Corpus by Source and Theme

An introduction to the adopted approaches is provided in the following sections to understand how they are useful in answering the research questions.

3.5 Critical Discourse Analysis (CDA)

3.5.1 What is CDA?

In the field of Translation Studies, the issue of text types and genre is contested. There are many text types and they require variant techniques and translation strategies to be able to convey the intended message from the ST into the TT. Moreover, every text has a relationship with the social and cultural environments in which it is produced as it is organised according to the concepts, ideologies and beliefs of that society. This relationship makes the translation process more challenging as it goes beyond the textual level.

While legal texts may appear similar to other types of texts, the ideas behind the terms and structure are complex and might express different ideologies, attitudes and feelings. As Van Dijk (2016: 29) contends, only the “tip” of the text is expressed in words and sentences, and analysis of a text’s implicitness is crucial in understanding the underlying ideologies of the text or the “iceberg of information.”

CDA is a branch of linguistics, which is used to disclose the hidden parts of discourse by adopting social perspectives and critical thinking into the analysis. It considers language as a social practice and regards the context of language used to be important (Fairclough and Wodak, 1997). CDA links linguistic and social analysis and investigates the power relations and ideologies of a text (Wodak, 1996). There is a strong relationship between CDA and translation, as CDA acts like an instrument to uncover the underlying and usually hidden ideological and power relations in discourse and helps to analyse the ST and the TT in depth. Discourse analysis was introduced into Translation Studies by the functionalist theories of translation (Munday, 2016). Halliday's register analysis model (1994) was applied to analyse the pragmatic functions of linguistic factors in both the ST and TT. Halliday introduced the Systemic Functional Linguistics (SFL), which considers language as a communicative event and which provides three standards of functional meaning: textual, ideational and interpersonal (Mahdian and Rahbar, 2013). The ideational function relates to the experience of the text producer of the world and its phenomena; in other words, the text producer's particular representations and recontextualisations of social practice. Interpersonal meaning is the use of language to create a relationship, such as power and choices made by translators, between text producer and receiver. The textual function is instrumental to these two functions, through which text producers are able to create a comprehensible text. Halliday's view of language as a 'social act' is important to numerous CDA practitioners (Chouliaraki and Fairclough, 1999; Fairclough, 1992a, 1992b, 1995a, 1995b, 2001; Fowler and Hodge, 1979; Hodge and Kress, 1993).

Furthermore, CDA views translation as a cultural, political and social act and considers these aspects while analysing the ST and the TT. Most literature on CDA in Translation Studies emphasises translation as a social act to understand who is involved in the translation and the effects on the receiving culture to deliver a total reflection on language and culture (Valdeón, 2007). According to Schäffner (2007), CDA and Translation Studies consider human communicative action in the socio-cultural contexts, and discourses are the product of this activity (Mahdian and Rahbar, 2013). This means that translation is the production of a TT in a new socio-cultural context, which is different from the ST socio-cultural context. Accordingly, applying CDA to Translation Studies revolves around the role of the translator and

the target audience. Schäffner (2004) highlighted on both the translation purpose and audience design. Two probable translation strategies, dynamic and static, are based on text type and purpose. Dynamic translation strategy conveys information with particular changes in the TT, while in the static strategy the translator adopts a word-for-word translation strategy, i.e. no significant changes are made in the TT.

It is important to highlight that CDA does not provide one specific theory or methodology. Researchers in CDA conduct studies that are rooted in various theoretical backgrounds and are oriented towards various data and methodologies. They rely on different grammatical approaches in addition to various explanations of the concepts of 'ideology', 'critical', 'power' and 'discourse'. In other words, CDA is applied differently by different researchers, which means any criticism of CDA is specific to that single application. Thus, many theorists have adopted CDA for their specific perspective. One theorist is Foucault (1971), who contributed in demonstrating the effect of power on language. In contrast, Farahzad (2007) viewed CDA as a theoretical framework of translation criticism. She contended that translation criticism and translation assessment have different focuses and purposes, as the former compares between the ST and the TT, while the latter can be achieved without the comparison (Farahzad, 2012).

Another direction of CDA is discourse sociolinguistics, which is related to Wodak and her colleagues in Vienna. According to Wodak (1996: 3), it is the study of a text's context that identifies the "underlying mechanisms that contribute to those disorders in discourse," which stem from that context. Wodak has conducted research in different institutional settings and on a variety of social issues. She developed a historical discourse method, in which the term 'historical' occupies a unique place to study the background information of "the many layers" of a text (Wodak, 1995: 209). In contrast to other approaches of CDA, especially that of Van Dijk, Wodak's approach is distinguished by highlighting the historical contexts of discourse. In addition, Wodak, similar to Fairclough, believes that language is rooted in social processes (Wodak and Ludwig, 1999). This view considers that discourse includes power and is connected with historical communicative events. This resembles Fairclough's notion of intertextuality, which is discussed in later sections. The third feature of Wodak's view, which has been also discussed by Fairclough (1995b), is

that of interpretation, as receivers might interpret the same communicative event differently due to their background.

Van Dijk's (1988) CDA methodology is one of the most often referred to in studies related to critical discourse analysis of media. This is due to the distinguished approach he presented. His analysis is not restricted to the analysis of the textual and structural levels of the news, rather it

goes beyond that of many discourse theorists in that he is concerned to integrate within the concept of discourse the dimensions of production, content and comprehension. His is an approach which respects the diachronic dynamism of the communication process, that is, text as something which has a history before it is realized as text and after it has been realized and commodified. It is also a cybernetic history in that the production is informed by anticipation of its future. He recognizes, therefore, not only that utterances have a context, which is the larger text of which they are a part, but that text itself has a context. (Boyd-Barrett, 1994: 26)

Critical Discourse Analysis, for Van Dijk, is

a field that is concerned with studying and analyzing written and spoken texts to reveal the discursive sources of power, dominance, inequality and bias. It examines how these discursive sources are maintained and reproduced within specific social, political and historical contexts. (Sheyholislami, 2011: 1)

Thus, Van Dijk's analysis views discourse analysis as "ideology analysis, because according to him, 'ideologies are typically, though not exclusively, expressed and reproduced in discourse and communication, including non-verbal semiotic messages, such as pictures, photographs and movies'" (*ibid.*: 4).

For Fairclough (2013: 93), CDA is

to systematically explore often opaque relationships of causality and determination between (a) discursive practices, events and texts, and (b) wider social and cultural structures, relations, and processes; to investigate how such practices, events and texts arise out of and are ideologically shaped by relations of power and struggles over power; and to explore how the opacity of these relationships between discourse and society is itself a factor securing power and hegemony.

Furthermore, CDA, for Chouliaraki and Fairclough (1999), combines social science and linguistics with one analytical framework. Fairclough's CDA approach, both systematic and normative, is one of the most effective for studying discourse and

ideology. It is systematic because it examines "relationships of causality and determination" between sociocultural structures and discourse events (Fairclough, 2013: 93). It is normative because it enables the use of a methodology rooted in a discourse analysis. His approach aims to contribute to the awareness of "exploitative social relations" through language (Fairclough, 2001: 3). Thus, Fairclough's approach contributes by providing a description of the text and its context, which results in a deeper analysis. Additionally, Fairclough's approach of CDA focuses on the intertextual analysis of texts, which was neglected in the earliest works in CDA that concentrate on grammatical and lexical analysis. Fairclough (1995b) claimed that the linguistic analysis focuses more on clauses than on whole texts. Another issue presented by Fairclough is that the earliest contributions in CDA assume that text receivers interpret texts in a similar way as the analysts. However, he asserted that despite these limitations, previous work in CDA makes a positive contribution to critical linguistics.

From the discussion, it becomes clear that CDA is useful for discourses, such as media, that include strong power practices. It is also useful to examine discourse and power in classroom interactions (see Lahlali, 2003; 2007). For this study, CDA helps reveal internal and external power practices in Islamic Law translation as it is a rich platform for expressing ideological stances. For the purpose of this study, Fairclough's approach is deemed to be the most applicable because of its systematic approach, which helps in analysing different layers in the translation process. This multi-layered analysis helps create a better understanding of how and why translations are different. Also, Fairclough provides a set of questions (see Appendix 2) that are applicable to the selected data. His approach gives a detailed linguistic analysis that is the main focus of this study.

In Fairclough's approach to CDA, there are three aspects in analysing any communicative event or interaction: text (legal texts in this study), discursive practice ("the process of production and consumption") and sociocultural practice ("social and cultural structures which give rise to the communicative event") (Fairclough, 1995b: 57; Chouliaraki and Fairclough, 1999: 113, cited in Sheyholislami, 2011: 6-7). These simulate Van Dijk's three dimensions of ideology analysis: discourse, socio-cognition and social analysis. The main difference between both approaches is that mediating

between discourse and society is described by Van Dijk as 'social cognition', whereas Fairclough opts for 'discursive practices' (Fairclough, 1995b: 59, cited in Sheyholislami, 2011: 4). Fairclough focused on the semiotic reflection of social conflict in discourses. This reflection is analysed by identifying its styles, genres and discourses, and the differences between them. Then, structural analysis of the context and agents, body language, tense, modality, transitivity or visual images is completed, followed by interdiscursivity. Fairclough (2009) refuted that there is a single approach of analysing any issue, and he believes that scholars construct their purpose of research by hypothesising it. Its transdisciplinarity is considered one of its strengths as an approach where researchers favour comprehensive but not demanding data analysis.

Van Dijk's approach is featured with the interaction among society, discourse and cognition, beginning in formal text linguistics and consequently in the emerging factors of the standard psychological model of memory, along with the idea of frame taken from cognitive science. Van Dijk's practical investigation largely tackles stereotypes, the reintroduction of power abuse, and ethnic prejudice by elites and resistance by superior groups. Cognition is the link between societal and discourse structures (Van Dijk, 2009). In contrast, societal structures affect discursive interaction, the latter presumes that they are legitimated by discourse (Fairclough and Wodak, 1997). Van Dijk (2009) asserted that CDA requires a framework of context, e.g. Moscovici's (2000) social representation theory. One's cognition is induced by dynamic constructs known as social representations, such as the norms and values that are in a group and activated in discourse. He advocated for the study of semantic macrostructures, local meanings and specific linguistic realisations, and he emphasised on lexical and topic selection, coherence, speech acts, and turn-taking control. In this approach, intersubjective agreement between scholars is not guaranteed because there is no clear explanation of how to apply van Dijk's rules in discourse practice, and thus method is open to multiple interpretations.

The first analytical focus of Fairclough's three-part framework is text. Fairclough (1995a) argued that without context textual analysis is impossible. The first dimension sees discourse as text and includes the linguistic features (vocabulary and grammar) and organisation of discourse (text structure and cohesion). Linguistic

analysis deals with presences and absences in texts that can comprise information on the participants (their categories, identities or relations) (Fairclough, 1995a: 58, cited in Sheyholislami, 2011: 7). The second focus is discursive practice, which involves institutional processes, such as editorial procedures, and discourse processes, which are the changes applied to the text in production and consumption. It views discourse as a discursive practice that relates to mental models of socially accepted behaviour, norms and rules, highlighted in text production and interpretation. For Fairclough (1995a: 60, cited in Sheyholislami, 2011: 7), this practice sits between “society and culture on the one hand, and discourse, language and text on the other.” Both levels of analysis include linguistic analysis, which is referred to as intertextual analysis at the discursive practice level. According to Fairclough (1995b), intertextual analysis examines the limits between text and discourse practice. It explores the text from the viewpoint of discourse practice as well as the effects of this practice on the text. Fairclough (1995a) further claimed that a text’s intertextual properties are realised in its linguistic features, assuming the texts’ linguistic diversity. Nevertheless, Fairclough (1995b: 61, cited in Sheyholislami, 2011: 9) declared that:

linguistic analysis is descriptive in nature, whereas interpretative analysis is more interpretative. Linguistic features of texts provide evidence which can be used in intertextual analysis, and intertextual analysis is a particular sort of interpretation of that evidence.

Fairclough’s third level of analysis, sociocultural practice, views discourse as social practice pivoting around the greater social context centred on the concept of ideology. Fairclough (1992b) asserted that ideology is situated both in the structure of discourse and in the discursive practices and analysis of this dimension pertains to economic, political and cultural features of the sociocultural context of a communicative event. In the legal context, these aspects may refer to economy of the law, ideology and power of the law and challenges of social values. According to Fairclough (1995b), analysis at all three levels is not obligatory but can be restricted to any level that might be understood in a certain situation. For the purpose of this study, these key concepts of sociocultural practice as well as other analytical levels are discussed later in this chapter, as a part of outlining the framework for analysing the Saudi discourse.

3.5.2 Ideology and Discourse in CDA

Since ideology and discourse have no single definition, it is essential to distinguish between both concepts. Ideology relates to the beliefs and values that are dominant in a society (Yarmohammadi, 2000). Mooney (2011) defined it as the way in which individuals view the world, while Mason (1994: 25) asserted that ideology is the beliefs that influence one's perspective on the world. Hatim (2000) similarly asserted that ideology is a set of ideas informed by one's beliefs. Meanwhile, according to Fairclough (2003: 218),

Ideologies are representations of aspects of the world which contribute to establishing and maintaining relations of power, domination and exploitation. They may be enacted in ways of interacting (and therefore in *genres*) and inculcated in ways of being or identities (and therefore in *styles*). Analysis of texts (including perhaps especially *assumptions* in texts) is an important aspect of ideological analysis and critique, provided it is framed within a broader social analysis of events and social practices.

In this study, the term ideology is taken to refer to a set of ideas that show the beliefs of an individual or a group in their language. Additionally, ideology means the power that determines the translation product. Translators' values and views might be reflected in their translation product. This reflection could be lexical or stylistic by opting for one word over another or changing the ST structure to convey a certain belief. This method can be applied in sensitive contexts, such as legal and religious contexts.

In contrast, discourse is a precise method or study of language use and social communication (Sorahi et al., 2008; Fasold, 1990) not restricted to vocabularies and sentences (Coffin, 2006). Researchers, such as Stubbs (1983) and Solhjoui (2007), claim that discourse is the larger linguistic unit than the sentence, where the explicit meaning is always beyond the sentence. In other words, discourse is "any coherent succession of sentences, spoken or written" (Matthews, 2007: 107). Since most discourse reveals ideological orientation, language and discourse cannot be separated from each other (Van Dijk, 2006). Sertkan (2007) argued that discourse expresses ideology. In other words, the intended and unintended ideological implications in the discourse can be reached through analysis of the discursive expressions. Shahsavari and Naderi (2015: 37) argued that

ideology finds expression through discourse. Meaning that, through analysis of the discursive expressions, we can reach to the ideology which is intentionally or unintentionally exists in the discourse. [...] discourse has a vital role in the growth, explanation, and proliferation of ideology in the society. In fact, our ideological opinions determine much of our discourse.

Discourse, in this study, follows the definition of Fairclough and Wodak (1997: 258, cited in Wodak and Meyer, 2001: 7-8):

CDA sees discourse—language use in speech and writing—as a form of ‘social practice’. Describing discourse as social practice implies a dialectical relationship between a particular discursive event and the situation(s), institution(s) and social structure(s), which frame it: The discursive event is shaped by them, but it also shapes them. That is, discourse is socially constitutive as well as socially conditioned—it constitutes situations, objects of knowledge, and the social identities of and relationships between people and groups of people. It is constitutive both in the sense that it helps to sustain and reproduce the social status quo, and in the sense that it contributes to transforming it. Since discourse is so socially consequential, it gives rise to important issues of power. Discursive practices may have major ideological effects—that is, they can help produce and reproduce unequal power relations between (for instance) social classes, women and men, and ethnic/cultural majorities and minorities through the ways in which they represent things and position people.

According to Fairclough (2001), text is just one aspect of discourse, the expression of oneself through words to assert power and knowledge, to resist and to critique. Speakers express their ideologies in texts, and even though selection of a spoken discourse may not be a live process for the speaker, they reproduce the previously known discourse. Texts are syntactic forms that are chosen and reflect the ideologies of a particular aspect of social life.

Therefore, it can be noted that the definitions of ideology and discourse share certain commonalities but also conflicts. This means that ideology and discourse are separate terms that cannot be included in a single definition. Importantly, despite the vagueness and vastness of the concepts of ideology and discourse, Van Dijk (1998) argued that they are no vaguer than other notions in humanities and social sciences such as ‘society’ and ‘power’, as he believes that definitions are generally inadequate for capturing the complexity of such notions and should not be expected to sum up the multiple insights of such bodies of knowledge even if their meanings are uncontroversial.

3.5.3 Ideology and Power in CDA

The concept of ideology is most associated with power relations, which are woven throughout all our practices and ideas and are exercised in every relationship and social practice. According to Thompson (cited in Fairclough, 1992a), ideology is meaning in the service of power.

Language and power has been a major theme in the works of social philosophers such as Foucault (1971; 1977; 1980) and Habermas (1984; 1992) and sociolinguists such as Gumperz (1982) and Fairclough (2001). Language is identified as the “primary medium of social control and power” (Fairclough, 2001: 2), “most notably in legal settings [...], where the use of language is structured in such a way as to facilitate control through the exercise of power” (Wagner and Cheng, 2016: 4). According to Van Dijk (1985: 29), ideologies are most clearly expressed through language and thus the study of language is an appropriate means of studying ideology.

Little attention has been given to the impact of ideology on translation. Researchers tend to focus on the strategies used, such as free, literal, communicative and semantic translation (e.g. Nida, 1964; Newmark, 1982; Mansourabadi and Karimnia, 2013), without highlighting the factors that control translators' decisions during the translation process. In this perspective, translation is considered as a process in which translators make decisions from a wide variety of lexical and grammatical choices. However, their selections are connected to their ideological orientation (Hatim and Mason, 1997), a point advocated by Schäffner's (2002) idea that every translation is a product of ideology, extraction and analysis on the lexical and grammatical levels.

In this context, social values and ideologies in Translation Studies are the centre of attention for certain researchers. They claim that the linguistic-oriented approaches in translation focus on “textual forms” (Calzada-Pérez, 2003: 8). Schäffner (2003) asserted that all translations are inherently ideological because the selection of an ST is motivated by one's interests. Also, Van Dijk (1997; 2001) stated that translation can produce ideology just as it is articulated in discourse. Moreover, the areas of

language and translation are the most challenging of ideological influence (Salemi, 2007) because ideology controls the selection of source texts, translation strategies, and the spreading of certain translated texts. Munday (2007) examined ideology in Translation Studies and its link to power relations by illustrating its impact on translation in the examples of speeches and political writings. Lefevere (1992b: 6) used the concept of “lexical refraction” to refer to ideological manipulation in translation. The ideological aspect can be determined within a text obviously or subtly both at the lexical and grammatical levels. The former could be reflected in deliberate word choice or omission, while the latter could be illustrated in the use of passive structures to avoid expressing agency.

CDA is an effective approach in investigating ideology and manipulation in translation (Fairclough and Wodak, 1997). Various studies have been conducted on conscious and unconscious ideological manipulation in translation. For instance, Ghazanfari (2006) examined the effect of ideology on literary translation by applying Hatim and Mason's framework (1997). The findings show that the tendency towards expansion is greater than the use of contraction or materialisation. Additionally, important alterations in meaning and various ideologies to the ST were found to result from the impact of agency and voice shifts. Similarly, Yazdanimogaddam and Fakher (2011) applied CDA to study the relation between ideology and translators' lexical choices. The corpus consists of Persian translated novels of '*Animal Farm*' (Orwell, 1943), '*Nineteen Eighty-Four*' (Orwell, 1945), and '*The Gadfly*' (Voinich, 1951), which were translated prior to the Islamic Revolution of Iran in 1979 and in the period after it. The result shows that ideology affects the translators' lexical choices. Yazdanimogaddam and Fakher attempted to choose the equivalents in accordance with the sociocultural and ideological conditions in which the translators lived. A study by Khoshsaligheh (2013) adopts Farahzad's (2009) CDA by dividing the analysis into two levels, the micro-level and macro-level. The corpus is an English passage of approximately 600 words translated into Persian. It describes a brief review of the history of movement of women to accomplish the vote. The goal is to examine the reflection of ideology of the non-professional translator in the translated text. The study provides evidence that even untrained translators fall under the influence of their beliefs and cannot remain impartial to the ideological representations in the text in translation. Attention focused on ideologically significant

lexical choices, euphemism, metaphor and structure, e.g. punctuation and paragraphing. Nevertheless, the corpus is small in size, which resulted in both levels of analysis being difficult to apply. For example, at the macro-level of analysis only a few features were considered, such as punctuation marks and the sectioning of the text into paragraphs.

Additionally, Khajeh and Khanmohammad (2009) applied Van Dijk's framework of CDA (1997) to investigate the underlying ideological assumptions through language in two Persian translated versions of the book '*Media Control*' by Noam Chomsky. They found many additions and deletions that highlight the translators' ideologies. Following the same methodological framework, Shirazi (2012) analysed the varying ideological effects in the translations of the same text. He chose a different genre, media translation, collected from numerous pro-reformist Iranian news agencies. The data analysis shows that each translation of the same text had its own ideological effects. Since the study focuses only on online materials taken from newspaper websites, further studies that tackle the printed press are needed.

A number of researchers chose an integrated approach of CDA to examine ideological implications in translation. For example, Mahdiyan and Rahbar (2013) utilised Halliday's three meanings of language (1994), then Fairclough's model of interpretation and explanation of the discourse. The study applies the methodological framework to analyse US President Bush statements from 2005 to 2008 about Iran's nuclear program. They used the method to outline the shape of power and ideological relations on the text-linguistic level. The materials chosen for analysis were political interviews and speeches. It would be useful to apply their theoretical framework to other political texts in which culture-bound ideological reflections frequently exist.

Furthermore, Sertkan (2007) applied Fairclough's CDA approach to investigate the influence of religious-conservative ideology on the translator's lexical choices in five Turkish translations of '*Oliver Twist*'. It examines lexical elements of the different translations with regards to their experiential, relational, and expressive values. The analysis proves that particular lexical elements were omitted, distorted, and added. Nevertheless, the study ignores other factors in Fairclough's framework, such as

grammar and textual structures. However, Sertkan's study shows that applying CDA to a text can prove changes are made by translators in the TT. Recently, several studies have adopted the same approach. For example, Shahsavari and Naderi (2015) examined the effect of ideology on English-into-Persian novel translation. They applied Fairclough's (2001) approach to examine ideological variances between the ST and the TT. In general, there is a significant focus on the experiential values of Fairclough's approach by depicting the translator's background of the natural and social world. A further study conducted in the field of ideological manipulation is by Baradaran et al. (2015). They adopted CDA with a special focus on the framework of Fairclough (2001) to examine the correlation between language and ideology in translation to reveal the underlying ideological presumptions implicit in the ST and the TT. The corpus consists of the book, *An Introduction to Sociology: Feminist Perspectives* by Pamela Abbott, and its two different Persian translations. They highlighted the importance of being conscious of the ideology that underlies a translation and of the strategies that translators chose during the translation process. Another study using the same methodological framework, Moghadam and Kolahi (2015) considered the text *Slaughterhouse-5*, written in English by Kurt Vonnegut, and its corresponding version in Persian. The study aims to reveal the visibility and invisibility of ideological presumptions in both the ST and the TT. The findings reveal that significant deviations in the TT occur, either consciously or unconsciously. Particularly, the result shows that lexicalisation has the highest frequency of deviation compared with other discursive elements. Although this study only covers the ideological aspect, it can be used to analyse other aspects, such as power and gender using CDA. More specifically, Al-Harashah (2013) adopted CDA in his study of Islamic texts written by non-Muslims and translated by Muslim students to explore the translators' ideology on these texts, and he found that Muslim translators are unintentionally affected by their social, cultural and religious ideologies. Yet, his analysis lacks any engagement with social theory to provide a sociological approach to the analysis.

It should be noted that there is little research using CDA on legal translation in general and in particular between English and Arabic. Another point is that most researchers focus on the ST and the TT, whereas this study places greater emphasis on the product. Furthermore, it can be argued that the conclusions of CDA

researchers can be related to a variety of philosophical and sociological concepts, reflecting that the field has a strong ground, and it would be regrettable to restrict the possibilities of CDA to a certain school or theory as this openness is considered as a strength by many discourse analysts (Chouliaraki and Fairclough, 1999; Weiss and Wodak, 2002).

The present study is directly influenced by previous studies on the application of the CDA approach to Translation Studies and thus makes the explicit argument that the complexity of the translation process and selection is ideologically driven. They prove that CDA is an appropriate tool for understanding the relationship between ideology and translators' lexical choices. Yet it can be argued that CDA, like other types of discourse analysis, aims to obtain a better understanding of the relationship between linguistic and social aspects of texts. One crucial difference from other forms of discourse analysis is the critical dimension of CDA in its theoretical and descriptive accounts of texts as it has an overtly political agenda (Kress, 1990). This research uses Fairclough's approach to CDA (2001) to examine the influence of ideology on legal translation because it provides a more comprehensive analysis than other CDA models. Fairclough's analytical questions fit the linguistic features of the chosen corpus of this study as they go through all aspects of the texts.

Although the CDA framework and method may be promising, in practice, much CDA literature has great methodological drawbacks, such as lack of awareness of rigorous analysis and the use of evocative analysis. CDA researchers have been blamed of using similar methodology for analysing text, and therefore researchers should be more disciplined and systematic in analysing text. Fairclough (2000), who received most of the criticism regarding methods in CDA, consequently conducted a study of the language of *New Labour* based on large numbers of empirical data and using corpus linguistic tools. In addition, according to Breeze (2011), certain CDA researchers make deterministic assumptions about discourse and social reproduction that cause false interpretations as a gap appears between textual analysis and conclusions. This makes it challenging to trace the exact justification for a particular interpretation. In order to draw sound conclusions and support the analysis with evidence, the present study utilises extratextual and contextual materials as shown in the following sections.

Verschueren (2001) consented the capability of Fairclough's three-stage approach to analysis but took issue with how the analysis moves from the first level (description) to the second (interpretation). He claimed that Fairclough analyses single texts in isolation without locating them in their social context and failed to produce the text in a communicative event. Verschueren (*ibid.*: 69) believes that "a good social theory" is the only appropriate means of reaching the third level (explanation). Slembrouck (2001: 39) pointed out that Members' Resources (MRs) (a network of memories, which may involve experiences, people, sequences, or words) are also contextually influenced by social power relations and are likely not free from ideological manipulation. Other researchers, mainly ethnographers of communication, emphasise the need to take social context and relations of a text into account. In order to mitigate these criticisms, this study uses Bourdieu's theory of practice to add detail and coherence in explaining the context of the texts in question.

3.6 Sociology and Legal Translation

3.6.1 Bourdieu in Translation Studies

The development of Translation Studies has been achieved through its integration of frameworks and methodologies stemming from other disciplines. In this context, it is important to recognise that Translation Studies has started to focus on human interactions as well as the texts and words. This is because using this type of comprehensive approach to the translation process results in more effective transmission of the intended meaning as it considers the social context of text production. The focus on the human element has introduced the possibility of applying a sociological approach within Translation Studies.

In Translation Studies, social theorists, such as Pierre Bourdieu from France and Bruno Latour and Niklas Luhmann from Germany, have been the most effective figures in the social sciences (Liu, 2012). This is because they have significantly contributed to understanding what constitutes a society. In the field of translation, their work has been shared by translation researchers interested in the social form of translation (Baker and Saldanha, 2009).

Bourdieu introduced concepts that provide dynamic and flexible means of analysis, which social theories in Translation Studies lack as they tend to be product-oriented approaches. For example, the notion of 'field' explains how a product is produced as a result of the interactions of a complex set of human agents, whereas the cultural approaches consider the product as the output of a single, linear and fixed process of production (Hanna, 2016). Another example is the comparison between the sociological term 'habitus' introduced by Bourdieu and the cultural term 'norms' developed by Toury (1995: 1), which shows that habitus serves as a more flexible concept providing sufficient explanations of the complex social actions. What makes Bourdieu's theory different from other sociological studies and more applicable to translation is that it provides a theoretical basis for the role of the translator. This is achieved through the use of the concepts of 'habitus' and 'capital' to fully explain how the translator, as a social agent, acts and where s/he is positioned in the field (Munday, 2016: 237). It also focuses on the interactions between individuals involved in the same field. For this reason, King (2000: 417) calls Bourdieu's approach a "practical theory." In addition, Bourdieu's approach was chosen for this research for its specific social notions, 'field', 'capital' and 'habitus'. These notions can be employed to answer most of the research questions on the translated legal texts.

Bourdieu began to gain importance among scholars of Translation Studies, such as Gouanvic (1997), Simeoni (1998) and Inghilleri (2005), who are pioneers in applying sociological approaches to translation phenomena. They apply sociological concepts, such as agent, field and capital, and their influence on the translation product by highlighting the role of individuals, locations and institutions involved in the translation activity. Simeoni (1998) examined the role that the specialised habitus of the translator might play in Translation Studies. As a result, sociological approaches highlight translators' positions in the translation process and identify translators' social positioning as crucial to translation activity. Simeoni (*ibid.*) argued that the concept of habitus does not contradict Toury's norms, but rather aids norms to be understood from a different angle. Arguably, Bourdieu's concept of habitus explains translators' behaviour at the textual level more effectively as breaking the norms of a field is determined by agents' habitus (Alkhawaja, 2014).

In Translation Studies, Bourdieu's theoretical framework bears resemblance to Even-Zohar's polysystem theory (1990) in that he views the world as a number of different spheres of production in which positions in the larger social system influence status. Even-Zohar's theory was developed with specific reference to the spheres of language and literary production, and although it associates the position of literary systems with the cultures from which they originate or seek to enter, it ignores the society surrounding the polysystem. Bourdieu (1993) criticised this treatment of literary works in isolation and argued that the theory treats society at an abstract level that ignores social context to the extent that the literary system appears internally defined. Gouanvic (1997) argued that sociological theories, such as polysystem theory (Even-Zohar, 1990) and norms theory (Toury, 1995), offer a broad description and abstract terms of the functions of the system, but lack a clear framing of the institutions' role and activities during the reproduction of symbolic goods, and so Bourdieu's model emerges as the most appropriate for addressing the complexities of cultural products (Gouanvic, 1997).

In this regard, the works of Bourdieu, with an emphasis on the concepts of habitus, field, capital and *illusio*, have come to play a greater role in Translation Studies. Bourdieu's theory aims to provide interpretations of human behaviour by taking into account society and its levels and positions. Although Bourdieu's theory is designed for sociological studies and not for translation, scholars, such as Gouanvic (2010), believe that Bourdieu's theory can be applied to translation because there is no rule against borrowing a framework from sociology (Alkhawaja, 2014). His focus on the dynamics of power in society is important. Moreover, Bourdieu's theory focuses on both the text and the context, which proves its applicability to the field of translation. Bourdieu (1999) argued that because texts circulate in isolation from their contexts, recipients re-interpret texts according to the field of reception, causing misunderstandings.

Social fields, such as law, literature or social sciences, can be further divided into sub-fields, such as criminal, family and banking laws in relation to law. These sub-fields are the macro concepts structuring Bourdieu's thoughts and the starting point for his further concepts (Golsorkhi and Huault, 2006). According to Hermans (1999), field is a space with its own laws and structured by the relations between agents in

the field. The concept of 'field' acts as a tool of analysis in Translation Studies as it shows the interactions between agents in the translation field and power relations. Bourdieu's notion of 'field' forms the foundation of the sociological relationship as it shapes, organises and clarifies the components and interactions within a certain field. O'Hara (2000) believes that relations between different agents in a field contribute to shaping the structure of that field.

The largest field in society is the field of power or forces, containing smaller fields with varying degrees of autonomy, each with even smaller fields. The location of each field is defined by its relationship with the field of power. For Bourdieu, the concept of 'social space' has a slightly different meaning, which refers to many connected social fields (Mahar, 1990: 9-10). The agents' social space constitutes the fields within which these agents interact. Thus, in order to comprehend the transmission between different agents, individuals and organisations, it is vital to study the social space in which the transmissions occur (Grenfell, 2014).

Based on Bourdieu's view, agents within fields are continuously involved in a struggle for power and dominance, gathering the capital that their field is known to value. Bourdieu's concept of 'capital' refers to the overall principle that regulates the social world and is, therefore, not limited to its economic meaning. Thus, he argued that capital is regarded as the power that regulates the field; it structures the activities in a given field and manages the relations between the members or agents of that field (Bourdieu, 1986: 242). Therefore, identifying capital and its forms is essential to fully understand any social practice.

Bourdieu's (1986: 253) main argument is that "the convertibility of the different types of capital is the basis of the strategies aimed at ensuring the reproduction of capital (and the position occupied in the social space)." According to Bourdieu (*ibid.*), there are four different forms of capital: economic (financial assets), cultural (education and cultural knowledge), social (determined by the logic of a particular society) and symbolic (recognition in a group). In the fourth form, the recognition in a social group is associated with the three others forms of capital. For example, a recognised legal translator that has a rich social capital in his field will also gain a symbolic capital because of that social position. In any field, all forms of capital can be changed

instantly or over time to economic capital. This change creates the type of power effective in that field. Translation as a social act is practiced in a field in which agents, i.e. translators, are regulated by boundaries, i.e. capital. Thus, understanding the concept of capital is important in order to analyse the power of translators and institutions of a given society and their impact on the translation process.

Bourdieu's concept of cultural capital is the collection of symbolic elements, such as material belongings and skills that one acquires as part of a social class. Sharing similar capital among others creates a collective identity. He argued that cultural capital comes in three forms: embodied, objectified and institutionalised. One's language is one's embodied cultural capital, while the material objects, such as translated books, we use are examples of cultural capital in its objectified state. In its institutionalised form, cultural capital is one's credentials and qualifications such as degree or titles that symbolise cultural competence and authority (Bourdieu, 1986). For the purpose of this study, Bourdieu's concept of cultural capital is adopted to examine the translators' cultural dispositions in the translation field. Additionally, it will help to reveal classifications among translators based on variables, such as the date of publication.

However, capital in its forms cannot be fully appreciated without understanding Bourdieu's other concepts. His concept of 'illusio' refers to the object of the translator's task (Bourdieu and Wacquant, 1992: 117). It refers to the knowledge that allows translators to understand the context and to react according to their understanding. It suggests for some a type of 'false consciousness' – the "self-deception necessary to keep players involved in the game" (Rabinow and Dreyfus, 1999: 90).

The concept of 'habitus' is the focus for many researchers. Bourdieu argued that people's choices and behaviours are not only controlled by their surroundings, but also by their beliefs and preferences. In other words, he believes that there are two connected powers that create the decisions taken by and actions of an individual. These powers are external power, or 'field', and internal power, or 'habitus'. For Bourdieu, the dimensions of power are simultaneously external and internal (Gouanvic, 2005). Habitus, as defined by Bourdieu (1990b: 53), is the system of

endurable, transposable dispositions, structured structures predisposed to function as structuring structures, that is, as principles which generate and organize practices and representations that can be objectively adapted to their outcomes.

Bourdieu (*ibid.*) further argued that habitus is a structure of dispositions, i.e. ways of acting, responding and understanding the world. These dispositions continue with the agents through their entire lives and transfer into all fields. Habitus is not a set of intentionally held beliefs or values, but unconscious natural actions and orientations. There are two forms of habitus, primary and professional. The former is the dispositions that an individual acquires through family, social class and education, while the latter is the dispositions that an individual acquires when being involved in a specific professional activity, such as the professional skills that legal translators acquire. It is this type of habitus that is used in the present study because it provides interpretations of the translators' decisions. In this respect, the concept of 'habitus' contributes significantly to Translation Studies by analysing the translator's decisions and choices. Gouanvic (2005) argued that the translator's habitus unconsciously affects his/her translation practices. In the specific context of legal translation, the concept of habitus is useful in situating the translation practices in a social context. This is because the concept provides explanations for the reasons behind the translator's decisions starting from selecting texts to be translated through the actual process of translation.

Jenkins (2006: 46) offered a wider definition, identifying three distinct meanings of the term habitus as used in Bourdieu's writing. First, the habitus "exists only in as much as it is inside the heads" of actors. Second, the habitus exists only through interactions among actors and their environment. Jenkins provided the examples of ways of talking, ways of moving and ways of making things. Third, the "practical taxonomies," such as male/female, front/back, up/down, hot/cold, which underlie the "generative schemes of the habitus are rooted in the body." (*ibid.*). In each of these three senses, a translated text can be seen as an embodiment of the translator's habitus: first, as an expression of what is inside the translator's head; second, in the sense of the translator's style or way of writing, spelling and organising information on the page; and third, through the translator's use of specific conceptual metaphors relating to the practical taxonomies listed (Lakoff and Johnson, 2003).

For the purpose of this study, the three main elements of Bourdieu's Theory of Practice (1977)—field, capital and habitus—are used. The interaction of these elements leads to practice, that is, our unconscious behaviour that fights for capital according to our interests. Friedland (2009: 888) stated that practice is “habitual” and “regular but not rule bound,” and Bourdieu comprehended practice as the result of one's habitus and the social structures of a particular field. Habitus ensures collective belief in the rules of the social game, and agents' activity according to their position in the field (Matthias, 2014). Bourdieu (1984: 101) explained the interaction between field, capital and habitus in the following equation:

$$[(\text{habitus}) (\text{capital}) + \text{field}] = \text{practice}.$$

According to the equation, practice is governed by an objective field and is influenced by the agent's habitus and capital. In other words, a comprehensive understanding of the translators' backgrounds and dispositions within a particular social space can explain their translation practices.

Bourdieu's theory of practice is important to Translation Studies and to our comprehension of the translators' social involvement in translation. In this regard, Inghilleri (2005) argued for applying Bourdieu's theory to conceptualise the socio-cultural effect on translation. She stated that Bourdieu's theory offers a unique perspective on acts of translation and the socio-cultural limitations that affect these acts. Inghilleri (*ibid.*) showed that applying Bourdieu's theory is useful in understanding and analysing the involvement of translators in the field by linking agency to the structure of the translation field. This application of Bourdieu's approach to translation contributes to the present study, in which the field of law and translation need to be explored in terms of their structure, the agents involved and their interactions.

After introducing Bourdieu's theory, it is important to highlight one of his powerful essays, *The Force of Law: Toward a Sociology of the Juridical Field* (1987a), in which he explains the impact of social behaviours in the legal field. He was interested in the ‘social practices of law’ as he argued the legal field is controlled by power of relations and internal logic power (Bourdieu, 1987a: 816). Moreover, he

emphasised the linguistic and symbolic strategies along with speech act theory by legal agents. Speech act theory refers to the specific linguistic and social power of the law. The essay reveals the power of the field of law as it controls both the practices and strategies of the agents within it. But it is important to acknowledge that translating legal discourse in the Saudi social space is influenced by a more dominant field, that of religion. This is highlighted in the present study.

In terms of applying Bourdieu's theory to legal translation, Inghilleri (2005) presented a discussion of legal translation, sign language interpreting and community interpreting. In relation to legal translation, Carmen (2005) focused on Bourdieu's concepts of habitus and capital in legal translation. She argued, "misunderstandings and misreadings can and frequently do occur as a result of the persons involved not sharing the same habitus or being endowed with the same forms of symbolic or economic capital" (*ibid.*: 262). Attention has to be paid to the importance of the two concepts of 're-presentation' and 'reality' and the influence of ideology, race, gender and other factors in legal contexts. According to Carmen (*ibid.*: 260), "Re-presentations are fictitious contradictory constructions which give rise to social relations and different forms of subjectivity." They affect how a society creates meaning and accepts power. She added that re-presentations and realities are natural and universal, which make them challenging since they have the power to construct identities and to serve a particular field, such as the translation of law. A classic, post-structuralist analysis of the fundamental vagueness of textual meaning is offered. However, unfortunately, the article offers little in the way of clear understanding as to how legal translation might be carried out in a more politically self-reflexive regime.

Another theorist who tackles the same genre is Niklas Luhmann. He is one of the few pioneering sociological scholars to participate consistently and extensively with law. Luhmann (1992, cited in Mattheis, 2012: 635) provided a study on the connected normative or operational 'closure' and 'cognitive openness' of the legal system that has become a key source for much social scientific analysis of the legal system, such as Cotterrell (1993), Teubner (1993) and Ziegert (2002). He believes that the world consists of different systems that are interwoven. In particular, he stated that although law and sociology are separate systems, they interact with each

other. Law is one part of social institutions, and the field of law has an impact on race, class, gender and other differential social values.

A significant work that maps the role of habitus in Translation Studies is *Remapping Habitus in Translation Studies* (Vorderobermeier, 2014a). The book offers a collection of papers providing different approaches in this discipline, which serve in choosing the most applicable methodological tool to study translators' habitus in the present study (see the following sections). Furthermore, Liu (2012) focused on the habitus of a Chinese translator, Yan Fu, and the connection between his habitus and the field of translation in China by examining the translator's social identity and positioning. Liu came to the conclusion that the habitus of a translator always influences the way in which translation is practiced. Nevertheless, it can be argued that translation practices are also influenced by the other Bourdieusian notions of field and capital. Therefore, the study lacks a comprehensive approach to socio-translation practices in China, but these studies nevertheless show that translators' practices in a field are affected primarily by their habitus. Translators act according to their habitus and not their position.

This conclusion further justifies the focus on the translators' habitus in the field of legal translation. Bourdieu (1990a) argued that habitus is the set of responses to the demands of the field, and so the habitus of translation agents differ between societies. Thus, applying Bourdieu's model in this research provides various insights as to practices in the Arabic legal field from a different perspective.

As discussed, various translation scholars examine Bourdieu's theoretical framework in different forms and perspectives (Wolf, 2007: 136), including Simeoni (1998), Gouanvic (1997; 2002; 2005), Wolf (2002; 2007), Inghilleri (2005), Buzelin (2005; 2007), Hanna (2005; 2016), Sela-Sheffy (2005), Alkhawaja (2014) and Chesterman (2006; 2007). They aim to give a deeper understanding of the translational phenomena in its surroundings and social settings (Wolf, 2007). Bourdieu's theoretical framework has also been applied in the field of translation by Garcés and Blasi (2010), who adopted the concepts of field, habitus, *illusio* and symbolic capital on public service interpreting and translation to explain the translators' performance and to develop a sociological theory of this field. To accomplish this, they applied the

Bourdieuian notions to the context of the three-way conversation, which is viewed as a microcosm of society. They concluded that familiarity with the basic rules of a social activity plays a major role in enabling agents to participate in it and employ more or less unconsciously the practices inherent to its rules. These practices are used to construct the social space. Nevertheless, this application needs to be set in a large-scale context rather than a three-way conversation. In the same vein, Gouanvic (2010) focused on the translation of literary texts, particularly American literary texts into French, by applying Bourdieu's theory. The article, however, does not raise questions of ethics, censorship, resistance and power, which are often discussed in Translation Studies. Gouanvic (*ibid.*) did not examine translators' practices at the textual level or in their relationship to social factors in the field. Both aspects are considered in this thesis to provide a better understanding of the agents' practices in the field of legal translation.

In the same regard, Sela-Sheffy (2005) developed the field of Translation Studies with her contribution to literary translation by using Bourdieu's concepts of habitus and field to study translators' practices and how both concepts determine translators' actions and choices. On a different type of text, Liang (2008) explored the genre of the translation of fantasy fiction in Taiwan with the help of Bourdieu's theory. Liang (*ibid.*) found that fantasy translators attempt to set up new terms. Thus, the translational field of fantasy fiction has begun to operate independently with its own norms and laws. The autonomy of translating such a genre is conditioned by the symbolic capital of the social agents involved in the field process. From Liang's study, it can be concluded that different genres in translation have different conditions and systems according to the social capital and field that influence them. For instance, translators in the media discourse are controlled by rules, which are specific to the field of journalism, while legal translators are restricted by rules of the law. An additional contribution by Elgindy (2013) investigates in detail Bourdieu's sociology of cultural production. The study uses a sociological framework for the study of translations of Islamic political discourse by integrating Bourdieu's sociology with Baker's (1992) narrative in order to comprehend the translations of Islamic political discourse as a socially located practice. This study proves that applying Bourdieu's theory in Translation Studies helps to understand that translation should no longer be viewed as a linguistic renderance of texts, but as a strategy linking two

cultures with different power relation. It demonstrates that translation is situated in a field amongst other fields that influence one another.

With a focus on Arabic translation, Hanna (2016) explored the implications of Bourdieu's theory on Translation Studies as a socio-cultural activity. He examined Arabic translations of Shakespeare's tragedies in Egypt by offering a detailed analysis of the theory of cultural production fields to provide a fresh perspective on the development of drama translation in Arabic. This book demonstrates that applying Bourdieu's theories in Translation Studies contributes to both the sociology of translation and the cultural history of modern Egypt. Hanna (*ibid.*) suggested that Bourdieu's sociology in Translation Studies should be explored in other contexts, such as legal translation. Although the book is concerned with literary translation, the common ground between it and the present study is the sociological insights into translation between English and Arabic, an area that is still under-researched. In a previous work, Hanna (2006) highlighted the history of drama translation in the early 1900s in Egypt, and analysed the socio-cultural factors that constituted the translators' social practices. He claimed that historians mainly focus on the linguistic equivalence between the ST and the TT and ignore contemporary social practices of translators. Although Hanna drew attention to the social factor of translation, he did not examine the field of drama translation according to power, nor agents in relation to each other. His study highlights the macro-level, in relation to the socio-cultural dimension, rather than the micro-level. Hence, studying translators' practices at both the macro- and micro-level provides a full picture of the translational phenomenon. In a similar Egyptian context, Alkhawaja (2014) investigated the translation of Najīb Maḥfūẓ into English through Bourdieu's sociological framework. Bourdieu's framework examines the relationship between the cultural production field and its social agents. Although this study provides a clear investigation of how this relationship is obtained, it only focuses on the notions of habitus and field. Adding the concept of capital would produce a better understanding of social practices in a field.

With a specific focus on the translation field in the Saudi context, Alkhamis (2013) analysed translation practices and activities in Saudi Arabia during the 20th century by placing them in a social space based on Bourdieu's sociological concepts of

'field', 'habitus' and 'capital'. Other sociological concepts are also examined in the context of translation, such as 'homology' and '*doxa*', in order to understand correlations with more micro translation strategies. According to Bourdieu and Wacquant (1992: 106), the notion of 'homology' refers to the relationships between various fields in a social field, which mediate the practices in these fields. *Doxa* refers to the beliefs and practices social agents often engage in that conform to the structure of a certain field of cultural production. The use of 'homology' shows the relationship between the field of translation and other dominant fields, such as politics, while '*doxa*' is used as a tool to investigate the translation and censorial practices undertaken by publishers and translators in response to commonly-held beliefs in society. Alkhamis (2013) also analysed the institutions involved in the translation practices by examining their structures and the agents engaged within them through the use of terms as 'orthodoxy and heterodoxy' in order to explain the degree of dominance by agents. He discussed how translation is affected by more powerful fields in the Kingdom, for instance religion and politics. It can be concluded from the findings that the field of translation in Saudi Arabia is, to some extent, a heteronomous field clearly influenced by the dominant religious conservativeness and government power. This conclusion is drawn upon in the present study by investigating how the fields of forces of religion and law in Saudi Arabia influence the use of the translation product. However, Alkhamis (*ibid.*) relied heavily on the institutions selected with less focus on more micro aspects, such as agents and the textual features that result from these complex institutional interactions. Nevertheless, the analysis is a starting point for more sociological analysis of fields of specialised translation in the Kingdom rather than translation in general.

