

# Problems of Translating “Shall” in the Charter of the United Nations

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Translation is an interdisciplinary activity associated to conveying a message from a source text (ST) into a target text (TT). This translational process of conveying an intellectual message can be described as a linguistic, cultural, and semantic mechanism through which the author/ speaker’s message is conveyed. That is why the process of translation must be academically discussed in terms of linguistic, cultural, and semantic elements. Translation is defined as transferring the author/ speaker’s message from a source text (ST) into a target text (TT); however, some international texts, especially UN texts are translated from English as a source international language into all languages. For example, The Charter of the United Nations is one of these texts that reflect the international organization basis of translation from one international language “English” into all other languages. Thus, the presents study aims at highlighting and analyzing the problems of Translating “Shall” as modal verbs which has no equivalent in the Arabic language. Shall, as a missing equivalent in the process of translation into Arabic, results in many problems and misunderstanding of the real meaning. That is why, the present study aim at analyzing the problems of translating “shall” in The Charter of the United Nations through discussing the linguistic, semantic, and cultural problems. In addition, the study will focus on the strategies of translation used in translating these modal verbs namely over-translation, under-translation, domestication, foreignisation, and transliteration.

**Key words:** *Source text (ST), target text (TT), modal verbs, Shall, foreignisation, transliteration.*

## 1. Introduction

The Charter of the United Nations was signed on 26 June 1945, in San Francisco, the United States of America as the conclusion of the United Nations Conference on International Organization, This document represents a combination of political, legal, commercial, economic, social and



human rights texts. This combination of displaces makes this charter a very rich material for translation in the academic arena.

The Charter of the United Nations highlights translation as a triple process which necessitates considering three main fractures: 1) language as the main medium of transferring the message; 2) semantic element as the feature that shape the meaning; 3) culture as the major barrier that deforms the (ST) when it is conveyed as a (TT). These three elements are the major drives that can highlights translation as an academic concern put in many linguistic areas.

The study is divided into two main parts. The first part represents a theoretical background for the major strategies that highlight the problems of translation such as over-translation, under-translation, domestication, foreignisation, and transliteration- in addition, this part highlights the cultural issues of translation through discussing the term “equivalent.” The second part of this study is the discussion in which translating “Shall<sup>1</sup>” in the Charter of the United Nations<sup>2</sup> charter will be discussed and analyzed in terms of the abovementioned strategies.

## 2. Review of literature

“Meaning in Translation” by Peter Newmark (1981) discusses how translation can be heavily influenced by cultures and ideologies. The paper highlights how culture and ideology can deform the meaning of the original text due to the cultural diversity that cannot provide an equivalent of some missing expressions and terms (Newmark, 1981).

Steglbauer’s study "translation problems and difficulties in applied translation processes" (2016) identifies and analyzes the major problems of translation encountered in the works and papers' translation in order to create an accurate translation of the source text in Romanian. The study concluded that there are pragmatic and cultural problems faced the translation process.

Mona Baker’s book Translation and Conflict (2006) discusses translators and interpreters as participating elements that responsible for circulating as well as resisting the narratives that create the intellectual and moral environment for cultural conflict. Baker’s study is particularly significant at this juncture of history; in addition, it deals with sociology as well as the reader interested in the study of social and political movements.

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<sup>1</sup> Collins Online Dictionary. web. <https://www..com/dictionary/english/shall>

<sup>2</sup> United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI web <http://www.unwebsite.com/charter>. Oct. 2019



“Translation at the United Nations as Specialized Translation” (2008) is a study by Deborah Cao, Griffith University, Australia Xingmin Zhao, translator at the United Nations Office, Geneva. The study discusses and analyzes the term, “multilingualism” as is one of the main majors and concerns of the United Nations (UN) and translation of UN documents as the terms plays an important political and practical role in the functioning of the international translation . This research paper discusses and analyzes UN translation as a specialized major of translation. In addition, the study elaborates the main features of UN translation highlighting the main characteristics necessitated the nature of the work of the UN and international Simply, the study presents a full guide for experienced translators, organizations and translation educational institutions. The study highlights the translation at the UN as a specialized and unique translation activity though discussing and analyzing some of the linguistic and institutional features of UN translation.