Although the abovementioned scholars have implemented Bourdieu's sociology in their work, few have undertaken a deep analysis of the translations of a certain genre, such as legal translation from Arabic into English. In this study, the use of Bourdieusian concepts raises numerous lines of investigation that enable a more in-depth investigation into legal discourse. Although Bourdieu's theory of practice is adopted in this study, its application is within specific lines of analysing the agents and fields in the translation process of the two *ḥadīth* collections. This means that this study is not agent-oriented, rather it is concerned with the translation product and its surrounding environment.

Nevertheless, Bourdieu's theory can be criticised for ignoring non-human and non-conscious actions. More specifically, the role of consciousness in Bourdieu's theory is not fully clarified, which results in ambiguity about the nature of agents. Furthermore, critics argue that Bourdieu's model is very fixed in terms of limiting interactions within a field. This can be mitigated by the use of CDA as it adds greater flexibility to the theoretical framework, which is explained in the following section.

3.7 Integrating CDA and Bourdieu's theory in Translation Studies

Scholars identify the effectiveness of combining CDA with Bourdieu's theory. It is believed that this combination enables Translation Studies to be analysed in more depth, not only by analysing linguistic features of a discourse, but also by studying the social influence on it. For example, Fairclough (2008) explained the role of Fairclough's CDA model on literary translation, specifically recontextualisation, strategy and ideology, in understanding recent developments in translation practice. This approach relates CDA to Bourdieu's sociological concept of field that underlies social life. In CDA, the concept of 'recontextualisation' (*ibid.*: 67) is used to designate the de-location of a practice from its original context and its re-location within another context including the movement of discourses across practices, for example, from political practice to media practice. The study argued that literary translation, as recontextualised texts, may not function primarily in the cultural field but other fields also play a part. Nevertheless, agents in a field have their own purposes and goals and are able to assert their own freedom and creativity. Therefore, in the present study, the influence of agents' professional habitus and cultural capital within the translation field are assessed in order to examine the production of their translations.

According to Van Leeuwen and Wodak (1999: 96), "recontextualisation always involves transformation" based on the aims of the context. Such transformations can be more complex when they involve translation, or as Schäffner (2004: 143) puts it, "recontextualisation across cultures." This complexity is reflected in the fact that the recontextualisation processes, identified in Translation Studies and more broadly referred to as translation strategies, are more elaborate than those identified in CDA. Relevant examples include implicitation, making elements of the SL implicit in the

TL, and explicitation, making elements of the SL explicit in the TL (Vinay and Darbelnet, 1995); domestication, making elements in the SL text familiar to TL readers (Venuti, 2008); and foreignisation, preserving the cultural conventions of the SL text regardless of their familiarity to TL readers (*ibid.*). The application of domestication and foreignisation are examined in this study to reveal the translators' ideological stances (see Chapter Four).

Beyond Translation Studies, a number of studies combine CDA and Bourdieu to analyse various types of discourse from different perspectives. McTernan (2013) applied CDA and Bourdieu's notion of capital to explore Li Yang's perspectives of English education in China. The study concludes that by examining Li Yang's text, hidden power relationships appear. Scheuer (2003) provided guidelines to strengthen the analysis of social practice in CDA. Conducting a study based on a job interview, it is intended to prove that close textual analysis may be supported by the analysis of social practice, into which Bourdieu incorporates socio-history. On the macro level, Scheuer considered changes and developments in Danish society. On the micro-level, applicants' histories, their trajectory, habitus, and their social background and gender-related practices are assessed. Although Scheuer's study has methodological and theoretical meanings, the linguistic analysis is incomplete because recontextualisation is considered across interactions. Scheuer (*ibid.*) argued that Bourdieu's concepts, such as habitus, can offer guidelines for strengthening CDA methods and determining relevant settings external to the text itself. However, with regards to studying language use on the ground of text-internal analysis, micro-sociological paradigms (e.g. conversation analysis) can more appropriately inform CDA. Although the previous studies focus on the function of human agents in a field, they exclude other factors, such as institutions, which can influence the field, its structure and boundaries.

Building on previous studies, the investigation of agents' professional habitus and the application of CDA can reveal the conditions that surround the actions and practices of these agents. Furthermore, it is worth noting that as evidenced by different academics, applying a corpus-based method is an effective tool for investigating agents' practices in the field of translation. As discussed, the term 'ideology' is a contested concept in the field of linguistic studies. It appears that Bourdieu did not

use this term often because he believes that it is too vague and has been used to discredit those who have opposing opinions (Bourdieu and Eagleton, 1994). However, Bourdieu used the terms 'symbolic power' or 'symbolic violence' instead of using the notion of ideology (Grenfell, 2014: 179). His primary focus is on the social conditions of discursive and symbolic power, such as the authority and legitimacy of discourse producers. Bourdieu's view of symbolic power matches the definition of ideology adopted in the present study, which refers to the power of ideas and beliefs represented in the language of an individual or a group.

Scholars, such as Hammersley (1997), critiqued the underlying presumptions of CDA, blaming Fairclough and others of stating the need for a critical approach as this was already clear and unproblematic. However, CDA offers a set of analytical questions that break the discourse into linguistic entities. The findings resulting from this analytical tool serve as the groundwork that links text with society by using Bourdieu's concepts.

The literature review highlights that further research using the notion of control is required in relation to translational activities in the legal realm. Additionally, connections between translation, CDA, translation strategies and underlying ideology must be better accounted for in a legal discourse analysis. According to Thompson (1984), linguistic formalism overlooks the social conditions in which language is used, while sociological interactionism ignores to realise the lack of linguistic exchange. Bourdieu attempted to fill these gaps by reflecting on the use of language through his theory of practice. He highlighted the role of language in the reproduction of social life. In this context, Bourdieu's theory and Fairclough's CDA complement each other. Bourdieu adds descriptions and labels to the social space that CDA lacks. CDA, which draws from social theory and contributions from Marx, Foucault and Bourdieu, also emphasises the strong impact of ideology and consciousness, which feature in the translation process. These concepts were absent in Bourdieu's theory. Hence, CDA and Bourdieu's theoretical framework have the same goal of highlighting language and its power in society. Therefore, an integrated approach of CDA and Bourdieu's theory of practice meets the goal of this study by providing a detailed analysis and highlighting the power of language and society on the legal translation

product. The following sections explain how this integration will be methodologically applied to the selected corpus of this study.

3.8 Conceptual Framework

Creating a conceptual framework is a key point in describing and explaining the methodology. Smyth (2004) described the functions of a conceptual framework as a tool for researchers to analyse their findings, shaping part of the agenda for negotiation to be investigated and tested as a result of initial examination. Figure 3.2 displays the conceptual framework of this study, which is inspired by Fairclough (1992a: 73):

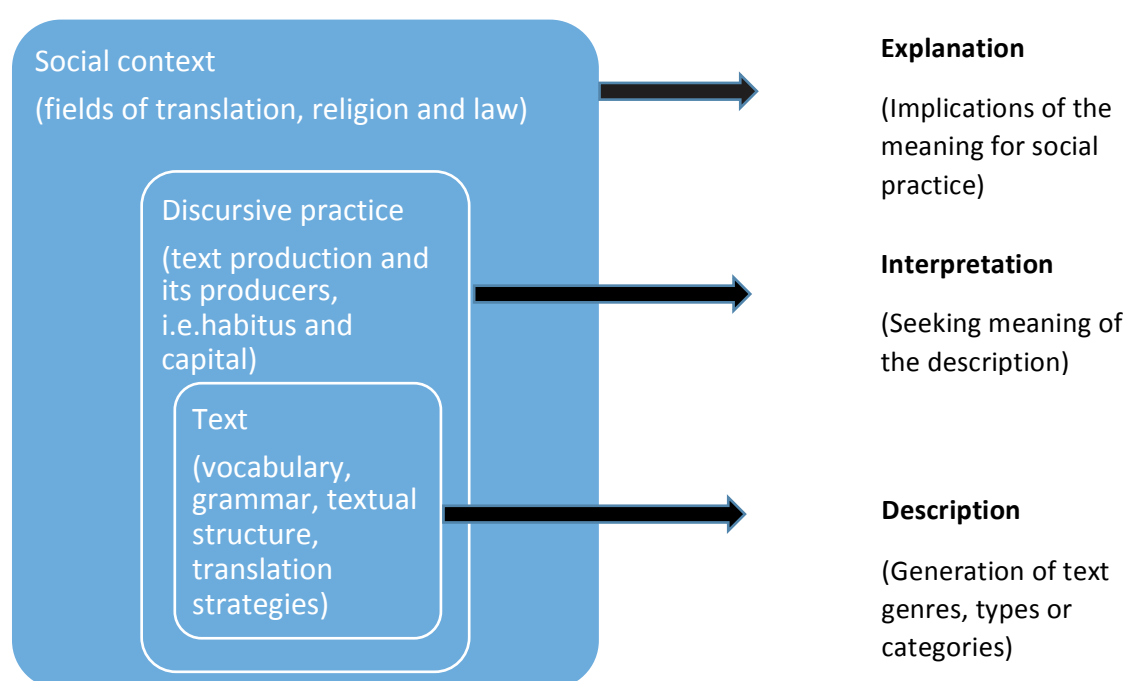


Figure 3.2: Conceptual Framework

It is evident from the proposed conceptual framework that the main dependent variable is the product, the TT. The TT with all its components—vocabulary, style and textual structure—is strongly affected by an independent variable which is the legal discourse practice that includes changes applied to the TT in production, the professional habitus and the cultural capital of the translators. In turn, legal discourse practice is a dependent variable as it is affected by the fields of forces, which are the power of religion, law and society. The relation between these variables is examined

to determine possible patterns that lead to differences in the translation products (further details are provided in the following sections).

In relation to other conceptual frameworks, Baradaran et al. (2015) also adopted a three-stage analysis. However, in the stage of interpretation, they assigned pragmatic values to textual features without linking them to the sociological tools of habitus and capital. This results in judgements being made about the translators' choices without linking them to the sociological factors that might affect these choices. Additionally, Lawson (2008) applied a CDA framework to analyse the magazine article, *One-on-One with Obama*, to test its applicability for language teaching. The conceptual framework adopted is highlighted in Figure 3.3. It is noticeable that Lawson's (*ibid.*) framework lacks an analysis of the social practice, which weakens the framework as it only focuses on the text and its discursive practices without linking them to the society in which the text was developed.

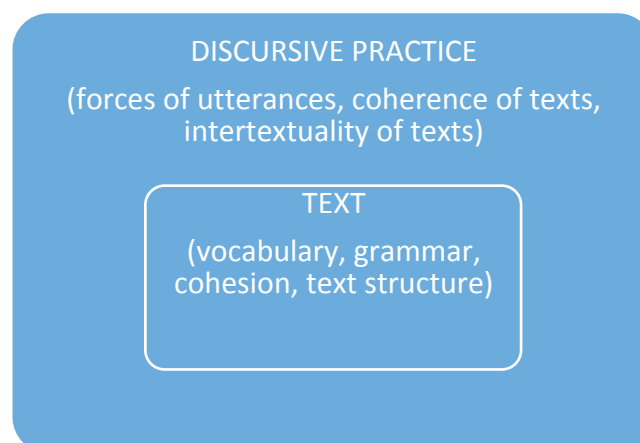


Figure 3.3: Lawson's Conceptual Framework (Lawson, 2008: 8)

In contrast, Alkhamis (2013) adopted Bourdieu's concepts to analyse the translation field in Saudi Arabia, which gives the research an in-depth focus on social practices. Nevertheless, the study focuses on the translation field without providing a deeper investigation of the linguistic features.

However, these three frameworks fail to focus on the overlapping factors that can affect the translation product. In the present study, the methodology is a text-to-context negotiation. It comes full circle by investigating the differences between the

translated products, revealing the possible motivations behind these differences and placing the translated products within the structure of ST (Saudi) society, in which the limits of freedom and control are shaped.

3.9 Methodological Framework of the Corpus

According to Yin (2014), research design logically links the research questions with the data. In this context, the aim of the research design is to define the methods, approaches, and strategies by which the research is conducted in order to answer the research questions provided in Chapter One. As discussed previously, an integrated theoretical framework of Fairclough's CDA model and Bourdieu's theory of practice is chosen. This is to conduct an analysis that links textual features to socio-legal contexts and to establish if the translation differences are ideologically motivated. Scholars, such as Verschueren (2001), Seidlhofer (2003), Haig (2004) and Widdowson (2004), argued that CDA fails to place the text in a communicative situation. Therefore, the inclusion of the human factor results in a more effective analysis into the role that translators play. In this context, Brook (2012) integrated ethnographic research with CDA in order to determine the reasons that can start textual manipulation in news translation between Spanish and English. This methodological integration strengthens the analysis. Fairclough (1992b) and Van Dijk (2001) claimed that CDA can only be used to analyse original-language corpora. They did not regard translation as part of discursive practice and express major theoretical objections about analysing corpora of translated data as if they were SL discourse. In contrast, Schäffner (2004) noted that in the realm of political discourse, as translations are based on one socio-cultural context functioning in a new one, the ST and the TT are inherently different texts that cannot be exact in function or form. Although Schäffner's argument is concerned with political translation, it can be applied to legal translation as the contexts of the TT in both fields are no less important than the ST. In order to mitigate these critiques, this study strengthens the CDA approach by integrating Bourdieu's theory of practice.

To analyse the data collected and address the questions, the study utilised Fairclough's three dimensions of analysis – description of texts, interpretation of discursive practice and explanation of sociocultural practice – with Bourdieu's three

concepts of field, capital and habitus. An analysis of each of the translated versions is carried out in order to compare it with the ST. The analysis was conducted on two levels, the micro-level and macro-level. The micro-level is divided into two parts: texts and discursive practice along with translators' cultural capital and professional habitus. The sociocultural practice and translation field are examined at the macro-level of analysis.

3.9.1 Description

At the micro-level, a detailed description of textual features in the four translated versions including grammatical structures, vocabulary and translation strategies are examined by comparing them with the STs of *Ṣaḥīḥ al-Bukhārī* and *Ṣaḥīḥ Muslim*. In this study, certain legal discourse structures and sub-structures at the micro-level, including lexicalisation, active and passive voice, modality, nominalisation, mode, thematic structure, cohesive device and presupposition, are selected as points of focus and comparison, in order to understand the changes applied to the translated texts in production. These features are discussed below. A link between the translators' professional habitus and cultural capital and their effect on translators' choices is analysed, i.e. the agents involved in the translation process, their respective fields and professional background.

Lexicalisation refers to word choice. According to Fairclough (2001), terminology lends legitimacy to the facts and their power relations. Van Dijk (1998: 205) argued that opinions may be conventionalised and codified in vocabulary. Thus, words, which may have an ideological basis, can convey particular negative or positive implications about in-group and out-group members (Martinez-Roldan and Malave, 2004). Lexicalisation is "the major dimension of [ideologically controlled] discourse meaning" (Van Dijk, 1995: 259, cited in Shojaei and Laheghi, 2012: 2537). Meanwhile, active and passive voices are the changing of an active sentence to a passive one, and vice versa.

Modality refers to attitude, judgments and comment of speakers or writers toward their claim (Richardson, 2007: 59; Simpson, 1993: 47). Modality is usually indicated by the use of modal verbs, such as 'may', 'could', 'should', 'will' and 'must', their

negations or through adverbs, such as 'certainly'. Richardson (2007) divided modality into two different principal forms: truth, which varies along a scale of options, and obligation, which relates to future events and the degree to which a certain course of action should be taken as believed by the writer. Modality can show the possibility of an action through auxiliary and simple present verbs and includes three parts: simple tense to show specific idea, auxiliary verb to show the degree of necessity and adverb to indicate the mood of events (Fairclough, 2001).

In terms of linguistic categories and sub-categories that are influenced by the prevailing ideology in a text, nominalisation is the changing of a phrase to a noun, used when a sentence is deliberately reduced and the meaning in the sentence is obscured to reduce traces of causality and responsibility. Mode indicates if the sentences had been written in declarative or imperative mode, and thematic structure refers to the text's higher-level organisational characteristics included in the text's exact concept. Cohesive devices focus upon logical connectors. In addition, presupposition is an implicit claim within explicit textual meaning (Richardson, 2007: 63). They are marked in a variety of ways in texts. Reah (2002: 106) listed three linguistic structures common for this: certain words, such as change-of-state (e.g. stop) or implicative verbs (e.g. forget), definite article (e.g. the) and possessive articles (e.g. his/her) and 'wh- questions', such as 'why', 'when' and 'who'.

3.9.2 Interpretation

The ability to understand the implied meaning present in texts is connected to Fairclough's interpretation dimension. In this study, 'interpretation' is used differently from what is conventionally understood in Translation Studies. It deals with the understanding of meaning embedded in texts, concerned with translator's text production and understanding. The TTs are produced and interpreted against a background of common-sense assumptions, generated through the combination of the text and the translators' knowledge. According to Gee (1999), each type of activity is distinguished by the knowledge of language plus values and beliefs, and MRs in particular help to recognise ideological constructions.

Turning to the interpretation of the context, context is the social situation that informs the discourse (Van Dijk, 1992). One of the associated notions with the context is intertextuality, which means that texts cannot be examined in isolation but they are related to other texts in terms of production (Richardson, 2007). Intertextuality illustrates how texts can transform other texts and conventions. It is concerned with the production of texts in relation to prior texts (Fairclough, 1992a: 270; Wang, 2006: 74). Thus, intertextual analysis is crucial to establishing the meaning of a text.

In this study, intertextuality is useful in providing a full understanding of the *ḥadīth* by connecting it to other *ḥadīths* and crucial to understanding how religious and legal rules have influenced the production of the TTs. At this stage, intertextuality is an important aspect of analysis because translators' interpretation of a *ḥadīth* is based on previous knowledge of other discourses (i.e. religious and legal). Fairclough (2001) discerned four dimensions in the process of situational-context interpretation: the type of activity within a particular social order, subject positions, the type of relationship (power and social distance), and the role of language (mode: written or spoken and genre). Translators drawing on different social orders may interpret situations differently, leading to cross-cultural miscommunication or communication breakdown within one culture. Context is not always equally accessible to all translators as to the production and interpretation of *ḥadīth*, and one should always establish the interpretations of situational context of a text to understand if more powerful translators impose interpretation on other translators. Ideologies and power relations have a pervasive influence upon discourse interpretation and production and translators operate with a certain context in mind, influencing the processing of the linguistic features of the TTs. This means that experiential, relational and expressive values of textual features depend on the translator's assessment of the situational context.

3.9.3 Explanation

The final dimension of Fairclough's framework explains the relation between textual and interpretative procedures and the social reality. This represents the macro-level analysis and includes practices of power and the social values of the ST. It also includes how the interaction between different fields – religion, law and translation –

account for the core relations between the power and discourse production. This level is gathered to the explanation of the data to establish the relation between legal discourse, religious discourse and social reality. These factors are investigated under the umbrella of the ST social space, Saudi Arabia. Discourse is part of social struggle and power relations. This stage of the analysis shows how translating *ḥadīths* is determined and affected by social structures. Explanation has two dimensions depending on whether the emphasis is upon processes of struggle or power: first, translating *ḥadīths* may be seen as part of social struggle and the emphasis is on the effect of the translation, and second, it is possible to show the power relationships that determine the translation of *ḥadīths*. These relationships are the outcome of struggles. Both the social effects of translating *ḥadīths* and its social determinants are investigated at three levels of social organisation: societal, institutional and situational.

In short, translators interpret and produce texts on the basis of their MRs shaped by ideological structures. They employ textual elements according to their interpretations of the social context and thus create certain participant relations in the communicative encounter and a new act of communication based on a previously existing one by using their own background experiences (Hatim and Mason, 1990). Thus, translations are comprehended as TTs in a new socio-cultural setting based on an ST in the original context (Schäffner, 2004). Therefore, CDA analysis within Translation Studies primarily questions the translator's mediatory role in the process. The conventions for producing texts within particular genres are culture-bound, and so there are specific conventions, not necessarily equal in the SL and the TL, for translating a Saudi legal document into another language.

3.10 Summary

From the discussion of the two levels of analysis and their three dimensions, it can be argued that the corpus functions as a tool to answer the research questions. The micro-level of the analysis compares and critiques the linguistic features of the translated versions based on Fairclough's CDA guidelines and the number of the translation strategies used by the four translators (see Appendix 2). It is important to highlight that this study does not discuss the translation errors nor evaluate the

translation product. Instead, it focuses on the inconsistencies between the translated versions and the possible reasons. Thereafter, the linguistic findings and the number of translation strategies are grouped according to their common features and these groupings are connected to the social context of each translator, i.e. cultural capital and professional habitus. Cultural capital is a useful tool to examine embodied, objectified and institutionalised features of each translator and link them with their products. In addition, professional habitus is used to investigate the occupational disposition of each translator. Both tools are adopted to measure the translators' process of production in the translation field.

Scholars, such as Kumiko (2014), Vorderobermeier (2014a; 2014b) and Yannakopoulou (2014), provided methodological perspectives to study habitus in translation. Kumiko (2014) used oral history through life-story interviews to measure translational habitus. Kumiko argued that this method is valid because it helps in exploring their habitus from their own narratives. However, the reliability of this approach can be questioned for two reasons. First, the correctness and consistency of narratives cannot be assured. Second, technical issues might hinder conducting interviews effectively. Another methodology is introduced by Vorderobermeier (2014b), who constructed a translation-sociological questionnaire for a reconstruction of literary translators' habitus. Vorderobermeier argued that the method provides a theoretically grounded analytical framework that helps in accommodating a wide range of data. In addition, Yannakopoulou (2014) studied the translation style—the choices made by the translators, their taste and linguistic production—in order to examine habitus by applying a combination of macro level contextual factors with micro-level textual factors. Yannakopoulou asserted that “habitus can constitute the theoretical tool to account both for the manner in which translators interpret their source texts as readers and the particular choices they make during the actual translation production as writers” (*ibid.*: 163).

In this context, collecting translators' MRs regarding their knowledge in the translation field and their translation contribution is a valid method for investigating the translators' professional habitus and cultural capital in this study. Indeed, it is a more valid approach than collecting biographical data, which is of little value and does not meet the goal of this study. This is because finding sufficient and equal

information about the translators is not an easy task as little information is generally available. Thus, an attempt was made to establish the translators' profession, educational degree and experience in the field. This was achieved by contacting the publishers, collecting the number and genre of their previous translation projects, analysing the chosen TTs, their introductions, prefaces, footnotes and the production period. These paratextual materials provide a framework of textual interpretation and of the agents' knowledge and experience. They also provide a valuable starting point for the analysis of the multiplicity of points at which the text interacts with the surrounding discourse. Contact information about the publishers and two of the chosen translators (the other two have passed away) are also found. Some may argue that conducting interviews might not be very useful because of the lack of symmetry between the translators and publishers. However, this approach helped in achieving more valid conclusions by clarifying any decision made in the translation process and who was responsible for these changes. Thus, the translators and publishers in the translation process were contacted and questions depending on the translation process and situation of the selected data were asked (see Appendix 3).

In line with other Translation Studies research, this study attempts to show that translators' educational and cultural backgrounds are the dominant powers in their translation decisions. It also attempts to increase the comprehension of the practices in translation processes that happen in the production of legal discourse. In order to achieve this goal, Paloposki's (2007, cited in Milton and Bandia, 2009: 191) model of agency is adopted. According to Paloposki (2007: 337), agency implies "an idea of translators as powerful and influential agents." She suggested three kinds of agency, which are illustrated in Table 3.1.

Table 3.1: Paloposki's Three Types of Agency

Type	Descriptions
Textual	<ul style="list-style-type: none">- Translator's voice in the text (i.e. whatever the translator decides to do with the text)- Translator's footprints (deliberate manipulation, stylistic preferences or habits)- Functionalist-oriented adaptations or anything in between
Paratextual	<ul style="list-style-type: none">- Translator's role in inserting and adding notes and prefaces
Extratextual	<ul style="list-style-type: none">- Selection of books for translation- Use of different editions- Intermediary translations- Explaining their methods and strategies

This categorisation is useful as it provides a framework for an initial analysis of a translator's agency using the texts with which they work. This does not mean that all of these types necessarily show up in the analysis. Thus, the types are used to organise the analysis and to examine translators' decisions in the TTs.

The macro level of the analysis explains the relationship that connects the linguistic and the social findings to the ST context, the Saudi legal system. Bourdieu's sociology provides a rich and logical understanding of the products of cultural production. Instead of a simple explanation of 'social context', Bourdieu's sociology locates cultural products in three contexts: the social space (the society at a specific moment in time), the particular field of activity in which the cultural product is produced, and the sub-fields of cultural production overlapping with this field. In this context, the value and importance of any cultural product is approachable only by comprehending the structure and dynamics of the field(s), and the larger social space that comprises these fields. His concept of 'field' is applied as a tool to analyse this relationship along with other concepts, such as 'homology', 'hegemony', 'autonomy', 'heteronomy', 'orthodoxy', 'heterodoxy', '*doxa*' and 'trajectory', which are defined in Chapter Five. The methodology discussed in this section is summarised in Figure 3.4.

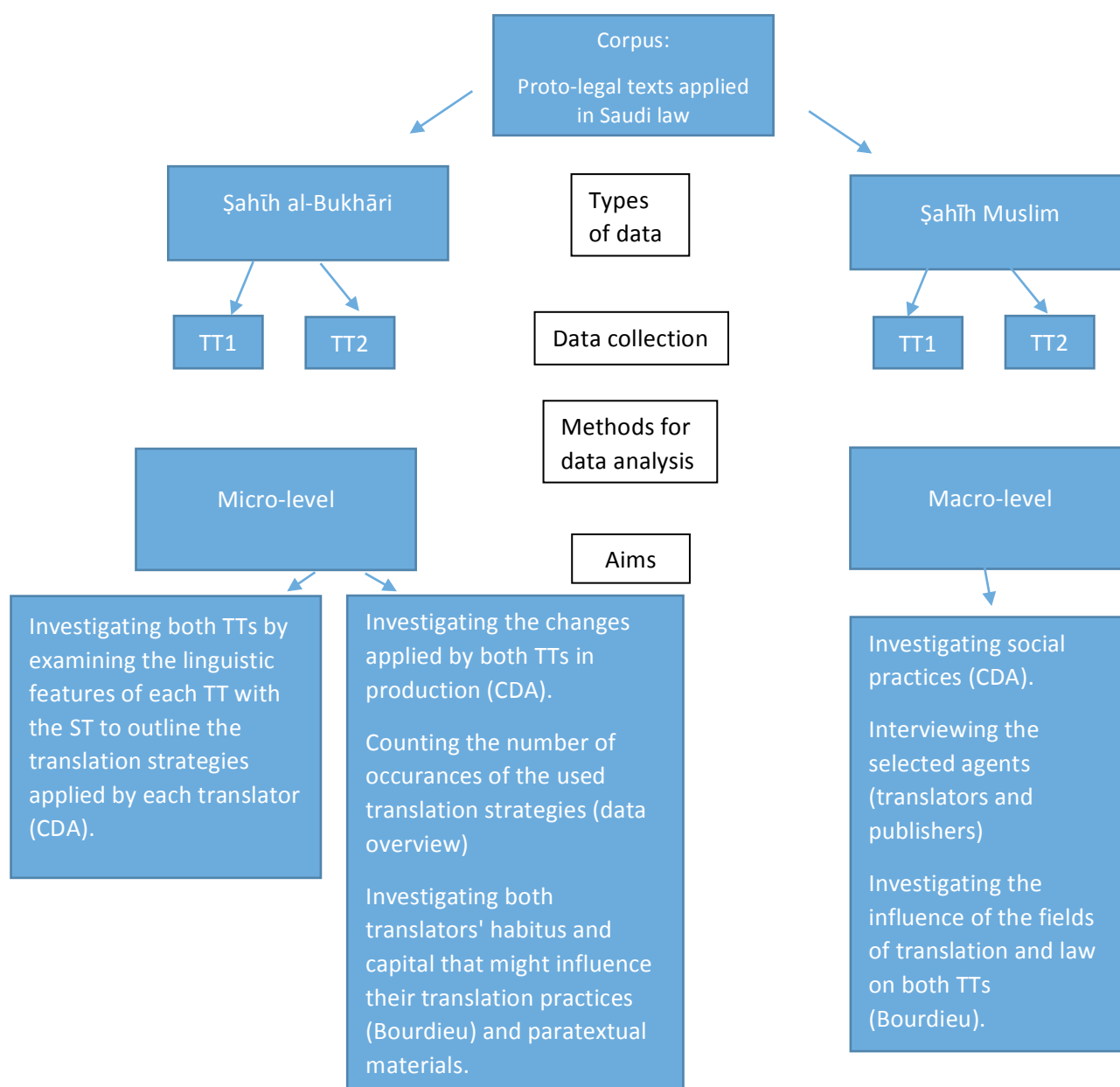


Figure 3.4: Methodological Framework of the Corpus

Based on Bourdieu's description of three distinct levels of analysing field, Grenfell (2014) provided a useful methodology to study field in any research by dividing it into three levels: comparing the position of the field in question with the field of power, investigating the structure of the relationship among the positions occupied by social agents within the field in question and analysing the habitus and capital of agents within the field. These levels of analysis represent the interaction between habitus and field, which help answer the research questions of this study. Thus, analysing field in this study follows Grenfell's methodology, but in the opposite direction. Since agents' habitus and capital within the field of translation are already measured in the

micro-level of analysis, an investigation of the boundaries in translating *ḥadīth* as a source of legislation in Saudi Arabia is tackled by identifying who translated such texts and the purpose of translation. A further step is comparing the findings of the previous field with the fields of power by reviewing the power of religion and law in Saudi Arabia and examining its effect on translation.

To summarise, this chapter presents the conceptual framework of this study and the adopted tools. It focuses on providing the method of integrating CDA and Bourdieu's theory of practice. The objective of this chapter is to introduce the methodology. As a result, a full data analysis is provided in the next chapter.

Chapter 4:

A Linguistic Analysis and the Translational Decisions in the Four TTs

This chapter is the first of two analysis and discussion chapters that tackle some samples of the translations of *Ṣaḥīḥ al-Bukhārī* and *Ṣaḥīḥ Muslim* with qualitative analysis of translation examples where ideological instances and translation discrepancies occur. It investigates the TTs in detail and discusses the various factors leading to different translation outcomes. A detailed micro-level analysis is also conducted by focusing on the description of the translated texts and the interpretation of the discourse practice. The chapter is divided into two sections; the first one contains the description of some samples in *Ṣaḥīḥ al-Bukhārī* and *Ṣaḥīḥ Muslim*, while the second section comprises the contextual interpretation of both collections. In this study, the interpretation stage is a meso-level of analysis. This level of analysis acts as a bridge between micro and macro levels and focuses mainly on the context of the text perceived and the way it was initially produced.

The existing English translations of the STs raise questions on the discrepancies between such translations and the reasons behind the differences. From a methodological point of view, the linguistic sections of analysis in the chapter provide a tomographic perspective, focusing on a linguistic layer through these translations to achieve a radical contextualisation of specific translatorial decisions.

Generally, translatorial decisions are affected by three specific factors: the nature of the ST (Islamic Law texts), the purpose of the translation (producing the exact ST's legal message and effect) and the type of the target readers (Muslim, non-Muslim readers or both). The translation strategies and linguistic choices will, intentionally or unintentionally, guide TT readers towards specific interpretations of the ST and implicit value judgements.

As discussed in the previous chapters, legal translation does not exist in a vacuum. Instead, it is embedded in an environment in which cultural and linguistic interests lead to planned acts of choosing, constructing and omitting (Tymoczko and Gentzler,

2002). The translation of Islamic and Islamic Law texts is subjected to the same biases. In this context, Gibb (1949: vi) argued that differing views on Islam are shaped by “conscious prejudgement.” In the translation of Islamic Law discourse, words convey power and ideology from one group to the other. Thus, the job of the translators is not just transferring the linguistic characteristics of the ST, but they should be conscious of the sensitivity of such discourse and attempt to be accurate in transferring the ST’s intended meaning to make it understandable for the TT recipients.

In general, translators who deal with texts between Arabic and English face linguistic differences between such languages. This problem is aggravated when translating the unique structure of *ḥadīth*. If translators are not competent in the linguistic mechanism of the SL, the problem may be magnified. Translating *ḥadīth* is necessary to make it understandable for non-Arabs (Asad, 1980). *Ḥadīth* has always been a rich resource for linguistic analysis because of its varied semantic, syntactic and rhetorical structures in which all linguistic features intermingle into a unique text.

CDA is applied to *ḥadīth* translation in order to analyse the underlying power and ideological struggle that might appear in the TTs and highlight any change between the STs and the TTs. The linguistic analysis of the TTs explores choices of words and syntactic structures to examine how they could influence the TT readers. The analysis also elaborates the relationship between linguistic decisions and the social dispositions of the translators (i.e. their capital and habitus). Hence, the focus of this analysis is on translation differences and the ideologically loaded conceptual continuities and shifts these strategies and choices generate in the TTs. The analysis takes account of the translator's agency and changing cultural and historical contexts of the production.

In order to achieve the research goal and answer the first two research questions, each translated *ḥadīth* is analysed individually by highlighting common patterns applied by each translator and the effect on rendering the ST’s intended meaning (see Appendix 4). Thereafter, a link between these patterns and the translators' educational, religious and legal background is established. Thematic analysis is conducted by data familiarisation, coding and theme development and revision to

identify patterns of features across the TTs that provide answers to the research questions. Thematic analysis is approached in a deductive way; coding and theme development are defined by existing concepts and ideas from the research theories. The approach to thematic analysis involves a six-phase process: once the data has been read and familiarised in the first phase, features relevant to the research questions are coded and collated. In the third phase, these codes are analysed for broader patterns of meaning, or themes, and data is collated for each theme to determine its viability. Themes are then refined in the fourth phase before being named and analysed in the fifth phase. In the final phase, writing up, the analytic narrative and data extracts are woven together with a contextualisation of the analysis in relation to existing literature.

Data were coded and analysed in excel sheets (see Appendix 4). The discussion of the analysis is organised by theme for three reasons: to provide an overview and explanation of the topic in each theme, to highlight the most common patterns of each theme and to avoid redundancy. Another important reason for choosing this format is the similarity of topics between the STs although they are arranged and divided differently. For example, the topics in *Ṣaḥīḥ al-Bukhārī* are divided into wills, marriage (involves suckling), divorce (involves invoking curses), supporting the family and inheritance, while in *Ṣaḥīḥ Muslim* the topics are marriage, suckling, divorce (involves supporting the family), invoking curses, inheritance and wills. In this study, themes are classified into four groups: wills, marriage and suckling, divorce, invoking curses and supporting the family and inheritance. Each overview of the subjects is provided for the sake of explanation of the terms of the *Ḥadīths* before introducing their translations. Then, the translation decisions are grouped and compared to discover the effects on the translation product. Patterns are counted in each theme and then used to conduct an overview of the data (using Excel), which shows the degree of prominence of each pattern and establishes relational and casual links by grouping and presenting conclusions in line with the theoretical framework. Additionally, references of *ḥadīths* are provided according to their cell numbers in the excel sheet in order to maintain the flow of the analysis.

Moving to the actual analysis, description is the primary stage of CDA, which involves the analysis of the texture of texts (Fairclough, 2003). The first stage is the

investigation of the linguistic analysis of the text on grammatical and morphological levels. The main elements analysed are lexicalisation, syntax, translation style and thematic structure as well as translation strategies.

As mentioned in Chapter One, Fairclough (2001) differentiated between three various values of a text—experiential, relational and expressive—that apply at any level—word, grammatical or cohesive—of the CDA. According to Fairclough (*ibid.*: 94-95), experiential value involves the knowledge and values of the producer in question, which is obvious in the selection of wordings. Experiential values of a text may be analysed through classification schemes, or categorisation of words' ideological characteristics. In this regard, the structure of a term, i.e. hyponymy, synonymy, and antonym, is ideologically based (*ibid.*: 96-97). Translators of a text automatically choose words that reflect his/her own worldviews, the deciphering of which depends on the receivers' social and cultural knowledge. Relational values reflect the social relation created between individuals in a group by a text's wording choice (Abe, 2000). The text producer may not have a complete understanding of the relational values of a text and often attempts to avoid negative values (Fairclough, 2001). Expressive values are linked with experiential values and reflect the text producer's ideological evaluations of the reality expressed through the text's vocabulary (*ibid.*: 99).

4.1 Description

This section highlights the strategies employed by the translators. In general, foreignisation and domestication strategies are adopted by the translators, albeit to different degrees. Additionally, the translators opted for an integrated approach, which is illustrated in their word choice, borrowing, addition, omission, changing the structure and the order of sentences. Word choice refers to the translator's method of choosing a specific TL term to render the ST meaning. Translators' choices of words determine their translation strategy, accuracy in conveying the ST's intended meaning and reveal any hidden meaning behind their choice. Borrowing strategy is the rendering of an unadapted expression from the ST to the TT because no equivalent expression exists in the TL (Ivir, 1987: 38). This is often but not always

accompanied by explanation upon first use through footnotes, definitions or glossaries by the translator.

The strategy of addition means adding information to the TT, which is not in the ST, in order that the TT reader can understand the cultural expression in the ST (Ivir, 1987: 45; Dickins et al., 2002: 24). Omission is when something happens in the ST but is deleted from the TT (Ivir, 1987: 40; Dickins et al., 2002: 23), either because the information is unimportant or it would take away from the faithfulness of the translation, in which case an adequate, reliable and sufficiently close translation is more effective than a literal translation (see Hatim and Munday, 2004). It could be argued that borrowing and addition are source-oriented strategies because cultural expressions are explicit to the recipients who become conscious of the text being a translation (Schjoldager, 2008). Nevertheless, omission is a target-oriented strategy, as it recreates the effect of the ST. Using these strategies ensures the ST is more acceptable to TL readers.

A detailed linguistic analysis of each theme is presented in the following sections.

4.1.1 The Book of Wills

This section deals with two important concepts in Islamic legislation, wills (*al-waṣāyā*) and endowment (*al-waqf*). 'Will' refers to a transaction that comes valid after the death of the testator. The person who makes a will is called a testator (*al-mūṣī*), and the person on whose behalf a will is made is generally referred to as a legatee (*al-mūṣa lahu*). Meanwhile, a religious endowment means the dedication of a property so that its produce or income is available for a religious or charitable purpose. When a *waqf* is created, the property becomes non-transferable. Based on *Sharīʿa*, Muslims are allowed to will up to one-third of their property to anyone they wish; however, it is preferable to leave the property to their heirs if the testator is poor. The remaining two-thirds will go to their heir or heirs equally. Testators can make a bequest in favour of poor relatives, who are not their legal heirs. *Ḥadīths* in this section also contain the importance of paying the testator's debts after his/her death. In relation to endowments, *ḥadīths* explain the different assets that can be endowed,

such as lands, animals, gold or silver. They also state that the founder can benefit from the endowment.

4.1.1.1 Khān's and al-Sharīf's Strategies

Khān and al-Sharīf share strategies in translating *ḥadīths* about such matters; however, their choices are different. One example is translation by addition, which is reflected in the translations of the following *ḥadīth*.

Table 4.1: Examples of Khān's and al-Sharīf's Translation by Addition

Khān's Translation	Al-Sharīf's Translation	ST
Chapter. Whoever gave something to his representative to give in charity and then the latter returned it to him. Narrated Anas رضي الله عنه: When the Holy Verse: 'By no means shall you attain Al-Birr (piety, righteousness, it means here Allāh Reward i.e., Paradise), unless you spend of that which you love...', (V.3:92) was revealed, Abū Ṭalḥa went to Allāh's Messenger صلى الله عليه وسلم and said, "O Allāh's Messenger! Allāh, the Blessed, the Superior states in His Book: 'By no means shall you attain Al-Birr, unless you spend of that which you love...', (V.3:92) and the most beloved property to me is Bairuhā' (which was a garden where Allāh's Messenger صلى الله عليه وسلم used to go to sit in its shade and drink from its water). I give it to Allāh and His Messenger صلى الله عليه وسلم hoping for Allāh's Reward in the Hereafter. So, O Allāh's Messenger! Use it as Allāh orders you to see it." Allāh's Messenger صلى الله عليه وسلم said, "Bravo! O Abū Ṭalḥa, it is fruitful property. We have accepted it from you and now we return it to	When <u>one</u> gives something in charity to somebody to whom he entrusts it, and the latter gives it back to him. Anas Ibn Malik "Allah be pleased with him" narrated: "When this verse was revealed: "By no means shall ye attain righteousness unless ye give (freely) of that which ye love; and whatever ye give, of a truth Allah knoweth it well" (Al Imran 92) Abu'talha said to Allah's Apostle "Allah's blessing and peace be upon him": "O Allah's Apostle! Allah, the Blessed, the Superior says: "By no means shall ye attain righteousness unless ye give (freely) of that which ye love." No doubt, Bairuha garden is the most beloved of all my property to me." Anas commented: it was a garden in front of the Mosque of The Prophet. "Allah's blessing and peace be upon him". Allah's Apostle "Allah's blessing and peace be upon him" used to go there and used to drink its nice water." (Abu'talha resumed): "So I want to give it in charity in Allah's Cause. I expect its reward from Allah. O Allah's Apostle! Spend it where	باب من تصدق إلى وكيله، ثم رد الوكيل إليه. وقال إسماعيل: أخبرني عبد العزيز بن عبد الله بن أبي سلمة عن إسحاق بن عبد الله بن أبي طلحة، لا أعلمه إلا عن أنس رضي الله عنه قال: لما نزلت: {لن تتالوا البر حتى تنفقوا مما تحبون} [آل عمران: 92] جاء أبو طلحة إلى رسول الله صلى الله عليه وسلم فقال: يا رسول الله، يقول الله تعالى في كتابه: {لن تتالوا البر حتى تنفقوا مما تحبون} [آل عمران: 92] وإن أحب أموالي إلي بيرحاء قال: وكانت حديقة كان رسول الله صلى الله عليه وسلم يدخلها ويستظل بها ويشرب من مائها فهي إلى الله [عز وجل] وإلى رسوله صلى الله عليه وسلم، أرجو بره وذخره، فضعها أي رسول الله حيث أراك الله، فقال رسول الله صلى الله عليه وسلم: "بخ يا أبا طلحة، ذلك مال رابح قبلناه منك وردناه عليك فاجعله في الأقربين". فتصدق به أبو طلحة على ذوي رحمه، قال: وكان منهم أبي وحسان، قال: وباع حسان حصته منه من معاوية، فقبل له: تتبع صدقة أبي طلحة؟ فقال: ألا أبيع صاعا من تمر بصاع من دراهم؟ قال: وكانت تلك الحديقة في موضع قصر بني حذيلة الذي بناه معاوية.

[lit. Chapter of who gave charity to his agent, then the agent returned it to him. And Ismā'īl said: °Abd al-°Azīz the son of °Abd Allāh the son of Abī Salama informed me and according to Ishāq the son of °Abd Allāh the son of Abī Ṭalḥa, I do not know it but according to Anas, may Allāh be pleased

<p>you. Distribute it amongst your relatives.” So, Abū Ṭalḥa distributed it amongst his relatives, amongst whom were Ubāī and Ḥassān. When Ḥassān sold his share of <u>that garden</u> to Mu'awīya, he was asked, “How do you sell Abū Ṭalḥa's Ṣadaqa?” He replied, “Why should not I sell a Ṣā' of dates for a Ṣā' of money” The garden was situated in the courtyard of the palace of Banī Jadīla built by Mu'awīya.</p>	<p>Allah makes you think it feasible.” On that Allah's Apostle “Allah's blessing and peace be upon him” said: “Bravo! It is useful property. We accepted it and gave it back to you to divide among your relatives.” Abu'talha said: “<u>I will do so, O Allah's Apostle.</u>” Then Abu'talha distributed that garden amongst his relatives and his cousins. Both of Hassan and Obai Ibn Ka'b were involved in his relatives. But Hassan sold his share in it to Mo'awiya. When he was asked: “Do you sell the charity of Abu'talha?” he replied: “Isn't it that I sell a Sa of dates for a Dirham?” this garden was in the place where the palace of Banu'jadila was built by Mo'awiya.</p>	<p>with him, said: when {you will not attain the righteousness until you spend from what you love} [Āl ʿImrān: 92] was revealed, Abū Ṭalḥa came to the Messenger of Allāh, peace be upon him, and said: O Messenger of Allāh, Allāh the Almighty says in his book: {you will not attain the righteousness until you spend from what you love} [Āl ʿImrān: 92] and the most beloved to me among my property is Bayraḥā° - and he said: it was a garden which the Messenger of Allāh, peace be upon him, used to enter, and be shaded by it and drink from its water - it was for Allāh [The Exalted and the Majestic] and to his Messenger peace be upon him, I wish I got his loyalty and reward, so put it O Messenger of Allāh wherever Allāh showed you, then the Messenger of Allāh, peace be upon him, said: “Bravo O Aba Ṭalḥa, that is profitable money we accepted from you and returned it to you so make it for the relatives.” Then Abū Ṭalḥa spent it on charity among his blood relatives, he said: among them were Ubai and Ḥassān, he said: Ḥassān sold his share from it from Muʿāwiya, then it was told to him: Do you sell the charity of Abī Ṭalḥa? Then he said: Do not I sell a measure of dates for a measure of money? He said: that garden was in the place of the palace of the sons of Ḥadīla which was built by Muʿāwiya]. (18)</p>
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The underlined phrases are added to the TTs. These additions indicate the translators' understanding of the ST message and their intention to deliver it to the TT readers. These additions have various purposes. For example, in Khān's translation, the phrase "in the Hereafter" gives further clarification of Abū Ṭalḥa's hope. The phrases "that garden" and "the Holy Verse" define pronouns, which provide a clearer ST message. Another addition is "(piety, righteousness, it means here Allāh Reward i.e., Paradise)," which defines the borrowed word "*al-Birr*." In another *ḥadīth* related to the spending of the guardian of an orphan, an addition that reflects an expressive value appears in Khān's translation of "*bi-l-ma'rūf*" (in a fair manner) (22) into "just and reasonable" by adding one more adjective. Similarly, al-Sharīf's additions present a clear ST message in the TT.

A further strategy, highlighted in the table, is translation by omission. For instance, both translators deleted "*ʿazza wa-jalla*" (The Exalted and the Majestic) which might hinder the ST's effect. Al-Sharīf deleted other phrases such as, "*wa-yastazilu bihā*" (and be shaded by it), "*wa-ilā rasūlihi ṣallā Allāhu ʿalayhi wa-sallama*" (and to his Messenger peace be upon him) and "*ṣāʿ*" (measure). Such omissions affect the delivery of the ST's intended meaning. Both translators applied the same strategy in other *ḥadīths*. For example, in a *ḥadīth* that talks about paying the debts of a deceased by the guardian, they deleted the last part which explains the creditors' claim for their rights "*qāla Abū ʿAbd Allāh: aghrū bī: yaʿnī hayyajū bī. {fa-aghraynā baynahumu al-ʿadāwata wa-l-baghḍāʿa}*" [lit. The father of ʿAbd Allāh said: they claimed me: meaning they inflamed at me. {so we planted among them enmity and hatred}] (32). This omission might change the ST's intended effect. In a different context, ʿUmar asked for the Prophet's advice regarding willing land he owned. Al-Sharīf translated the Prophet's advice "*in shiʿta ḥabasta aṣlahā wa-taṣaddaqtā bihā*" [lit. If you wish, hold the asset and give it in charity] (24) into "Give it in charity (as an endowment) on the condition that the land and trees will neither be sold nor be given as a present, nor bequeathed, but the fruits are to be spent in charity." The deletion of "*in shiʿta*" (if you wish) changes the ST's meaning and may reflect a hidden connotation because the Prophet had given ʿUmar the choice. Also, in the title of another *ḥadīth*, al-Sharīf translated "*bāb waqf al-dawābi wa-l-kurāʿi wa-l-ʿurūḍi wa-l-ṣāmiti*" [lit. Chapter of the endowment of animals, horses, property, gold and silver] (26) into "The endowment of animals, horses, and money (gold and silver)." By

deleting “*al-ʿurūdī*” (property) in the TT, he did not transfer the ST’s full message. Another omission applied by both translators can be illustrated in a *ḥadīth* about the importance of leaving inheritors wealthy rather than leaving them poor and begging from others when they deleted the phrase “*fī aydīhim*” (in their hands) (3). This omission hinders rendering the effect of describing the act of begging to the TT readers.