In “Making Things Known: Epistemic Practices, the United Nations, and the Translation of Piracy” (2015) by Christian Bueger, the author highlights the case of contemporary maritime piracy to introduce a research framework that allows these questions to be addressed. Arguing that the practices of international knowledge generation are poorly understood, the study illustrates how concepts from science and technology studies. The study elaborates e the concepts of epistemic infrastructures, epistemic practice, and laboratories and their connection to the translation of Piracy.

In “Translating legal texts in the EU” a study by Radekundis Stolze (2001) introduces a full description of the theoretical basis of the translator's approach and how these bases can reform text first understood. The study discusses legal translation as specialist approach of translation and communication, with special reference to the concepts of European law. The study is a full account for legal translation as an international approach. The study highlights and analyzes difficulties in translating a legal text relates to variation in the levels of abstraction in legal terms that discusses stereotypical and legal concepts in the same word.

In “Parallel texts in translation,” Christina Schäffner (1998) introduces an appropriate translation based on analyzing and investigating (TT) to the text-typological conventions of the target culture. Schäffner highlights a comparative analysis of parallel texts, i.e. L2 and L1 texts of equal informatively which have been produced in similar communicative situations. The study highlights the cultural problems of translation depending on redefining translation as an international intellectual discipline.

In Text Typology and Translation (1997) a book by edited by Anna Trosborg which introduces a new ground in translation theory and practice. The study presents a method of translation that depends on identifying the type of the texts as the main approach of translation. The pre-analysis

of the text is necessary in the process of translation in order to avoid the cultural, semantic, and grammatical problems in translation.

### **3. Methodology**

The present study adopts descriptive, analytical and critical approaches to describe and analyze problems of translating “shall” in the charter of the United Nations. It makes use of a theoretical framework that focuses on selected English-Arabic translations of “shall” in the selected articles. Focusing on the selected texts, the study analyzes and discusses how “shall” is translated in different contexts. In addition, the study highlights a theoretical background that define some translation strategies that are considered influential in translating UN texts namely in the charter of the United Nations.

### **4. Analysis**

#### **4.1 Culture and Translation**

Translation is a multi-cultural process as well as a multi-lingual one; it is regarded a process of communication between the different cultures rather than an abstract study. Translation is a well-established mechanism of communication that represents a crucible of all sciences and cultures, languages, and disciplines. In this context, translation is not merely a multi-lingual process as it is a complicated multi- cultural process too. Culture is necessary to shape the translated text linguistically and culturally in a communicative way. As a cultural process between source language’s culture and target language’s culture, translators commit some mistakes which appear as a result for miscommunication this cultural diversity. Here, cultural diversity leads to misleading translation which deforms the author’s message. That is to say, translation, a communicative process, is the exchange of information between a sender and receiver through a cultural medium (Narula, 2006, p. 31). This cultural medium is responsible for conveying or deforming this message a

#### **4.2 Strategies of Translation: Avoiding Cultural and Linguistic Diversity**

There are many strategies adopted in translation in order to overcome the cultural and linguistic diversity. All of these techniques aim at narrowing the cultural and linguistic gap between Source language and target language. In this regard, Edward Sapir mentions: “all human groups are cultured, though in vastly different manners and grades of complexity” (Sapir, 1949, p. 80).

Translation highlights much linguistic and cultural interference between the source language and the target language. Here, the target text must be adjusted to target culture in order to be as original as the source text through paralleling both ST and TT. This parallelism can be achieved through certain techniques and tips.

In this regard, Ilyas mentions:

“This implies that translation between languages of disjunct cultures is more difficult than carrying out translation between languages that are culturally related or similar. This does not imply, however, that translation between languages that are culturally related or similar is a straightforward activity. In fact, it embodies some serious pitfalls from the translators as well, though to a lesser degree compared with translation between languages of different cultures” (Ilyas, 1989, p. 123).

Consequently, the translator must adopt the cultural norms, style, linguistic and grammatical rules of target language for avoiding the problems of both domestication and foreignization as cultural issues.