Khān and al-Sharīf opted for domestication, which is reflected in their choices of words. For instance, the title “[*bāb*]: *wa-mā li-l-waṣiyyi an yaʿmala fī māli al-yatīmi wa-mā yaʿkulu minhu bi-qadri ʿamālatihī*” [lit. Chapter: and what a guardian should do with the money of an orphan and what he takes from it should be in proportion to the amount of his work] (21) was translated into “Chapter: How a guardian is to deal with an orphan's wealth and what he can eat thereof according to his labour” by Khān and into “The guardian has the right to work on, and eat from the orphan's property justly according to his work on it” by al-Sharīf. By comparing both translations, it can be observed that the latter was asserting the guardian's right without explicitly explaining how he should deal with his duty. Another example is the translation of “*laqiya Allāh*” (He met Allah) (6) into “he died” and “*ufāriqu al-dunyā*” (I leave the world) (9) into “I die.” These translation decisions reflect the translators' intentions to deliver the ST meanings in an understandable way in the TT as both ST phrases refer to dying. However, there is a lack of specifying the difference between the two ST phrases in the TTs. The former refers to dying and granting the award of meeting Allah, while the latter has no specification of meeting Allah after death (Ibn al-Athīr, 1979). Khān used “Jihād” and “Allāh's Cause” to translate “*fī sabīli Allāh*” [lit. in the way of Allāh] (24) (21). The different translations of the same phrase could cause confusion for the TT readers. Neither choice reflects the ST’s meaning as “Allah's cause” does not always refer to fighting and the use of the word “*Jihād*” refers to fighting with non-Muslims with the exaggeration in efforts with words and actions to show faithfulness to Allah (Ibn al-Athīr, 1979: 175). Thus, it might reflect negative connotations, particularly in the present time, as it might represent violence, harmful attacks and/or a war to force non-Muslims to convert to Islam. As Faiq (2004) highlighted, words like “*Fatwa*” and “*Jihād*” can bring images of viciousness and terrorism to the minds of numerous Westerners. However, “*Jihād*” in the Qurʾān refers to Muslims' duty to fight for a righteous intention, for defending religious

freedom, for self-defence and for defending those who are oppressed. This does not mean that the translators need to avoid such signifiers, but rather should seek ways of employing Arabic terms. Khān, for example, avoided the occurrence of negative connotations by defining the term in the glossary “Holy fighting in the Cause of Allah or any other kind of effort to make Allah's Word (i.e. Islam) superior. *Jihād* is regarded as one of the fundamentals of Islam” (1997: 413). Thus, a more accurate translation would be “for seeking victory of Islam or Allah’s religion.”

Some word choices may result in inaccuracy or a wrong delivery of the ST message; one example is the translation of “*al-aqrabīn*” (the relatives) (26) into “needy people” by al-Sharīf. He also translated “*buṭūnihim*” (their stomachs) (23) into “their own bodies.” Thus, his word choices are general and lack the ST’s specification. Another inaccurate translation by al-Sharīf is the translation of “*jaysh al-ʿusra*” [lit. the army of *al-ʿusra* (the tough time)] (30), which he translated literally as “the army of difficulty.” This is far from the ST meaning as it relates to the name of the army and the war in Tabūk to fight Romans when the army faced tough time (e.g. distance, no water nor food, etc.). Similarly, Khān translated “*jāmā*” (cup) (31) into “bowl.” Such translations change the ST message.

Both translators also applied the strategy of overwording. For instance, in the translation of “*ūṣī bi-mālī kullihī? qāl: ‘lā,’ qultu: ‘fa-l-shaṭr?’*” [lit. May I will all my property? He said: ‘no,’ I said: ‘then half of it?'] (3) into “May I will all my property (in charity)?” He said, “No” I said, “Then may I will half of it?”” Khān repeated the phrase “may I will.” Another example of overwording appears in the translation of “*kāna al-mālu li-l-waladi, wa-kānat al-waṣiyyatu li-l-wālidaynī*” [lit. money was for the child, and the will was for the parents] (7) into “The custom (in olden days) was that the property of the deceased would be inherited by his offspring; as for the parents (of the deceased), they would inherit by will of the deceased” by Khān and into “The custom (in ancient time) was that the property of the deceased would be inherited by his offspring. As for the parents (of the deceased), they would inherit by the will of the deceased” by al-Sharīf. Both translators used “of the deceased” three times. Similarly, in another *ḥadīth*, both translators repeated “the land and trees” in the translation of “*taṣaddaqa bi-aṣlihi, la yubāʿu wa-la yūhabu*” [lit. give the asset in charity, it is not to be sold and not to be gifted] (21) into “Give it in charity (i.e., as an

endowment) with its land and trees on the condition that the land and trees will neither be sold nor given as a present” by Khān and into “Give it in charity (As an endowment) with its land and trees on the condition that the land and trees will neither be sold nor given as a present” by al-Sharīf. Their application of overwording in the examples above is meant to give emphasis to the ST message and to clarify its meaning.

Both translators used punctuation marks and linking words in their translations of this group of *ḥadīths*, which reflect expressive values. Examples are provided in Table 4.2.

Table 4.2: Khān's and al-Sharīf's Use of Punctuation marks

Changes	Khān	Al-Sharīf
An addition of the exclamation mark, which is often used to end an expressive sentence.	"يا حكيم"، "يا معشر المسلمين" [lit. O Wise], [lit. O Muslim people] (9) "O Ḥakīm!" and "O Muslims!"	"يا حكيم"، "يا معشر المسلمين" [lit. O Wise], [lit. O Muslim people] (9) "O Hakim!" and "O Muslims!"
An omission of the exclamation mark, which hinders the ST intended effect.	"والله!" [lit. By Allāh!] (32) "By Allāh"	"والله!" [lit. By Allāh!] (32) "By Allāh"

4.1.1.2 Ṣiddīqī's and al-Khaṭṭāb's Strategies

Table 4.3 presents the translations of Ṣiddīqī and al-Khaṭṭāb.

Table 4.3: Ṣiddīqī's and al-Khaṭṭāb's Translations of a Ḥadīth on Wills

Ṣiddīqī's Translation	Al-Khaṭṭāb's Translation	ST
Chapter DCXLVII. <u>Will can be made only for one-third.</u> 'Āmir b. Sa'd reported on the authority of his father (Sa'd b. Abī Waqqāṣ): Allah's Messenger (may peace be upon him) visited me in my illness which brought me near death in the year of <u>Hajjat-ul-Wadā'</u> (Farewell Pilgrimage). I said: Allah's Messenger, you can well see the pain with which I am afflicted and I am a man possessing wealth, and	Chapter 1. Bequeathing One-Third. It was narrated from 'Āmir bin Sa'd that his father said: "The Messenger of Allāh صلى الله عليه وسلم visited me during the Farewell Pilgrimage, when I fell sick with a sickness that brought me close to death. I said: 'O Messenger of Allāh, you can see how bad my sickness is, and I am wealthy, and no one will inherit from me except one daughter of mine. Can I give	(باب الوصية بالتثلث) (التحفة 2). حَدَّثَنَا بِحَيٍّ بْنُ يَحْيَى التَّمِيمِيُّ: أَخْبَرَنَا إِبرَاهِيمُ ابْنُ سَعْدٍ عَنْ ابْنِ شِهَابٍ، عَنْ عَامِرِ بْنِ سَعْدٍ، عَنْ أَبِيهِ قَالَ: عَادَنِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فِي حَجَّةِ الْوَدَاعِ، مِنْ وَجَعٍ أَشْفَيْتُ مِنْهُ عَلَى الْمَوْتِ، فَقُلْتُ: يَا رَسُولَ اللَّهِ! بَلِّغْنِي مَا تَرَى مِنَ الْوَجَعِ، وَأَنَا ذُو مَالٍ، وَلَا يَرْتِي إِلَّا ابْنَةُ لِي وَاحِدَةٍ، أَفَأَتَصَدَّقُ بِثُلْثِي مَالِي؟ قَالَ: "لَا" قُلْتُ: أَفَأَتَصَدَّقُ بِشَطْرِهِ؟ قَالَ: "لَا، التَّلْثُ، وَالتَّلْثُ كَثِيرٌ، إِنَّكَ أَنْ تَذَرَ وَرَثَتَكَ أَغْنِيَاءَ خَيْرٌ مِنْ أَنْ تَذَرَهُمْ عَالَةً يَتَكَفَّفُونَ النَّاسَ، وَلَسْتُ تَنفِقُ نَفَقَةً تَنْتَعِي بِهَا وَجْهَ اللَّهِ، إِلَّا أَجَزْتَ بِهَا، حَتَّى اللَّفْمَةُ تَجْعَلَهَا فِي فِي أَمْرَاتِكَ" قَالَ: قُلْتُ: يَا رَسُولَ اللَّهِ! أَخْلَفُ

<p>there is none to inherit me except only one daughter. Should I give two-thirds of my property as Ṣadaqa? He said: No. I said: Should I give half (of my property) as Ṣadaqa? He said: No. He (further) said: Give one-third (in charity) and <u>that is quite enough</u>. To leave your heirs rich is better than to leave them poor, begging from people; that you would never incur an expense seeking therewith the pleasure of Allāh, but you would be rewarded therefor, even for a morsel of food that you put in the mouth of your wife. I said: Allāh's Messenger, would I survive my companions? He (the Holy Prophet) said: If you survive them, then do such a deed by means of which you seek the pleasure of Allāh, but you would increase in your status (in religion) and prestige; you may survive so that people would benefit from you, and others would be harmed by you. (The Holy Prophet) further said: Allāh, complete for my Companions their <u>migration</u>, and not cause them to turn back upon their heels. Sa'd b. Khawlah is, however, <u>unfortunate</u>. Allāh's Messenger (may peace be upon him) felt grief for him as he had died in Mecca.</p>	<p>two-thirds of my wealth in charity?" He said: 'No.' I said: 'Can I give half of it in charity?' He said: 'No. (Give) one-third, and one-third is a lot. If you leave your heirs rich and wealthy, that is better for them than leaving them dependent and asking from people. You will never spend on maintenance, seeking thereby the Face of Allāh, but you will be rewarded for it, even a morsel that you put in your wife's mouth.' I said: 'O Messenger of Allāh, will I be left behind my companions?' He said: 'You will never be left behind by them and do a good deed, seeking thereby the Face of Allāh, but it will increase you in status. Perhaps you will live until some people benefit from you and others are harmed by you. O Allāh, complete the <u>emigration</u> of my Companions and do not cause them to turn back on their heels.' How unfortunate Sa'd bin Khawlah was." He said: "The Messenger of Allāh صلى الله عليه وسلم felt sorry for him because he died in Makkah."</p>	<p>بَعْدَ أَصْحَابِي؟ قَالَ: "إِنَّكَ لَنْ تَخْلَفَ فَتَعْمَلْ عَمَلًا تَبْتَغِي بِهِ وَجْهَ اللَّهِ، إِلَّا أَرَدَدْتَ بِهِ دَرَجَةً وَرَفْعَةً، وَلَعَلَّكَ تُخْلَفُ حَتَّى يُنْفَعُ بِكَ أَقْوَامٌ وَيُضَرَّ بِكَ آخَرُونَ، اللَّهُمَّ! أَمِّصْ لِأَصْحَابِي هَجْرَتَهُمْ وَلَا تَرُدَّهُمْ عَلَى أَغْقَابِهِمْ، لَكِنَّ الْبَائِسُ سَعْدُ بْنُ خَوْلَةَ قَالَ: رَأَيْتُ لَهُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مِنْ أَنْ تُؤْفَى بِمَكَّةَ.</p> <p>[lit. (Chapter of the willing is with one-third) (<i>al-Tuḥfa</i> 2). Yaḥyā the son of Yaḥyā al-Tamīmī reported to us: Ibrāhīm the son of Sa'ad informed us according to the son Shihāb, according to 'Āmir the son of Sa'ad, according to his father he said: the Messenger of Allāh, peace be upon him, visited me, in the pilgrimage of the farewell, for a pain from which I was about to die, then I said: O the Messenger of Allāh! I suffered what you see from pain, and I have money, and no one inherits from me but my one daughter, <u>should I give in charity two-thirds of my money?</u> He said: "No" I said: should I give in charity half of it? He said: "no, one-third, <u>and one-third is a lot</u>, to leave your heirs rich is better than leaving them a burden asking people, and when spending an outlay asking by it the face of Allāh, you will be rewarded by it, even the morsel you put in the mouth of your wife" he said: I said: O Messenger of Allāh! Will I be left behind my companions? He said: "you will not be left behind and then do a deed seeking thereby the face of Allāh, but you will increase by it in level and status, and you might be left behind until some people are benefited by you and others are harm by you, O Allāh! Complete for my companions their migration</p>
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		and do not turn them back on their heels.” But the unfortunate was Sa‘d the son of Khawla, he said: the Messenger of Allāh, peace be upon him, felt grief for him as he died in Makkah] (216)
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The above example specifies the legal amount of willing, i.e. one-third of one's property. In the translation of “*al-waṣiyyatu bi-l-thuluthi*” [lit. the willing is with one-third] into “Will can be made only for one-third,” Ṣiddīqī added 'only' which indicates the translator's assertion that 'one-third' is the only permitted amount for a person to will. But this does not reflect the ST meaning because wills can be smaller depending on the financial situation of the testator. He also translated “*wa-l-thuluthu kathīrun*” (and one-third is a lot) into “that is quite enough,” i.e. adequate, which also does not reflect the ST's intended meaning. However, he translated it into “substantial” (222) and “much” (225) in other *ḥadīths*. The choice of 'substantial' and 'much' reflects the ST word “*kathīrun*” [lit. much or a lot] as they refer to a considerable amount. Nevertheless, the three chosen words are not synonyms, so they might confuse the TT readers.

In the translation of “*fī ḥajjati al-wadā‘*” (in the pilgrimage of the farewell), Ṣiddīqī made an addition by translating it into “in the year of Ḥajjat-ul-Wadā' (Farewell Pilgrimage).” This addition results in a clear ST meaning by indicating that it was during the year of the Farewell Pilgrimage and not during the Pilgrimage itself. Similar additions were made in other *ḥadīths*, which highlight that Prophet Muhammad did not leave money nor a will after his death. For instance, “*mā taraka rasūlu Allāh ṣalla Allāhu ‘alayhi wa-sallam dīnaran, wa-la dirhaman*” [lit. the Messenger of Allāh, peace be upon him, did not leave a *dīnār*, nor did he leave a *dirham*] into “Allah's Messenger (may peace be upon him) left neither *dīnār* nor *dirham* (wealth in the form of cash)” and “*wa-la awṣā bi-shay‘in*” (and he did not will anything) into “he made no will about anything (in regard to his material possessions, as he had none)” (231). These additions define and explain the exact ST meaning to the TT readers.

Both translators translated several words differently. For instance, Şiddīqī used the word “migration” while al-Khaṭṭāb used “emigration” to translate “*hijratahum*” (their migration). To migrate is to move, either temporarily or permanently, from one place, area, or country to another. In contrast, to emigrate is to leave one country with the purpose of settling in another. Thus, the former changes the ST’s intended meaning, which refers to leaving everything (e.g. family, money, etc.) for Allah’s sake and never come back (Ibn al-Athīr, 1979: 999). Şiddīqī also transliterated “*āfāʿataṣaddaḡu*” (should I give in charity) into “Ṣadaḡa” and clarified in his footnote that it does not refer to charity but to will. In contrast, al-Khaṭṭāb used “charity” to translate the same word, which could result in an incorrect interpretation as the ST refers to the money that a person wants to will as charity.

Further examples include the ST sentence “*awṣā bi-kitābi Allāh taʿālā*” [lit. he wills according to the book of Allāh the Almighty] (229). Şiddīqī used “He made the will according to the Book of Allah, the Exalted and Majestic,” while al-Khaṭṭāb translated it into “His final guidance was adherence to the Book of Allāh.” The former indicates that a will was written in accordance with the Qurʾān, which is distinct from the meaning that following the Qurʾān was what the Prophet meant for Muslims. Similarly, the term “*al-ṭaṣṭ*” (the dish) (233), which refers to a deep round dish used chiefly for holding liquids and food, was translated into “tray” by Şiddīqī, which does not reflect the ST meaning, while al-Khaṭṭāb translated it as “bowl.” These choices reflect the translators’ different interpretations of the ST. Other choices may reflect their expressive value. For example, the phrases “heavy loss” and “calamity” were used respectively by Şiddīqī and al-Khaṭṭāb to translate “*al-raziyya*” [lit. the loss] (236). This expression is used in the ST to express the severe loss that the companions had when they were arguing in the presence of the Prophet when he asked them to write down his advice before he passed away. Although both words convey the ST’s intended message, they convey different degrees of impact. A calamity is defined as an event causing great and often sudden damage or distress, as well as an event that brings terrible loss, lasting distress, or severe affliction. In modern English, ‘calamity’ is a synonym for disaster and catastrophe.

4.1.2 The Book of Marriage

This section deals with marriage (*nikāḥ*), which is one of the Islamic Laws that the Prophet encouraged the youth to follow. It tackles many issues regarding marriage, such as its conditions, types and the rights of spouses. Islamic requirements for a legal marriage include legal consent of the bride, her guardian (*waliy*) and the groom. A marriage without the bride's consent is considered illegal among most scholars. A dinner given by the groom's family to celebrate the welcoming of the bride to the family is called "*walīma*." Some forms of marriage are forbidden in Islamic Law, including fixed-time marriage (*mutʿa*) and the exchange of daughters or sisters for marriage with no mandatory dowry (*mahr*) from the groom (*shighār*). *Mutʿa* was permitted at one time when the Prophet's companions spent many months on military excursions, leading them to ask him if they were allowed to be castrated. However, afterwards, *mutʿa* was abrogated. The prohibition of *mutʿa* and *shighār* is clearly stated in the *ḥadīths*. It is permissible for a Muslim man to marry four women provided he treats them equally as regards maintenance, clothes, food and shelter. Thus, multiple wives are neither obligatory, nor highly recommended, merely allowed in certain circumstances. It is unlawful for a man to propose to a woman before she declines a proposal already made by another Muslim.

ʿidda is also discussed. A woman may marry again once her *ʿidda* is over. The *ḥadīths* also clarify the prohibitions against women marrying which fall into two categories, permanently and temporarily forbidden. The first category is because of blood reasons (e.g. descendants, ascendants of women, siblings of male and female ascendants), marital relations (e.g. wives of ascendants, wives of descendants, ascendants of wives and descendants of wives) and due to breastfeeding (e.g. female ascendants through nursing, descendants through nursing, descendants of parents through nursing and siblings of ascendants by nursing). Some *ḥadīths* specify a minimum requirement in breastfeeding, i.e. one or two sucklings. The second category involves marrying two sisters at the same time, or a woman and her maternal or paternal aunt. Once the wife is deceased, or divorced, her husband may marry her sister or her aunt. Also, if a person divorces his wife three times, he is not permitted to marry her again unless she marries someone else, consummates that marriage and that marriage is subsequently legally ended.

4.1.2.1 Khān's and al-Sharīf's Strategies

When translating this topic, Khān and al-Sharīf opted for certain strategies. The most common is translation by addition. Both translators added words and phrases for several reasons. One reason is to provide TT readers with further explanation that clarifies the ST's intended message. An illustration is al-Sharīf addition of "But it was cancelled later" (55), which is added in a *ḥadīth* about the prohibition of temporary marriage.

The following example illustrates additions for the same reason; Khān added "(The Verse)," "(blood)" and "(suckling)," while, al-Sharīf's added "(regarding marriage)" and "(her foster uncle)." Furthermore, al-Sharīf opted for completing the ST Qur'ānic verses. Some additions might reflect a negative connotation. This is present in al-Sharīf's addition of "on the other hand, The Messenger of Allah said" as the conjunctive adverb is sometimes used when the next sentence is opposite to the previous one.

Table 4.4: Examples Reflecting Expressive Values by Khān and al-Sharīf

Khān's Translation	Al-Sharīf's Translation	ST
Chapter. (The Verse :) "...your foster-mothers who gave you suck." (V.4:23) And foster suckling relations render marriage unlawful, just as the corresponding birth (blood) relations. Narrated 'Āishah رضي الله عنها, the wife of the Prophet صلى الله عليه وسلم that while Allāh's Messenger صلى الله عليه وسلم was with her, she heard a voice of a man asking permission to enter the house of Ḥafṣa. 'Āishah added: I said, "O Allāh's Messenger! This man is asking permission to enter your house." The Prophet صلى الله عليه وسلم said, "I think he is so-and-so," naming the foster (suckling) uncle of Ḥafṣa. 'Āishah said, "If so-and-so," naming her foster (suckling) uncle, "were living, could he enter upon	Allah's saying: "Prohibited to you (for marriage) are: your mothers, daughters, sisters; father's sisters, mother's sisters; brother's daughters, sister's daughters; foster mothers (who gave you suck), foster sisters; your wives' mothers; your step daughters under your guardianship, born of your wives to whom ye have gone in, no prohibition if ye have not gone in; (those who have been) wives of your sons proceeding from your loins; and two sisters in wedlock at one and the same time, for Allah is Oft-Forgiving, Most Merciful." (Women 23) on the other hand, The Messenger of Allah said: "the foster relations prohibit what blood relations prohibit (regarding marriage)." Amra Bint	باب (وأمهاتكم اللاتي أرضعنكم) [النساء: 23] ويحرم من الرضاعة ما يحرم من النسب. حَدَّثَنَا إِسْمَاعِيلُ: حَدَّثَنِي مَالِكٌ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي بَكْرٍ، عَنْ عَمْرِةِ بِنْتِ عَبْدِ الرَّحْمَنِ: أَنَّ عَائِشَةَ زَوْجَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَخْبَرَتْهَا أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ عِنْدَهَا وَأَنَّهَا سَمِعَتْ صَوْتَ رَجُلٍ يَسْتَأْذِنُ فِي بَيْتِ حَفْصَةَ، قَالَتْ: فَقُلْتُ: يَا رَسُولَ اللَّهِ، هَذَا رَجُلٌ يَسْتَأْذِنُ فِي بَيْتِكَ، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "أَرَاهُ فَلَانًا" لِعَمِّ حَفْصَةَ مِنَ الرِّضَاعَةِ قَالَتْ عَائِشَةُ: لَوْ كَانَ فَلَانٌ حَيًّا لِعَمِّهَا مِنَ الرِّضَاعَةِ دَخَلَ عَلَيْي؟ فَقَالَ: "نَعَمْ، الرِّضَاعَةُ، تُحَرِّمُ مَا تُحَرِّمُ الْوِلَادَةُ". [Chapter of (and your mothers who breastfed you) [al-Nisā': 23] and it is forbidden from breastfeeding what is forbidden from lineage. Ismā'īl reported to us: Mālik reported to me according to °Abd Allāh the son of Abī Bakr, according to °Amra the daughter of °Abd al-

me?" The Prophet صلى الله عليه وسلم said, "Yes, for foster (suckling) relations make all those things unlawful which are unlawful through corresponding birth (blood) relations."	"daughter of" Abdur'rahman narrated That A'isha "Allah be pleased with her", the wife of The Prophet "Allah's blessing and peace be upon him" had told her that once, while The Prophet "Allah's blessing and peace be upon him" was in her house, she heard a man asking Hafsa's permission to enter her home. A'isha said: "O Allah's Apostle! There is a man asking the permission to enter your house." The Messenger of Allah "Allah's blessing and peace be upon him" replied: "I think he is so-and-so, Hafsa's foster uncle." A'isha said: "If so-and-so (her foster uncle) was living would he be allowed to visit me?" The Messenger of Allah "Allah's blessing and peace be upon him" said: "Yes, he would, for the foster relations prohibit what blood relations prohibit (regarding marriage)."	Rahmān: that ʿĀʾisha the wife of the Prophet peace be upon him informed her that the Messenger of Allāh, peace be upon him, was with her and she heard a voice of a man asking for permission to enter the house of Ḥafṣa, she said: then I said: O Messenger of Allāh, this is a man who asked for permission in your house, then the Prophet, peace be upon him, said: "I see him so-and-so" – about the paternal uncle of Ḥafṣa by breastfeeding – ʿĀʾisha said: if so-and-so were alive – to her uncle by breastfeeding – would he have entered upon me? Then he said: "yes, breastfeeding forbids what is forbidden by birth"]. (40)
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Further actions appear in the above translations, which reflect an expressive value. For instance, the phrases "Allah be pleased with her" and "*raḍiya Allāhu ʿanhā*" [lit. may Allāh be pleased with her] were added, which show the translators' strong adherence to ʿĀʾisha. Al-Sharīf added "A'isha" and "The Messenger of Allah "Allah's blessing and peace be upon him"" and Khān added "ʿĀishah" and "The Prophet *ṣalla Allāhu ʿalayhi wa-sallam*" to define the hidden pronouns in "*qāla*" (she said) and "*qāla*" (he said). The phrase "daughter of" was added by al-Sharīf to define the borrowed word "*bint*."

Some additions can reflect the translator's personal view. One example is illustrated in a *ḥadīth* about the importance of dowry in marriage. The Prophet asked a poor man "*fa-qāla lahu: 'mā maʿaka min al-Qurʾān?'*" *fa-qāla lahu: maʿī sūratu kadhā wa-sūratu kadhā, li-suwarin yuʿaddiduhā. Fa-qāla al-nabiyyu ṣallā Allāhu ʿalayhi wa-sallam: 'umlliknākahā bi-mā maʿaka min al-Qurʾān'*" [lit. he said to him: 'what do you

have from the Qur'ān?' he said to him: I have such verse and such verse, for verses he counted. So the Prophet peace be upon him said: 'I married you to her with what you have of the Qur'ān] (57). This was translated by al-Sharīf into "he said: "How much of the Qur'an do you keep (by heart)?" The man replied: "I keep such and such Suras (by heart)" (Naming many Suras) The Prophet "Allah's blessing and peace be upon him" said: "I have married her to you for what you know of the Qur'an"". The addition of 'many' in "many Suras" shows al-Sharīf's view of the importance of memorising multiple Qur'ānic chapters for the dowry's eligibility.

Examples of addition for referencing purposes are illustrated in the underlined phrases of the following *ḥadīths* (see Table 4.5).

Table 4.5: Examples of Addition for Referencing Purposes by Khān

Khān's Translation	ST
Narrated 'Abdur-Raḥmān bin Yazīd and Majammi' bin Yazīd. The same Ḥadīth No. 5138 above: A man called Khidām married a daughter of his (to somebody) against her consent.	<p>حَدَّثَنَا إِسْحَاقُ: أَخْبَرَنَا يَزِيدُ: أَخْبَرَنَا يَحْيَى: أَنَّ الْقَاسِمَ بْنَ مُحَمَّدٍ حَدَّثَهُ أَنَّ عَبْدَ الرَّحْمَنِ بْنَ يَزِيدٍ وَمُجَمِّعُ بْنُ يَزِيدٍ حَدَّثَاهُ أَنَّ رَجُلًا يُدْعَى خِدَامًا أَنْكَحَ ابْنَتَهُ لَهُ. نَحْوَهُ.</p> <p>[lit. Ishāq reported to us: Yazīd informed us: Yahyā informed us: that al-Qāsim the son of Muḥammad told him that °Abd al-Raḥmān the son of Yazīd and Mujammi° the son of Yazīd told him that a man called Khidhām married off a daughter of his. Or something like that] (72)</p>
"And none should ask for the hand of a lady who is already engaged to his (Muslim) brother, but one should wait till the first suitor marries her or leaves her." [See. H. No. 2140, Vol 3.]	<p>"وَلَا يَخْطُبُ الرَّجُلُ عَلَى خُطْبَةِ أَخِيهِ حَتَّى يَنْكِحَ أَوْ يَتْرُكَ."</p> <p>[lit. "and the man should not propose upon the proposal of his brother until he gets married or leaves"] (76)</p>

Moving to omission strategy, both translators deleted some phrases and terms that might hinder the ST message. For instance, the underlined phrases in the following examples were deleted by Khān.

<p>فَأَنْزَلَ اللَّهُ تَعَالَى {وَيَسْتَفْتُونَكَ فِي النِّسَاءِ}</p> <p>[lit. Allāh the Almighty revealed {and they ask for your advice regarding women}] (38)</p>
<p>لَوْ أَنَّهَا لَمْ تَكُنْ رَبِيبَتِي فِي حَجْرِي مَا حَلَّتْ لِي</p> <p>[lit. Had she not been my foster daughter <u>under my custody</u> she would have not been permissible for me] (42)</p>

Similarly, al-Sharīf adopted translation by omission. A few examples are highlighted by the following underlined phrases.

<p>حَدَّثَنِي مَعْقِلُ بْنُ يَسَارٍ أَنَّهَا نَزَلَتْ فِيهِ [lit. Ma'qil the son of Yasār reported to me that it was revealed upon him] (63)</p>
<p>أَتَجْعَلِينَ أَمْرَكَ إِلَيَّ؟ قَالَتْ: نَعَمْ، فَقَالَ: قَدْ زَوَّجْتُكَ. وَقَالَ عَطَاءٌ: لِيَشْهَدَ أَنِّي قَدْ نَكَحْتُكَ [lit. Would you make your matter for me? She said: yes. Then he said: I have married you off. And ʿAṭāʾ said: let him witness that I have married you] (64)</p>

Regarding the difference in word choice between the two translators, several differences appear in a *ḥadīth* about a guardian who proposes to the girl under his guardianship. The phrase “*huwa awlā al-nāsi bihā*” [lit. he is the most deserving person for her] (64) was translated into “he was the nearest guardian to her” by Khān, which results in a similar ST meaning. However, al-Sharīf translated it into “whom he had more right than anybody else.” This could reflect a hidden belief that women are owned by men. Also, in the translation of “*atajʿalīna amraki li?*” [lit. Would you leave your matter for me?], which was translated into “Do you entrust the question of your marriage to me?” by Khān and “Do you make me your guardian?” by al-Sharīf. The latter focused on the concept of being a guardian, although the ST refers to an opinion about marriage. Another discrepancy occurs in the translation of “*in labistahu lam yakun ʿalayhā minhu shayʿun*” [lit. if you wear it she will not have any of it on her] (35), Khān chose “If you wear it, she will be naked” and al-Sharīf translated it into “If you wear it, she will have nothing of it over her body.” Although both translations reflect the technical definition of being ‘uncovered’, the use of ‘naked’ by Khān is negatively related to deprivation, i.e. deprived of clothes and embarrassed about it. Idiomatic usage normally gives ‘naked’ a connotation of starkness; something ‘naked’ has been actively uncovered or exposed, when it is usually concealed. A further distinctive example is the translation of “*Bāb la tunkaḥu al-marʾatu ʿalā ʿammatihā*” [lit. Chapter of a woman should not be married with her paternal aunt] (48). Khān translated it into “The woman should not be married to a man along with her paternal aunt.” By doing so, he directs the sentence to women by indicating that it is their choice to marry a man who is already married to her paternal aunt. This is a wrong depiction of women's role in society by giving them a power that does not appear in the ST.

Some choices of words might show an inaccuracy of conveying the ST message and its effect. For example, al-Sharīf translated “*aqīṭ*” [lit. dried yogurt] (34) into “yogurt”

and “*al-ḥadīth*” [lit. the saying] (36) into “the tradition,” which do not reflect the ST words. Similarly, the phrase “*amaranī*” (he ordered me) (43) was translated into “He allowed me,” “*qāla*” (he said) (45) into “told” and “*taḥaddathnā*” [lit. we talked] (58) into “We learnt.” Khān, in a similar vein, translated “*wa-jamaʿa al-Ḥasan Ibn al-Ḥasan Ibn ʿAli bayna ibnatayy ʿammin fī laylatin*” [lit. and al-Ḥasan the son of al-Ḥasan the son of ʿAli married two cousins in one night] (45) into “Al-Ḥasan bin Al-Ḥasan bin ʿAli married two of his cousins in one night.” This changes the ST meaning as it was not mentioned that they were 'his' cousins. Similarly, the phrase “*taḥaddathnā*” [lit. we talked] (58) was translated into “we have heard,” which does not reflect the ST’s intended message. In another *ḥadīth* about the possibility of presenting objects as a dowry in marriage, Khān translated “*al-mahri bi-l-ʿurūdī*” [lit. the dowry by property] (80) into “To give Mahr in the form of material things (other than money),” which reflects the exact ST meaning. In contrast, al-Sharīf’s translation, “The proposals of the dowry,” is literal and does not accurately convey the ST’s message.

Discrepancy on the word level appears in the different uses of synonyms by both translators. For instance, the phrase “*mā malakat aymanukum*” [lit. what is possessed by your right hands] (33) was translated into “(slaves) that your right hands possess” by Khān and into “(a captive) that your right hands possess” by al-Sharīf. 'Captivity' is the mode of being captive or confined, while 'slavery' is an institution or social practice of owning people as property, especially for use of forced labour. Both terms reflect the ST meaning, however, the latter is more accurate as it refers to slave women who were possessed. Another use of synonyms is the translation of “*rajulan min ʿashīratihā*” (a man from her tribe) (64) into “a man from her kinsfolk” by Khān and “one of your clan” by al-Sharīf. The word 'kinsfolk' means a group of people connected by blood, while 'clan' refers to a close-knit group of related families. Thus, both words convey the ST meaning. Furthermore, both translators considered the words “*al-amīr*” (the prince), “*al-sultān*” (the sultan or the chief) and “*al-imām*” (the leader) (89) as synonyms. They chose the word “the ruler” to translate them; however, “*al-imām*” (the leader) was transliterated to “Imam” by al-Sharīf in a previous *ḥadīth* (67). This term has several meanings; in law and theology, it means the caliph who is successor to the Prophet as the temporal lawful leader of the Islamic society. It also refers to the male prayer leader, a Muslim who leads

prayers when two or more worshipers are present. Other meanings include a ruler pretending descent from the Prophet and practicing authority in an Islamic state or any of the founders of the four schools of law and theology. In this context, the translators should differentiate between the three terms to convey the exact ST meaning as it shows the degradation of who is responsible to be the guardian for a daughter to be married. For example, the father comes first then the *imām* then the *amīr* then the *sulṭān* (Ibn al-Athīr, 1979).

Another strategy adopted by both translators is shifting, i.e. changing the order of the ST sentences. Although applying this strategy can be tricky because of the systemic differences between Arabic and English, some shifts may result in a change in the thematic structure. Halliday (1994) argued that every clause has a message that is twofold, i.e. the theme and the rheme. The theme provides the mentioned information and the rheme, new information. In other words, theme has a crucial role in the organisation of a discourse. It is context-dependent information, while rheme is the opposite, i.e. context-independent information (*ibid.*). As Fairclough (1992a) stated, the theme is the text producer's point of departure in a clause and usually corresponds to what is taken to be 'mentioned' information, which is information known or reached for text producers and interpreters. Thematisation patterns organise the beginning of the clause and act to draw the attention of the receiver of the message to the parts the sender desires to emphasise (Bell, 1991). Thus, changing the organisation of these patterns in the TT might reflect an ideological stance. For example, Khān, unlike al-Sharīf, translated “*inna al-nabiyya ṣallā Allāhu ‘alayhi wa-sallama nahā ‘an al-mut‘a wa-‘an luḥūmi al-ḥumuri al-ahliyyati zaman khaybar*” [lit. the Prophet, peace be upon him, forbade enjoyment and the meat of domestic donkeys at the time of Khaybar] (53) into “During the battle of Khaibar the Prophet ṣallā Allāhu ‘alayhi wa-sallam forbade (Nikāḥ) Al-Mut’a and the eating of donkey's meat,” where he changed the order of the time phrase by moving it to the beginning of the TT sentence which gave it more focus (see Appendix 4).

An example from al-Sharīf's application of shifting is in the translation of “*hādhihi al-yatīmatu takūnu fī ḥijri waliyyihā fa-yarghabu fī jamālihā wa-mālihā wa-yurīdu an yanqīṣa ṣadāqahā*” [lit. this orphan girl is in the custody of her guardian, then he desires her beauty and money and wants to reduce her dowry] (38) into “the orphan

girl who lives under the care of her guardian. Her wealth and beauty may tempt him to marry her without giving her an adequate dowry.” The shifting in “Her wealth and beauty” changes the priority given in the ST to beauty over wealth.

Further shifts are in the translation of “*fa-jaʿala ʿiddatahā thalāthata ashhurin qabl al-bulūghī*” [lit. and he made her waiting period three months before puberty] (66) into “And the 'Idda for the girl before puberty is three months” by Khān and into “The Iddat for the girl before puberty is three months” by al-Sharīf. Although these shifts might be grammatically correct, both translators changed the ST focus by emphasising the period rather than the number of days. Similarly, the sentence “*yaḥrumu min al-raḍāʿati mā yaḥrumu min al-wilādati*” [lit. what is forbidden from breastfeeding is similar to what is forbidden from birth] (92) was translated into “All things which become unlawful because of blood relations are unlawful because of the corresponding foster suckling relations” by Khān, which changed the ST’s intended focus. In the same *ḥadīth*, al-Sharīf translated “*innahu ʿammuki fa-lyalij ʿalayki*” [lit. he is your paternal uncle then let him pass by you] into “Admit him, for he is your uncle” by highlighting the imperative phrase in the original.

4.1.2.2 Şiddīqī's and al-Khaṭṭāb's Strategies

Şiddīqī and al-Khaṭṭāb applied various strategies in *ḥadīths* about three different matters in marriage, each of which is presented with the adopted strategies. Multiple lexical choices are found in the translations of *ḥadīths* that tackle temporary marriage.

Table 4.6: Şiddīqī's and al-Khaṭṭāb's Lexical Choices in the Translations of *Ḥadīths* on Marriage

Şiddīqī's Translation	Al-Khaṭṭāb's Translation	ST
Chapter DXLI Temporary marriage and its prohibition for all times to come. 'Abdullah (b. Mas'ūd) reported: We were on an expedition with Allah's Messenger (may peace be upon him) and we had no women with us. We said: Should we not have ourselves	Chapter 3. Mut'ah Marriage: It was permitted then abrogated, then permitted then abrogated, and it will remain forbidden until the day of resurrection. 'Abdullāh said: “We were on a campaign with the Messenger of Allah صلى الله عليه وسلم and we had no women with us. We said: 'Why don't we get	(بَابُ نِكَاحِ الْمُتْعَةِ وَبَيَانُ أَنَّهُ أُبِيحَ ثُمَّ نُسِخَ ثُمَّ أُبِيحَ ثُمَّ نُسِخَ، وَاسْتَقَرَّ تَحْرِيمُهُ إِلَى يَوْمِ الْقِيَامَةِ) (التحفة 3) حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ الْهَمْدَانِيُّ: حَدَّثَنَا أَبِي وَوَكَيْعٌ وَابْنُ بَشْرٍ عَنْ إِسْمَاعِيلَ، عَنْ قَيْسٍ قَالَ: سَمِعْتُ عَبْدَ اللَّهِ يَقُولُ: كُنَّا نَغْزُو مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، لَيْسَ لَنَا نِسَاءٌ. فَقُلْنَا: أَلَا نَسْتَخْصِي؟ فَهَانَا عَنْ ذَلِكَ، ثُمَّ رَخَّصَ لَنَا أَنْ نَنْكِحَ الْمَرْأَةَ بِالثَّوْبِ إِلَى أَجَلٍ، ثُمَّ قَرَأَ عَبْدُ اللَّهِ: يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَحْرِمُوا طَيِّبَاتِ مَا أَحَلَّ اللَّهُ لَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ

<p>castrated? He (the Holy Prophet) forbade us to do so He then granted us permission that we should contract temporary marriage for a stipulated period giving her a garment, and 'Abdullah then recited this verse: "Those who believe do not make unlawful the good things which Allah has made lawful for you, and do not transgress. Allah does not like transgressors" (al-Qur'ān, v. 87).</p>	<p>ourselves castrated?' But he forbade us to do that, then he granted us a concession allowing us to marry women in return for a garment, for a set period of time." Then 'Abdullāh recited the verse: "O you who believe! Make not unlawful the Ṭayyibāt (all that is good as regards foods, things, deeds, beliefs, persons) which Allāh has made lawful to you, and transgress not. Verily, Allāh does not like the transgressors."</p>	<p>[المُعْتَدِينَ] [المائدة: 87] [lit. (Chapter of marriage of enjoyment and the explanation that it was permitted then abrogated then permitted then abrogated, and it remains prohibited till the Day of Judgment) (<i>al-Tuḥfa</i> 3) Muḥammad the son of °Abd Allāh the son of Numayr al-Hamadānī reported to us: Abī Wakī° and the son of Bishr reported to us according to Ismā°l, according to Qays he said: I heard °Abd Allāh saying: we were making an attack with the Messenger of Allāh, peace be upon him, we had no women. So we said: <u>Should we castrate ourselves? Then he forbade us to do so, then he authorised us to marry the woman with a garment for a specific period of time, then °Abd Allāh recited: {O you who believe do not prohibit the good things that Allāh permitted for you and do not transgress Allāh does not like the transgressors}</u> [<i>al-Mā°ida</i>: 87]] (3)</p>
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Şiddīqī used "(al-Qur'ān, v. 87)" without specifying the name of the verse as it appears in the ST "[*al-Mā°ida*: 87]." Furthermore, he translated "*ilā yawmi al-qiyāmati*" (till the Day of Judgment) into "for all times to come," which conveys the ST's intended meaning. However, his choice lacks the ST's specification of time. In different *ḥadīths*, "*yawmu al-qiyāmati*" (day of judgement) was translated into "the day of resurrection" (17). This has an experiential value as it shows Şiddīqī's intention to provide different translations of the same ST concept and his acknowledgement of the difference between TL terms. The phrase 'for all times to come' includes the here and hereafter, and the term 'resurrection' refers to the time when all humankind will be brought back to their original physical form. At that time,

everything that Allah created will cease. All creatures, from the past to the present, will be resurrected and their deeds examined.

Moreover, Şiddīqī used “granted us permission” and “gave sanction” in another *ḥadīth* (9), while al-Khaṭṭāb used “granted us a concession” to translate “*rakhkhaṣa*” (he authorised). The former indicates that the Prophet gave his authorisation and approval to do so, which changes the ST effect. In the latter, ‘concession’ is used to refer to something that is allowed or given up, often in order to end a disagreement. This disagreement appears in the verse that ʿAbd Allāh recited in the *ḥadīth*, as if he thought that temporary marriage is allowed. Thus, al-Khaṭṭāb’s translation shows his understanding of the ST situation. The ST sentence, “*kunnā naghzū maʿa rasūli Allāh ṣallā Allāhu ʿalayhi wa-sallam, laysa lanā nisāʾ*” [lit. we were making an attack with the Messenger of Allāh, peace be upon him, and we had no women], refers to the companions’ status of not having wives while they were participating in a military campaign with the Prophet (Ibn al-Athīr, 1979). Both translators used ‘women’ instead of ‘wives’ in their translations. Their choice misinterpreted the ST and thus TT readers will misunderstand the ST message (*ibid.*). The choice might also have an ideological basis, with a negative connotation of women being tools of enjoyment rather than respected wives. Şiddīqī used “We were on an expedition” to translate ‘*naghzū*’ [lit. we make an attack], which reflects a more general meaning than the ST, as it refers to an excursion, journey, or trip made for some certain purpose, such as war or exploration. In contrast, al-Khaṭṭāb used a more specific term ‘campaign’ in “We were on a campaign,” which refers to military operations for a certain objective. It would be clearer to use ‘military campaign’.

Şiddīqī used several presuppositions that can have ideological functions. Presupposition refers to “the linguistic and extralinguistic knowledge the sender assumes the receiver to have or which are necessary in order to retrieve the sender’s message” (Munday, 2016: 154). It is not a property of texts but aspect feature of text producers’ explanations of intertextual context. For instance, Şiddīqī used “Should we not have ourselves castrated?” and “its prohibition for all times to come.” These phrases presuppose that TT readers acknowledge that temporary marriage and castration are forbidden. Şiddīqī’s question gives a feeling that they seek the Prophet’s permission, which is similar to the ST message, while al-

Khaṭṭāb's question "why don't we get ourselves castrated?" implies suggesting the idea.

The use of synonyms in the TT is highlighted in the following *ḥadīth* (see Table 4.7).

Table 4.7: Ṣiddīqī's and al-Khaṭṭāb's Use of Synonyms

Ṣiddīqī's Translation	Al-Khaṭṭāb's Translation	ST
Urwa b. Zubair reported that 'Abdullah b. Zubair (Allah be pleased with him) stood up (and delivered an address) in Mecca saying: <u>Allah has made blind the hearts of some people</u> as He has deprived them of eyesight that <u>they give religious verdict</u> in favour of temporary marriage, while he was alluding to a person (Ibn 'Abbās). Ibn 'Abbās called him and said: <u>You are an uncouth person, devoid of sense. By my life, Mut'a was practised during the lifetime of the leader of the pious (he meant Allah's Messenger, may peace be upon him), and Ibn Zubair said to him: Just do it yourselves and by Allah, if you do that I will stone you with your stones. Ibn Shihāb said: 'Khālīd b. Muhājir b. Saifullah informed me: While I was sitting in the company of a person, a person came to him and he asked for a religious verdict about Mut'a and permitted him to do it. Ibn Abū 'Amrah al-Anṣārī (Allah be pleased with him) said to him: Be gentle. It was permitted in the early days of Islam, (for one) who was driven to it under the</u>	(...) 'Urwah bin Az-Zubair narrated that 'Abdullāh bin Az-Zubair stood up in Makkah and said: "Allāh has made some people's hearts blind as He has made their eyes blind; they issue Fatwa in favor of Mut'ah." He was referring to a man who called him and said: " <u>You are uncouth and lacking in manners. By Allāh, Mut'ah was done during the time of the leader of the pious</u> " - meaning the Messenger of Allāh صلى الله عليه وسلم. Ibn Az-Zubair said to him: "Just try to do it yourself. By Allāh, if you do it, I will stone you." Ibn Shihāb said: "Khālīd bin Al-Muhājir bin Ṣaifullāh told me that while he was sitting with a man, another man came to him and asked him about Mut'ah, and he gave him permission for that. Ibn Abī 'Amrah Al-Anṣārī said to him: 'Wait a minute!' He said: 'What is it?' By Allāh, I did that at the time of the leader of the pious.' Ibn Abī 'Amrah said: 'It was permitted in the early days of Islam, in cases of necessity, like <u>dead meat, blood and pork, then Allāh completed His religion and forbade it.</u> " Ibn Shihāb said: "Rabī' bin Sabrah Al-Juhanī told me that this father said: 'At the time of	وحدثني حرمة بن يحيى: أخبرنا ابن وهب: أخبرني يونس، قال ابن شهاب: أخبرني عروة بن الزبير؛ أن عبد الله بن الزبير قام بمكة فقال: <u>إن ناسا، أعمى الله قلوبهم، كما أعمى أبصارهم، يفتون بالمتعة، يعرض برجل. فناده فقال: إنك لجلف جاف، فلعمري لقد كانت المتعة تفعل في عهد إمام المتقين يريد به رسول الله صلى الله عليه وسلم فقال له ابن الزبير: فجرب بنفسك. فوالله! لئن فعلتها لأرجمنك بأحجارك.</u> قال ابن شهاب: فأخبرني خالد بن المهاجر بن سيف الله: أنه بينما هو جالس عند رجل جاءه رجل فاستفتاه في المتعة، فأمره بها. فقال له ابن أبي عمرة الأنصاري: مهلا! قال: ما هي؟ والله! لقد فعلت في عهد إمام المتقين. قال ابن أبي عمرة: إنها كانت رخصة في أول الإسلام لمن اضطر إليها، كالميتة والدم ولحم الخنزير، ثم أحكم الله الدين ونهى عنها. قال ابن شهاب: وأخبرني ربيع بن سبرة الجهني أن أباه قال: <u>قد كنت استمعت في عهد النبي صلى الله عليه وسلم امرأة من بني عامر، ببردين أحمرين، ثم نهانا رسول الله صلى الله عليه وسلم عن المتعة.</u> قال ابن شهاب: وسمعت ربيع بن سبرة يحدث ذلك عمر بن عبد العزيز، وأنا جالس. [lit. And reported to me Ḥarmala the son of Yaḥyā: the son of Wahab informed us: Yūnus informed me, the son of Shihāb said: °Urwa the son of al-Zubayr informed me that °Abd Allāh the son of al-Zubayr stood up in Makkah and said: <u>some people, Allāh blinded their hearts, as he</u>

<p>stress of necessity just as (the eating of) carrion and the blood and flesh of swine, and then Allah intensified (the commands of) His religion and prohibited it (altogether). Ibn Shihāb reported: Rabī' b. Sabra told me that his father (Sabra) said: I contracted temporary marriage with a woman of Banū 'Āmir for two cloaks during the lifetime of Allah's Messenger (may peace be upon him); then he forbade us to do Mut'a. Ibn Shihāb said: I heard Rabī' b. Sabra narrating it to 'Umar b. 'Abd al-'Azīz and I was sitting there.</p>	<p>the Prophet صلى الله عليه وسلم I engaged in Mut'ah with a woman from Banū 'Āmir, in return for two red Burd, then the Messenger of Allāh صلى الله عليه وسلم Forbade Mut'ah to us." Ibn Shihāb said: "And I heard Rabī' bin Sabrah narrating that to 'Umar bin 'Abdul-'Azīz when I was sitting there."</p>	<p>blinded their eyes, they give advice (supporting) marriage of enjoyment, referring to a man. Then he called him and said: you are rude rough, then by my life the enjoyment was practiced the era of the leader of the righteous – meaning the Messenger of Allāh, peace be upon him – then the son of al-Zubayr said to him: then try it yourself. And by Allāh! If you do it I will throw you with your stones. The son of Shihāb said: then Khālīd the son of al-Muhājir the son of Sayf Allāh informed me: that while he was sitting with a man a man came to him and asked for his advice about enjoyment, then he ordered him to do it. Then the son of Abī ʿAmra al-Anṣārī said: slowly! He said: what is it? By Allāh! It was done at the time of the leader of the righteous. The son of Abī ʿAmra said: It was authorised at the beginning of Islam to those who were forced to do it, like the dead creatures and the blood and the meat of the pig, then Allāh completed the religion and forbade it. The son of Shihāb said: and Rabīʿ the son of Sabra al-Juhanī informed me that his father said: I was enjoying at the time of the prophet, peace be upon him, a woman from Banī ʿĀmir, for two red cloaks, then the Messenger of Allāh, peace be upon him, forbade us from</p>
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		enjoyment. The son of Shihāb said: and I heard Rabīʿ the son of Sabra saying that to ʿUmar the son ʿAbd al-ʿAzīz, and I was sitting] (16)
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In the above *ḥadīth*, the verbs “blind” and “deprived them” were used by Şiddīqī to translate “*aʿmā*” (blind). He also used “temporary marriage” and “Mutʿa,” “prohibited” and “forbade,” “Be gentle” and “Don’t be hasty” interchangeably in his translations (e.g. (20)). These highlight his method of formal equivalence in delivering the intended ST message and ensuring TT readers’ understanding. However, the use of the negative form ‘Don’t’ represents an expressive value. In the ST ‘*mahlan*’ (slowly) is used for interrupting the speaker to ask him not to hurry in his religious opinion. Comparing both translators’ translation of this expression, Şiddīqī used “be gentle,” while al-Khaṭṭāb used “wait a minute.” The former indicates that being gentle is for all time, while the latter is only for the particular time of the *ḥadīth*. Şiddīqī translated “*al-khinzīr*” (pig) into “swine” while al-Khaṭṭāb used “pork.” The former is more general and delivers the ST’s intended message accurately. This is because in the pork terminology, the term “swine” refers to the entire family of pork-producing animals.

Additionally, Şiddīqī translated “*yufṭūn*” (they give advice) into “give religious verdict,” while al-Khaṭṭāb transliterated it into “they issue Fatwa.” This might indicate that Şiddīqī was targeting people who do not know about Islam and its terms. Thus, he explained each word clearly. In contrast, al-Khaṭṭāb always transliterated Islamic terms, as if he assumed their familiarity for the TT readers. This might be explained because when he conducted the translation in 2007 the world was globalised.

Additionally, Şiddīqī notably opted for specification in the translation of “*yaʿriḍu bi-rajulin*” [lit. referring to a man] into “alluding to a person” by adding “(Ibn ‘Abbas).” In contrast, al-Khaṭṭāb adopted the literal translation “referring to a man” which could be vague for the TT reader. Thus, Şiddīqī was concerned with ensuring the TT readers understand the text by adopting explanation and addition. Additionally, he translated “*jilfun jāffin*” (rude rough) into “an uncouth person, devoid of sense,” while al-

Khaṭṭāb's translation is literal "You are uncouth and lacking in manners." The adjective 'uncouth' defines an awkward, clumsy, or impolite person, which conveys the ST meaning. In the translation of "*aḥkama Allāhu al-dīna*" [lit. Allāh completed the religion], Ṣiddīqī used "intensified," then he added "the commands of" for further clarification, while al-Khaṭṭāb used "completed," which does not deliver the same ST effect. Also, the translation of "*la-ʿamrī*" [lit. by my life] is "By my life" by Ṣiddīqī and "By Allah" by al-Khaṭṭāb. This shows al-Khaṭṭāb's belief that swearing is only by Allah and not by his creatures.

Moving to the differences in sentence structure, Ṣiddīqī translated "*al-maytatu wa-l-damu wa-laḥmu al-khinzīri*" [lit. the dead creatures and the blood and the meat of the pig] into "carrion and the blood and flesh of swine" as if these are adjectives to swine, which does not convey the intended ST meaning. However, in footnote no. 1848 (1971:709) he corrected it to "carrion, blood, and the flesh of the swine." Al-Khaṭṭāb translated it as "dead meat, blood and pork," which appears more accurate. Moreover, by comparing al-Khaṭṭāb's sentence "Allah has made some people's hearts blind" with Ṣiddīqī's "Allah has made blind the hearts of some people," it can be noticed that the former moved the adjective to the end, while the latter placed it after the verb. This indicates that al-Khaṭṭāb gave more focus to the object while Ṣiddīqī focused on the adjective, which is more in line with the ST.

Structural shift strategy is manifested in the TTs of both translators. These shifts result in changes of thematic structure between the ST and the TT. For instance, Ṣiddīqī, unlike al-Khaṭṭāb, changed the order of this sentence "*an nankiḥa al-marʾata bi-l-thawbi ilā ajalin*" [lit. to marry the woman with a garment for a particular period of time] (3) into "we should contract temporary marriage for a stipulated period giving her a garment" as if he wanted to stress the type of marriage, i.e. temporary. By doing so, he changed the ST's marked thematic structure, i.e. the theme "*an nankiḥa al-marʾata bi-l-thawbi*" [lit. to marry the woman with a garment] and the rheme "*ilā ajalin*" [lit. for a particular period of time] in the TT. Reordering the thematic structure reverses the connection between the old and new information, which results in the translator expressing personal emotions. Another structural shift is in "*thumma qaraʾa ʿalaynā ḥādhihi al-āya*" [lit. then he recited to us this verse] (4) into "he also recited this (above-mentioned verse) to us" by fronting the object after the verb. This

might change the focus of the ST sentence and the ST's thematic structure. Moving to al-Khaṭṭāb, the thematic structure was changed in "*kharaja ʿalaynā munādī rasūli Allāh ṣallā Allāhu ʿalayhi wa-sallam*" [lit. came out to us the caller of the Messenger of Allāh, peace be upon him] (6) into "The caller of the Messenger of Allāh *ṣalla Allāhu ʿalayhi wa-sallam* came out to us" by placing the theme at the end of the sentence and the rheme at the beginning in the TT.

In addition, both translators made shifts by moving a time phrase to the beginning of the sentence, to the middle of the sentence (between the subject and the verb or the verb and the object), or to the end of the sentence. These make the TT sentence clearer by keeping the TL sentence structure in the correct order; however, a change in the order and focus of the theme and the rheme in the ST may occur because of this strategy, which can be observed in Table 4.8.

Table 4.8: Examples of Shifts by Ṣiddīqī and al-Khaṭṭāb

Ṣiddīqī	
"forbade to contract temporary marriage with women at the time of Victory"	"نَهَى، عَنِ الْمُتَعَةِ زَمَانَ الْفَتْحِ، مُتَعَةَ النِّسَاءِ" [lit. He forbade, the enjoyment at the time of conquer, the enjoyment of women] (15)
Al-Khaṭṭāb	
"that on the day of the conquest of Makkah, the Messenger of Allāh صلى الله عليه وسلم forbade Mut'ah marriage with women"	"أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى، يَوْمَ الْفَتْحِ، عَنِ مُتَعَةِ النِّسَاءِ" [lit. That the Messenger of Allāh, peace be upon him, forbade, the day of conquer, the enjoyment of women] (14)

Both translators were keen to add words and phrases to convey the ST's intended meaning. Some additions define pronouns and give specification to the intended meaning (see Table 4.9).

Table 4.9: Examples of Addition for Defining Pronouns and Giving Specification to the ST Meaning by Ṣiddīqī

Reflection	Ṣiddīqī's Translation	ST
Shows Ṣiddīqī's knowledge of the <i>ḥadīth</i> as he specified the narrator to avoid confusion.	"Abdullah (b. Mas'ūd) reported"	"عَبْدُ اللَّهِ يَقُولُ" [lit. ʿAbd Allāh says] (3)
Provides a definition to the pronoun "He", which helps TT readers to understand the ST	"He (the Holy Prophet) forbade us to do so"	"فَنَهَاَنَا" [lit. then he forbade us] (3)

meaning clearly.		
Specifies which verse is meant in the ST	"he also recited this (above-mentioned verse) to us"	"ثُمَّ قَرَأَ عَلَيْنَا هَذِهِ الْآيَةَ" [lit. then he recited to us this verse] (4)
Defines the pronoun 'he'.	"But he (the narrator) did not say"	"وَلَمْ يَقُلْ" [lit. and he did not say] (5)

Other additions provide clarification in the TT by explaining words and phrases to convey the ST message (see Table 4.10).

Table 4.10: Examples of Addition for Clarification by Şiddīqī and al-Khaṭṭāb

Reflection	Şiddīqī's Translation	ST
Identifies the meaning of 'three'	"for three nights"	"ثَلَاثًا" [lit. thrice] (9)
Specifies which pillar and gate is meant in the ST	"between the pillar and the gate (of the Ka'ba)"	"بَيْنَ الرُّكْنِ وَالْبَابِ" [lit. between the corner and the door] (11)
"(in return)" clarifies that the marriage is completed under the condition of exchanging.	"and I will (in return) marry my daughter to you"	"وَأَزَوِّجُكَ ابْنَتِي" [lit. and I marry my daughter to you] (46)
Reflection	Al-Khaṭṭāb's Translation	ST
Provides TT readers with definition of the Qur'ānic term.	"the Ṭayyibāt (all that is good as regards foods, things, deeds, beliefs, persons)"	"طَيِّبَات" [lit. the good things] (3)
The word 'now' adds explanation that Allah has forbidden temporary marriage after the Prophet's permission and not before.	"but now Allāh has forbidden that until the Day of Resurrection"	"وَإِنَّ اللَّهَ قَدْ حَرَّمَ ذَلِكَ إِلَى يَوْمِ الْقِيَامَةِ" [lit. and that Allāh has forbidden this till the day of judgement] (10)
'Makkah' adds explanation and specification	"on the day of the conquest of Makkah"	"يَوْمَ الْفَتْحِ" [lit. the day of the conquer] (14)

Although Şiddīqī and al-Khaṭṭāb share similar strategies in their translations, the former applied a free strategy. This can be illustrated by considering the stylistic and lexical choices (emotive language) used by Şiddīqī in his translation. For example, Şiddīqī made some stylistic changes by combining two *ḥadīths* in the TT as follows:

Rabī' b. Sabra reported on the authority of his father that Allah's Messenger (may peace be upon him) forbade on the Day of Victory to contract temporary marriage with women. This *ḥadīth* has been narrated on the

authority of Rabī b. Sabra that Allah's Messenger (may peace be upon him) forbade to contract temporary marriage with women at the time of Victory, and that his father had contracted the marriage for two red cloaks. (14) (15)

As a result, TT readers would not recognise that the *ḥadīths* are different ones in the ST. Some changes in the verb tense between the ST and the TT are applied. These changes show Ṣiddīqī's transposition strategy, i.e. an alteration of one aspect of speech for another without changing the meaning (Vinay and Darbelnet, 1995: 94). For example, the tense of “reported” (3) and “gave” (20) was changed from present to past. This change shows Ṣiddīqī's way of expressing the time of reporting the *ḥadīth*, i.e. in the past.

Ṣiddīqī, in his translation, used the modal auxiliary verb 'should', which depends on and creates social relationships with the TT readers. This use expresses what it is appropriate to do with women in a temporary marriage contract. For example,

“we should contract temporary marriage”	"أَنْ نَنْكِحَ" [lit. that we marry] (3)
“he should let her off”	"فَلْيُخَلَّ سَبِيلُهَا" [lit. then let his path be released] (10)
“should not take it back”	"فَلَا يَأْخُذْهُ" [lit. then he does not take it] (17)

Ṣiddīqī, unlike al-Khaṭṭāb, adopted omission strategy. For example, the phrase “*wa-bayān annahu ubīḥa thumma nusikha thumma ubīḥa thumma nusikha*” [lit. and the illustration that was permitted then abrogated then permitted then abrogated] (3) was omitted and replaced with “its prohibition,” which shows his focus on the final verdict on this type of marriage, i.e. *mutʿa*, as a prohibited act. Yet the deletion does not present to the TT readers the gradual nature of the prohibition. Another omission is the inaccurate delivery of the first name of the transmitter, in “*al-Rabīʿ Ibn Sabra al-Juhani*” [lit. al-Rabīʿ the son of Sabra al-Juhani] (10) (17) into “Sabra al-Juhannī.”

More strategies by both translators are identified in *ḥadīths* that tackle the cases in which men are allowed to marry women and those that are permanently forbidden. One example about marriage prohibition due to marital relations is illustrated in the following *ḥadīth* (see Table 4.11).

Table 4.11: Şiddīqī's and al-Khaṭṭāb's Translations of a *Ḥadīth* on Marriage Prohibition

Şiddīqī's Translation	Al-Khaṭṭāb's Translation	ST
Abū Huraira (Allah be pleased with him) reported that Allah's Messenger (may peace be upon him) forbade the combining of a women in marriage with her father's sister, or with her mother's sister, or that a woman should ask for divorce for her sister in order to deprive her of what belongs to her. Allah, the Exalted and Majestic, is her Sustainer too.	(...) It was narrated from Abū Hurairah said: "The Messenger of Allāh صلى الله عليه وسلم forbade marrying a woman when one is already married to her paternal aunt or maternal aunt, (and he forbade) a woman asking for her sister to be divorced so as to deprive her of what is rightfully hers and take it for herself, for Allāh [the Mighty and Sublime] is her Sustainer."	وَحَدَّثَنِي مُحَرَّرُ بْنُ عَوْنٍ عَنْ أَبِي عَوْنٍ: حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ عَنْ دَاوُدَ بْنِ أَبِي هِنْدٍ، عَنْ ابْنِ سَبْرِينَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْ تُتَكَحَّ الْمَرْأَةُ عَلَى عَمَّتِهَا أَوْ خَالَتِهَا، أَوْ [أَنْ] تَسْأَلَ الْمَرْأَةُ طَلَاقَ أُخْتِهَا لِتَكْتَفِيَ مَا فِي صَحْفَتِهَا، فَإِنَّ اللَّهَ [عَزَّ وَجَلَّ] رَازِقُهَا. [lit. And Muḥriz the son of °Awn the son of Abī °Awn: reported to me: °Alī the son of Mushir reported to us according to Dawūd the son of Abī Hind, according to the son of Sīrīn, according to Abī Hurayra said: the Messenger of Allāh, peace be upon him, forbade that a woman be married with her paternal aunt or maternal aunt, and that for a woman [to] ask for the divorce of her sister so that she can deprive her of her right, thus Allāh [the Exalted and the Majestic] is her sustainer]. (29)

In the above translations, it can be observed that both translators opted for addition. For instance, al-Khaṭṭāb added “when one is already married to” to translate “*°alā*” (with) to explain the exact ST message of being married to a woman and her aunt at the same time. He also added “(and he forbade),” which reflects overwording strategy, to emphasise the prohibition of committing such an act. Similarly, overwording was also applied by Şiddīqī in “with her,” which shows his assertion in conveying the ST’s intended meaning. Şiddīqī’s addition of “too” might cause confusion to TT readers because it might indicate that Allah is not the only provider, which results in a wrong interpretation of the ST’s intended meaning. Unlike al-Khaṭṭāb, who used fidelity, Şiddīqī changed the passive voice in the ST “*an tunkaḥu*” (to be married) into a noun phrase “the combining of” which clarifies the ST meaning. This might refer to a transposition (i.e. oblique translation) (Vinay and Darbelnet, 1995: 31). He also used 'should' in the translation of “[*an*] *tas’alu*” [lit. [to] ask] to express what is correct and appropriate, especially when criticising a woman's action in asking for another woman's divorce. A further difference is that he replaced the

colon in the ST with “that” and deleted the square brackets in “[*ʿazza wa-jalla*]” (the Exalted and the Majestic), which could result in an inequivalent effect in the TT.

Additionally, in the translation of another *ḥadīth*, both translators used different modal verbs to express the ST meaning (see Table 4.12).

Table 4.12: Ṣiddīqī's and al-Khaṭṭāb's Use of Different Modal Verbs

Ṣiddīqī's Translation	Al-Khaṭṭāb's Translation	ST
Abū Huraira (Allah be pleased with him) reported Allah's Apostle (may peace be upon him) as saying: A man <u>must not make proposal</u> of marriage to a woman when his brother has done so already. And he <u>must not offer a price</u> for a thing for which his brother had already offered a price; and a woman <u>must not be combined</u> in marriage with her father's sister, nor with her mother's sister, and a woman <u>must not ask</u> to have her sister divorced in order to deprive her what belongs to her; but she must marry, because she will have what Allah has decreed for her.	(...) It was narrated from Abū Hurairah that the Prophet صلى الله عليه وسلم said: “A man <u>should not propose</u> marriage to a woman to whom his brother has already proposed, and he <u>should not outbid</u> his brother. A man <u>should not marry</u> a woman if he is already married to her paternal aunt or maternal aunt. A woman <u>should not ask</u> for her sister to be divorced so as to deprive her of what is rightfully hers, and so that she may be married in her stead; rather she will have what Allāh has decreed for her.”	وَحَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا أَبُو أَسَامَةَ عَنْ هِشَامٍ، عَنْ مُحَمَّدِ بْنِ سَيْبٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: “لَا يَخْطُبُ الرَّجُلُ عَلَى خِطْبَةِ أَخِيهِ، وَلَا يَسُومُ عَلَى سَوْمِ أَخِيهِ، وَلَا تُنْكَحُ الْمَرْأَةُ عَلَى عَمَّتِهَا وَلَا عَلَى خَالَتِهَا، وَلَا تَسْأَلُ الْمَرْأَةُ طَلَاقَ أُخْتِهَا لِتَكْتَفِيَ صَحْفَتَهَا، وَلْتُنْكَحْ، فَإِنَّمَا لَهَا مَا كَتَبَ اللَّهُ لَهَا.” [lit. And Abū Bakr the son of Abī Shayba reported to us: Abū Usāma reported to us according to Hishām, according to Muḥammad the son of Sīrīn, according to Abī Hurayra according to the Prophet, peace be upon him, he said: “the man <u>should not propose</u> on the proposal of his brother, and <u>should not outbid</u> on the bidding of his brother, and the woman <u>should not be married</u> with her paternal aunt nor with her maternal aunt, and the woman <u>should not ask</u> the divorce of her sister so she deprives her of her right, and she should get married, thus she has what Allāh wrote for her”] (28)

A comparison between the translations of “*la tasʿalu*,” “*la tunkaḥu*,” “*la yasūmu*,” “*la yakhtubu*” (should not ask), (should not be married), (should not outbid) and (should not propose), respectively, reveals that Ṣiddīqī used 'must', while al-Khaṭṭāb used 'should' consistently to express the ST meaning. Although both modal auxiliary verbs have a similar function, which is for obligation, 'should' is a weak form of 'must'. Thus, this shows Ṣiddīqī's stronger voice in stressing the ST message.

By analysing *ḥadīths* related to breastfeeding as a reason for invalidating marriage, three common patterns of word choice between both translators are observed. Each choice may reflect a negative or positive connotation, result in a wrong rendering of the ST's intended message, show the translators' acknowledgement of the intended meaning or present their views towards a subject matter. Ṣiddīqī translated “*jāʿa yastaʿdhinu ʿalayhā, wa-huwa ʿammuhā min al-raḍāʿati, baʿda an unzila al-ḥijābu*” [lit. he came asking for permission upon her, and he is her uncle by breastfeeding, after the covering was issued] (80) into “came, and asked her permission (to enter the house) after seclusion was instituted,” which does not convey the ST's intended meaning. 'Seclusion' relates to the act of secluding, i.e. shutting out or keeping apart from society, whereas, the ST word “*al-ḥijāb*” [lit. the covering] refers to a veil traditionally worn by Muslim women in the attendance of adult males outside of their immediate family, which usually covers the head and chest. Thus, Ṣiddīqī's translation does not convey the ST's intended meaning and might carry a negative connotation. As a result, TT readers might get the impression that Muslim females must be isolated from society, which does not reflect the ST message. Al-Khaṭṭāb translated the same sentence into “came and asked for permission to enter upon her, who was her paternal uncle through breastfeeding, after (the command of) Ḥijāb had been revealed.” He transliterated the covering in the TT, which is source-oriented and does not change the ST meaning.

A further example is the translation of “*innamā arḍaʿatnī al-marʿa*” [lit. indeed it is the woman who breastfed me] (81) into “It was the woman who suckled me” and into “gave me suck” (97). The verb “suckled” might have a negative implication as it is often used to refer to feed a baby animal. Thus, it might hinder the transfer of the ST's exact meaning. In another *ḥadīth*, Ṣiddīqī translated “*raḍāʿa*” (breastfeeding) into “fosterage” (77); however, this term refers to the act of caring for or bringing up a child, which does not convey the ST's intended meaning. In contrast, al-Khaṭṭāb used “breastfed” (81), which is also known as nursing and refers to the feeding of babies and young children with milk from a woman's breast. As a result, al-Khaṭṭāb's choice reflects the ST's meaning. Additionally, in the translation “*mā laka tanawwaqu fī Qurayshin*” [lit. why are you being choosy among the Quraysh] (90) into “why do you insist on choosing a wife from among the Quraish”, the term “*tanawwaqu*” [lit. to be choosy] refers to the act of exaggerating something. The choice of “insist on” by

al-Khaṭṭāb might have a negative connotation that the Prophet only intended to marry a woman from Quraysh. Thus, TT readers will not understand the ST's intended meaning. In contrast, Ṣiddīqī translated it into "select," which lacks the exaggerated sense in the ST. Furthermore, a difference in the word choice can be observed in the translation of "*fa-tazawwajtu ʿalayhā ukhrā*" [lit. then I married on her another] (100), Ṣiddīqī used "I married another," while al-Khaṭṭāb used "I took another wife." The verb 'took' might portray a negative connotation as it might refer to controlling or seizing with authority.

Some word choices result in a wrong interpretation of the ST's intended meaning. For instance, Ṣiddīqī's choice of "foster-brother" does not reflect the ST "*akhī min al-raḍāʿati*" [lit. my brother by breastfeeding] (92) as it refers to a male who is not a son of your parents but who is raised by them. The word 'raised' has a broad meaning as it may or may not include breastfeeding. Thus, TT readers will not recognise the ST's intended meaning, i.e. brother through breastfeeding. Similarly, the choice of "foster uncle" to translate "*ammī min al-raḍāʿati*" [lit. my uncle by breastfeeding] (84) does not reflect the ST meaning, as it refers to a man who looks after or brings up a child or children as an uncle with no indication of breastfeeding. Another example is in the use of "consanguinity" to translate "*al-nasab*" (lineage) (82) by Ṣiddīqī, which refers to the blood relationship; i.e. people who are descended from the same ancestor. He used the same word in another *ḥadīth* to translate "*al-wilāda*" (birth) (78). This gives the connotation that he considered both ST terms synonyms. However, both words have particular meanings as "*al-wilāda*" (birth) refers to siblings, while "*al-nasab*" (lineage) refers to blood relations. In contrast, al-Khaṭṭāb used "birth" (77) to translate "*al-wilāda*" (birth) which is literal and, thus, might cause vagueness for TT readers. He translated "*al-nasab*" (lineage) into "blood ties" (93) and into "lineage" (82), which reflect the ST meaning. A further example is the translation by Ṣiddīqī of "*la tuḥarrimu al-raḍʿatu aw al-raḍʿatāni, aw al-mṣṣatu aw al-maṣṣatāni*" [lit. it is not forbidden by one breastfeeding or two breastfeedings, or by one suckling or two sucklings] into "Being suckled once or twice, or one suckling or two, do not make anything forbidden" (102) and "*aw al-raḍʿatāni aw al-maṣṣatāni*" [lit. or two breastfeedings or two sucklings] into "two sucklings" (103). These do not convey the ST meaning because there is a difference between "*raḍʿa*" [lit. one breastfeeding], which refers to drinking the milk, and "*maṣṣa*" [lit. one suckling], which does not

necessarily include drinking. This could imply his belief that two sucklings, whether they include drinking or not, do not affect the marriage. As a result, TT readers might not recognise the difference between the two terms.

Other uses of synonyms show that Şiddīqī and al-Khaṭṭāb acknowledged the ST meaning. They recognised that the ST terms “*maṣṣa*” [lit. one suckling] and “*imlāja*” [lit. one breast suckling] are synonyms. This can be illustrated in their translations of “*la tuḥarrimu al-mṣṣatu wa al-maṣṣatānī*” [lit. It is not forbidden by one suckling and two sucklings] and “*la tuḥarrimu al-imlājatū wa-l-imlājatānī*” [lit. It is not forbidden by one breast suckling and two breast sucklings]. The former translated them as “One Suckling or two do not make (marriage) unlawful” (104), while the latter used “One or two sucks do not make anything forbidden” (99) (104). Moreover, Şiddīqī used “A bedouin” (100) and “A desert Arab” (191) to translate “*ʿarābiyyun*” (a Bedouin), while al-Khaṭṭāb used “Bedouin” to translate “*ʿarābiyyun*” (a Bedouin) (100) and “*bād*” (villager) (36). ‘Villagers’ are individuals who live or settle in a village, while ‘bedouins’ are nomadic Arabs of the Arabian, Syrian or Northern African deserts. Its use to describe people might have a negative connotation.

Several examples show an experiential value of word choice of both translators. For example, Şiddīqī used the phrase “I would not permit Aflaḥ unless I have solicited the opinion of Allah’s Messenger (may peace be upon him)” to translate “*la ādhanu li-Aflaḥa, ḥattā astaḍhina rasūla Allāha ṣallā Allāhu ʿalayhi wa-sallama*” [lit. I will not give permission to Aflaḥ, until I ask permission from the Messenger of Allāh, peace be upon him] (82). This phrase concerns ʿĀʾisha’s decision not to permit her uncle by reason of breastfeeding to enter her house. Şiddīqī’s translation reflects his understanding that ʿĀʾisha is waiting for the Prophet’s opinion about this matter. In contrast, al-Khaṭṭāb used “I will not give permission to Aflaḥ until I seek permission from the Messenger of Allāh ṣallā Allāhu ʿalayhi wa-sallam” to translate the same phrase. His translation conveys the connotation of the importance of seeking permission rather than advice. By comparing the translation of “*fa-amaranī an ādhana lahu*” [lit. then he ordered me to permit him] (80), it can be observed that Şiddīqī used “commanded me,” while al-Khaṭṭāb used “told me.” Şiddīqī’s choice of word is closer to the ST’s intended meaning because the verb “*amara*” (ordered) implies an imperative mode. Also, al-Khaṭṭāb used “consulted” (84) to translate

“*istaʿmara*” (ordered) while he used “seek permission” (82) in another *ḥadīth* to translate “*istaʿdhana*” (asked for permission). This shows al-Khaṭṭāb’s recognition of the difference between the two terms, in addition to his adherence to the Prophet in terms of consultation and seeking permission. In contrast, Ṣiddīqī did not recognise the difference between both terms as he translated them as “solicited the opinion of” (82, 84).

More comparisons of word choice are illustrated in the translation of “*al-raḥimī*” (kinship) in “*yaḥrumu min al-raḍāʿati mā yaḥrumu min al-raḥimī*” [lit. what it is forbidden from breastfeeding is forbidden from kinship] (92). The ST sentence explains that breastfeeding, similar to blood relations, makes marriage invalid. Ṣiddīqī used “genealogy,” which means the study of family history. Al-Khaṭṭāb conveyed the ST’s intended meaning by choosing “kinship,” which refers to the state of being related to the people in your family. Additionally, in the translation of “*hal laka fī ukhtī binti Abī Sufyāna? fa-qāla: afʿalu mādhā?*” [lit. Do you want my sister the daughter of Abī Sufyān? then he said: I do what?] (95) when asking the Prophet if he wants to marry the daughter of Abī Sufyān, Ṣiddīqī chose “Have you any inclination towards my sister, the daughter of abī Sufyān? He (the Holy Prophet) said: Then what should I do?”. This expresses the ST’s feeling and effect, while al-Khaṭṭāb translated it literally by choosing “‘What about my sister, the daughter of Abū Sufyān?’ He said: ‘What should I do?’”, which might cause ambiguity for the TT reader. A further discrepancy appears in the translation of “*ʿammī*” (my paternal uncle) (81) as Ṣiddīqī used “uncle,” while al-Khaṭṭāb provided greater accuracy by using “paternal uncle.” The ST word “*ʿam*” refers to one’s father’s brother, while “*khāl*” to one’s mother’s brother. However, neither translation changes the ST’s meaning. In addition, in the translation of “*a-tuḥarrimu al-maṣṣatu?*” [lit. does one suckling make it forbidden?] (105) the use of “Does one suckling make (the marriage) unlawful?” by Ṣiddīqī and “Does one suck make anything forbidden?” by al-Khaṭṭāb reveal that the former opted for showing the TT reader that the marriage is legally and religiously invalid. In contrast, al-Khaṭṭāb only focused on the religious impact. These differences may reflect an expressive value as they show the translators’ way of expressing their feelings through their word selections. Thus, al-Khaṭṭāb’s readers might not receive an equivalent effect to the ST readers.

Additionally, several *ḥadīths* present the conditions that validate or invalidate marriage; for example, the prohibition on making a marriage proposal when one has already been made to a woman, seeking permission of women in marriage, marrying a pious lady, paying a dowry for a woman and hold a wedding feast. Different translation decisions were made by both translators in the following *ḥadīth* (see Table 4.13).

Table 4.13: Ṣiddīqī's and al-Khaṭṭāb's Translations of a Ḥadīth on the Conditions that Validate or Invalidate Marriage

Ṣiddīqī's Translation	Al-Khaṭṭāb's Translation	ST
Chapter DLXXIII. Excellence of contracting marriage with a pious lady. Abū Huraira (Allah be pleased with him) reported Allah's Messenger (may peace be upon him) as saying: <u>A woman may be married for four reasons</u> : for her <u>property</u> , her <u>status</u> , her beauty and her religion; so <u>try to get one who is religious</u> , may your hand be <u>besmeared</u> with dust.	Chapter 15. It is Recommended to marry <u>one</u> who is religiously committed. It was <u>narrated</u> from Abū Hurairah that the Prophet صلى الله عليه وسلم said: "Women are married for four things: Their <u>wealth</u> , their <u>lineage</u> , their beauty and their religion. <u>Choose the one with religion</u> , may your hands be <u>rubbed</u> with dust."	(باب استحباب نكاح ذات الدين) (التحفة 39). حَدَّثَنَا زُهَيْرُ بْنُ حَرْبٍ وَمُحَمَّدُ بْنُ الْمُثَنَّى وَعُبَيْدُ اللَّهِ بْنُ سَعِيدٍ قَالُوا: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ عُبَيْدِ اللَّهِ: أَخْبَرَنِي سَعِيدُ بْنُ أَبِي سَعِيدٍ عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: "تُنْكَحُ الْمَرْأَةُ لِأَرْبَعٍ: لِمَالِهَا، وَلِحَسَبِهَا، وَلِجَمَالِهَا، وَلِدِينِهَا، فَاظْفَرْ بِذَاتِ الدِّينِ تَرِبْتُ يَدَاكَ". [lit. (Chapter of the preference of marrying the woman of religion) (<i>al-Tuḥfa</i> 39). Zuhayr the son of Ḥarb reported to us and Muḥammad the son of al-Muthannā and °Ubayd Allāh the son of Sa°d they said: Yaḥyā the son of Sa°d reported to us according to °Ubayd Allāh: Sa°d the son of Abī Sa°d informed me according to his father, according to Abī Hurayra according to the Prophet, peace be upon him, said: "a woman is married for four: for her money, and for her family reputation, and for her beauty, and for her religion, then obtain the religious may your hands be in dust"] (114)

It can be noticed that Ṣiddīqī used a semicolon in order to connect the final characteristic "her religion" with the next phrase, "then obtain the religious" in "*/i-dīnihā, fa-ẓfar bi-dhāti al-dīni*" [lit. for her religion, then obtain the religious] into "her religion; so try to get one who is religious." Grammatically, a semicolon has only one

use, which is to link two separate but related sentences into one sentence. This is applied when the two sentences are too closely related to be separated by a full stop, and when there is no connecting word that would need a comma or when the special conditions requiring a colon are absent. In this particular example, he might have written: "...her religion. Try to get one who is religious" or "...her religion, so try to get one who is religious." However, he used a semicolon to indicate that both sentences are closely related and used a linking word to show the result of this action "...her religion; so try to get one who is religious." An omission of the quotation marks in "*tunkaḥu al-marʿatu li-arbaʿin: li-mālihā, wa-li-ḥasabihā, wa-li-jamālihā, wa-li-dīnihā, fa-zfar bi-dhāti al-dīni taribat yadāka*" [lit. "a woman is married for four: for her money, and for her family reputation, and for her beauty, and for her religion, then obtain the religious may your hands be in dust"] can be observed. Quotation marks, in this context, are used to indicate material that reflects the exact wording of the Prophet. This might represent a relational value, as the translator might assume that the reader recognises that these are the Prophet's words. These changes highlight Şiddīqī's free translation style to convey the ST message. In addition, in the translation of "*tunkaḥu al-marʿatu li-arbaʿin*" [lit. the woman is married for four] into "A woman may be married for four reasons," the auxiliary verb 'may' has a relational value. Relational modality is "a matter of the authority of one participant in relation to others" (Fairclough, 2001: 105). Therefore, 'may', in this context, indicates the degree of necessity of marrying a woman with the aforementioned characteristics. However, al-Khaṭṭāb did not change the structure between the ST and the TT. Nevertheless, an omission of the expression "*raḍiya Allāhu ʿanhu*" (may Allah be pleased with him) can be observed in his translation, which might reflect an experiential value, as it gives a hint that the translator might be associated with a particular religious denomination. This omission could have ideological implications for the translation. Although it did not change the ST's legal message it could change its effect; thus, TT readers will not receive the ST's intended effect.

Speaking of word choice, "*fa-zfar*" (then obtain) is an allegorical use to indicate winning, i.e. win the woman who is religious along with the three other characteristics. The Prophet recommends that a man choose a woman of piety otherwise he will end up empty-handed. This stresses the importance of starting families on solid foundations so that the marriage can last. Şiddīqī used the expression "try to get one

who is religious,” which carries the implication of the importance of searching for a religious woman to marry. This use has expressive value as it is associated with a feeling of trying. The translator, in his footnote, emphasised that the first three characteristics of a woman are merely worldly considerations but being religious is most prized by the Prophet. This approach could represent an ideological practice as the translator could just choose the word 'win', which refers to the ST's intended meaning. In other words, instead of using the word “*fa-zfar*” (then obtain), which in its context means 'win', he used “try to get.” This is because he might believe that some people focus more on a woman's beauty, status and property than on her religion, but this is not used in the ST. Thus, he conveyed that religion is the only essential characteristic in a marriage contract. This does not equate with the effect of the ST, which stresses the importance of the four characteristics, with the most important being religion. Şiddīqī's translation has a declarative mode, as the subject position of the translator is that of a giver of information and the reader's position is that of a receiver. In contrast, al-Khaṭṭāb used the word “choose,” which indicates a deeper connotation and an equivalent effect to the ST. Al-Khaṭṭāb's translation “choose the one with religion” has an imperative mode, as he is in the position of telling the reader who is a compliant actor. The use of these modes reflects a relational value because it builds a connection with the readers or strongly motivates them. The phrases “who is religious” and “with religion” indicate the different use of adjective and noun by the two translators. Adjectives reflect a stronger implication than nouns.

Both translators used synonyms to convey the ST's intended meaning, but they do not change the ST's message, instead reflecting the translators' diversity in word choices (see Table 4.14).

Table 4.14: Şiddīqī's and al-Khaṭṭāb's Use of Synonyms

Şiddīqī	Al-Khaṭṭāb	Explanation	ST
“pious”	“religiously committed”	Although both adjectives are synonyms, they are slightly different in meaning. 'Religious' is concerning religion, while 'pious' refers to	“ذات الدين” [lit. the religious]

		exhibiting and pertaining to piety, devout, godfearing. Thus, Ṣiddīqī's choice is closer to the ST's intended meaning.	
"property"	"wealth"	'Property' is related to belongings owned or possessed, while 'wealth' is a more general word that involves an abundance of valued property, possessions or money.	"مالها" [lit. her money]
"status"	"lineage"	The former is more general than the latter, as 'status' refers to a position or rank in relation to others, while 'lineage' means the ancestors from whom a person is descended.	"حَسْبِهَا" [lit. her family reputation]
"reported"	"narrated"	'report' is intransitive and used to relate details of an event or incident, to recount and to describe something, while 'narrate' is to refer to a story or series of events by speech or writing.	"أَخْبَرَنِي" [lit. informed me]
"besmeared with dust"	"rubbed with dust"	Ṣiddīqī stated in his footnote (1971:749), "Taribat yadāka literally means: May your hands be besmeared with dust. It is explained as being used to encourage one to action", while al-Khaṭṭāb added in	"تَرَبَّتْ" [lit. be in dust]

		the footnote, "Meaning, may you prosper" (2007:119).	
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Other differences are in the translations of the following *ḥadīth* (see Table 4.15).

Table 4.15: Ṣiddīqī's and al-Khaṭṭāb's Translations of a *Ḥadīth* on the Preference in Marriage

Ṣiddīqī's Translation	Al-Khaṭṭāb's Translation	ST
Chapter DLXXIV. Excellence of marrying a virgin. Jābir b. 'Abdullah (Allah be pleased with them) reported: I married a woman during the lifetime of Allah's Messenger (may peace be upon him). I met the Apostle of Allah (may peace be upon him), whereupon he said: Jābir, have you married? I said: Yes. He said: A virgin or one previously married? I said: With one previously married, whereupon he said: Why did you not marry a virgin with whom you could sport? I said: Allah's Messenger, I have sisters; I was afraid that she might <u>intervene</u> between me and them, whereupon he said: <u>Well and good, if it is so.</u> A woman is married for <u>four reasons</u> , for her religion, her property, her status, her beauty, so <u>you should choose one with religion.</u> May your hands cleave to dust.	Chapter 16. It is recommended to marry virgins. Jābir bin 'Abdullāh said: "I married a woman at the time of the Messenger of Allāh صلى الله عليه وسلم, and I met the Prophet صلى الله عليه وسلم and he said: 'O Jābir, have you gotten married?' I said: 'Yes.' He said: 'A virgin or a previously-married woman?' I said: 'A previously-married woman.' He said: 'Why not a virgin so you could <u>play with her</u> ?' I said: 'O Messenger of Allāh, I have sisters, and I was afraid that she might <u>cause trouble</u> between myself and them.' He said: 'That's fine then. A woman is married for her religion, her wealth or her beauty. Choose the one with religion, may your hands be rubbed with dust.'"	(باب استحباب نكاح البكر) (التحفة 40). وَحَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ نُمَيْرٍ: حَدَّثَنَا أَبِي: حَدَّثَنَا عَبْدُ الْمَلِكِ بْنُ أَبِي سُلَيْمَانَ عَنْ عَطَاءٍ: أَخْبَرَنِي جَابِرُ بْنُ عَبْدِ اللَّهِ قَالَ: تَزَوَّجْتُ امْرَأَةً فِي عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَلَقِيتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ "يَا جَابِرُ! تَزَوَّجْتَ؟" قُلْتُ: نَعَمْ. قَالَ: "بِكْرٌ أَمْ ثَيِّبٌ؟" قُلْتُ: ثَيِّبٌ، قَالَ: "فَهَلَّا بِكْرًا تَلَا عِبْهَا؟" قُلْتُ: يَا رَسُولَ اللَّهِ! إِنَّ لِي أَخَوَاتٍ، فَخَشِيتُ أَنْ تَدْخُلَ بَيْنِي وَبَيْنَهُنَّ، قَالَ: "فَإِذَاكَ إِذَا، إِنَّ الْمَرْأَةَ تُنْكَحُ عَلَى دِينِهَا، وَمَالِهَا، وَجَمَالِهَا، فَعَلَيْكَ بِذَاتِ الدِّينِ تَرِبَتْ يَدَاكَ". [lit. (Chapter of the preference of marrying a virgin) (<i>al-Tuḥfa</i> 40). And Muḥammad the son of 'Abd Allāh the son of Numayr reported to us: my father reported to us: 'Abd al-Malik the son of Abī Sulaymān reported to us according to 'Aṭā': Jābir the son of 'Abd Allāh informed me that he said: I married a woman at the time of the Messenger of Allāh, peace be upon him, then I met the Prophet, peace be upon him, then he said: "O Jābir! Have you married?" I said: yes. He said: "a virgin or a previously married one?" I said: a previously married one, he said: "why not a virgin to <u>play with her</u> ?" I said: O Messenger of Allāh! I have sisters, so I was afraid that she may <u>interfere</u> between me and them, he said: "so that it is then, the woman is married for her

		religion, and her money, and her beauty, <u>so go for the religious</u> may your hands be in dust] (115)
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The translation of “*tulā^cibuhā*” (play with her) into “with whom you could sport” by Şiddīqī is vague and could change the ST’s effect and meaning. Sport generally refers to a physical competition between a group of players or teams and does not necessarily involve the intimate emotions conveyed in the ST. In the ST context, “*mulā^caba*” (playing) refers to flirting between husband and wife. Al-Khaṭṭāb translated the same phrase into “you could play with her,” which is closer to the ST’s intended meaning. Moreover, Şiddīqī used “Well and good, if it is so” to translate “*fa-dhāka idhan*” [lit. so that it is then], which might show his strong agreement with Jābir’s reason. Also, ‘should’ in “you should choose one with religion,” which is most commonly used to make recommendations or give advice, can also be used to express obligation as well as expectation. The additions of “for four reasons” and “her status” in “*inna al-marʿata tunkaḥu ʿalā dīnihā, wa-mālihā, wa-jamālihā*” [lit. a woman is married for her religion, and her money, and her beauty] “A woman is married for four reasons, for her religion, her property, her status, her beauty” might cause confusion to the TT readers because only three reasons occurred in the ST. This shows the use of intertextuality in Şiddīqī’s translation, as there are only three reasons mentioned in this *ḥadīth*, while four reasons were mentioned in the previous one. Also, Şiddīqī used “intervene” to translate “*tadkhula*” (interferes), while al-Khaṭṭāb used “cause trouble,” which is more specific. The former does not convey the ST’s meaning because ‘intervene’ refers to interfering in a situation without positive or negative invitation. In contrast, ‘causing trouble’ is always negative.

By comparing Şiddīqī’s translation of the two *ḥadīths*, it can be observed that the verb “*taribat*” [lit. be in dust] was translated into “be besmeared with dust” and “cleave to dust.” The Arabic verb “*taribat*” means ‘to be destitute’ or ‘to become impoverished’ or ‘to be dusty’, depending on the context, but “prosper” is not part of the definition. The closest word for that is the term “*atrāb*,” which means being rich. Both words have the same root, despite their opposite meanings. However, the Prophet allegedly said “*taribat*” and not “*atrāb*.” Thus, to say it means to prosper goes against the definition. As for the meaning of “*taribat yadāka*” [lit. may your

hands be in dust], it was originally a supplication meaning ‘may your hand get rubbed with dust, because of poverty you are not going to do something’. Ancient Arabs used this expression to express other things such as disagreeing, encouraging, blaming and stressing a point, which is how it is used in this *ḥadīth*. This diversity in the word choice provides the reader with different interpretations, which serve as a clearer ST message. Although Ṣiddīqī used different wordings for the same phrase, he did not change the ST’s intended meaning.

4.1.3 The Book of Divorce

Ḥadīths in this section tackle various cases and concepts of divorce, permitted in Islam as a last resort. They explain that separation between spouses should be in a fair manner, both parties be treated with respect and justice, and all other options be exhausted. *Talaq*, or divorce initiated by the husband, may be verbal or written and only done once, and the wife has full rights to keep the dowry paid to her. Divorce initiated by the wife means she can either forgo her right to keep the dowry (*khulʿ*) or ask a judge for divorce with cause, which involves proof that her husband has not met his duties, making it unjust for her to return the dowry. In this case, the judge’s determination is on the facts of the case and the law and may require a separate legal process of divorce, which usually involves filing a petition with a local court, a waiting period, hearings, and obtaining a legal decree of divorce. This suffices for an Islamic divorce as it meets Islamic requirements. The principal ruling concerning “*ṭalāq*” is that when a Muslim intends to divorce his wife, she must be in the period of ritual purity (*ṭuhr*) during which no sexual intercourse has taken place, or she is obviously pregnant. The case of a divorce issued by one who is drunk is also discussed in this chapter.

In any Islamic divorce procedure, there is a three-month waiting period (*ʿidda*) before the divorce is finalised. The concept of “*ʿidda*” and its duration for menstruating and pregnant wives are discussed in the *ḥadīths*. During the *ʿidda*, the couple lives together but sleeps apart to give them time to evaluate and perhaps reconcile, and the couple may choose to resume their relationship without a new marriage contract. The *ʿidda* also provides time to determine if the wife is pregnant, in which case the waiting period continues until the child’s birth. The wife has the right to remain in the

family home and looked after by her husband until the divorce is finalised, at which time she returns to her family's home and no longer receives financial support from her husband, who must still make regular child support payments. Reconciliation after divorce requires a new marriage contract and dowry. There is a limit to the number of times the same couple can marry and divorce. According to Islamic Law, a couple may not remarry after a third divorce until the woman consummates her marriage to a different man and is divorced or widowed. This is meant to prevent careless third divorce as well as to allow the woman the opportunity to find happiness in a different marriage or desire reconciliation with her first husband.