### **4.3 Domestication and Foreignization**

Amongst many techniques and strategies of translation, domestication and foreignization are two strategies in translation. The two strategies testify the translator’s awareness of the target culture. Domestication is a strategy adopted for making target text very familiar with target language. Whereas, foreignization is the strategy by which the translator reconstructs information from the source text, culture and involves deliberately breaking the traditions of the target language in order to keep the same meaning (Feng, 1993, p. 35). That is to say, cultural diversity leads to the problem of untranslatability. Untranslatability means a property of a text or of any speech, in source language, for which no equivalent text or utterance can be found in target language when translated (Saldanha, 2011, p. 7). Consequently, the good translation must follow target language; it also must follow target language cultural norms for avoiding translation’s cultural problems.

### **4.4 Over translation and under translation**

The differences between mother language’s culture and source language’s culture highlight two linguistic and cultural strategies of translation: over-translation and under-translation. Over-translation is associated with the additional speech that must be added to target text to make it untestable and logic, while, whereas under translation is the process of reducing the text that the target language contains to be less than that of the source language. The two strategies are used in



1976 by Peter Newmark his work, *Approaches to Translation*. Thus, over-translation and under-translation are strategies which are used to give more or less cultural or linguistic knowledge in order to avoid cultural problems of translation.

#### **4.5 Transliteration**

One of the most used strategies of translating is transliteration. Transliteration is defined as the process or the strategy in which a word which has no equal in target language which is adopted through conversion of a text from one script to another (Kharusi, 2014, p. 127). Transliteration Alphabet is made through changing the source language sounds into target language sounds. This strategy is used to transferee a linguistic phenomenon from a source language to a target language which does not imply an appropriate equivalent.

#### **4.6 “Shall” as a Semantic and Linguistic Unit**

Shall is an English modal verbs which has various uses, such as the expression of propositions about the future, predictions, permissions, and desires. In legal documents, Shall is, widely used. However, its legal usage is usually ambiguous and misleading, most legal translators recommend using shall to impose an obligation on a contractual party. Bryan Garner and Justice Scalia in *Reading Law: The Interpretation of Legal Texts* argue that some legal drafting has sloppy use of the word “shall”., however, they note that that sometimes the word "shall" can reasonably be understood as mandatory, it must be taken that way (Scalia & Garner, 2012, p. 11). According to the American Heritage dictionary, the common usage of using shall prescribe a highly complicated pattern of use in which the meanings of the forms change according to the person of the subject (Soukhanov, Anne H., Kaethe Ellis, and Marion Severynse, 1992). According to Collins dictionary, Shall is a modal verb which is used with 'I' and 'we' in questions in order to make offers or suggestions, or to ask for advice (2019). Whereas, it is used with 'I' and 'we', for referring to intentions According to, Merriam-Webster dictionary, shall is an auxiliary verb used to express what is inevitable or seems likely to happen in the future, determination, command, exhortation, laws, regulations, or directives to express what is mandatory; or it is used an intransitive verb either as an action verb or as a direct object receiving the action (Mish, 2004, p. 1153).

#### **Discussion: Problems of Translating Shall in the Charter of the United Nations**

**Source Target:** Article 2 the Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

**Target Text:**

تعمل الهيئة وأعضاؤها في سعيها وراء المقاصد المذكورة في المادة الأولى وفقاً للمبادئ الآتية

In this example, shall does not adopt a direct equivalent in TT as it is translated in the context of source language that aims at putting a “rule” or “principle” without emphasis an obligation. In this example, under translation is adopted to in order keep the rhetorical convenient of the TT. In other words, removing an equivalent of “shall” avoids lacking the originality if the TT.

**Source Target:** Article 2, (2) All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations

**Target Text:**

لكي يكفل أعضاء الهيئة لأنفسهم جميعاً الحقوق والمزايا المترتبة على صفة العضوية يقومون في حسن نية بالالتزامات التي أخذوها على أنفسهم بهذا الميثاق.

Like the first example “shall” does not adopts a direct equivalent; however, the Arabic expressions يكفل-التزامات give a slight expression of obligation to the text. That is why shall does not adopt a direct equivalent that expresses obligation.

**Source Target: Article 2, 3** All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered

**Target Text:**

يفض جميع أعضاء الهيئة منازعاتهم الدولية بالوسائل السلمية على وجه لا يجعل السلم والأمن والعدل الدولي عرضة للخطر.

Again, shall does not a direct equivalent in The Arabic TT; however, it is worth mentioning that this example highlights that the usage of present tense in Arabic الزمن المضارع al-muḍāri‘ gives the expression of continuity and obligation that used in legal and political discourse. That is why the Arabic equivalent of shall does not exist.