Additionally, this chapter also tackles the concept of "*liʿān*," a method of divorce, and its judgement in Islamic Law. *Liʿān*, or being driven away from the mercy of Allah, is an Islamic legal term for the act of mutual swearing before a judge when a wife is accused of adultery but her husband cannot find four witnesses and replaces "*qadhī*" for the husband and punishment for the wife.

In this section, *ḥadīths* refer to the duties of both the husband and wife in supporting the family. The secret to a family's success is the way in which a husband takes care of his wife, and vice versa. The husband is obliged to spend reasonably on his family, his wife and children. If a husband does not spend on his family, the wife may take a reasonable amount of her husband's money without his permission. In regards to the wife's duty towards her family, she should help her husband in raising the children. Wives should breastfeed their children for two years and maintain their husbands' property.

4.1.3.1 Khān's and al-Sharīf's Strategies

In their translations of the topic, Khān and al-Sharīf adopted common strategies. In addition to translation by omission and addition, they choose particular words to render the ST message. For instance, in the translation of "*la uṭīquhu*" (I do not bear him) (112), each translator has a different focus. For example, Khān chose "I cannot endure to live with him," while al-Sharīf chose "I cannot bear him." The former focused on the situation of living with the husband, while the latter focused on the husband himself. Although the verbs used may appear to be synonyms, they have

different meanings; to bear is to permit oneself to be under an unpleasant thing, particularly without giving way, while 'endure' is to go through a hardship without giving up. Thus, the difference is that 'to bear' conveys the concept of acceptance, while 'to endure' conveys the concept of resistance. Another difference in word choice appears in a different *ḥadīth*. The phrase “*ḥattā yadhūqa ʿusaylatiki wa-tadhūqī ʿusaylatahu*” [lit. until he tastes your sweetness and you taste his sweetness] (98) was said by the Prophet to a woman who wanted to remarry her first husband after she had married another man. Khān translated it into “until you enjoy the sexual relation (consummate your marriage) with Abdur-Raḥmān and he with you,” whereas al-Sharīf translated it as “until you and Abdur'rahman consummate your marriage.” Thus, Khān's translation contains further explanation of the ST's intended meaning.

Some translations may result in a different ST message, for instance, in a *ḥadīth* about Ibn ʿUmar who divorced his wife at the time of her menses. He asked the Prophet “*famah?*” (what?) (94). Khān translated it into “Of course,” while al-Sharīf used “What would it be then (if it was not counted as so)?”. Thus, Khān's translation does not reflect the ST's meaning. Also, in the translation of “*innī akhāfu al-kufra*” (I am afraid of disbelief) (113), which was said by Thabit's wife who wanted to be divorced, Khān translated it into “I am afraid that I (being a Muslim) may become unthankful for Allāh's Blessings.” This does not convey the ST's intended meaning. Khān translated “*bi-sāʿatin*” (in an hour) (118) into “by a short while.” This translation lacks accuracy as the time was specified in the ST. Similarly, he translated “*baʿḍu al-nāsi*” (some people) (124) into “scholars.” Another change in the ST's meaning can be illustrated in al-Sharīf's translation of “*fa-dhakara al-ḥadīth*” (He mentioned the *ḥadīth*) (114) into “(The same previous tradition).” Also, he translated “*imraʿatan min Aslama*” (A woman from Aslam) (135) into “A woman from Banu'aslam.” These translations do not reflect the ST message to the TT readers.

There is a difference in translating the word “*nisāʾi*” (my women) (151), as Khān translated it into “my women-folk,” while al-Sharīf translated it into “my wives.” The former refers to the women of a particular family or community considered collectively, which reflects the ST meaning. As “*nisāʾi*” and sometimes “*Fawāṭim*” refers to the women in ʿAlī's family (i.e. Faṭīma his wife, Faṭīma his mother, and Faṭīma his cousin) and not his wives (Ibn al-Athīr, 1979). In another *ḥadīth* about the

Prophet asking a poor man to give a basket of dates to charity for having sexual intercourse with his wife while fasting, the poor man said that he was the poorest. Thus, the Prophet laughed and asked him to take the basket for himself. In the translation of “*ḍaḥika*” (laughed) (153), both translators used the verb “smiled,” which does not transfer the ST’s intended effect. By comparing the translation of “*ṣāḥibikum*” (your companion) (156) between Khān and al-Sharīf, it can be observed that the former chose “your friend,” while the latter chose “their companion.” Another discrepancy between the ST’s and the TT’s message is the translation of “*ummi Ḥabībata zawji al-nabiyyi ṣallā Allāhu ‘alayhi wa-sallama*” (Um Ḥabība the wife of the Prophet, peace be upon him) (157), which was translated into “Ommu’habiba Bint “daughter of” Abu’sufyan “Allah be pleased with both” by al-Sharīf. By doing so, he provided the TT readers with a different description of Um Ḥabība than occurred in the ST.

It is crucial to highlight the difference in the translation of the word “*al-mushrikāt*” (polytheist women) by the two translators. Khān translated it into “al-Mshrikāt (pagan ladies)” (116) in one *ḥadīth*, while he described them as “(ladies who ascribe partners in worship to Allāh)” and “(idolatresses)” (115) in a previous one. Al-Sharīf translated it into “unbelieving women (idolaters)” and “the pagans” (115) in one *ḥadīth* and “heathenism” (116) in another. The words ‘pagan’ and ‘heathenism’ can have negative connotations. In historical contexts, ‘pagan’ and ‘heathen’ refer to an individual who is not a Christian, Jewish, or Muslim. Thus, neither word reflects the ST’s intended meaning. Another translation difference is in “*fa-lammā fataḥa Allāhu ‘alayhi al-futūḥa*” [lit. When Allāh opened upon him the openings]. Khān translated it into “when Allāh (enriched) the Prophet *ṣallā Allāhu ‘alayhi wa-sallam* by making him victorious (in his Holy-expeditions),” while al-Sharīf chose “When Allah made The Prophet “Allah’s blessing and peace be upon him” wealthy through conquests.” The latter might have a negative connotation as the use of the word “wealthy” in this context might reflect that the Prophet is wealthy because of his expeditions. Thus, the word “victory” is more accurate.

Both translators opted for changing the mode between the ST and TT sentences. For example, in a *ḥadīth* about whether a woman could marry her first husband after being divorced from the second, the sentence mode in “*ataḥillu li-l-awwali?*” [lit. Is

she lawful for the first?] (99) was changed by al-Sharīf from a question into an informative sentence “whether she could marry the first husband.” Additionally, Khān applied the same strategy by changing the sentence mode of “*ḥukmi al-mafqūdi fī ahlihi, wa-mālihi*” [lit. The judgement of the lost person in his family and his money] (123) into a question “What are the regulations concerning the property and the family of a lost person?” In another *ḥadīth*, both translators opted for changing the indirect form in the ST sentence “*innahu qad zanā*” into direct “I have committed illegal sexual intercourse” by Khān and “I have committed adultery” by al-Sharīf. This strategy does not change the ST’s meaning but reflects the translators’ expressive values.

Some omissions also occur in the translations of Khān and al-Sharīf. For instance, in a *ḥadīth* about the duration that mothers should breastfeed their children, the phrase “*fiṭāmuhu: {fiṣāluhu}*” (his weaning: {his ablactation}) (148) was deleted by Khān. This omission might hinder the ST’s effect or understanding. However, al-Sharīf deleted the whole *ḥadīth*, which is inaccurate in rendering the ST’s message. Al-Sharīf stated in an interview (see Appendix 3) that if the difference between *ḥadīths* is in the use of prepositions, then the phrase “with slight variation of wording” is added. However, if the *ḥadīth* is the same but narrated by a different chain of transmitters, then this will be highlighted by adding the phrase “The same previous tradition.” This strategy might change the ST’s intended effect as every word said by the Prophet presents a particular purpose. A further omission applied by both translators is the phrase “*bi-ghayri ʿilmihī*” (without his knowledge) (149) in a *ḥadīth* that tackles the permission required for a wife to take a reasonable amount of her husband’s money if he does not spend it on her or her children. This omission results in an incomplete delivery of the ST’s intended message as TT readers will not understand that this act is permissible, even if the husband is unaware. More omissions appear in the translations in a different context. For example, in a *ḥadīth* that involves the prohibition of marriage for the reason of breastfeeding, “*fa-wa-llāhi*” (by Allah) and “*fī ḥajrī*” [lit. under my custody] (157) were deleted by both translators. These omissions may impair the ST’s intended meaning, as the omissions provide the readers with further explanation as to the reasons for the prohibition.

4.1.3.2 Şiddīqī's and al-Khaṭṭāb's Strategies

By considering the translation strategies applied by Şiddīqī and al-Khaṭṭāb in the translation of *ḥadīths* in this regard, a number of translational differences can be observed (see Table 4.16).

Table 4.16: Şiddīqī's and al-Khaṭṭāb's Translations of a *Ḥadīth* on Divorce

Şiddīqī's Translation	Al-Khaṭṭāb's Translation	ST
Chapter DLXXVII. It is forbidden to divorce the woman during her menses. Ibn 'Umar (Allah be pleased with them) reported that he divorced his wife while she was menstruating during the lifetime of Allah's Messenger (may peace be upon him). 'Umar b. Khaṭṭāb (Allah be pleased with him) asked Allah's Messenger (may peace be upon him) about it, whereupon Allah's Messenger (may peace be upon him) said: Command him ('Abdullah b. 'Umar) to take her back (and keep her) and pronounce divorce when she is purified and she again enters the period of menstruation and she again purified (after passing the period of menses), and then if he so desires he may keep her and if he desires divorce her (finally) before touching her (without having an intercourse with her), for that is the period of waiting ('Idda) which God, the Exalted and Glorious, has commanded for the divorce of women.	Chapter 1. The prohibition of divorcing a menstruating woman without her consent; if a man breaks this rule it still counts as a divorce, and he should be ordered to take her back. It was narrated from Ibn 'Umar that he divorced his wife while she was menstruating, at the time of the Messenger of Allāh صلى الله عليه وسلم. 'Umar bin Al-Khaṭṭāb asked the Messenger of Allāh صلى الله عليه وسلم about that and the Messenger of Allāh صلى الله عليه وسلم said to him: "Tell him to take her back, then wait until she has become pure, then menstruated again, then become pure again. Then if he wishes he may keep her, or if he wishes he may divorce her before he has intercourse with her. That is the 'Iddah (prescribed periods) for which Allāh has enjoined the divorce of women."	(بَابُ تَحْرِيمِ طَلَاقِ الْحَائِضِ بِغَيْرِ رِضَاهَا، وَأَنَّهُ لَوْ خَالَفَ وَقَعَ الطَّلَاقُ وَيُؤْمَرُ بِرَجْعَتِهَا) (التحفة 1) حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ قَالَ: قَرَأْتُ عَلَى مَالِكٍ بْنِ أَنَسٍ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، أَنَّهُ طَلَّقَ امْرَأَتَهُ وَهِيَ حَائِضٌ فِي عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَسَأَلَ عُمَرُ بْنُ الْخَطَّابِ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ ذَلِكَ؟ فَقَالَ لَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "مُرْهُ فَلْيُرْجِعْهَا، ثُمَّ لْيَتْرُكْهَا حَتَّى تَطْهَرَ، ثُمَّ تَحِيضَ، ثُمَّ تَطْهَرَ، ثُمَّ إِنْ شَاءَ أَمْسَكَ بَعْدُ، وَإِنْ شَاءَ طَلَّقَ قَبْلَ أَنْ يَمْسَ، فَبِتِلْكَ الْعِدَّةِ الَّتِي أَمَرَ اللَّهُ [عَزَّ وَجَلَّ] أَنْ يُطَلَّقَ لَهَا النِّسَاءُ". [lit. (Chapter on the prohibition of divorcing the menstruating woman without her consent, and if he breaches this, the divorce takes place and he is ordered to take her back) (al-Tuḥfa 1) Yaḥya the son of Yaḥya al-Tamīmī reported to us he said: I read on Mālik the son of Anas according to Nāfi', according to the son of 'Umar, that he divorced his wife while she was menstruating at the time of the Messenger of Allāh, peace be upon him, then 'Umar the son of al-Khaṭṭāb asked the Messenger of Allāh, peace be upon him, about that? Then the Messenger of Allāh, peace be upon him, said to him: "order him to take her back, then he should leave her until she becomes pure, then gets menstruated, then becomes pure, then if he wishes, he can hold thereafter, and if he wishes,

		he can divorce her before he touches her, then that is the waiting period that <u>Allāh</u> [the Exalted and the Majestic] orders for divorcing women"] (116).
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In the *ḥadīth* above, Şiddīqī adopted domestication strategy by making the TT readable and understandable to the readers by explaining through additional phrases. For example, in the translation of “*yatrukuhā*” (leave her) into “pronounce divorce,” the translator specified that the meaning of “*tark*” (leaving) in the ST implies dissolving a marriage. Also, Şiddīqī used “God” in this *ḥadīth* to translate “Allah,” while he used “Allah” throughout his translation. The names “Allah” and “God” are generally interchangeable in English texts about Islam. Some English translations of the Qur’ān use “God,” while others use “Allah.” Former Muslims who convert to Christianity usually refer to “God” as “Allah.” Thus, Şiddīqī’s use of both words indicates that he targeted TT readers who have different backgrounds. However, the use of “God” is not preferable in the translation of this genre because every reader will understand the reference of this word according to his religious belief. To test this in this study, readers who have different religious background were asked about their understanding of the word “God” in Şiddīqī’s translation of *Şaḥīḥ Muslim*. A Muslim reader said that it refers to Allah, while a Christian reader said that it refers to Jesus. Thus, using “God” in *ḥadīth* translation changes the ST’s intended meaning. In contrast, al-Khaṭṭāb’s general approach was that of fidelity. Yet “tell him” was used to translate “*murhu*” (order him), which might not reflect the ST’s intended imperative effect.

Moreover, Şiddīqī uses the passive voice “she is purified” to translate “*taṭṭhur*” (becomes pure), while al-Khaṭṭāb uses “she has become pure.” The use of the present perfect simple indicates an action that is in progress or that stopped recently but has an effect on the present. It emphasises the result. The passive voice is related to interest in the individual or object that experiences an action rather than the individual or object that does the action. In other words, the most crucial thing or individual becomes the subject of the sentence. This indicates that al-Khaṭṭāb’s translation decision is closer to the ST’s intended message.

Both translators opted for translation by addition to transfer the intended ST message. Şiddīqī added the following phrases: “(and keep her),” “(after passing the period of menses),” “(finally),” “(without having an intercourse with her)” and “(‘Idda).” al-Khaṭṭāb added “if a man,” “to him” and “(prescribed periods).” These additions provide TT readers with a clearer understanding. Another addition is “(‘Abdullah b. ‘Umar)” by Şiddīqī, which defines the pronoun ‘him’. Unlike al-Khaṭṭāb, Şiddīqī omitted “*bi-ghayri riḍāhā, wa-annahū law khālafa waqā‘a al-ṭalāqu wa-yu‘maru bi-raj‘atihā*” [lit. without her agreement, and if he breaches the divorce will take place and he will be ordered to take her back] which results in an incomplete message in the TT and, thus, changes the ST’s intended meaning.

While analysing *ḥadīths* related to this subject matter, shifting and word choice strategies were made by both translators. These decisions may lead to a change in the meaning or effect of the ST sentence. In this context, Şiddīqī’s translation of “*ṭallaqa imra‘atan lahu wa-hiya ḥāṣiḍun taḥlīqatan wāḥidatan*” [lit. he divorced his woman while she was menstruating with one divorce] (117) into “he divorced a wife of his with the pronouncement of one divorce during the period of menstruation” shows a change in the thematic structure of the ST by moving the woman’s status to the end of the TT sentence. Thus, Şiddīqī gave more attention to the number of pronouncements.

Additionally, Şiddīqī chose the word “authentic” to translate “*dhā thabatin*” (trusted) (125), while al-Khaṭṭāb chose “reliable.” In the ST, this adjective was used to describe the person, i.e. Abū Ghallāb, who was asked about divorcing a woman in the state of menses. ‘Authentic’ means genuine and real, whereas ‘reliable’ refers to being relied upon or trusted and responsible in achievement. It also could involve accuracy and honesty. Both words may seem similar in meaning; however, not everything that is authentic is reliable. The use of such words might have a negative or positive connotation in the TT. As a result, Şiddīqī’s readers might not receive a similar effect to the ST readers. Moreover, Şiddīqī chose the term “verdict” to translate “*qaḍā’*” [lit. the judgement] in “*qaḍā’i rasūli Allāhi ṣallā Allāhu ‘alayhi wa-sallam*” [lit. the judgement of the Messenger of Allāh, peace be upon him] (148), while al-Khaṭṭāb chose “ruling.” Although both terms are synonyms, they have different meanings. ‘Verdict’ is a decision on a matter of fact in a criminal or civil case

or an inquest, while 'ruling' is an order or a decision on a point of law from somebody in authority. Another example is Şiddīqī's use of "great mosque" to translate "*al-masjidi al-aʿẓamī*" (the greatest mosque) (153), while al-Khaṭṭāb used "grand masjid". Actually, the use of 'mosque' as a translation of "*masjid*" is not acceptable to many Muslims as it might have a hidden ideology and reflect a negative connotation. Also, there is a difference in the use of adjectives. 'Great' is very big or large scale, while 'grand' is of large size or extent. Consequently, Şiddīqī's readers might not receive a similar effect to the ST readers.

In the translation of the *ḥadīths* about *liʿān*, changes in the meaning or effect of the ST sentence were applied by both translators. Şiddīqī translated "*ʿan al-sunnaṭi fihima*" [lit. about the tradition in both of them] (168) into "and the practice of (liʿān)." The ST refers to the *mutalāʿinān*, i.e. those who are engaged in *liʿān*, and not *liʿān* itself. Thus, Şiddīqī might have failed in rendering the ST's intended message. Additionally, the phrase "*sibṭan qaḍīʾ al-ʿaynayn*" [lit. smooth hair red eyes] (180) in the ST was used to describe the child of the wife of Hilāl Ibn Umayya. Şiddīqī translated it into "having dark hair and bright eyes." The adjective "*sibṭan*" [lit. smooth hair] refers to straight and smooth hair and "*qaḍīʾ*" [lit. red eyes] refers to red, small-sized or teared eyes. Thus, the translation might change the ST's intended meaning. Another change in meaning appears in the translation of "*tuḏhiru fī al-Islāmi al-sūʾa*" [lit. to show the bad (face or side) of Islam] (181) into "spread evil in society." This translation does not convey the ST's intended meaning because the woman in this *ḥadīth* presented a negative image about Islam. Thus, the translation might reflect a negative connotation as the translator did not mention the correct reason that appears in the ST. These choices of words might hinder TT readers from understanding the ST's intended message.

In a similar vein, the word "servant" was used by Şiddīqī to translate "*al-ghulām*" (boy) (169), while al-Khaṭṭāb used "slave." "Slave" might reflect a negative connotation because it refers to a person who is in position of another person and whose work and life is often subjected to the owner's volition, while 'servant' is one who is hired to perform regular household or other duties and receives compensation. Thus, al-Khaṭṭāb's readers might not receive a similar effect to the ST readers. Moreover, it is important to highlight that both translators deleted the phrase "*qāla*:"

na'am" (he said: yes) at the end of the *ḥadīth* "*fa-farraqa rasūlu Allāhi ṣallā Allāhu 'alayhi wa-sallama baynahumā wa-alḥaqa al-walada bi-ummihi? qāla: na'am*" [lit. then the Messenger of Allāh, peace be upon him, separated between them and gave the boy to his mother? He said: yes] (175). The presence of this phrase in the last part of the *ḥadīth* emphasises that the Prophet did it. As a result, TT readers will not get the exact ST message about invoking *li'ān*.

4.1.4 The Book of Inheritance

This group of *ḥadīths* presents the calculations concerning Islamic inheritance. According to the Qur'ān and the Sunna, the male receives a portion that is equal to two females. If there are not any sons, and there are two daughters or more, the share for the daughters is two-thirds of the inheritance. If there is a single daughter, her share is half of the inheritance. Every parent receives a one-sixth share of the inheritance in case the deceased person left children. However, if the parents have no children and they are the sole heirs, the mother receives one-third. If the deceased person left brothers and sisters, their mother receives one-sixth. In the case of husbands and wives, if no entitled descendants exist, i.e. children and grandchildren, the husband receives one-half and the wife one-quarter of the inheritance. If entitled descendants exist, the husband receives one-quarter, while the wife receives one-eighth. *Ḥadīths* also tackle the case when the deceased had an obligatory debt, which it is to pay first. Thereafter, the rest of his property must be distributed among the legal heirs. If a deceased wills some of his property to charity, then this property cannot be inherited. Moreover, *ḥadīths* discuss that inheritance between Muslims and non-Muslims is prohibited. Additionally, the inheritance of *al-Kalāla* is explained, which refers to a person who dies leaving neither ascendants nor descendants.

4.1.4.1 Khān's and al-Sharīf's Strategies

In regard to the translation strategies, Khān and al-Sharīf used different word choices along with adding phrases. Examples are illustrated in the following *ḥadīth* (see Table 4.17).

Table 4.17: Khān's and al-Sharīf's Use of Word Choices and Addition

Khān's Translation	Al-Sharīf's Translation	ST
<p>نُصِيَّ الله <u>رضي الله</u> عنهما: The person about whom Allāh's Messenger صلى الله عليه وسلم said, "If I were to take a Khalīf from this nation (my followers), then I would have taken him (i.e., Abū Bakr), but the Islāmic Brotherhood is better (or said, 'good')," and regarded a grandfather as the father himself (in <u>distribution of inheritance</u>).</p>	<p>Abdullah Ibn Abbas "Allah be pleased with both" narrated: The man, about whom Allah's Apostle "Allah's blessing and peace be upon him" said: "If I were to take a <u>blossom friend</u>, I would certainly have taken him (<u>Abu'bakr</u>), but the Islamic brotherhood is better (or good), regarded one's grandfather as the father himself (<u>concerning inheritance</u>).</p>	<p>حَدَّثَنَا أَبُو مَعْمَرٍ: حَدَّثَنَا عَبْدُ الْوَارِثِ: حَدَّثَنَا أَيُّوبُ عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ قَالَ: أَمَّا الَّذِي قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "لَوْ كُنْتُ مُتَّخِذًا مِنْ هَذِهِ الْأُمَّةِ خَلِيلًا لَأَتَّخَذْتُهُ وَلَكِنْ أَخُوهُ الْإِسْلَامُ أَفْضَلُ، أَوْ قَالَ: خَيْرٌ"، فَإِنَّهُ أَنْزَلَهُ أَبَا أَوْ قَالَ: قَضَاهُ أَبَا.</p> <p>[lit. Abū Maʿmar reported to us: ʿAbd al-Wārith reported to us: Ayyūb reported to us according to ʿIkrima, according to the son of ʿAbbās he said: and about who the Messenger of Allāh, peace be upon him, said: "if I wanted to take from this nation a friend I would take one, but Muslim brotherhood is better", or he said: good", he did send him down as a father or said: decreed him as father] (172)</p>

In the above translations, there is a difference in the translation of "*khalīf*" (friend) as Khān chose "Khalīf," while al-Sharīf chose "blossom friend." This reflects the different interpretations of the ST by the translators. The ST word refers to a person upon whom the Prophet can depend and consult. Thus, Khān's translation is more accurate as "*khalīfa*" in Islam means successor. Moreover, it can be observed from the underlined phrases that both translators applied translation by addition to provide TT readers with a more complete understanding of the ST.

Additionally, translation by omission was adopted by both translators. Several examples are illustrated in the following table.

Table 4.18: Khān's and al-Sharīf's Use of Omission

Khān's Translation	Al-Sharīf's Translation	ST
<p>Chapter. Al-Walā' is for the manumitter. (Regarding) the inheritance of Al-Laḳīṭ (a small child or an insane person, who has nobody to be responsible for him). And 'Umar said, "Al-Laḳīṭ is a free person and not a slave." Narrated 'Āishah</p>	<p>The loyalty is for the manumitter; and what about the inheritance of the picked up child. A'isha "Allah be pleased with her" narrated: I bought Barira; and The Messenger of Allah "Allah's blessing and peace be upon him" said to me: "Buy her,</p>	<p>بَابُ: الْوَلَاءِ لِمَنْ أَعْتَقَ، وَمِيرَاثِ اللَّقِيطِ، وَقَالَ عُمَرُ: اللَّقِيطُ حُرٌّ. حَدَّثَنَا حَفْصُ بْنُ عُمَرَ: حَدَّثَنَا شُعْبَةُ عَنْ الْحَكَمِ، عَنْ إِبْرَاهِيمَ، عَنْ الْأَسْوَدِ، عَنْ عَائِشَةَ قَالَتْ: اشْتَرَيْتُ بَرِيرَةَ فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "اشْتَرِيهَا فَإِنَّ الْوَلَاءَ لِمَنْ أَعْتَقَ"، وَأَهْدِي لَهَا شَاءَ، فَقَالَ: "هُوَ لَهَا صَدَقَةٌ وَلَنَا هَدِيَّةٌ". قَالَ الْحَكَمُ: وَكَانَ زَوْجُهَا حُرًّا، وَقَوْلُ</p>

<p>رضي الله عنها: I bought Barīra (a female slave). The Prophet صلى الله عليه وسلم said (to me), "Buy her as Al-Walā' is for the manumitter. Once, she was given a sheep (in charity). The Prophet صلى الله عليه وسلم said, "It (the sheep) is Ṣadaqa (a thing given in charity) for her (Barīra) and a gift for us." Al-Ḥakam said, "Barīra's husband was a free man." Ibn 'Abbās said, "When I saw him, he was a slave." Narrated Ibn 'Umar رضي الله عنهما: The prophet صلى الله عليه وسلم said, "The Walā' is for the manumitter (of the slave)."</p>	<p>for the loyalty is for the manumitter." Once, (some mutton of) a sheep was given as a gift to her, of which The Messenger of Allah "Allah's blessing and peace be upon him" said: "It is (an object of) charity for her, and a present for us." Al'hakam said that her husband was a free person. But Ibn Abbas said: "I saw him (Barira's husband) and he was a slave." Ibn Omar "Allah be pleased with both" narrated: The Prophet "Allah's blessing and peace be upon him" said: "The loyalty is for the manumitter.</p>	<p>الحكم مرسلاً. وَقَالَ ابْنُ عَبَّاسٍ: رَأَيْتُهُ عَبْدًا. حَدَّثَنَا إِسْمَاعِيلُ بْنُ عَبْدِ اللَّهِ قَالَ: حَدَّثَنِي مَالِكٌ عَنْ نَافِعٍ، عَنْ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: "إِنَّمَا الْوَلَاءُ لِمَنْ أَغْتَقَ".</p> <p>[lit. Chapter: succession is for who manumitted, and the inheritance of a foundling, and °Umar said: a foundling is free.</p> <p>Ḥaṣṣ the son of °Umar reported to us: Shu°ba reported to us according to al-Ḥakam, according to Ibrahīm, according to al-Aswad, according to °Ā'isha she said: I bought Barīra and the Prophet, peace be upon him, said: "buy her as succession is for who manumitted," and a sheep was given as a gift to her, then he said: "It is a charity for her and a gift for us." al-Ḥakam said: and her husband was free, <u>and the saying of al-Ḥakam was sent.</u> And the son of °Abbās said: I saw him a slave. Ismā'īl the son of °Abd Allāh reported to us that he said: Mālik reported to me according to Nāfi°, according to the son of °Umar, according to the Prophet, peace be upon him, said: "succession is for who manumitted"] (183)</p>
<p>Chapter. The inheritance of a captive (in the hands of the enemy). Shuraiḥ used to give inheritance to the captive who was in the hands of the enemy, and used to say, "he is in more need of it than anybody else." And 'Umar bin 'Abdul-Azīz said, "Execute the will of the captive, and fulfil his order to manumit slaves and allow him to dispose of his property, and he can do with it as he wishes." Narrated Abū Hurairah رضي الله عنه: The Prophet صلى الله عليه وسلم</p>	<p>The inheritance of a captive. Abu'huraira "Allah be pleased with him" narrated: The Messenger of Allah "Allah's blessing and peace be upon him" said: "whoever dies leaving property, then his property will be given to his heirs, and whoever dies while being in debt or having dependants, then I am their supporter."</p>	<p>بَابُ مِيرَاثِ الْأَسِيرِ، قَالَ: وَكَانَ شَرِيحٌ يُورِثُ الْأَسِيرَ فِي أَيْدِي الْعَدُوِّ وَيَقُولُ: هُوَ أَخَوُجُ إِلَيْهِ. وَقَالَ عُمَرُ بْنُ عَبْدِ الْعَزِيزِ: أَجَزُ وَصِيَّةِ الْأَسِيرِ وَعَقَاقُهُ وَمَا صَنَعَ فِي مَالِهِ مَا لَمْ يَتَغَيَّرْ عَنْ دِينِهِ، فَإِنَّمَا هُوَ مَالُهُ يَصْنَعُ فِيهِ مَا يَشَاءُ. حَدَّثَنَا أَبُو الْوَلِيدِ: حَدَّثَنَا شُعْبَةُ عَنْ عَدِيِّ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: "مَنْ تَرَكَ مَالًا فَلِوَرَثَتِهِ، وَمَنْ تَرَكَ كَلًّا فَلِإِنِّنَا".</p> <p>[lit. Chapter of the inheritance of a captive, he said: <u>and Shurayḥ was bequeathing the captive in the hands of the enemy and says: he is in greater need of it.</u> °Umar the son of °Abd</p>

<p>said, “If somebody dies (among the Muslims) leaving some property, the property will go to his heirs, and if he leaves a debt or dependants, we will take care of them.”</p>		<p><u>al-ʿAzīz said: approve of the will of the captive and his release and what he did with his money unless he changes his religion, it is his money so he can do whatever he wants with it.</u> Abū al-Walīd reported to us: Shuʿba reported to us according to ʿAdiy, according to Abī Ḥāzim, according to Abī Hurayra, according to the Prophet, peace be upon him, he said: “whoever leaves behind money then it is for his heirs, and whoever leaves debts then it is for us”] (188)</p>
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In the first *ḥadīth*, both translators deleted the underlined phrase. This deletion might hinder the rendering of the ST’s intended effect as the phrase means that al-Ḥakam’s saying in the *ḥadīth* is *mursal* (i.e. weak), which might hinder the ST effect. In the second *ḥadīth*, Khān deleted the phrase “*mā lam yataghayyar ʿan dīnihi*” [lit. unless he changes his religion], while al-Sharīf deleted the underlined part in the ST. Both omissions result in a lack of understanding the ST message, as this part of the *ḥadīth* explains the inheritance of a captive.

Also, it is important to discuss the difference in the translation of the word “*al-walāʾ*” [lit. succession]. Khān transliterated the word and provided its definition in the glossary as “a right to inherit the property of a freed slave to the person who has freed him. *Aḥadīth* has made it clear that *wālaʾ* is a part like a lineage. It cannot be sold or gifted, so selling it or offering it as a gift is prohibited” (Khan, 1997: 431). Thus, Khān’s translation reflects the exact ST meaning. In contrast, al-Sharīf translated the word into “loyalty,” which does not reflect the ST’s message and shows his misunderstanding of the concept.

In a different context, the sentence “*fa-mā baqiya fa-huwa li-awlā rajulin dhakarīn*” [lit. what remains is for the most desirable man male] (166) explains that inheritance is distributed to the heirs and then to the closest male relative. Khān translated it into “Then whatever remains, should be given to the closest male relative of the deceased,” while al-Sharīf translated it into “Then whatever remains, should be given

to the closest male relative of the deceased.” Both translators used the modal auxiliary verb 'should', which is most commonly used to make recommendations or give advice. It can also be used to express obligation as well as expectation.

4.1.4.2 Şiddīqī's and al-Khaṭṭāb's Strategies

In the translation of two *ḥadīths* related to the distribution of the property of a deceased when he owes debts, Şiddīqī translated “*man taraka mālan fa-liwarathatihi*” [lit. whoever left money then it is for his heirs] (210) into “He who leaves behind property, that is for the heirs.” The use of 'the heirs' instead of 'his heirs' shows a lack of specification for the TT readers. Similarly, in another context, he translated “*wa-man taraka kalla fa-ilaynā*” [lit. and whoever left debts then it is for us] (214) into “he who leaves behind destitute children, then it is my responsibility (to look after them).” The use of 'my' to translate ‘-nā’ (us) indicates that the translator wants to stress that it was the Prophet who paid the debts of a deceased person. This is true but ‘-nā’ here refers to *bayt māl al-muslimīn* (Muslims’ treasury). These choices might cause ambiguity for TT readers and change the ST’s meaning or effect.

Both translators opted for different wordings when translating, as can be seen in the translation of the title “(*Bāb: la yarithu al-muslimu al-kāfira wa-la yarithu al-kāfiru al-muslima*)” [lit. Chapter: the Muslim does not inherit the disbeliever and the disbeliever does not inherit the Muslim] (193). Şiddīqī translated it into “Give the inheritance to those entitled to it.” He adopted domestication by transferring the ST’s message rather than the exact wording. The word “*al-kāfiru*” (the disbeliever) within the *ḥadīth* was translated into “non-Muslim.” Thus, Şiddīqī avoided mentioning 'Muslim' and 'non-Muslim' in the title, which may indicate his intention to start the *ḥadīth* with an indirect phrase to avoid any negative connotations that might occur. Al-Khaṭṭāb, in contrast, used “disbeliever” to translate the same word. This has a stronger effect and might reflect a hidden message that non-Muslims are disbelievers.

Furthermore, Şiddīqī provided three different translations of the verse {*yastaftūnaka quli Allāhu yufṭikum fi al-kalālati*} [lit. {they ask for your advice say Allāh gives you advice regarding who has no parent nor child}], which are “They ask you for a

decision; say: Allah gives you a decision concerning the person who has neither parents nor children” (198), “They ask you; say: Allah gives you decision in regard to Kalāla” (201) and “They ask thee for a religious verdict; say: Allah gives you a religious verdict about Kalāla (the person who has neither parents nor children)” (205). In contrast, al-Khaṭṭāb translated it into “They ask you for legal verdict. Say: Allāh directs (thus) about Al-kalālah (those who leave neither descendants nor ascendants as heirs)” (198, 201, 205). Both translators translated “*yastaftūnaka*” (they ask for your advice) differently; Şiddīqī chose “religious verdict,” while al-Khaṭṭāb chose “legal verdict.” This shows their different interpretations of seeking a verdict from the Prophet and might reflect a hidden ideology. The adjective 'religious' gives the implication that they are mainly about Muslims' religion and religious acts. In contrast, the use of 'legal' implies that verdicts taken by the Prophet and Allah are connected to law and have a legal impact in the life of Muslims.

In the translation of “*al-kalāla*” [lit. who has no parent nor child], which there is dispute regarding its translation. The translators provided their readers with its definition. For example, “(the person who dies leaving no child or parent)” by Şiddīqī and “(those who leave neither descendants nor ascendants as heirs)” by al-Khaṭṭāb. 'Children' refers to a direct descendant, which covers children of children. Similarly, ascendants means those from whom a person is descended, however far they may be. Each person has two ascendants at the first degree, his father and mother, and four at the second degree, his paternal and maternal grandfather and grandmother. Thus, al-Khaṭṭāb's choice is closer to the ST's meaning.

4.1.5 General Remarks

This section provides an overview of the common strategies and stylistic choices applied by the translators, as well as the general strategy adopted by each in order to establish the shared and differing patterns throughout the TTs.

In regard to stylistic decisions, Khān, al-Sharīf and al-Khaṭṭāb opted for organising the ST and the TT in parallel. This guides TT readers towards understanding the concepts and ideas involved in the ST. Şiddīqī, in contrast, only provided the TT to the readers. Additionally, it can be noticed that the translators focused on conveying

the text of ḥadīth (*matn*) to the TT rather than the chain of transmitters (*isnād*). This is achieved by translating the names of the first or second narrator and deleting the rest. Their translations reveal their awareness of the semantic value of the original marked structure and its effect on the communicated message. This strategy does not change the ST's meaning. Ṣiddīqī did not mention the reason, while Khān, al-Sharīf and the publisher in al-Khaṭṭāb's translation (i.e. Dār al-Salām) made it clear in the introduction that this decision was made for the sake of simplicity. In this regard, al-Khaṭṭāb said that keeping the chain of narrators is useful for *ḥadīth* scholars, but useless for the target readers (see Appendix 3).

A further translation approach is used by Khān and al-Khaṭṭāb as they maintain the Arabic scripts of expressions related to Allah, the Prophet and his companions, including “*ṣallā Allāhu ‘alayhi wa-sallama*” (peace be upon him) and “*raḍiya Allāhu ‘anhu*” (may Allah be pleased with him). This might indicate their strong preference for the expressions and their belief that there is no equivalence of these expressions in the TL. In addition, it gives the connotation that the main focus is the provision rather than the titles, which does not affect the legal message. This has a relational value, as it assumes the readers' familiarity with these expressions, implying the translators have no interest in non-Muslim readers. However, they targeted an audience of English speakers and Muslims who are familiar with Arabic terms.

The translators also conduct structural changes by omitting or adding punctuation marks or cohesive devices. Table 4.19 gives examples of these changes.

Table 4.19: Examples of Structural Changes by the Four Translators

Changes	Ṣiddīqī	Al-Khaṭṭāb	Khān	Al-Sharīf
Omission of the exclamation mark, which causes a lack in expressing a feeling in a sentence.	"مهلا!" "فوالله!" [lit. Slowly!] [lit. and by Allāh!] (16) "Be gentle" and "By Allah"	"والله!" [lit. By Allāh!] (140) "By Allāh"	NA	"والله!" [lit. By Allāh!] (32) "By Allāh"
Addition of the exclamation mark, which is often used to end an	NA	NA	"يا حكيم" "يا معشر المسلمين" [lit. O Wise] [O Muslims] (9)	"يا حكيم" "يا معشر المسلمين" [lit. O Wise] [O Muslims] (9)

expressive sentence.			"O Ḥakīm!" and "O Muslims!"	"O O Hakim!!" and "O Muslims!"
Addition of linking words and conjunctions, which show that the second sentence immediately followed the first one, which reflects the ST effect to make sentences more cohesive.	"then", "therefore" and "So" (95)	NA	"thereupon" (91)	"In this respect" (11)
	"thereupon" and "whereupon" (90)		"whereupon" (93)	"moreover" (16)
Omission of the question marks in the TT.	"أتعرف عبدالله بن عمر؟" [lit. do you know 'Abd Allāh the son of 'Umar?] (128) "Do you know 'Abdullah b, 'Umar (Allah be pleased with them)"	"فسألته عن ذلك؟" [lit. then I asked him about that?] (163) "and asked him about that"	"وَهَلْ عِنْدَكَ مِنْ شَيْءٍ؟" [lit. and do you have something?] (35) "and see if you have something"	"الوقف كيف يكتب؟" [lit. How is the endowment written?] (24) "How is the endowment written"

Additionally, the translators used capitalisation by capitalising the first letter in phrases, which are used to show a strong belief in Allah and adherence to the Prophet and his companions, such as "Commander of The Believers" and "Whose Permission" (162). The pronouns that refer to them are also capitalised, such as "His Mercy" (3), "He Almighty" (8), "He Who" (36), "His Statement" (64), "His Verdict" (125), "His Apostle," "His Messenger," "Him" (162), "He" (173) and "His Law" (178). Furthermore, words that refer to religious objects, such as "The Book" (38), "This Verse" (64), "Qur'ānic Verse" (178), "Holy Verse" and "Divine Verse" (181), receive the same treatment. This strategy was applied to other words to give them greater emphasis, such as "the Hour" (162), "then Marry" (58) and "Believers" (117).

A comparison between the paratextual materials reveals that the translators wrote these materials themselves (except al-Khaṭṭāb whose introduction was written by the

publisher) to provide their readers with introductions and footnotes, as well as to outline their general approach during the translation process. The translators used footnotes to explain and define ST concepts to their readers; however, their use is incompatible. Al-Sharīf used 39% more footnotes than Khān. Al-Sharīf's footnotes are written in the SL to provide Arabic speaking readers with further explanation of the ST. He claims that providing footnotes in English might cause redundancy because the ST concepts and ideas are already explained in the TT. He also states that providing an introduction is necessary to provide information about the book and its author and to define Islamic concepts for the non-Arab Muslim readers. Al-Khaṭṭāb's use of footnotes is limited, i.e. 9%. In contrast, Şiddīqī was keen to offer TT readers further information about ST terms by adding more footnotes, i.e. 20%. One example is the addition of a descriptive footnote to specify the time of "Auṭās" [lit. Awṭās] as "this was after the Battle of Ḥumain in 8H" (1971: 706).

Transliteration was applied by the translators, although the degree of its use is disparate. Transliteration "involves the transfer of information from a spoken language to an artificially created signing system that follows the syntax and morphology of a spoken language" (Baker and Saldanha, 2009: 274). The transliterations of the titles between the four translators are compared in Table 4.20.

Table 4.20: A Comparison of the Transliterations of the Titles between the Four Translators

Khān	Al-Sharīf	Şiddīqī	Al-Khaṭṭāb
The Book of Waṣāyā (Wills and Testaments)	The Book of Wills	Kitab Al-Nikah The Book of Marriage	The Book of Marriage
The Book of An-Nikāḥ (The Wedlock)	The Book of Marriage	Kitāb Al-Raḍā'a Book Pertaining to Fosterage	The Book of Breastfeeding
The Book of Divorce	The Book of Divorce	Kitab Al-Talaq The Book of Divorce	The Book of Divorce
		Li'ān (Invoking Curse)	The Book of Li'ān
The Book of Provision: (Outlay)	The Book of Expenses	Kitab Al-Fara'id The Book Pertaining to the Rules of Inheritance	The Book of The Shares of Inheritance
The Book of Al-Farā'id (The Laws of Inheritance)	The Book of Obligatory Shares of Inheritance	Kitab Al-Wasiyya The Book of Bequest	The Book of Wills

In the interview with al-Sharīf, he argued that there are no fixed standards for transliteration. Therefore, translators choose their preferred style, but they should be consistent. Al-Sharīf did not apply this approach in his translation of the titles but used a compatible transliteration to Arabic throughout the TT by considering the solar and lunar letters and the long vowels (i.e. ī, ā and ū). For instance, he used the Arabic word “*an-Nikāḥ*” (marriage) to maintain the Arabic pronunciation. The rendering of “*an-Nikāḥ*” is a transcription, indicating the pronunciation; an example of transliteration would be “*al-Nikāḥ*.” Both methods were applied by the translators throughout their TTs. They also provided descriptions to the transliterated words. This translation approach is called gloss translation (Nida, 2000: 154) or formal equivalence, which targets the transfer of all aspects of the ST message to the TT. This approach is best suited to translating religious texts, such as the Qur’ān. As Nida (*ibid.*: 154) suggested, gloss translation encompasses three basic factors of translation: the nature of the message, the purpose of the translation and the target readers. In this study, translators are motivated by their religious capital, which is reflected in their aims to transfer Arabic pronunciation to the TT readers (a detailed discussion about religious capital is provided in the next stage of analysis).

Khān's use of borrowed terms is 36% greater than al-Sharīf's, as he always transliterates terms even when there are no explanations in the ST. He mentioned in his introduction that he adopted the strategy of transliterating and then explained the terms because some terms have no equivalence in the TT. In contrast, al-Sharīf preferred to translate terms, e.g. “*nikāḥ al-mutʿa*” [lit. marriage of enjoyment] (53) into “the temporary marriage of enjoyment.” Thus, Khān's use of addition strategy to define terms is 27% compared to 3% by al-Sharīf. However, it can be noticed that al-Sharīf transliterated the names of the chapters in the Qur’ān, such as “The Light “An'nur”” (124), “The Repast “Al'ma'ida”” (31) and “The Criterion “Al'furqan”.” Al-Khaṭṭāb adopted a similar approach to Khān, which reflects a relational value by assuming the readers' familiarity with the ST terms. A few examples include “*Minbar*,” “*Dirham*,” “*Ṣufrah*,” “*Jilbāb*,” “*Maḥram*” and “*Zinā*,” as well as the terms “*Uqiyah*” and “*Nashsh*” (62), which are already defined in the ST. He also opted for transliteration followed by a description in the TT, such as “*Izār*” (lower garment)” and “*Ridā*’ (upper garment)” (60). In the interview with al-Khaṭṭāb, he mentioned that

he opted for transliterating the common Islamic concepts that are known by the target readers.

Although Şiddīqī, like al-Sharīf, mostly preferred to translate terms and add explanations, he used borrowings in the TT by transliterating several terms, such as “*Umra*,” “*nawāt*,” “*kunya*” and “*Maḥram*.” Some terms are already defined in the ST; thus, he might expect their familiarity to TT readers. One example is “Shighār which means that a man gives his daughter in marriage on the condition that the other gives his daughter to him in marriage without any dower being paid by either” (42). Others are defined by adding definitions in the TT, such as, “*al-Kalāla*” (the person who dies leaving no child or parent) (198).

The inconsistent approach of transliteration, adopted by Khān and al-Sharīf, might cause ambiguity for the TT readers. For instance, Khān transliterated the word “*badana*” (camel) (13) and provided a descriptive phrase “Badana (i.e., camel for sacrifice).” This strategy was not applied throughout his translation as he only transliterated the word in another *ḥadīth* (14) because he expected that TT readers already understood its definition from the previous *ḥadīth*. Al-Sharīf is also inconsistent as he transliterated and translated the names of chapters in the Qur’ān in one *ḥadīth*, e.g. “The Divorce “*At’talaq*”” (93) but only used translation in another, e.g. “The divorce” (66). He stated in the interview that he adopted a certain school of thought, which focuses on the readers' complete understanding of the Arabic and English names of the Qur’ānic chapters. Al-Sharīf claims that inconsistency by only transliterating the names appears when the translation is already provided in the TT. Inconsistency also occurs throughout Khān's and Al-Sharīf's translations of different words. For instance, Khān translated “*ta’ālā*” (the Superior) (18); however, he opted for keeping such adjectives in the Arabic script in the TT. He also transliterated several terms differently, such as “*Iddat*” (59), “*Idda*” (63) and “*Iddah*” (134). In a similar vein, al-Sharīf's inconsistency occurs by adding and deleting Qur’ānic verses (32).

Transliteration may reflect a relational value as the translators seek to build a relationship with the readers and make them familiar with Islamic terms. Relational values, as previously explained, reflect social relations created among members of a

group by the text's choice of words and include features of formality, which according to Fairclough (2001: 54) is a "common property in many societies of practices and discourses of high social prestige and restricted access." Formality refers to terms of a professional, traditional, ceremonial, or conventional nature usually related to social status. For example, in the introduction, Şiddīqī used the title "*Ḥaḍrat*" (his honour) to respect the companions of the Prophet. The genre requires formality of relations, as evidenced in the formal or informal choices of the vocabulary to express respect for status and position.

Another shared pattern is that the translators used different phrases to describe the Prophet. For instance, Khān used "Allah's Messenger" and "the Prophet," interchangeably, in his translation, while al-Sharīf used "The Prophet," "The Messenger of Allah" and "Allah's Apostle." Şiddīqī and al-Khaṭṭāb used "Allah's messenger," "the messenger of Allah," "The Apostle of Allah," "the Holy Prophet" and "the Prophet." This might show their intention to provide TT readers with various descriptions of the Prophet. However, this decision may be ideologically contested in that each expression conveys a different religious effect and denomination. It might be assumed that many Muslims use these expressions interchangeably, while others prefer one specific phrase because it reflects their beliefs. For instance, some prefer to call Muhammad "Allah's messenger" because it signifies that he was a messenger of Allah and the last Prophet, while others prefer "the Prophet" because it signifies that he delivered a new scripture. Muhammad was the last Prophet and since it is only prophets who deliver scriptures, it follows that the Qur'ān is the final scripture sent by Allah. Also, the word 'Apostle' has two primary usages; the first specifically refers to the twelve apostles of Jesus Christ, and the second generically refers to other individuals who are sent out to be messengers of Jesus Christ. Thus, when Christian receivers read this word, they will understand it according to their religious background. Therefore, the translators should take into consideration the various religious and cultural backgrounds of the readers to convey the correct ST meaning.

By comparing the TTs, it can be observed that Khān and Şiddīqī added the phrase "*ṣallā Allāhu ʿalayhi wa-sallama*" (peace be upon him) every time the Prophet is mentioned in the ST, while al-Sharīf and al-Khaṭṭāb added it only if the phrase appeared in the ST. Furthermore, al-Sharīf stated that he prefers to write the whole

phrase and use it every time it appears in the ST rather than using the abbreviation PBUH and when the Prophet is mentioned (see Appendix 3). This is because he believes that praising the Prophet is done by all Muslim readers regardless of its existence in the text.

Such lexical differences have an experiential value that may indicate the translators' degree of adherence to the Prophet and to Islam. According to Fairclough (2001: 93), experiential value reveals "the text producer's experience of the natural or social world." Experiential values expose the translator's knowledge and beliefs. They are often expressed through the use of ideologically contested words that appear through overwording, rewording or the way in which certain words co-occur, as well as the main meaning relations (*ibid.*). One specific sign of an ideological model within a text is overwording. According to Pierce (2008: 293), "Overwording indicates preoccupation with certain aspects of reality, which may reveal an ideological struggle." It includes three primary meaning relations (Jackson and Amvela, 2004), namely synonymy (words with the same meaning), hyponymy (meaning of a term that is in the meaning of another term in one ideological discourse type (Hudson, 2004)), and antonymy (differences between words (Allan and Brown, 2009)). In synonymy, words have similar meaning but may not have the same connotation, in which case it is important to find synonymy between words (Wanne, 1996). Generally, these meaning relations are useful in finding various systems of value in the TTs. The use of antonym and hyponymy in the TTs does not exist, which indicates that the translators agree on the values offered in the ST.

It can be noticed that Şiddīqī and al-Sharīf used "Mecca" to refer to "Makkah," which is less preferable by most Muslims, while al-Khaṭṭāb and Khān used "Makkah" (16), which is more common and used by all major organisations, e.g. United Nations, World Bank and most governments. The main argument is that both words refer to the holy Islamic city in Saudi Arabia as "Mecca" is the English equivalent of the Arabic word "Makkah", however, it does not represent the correct pronunciation. Also, some Muslims may feel irritated on using the wrong spelling or pronunciation of their city. Another difference in the word choice is that generally Şiddīqī used 'said' and 'reported' to refer to the narrator and he used 'narrated' to refer to the *ḥadīth*. He also used 'report' to refer to the person who transmitted the *ḥadīth* from another

transmitter, while he used 'narrated' to refer to the final transmitter. In contrast, al-Khaṭṭāb used 'narrated' to translate “*ḥaddathanī*,” “*akhbaranī*” and “*‘an fulān*” (informed me) (reported to me) (according to so-and-so), respectively, and 'said' to translate “*qāla*” (said).

There are about 25 *ḥadīths* of family law within *Ṣaḥīḥ al-Bukhārī* and *Ṣaḥīḥ Muslim* that are similar. Khān and al-Sharīf opted for providing similar translations of these *ḥadīths*, while Ṣiddīqī and al-Khaṭṭāb were keen to provide TT readers with differing synonyms to ensure that the ST message is rendered in the TT.

The above patterns were applied by the translators throughout their translations; however, the degree of their application varies. Table 4.21 illustrates this variation and presents tendencies of such patterns in the TTs.

Table 4.21: The Tendencies of the Translation Strategies by the Four Translators

Translation Strategy		Percentage			
		Total Number of Ḥadīths			
		188		234	
		Khān	Al-Sharīf	Ṣiddīqī	Al-Khaṭṭāb
Addition	Explanation	91%	91%	70%	69%
	Adherence	20%	34%	59%	None
	Define a borrowed word	27%	3%	3%	4%
	Define a pronoun	49%	39%	21%	4%
	Reference	9%	3%	1%	31%
	Verse	1%	16%	None	None
Omission	Words / Phrases	23%	39%	31%	6%
	Adherence	5%	13%	1%	2%
	The whole <i>ḥadīth</i>	None	1%	3%	None
Shifting of Thematic Structure		6%	11%	12%	8%
Borrowing		55%	20%	29%	50%
Domestication		21%	61%	44%	7%
Fidelity		12%	11%	33%	81%
Foreignisation		83%	44%	65%	93%
Footnotes		13%	52%	20%	9%

Table 4.21 presents the percentages of the application of each translation strategy in the total number of *ḥadīths* in each *Ṣaḥīḥ*. The Table reflects that the translators

mostly applied addition in their translations. Generally, it can be concluded that the translators adopted a mixed approach of fidelity, foreignisation and domestication to render the ST into the TT. Foreignisation is the most dominant approach by the translators, except for al-Sharīf who mostly adopted domestication.

Each translator adopted a particular strategy throughout his translation. Khān, in his introduction, stated that he adopted a simple translation strategy for the average readers to understand the ST message. Al-Khaṭṭāb tended to produce a source-oriented text that is understandable to the TT readers who have knowledge about *ḥadīth* or Islam. He assumed also the reader's familiarisation with Islamic concepts and adopted foreignisation by using loanwords to reflect the ST culture.

Ṣiddīqī's main approach is free translation, which consists of a change in the sentence structure and style, to bridge the cultural gap between Islam and the West and to meet the growing interest of non-Muslim and non-Arabic speaking audiences in Islam. Ṣiddīqī presented a translation with exhaustive notes and commentary based on authentic sources and biographical sketches of *ḥadīth* narrators. The most distinguishing feature of the translation and the explanatory notes is that he adhered to the path of the old orthodox scholars but at the same time tried to incorporate modern research in different fields that are valid from the Islamic point of view. It can be safely said that Ṣiddīqī's work is not only a translation of the ST but also an explanation of its goals and meaning.

Ṣiddīqī carefully considered the TT readers by explaining to them new terms and adding phrases for clarification. However, his translation has several stylistic and semantic pitfalls, e.g. spelling mistakes (16). Ṣiddīqī used initials to refer to the middle name of the narrators. This might indicate that he assumed the readers' familiarity with what they stand for. For instance, "Jābir b. 'Abdullah and Salama b. al-Akwa'" was used to translate "*Jābir Ibn ʿAbd Allāh wa-Salama Ibn al-Akwaʿ*" [lit. Jābir the son of ʿAbd Allāh and Salama the son of al-Akwaʿ] (6). Ṣiddīqī also deleted the subtitles of several *ḥadīths*. For example, in the book of inheritance, "*(Bāb alḥiqū al-farāʿiḍa bi-ahlihā fa-mā baqiya fa-li-awlā rajulin dhakarīn) (al-Tuḥfa 2)*" [lit. (Chapter on giving the inheritance to its owners and what remains is for the most desirable man male) (al-Tuḥfa 2)] (194) was deleted. This could have been used to

avoid repetition; however, it may hinder the ST's intended message and effect by not providing the complete name of the transmitter to the TT readers and, thus, causing confusion.

An illustration of transposition can be observed in the change of the passive voice in the ST "*an tunkaḥa*" (to be married) into a noun phrase "the combining of" (29) which clarifies the ST's meaning. The active voice "*yuṭalliqaḥā*" (he divorces her) was changed into passive "she was divorced" (73), which is used to focus on the action. Şiddīqī also changed the tense and form of the verb "*qāla*" (said) into a transitional phrase "as having said" (32, 33, 36, 45, 50). This phrase is usually used as a signal to say something, which will contrast or disagree with what was said earlier. Also, it was changed from the past into the present continuous "as saying" (26, 28, 38, 49, 53, 54) to explain that it is the exact expression of the Prophet. Similarly, the tense of the verb "*nahā*" (forbade) was changed from the past into a transitional phrase "as having forbidden" (35). Using different structures of the same verb might cause ambiguity for TT readers.

In a similar vein, Şiddīqī replaced "*ghayra anna fī ḥadīthi ʿUbaydi Allāh qala: qultu li-Nāfiʿin: mā al-shighāru?*" [lit. but that in the saying of ʿUbayd Allāh he said: I said to Nāfiʿ: what is exchanging in marriage?] (43) with the phrase "with a slight variation of words," "*ghayra anna fī ḥadīthi Maʿmar ʿwa-la yazidi al-rajulu ʿalā bayʿi akhīhi*" [lit. but that in the saying of Maʿmar "and the man does not add to the selling of his brother"] (37) with "with a slight alteration" and "*yazīdu baʿḍuhum ʿalā baʿḍin*" [lit. adding some of them on some others] (61) with "with a minor alteration of words." Although the translator touched upon the alteration, he did not stress the words that were changed to the TT readers. Thus, they will not receive the effect that appears in the ST.

The examples indicate Şiddīqī's general use of a free translation approach. They also highlight his terminological selections of texts, which are usually the most ideological pointers because word choice reveals unconscious ideological associations (Fairclough, 2001). For example, his translation of "*Allāh*" (Allah) into "God" (60, 63) might carry an ideological implication, or the translator might use 'God' instead of 'Allah' to introduce TT readers to the different synonyms of the word

'Allah'. Thus, as Fairclough (*ibid.*) argued, certain words reveal certain discourse types.

Moving to al-Sharīf's translation decisions, it can be observed that he opted for completing the verses of the Qur'ān in the TT. One example is his translation of the following verse:

"قول الله تعالى: (وآتوا اليتامى أموالهم ولا تتبدلوا الخبيث بالطيب ولا تأكلوا أموالهم إلى أموالكم إنه كان حوبا كبيرا وإن خفتم أن لا تقسطوا في اليتامى فانكحوا ما طاب لكم من النساء)"

[lit. the saying of Allāh the Almighty: (give the orphans their money and do not exchange the bad with the good and do not eat their money by adding it to your money it was a big sin and if you fear that you will not be able to do justice with orphans then marry who you want among women)] (20)

He translated it into, "Allah's saying: "To orphans restore their property (when they reach their age), nor substitute (your) worthless things for (their) good ones; and devour not their substance (by mixing it up) with your own. For this is indeed a great sin. If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, two, or three, or four; but if ye fear that ye shall not be able to deal justly (with them). Then only one, or (a captive) that your right hands possess. That will be more suitable, to prevent you from doing injustice"".

This strategy might reflect al-Sharīf's intention to provide TT readers with the full verse in order to fully understand the ST's intended meaning. Applying this strategy might indicate his strong position in the translation field by not being restricted for space by the publisher. He also used several archaic words, e.g. "giveth," "heareth" and "seeth" (8). These words have a sacred-text register and are used deliberately to create an old-fashioned effect in modern times. This explains that he wanted to represent the unique language of Qur'ān to the readers in order that they can differentiate between the language of Qur'ān and *ḥadīth*. It also reflects that al-Sharīf was probably influenced by earlier translations of Qur'ān, such as Pickthall (1930) and Watt and Bell (1977). These strategies were applied throughout his translation process. Translations of the lexical representations of these concepts reflect the agency of the translators, situated in their particular cultural and historical contexts. A more in-depth discussion is provided in the next stage of analysis.

Overall, the linguistic analysis answers the first research question of this study by reflecting the translators' main translation strategies and choices and their effect on the rendering of the ST's intended message and also by highlighting how these choices are ideologically manifested. Language can create and maintain social relations and value systems as discourse voices in texts inherently construct stances toward other discourse voices.

It evaluates, explicitly or implicitly, what it has to say and the relation of what it has to say to what others do say or may say. Its evaluative orientation includes, but is not limited to, certitude or truth value. It can define any value orientation toward what it says and/or toward what others say: appropriateness, usefulness, morality, pleasurability; all the forms of 'rightness' and 'goodness'. (Lemke, 1989: 39)

4.2 Interpretation

The interpretation stage involves examining the relationship between the translators and the text and the interaction of this relationship in light of the wider context (Fairclough, 2001). It refers to the understanding of meaning implanted in texts. Thus, this stage aims to answer the second research question. The level of interpretation focuses on translators' text production and text interpretation, i.e. understanding. The production and consumption of *ḥadīths* are two other important dimensions of Islamic Law and their institutional practices. Production involves a set of institutional routines, such as book selection, translating and editing. Consumption refers to the ways in which readers read and comprehend text.

Interpretation happens in two simultaneous stages. In one stage, the translators arrive at a determination of the text stored in their MRs, which are the translator's linguistic, cultural and social background knowledge (Fairclough, 2001). This background creates a new act of communication in a new language environment, or the TL. In the other stage, determination of the text is based on the contextual setting (e.g. intertextuality) and the first stage. At the level of text interpretation, the surface of utterance and meaning of utterance are interpreted due to the nature of the study, which is related to the interpretation of the ideological words.

In the surface of utterance, translators have to draw upon semantic aspects of their MRs, which refer to reflections of the meaning of words and their ability to bond word

meanings. The translators have different knowledge of the SL and the TL. They used different implicit strategies due to their different knowledge about the ST and professional habitus in the translation field; for example, the tendency towards synonym and rewording and overwording strategies. Muḥammad Muḥsin Khān is a contemporary Islamic scholar of ethnic Afghan origin. He was born in Kasur, a city of the Punjab Province in Pakistan; thus, neither the SL nor TL is his native language. But his strong knowledge about both languages can be clearly seen in his translation, for example, in his understanding of the meaning of Arabic prepositions and their different uses. To illustrate this, in the translation of “*mathnā wa-thulātha wa-rubāʿa*” [lit. two and three and four] (39) into “two or three or four,” Khān added a footnote (1997: 36): “(Ch. 20) The Arabic word for 'or' in the Verses mentioned here are 'wa' which means 'and' in other contexts. This is why Verses are followed by comments to indicate that the word 'wa' occurring here, means 'or' (not 'and').”

Khān's understanding of both languages is reflected in his flexible use of synonyms and in defining concepts between SL and the TL. At the end of his translation, he provided readers with a glossary that explains the meaning of every specialised term mentioned in the TT. Additionally, his awareness of the meaning of the sayings of the Prophet and their intended message can be clearly illustrated in his footnotes, where he provided readers with further explanations. For instance, in a *ḥadīth* about the distribution of inheritance, Khān (1997: 19) added the following footnote: “(Ch. 6) In Islām, what the deceased leaves is distributed among his heirs according to a certain ratio. The deceased may bequeath one-third of his property to other than his legal heirs who should not inherit by means of such a will.” More examples can be illustrated in footnote no. 1 (*ibid.*: 30-31), where he provided definitions of ST terms.

In contrast, Muḥammad Mahdī al-Sharīf is an Egyptian translator and scholar, which means that Arabic is his mother tongue. He started translating in 1998, and his profession as a translator and a scholar indicates that he has the ability to be proficient in Arabic and English. Examples can be seen in his translation, such as his use of idiomatic expressions to convey the meaning between the ST and the TT; for instance, the translation of “*al-arḥām*” (blood relations) (181) into “kith and kin” and “*yakhṭubu*” (propose) (76) into “demand the hand of a girl.” Another example is al-Sharīf's application of the domestication approach, such as the translation of “*al-*

talāʿun” [lit. invoking curses] (125) into “Invoking Allah's curse upon the liar of the two couples.” This reflects his complete understanding of the ST concept and his expertise in translating it into the TT. Similarly, the translation of “*ṣadāqu al-mulāʿanati*” [lit. the dowry of invoking curses] (127) into “The (destination of) dower of the woman who is involved in invoking Allah's curse upon the liar of the couple,” to which he added an explanatory footnote that shows his knowledge of Arabic grammar; “*qawluhu: Bābu ṣadāqi al-mulāʿanati ayy al-marʿati al-mulāʿinati fa-huwa ismu mafʿūlu la maṣḍarun*” [lit. his saying of: chapter of the dower of invoking curses which means the woman who has been cursed, it is passive participle and not infinitive] (2007: 854). Al-Sharīf opted for adding footnotes, which involve describing Arabic terminology. One example is the following footnote (*ibid.*: 754):

"قوله: فيرغب أن ينكحها أي يرغب عنها أي ينكحها كما جاء في رواية على ما حكاه الشارح وإسقاط عن في مثل هذا الموضع يشكل المعنى. قوله: فبعضلها عطف على قوله فيرغب فهو مرفوع لا منصوب وعضل المرأة منعها من الزواج"

[lit. “his saying: he desires to marry her [i.e. *yarghabu ʿanhā*] which means desires her, which means marrying her, as this appears in a narration of what the explainer said and removing ‘*an*’ in such situations makes the meaning. His saying: in *ʿaḍlihā* (preventing her) is a *ʿaḥf* [i.e. a grammatical follower (a conjunction)] to his saying ‘he desires’ as it is nominative and not subjunctive and preventing the woman is depriving her of marriage”]

ʿAbd al-Ḥamīd Ṣiddīqī is Pakistani. This means that he is not a native speaker of either the SL or the TL. In his introduction to the English translation of *Ṣaḥīḥ Muslim*, he stated, “I do not claim for myself competence in either of the two languages, Arabic or English, the one translated from and the other translated into” (1971: vii). He stated that he is looking forward to reading works from more competent translators who have a better background knowledge (*ibid.*). He declared that translating between English and Arabic is not an easy task and highlighted the uniqueness of translating this genre as it is the words of the Prophet. However, he had a rich knowledge of the use of the two languages. This can be illustrated in his structural and lexical choices in the TT as well as his understanding of the SL meaning; for example, his flexibility in adding and deleting punctuation marks and adding linking words to convey the intended meaning (see 3, 4, 5, 14, 15). This reflects his embodied cultural capital. Ṣiddīqī's translation decisions are reflected in his introduction stating that his main strategy is to produce an accurate rather than literal translation.

Nāṣir-l-ddīn al-Khaṭṭāb is a Syrian and a native Arabic speaker who acquired English as a second language. This reflects his embodied cultural capital. He draws upon his knowledge in Arabic and his wife's knowledge of English. His choices of vocabulary and some stylistic features indicate a free style approach; for example, his deletion of a few expressions in the ST, changing of word forms (i.e. singular to plural) and his use of different style in the TT (e.g. the use of (...) to refer to the presence of the chain of transmitters). For example,

<p>(...) 'Aṭā' said: "Jābir bin 'Abdullāh came for 'Umrah and we went to him where he was staying, and the people asked him about various things. Then they mentioned Mut'ah and he said: 'Yes, we engaged in Mut'ah at the time of the Messenger of Allāh ﷺ, Abū Bakr and 'Umar.'"(8)</p>	<p>وَحَدَّثَنَا حَسَنُ الْحُلَوَانِيُّ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: أَخْبَرَنَا ابْنُ جُرَيْجٍ قَالَ: قَالَ عَطَاءٌ: قَدِمَ جَابِرُ بْنُ عَبْدِ اللَّهِ مُعْتَمِرًا، فَجِئْنَاهُ فِي مَنْزِلِهِ، فَسَأَلَهُ الْقَوْمُ عَنْ أَشْيَاءَ، ثُمَّ ذَكَرُوا الْمُتْعَةَ. فَقَالَ: نَعَمْ، اسْتَمْتَعْنَا عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَأَبِي بَكْرٍ وَعُمَرُ</p> <p>[lit. Ḥasan al-Ḥulwānī told us: °Abd al-Razzāq told us: Ibn Jurayj told us: °Aṭā° said: Jābir Ibn °Abd Allāh came for °Umra, and we came to him in his house, then people asked him about things and then they mentioned the enjoyment. He said: Yes, we enjoyed during the era of the Messenger of Allāh peace be upon him, and (during the eras of) Abī Bakr and °Umar]</p>
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Al-Khaṭṭāb's educational background in engineering shapes his institutionalised cultural capital and professional habitus, which are reflected in his translation decisions. For example, one reason for the existence of Arabic scripts in his translation is that engineers pay meticulous attention to detail. Engineers prefer teamwork, which explains al-Khaṭṭāb's joint translations with his wife.

Words and phrases alone do not convey meaning; they rely on the context and translators' intentions to reach suitable degree of equivalence across cultural boundaries between the ST and the TT, which require the translator's understanding of texts and values (Hatim and Mason, 1990). As not just words but entire texts and utterances implicitly convey attitudinal meanings, the translator must also understand the grammatical formation and meanings of utterances. Therefore, an interpretation of the translators' understanding of the meaning of utterance is analysed.

In addition to the translators' competence of the SL and the TL, they have to be conscious of the link between *ḥadīth* and Islamic Law. Their awareness of its status in the legal systems of most Muslim countries can be observed in their translations and paratexts. To give several examples, Khān and al-Sharīf added the phrase “according to Islamic law” (23) in their translations. They also translated the phrase “*ḥusibat ʿalayya bi-taṭlīqatin*” [lit. it was counted on me as a divorce] (95) into “was counted as one legal divorce.” In the translation of “*idhā ṭulliḡat al-ḥaʾiḍu taʿtaddu bi-dhālika al-ṭalāq*” [lit. If a menstruating woman was divorced she should observe a waiting period for this divorce] (94), Khān translated it into “If a woman is divorced during her menses, then that divorce is counted as one legal divorce,” while it was translated into “Divorcing the menstruating woman is counted as legal” by al-Sharīf. These additions clearly reflect their concern to transfer the legal situation regarding divorce to the TT readers.

Al-Sharīf's introduction started with the importance of the books of the Sunna as they are considered to be the most important books after the Holy Qurʾān. He stated that “all the traditions within Al'bukhari's Sahih are true and correct. There is no single tradition far from this degree of truthfulness” (2007: 5). This indicates his faithfulness to the ST during translation and complete acceptance of the peculiarity of *ḥadīth* in Muslims' lives and consequently the exclusiveness of its translation. Al-Sharīf clearly stated in the interview that he is completely aware of the correlation between *ḥadīth* and Islamic Law. However, focusing on transferring legal judgments is not his only goal, as he aims at conveying the ST meaning (see Appendix 3).

Şiddīqī acknowledged that translating this genre is different from other genres because the ST producer is the Prophet. Thus, any translation error could hinder the understanding of the ST's exact meaning and effect. His recognition of the science of *ḥadīth* and its status in Islamic Law is illustrated in his paratexts. For example, at the beginning of his main introduction he stated, “Ḥadīth is the second source of Islamic Law of social and personal behaviour, because the commandments of the Holy Prophet are as binding on the believers as the Commands of Allah” (1971: ii). This shows his strong belief in their status and significant role in Muslims' lives. It also indicates that Şiddīqī took into consideration that *ḥadīths* can be used as a tool of

evidence and a source of law in the courts and legal system of many Islamic countries.

Another paratextual example is footnote no. 2077 (1971: 870), where he stated that the Sunna is the second source of Islamic Law (see also footnotes in 1971: 730, 852, 866). In footnote no. 1865, footnote no. 1864 (*ibid.*: 718), footnote no. 1859 (*ibid.*: 715) and footnote no. 1952 (*ibid.*: 775), Şiddīqī mentioned jurists' views in relation to marriage and stated the strong relationship between the Prophet and his companions in which they sought his advice in their personal matters, such as the amount of dowry a man should pay a woman when he wants to get married. This indicates that the translator sought to show the TT readers the importance of the sayings of the Prophet and their legal connection to law. He also used legal books and terms to refer to cases, such as '*Umdat al-Qār'*' and '*Ṭalāqun Bā'inun.*' Additionally, footnote no. 1848 shows his acknowledgement of the function of *ḥadīth* as a divine law. For example:

These aḥādīth relating to Mut'a also reveal the role of the Holy Prophet (may peace be upon him) as the expounder of the Divine Law. It is he who alone is authorised to declare any act illegal, or to grant relaxation in some circumstances. He is in fact divinely authorised to interpret the Divine Law; no one else has the right to make any alteration in it. (1971: 709)

In a further footnote, he stated: "It is an important rule in the deduction of the various laws of the Shari'ah where the Holy Prophet (may peace be upon him) observes silence the matter becomes permissible. This widens the range of the permissible acts in Islam" (1971: 865). This indicates his intention not only to translate but also to provide the TT readers with explicit information and ensure that they receive the exact ST meaning and status (see *ibid.*: 741).

Additionally, Şiddīqī used footnotes to explain each case explicitly, which indicates his desire to deliver the ST's intended meaning. Şiddīqī also sought to provide those who know little about Islam and its law with comprehensive knowledge. For instance, in a *ḥadīth* related to the prohibition of the practice of proposing marriage when it is already proposed, Şiddīqī added, "It does not mean that this malpractice is allowed in case of a non-Muslim. The word "Muslim" has been used in order to bring into prominence the high moral quality which a faithful must possess" (Şiddīqī, 1971:

713/38). This footnote shows Şiddīqī's knowledge about the meaning of the ST and indicates that his target readers are both Muslims and non-Muslims. Also, in the footnotes (*ibid.*: 712-714/35, 50), he explained in detail the ST's concept and meaning by providing definitions and interpretations. He explained each type of marriage in his footnotes. For example, Şiddīqī showed his complete understanding of temporary marriage and described it as an offence by referring to the Qur'ān and al-Tirmidhī (i.e. a collection of *ḥadīth*), e.g. "(see also Qur'ān, ii. 173; vi. 145, etc.)" (*ibid.*: 709). Additionally, in footnote no. 1848, (*ibid.*), Şiddīqī explained in detail that temporary marriage was part of Arabic customs during the days of Ignorance. He also explained the reason behind the initial permission and then gradually its complete prohibition. This shows his strong belief in Islam and his deep knowledge about its concepts. Şiddīqī's awareness of the situational context of the ST is clear, which determines his decisions. For instance, in the footnote no. 1857 Şiddīqī stated,

Marriage has been called *mithāq* (covenant) in the Holy Qur'ān, a covenant between the husband and the wife in the presence of human witnesses and under the vigilance of the All-Seeing Lord, the Master of the Universe. This mutual consent is technically called *ijāb* (affirmation or declaration) and *qubūl* (acceptance or consent) in *Fiqh*. This shows that no woman can be forced to marry a particular man without her consent. This is her right which must be respected and honoured by the Muslim society. (1971: 714)

Şiddīqī also provided TT readers with an introduction about each theme and its legal interpretations. Each introduction contains definitions about the subject matter and Islamic beliefs. It also provides the different views of scholars, jurists and religion. This indicates his acknowledgement of the status of this genre and its importance among Muslims and jurists. For example, in his introduction about marriage, he defined the meaning of marriage in accordance with custom and law and highlighted the role of marriage in Muslim society and how it functions by describing the various ceremonies and celebrations of marriage. He also mentioned the rights of spouses and children.

It is crucial to mention that the introduction presented in al-Khaṭṭāb's work was written by the publisher. This is illustrated at the end of the introduction, where the publisher clearly states that the whole work had been documented, referenced and related to the research scholar, Ḥāfiẓ Zubayr °Ali Za°ī, a Pakistani Islamic scholar, and supervised by °Abd al-Mālik Mujāhid, a director in Dār al-Salām. This means that

the final decision rests with the publisher and not the translator. One example is that Dār al-Salām provided a glossary of Islamic terms at the end of the translated collection. Similarly, the footnotes were controlled by the publisher. One example is in footnote no. 1 (2007: 340), “For details see the *Tafsîr* of Ibn Kathîr published by Darussalam, *Sûrat An-Nisâ’* 4:12, and 176.” This highlights the marketing of publishers' products and reveals their power. In relation to the status of *ḥadīth*, a recognition of its important status is obvious. For example, the introduction states that *ḥadīth*, along with the Qur’ān, act as reliable guidance for mankind in addition to the importance of the Sunna in understanding the Qur’ān. Moreover, the link between *ḥadīth* and law is acknowledged in “Without Aḥādīth, the entire faith and the entire Shari’ah (Islamic Law) will become no better than a riddle” and “The authority of *Ḥadīth*, its truth and its position in *Shari’ah* is indisputable” (2007: 15). Additionally, a detailed definition of *ḥadīth* and a discussion about the importance of *Ṣaḥīḥ Muslim* along with an introduction about Imām Muslim are provided. These show the publisher's and the translator's awareness of the status of *ḥadīth* in Islamic Law. A detailed explanation of the position of *ḥadīth* in law and its reliability is also discussed.

Furthermore, the translator’s historically acquired dispositions and experiences, or *habitus* (Bourdieu and Wacquant, 1992), impact legal translation. Bourdieu’s sociological model poses a question on translators’ works on Islamic Law: what effect did their *habitus* have on their views of Islamic Law? This question can be divided into sub-questions: What is the influence of the translators’ context experiences on their translational activities? How did their relationship to the field of power mature? Did it affect their practices and how? To what degree does the analysis of their *habitus* as translators is reflected with their *habitus*? These questions need further study.

Khān acquired most of his education in Pakistan, then obtained a degree in Medicine and Surgery from the University of Punjab, Lahore, before working in the University Hospital in Lahore. Later, he stayed in England for four years, where he worked and obtained a Diploma of Chest Diseases from the University of Wales. He then worked in Saudi Arabia’s Ministry of Health for 15 years mostly in Ta’if as the Director of Al-Sadād Hospital for Chest Diseases. He had a close relationship with King Fayṣal āl Sa‘ūd at that time. Next, Dr. Khān moved to Madinah, to be the Chief of the

Department of Chest Diseases in the King's Hospital. Finally, he worked as the Director of the Islamic University Hospital in Madinah, headed by ʿAbd al-ʿAzīz Ibn Bāz, the grand *muftī* of Saudi Arabia. Khān was granted the Saudi nationality. There is no doubt that Khān's experience and closeness to the Saudi government demonstrate his acknowledgement of the status of *ḥadīth* and its important use as a source of legislation.

Additionally, Khān is noted for his renowned English translations of *Ṣaḥīḥ al-Bukhārī* (1997), Abdul-Baqī's book *Pearls and Corals: Al-Lu'lu' Wal-Marjān* (1995) and *The Noble Qur'ān* (1996), which he completed along with Muḥammad Taqīyy al-Dīn al-Hilālī. Their translations were approved by elite scholars of Saudi Arabia and were published by King Fahd Glorious Quran Printing Complex. This is because their translations are free from errors in religious belief and compatible with the righteous forefathers. His works reflect his acquaintance with the field and his strong belief in the Qur'ān and the Sunna. An additional illustration of Khān's knowledge about the Sunna is his introduction, where he discussed the miracles of the Prophet and the importance of his sayings and deeds among Muslims. He also presented the status of *Ṣaḥīḥ al-Bukhārī* in *ḥadīth* literature.

Based on Khān's experience and knowledge, no one can deny that he holds an extraordinary position in the field of translation. His strong position gave him the ability to decide what to add and delete in the TT, for example, by attaching a glossary to the translated book and in the general remarks of his translation. According to an interview conducted in 2017 with Dār al-Salām, the editing of Khān's translation was undertaken under his supervision. Given that Khān's educational background is not Islamic, and that he conducted the project after a dream, his capital is not economic. Mujāhid, general manager at Dār al-Salām, stated that Khān refused to take money; however, he asked him to print his previous translation of Qur'ān and paid money to distribute copies to the Islamic University in Madinah to provide them to the pilgrims and visitors of Madinah. Afterwards, many copies were distributed worldwide. These acts do not represent social capital as Khān already held this with his medical role and closeness to the king. Thus, it can be clearly stated that his motive was purely religious, i.e. to obtain Allah's reward and because

he felt that he had a mission to fulfil (i.e. the dream). This represents religious capital; in other words, because he is Muslim he believes in the day of judgement and that Allah will reward him with paradise if he spreads Islam through translation. For Bourdieu (1987b), religious capital functions much as cultural capital, and it is one's knowledge and practice pertaining to religious culture determining one's hierarchical status in the religious field. In this study, religious capital is defined as the purely religious motive behind conducting an activity to gain a reward in the hereafter. This type of religious capital places the translator, whether intentionally or unintentionally, in an important position in the field of Islamic Law translation. Moreover, Khān's status in Saudi Arabia as a professional translator was clearly stated at the beginning of the translated book of *Ṣaḥīḥ al-Bukhārī*, where the grand *mufī* of Saudi Arabia declared Khān's proficiency for tackling such an important task. A certification was granted to him from the Islamic University Hospital in Madinah for his correct translation, which further shapes Khān's position within the translation field.

Al-Sharīf graduated from the Faculty of Arts in Cairo University and gained a Master's Degree in Poetics in the same university. Al-Sharīf also obtained a diploma in English Literature by correspondence course and a certificate of translation from the American University in Cairo. Currently, he is the General Manager of the Translation Department in the Foreign Cultural Relations in the Ministry of Culture and he works as a translator primarily in the fields of religion, literacy and economy. Al-Sharīf has translated approximately 15 books between English and Arabic. Most of his translations into English is in the Islamic field, such as *A Concise Volume of al'Bukhari's Correct Traditions* (2007), *Sunan Abu Dawud* (2008) and *Sunan Ibn Majah* (2009), while his translation into Arabic is literature related. Al-Sharīf's decisions and views during the translation process can be illustrated in his introductions. For instance, he stated,

This translation was made for the whole text except the comments which are interested either in explaining the problematic linguistics of the tradition, or in telling the news of The Prophet's companions, of which a choice was made for those relating directly to The Prophet's tradition. (2007: 5)

In the quote, Al-Sharīf highlights that the chain of transmitters is deleted and only the last narrator is mentioned because it will not benefit non-Arab readers and it will take space. This decision shows his translatorial habitus.

Şiddīqī is an Islamic scholar who specialises in Islamic research. This is highlighted in his position as a fellow in the Islamic Research Academy in Karachi and associate editor of Turjumān al-Qur’ān Publisher. Şiddīqī had a strong institutionalised cultural capital as he had a Master’s Degree in Economics and served as Professor of Economics at Islamic College in Gujranwala. His objectified cultural capital is reflected in his previous work. In addition to the translation of *Şaḥīḥ Muslim*, his publications are *The Life of Muhammad* (1969a), *Philosophical Interpretation of History* (1969b), and *Islam and the Remaking of Humanity* (1978). His translation activities became well known and a part of the *Compendium of Muslim Texts* compiled by the Muslim Students Association (MSA) at the University of Southern California (USC), one of the largest private universities in the US. This gives the translator a strong position in society. This also explains his strategy of expressing his full adherence to the Prophet and his companions in his introduction and translation. For example, he capitalised the first letter of the word “Companion” (Şiddīqī, 1971: 743-109) which might indicate his adherence to them, and he used “Allah’s Messenger,” “Allah’s Apostle,” “the Apostle of Allah” and “the Holy Prophet” interchangeably in his translation. Allah’s Apostle means the Messenger of Allah, which provides a higher status than ‘Prophet’. Not all Prophets are Messengers, but all Messengers are Prophets. Generally, ‘Prophet’ is a person chosen by Allah to preach Allah’s message. ‘Messenger’ has a higher status as it refers to an ambassador from Allah. In the introduction, Şiddīqī stated “Muḥammad (may peace be upon him) is the Messenger of Allah for the whole of mankind; no new prophet is to be raised after him. His prophethood is thus both universal and eternal” (*ibid.*: iii). Additionally, it can be observed that Şiddīqī added the term “*Ḥaḍrat*” before the name of the companions. This is common in Pakistan and indicates their strong respect for the companions. However, most Muslims prefer the phrase ‘Allah be pleased with them’ to avoid exaggeration. Şiddīqī stressed the role of Islam and clearly showed his stance towards Islam by believing in its obligations and its interpretation of marriage. For example, he stated,

According to Divine Faith, a woman is not a plaything in the hand of man, but a spiritual and moral being who is entrusted to him on the sacred pledge to which Allah is made a witness. The wife is, therefore, not meant to provide sensuous pleasure only to the male, but to fully co-operate with him in

making the life of the family and ultimately of the whole humanity significantly meaningful. (1971: 701)

This clearly reveals Islam's view about wives' roles and, thus, Şiddīqī's belief in rendering this view to the TT readers. In addition, Şiddīqī's voice was clear in the main introduction by stating the reason for translating the genre and adding paratexts. He stated, "for all the acts of omission and commission I alone am responsible" (1971: viii). In one *ḥadīth* about the necessity of a woman's acceptance in marriage, he added a footnote stating that "it is her right which must be respected and honoured by the Muslim society" (*ibid.*: 714). This may carry a negative connotation, as if implying that Muslim society does not respect or honour women's rights.

Al-Khaṭṭāb is a translator in Islamic studies. He has a Bachelor's Degree in Engineering, which reflects his institutionalised cultural capital. Al-Khaṭṭāb works in conjunction with his wife, Huda al-Khaṭṭāb, who edits the English of his output. In relation to his objectified cultural capital, he has many published works in Islamic literature, including *The Ideal Muslimah* (1981), *The Ideal Muslim Society* (2002), and *The Life of Prophet Muhammad* (2003). He is well-known for his translations and for his experience in the field as he has worked with Dār al-Salām Publishers for more than 16 years. He also worked with another publishing house where he built relationships with many professional translators, which improved his translation skill and experience (see Appendix 3). This means that he understands the important status of *ḥadīth* in Islamic Law and has sufficient knowledge to translate it. In addition, his strong religious background explains his translation choices and footnotes, for example, in adopting a combination of the free and literal translational approach. His institutionalised cultural capital and professional habitus provide him with the ability to translate such context and position him as a qualified individual to undertake such work. Al-Khaṭṭāb presented a direct and simple TT without interference or providing additional explanation in the ST. Nevertheless, he used several footnotes for reference and definition. He stated, in the interview, that explanations and deep understanding of the TT are conducted by many Islamic scholars who offered many interpretative books of *ḥadīth*, such as the book of al-Nawawī, which interprets *Ṣaḥīḥ Muslim*. This shows his clear stance of not

interfering in the ST, which might be because of the limited power given to him by the publisher.

Habitus is defined to either the underlined dispositions in social agents or to the collective behaviour obtained by a group of agents in a social space (Jenkins, 2006). Bourdieu (1990b) discussed the link between habitus and practice, with dispositions being the base of practices. Regarding translators, Bourdieu (1990a) insisted that their habitus includes dispositions acquired through socialisation produced according to the limitations and demands of the field. For example, al-Sharīf's work indicates that Dār al-Kutub al-ʿIlmiyya publisher is against censoring the translated text. This is one aspect of his dispositions, which shape al-Sharīf's translational habitus, therefore having a specific effect on his decisions whenever he translates for Dār al-Kutub al-ʿIlmiyya. Furthermore, Bourdieu argued that translators' choices are an effect of their specific habitus (particular histories and experiences) or professional habitus, linked to their position in the field. When assessing translators' choices, personal habitus should also be taken into account, probably even more so than their professional one, especially when it comes to idiosyncratic stylistic preferences. The translators' position and belief explain their chosen translation strategy. For example, Khān's and Ṣiddīqī's strong adherence to the sayings of the Prophet and the belief they have no equivalence in the TL. Also, Khān and al-Khaṭṭāb did not study translation, which explains their limited knowledge about the field. Al-Sharīf's educational background as a translator explains his adherence to the SL terms and concepts.

At the time the translations were conducted, the translators held strong reputations as Islamic experts and translators. In terms of the cultural capital, they occupied a dominant position with regard to the majority of their readers. While there is a sense in which translators can, in general, be considered subservient (Simeoni, 1998) to the ST and to other powers, such as the publishing companies and market forces, the translators investigated in this study are also characterised by their dominant status in the particular cultural sub-field of translation of Islamic documents. By comparing Arabic and non-Arabic translators in this study, it can be observed that the former (i.e. al-Sharīf and al-Khaṭṭāb) transferred the ST faithfully in the TT, while the latter (i.e. Khān and Ṣiddīqī) intervened considerably in the ST as they act not

only as translators but also supporters of Islam. For example, Şiddīqī in his footnote (1971: 783) and Khān (1997: 42) provided the readers with a concluding remark of the subject matter. They also started their translations with a whole historical background of the ST and its author. At the same time, despite their high professional status and the relatively subordinate status of their potential readers, these translators must also have been aware of other critical voices occupying strong positions in similar fields. Awareness of the potential for professional criticism can be taken by the translator as one of the several challenges presented by the task of translating *ḥadīth*.

In addition to the translators' cultural capital and professional habitus, which affects their interpretation of the intended meaning of the Prophet's saying, the translators used other texts to comprehend the exact ST message and present a clear TT. This is known as intertextuality, whereby they used other *ḥadīths* or books to convey the ST's concepts and narrations. For instance, in a *ḥadīth* about the importance of dowry in marriage, Saʿd offered to ʿAbd al-Raḥmān half of his property. The latter replied “*bāraka Allāhu laka fī ahlika wa-mālika*” [lit. May Allāh bless you, your family and your property] (86). In Khān's translation of this phrase, he added “I am not in need of that,” which shows his use of intertextuality from a previous *ḥadīth* (34) that tells the same story. Khān's understanding of certain *ḥadīths* was gained by consulting Islamic scholars. This appears in his introduction where he stated, “I am grateful to Dr. M. Amin Al-Misri, Ph.D. in *Hadīth* Literature, for his advice concerning the translation of certain *Aḥādīth* and for his encouragement and sincere wish for the success of this enterprise” (1997: 9). Also, intertextuality can be noticed in Khān's footnote (*ibid.*: 46) “(Chap. 32) Nikāḥ-al-Mut'a means temporary marriage for a limited period of time. This type of marriage was allowed in the early days of Islam in case of necessity, but the Prophet *ṣallā Allāhu ʿalayhi wa-sallama* finally prohibited it forever. (See H. 5115 and 4216)” as he mentioned the numbers of the *ḥadīths* that he used to trace the prohibition of temporary marriage. A further example is Khān's footnote (*ibid.*: 118) “(H. 5252) If, out of foolishness somebody divorces his wife while she is menstruating, the divorce is valid. (Fath Al-Bārī),” as he mentioned an important commentary of *Ṣaḥīḥ al-Bukhārī*, which he used as a reference during his translation process. In one *ḥadīth* where Om Ḥabība asked the Prophet to marry the daughter of Abū Sufyān, al-Sharīf translated “*aḥabbu man sharikanī fika ukhtī*” [lit.

my sister, who shared you with me, is the person whom I like most] (46) into “I like that my sister should share the good with me.” It can be noticed from al-Sharīf’s translation that he added the adjective “the good” to the TT. This addition reflects his knowledge about the story from a previous *ḥadīth* in the same collection “*aḥabbu man shāraḳanī fī khayrin ukhtī*” [lit. my sister, who shared goodness with me, is the person whom I like most] (42). More examples occur in the translation of “*qāl al-nabiyyu ṣallā Allāhu ‘alayhi wa-sallama li-Abī Ṭalḥa: “ij‘alḥā li-fuqarā’i aqāribika”*” [lit. the Prophet peace be upon him said to the son of Ṭalḥa: “Give it to your poor relatives”] (11), as Khān added “(your garden)” while al-Sharīf added “when he came to take his advice as regards to his garden.” This reflects the translator’s understanding of the story from other *ḥadīths* in the same collection (e.g. (18)).

Intertextuality by consulting previous Qur’ān translations is observed. Al-Sharīf, in the interview, stated that translators who translate for the first time choose to consult previous translations, unlike those who have many translated works. Al-Sharīf stated that his translation is affected by Khān (1997) and Aḥmad Zīdān (1999). He also used the Qur’ān translations by Abdullah Yusuf Ali (1934) and Majid Fakhry (2004). He claims that Khān’s translation is also affected by Yusuf Ali’s translation. Although al-Sharīf followed Khān’s translation to understand *ḥadīths*, he applied his own style and method in the translation. This emphasises that differences in *habitus* and *doxa*, which will be discussed in Chapter Five, are factors in producing different translation products of the same ST.

Furthermore, it can be observed that Ṣiddīqī employed texts’ intertextuality when he referred to the Qur’ān, other *ḥadīths* and scholarly references. Examples of Ṣiddīqī’s intertextuality can be seen in footnote no. 1863 (1971: 717), where he mentioned Qur’ānic verses as a reference by which to understand the ST and “The Holy Qur’ān has in so many verses pointed out the different purposes of marriage” (*ibid.*: 701), he listed in his introduction the books upon which he depended and quoted in his translation (*ibid.*: x). A further illustration of intertextuality can be observed in the footnotes of some *ḥadīths* related to divorce. For example, “In another *ḥadīth* recorded in Dāraquṭnī, the state of pregnancy has been qualified with the word “manifest.” The idea behind it is that in that case there can be no doubt about the fatherhood of the child” (*ibid.*: 757). This footnote reflects his use of other *ḥadīths* to

understand the ST's intended meaning. Additionally, he referred to historical and recent studies to provide TT readers with a discussion about the subject matter (*ibid.*: 759-139). Şiddīqī's introduction shows his knowledge about previous *ḥadīth* collections and their status. He stated that he used paratextual materials, e.g. explanatory notes and footnotes, to examine the meaning of the *ḥadīth* based on the explanations by eminent narrators. "I have taken great care to follow them both in letter and spirit, since, I believe, they are alone competent to speak with authority on this subject" (*ibid.*: vii).

The work of al-Khaṭṭāb shows his deep understanding of the science of the *ḥadīths* from different sources. His interpretation of context can be illustrated in his translation. For example, he provided the TT readers with references, e.g. "*bi-mithli ḥadīthi Ibn Numayr*" [lit. similar to the saying of the son of Numayr] into "a Ḥadīth like that of Ibn Numair (no. 3422)" (11) and "*ʿan Ismāʿīl, bi-hādha al-isnādī*" [lit. according to Ismāʿīl, with this chain of transmitters] into "It was narrated from ʿIsmāʿīl with this chain (a Ḥadīth similar to no. 3410)" (5). It can be observed that his interpretation of *ḥadīths* depends on other *ḥadīths*, as he often refers to another *ḥadīth* in his translation, for example, "A Ḥadīth similar to that of Hishām (no. 3473)" (51) and "(a Ḥadīth similar to no. 3487)" (61). Additionally, he opted for consulting other books that interpret *ḥadīth*, e.g. al-Nawawī. These examples show al-Khaṭṭāb's use of intertextuality to understand the context. Additionally, the *ḥadīth* numbering imposed by Dār al-Salām follows Fuʾād ʿAbd al-Bāqī's numbering (1955). This reflects the publisher's intertextuality by following a well-known Islamic scholar who authored and compiled many books related to the Qurʾān and the Sunna.

In summary, numerous factors affect translators while translating a text, including the notion of ideology transmission. The previous section aims to ascertain if the translators' socio-cultural and ideological constraints affect the production of their translations and may also affect the interpretation of a translated text as compared to the ST; therefore, a translation is influenced by the translator's TL while the ST is retextualised with the norms and conventions of the TT. Lefevere (1992a) has emphasised the three elements of the translation-ideology relationship, namely the network of forms, conventions and beliefs influencing translators' decisions. Domestication and foreignisation strategies are particularly loaded with ideology as

the translator adopts the TT's cultural norms and conventions (Venuti, 2008). These strategies are a continuum related to ethical choices of translators attempting to expand the range of the receiving culture (see *ibid.*: 19).