**Source Target:** Article 2, 4 All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political

**Target Text:**

يتمتع أعضاء الهيئة جميعاً في علاقاتهم الدولية عن التهديد باستعمال القوة أو استخدامها ضد سلامة الأراضي أو الاستقلال السياسي لأية دولة أو على أي وجه آخر لا يتفق ومقاصد "الأمم المتحدة.."

At the first glance, the modal “shall” seems not having an equivalent in the TT; however, using the Arabic expression “يُمتنع” is the real equivalent of shall as it gives a negative obligation for the article.

**Source Target: Article 2, 5** All Members **shall** give the United Nations every assistance in any action it takes in accordance with the present Charter, and **shall** refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

**Target Text:**

يقدم جميع الأعضاء كل ما في وسعهم من عون إلى "الأمم المتحدة" في أي عمل تتخذه وفق هذا الميثاق، كما يمتنعون عن مساعدة أية دولة تتخذ الأمم المتحدة إزاءها عملاً من أعمال المنع أو القمع.

Two usages of shall are highlighted in this example: the first give an affirmative obligation expressed in Arabic using present tense in Arabic المضارع al-muḍāri‘ besides using the expression “بكل ماوسعهم” which usually is translated communicatively into English as “doing their bests.” The second “shall” gives a negative obligation expressed in Arabic using “يُمتنعون عن” This example reflects the unstable rule for translating “shall” namely in the political, legal, and commercial texts. Here, the translator must follow the TT’s legal and political style of writing these texts.

**Source Target: Article 2, 6** The Organization **shall ensure** that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

**Target Text:**

تعمل الهيئة على أن تسير الدول غير الأعضاء فيها على هذه المبادئ بقدر ما تقتضيه ضرورة حفظ السلم والأمن الدولي.

The TT in this example lack the strength of emphasis adopted in the ST. The translator, as usual, utilizes presents simple tense as a substitute for shall; however, the emphasis is not equal enough to the ST.

**Source Target: Article 2, 7** nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

**Target Text:**

ليس في هذا الميثاق ما يسوغ "للأمم المتحدة" أن تتدخل في الشؤون التي تكون من صميم السلطان الداخلي لدولة ما، وليس فيه ما يقتضي الأعضاء أن يعرضوا مثل هذه المسائل لأن تحل بحكم هذا الميثاق، على أن هذا المبدأ لا يخلّ بتطبيق تدابير القمع الواردة في الفصل السابع.

Depending on most usage of shall in this text, the English-Arabic translator completely avoid the literal equivalent of shall "يجب" or "ينبغي" because the legal context must represents an obligation regardless the degrees of emphasis adopted in the text.

**Source text:** Article 3 the original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of 1 January 1942, sign the present Charter and ratify it in accordance with Article 110.

**Target Text:**

الأعضاء الأصليون للأمم المتحدة هم الدول التي اشتركت في مؤتمر الأمم المتحدة لوضع نظام الهيئة الدولية المنعقد في سان فرانسيسكو، والتي توقع هذا الميثاق وتصدّق عليه طبقاً للمادة 110، وكذلك الدول التي وقّعت من قبل تصريح الأمم المتحدة الصادر في أول كانون الثاني/يناير سنة 1942، وتوقع هذا الميثاق وتصدّق عليه.

No clear and direct obligation here, however, shall is adopted as an obligate context as the text represents a legal text.

**Source Target:** Article 8, Article 8 the United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

**Target Text:**

لا تفرض "الأمم المتحدة" قيوداً تحدّ بها جواز اختيار الرجال والنساء للاشتراك بأية صفة وعلى وجه المساواة في فروعها الرئيسية والثانوية.

Instead of using "لا يجب" as an equivalent of "shall," the translator uses "تفرض" to give the authority of "supposing" to the UN as the subject of the sentence. In other words, these examples adopt the Arabic present tense "تفرض" as an equivalent for the modal "shall".

**Source Target:** Article 9, 2 Each Member shall have not more than five representatives in the General Assembly.

**Target Text:**

لا يجوز أن يكون للعضو الواحد أكثر من خمسة مندوبين في الجمعية العامة.