The selected translators occupy an important position in the field of translation. However, this position varies according to their educational background and experience. The translators' cultural capital and professional habitus play a significant role in their understanding and interpretation of the ST. Furthermore, their roles in the field give them the ability to make decisions during the translation process. The text genre and translation purpose are also important factors that affect the translators' decisions. In the selected *ḥadīth* collections, many Qur'ānic verses appear in the ST. Each translator translated these verses according to their purpose of translation and their target readers. As previously discussed, the purpose of translation is a significant factor that greatly influences the translation decisions conducted by the translators or imposed by their publishers. For example, Khān's and Ṣiddīqī's purpose of serving the science of *ḥadīth* clearly appears in their TTs. Khān intervened in the editing of the TT, as explained previously, without seeking financial reward. Similarly, Ṣiddīqī's intervention in the TT can be clearly seen in the introduction and the enormous use of footnotes, which provide guidance and interpretations to the TT readers. Al-Khaṭṭāb's main purpose, in contrast, was to convey the ST faithfully to the TT. Thus, he opted for a source-oriented translation strategy by targeting Muslim and non-Muslim readers who are knowledgeable about Qur'ānic verses and Islamic terminology. Al-Sharīf used an integrated approach that combined both strategies by providing a translation with explanatory additions targeting all types of readers who want to learn about the science of *ḥadīth*. These factors contribute to the existence of different translations of the ST.

While the translators may succeed in capturing situational contexts, information, experiences, linguistic selections and semantic and pragmatic relationship in the text, literal translations may lead to miscomprehending in the TL. These findings illustrate that even if the translators acknowledge the situational context of the ST, their individual diversity serves to create different interpretations and beliefs of the ST. This provides one important factor in the differences in the translations. This micro-level analysis demonstrates the relation between the translator's socio-cultural and

ideological constraints and the translation strategies that play into this relationship. It also reveals that translation differences are consequences of the socio-cultural factors of each translator.

Chapter 5:

The Contextual Factors Affecting the Translation Process of the Four TTs

In the micro-level of analysis, it is acknowledged that human agents and their practices influence how a specific translation is rendered, and how the agency is practiced can influence the final translation product (Pym, 1998). Translation is a mediatory process in which translators produce an independently functioning text in the TL through their socio-cultural and linguistic skills. This means that a lack of these skills, experience or time may result in an inaccurate translation. For the reason that translators rely on their linguistic and socio-cultural skills as well as their interpretation of the situational context, each translation is unique. The previous comparative analysis of the ST and TT shows how lexical and grammatical features can help to create power and ideological struggles between the genre and the translators' experience knowledge.

This chapter identifies the positions and the limitations of the field of Islamic Law translation within the Islamic world in a Bourdieusian sense. In this study, it refers to the translation of *ḥadīth* as the constitution of some Islamic countries. It provides explanations and draws conclusions from the translators' and publishers' reactions when interviewed that demonstrate the translators' habitus and the struggle experienced during the process. During the interviews, translators and publishers were asked different questions in relation to the translation and publishing of *ḥadīth* (see Appendix 3). The interviews seek to reveal the interviewees' cultural capital, that is, their thoughts and experiences that influence their behaviour and practices in the field of Islamic Law translation. This chapter consists of an analysis of the translators' and publishers' positions in the field of Islamic Law translation as well as how the field and its boundaries affect their practices. It also includes an analysis of the fields of power in the Islamic world within the Saudi social space. In this way, a better understanding is developed of how the social space, with its socio-cultural features, influences producing translation. Thus, our comprehension of the relationships between the field and its agents, as well as between the field and other dominant fields, is enhanced.

As Kinnunen and Koskinen (2010: 8) stated, “to understand agents, one needs to look at the structures they are located in and vice versa.” For this purpose, Fairclough's explanation analysis is integrated with Bourdieu's concept of field. Bourdieu (1991: 230-231) explained field as a “multi-dimensional space of positions”; each position is determined by a “multi-dimensional system of co-ordinates whose values correspond to the values of the different pertinent variables.” For Bourdieu (*ibid.*), these values are capitals, or forces acquired by social agents as they determine their position in the field, that define the positions of different actors in the field. Thus, a field is also an area or an “arena” (*ibid.*: 215) of force and struggle to transform the relations that structure the field. Each field is unique, shaped by specific forms of struggle over capital specific to that field.

Bourdieu first thought of the concept of field to explain social reality and examine cultural products in accordance to a complex network of relations across both social agents and institutions. While he identified various labels to refer to the field, such as social space, game and market (Hanna, 2006), the latter term carries a slightly different meaning. Thus, Mahar et al. (1990) differentiated between field and social space. The former refers to a dynamic shaped space of possible positions that are taken by agents. It is conditioned by the struggle among its members over different types of capital. The latter is a greater category that includes many fields and the social spaces of individuals include the fields in which they function. It is assumed that agents' practices are a result of their habitus and capital. Investigating their practices provides beneficial insights into the agents' translational habitus and reveals other possible factors that control the translators' practices (see Chapter Four). Translators' invisibility, i.e. their situation and activity, is discussed by Venuti (2008) in relation to domestication and foreignisation. Translators' decisions are determined by the position they occupy in the translation field, the capital they have gathered in the field and the habitus they have developed as a result of their membership of that field. Their positions are interrelated to the amount of capital they possess and to their relationship to the process through which capital is divided. As Bourdieu (1993) defined, one's position forms one's practices, which then shape the overall field.

As discussed in Chapter Four, habitus is both “the product of an individual history” as well as “the whole collective history of family and class” (Bourdieu, 1990a: 91). The double dimensional nature of habitus – i.e., the field structures the habitus and the habitus structures the field – explains agents’ behaviour in a field (Bourdieu and Passeron, 1977: 203). As a hypothetical example, if Islamic Law translators regularly choose a source-oriented approach to translate *ḥadīth* by adding explanations, this collective behaviour results from their collective habitus. Their habitus is obtained based on specific requirements in the field, e.g. religious duty, publishers’ demand, readers’ preference, etc. This collective behaviour will become the prevailing behaviour in the field. Thus, representing “new modes of thought and expression,” according to Bourdieu (1993: 58), will alter the structure of the field and its limitations. When al-Sharīf was questioned in the interview about his approach of domestication and foreignisation in his translation of *Ṣaḥīḥ al-Bukhārī*, he said that he opted for a mixed approach based on his background and knowledge. Thus, his behaviour of choosing a domestication or foreignisation approach in his translation is on the grounds of previous and new experiences in the field, demonstrating that translating with regards to the common behaviour in the field is not strategic because translators still have the option to not follow this behaviour. Rather, their behaviour is an effect of their habitus.

In order to construct a field, it is essential to identify three features. The first is the relation between the field in question, i.e. Islamic Law translation, and the fields of power, i.e. law and religion, which are considered to be the dominant fields in the Islamic world. This is because it is the source of “the hierarchical power relations which structure all other fields” (Jenkins, 2006: 53). The second is the objective structure of positions making up the field and their struggle over capital characteristic of that field, and the third is the habitus of the translators within the field. Bourdieu identified the literary field to explain the interrelations between these three elements. His paradigm is applied in this study to the field of translating Islamic Law discourse. There are various fields within the social world, and each field is a relational space of its own, specified to a certain type of activity. In this sense, as Lahire (1999: 26, cited in Hilgers and Mangez, 2015: 5) has pointed out, Bourdieu's theory of fields sets itself in a long line of reflection on “the historical differentiation of social activities or functions and the social division of labour.” Knowing the individual from “observation

of his behaviour, one can deduce the properties of the field around him, and, conversely, knowing the properties of the field around the individual, one can deduce his properties from observation of his behaviour” (Faucheux, 1959: 7, cited in Hilgers and Mangez, 2015: 3). Thus, “a certain distribution of forces determines the behaviour of an individual possessing particular properties” (*ibid.*: 6). The structure of the relations between the individual and the environment is central, the former is a function of the latter and vice versa. For the purpose of this study, field implies that “the dynamics of the processes is always to be derived from the relations of the concrete individual to the concrete situation” (Lewin, 1935: 41). Consequently, a social event depends on the whole social field rather than certain selected elements. It is indeed a property of fields that they are “systems of relations independent of the populations defined by those relations” (Bourdieu and Wacquant, 1992: 82, cited in Hilgers and Mangez, 2015: 4).

5.1 Explanation

The explanation stage is a social analysis that deals with the relationship between the processes (i.e. production and interpretation) and the social conditioning of the translators. As conceived by Bourdieu, a field comprises a number of elements. The first element is the positions available to producers of cultural goods in the field, including the basic cultural elements that cultural producers can use to create their own products (such as genres, themes, motifs and linguistic practices) as well as the modes of production (such as paperback and hardcover editions, or publishing in a prestigious book series or a series for avant-garde authors). These options are varied and without clear boundaries. In the Islamic Law translation field, for instance, religiously-committed translation and religiously-based translation in relation to Islamic Law can be identified. The second element is the resources (i.e. capital) available to these producers that allow them to join the field and produce cultural goods according to a minimum level of parameters. The third element is the dispositions (i.e. habitus) that inform the decisions of these producers. The fourth is the range of successive positions occupied by culture producers in the field of their activity (i.e. trajectory), while the fifth is a minimum of presupposed ideas (i.e. *doxa*) that producers of cultural goods take for granted in creating their products. The first four elements are analysed in Chapter Four. This chapter focuses on the *doxa* of

Islamic Law translation field and the struggle of its agents. It also examines the compatibility of the agents' translatorial habitus with the *doxa* of Islamic Law translation in Saudi Arabia.

As translation is a social practice or a “socially regulated activity” (Hermans, 1999: 142), it is influenced by the role of translators and other agents involved in the process. Islamic Law translation, as with all types of translation, is a collective action existing as a result of the collective efforts of numerous agents, e.g. translators, translation sponsors, editors, publishers, reviewers and consumers. Primarily, the text choice process could be induced by intellectual, commercial or religious reasons, and the decision to translate specific texts but not others is in itself an act of agency that could be made by an agent, institution, organisation or commercial operation. For example, the decision to translate the Qur’ān and *ḥadīth* was a Saudi government decision to serve Islam (Saudi Press Agency, 2017b). In other words, Islamic Law translation practices may instantly be a part of institutional, societal and situational struggle as a consequence of powers in and behind the discourse; an internal struggle imposed by the fields of power and an external struggle within the Saudi social space.

In the following sections, an analysis of three levels of power is discussed showing social groupings and relationships in institutional, societal and situational contexts. This discussion reveals obvious and hidden struggles experienced by *ḥadīth* translators. It also provides a clear picture of the factors that influence the translation product.

5.1.1 Institutional Level of Power

This level of power examines the surrounding factors of the translators within the translation field. In this study, these factors are the publishers. Agents other than translators exert power during the selection and translation process and in shaping the final text. This reflects an institutional struggle. For example, it is clear from the interviews that the translators chose to translate *ḥadīth* and other Islamic texts. One example is al-Sharīf's answer that his goal from his project is to translate the nine books of *ḥadīth* as he believes they are the most authentic in the science of *ḥadīth*.

Furthermore, the selection of the translator is also a form of agency in which specific criteria for a particular type of translator (skilled and knowledgeable) are aligned with the aims of the translation project. A case in point is the selection of Khān by Dār al-Salām to translate *Ṣaḥīḥ al-Bukhārī*. Khān's knowledge and habitus influenced Dār al-Salām's decision to appoint him as part of their religious, social and economic studies of the Middle East and Asia translation research in 1997. Dār al-Salām follows specific criteria in choosing translators; according to Mujāhid (see Appendix 3), only Muslims who follow the doctrine of *al-Sunna wa-l-Jamā'a* are selected. According to Ibn ʿUthaymīn (1992), a Sunni scholar, the people of *al-Sunna wa-l-Jamā'a* are those who stick to the Sunna in its broad sense, unite around it and pay no attention to other views outside of the Muslim mainstream and the *Sunna* in both the matters of faith and practice. Similarly, the general manager of Dār al-Kutub al-ʿIlmiyya, Muḥammad ʿAlī Bayḍūn, asserted in the interview that the publishing house only targets specialised and professional translators. For example, al-Sharīf was chosen to translate *Ṣaḥīḥ al-Bukhārī* because of his background knowledge about the science of the *ḥadīth*. Publishers' and translators' positions in the translation field define their relational power. Thus, publishers will not impose rules on translators who have strong positions in the translation field. For example, Dār al-Salām gave Khān more freedom than al-Khaṭṭāb in the translation process (see Chapter Four).

In the following paragraphs, an overview of how the different publishers' positions in the translation field and their practices influence the translators is discussed. First, Dār al-Salām is a multilingual international Islamic publishing house with headquarters in Riyadh and branches in major cities worldwide. It was established in 1986 by ʿAbd al-Mālik Mujāhid. It is considered to be the biggest Islamic publishing house in the world; it has published over 1000 books in 20 international languages. This places Dār al-Salām in a strong position in Islamic Law translation as they sell 1.5 million books annually. Dār al-Salām's main role is to publish authentic Islamic books in line with the Qur'ān and *ḥadīth* in major international languages, e.g. Spanish, Arabic, English, French, Urdu, Hindi, Malayalam, Indonesian, Persian, Turkish, Bangla, Albanian and Russian. The key idea of these books is to show the reader the importance of Islam as illustrated by the most recognised Islamic scholars in the Muslim world. In particular, Dār al-Salām targets foreigners in Saudi Arabia and international readers who want to learn more about Islam and its law. Mujāhid

stated, in the interview, that he considers himself as one of the people of *ḥadīth* in Pakistan. He volunteers to cooperate with the Ministry of Islamic Affairs in Saudi Arabia to spread Islam. His aim is to help spread the Qur'ān, *ḥadīth* and Islamic books, following the method of *al-Sunna wa-l-Jamā'a*. He inherited this passion from his father and grandfather who raised him in this way.

As an agent in the translation field, Dār al-Salām participates in translation decisions. For instance, the final translation decision and book design always rests with Dār al-Salām. Mujāhid, in the interview, stated that if translators disagree with any decisions, then they are free to not continue the project. Also, Dār al-Salām assigns editors to revise the translated work. Mujāhid said in the interview that every page is edited six times by different editors.

Second, Dār al-Kutub al-ʿIlmiyya is a well-known publishing house in the Arabic and Islamic world. It was established in 1971 by Muḥammad ʿAli Bayḍūn in Beirut, Lebanon. It publishes various books about Islam, literature, history and encyclopaedias in many languages, e.g. Arabic, English, French and Spanish. It aims to spread knowledge across the world; thus, the publisher chooses their books carefully. Dār al-Kutub al-ʿIlmiyya is an active agent in the field as it publishes 400 books annually, 10% of which are about Islamic Law. The strong focus on Islamic Law is because they are aware of the important status of Islamic books, particularly *ḥadīth*'s status, in law. Translation products are linguistically edited in the publishing house, and the final decision is always made by the administrative office in the publishing house. Al-Sharīf, in the interview, stated that the publisher does not interfere in the translation itself; however, it edits the completed work by dealing with typos and printing issues. Furthermore, in the case of the translation of *Ṣaḥīḥ al-Bukhārī*, Dār al-Kutub al-ʿIlmiyya did not use editors because of financial reasons. The only pressure was the time that was allocated to finish the project, i.e. ten months to finish translating and two months to publish the book.

Third, Dār al-Fikr, established in 1957, is another publishing house based in Beirut. They have published over 2,435 books covering all branches of knowledge. During the past 60 years, it has gained valuable experience that enables it to occupy a strong position in the field of cultural production. Dār al-Fikr firmly adheres to its

message, views and values within the frame of the local, Arab and international law. Thus, the publishing house is keen to revise their final products by assigning qualified editors and choosing professional translators.

The overview reveals that each publishing house in this study occupies a recognisable position in the field of cultural production and translation. It also highlights the institutional struggle with the translators' experience during the translation process and its relationship with the translators' capital and habitus in the field. These aspects contribute to the differences of the translation products. For instance, Dār al-Salām's remarkable position in the field of publishing Islamic books and its main goal of spreading Islam distinguishes its products from those published by Dār al-Kutub al-ʿIlmiyya and Dār al-Fikr. One example is the existence of Arabic scripts in the English translations, which can only be found in books published by Dār al-Salām.

5.1.2 Societal Level of Power

This level of power examines the various factors that affect both the TTs and the agents involved in the translation process. These factors are the field of translation, Islamic Law in particular, and the fields of power, i.e. law and religion. It also presents the relationships that connect between these factors to reveal the dominant and dominated ones.

5.1.2.1 The Field of Islamic Law Translation

This section involves an explanation of the field in which the translation is produced to reveal the struggles that might occur and the correlation between the agents and the field. Texts and agents act within a social field and their actions are determined by the positions they occupy in this field. The Islamic Law translation field holds a remarkable position in the field of cultural production. Most Muslims do not speak Arabic, such as those living in Indonesia, The Philippines, Pakistan, Thailand, India, Bangladesh, Nigeria, Turkey and many other countries; however, some of these countries still place Islam and the *Sharīʿa* and the Sunna, which are written in Arabic, in a dominant position. Thus, translating Islamic discourse is crucial for helping Muslims around the world understand the Islamic religion and its laws. As a field,

translation is done in a social space by agents from many social fields. In other words, each individual is likely to belong to different multiple fields and, at times, be a member of more than one field, such as their professional field and their specific organisational field, all of which can shape their practice. In turn these fields are embedded with the broader national cultural fields (see Figure 5.1). This thesis focuses particularly on both the organisation and the profession fields.

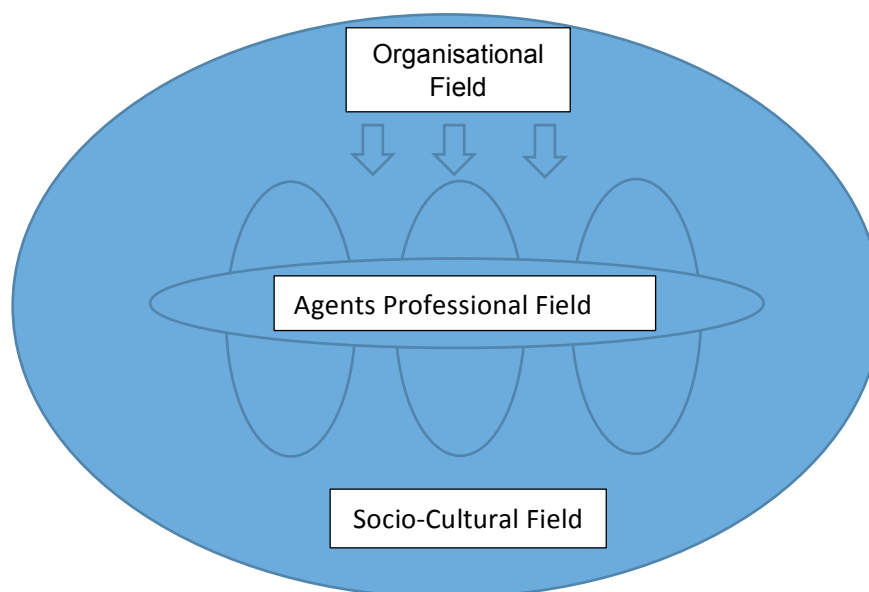


Figure 5.1: Agents within their Cultural, Organisational and Professional Fields (Harrington, 2010: 10)

In addition to the limitations imposed by the ST and the linguistic variances between the SL and the TL, translation is also limited by constraints in the social space, as translators are affected by various socio-cultural factors in the translation field (Toury, 1995). Studying Bourdieu's concept of *doxa* reveals two major discourses that govern the understanding and representation of translation: the discourse that attempts to challenge *doxa* and unveil its arbitrariness (heterodoxy) and the discourse that endeavours to defend, rationalise and maintain its integrity (orthodoxy). When unquestioned values and practices are speculated by social agents, orthodoxic and heterodoxic trends start to be part of the field. The orthodoxic trend reinforces current dominant structures, including the social agents who are involved in this trend. These agents attempt to strengthen their roles as legitimately dominant individuals and maintain the value of their assets in the field. In contrast,

heterodoxic trends attempt to re-identify the constraints of the field, creating new positions or changing the dominant positions and stakes in the field. Newcomers and social agents having dominant positions are often part of this trend. In short, orthodoxy is produced by the dominant agents of the field, while heterodoxy is generated by the dominated agents of the field (Bourdieu, 1993: 73). Using these two conflicting discourses helps build an understanding of the field of translating Islamic discourse and following its historical development of thought. Furthermore, they afford the opportunity to explore the stages of progress and the various roles played by the different agents.

In all fields of translation production, including the field of Islamic Law translation, two doxic beliefs appear to dominate accordingly; faithful textual equivalence of the ST and the TT and acceptable translations in the TL and culture. At present, fidelity has acquired the status of the central *doxa* in the field of Islamic Law translation. If agents do not follow this *doxa*, they will not occupy a strong position in the field (Wāṣil, 2007). But as *doxa* reflects what is permitted at any given moment, it is possible to change by time. Therefore, fidelity may be exchanged by acceptable translations tomorrow (Hanna, 2006). This doxic practice, or what Bourdieu calls the 'collective rhythm', is the result of a friendly relationship between the agents' habitus, and the field in which they operate, i.e., between the objective structure of the field and the agents' subjective categorisation of that structure (Bourdieu, 1977: 162). This provides a context for understanding translation practices at a particular historical moment and decides which translations submit to the dominant *doxa* of their time and which attempt to subvert it.

In the translation of Islamic Arabic texts into English, it is essential for the translator to hold strong Islamic beliefs and knowledge and to practice fidelity to the ST and produce a reliable TT. This was applied in the selected translations of this study. Nevertheless, in the early translations of *ḥadīth*, a faithful TT with explanations of Islamic concepts was the *doxa* (e.g. Khān's and Ṣiddīqī's TTs). Recently, the dominant *doxa* does not leave much space for Islamic Law translators to intervene between the ST and the reader (e.g. al-Sharīf's and al-Khaṭṭāb's TTs). In other words, the *doxa* of the translators' approaches and intervention in the TTs changes over the time, but fidelity and providing TT readers with a clear and simple translation in

Islamic Law discourse is a fixed *doxa* in all times. Translators realise the *doxa* of the field of translation through their different habitus and interpretations of the ST meaning. For instance, in the interview, al-Sharīf stated, “if I am asked to revise a new edition of *Ṣaḥīḥ al-Bukhārī*, I would make many changes based on my experience in the field and recent trends, i.e. choosing modern translation strategies and styles” (see Appendix 3).

Similarly, publishers acknowledge the dominant *doxa* of publishing this genre in the Islamic world. Dār al-Salām matched the changing *doxa* of the field, as can be seen in the differences between their publishing of *Ṣaḥīḥ al-Bukhārī* and *Ṣaḥīḥ Muslim*. Because each agent structures the dominant reality and represents it according to a series of structural pressures based on their social positions, each publishing company has its objectives, which shape its position in the field of translation. Publishers gain their positions according to their responses to the *doxa* of the field; if they follow the common belief, they will occupy a strong position and vice versa.

When agents enter a particular field, such as the Islamic Law translation field, their habitus determines the conditions of that entry. Simeoni (1998) warned translators against engaging in a field if their habitus is not aligned with the requirements of that field. Consequently, the translator’s habitus is a locus of tension that reveals intercultural and global influences (*ibid.*). The relationship between the agent and the society, i.e. between the habitus and the field, is elegantly explained by Bourdieu (1990a: 190, cited in Elgindy, 2013: 60) as “the body is in the social world but the social world is within the body.” In this regard, the body is the memory in which the social beliefs are rooted and kept and clarify themselves in individuals’ behaviour. Thus, agents know the world as they understand it through habitus in an unconscious sense (Inghilleri, 2005: 135).

To Bourdieu, the field is an imaginary socio-cultural space that explains the dynamics of producing cultural goods and operates through the logic of struggle among producers over how these goods should be generated and the profit is expected from them. This space is dynamic because it is premised on conflict, which includes two main groups of culture producers: one who believes that the financial profit is the only marker of a cultural product’s success, i.e. heteronomy-oriented

producers, whereas the other group subscribes to the point that the success of cultural products is only obvious by the recognition they receive for their producers. It conceives the cultural product as autonomous and, therefore, distinguishes from any economic considerations. As observed in the micro analysis of this study, the struggle in the field of Islamic Law translation is between those who maintain that the reason for translating *ḥadīth* is to spread knowledge and those who argue that it should serve nothing but the intentions of spreading Islam and therefore gain rewards in the hereafter.

The boundaries of the Islamic Law translation field are altered for two major reasons; internal and external. The internal reason concerns the struggle between the above-mentioned groups, seeking to spread knowledge or Islam, and the external reason involves the relationship with the fields of power. Bourdieu believed that the institutionally established boundaries of any given field are where that field no longer has influence on practice (Bourdieu and Wacquant, 1992). The limits are also points of entry deciding who enters and who does not. These boundaries can only be evaluated by analysing the field's structure and its relations with its occupants and with other fields (Jenkins, 2006). Thus, the field's limits are the result of the continuous conflict between two certain positions: those who believe in the field's autonomy and that cultural products must obey only the rules of that field and those who argue cultural products serve Islamic, legal and social aims. The following section explains the external fields of power on Islamic Law translation field.

5.1.2.2 The Power of Religion and Law in the Islamic World

This section discusses the power of religion and law on the field of Islamic Law translation. Although religion and law are separate fields and impose different degrees of power on the field of translation, their powers are integrated in this study as they play a symmetric role in the cultural production of Islamic Law as they construct the field and, thus, its production.

Social agents are socially constrained, although their actions are not fully socially determined. A translator's habitus is not only shaped and informed by the professional field but is also subjected to alter by historical experiences outside the

professional field. A translator's decision may not be made autonomously in the field of Islamic Law translation, but rather influenced by the practice in that field. These decisions may change according to many circumstances in the field of struggle, social hierarchy and the translator's personal circumstances.

Autonomy is at the foundation of Bourdieu's concept of field and requires an understanding of two important conditions: that every field has its own structure and logic but simultaneously presents characteristics similar to the broader social structure and that the field's autonomy is shaped by its own values and achievement criterion. The field of translation is characterised by a significant level of heteronomy because it is controlled by the fields of power. Bourdieu asserted that the field of cultural production is in the field of power, and that no matter the independence of that field, it is influenced by economic and political profit (Bourdieu, 1993). The field of religion controls the translation practice in the Islamic world, which is also controlled by law. The latter is formed around internal protocols and presumptions, characteristic behaviours and self-sustaining beliefs, what Bourdieu terms a "legal culture" (Bourdieu, 1987b: 119). It has its own partial but relatively settled autonomy. Experiencing the force of the law is the acceptance of the rules of legislation, judicial precedent, and regulation that structure legal decisions. Practices in the legal field are founded in education, tradition, and the daily experience of legal tradition and professional usage, operating as complex structures of habitus in the juridical field. Islamic Law functions alongside the exercise of power in other social realms. The degree of dominance (orthodoxy and heterodoxy) between the religious and law fields is distinct. In this sense, the translators—Khān, al-Sharīf, Ṣiddīqī and al-Khaṭṭāb – and publishers – Dār al-Salām, Dār al-Fikr, and Dār al-Kutub al-ʿIlmiyya – are strongly and continuously affected by the religious and legal fields. This effect is obvious in the influence of the struggle for economic capital on the agents' translation choices. The degree of influence can be determined by using few factors, one of which being the subject when the translation falls, presenting the kind of knowledge these agents provide to their mainstream readership.

The Islamic Law translation field, although autonomous in itself, occupies a dominant position within the religious field of power situated within the field of law. This arrangement indicates that the Islamic Law translation field is the place of a double

hierarchy: the heteronymous and the autonomous principles of hierarchisation. The former is looking beyond the specific activities of the field and towards religious and legal rules, and the latter notices the sanctions, norms, and activities of the field (Bourdieu, 1993: 38). The logic of this double hierarchy system posits that the heteronymous principle would control if the agents (i.e. translators and publishers) of the Islamic Law translation field “became subject to the ordinary laws prevailing in the field of power, and more generally in the economic field” (Bourdieu, 1993: 38). In contrast, the autonomous principle would dominate when the field of production was to increase full autonomy from market rules. In this system of relationship, the field of power is placed along all the fields and influences the exchanges of all forms of capital between these fields.

To understand the power relations between the fields, it is crucial to discuss the notion of hegemony. Hegemony is leadership and domination on the cultural, economic, ideological and political aspects of a society. It is the power held by a fundamentally economic defined class in accordance with other social forces, though it is never completely achieved. It is a process at the societal level where discourse is located in particular institutions, providing a matrix rooted in the integration of local institutions and power relations to influence the latter. Although fields of cultural production, as formulated in Bourdieu's sociological model, are relatively autonomous, they are homologous with other fields such as the religious and legal, in the sense that they are structurally and functionally interlinked with these fields in a way that affects their internal dynamics. Each of these fields has its own dominant and dominated autonomous and heteronomous poles, and each operates through the logic of struggle among its members. Homology is defined as “a resemblance within a difference” (Bourdieu and Wacquant, 1992: 106). Thus, homology between fields is the commonalities of habitus and practice operating within these fields, in which the proximity of agents implies related habitus. Homology is the way the field of power impinges upon any field (Jenkins, 2006).

In this context, understanding the field of Islamic Law translation is not possible without locating it within the socio-cultural context within which it is conceived. Because law and religion are interwoven fields in the Islamic world, translating Islamic Law texts is affected by these two fields. Since the death of the Prophet

Muhammad, the Islamic nation has struggled to find the balance between religious values and Islamic concepts and political struggles for authority and control. Caliphs ruling the Arab world for almost a thousand years combined material and spiritual elements to establish legitimacy to govern the nation. Today, this relationship between the religious and the material sources of modern laws is part and parcel of legitimacy (Azzām, 2006). This is best demonstrated by the fact that *Shari'ah* and Islamic texts are considered to be the primary source of legislation in most Arab countries. This is because, for Islamic authorities, Islam is considered not merely a religion, but is also a comprehensive system of culture that unites religion and state. *Shari'ah* combines legal and political elements governing procedures, evidence, decisions and how to appeal them, as well as a penal code (Yakan, 1975). *Shari'ah* plays a major role as a reflection of the influence of Islam and confirmation of the legitimacy of the governor. The need for a religious role to justify the legitimacy of the state's ruler is similar to the era of the Caliphates and the continual search for legitimacy. There are a number of Islamic societies where religion and law are as closely interlinked as they were before the onset of the modern age.

The degree to which Islamic and public law are blended varies across countries. The status of Islam and consequently that of Islamic Law differs as well. Given the importance of law, religious scholars who developed Islamic Law became a religious institution with special status and power in Muslim societies. However, this status differs across Islamic countries as the relationship between law and religion varies through three dimensions: the religious state, the secular state, and a state with civil authority and religious legislation. The first dimension refers to countries that apply religion which is authorised by law, a secular state is where religion has no power and law is the most dominant field of power, while the third dimension refers to countries in which law and religion have a symmetric relationship.

Where Islam is the official religion, in Muslim countries, *Shari'ah* is announced to be a source, or the source, of the law, for example, as in Saudi Arabia, Bahrain, Yemen, Kuwait, the United Arab Emirates and Oman, where governments derive their legitimacy from Islam. Traditional Islamic Law has stayed the fundamental law and governs every aspect of legal relationships up to the present day (Coulson, 2011).

From the nineteenth century onwards, the acceptance of European laws in the fields of public law, civil and commercial transactions increased in the various Islamic territories (Coulson, 2011). The infiltration of European law into the Islamic world was closely connected with the policies of occupying imperial and colonial powers. One example is that the Muslim population of Algeria was subject to exactly the same codes of criminal and civil law as were currently in force in France, and *Sharīʿa* was restricted to the law of personal status. Therefore, today, laws of European nature shape an integral part of the legal systems of most Middle Eastern countries and only the Arabian Peninsula remains commonly immune to the effect of European laws (Anderson, 1996). A dual system appears in many majority Muslim countries where the government is secular. Nevertheless, Muslims can select family and financial problems to *Sharīʿa* courts. The particular jurisdiction of these courts differs across countries, but often involves marriage, guardianship, divorce and inheritance. Examples can be illustrated from Kenya and Nigeria, which have *Sharīʿa* courts that govern family law for Muslims. Similarly, in Tanzania, where civil courts implement *Sharīʿa* or secular law with regards to the religious backgrounds of the defendants (*ibid.*). Few countries, including Indonesia and Lebanon, have combined jurisdiction courts on the basis of residual colonial legal systems and complemented with *Sharīʿa* (*ibid.*). From the last part of the nineteenth century onwards, pure *Sharīʿa* in its traditional form was commonly restricted in the Middle East to the domain of family law, as in Egypt where pure *Sharīʿa* was restricted to specifically *Sharīʿa* courts and the sphere of family law. There, mixed courts, native courts and civil codes were promulgated, all based predominantly on French models. These codes included among their provisions a certain number of sections derived from *Sharīʿa* (*ibid.*).

For the purpose of this study, the relationship between law and religion is discussed in five countries: Saudi Arabia, Egypt, Lebanon, Syria and Pakistan. This is because these are from where the selected translators and publishers come. Saudi Arabia considers Islamic Law as a constitution and, thus, religion is the most dominant field of power. Similarly, Pakistan follows *Sharīʿa* but gives non-Muslim minorities the freedom to practice their religion. Thus, both countries are religious states.

A pilot interview was conducted on the 5th of September 2016 with the Saudi former judge, °Abd al-°Azīz al-Qāsim, who highlighted that the fields of religion and law in the Saudi social space are in parallel, which contradicts the commonly held belief that religion is the only source of legislation in Saudi Arabia. To illustrate this, the marriage of Saudi nationals to non-Saudis is controlled by many rules by the Saudi government, which may sometimes result in not approving the marriage (see Ministry of Interior, 2018). However, such rules are not rooted in Islam. This gives the field of law a similar, if not equal, power to the religious field in Saudi Arabia in which both fields are interacting. Thus, there is a strong relationship between the two fields and they have power over the translation practice.

In Egypt, Islamic Law is applied under the authority of civil law. Former President of Egypt Anwar al-Sādāt sought legitimacy that distinguished his regime from the previous revolutionary one of President Naṣir. In 1971, he influenced the amendment of Article 2 in the Egyptian constitution which had declared Islam the religion of the state and *Sharī'a* 'a' principle source of legislation to push the idea that Egypt was a state of science and faith (Moustafa, 2010). Additionally, in 1980, *Sharī'a* was declared 'the' source of legislation. Bourdieu views religion as a main force in turning religious specialists into dynamic agents (see Bourdieu, 1990a: 9). One can argue that the common trend in Egyptian law has been strongly secular, with legal education almost secular and legal institutions being based in mostly civil law. Meanwhile, Lebanon is a parliamentary democratic republic with the total model of confessionalism in which the highest offices are proportionately kept for representatives from particular ethno-religious communities. Thus, religion is separated from government law in Lebanon as its constitution is built on civil law. Finally, Syria is a secular state without having its laws based on Islam.

The brief discussion highlights the different degrees of the relationship between religion and law in the five countries under consideration. It also indicates that although the selected translators and publishers came from various aspects of the Islamic world, they have to take into consideration the relationship between the Sunna and the law that affects their translation practices. In other words, the influence of power on legal and religious translation practices is important in shaping the TTs, which reflects a societal struggle. To understand the homology between the

field of Islamic Law translation and the fields of religion and law, understanding the internal structure of the Islamic Law translation field is necessary. As discussed previously, two groups of translating agents constitute opposing forces; the first group seeks to accumulate economic capital, while the other group invites dialogue through its translations. It is at the pole of heteronomy where religion is of primary importance. The internal struggle within the field of Islamic Law translation is between these two groups.

The field of translating Islamic Law discourse is strongly linked to the fields of power. Many translators, including Khān, are, or have, co-operated closely with religious scholars or legal authorities in the Islamic world in general and in Saudi Arabia in particular. The influence of the field of power on Islamic Law translation can also be noticed in the first translation of *Ṣaḥīḥ al-Bukhārī*, which was approved by legal and religious organisations in the Kingdom. To varying degrees, translations of legal texts can function simultaneously in the religious and legal fields as religion manifests as the ideological instrument in which the state practices its power through social and political institutions (Bourdieu, 1990a).

The relationship between the religious and legal fields has changed over time. Religion was the most dominant field before the 21st century; however, presently law and religion have symmetric power (Jaber, 2015). This could be explained in light of the spread of terrorist thoughts that have affected the youth and distorted the real image of Islam in the Middle East, particularly after the Iranian Islamic revolution in 1979. Terrorism has changed the balance between religion and law as it has been attributed to Islam. Thus, Saudi Arabia, as a leading Islamic country, has promised to move its system towards moderate Islam. For example, Muḥammad bin Salmān, the Saudi crown prince, has vowed to return the country to moderate Islam to halt destructive thoughts (Chulov, 2017). Another illustration of the Saudi vision towards moderation is Prince Khalid Al-Faysal Moderation Award, which focuses its efforts to the institutionalisation of the moderation approach in order to prove that Islam is a religion preaching moderation for all times and places. As a result, the *doxa* of the Islamic Law translation field has featured greater foreignisation since the start of the 21st century. This occurs because of several factors, including religious awareness, as Westerns gain greater familiarity with Islam, its concepts and culture, and

globalisation, as education scholarships and the Internet have helped to spread Islam so people can search for a better understanding of Islamic concepts. Universal interest in studying Arab culture is identified by socio-political factors more so than a mere attention in the language itself. Also, the events of 11th September 2001 have led to greater Western interest in the region and its culture and politics.

Thus, a greater religious awareness and globalisation are major factors that have affected the field and, therefore, the translators' translational habitus. This can be illustrated in the differences in the translations conducted in 1971 and 1997, particularly by the Pakistani translators, Şiddīqī and Khān, who were keen to spread Islam in an attempt to bridge the cultural gap between Islam and the West. In the later translations, there was greater awareness of their critical role as cultural mediators in an increasingly polarised world. By 2001, translators, such as al-Sharīf, had become more focused on finding equivalent terms in the TL. This means that Islamic concepts are explained in plain English and transliteration is done only where necessary followed by an explanation between brackets. However, by 2007, translators, such as al-Khaṭṭāb, had changed their translation approach towards fidelity because of the influence of globalisation.

Globalisation is a social phenomenon as a result of technological and scientific developments. It is a 'new revolutionary' (Giddens, 2003: 10), a powerful, open-ended transformative force that can create change in the world order (Held et al., 1999: 7). In this study, the cultural aspect of globalisation is the main focus as it includes the transfer of culture, knowledge, information, etc. Cultural globalisation refers to the huge number of linkages between countries and societies that then comprise the social world. It illustrates the process of cross-fertilisation of events, ideas, cultures and practices between different parts of the globe (McGrew, 1992). The impact of popular global culture plays an immense role in ideology and modes of thinking and behaviour. Thus, cultural globalisation raises awareness of other cultures (Therborn, 2000), creating a common universal consciousness (Ritzer, 2004).

Two key aspects have resulted in the expansion of globalisation of Arab culture into the Western world, with the first being the spread of Islam (Shuja, 2000), which has

resulted in the spread of Arabic. This is because Muslims are expected to read the Qur'ān in Arabic rather than in its translation. Many non-Arab Muslims tend to learn Arabic for this reason. In Europe, there are 20 million Muslims who are mostly not of Arab background; in fact, most Muslims in the world who are Arabs are only ten percent (Sehlaoui, 2008: 280). In this context, Simbar (2008: 55) stated that: "The new demographic presence of Islam within the Western World is indicative that Islamisation is now a major globalising force." The second factor behind the spread of Arabic culture is immigration from the second part of the 20th century of Arab Muslims to the West, which has increased the global existence of Islam and the Arabic language and its customs in the non-Arab world. Most Arab Muslim immigrants try to keep their Arabic language and tradition and preserve their customs even in a different community (Sehlaoui, 2008). Therefore, it is argued that the consciousness of Arabic language and its customs in the West has developed. This explains the domination of the use of transliteration and a source-oriented approach in the recent translation of Islamic Law texts.

For translators, bridging the cultural gap is becoming less arduous, primarily because translators take into account readers' knowledge of the other culture with the main purpose of achieving acceptance by the TL reader (Aldebyan, 2008) while translating *ḥadīth*. However, readers differ in their interests and abilities to understand aspects of other cultures. Mass media and globalisation have enabled communication across cultures and languages, and as a result translators realise that their readers have access to resources that can clarify misunderstandings (Rantanen, 2005). This is the case especially in applying the foreignisation strategy and the use of foreign words in literary texts (Aldebyan, 2008; Wiersema, 2004). Therefore, it can be assumed that cultural globalisation has developed the knowledge of Arab culture and aided target readers to become more flexible to accepting items of foreignness in translations. This explains the changing doxic behaviour between the selected TTs. Equally, it can be claimed that the mass media and internet actually help create cultural differences. There are many sites that reinforce stereotypes about Arabs and Muslims as terrorists, even respectable sites such as Fox News. Thus, depending on these resources to understand the ST may undermine its original message.

5.1.3 Situational Level of Power

After acknowledging both the institutional and societal levels of struggle that encompass the translation process, an analysis of the types of power that might occur depending on the situation and status of this genre in a wider field, i.e. the Saudi social space, is needed.

5.1.3.1 Islamic Law Translation in the Saudi Social Space

This section sheds light on the Saudi social space and how it influences Islamic Law translation practices. The Islamic faith originated in the cities of Makkah and Madinah in Saudi Arabia, which has the holiest places of worship for more than a billion Muslims. The sacred sites provide a steady flow of financial income; the yearly pilgrimage, the *Hajj*, draws the attention of millions of Muslims annually. Religious values have, therefore, entitled the Kingdom with a main position in the Islamic world, both symbolically and in terms of reinforced economic capital. This has given the Saudi country a strategic position in the Islamic world, strengthening its engagement in international Islamic institutions by providing them with significant funds (McLachlan, 1986). Political authorities in the Kingdom have paid attention to Islamic prestige, as illustrated in the change of the official title of the King in 1986 from 'His Majesty' to 'the Custodian of the Two Holy Mosques' (Alkhamis, 2013). Additionally, it is manifested in the phrase 'there is no God but Allah, Muhammad is the Messenger of Allah', which is featured on the nation's flag. Moreover, the official Saudi constitution is the Qur'ān and the *ḥadīth*, which reflects internal dynamics in the field of power between religion and politics in the Kingdom and establishes the country as a major influencer in the Islamic world.

This means that fields of religion and law in the Islamic world fall under the influence of a wider social space, that of the Saudi social space. Since the foundation of Saudi Arabia by King ʿAbd al-ʿAzīz, serving Islam and Muslims across the world has been one of the Kingdom's main goals. For example, King ʿAbd al-ʿAzīz supported *Sharīʿa* education in Egypt by funding and printing Islamic books published by Dār al-Manār Publishing Company (al-Rifāʿī, 1987). Furthermore, Saudi Arabia has Islamic universities, such as the Islamic University in Madinah, which attract international students from more than 150 countries. After graduation, students return to their

countries and serve Islam. As a result, the fields and agents, whether living inside or outside Saudi Arabia are acting, consciously or unconsciously, within the Saudi social space. The responses of the interviewees (see Appendix 3) reveal their awareness of potential uses of *ḥadīth* and its translations in law, particularly in Saudi Arabia, although they do not translate and publish only for this purpose. For example, al-Khaṭṭāb stated that translators should acknowledge this fact and, thus, aim to convey the exact ST meaning. Translators' recognition of the sensitivity of such texts is evident in their translation decisions as they maintained faithfulness during the translation process.

Translation in Saudi Arabia is strongly affected by the homology between the academic and religious fields. A recent illustration is King Salmān's Royal Decree to announce the Complex of the Custodian of the Two Holy Mosques King Salmān bin ʿAbd al-ʿAzīz āl Saʿūd for Prophet's *ḥadīth* in Madinah (Saudi Press Agency, 2017a). This embodies the Kingdom's concern for *Sharīʿa* and its sources as a basis for all laws and regulations set in the country in the service of Islam and Muslims. Translation in Saudi Arabia is practiced by various agents, such as government institutions and ministries, national and international bodies, educational organisations and centres, cooperative agencies and private translation offices. The importance of translation practices to the Saudi government can be illustrated in the establishment of King Abdullah International Award for Translation from and into Arabic in 2006. In particular, Qurʾān and *ḥadīth* translations have a long history in Saudi Arabia. For instance, the King Fahd Glorious Quran Printing Complex, which was established in 1982, won the King Abdullah Translation Award in 2008. The main reasons of the establishment of this government institution are to meet the needs of the Muslim world for Qurʾān translations, to meet the demands for the different fields of study related to the Qurʾān, to provide the best services in relation to translations of the Sunna and to support the important role of Saudi Arabia in serving Islam and Muslims. Therefore, in this case, the capital that is gained through translation practices is distinguished from that reached by other academic institutions involving in translation. Furthermore, in 2008, the academic Saudi Society for the Prophetic Sunna at Al-Imam Mohammad Ibn Saud Islamic University organised a symposium about the importance of the Sunna in the Islamic world and the principles of its translation. Also, the majority of Al-Imam Mohammad Ibn Saud Islamic

University's publications are non-academic and oriented towards spreading Islamic teaching among non-Muslims as well as individuals who converted to Islam. These practices reinforce the strategic position of the Saudi country in the Islamic world through caring about religious symbolism and prestige. Thus, investigating the Saudi social space as the dominant field of Islamic Law translation practice in the Islamic world is vital to understanding the situational influence on agents in this field.

There are many publishers in Saudi Arabia ranging from established and mainstream to smaller and lesser-known. Most of Saudi Arabia's private publishers regularly import translated foreign books as well as books from other Arab countries, particularly Egypt and Lebanon. For example, the selected translations published by Dār al-Fikr and Dār al-Kutub al-ʿIlmiyya are distributed in Saudi Arabia. Publishing in the Kingdom is recent compared to those in the Arab world and the universal field, spearheaded by the US and the UK markets. Furthermore, the product of the Saudi publishers is few. This is due to two key factors. First, there has been a significant reliance on importing books from other Arab countries for many years. Second, because of censorship and the lack of reliability of local publishers, numerous Saudi authors continue to favour to publish their works with more prestigious and established Arab publishers. In 2010, the Saudi authors produced 311 books, 116 of which were published outside Saudi Arabia, primarily in London, Egypt and Lebanon (Alkhamis, 2013: 139).

This means that censorial practice should be viewed according to the wider political and social structures that affect activities in the fields of cultural production. As part of the Saudi social space and subjected to religious and political *doxa*, the publisher may act on their own values on what should be published to the public. Nevertheless, their choices may also be influenced by profit and thus cater to the expectations of their readers. The homology with the religious field is particularly obvious in this example, as the field is very much part of that of power in Saudi Arabia. In Bourdieu's words, it could be argued that a division occurred between two closely linked positions in the field of power, undermining the dominant *Sharīʿa*, on the one hand, and the Islamic field on the other.

As previously acknowledged, boundaries to the translation field and publishing of Islamic Law texts are imposed because practices in this field were strongly governed by Saudi Arabia, which had the resources to fund the translations of Arabic and Islamic texts. Thus, the rules governing the field were informed by the Saudi government's values and interests. It can be argued that the government played a major role in choosing Islamic texts for translation, which were in line with the interests of the Kingdom in serving Islam. This meant that new translators and publishers of Islamic texts, in order to enjoy position in the field, are required to follow the translation rules set by the Saudi government. *Sharī'a* translation practice around the world is monitored by government institutions in Saudi Arabia, such as the Ministry of Islamic Affairs, Dawah and Guidance, the Ministry of Culture and Information, the Ministry of Commerce and Investment and World Assembly of Muslim Youth (WAMY). This was confirmed in interviews conducted with well-known certified translation companies in Saudi Arabia, including ATLAS Certified Translation Office, Ibn Khaldūn and Ibn Bāz Office for Certified Translation. In addition, Alwazna, a Saudi professor in legal translation and a judge for the Prince Khalid Al-Faysal Moderation Award, who has translated several sections of the *Ḥanbalī Sharī'a* code from Arabic into English in 2013, confirmed in a small talk in 2017 that Islamic Law translation projects must be approved by the Saudi government institutions.

Publishers stated that their companies are licensed by the Ministry of Culture and Information and the Ministry of Commerce. In this regard, the selected translators and publishers follow the Saudi rules because they want their translations to be accepted by the majority of readers. Mujāhid, in the interview, stated that books cannot be published unless the Ministry of Culture and Information approves them. He also asserted that Dār al-Salām follows the Saudi government regulations and highlights the importance of using the translated *ḥadīth* collections in the Saudi education system, in particular in *Sharī'a* curriculum, and other Islamic countries. Mujāhid, in the interview, stated, "I am a *Salafī* Muslim but a moderate one who accept others" (see Appendix 3). Generally, *Salafiyya* is an Islamic movement following the *Salaf* (i.e. Islam researchers who lived during the first 400 years of the Prophet Muhammad's era).

Overall, the explanation stage in CDA, as applied in this chapter, views discourse as embedded in the process of social struggle and power relations, revealing the impact of social structures on discourses and vice versa. Also, Bourdieu's concept of field helps in providing an accurate and systematic investigation of the context in which translation practices and social struggle occur. Thus, the analysis answers the third research question by exploring the relationship that connects both the linguistic and the social findings to the contextual level as both have positive relationships and are affected by the fields in which they are located. This relationship reveals the possible reasons behind the discrepancies in *ḥadīth* translation. The following section describes these relations and reasons.

5.2 A Discussion of the Three Stages of Analysis: Linking the Micro to the Macro

The analysis of the translations of the two *Ṣaḥīḥs* and their environmental factors has resulted in significant findings. The findings reveal the effective and ineffective variables on *ḥadīth* translation and show various relationships between these variables. Translators' habitus is found to be the most effective element on the TTs. This is because it was manifested in the translators' adopted strategies and choices. Thus, translators' lexical choices act as a platform through which their habitus is clarified, and the highest degree of the sociolinguistic variability is evident in their choices of certain terms which may carry indirect meanings; for instance, with the translators' use of 'the Prophet' and 'the messenger of Allah' (see Chapter Four).

Textual analysis of the translations of the two *Ṣaḥīḥs*, (i.e. the description stage), indicates that ideological stances are manifested in the TTs when applying particular translation strategies. To illustrate this, adopting foreignisation without adding any explanation of the ST concepts leads to unequal interpretations by the TT readers. For example, al-Khaṭṭāb's application of foreignisation is 93% but has only 9% of footnotes, which leads his readers to interpret the ST differently. Similarly, the application of the translation by omission approach indicates a hidden ideological stance of not transferring the complete ST message and effect. Al-Sharīf, in the interview, agreed that religious belief and ideology play a vital role in the translation decisions. Nevertheless, he claimed that *ḥadīth* translators should be neutral and not

follow a particular religious doctrine in their translations. In contrast, al-Khaṭṭāb clearly stated that he is a moderate *Salafī* who follows the sect of *al-Sunna wa-l-Jamā'a*. The interpretation stage of the analysis highlights the influence of these ideological stances in the production of *ḥadīth* translation (see Chapter Four). These stances can be clearly illustrated in the three types of values presented by Fairclough (2001: 112), which are experiential, relational, and expressive presented diagrammatically (see Table 5.1). To arrive at these values, Fairclough (*ibid.*: 92) proposed ten questions and several sub-questions, which can be utilised when analysing a text.

Table 5.1: Formal Features: Experiential, Relational and Expressive Values

Dimensions of Meaning	Values of Features	Structural Effects
Contents	Experiential	Knowledge and beliefs
Relations	Relational	Social relations
Subjects	Expressive	Social identities

Based on the micro and macro levels of analysis, the frequencies of the existence of these values are shown in Tables 5.2, 5.3 and 5.4.

Table 5.2: Experiential Value Frequency of the Four Translators

Type of Analysis	Experiential Values	Frequency			
		Khān	Al-Sharīf	Ṣiddīqī	Al-Khaṭṭāb
Vocabulary	Word choice	49	55	65	23
	Rewording Synonyms	5	7	81	4
	Overwording	7	9	7	7
	Addition	371	349	359	254
	Omission	53	99	82	20
Grammar	Active and passive	1	2	8	7
	Negativity	0	0	1	0
	Singular	4	2	2	0
	Plural	4	5	4	6
	Sentence structure	1	0	7	2

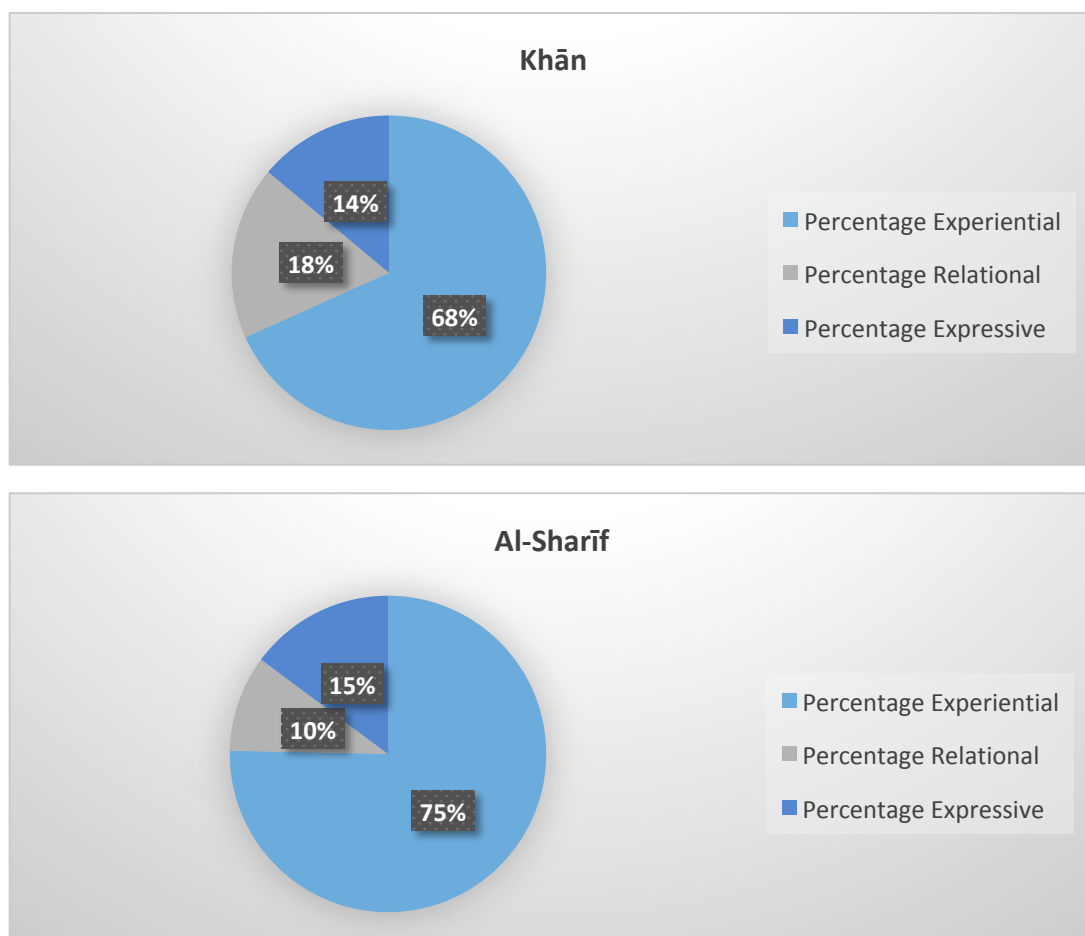
Table 5.3: Relational Value Frequency of the Four Translators

Type of Analysis	Relational Values	Frequency			
		Khān	Al-Sharīf	Ṣiddīqī	Al-Khaṭṭāb
Vocabulary	Transliteration	103	37	69	117
Grammar	Modes	7	11	5	22
	Modality	14	18	24	18
	Pronouns	5	3	15	4

Table 5.4: Expressive Value Frequency of the Four Translators

Type of Analysis	Expressive Values	Frequency			
		Khān	Al-Sharīf	Şiddīqī	Al-Khaṭṭāb
Vocabulary	Word choice	8	7	43	9
	Metaphors	2	2	2	0
	Presupposition	0	0	3	4
Grammar	Linking between sentences	19	18	57	19
	Cohesive devices	60	57	69	50
	Prepositions	0	0	3	4
	Thematic structure	12	20	28	18

The results shown in the tables represent the number of occurrences of each translation strategy in the TT compared to the ST. The frequencies illustrate that the highest number of values is found in Şiddīqī's translation and the lowest is found in al-Khaṭṭāb's. This is justified in the interpretation stage of analysis (see Chapter Four), which illustrates both Şiddīqī's passion to serve Islam and al-Khaṭṭāb's decision not to interfere significantly in the TT. Thus, their aims have a positive relationship with the values in the TTs. To summarise, the distribution of values applied in this study by each translator is presented in Figure 5.2.



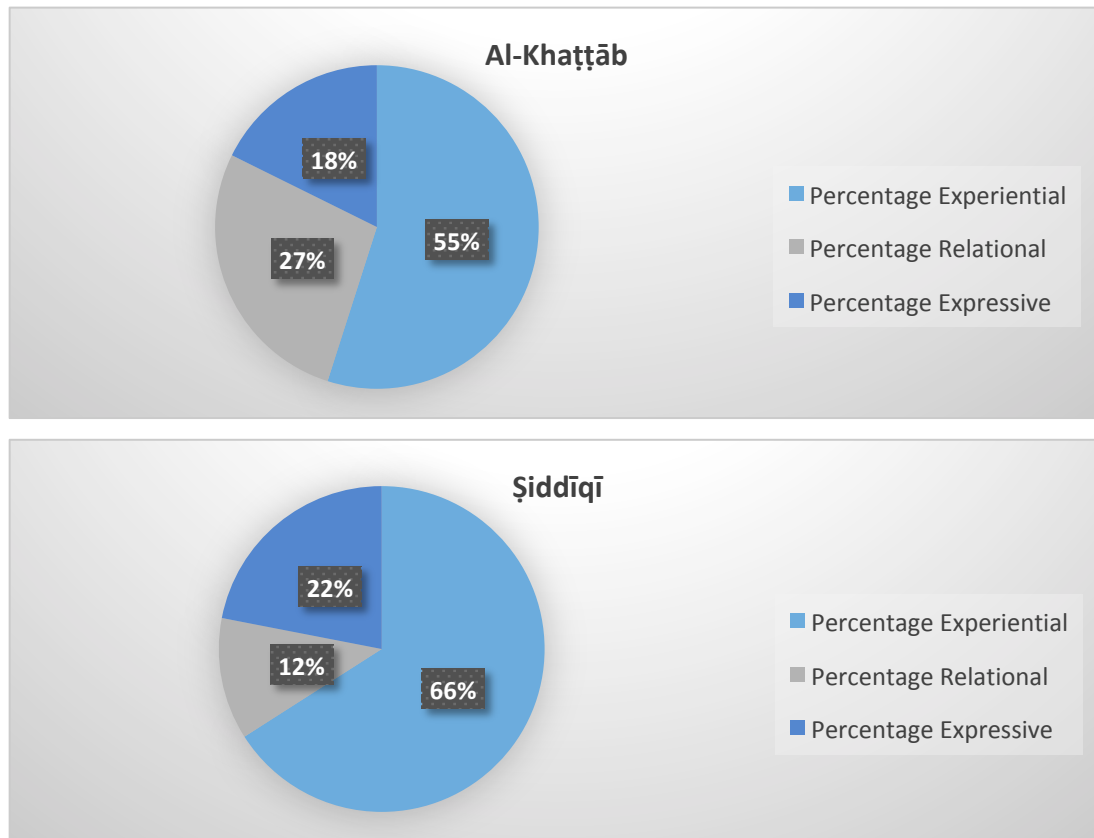


Figure 5.2: Percentage Values by Translator

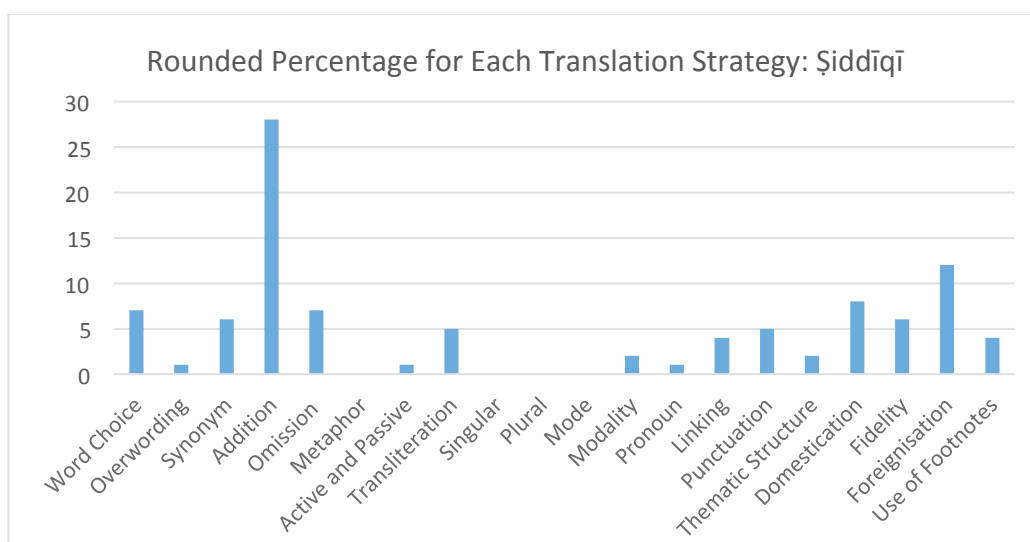
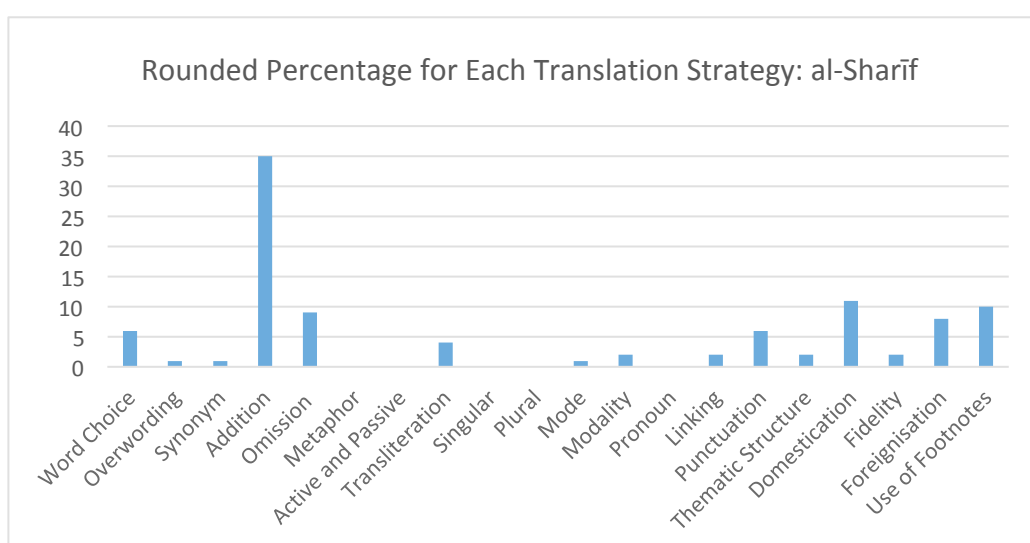
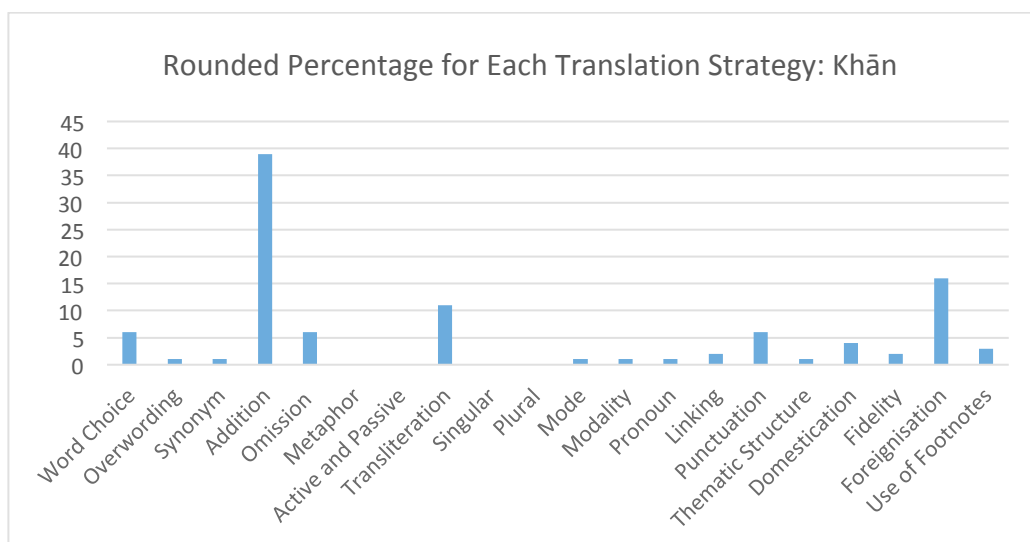
The pie charts indicate the ideological stances of the four translators are mostly expressed through their experiential values. Furthermore, the ideological stances of the translators are also underscored in terms of expressive value, the highest percentage of which is by Ṣiddīqī at 22%, while the highest of relational value is by al-Khaṭṭāb (27%). Importantly, the existence of the translators' ideology does not always have a negative impact on the TT; it can reveal translators' voices on the TTs as effective agents in the translation process of *ḥadīth*.

Another effective variable is the translator's capital. There is a recognisable connection between the translation choices and the translators' capitals in the Islamic Law translation field. This correlation is positive; the greater status the translators have, the greater freedom they enjoy in the translation process. For example, al-Khaṭṭāb has less freedom than do other translators, as his voice does not exist in the paratexts. This constrained freedom was also evident in the interview as he stated that he only translates, while the publisher makes the final decision (see Appendix 3). In contrast, the paratexts highlight Khān's, al-Sharīf's and Ṣiddīqī's strong positions as a result of their capital. As the analysis demonstrates those who translate this genre are experts in the field and knowledgeable about the science of

ḥadīth; however, their different qualifications and purposes affect their productions. Translation discrepancies occur because each translator has a particular purpose. For example, al-Khaṭṭāb stated that he is careful not to impose his opinion or show his view about a subject matter (see Appendix 3). Moreover, the genre and status of the texts play a significant role in shaping the translators' decisions. For example, in the interview with al-Sharīf, he stated that translating *ḥadīth* is not an easy task since the language may appear easy, but it requires an in-depth understanding since the Prophet's use of language conveys different meanings. It is difficult for the translator to maintain short sentences while conveying complex meanings. Thus, the translator has to explain the ST meaning without adding too many words to the TT.

The data overview also highlights correlations between the translators and their adopted strategies. For example, in the translation of *Ṣaḥīḥ al-Bukhārī*, Khān and al-Sharīf applied various translation strategies throughout the chapters of *ḥadīth*. Their strategy applications number 966 and 1012, respectively. In terms of the *Ṣaḥīḥ Muslim*, the total of Ṣiddīqī's translation strategies is 1284 while al-Khaṭṭāb's is 1020. The numbers of the translators' actions do not always represent their positions in the translation field. However, the number of the strategies is an effective variable. As an illustration, al-Khaṭṭāb occupies the second highest number for applying translation strategies, which includes fidelity, borrowing and foreignisation (see Table 4.3 in Chapter Four). Although the total number of strategies is high, the types of these strategies indicate that he did not interfere significantly in the TT.

To highlight the types of strategies the translators adopted, the three stages of analysis and the data overview reveal which types are more prominent. For example, foreignisation and the use of paratextual materials are prominent in each of the translations, while the highest percentage among the translation strategies is translation by addition for each of the translators (see Figure 5.3).



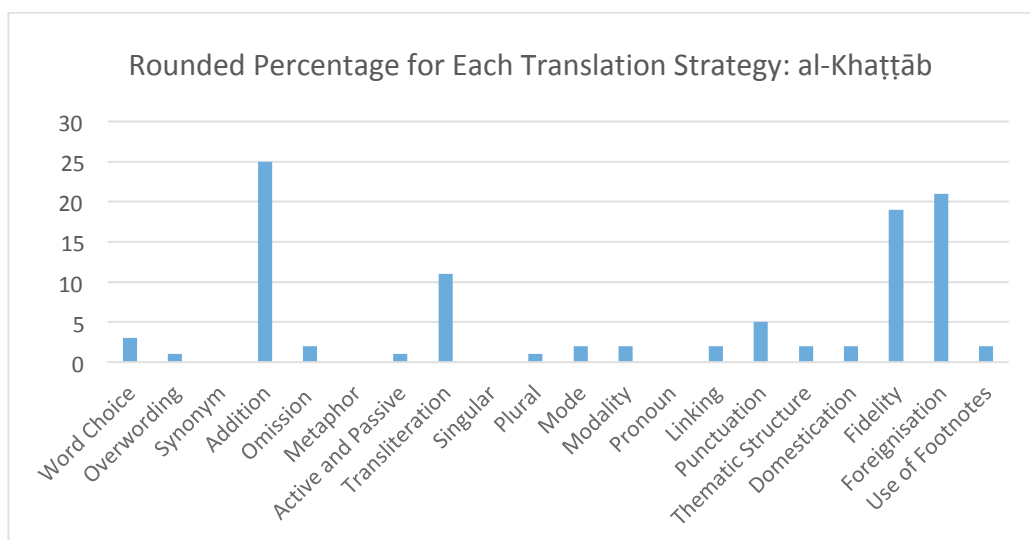


Figure 5.3: Translators' Translation Strategies by Percentage

The analysis highlights that the most frequently employed strategy by the four translators is foreignisation, i.e. when loanwords are used to reflect the ST culture, since it is assumed that the TT readers are already familiar with Islamic concepts and certain religious terminology has no equivalence in the TL. The numerous borrowings of transliterated Islamic concepts with or without explanation illustrates this approach. According to ElShiekh and Saleh (2011), the use of transliteration rather than translation in the Islamic Law context reflects an exclusive rather than an inclusive attitude on part of the language user. Their argument could be correct if the intended readers are not Muslims and do not speak Arabic; however, the target readers of the translations can be Muslim or non-Muslim and Arab or non-Arab. In this regard, the target reader, as is explained in Chapter Four, is an effective factor in Bourdieu's concept of the social field.

Additionally, the data overview (i.e. data counting) compares each translator's translation strategies between different chapters. The results indicate that the four translators were highly consistent when applying translation approaches (see Tables 5.5 and 5.6). Table 5.5 highlights that Khān's and al-Sharīf's translation approach has a positive relationship within each of the chapters of *Ṣaḥīḥ al-Bukhārī*. However, in *Ṣaḥīḥ Muslim*, while Ṣiddīqī maintained a fixed approach in each chapter, al-Khaṭṭāb's approach in the chapters on marriage and divorce were in opposite directions, meaning that if the application of a specific translation strategy is high in *ḥadīths* on marriage, it is low in *ḥadīths* on divorce and vice versa. Nevertheless, this

negative correlation does not indicate any ideological stances as it only manifests his habitus in conveying the ST message. Furthermore, al-Khaṭṭāb adopted a fixed approach in the other chapters (see Table 5.6).

Table 5.5: Khān's and al-Sharīf's Consistency in Different Chapters

Comparison between Different Chapters	Khān's Correlation	Al-Sharīf's Correlation
Wills and Marriage	96.36278	88.34408
Wills and Divorce	90.45042	90.73230
Wills and Supporting the family	84.75472	83.40006
Wills and Inheritance	87.13085	81.89433
Marriage and Divorce	94.24027	94.02056
Marriage and Supporting the Family	82.23483	87.03684
Marriage and Inheritance	93.36401	81.89433
Divorce and Supporting the Family	88.20138	87.55767
Divorce and Inheritance	94.78540	91.72105
Supporting the Family and Inheritance	79.49443	81.03860

Table 5.6: Şiddīqī's and al-Khaṭṭāb's Consistency in Different Chapters

Comparison between Different Chapters	Şiddīqī's Correlation	Al-Khaṭṭāb's Correlation
Marriage and Divorce	85.74622	-87.09640
Marriage and Inheritance	76.94227	94.89583
Marriage and Wills	62.90558	97.07406
Divorce and Inheritance	90.00001	93.75641
Divorce and Wills	78.42753	89.67619
Inheritance and Wills	70.64382	97.29204

Similarly, the translators have close correlations in specific chapters, as seen in Table 5.7, which illustrates the percentages when the translators' choices are the same. The strength of the correlations highlighted in Tables 5.5, 5.6 and 5.7 indicates that each translator adopted a fixed approach to each chapter. Therefore, the subject of the *ḥadīth* is an ineffective variable in translators' decisions. This supports the argument that the impact of habitus and capital on the translators' approaches is significant. This relationship varies according to the translators' habitus, capital, target readers and the time in which the translation process was conducted.

Table 5.7: Correlations between the Translators in Specific Chapters

Chapter	Correlation between Khān and al-Sharīf	Correlation between Ṣiddīqī and al-Khaṭṭāb
Wills	67%	74%
Marriage	76%	56%
Divorce	72%	53%
Supporting the Family	66%	NA
Inheritance	79%	54%

The explanation stage of the analysis shows how the translators' approaches are affected by the social surroundings in which their backgrounds and beliefs are shaped. Additionally, *ḥadīth* translation is not merely concerned with a religious text but provides a foundation for the constitution of most Islamic countries. This is particularly the case in Saudi Arabia, where religion is found to play a major role in the textual content and discourse organisation of the law. The analysis reveals that the Saudi context is a determining factor in the translation decisions. Although the primary audience is international, the translations of the two *Ṣaḥīḥs* are indirectly affected by the orientation of Islam in Saudi Arabia. This is evident in the interviews, in which the translators and publishers acknowledged the connection between the policies of the government of Saudi Arabia and the spread of *ḥadīth* translation across the globe. For example, Dār al-Kutub al-ʿIlmiyya consults many interpretative books of *ḥadīth*, which are published in Saudi Arabia. The publishing company has not experienced any direction from the Saudi authorities regarding their products (see Appendix 3). However, as was admitted in the interview, if any direction did occur, the company might follow it. Similarly, al-Sharīf's translation was published in many libraries in Riyadh, but its distribution was limited. Al-Sharīf asserted that this is due to the distribution policies and contracts in Saudi Arabia and not because of problems in the translation (see Appendix 3). This, again, proves the agents' desire to meet the requirements of the Saudi discipline of *ḥadīth* translation.

To summarise, the internal and external elements that affect the translation of *ḥadīth*, whether directly or indirectly, are discussed. Internal elements involve the nature of *ḥadīth*, as it has a special language and features that shape the translators' approach. In addition, *ḥadīth*'s status in the Islamic world as a source of legislation controls the translators' strategy in translating this sensitive genre. The second element is the purpose of translation, as each translator translates *ḥadīth* for a

particular reason. For example, Khān and Şiddīqī translated *ḥadīth* for purely religious reasons, to seek Allah's reward. However, al-Sharīf and al-Khaṭṭāb sought to gain a social position in the translation field by translating an important genre in the Islamic world (see Chapter Four). Thus, the translation purpose shapes the translation approach adopted by translators. The third affecting element is the target reader. This is linked to the translation purpose, meaning that Khān and Şiddīqī targeted Muslim and non-Muslim English speakers in order to help their readers understand *ḥadīth* correctly. Al-Sharīf targeted Muslims and non-Muslims who speak Arabic and English, while al-Khaṭṭāb targeted Muslim and non-Muslim English speakers who are knowledgeable about Islamic rules and concepts.

In addition, two broad causal powers that shape the TTs can be distinguished: first, social structures and social practices and, second, social agents who are in social events (Archer, 1995; Sayer, 2000). Translators are the closest social agents to the text; thus, they are considered as an effective element in the translation process. Translators' capital and habitus are two concepts, which draw the boundaries of translation and shape the translators' ideological stance. This means that each translator makes his/her translation decision according to his/her educational background, position in the translation field and beliefs. Bourdieu's concept of institutionalised cultural capital could arguably justify why Islamic Law translators tend to focus their cultural and academic expertise, as seen in the example of Khān using the title of 'Dr.', which highlights his position in the field of activity. Thus, cultural capital gives Khān a privilege over other translators of the similar text, i.e., developing his competitive edge and reinforcing his position in the field of translation. Similarly, in terms of the total professional habitus, Şiddīqī's capital as an academic and a scholar found satisfaction in his translation. The translation is reflected as a translation and critical analysis rather than merely a translation.

In relation to the external elements, five factors were analysed to examine their degree of effectiveness on *ḥadīth* translation. These factors are the publishers, the field of translation, the field of religion, the field of law and the Saudi social space. It is found that each is an effective element; however, their degree of effectiveness varies according to the translator's position.

After analysing the data, the results were compared to ascertain if the translators are the most influential factor on the TTs, as sociolinguistics variations can be linked to the translational differences of the two sources of law. It was found that all the factors are interlinked and the closer the factor is to the text, the more effective it became. This was clearly illustrated in the interviews, in which the translators stated their principles for accepting or rejecting the changes made by other agents in the field, e.g. editors and publishers. Al-Sharīf asserted that “any changes that might affect the ST intended meaning will not be accepted. I only accept structural and linguistic changes which make the TT more fluent” (see Appendix 3). Also, the translators' strong effect on their TTs is illustrated in the paratext, in which they clearly show their voices and, thus, their translation approach. One example is Ṣiddīqī, as he clearly stated that those who claim that the Sunna was only valid during the lifetime of the Prophet and cannot be used nowadays as a code of life are “misguided.” He strongly emphasised that the Sunna is eternal and universal (1971: ii). His habitus is obvious in the TT, particularly in the footnotes.

The analysis is in line with the literature on legal translation challenges and approaches as discussed in Chapter Two. Considering the lack of in-depth literature on a comprehensive approach that explores legal translation process, it can be suggested that both text and context are strongly connected in affecting the legal translation product.

Although there is a history of Islamic Law translation practice in Saudi Arabia, the practice still requires systematic study, which this research is addressing. There is a gap in sociological studies that investigate different forms of production in the Islamic world, and especially the various ways in which Islamic Law translation is structured in Saudi Arabia and, in turn, contributes to shaping it in other Islamic countries, such as Pakistan, Egypt, Syria and Lebanon. This study attempts to fill this gap, at least partly, by investigating aspects of the legal translation practices in Islamic countries. Recently, there is a growing volume of translations in the region reflecting a social interest in these practices. Translations of Islamic source texts have been the subject of research for many years, and there is a considerable body of research on English translations of Islamic sources. Some of these studies focus on the translatability of Qur'ān, and others focus on linguistic features of translation and translators'

approaches (see Elimam, 2013; 2017). Further concluding remarks are provided in the following chapter.

Chapter 6:

Discussion of Results and Conclusion

This study has shed light on a vital Arabic into English translation genre in the Islamic world, with particular emphasis on *Shari'ca*. It has highlighted the distinctive features of Islamic Law translation, *ḥadīth* in particular, compared to other genres of Arabic legal documents. The central aim of the thesis is highlighting the changes from the ST in the translations of *ḥadīth* as a source of Islamic Law and revealing the possible reasons behind these changes. It also discovers the correlation between the text and context in Islamic Law translation. Based on the assumption that translation is shaped by social realities and simultaneously constructs them, the study sets out to not only uncover evidence of translational mediation in Islamic Law translation and their effects on the readers, but also to explore the causal conditions that mould *Shari'ca* translation in the Islamic world.

6.1 Overall Discussion

The context of Saudi Arabia has been examined in this study to test if it acts as a variable that affects the translators' decisions in translating *ḥadīth*. This study provides a detailed comparison between the selected STs and TTs to acknowledge the common trends in the translation of *ḥadīth*, reveal the ideological stances in the TTs and the possible factors that affect the TTs and which factor is most effective. This helps in understanding the translation of this genre from a sociolinguistic dimension and recognising its legal impact. Thus, this study introduces the legal function of *ḥadīth*. It also provides an assessment of the validity of CDA and Bourdieu's concepts as a sound integrated framework that utilises tools analyse a legal discourse on both the micro and macro levels. The *ḥadīth* collections, published in the 1970s and 2000s, are selected to examine the different translation practices and effects before and after the start of the 21st century. The selected translators are Arab Muslims and non-Arab Muslims in order to test their differences in Islamic religious affiliation rather than different religions. The study aims at highlighting this genre of legal translation to encourage further researchers to study the translation of religious texts from a fresh direction.

Based on the above objectives, this study attempts to fill the literature gap in three aspects: methodology, corpus function and focus. First, the literature on legal translation reviewed in Chapters Two and Three shows that there is a need for a comprehensive approach that combines both linguistic and sociological approaches. This approach provides solid interpretations and conclusions to any change that might occur in the translation product. It may also help the receivers to recognise translation differences and the possible reasons behind them. Scholars in the field of legal translation have paid greater attention to the text as a product rather than to aspects such as the impact of the modes of production, i.e. the productive forces in society and the social relations of production on the structure of the text (Marx et al., 1974). This calls for reconciliation between text and context. Although this integration has been used in Translation Studies, no efforts have been exerted to apply it to investigate the translation of legal discourse from Arabic into English, particularly to *ḥadīth*. Also, a similar comprehensive approach used by this study has been discussed recently by many researchers in Translation Studies. For example, Alvstad et al. (2017) adopted a textual and contextual approach to better understand and explain the complexity of both the translation process and the translation. They focused on the notion of 'voices' resulting from the research project *Voices of Translation: Rewriting Literary Texts in a Scandinavian Context* (2012-2016), which has been used metaphorically in Translation Studies (see Alvstad, 2013; Taivalkoski-Shilov and Suchet, 2013). Although the book covers various factors involved in the translation process, it does not examine which factor is the most effective, particularly in Islamic Law translation, as applied in the present study.

The second aspect is that the literature does not reveal research based on the translation of *ḥadīth* as a legal discourse, while researchers, such as Şiddīqī (1993), Brown (2009; 2015) and Elsaadany (2010), tend to focus on *ḥadīth* literature or its translation as a religious text without analysing the various functions and positions of this genre. Thus, this study clarifies the role of *ḥadīth* in Islamic Law, particularly in the Saudi legal system as it acts not only as a source of religion, but also a legal source of family law. In this study, the analysis proves that, although the translators' purposes to translate *ḥadīth* were not for legal purposes, their recognition of the legal function of *ḥadīth* appears in the TTs. They also acknowledged that some readers

might use the TTs in legal contexts. This supports the research argument that *ḥadīth*'s status acts as an effective variable on the translation products.

Third, this research focuses on the Saudi legal discourse, an area that lacks legal translation research. There is a considerable shortage in researching the field of law in Saudi Arabia. This reduces the quality of the translations of legal documents, and *ḥadīth* in particular. For the above-mentioned reasons, this study highlights such gaps and encourages other researchers to focus on Islamic Law translation.

In Chapter Four, the thesis provides a micro linguistic analysis between the STs and the TTs, which reveals that translators' ideological stances are manifested in Fairclough's three types of values. It also highlights the translation strategies adopted by the translators. Then, it links these translation choices with the translators' educational and professional backgrounds and their positions in the field of translation showing the strong relationship between the translators' social dispositions and their linguistic choices. Next, it focuses on the publishers as other agents in the field and examines if there are any requirements imposed by these publishers on the translators. Bhaskar's (1986) position-and-practices system refers to the association of each practice with particular positions for an individual and the different performances in these positions depending on the habitus and capital of those who occupy them. Thereafter, a macro-level analysis was provided in Chapter Five by placing the translators and publishers within Islamic Law translation as a field of cultural production in the Islamic world to acknowledge the status of *ḥadīth* in law and the common *doxa* in the field. This reveals the reasons for the agents' practices in the field and their position. A wider contributing factor, i.e. the Saudi social space, is also investigated and the principles for translating such discourse are discussed. In both levels of analysis, significant weight was given to the role played by paratextual elements in revealing the imagined audiences for individual translations and the contexts of their production. All of this provides a comprehensive analysis, which answers the research questions set out in this study.

Figure 6.1 outlines the stages of the analysis adopted in this study by highlighting the interrelated factors on the selected translators and their translation products as each factor affects and is affected by the other. Thus, the act of translation occurs in a

particular socio-cultural setting and is shaped by the translation's purpose, the type of genre, the commissioner's request, the translator's experience and the target audience. Considering each of these aspects gave the sociological scope of the analysis a more nuanced and detailed approach to the diversity of contextual factors.

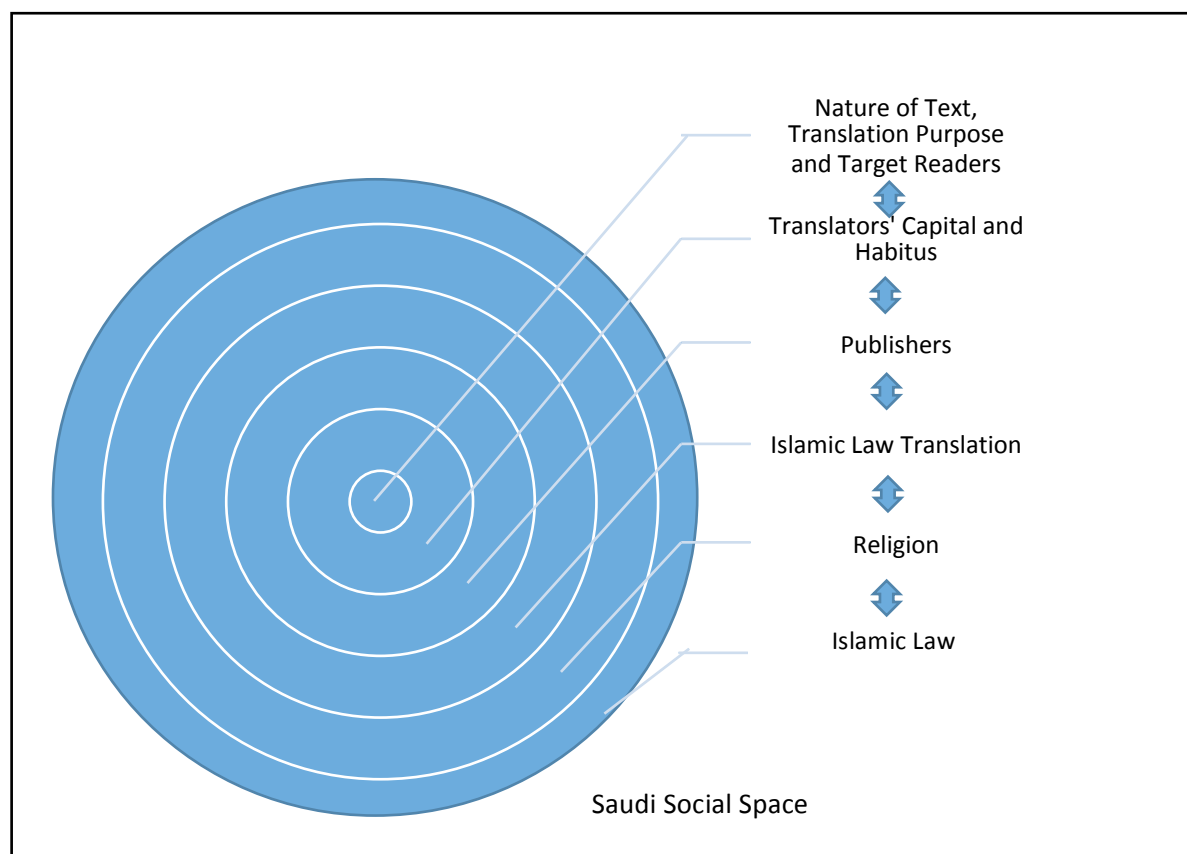


Figure 6.1: Factors Affecting Translators and their Decisions

Every act of text production or interpretation is based on the MRs of the translators, which constitute their individual interpretation of the ST and their ability to determine the situational context and understand the ST's intended meaning. This interpretation is then used to create a new TT in another culture according to the TL's lexical and grammatical constraints. The analysis proved that Islamic Law translators are not invisible in their work and have a significant influence on the TTs. Based on the findings, analysis and discussion of the data in the previous chapters, the following conclusions are outlined.

6.2 Concluding Remarks

After identifying the research gap based on critical analysis supported by evidence from the literature in the first three chapters, two approaches are reviewed as potential tools that help analyse the factors affecting the legal translation process, product and their efficiency. The first approach is CDA, which focuses on the textual variables. The second approach is the sociological factor supported by Bourdieu's concepts of field, habitus and capital. It is found that analysing the TTs alone is not sufficient to determine the important information with regards to the internal power and ideological struggles in Islamic Law texts. This concludes that the designed framework of this study can become a useful tool to help in performing a critical analysis of the TTs at the first stage of the translation process by including the social factors.

According to the theoretical and the methodological framework of this study, the textual analysis serves as an indicator of the interdiscursive strategies that mark the translators' habitus and their translation decisions. It also shows the general strategies applied by translators of such a genre, such as excessive resort to transliteration even when lexical items have equivalents in the TL. It is found that genre of the text is an effective variable in the translation process as it limits the choices of the translation strategies. CDA, which is primarily concerned with exploring the effects of factors that are not easily recognised by individuals in regular social situations, creates a connection between the textual analysis and the contextual analysis of ideology, power, equality and dominance in this activity using a critical lens (Fairclough, 2010). This approach is alongside with this project which focuses on translation variances between four translators from different backgrounds, since it analyses ideologies and values that result to the translatorial choices of *ḥadīth*. Thus, CDA helped in revealing the ideological stances in the selected TTs, which are proved to be an effective variable. This is achieved by providing a detailed linguistic analysis of the translations and paratexts. For example, Şiddīqī's introduction acts as a tool to encourage and convince the readers to believe in Allah and the Prophet. As shown in the analysis, ideological stances in Islamic Law translations occur among Muslim translators and not only those who belong to different religions.

After applying CDA to highlight the linguistic changes of the translations and exploring the implicit and hidden social forces affecting different versions in the TT, the analysis was further complemented by Bourdieu's theory of practice. This was undertaken in order to examine in-depth the translators' habitus and capital which affect their translational choices and then explore the translation field and the social struggles within it.

The analysis proves that Bourdieu's concepts of capital and habitus together with Fairclough's interpretation stage of discursive practices are useful tools through which to understand the relationship between the text and the translators. They also provided explanations of how these concepts and strategies are interlinked. The application of the theoretical framework to the selected case study serves in revealing the bond correlation between the chosen TTs and their contexts. Thus, the designed framework proved to be suitable to be integrated. This is because Fairclough's CDA and Bourdieu's concepts share one objective, which is highlighting language and its power in society. The adopted framework also highlights the weaknesses of each individual approach; Bourdieu adds descriptions and labels to the social space which CDA lacks, while CDA emphasises the impact of ideology and consciousness, which were absent in Bourdieu's theory. Therefore, this integrated approach meets the goal of this study by providing a detailed analysis and highlighting the power of language and society on the legal translation product.

Fairclough's CDA and Bourdieu's Theory of Practice provide a compromise between structure and agency or contextual and textual analysis, where practice is the outcome of social structures in a certain field. Habitus then ensures the total belief in the rules of the social game and that agents' behaviour depends on their position in the field. Agents can pursue individual strategies by exchanging capital, which suggests that their practices are not fully controlled by external forces (Bourdieu and Wacquant, 1992) and that, according to the adopted framework, they have freedom in their selection of practices and strategies to occupy relative positions on the social field. In the context of the study, they can present their ideological stances in the translation product. However, as Wacquant (1989: 45) stated, "individuals make choices, as long as we do not forget that they do not choose the principle of these

choices” and are thus, highly affected by structure. If habitus focuses on the agency, field brings into focus the structural part (Grenfell and James, 1998).

Although the designed framework provides a comprehensive interpretation of the translation environment of the translation of the two *Ṣaḥīḥs*, the interviews gave answers to a diversity of contextual factors that had a bearing on the TTs under analysis, i.e. the important role of Saudi Arabia in the translation of *ḥadīth*, purposes of translation and the intended audiences of the TTs. The interviews also gave focus to the significance of different publishing venues and the possibility of textual interventions by editors and publishers. Nevertheless, the interviews are not considered as a variable because of the unequal information attained from the four translators. In addition, a data overview was conducted to avoid CDA's weakness of subjectivity.

In conclusion, this study has both theoretical and practical implications. Theoretically, it enriches CDA literature with new tools for analysing texts, particularly how to use Fairclough's CDA model to examine language use. Practically, this study is of value to researchers who want to understand the interconnections between language and ideology, in particular how to analyse and interpret the lexical style that reflects social practices such as religious affiliation. The research findings can also show how to apply linguistic analysis to a discourse as an exercise in dissecting the ideological structures of legal translation. The results can be a reference point for other researchers who want to conduct further studies in this area to add significant contributions to the wide range of CDA studies.

6.3 Limitations of the Research

Two obstacles that were encountered in this study are manifested in the data and participants. First, the nature of the data as not purely legal texts created a challenge to find scholarly references to prove its use in Islamic Law. Thus, the Saudi official documents were translated into English and consultants in Saudi law were contacted. Second, the selected translators and publishers were cooperative; however, Dār al-Fikr did not provide answers to the presented questions. After contacting the publishing company 16 times by email and five times by telephone, they promised to

answer questions by email. On the 20th of February 2018, Dār al-Fikr claimed it could not answer the questions because the translator is dead. However, the questions were about its publishing strategy, not about the translator (see Appendix 3). Nevertheless, this difficulty has little effect on the analysis as the role of interviews was a complementary source of evidence because some of the answers could be found in the paratextual materials in the translated book.

6.4 Ideas for Further Research

As asserted previously, this study set out to avoid some of the limitations of previous research by embracing an integrated framework of Fairclough's CDA and Bourdieu's concepts and testing it on *ḥadīth* translation. The application of the adopted framework in legal translation can give future researchers with a tool for a step-by-step process to analyse the ST and the production of the TT. As a result, legal translators' awareness of the importance of language in the socio-cultural context is raised as well as the influence of their textual selections in translation.

The framework of this study can be applied to other fields of translation in order to evaluate their validity and come up with new findings. In addition, this study can be extended to take account of a wider range of translations. It can be useful to engage other *ḥadīth* chapters conducted by the same translators to trace their regular decisions and translational approaches evidenced in their TTs. This can help build a pattern of 'subject of *ḥadīth*' and provide a wider scope for the overall approaches.

In follow up to this research, a future study might choose other translators of the same STs to test if the degree of the effectiveness of the factors is similar. In addition, future studies might use the same framework for Qur'ān translations or the translations of other Islamic Law documents.

After conversations with the Saudi legal professionals, such as Dr. Aḥmad al-Ṣqayh and Ḥassan al-Sayf, it was observed that Saudi Arabia lacks legal translation research. Additionally, the former judge, ʿAbd al-ʿAzīz al-Qāsim, highlighted that there is a considerable shortage of research in the field of law and in establishing training centres for legal translators in Saudi Arabia. Therefore, AlGasim

Zamakhchary's law firm began to train its translators to improve the quality of translation and to encourage other law firms and centres to develop translation quality and awareness in the Kingdom. Additionally, this dearth of research results in the fact that many lawyers and non-specialised individuals translate legal texts, which result in different interpretations of the ST and discrepancies in the TT. Thus, future researchers may focus on legal translation in Saudi Arabia.

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