In this example, “shall” is directly translated into "يجوز" in order to express the obligation expressed in this article. Unlike many of above-mentioned examples in which the translator does not adopt a direct equivalent of “shall,” he/she uses a direct Arabic equivalent in order to express an obligation.

**Source Target:** Article 15, 1 The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

**Target Text:**

تتلقى الجمعية العامة تقارير سنوية وأخرى خاصة من مجلس الأمن وتتنظر فيها، وتتضمن هذه التقارير بياناً عن التدابير التي يكون مجلس الأمن قد قرّرها أو اتخذها لحفظ السلم والأمن الدولي.

There is no obligation in this example. Shall in ST is used in a legal context. That is why, unlike the previous example, the translator does not an Arabic expression of obligation. Instead, he uses the Arabic legal language of laws which do not need additional emphasis or obligations.

**Source Text:** Article 17, 1 The General Assembly shall consider and approve the budget of the Organization.

**Target Text:**

تتظر الجمعية العامة في ميزانية الهيئة وتصدّق عليها.

This example reflects the future plan of the organization according to this charter. When this article was put, the generally assembly had not considered and approved the budget; however, the use of shall here, as emphatic element that set basis that will be performed in the future as a rule. On the contrary, the Arabic text adopts the Arabic legal language which uses Arabic present tense in legal texts.

**Source Target:** Article 21 The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

**Target Text:**

تضع الجمعية العامة لائحة إجراءاتها، وتنتخب رئيسها لكل دور انعقاد.

Like the previous example, this example reflects the future plan of the organization according to this charter. Again the Arabic adopts Arabic legal language which uses Arabic present tense in legal texts.

**Source Target Article:** 37, 2. if the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

**Target Text:**

إذا رأى مجلس الأمن أن استمرار هذا النزاع من شأنه في الواقع، أن يعرض للخطر حفظ السلم والأمن الدولي قرر ما إذا كان يقوم بعمل وفقاً للمادة 36 أو يوصي بما يراه ملائماً من شروط حل النزاع.

In this article, the conditional “if” is used to speculate about what could happen in a certain case in terms of legal language. If clause verb tense is presents simple “deems,” whereas the main clause verb tense is “shall.” In the Arabic TT, the conditional sentence adopted إذا as a substitute for the conditional if, whereas “if clause verb tense” and “main clause verb tense” are Arabic past tense because in Arabic, past simple is used to give more emphasis

**Source Target:** Article 54The Security Council shall at all time is kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

**Target Text:**

يجب أن يكون مجلس الأمن على علم تام بما يجري من الأعمال لحفظ السلم والأمن الدولي بمقتضى تنظيمات أو بواسطة وكالات إقليمية أو ما يزمع إجراؤه منها.

In this example, shall give indications for obligations in the future. That is why; TT adopts “يجب” as direct equivalent for the modal.

**Source Target:** Article 60Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

**Target Text:**

مقاصد الهيئة المبينة في هذا الفصل تقع مسؤولية تحقيقها على عاتق الجمعية العامة كما تقع على عاتق المجلس الاقتصادي والاجتماعي تحت إشراف الجمعية العامة، ويكون لهذا المجلس من أجل ذلك السلطات المبينة في الفصل العاشر.

This article includes two shall (s). Both of them are not translated literally. Instead, the first is translated communicatively into *تقع على عاتق*, whereas the second is under-translated in order to be adapted to the Arabic legal language.

## 5. Conclusion

In Translation, shall, as a linguistic element, is an English modal verbs which has various uses, such as the expression of propositions about the future, predictions, permissions, and desires. The context of the text determines the usage of “shall.” However, in legal documents, shall is used as an expression of obligation that emphasizes a certain rule. That is why; the translator must follow the linguistic expressions, tenses, and structures of TT in order to avoid the mistranslation of “shall.” In the selected texts of the United Nations charter, shall is translated literally or directly twice: the first as “يجوز” or “يجب” for emphasizing the article. Whereas, shall is communicatively translated through adopting either the Arabic present tense to emphasize the continuity of the obligation- or Arabic past tense as emphatic tense in Arabic rhetorical language. It is necessary to mention that “shall” never be translated into future Arabic expression in legal and international political documents. As a final point, the study emphasizes that the translating of such legal international texts must follow the target language linguist patterns of the Arabic legal texts. In other words, the legal texts can only translated through the communicative approach of translation.

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