

# Functional Equivalence in the Translation of Legal Terms: Insights from Arabic and Azerbaijani

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**Abstract:** This paper examines *functional equivalence* as a guiding principle in legal translation, drawing on the foundational theories of Nida, Šarčević, and Trosborg. We focus on the challenging case of translating legal terminology between Arabic and Azerbaijani, two languages rooted in distinct legal cultures (Islamic/Sharia-influenced versus post-Soviet civil law). After defining functional equivalence and reviewing its theoretical underpinnings, we overview the respective legal systems and linguistic contexts. We then present a comparative analysis of key legal terms across civil, contract, criminal, and constitutional law, using examples drawn from statutes, codes, and contracts. For instance, Arabic **عقد** (*‘aqd*, “contract”) aligns functionally with Azerbaijani *müqavilə* (“contract”), while Arabic **قتل العمد** (*al-qatl al-‘amd*, “premeditated murder”) corresponds to Azerbaijani *qəsdlə adam öldürmə* (intentional homicide). These comparisons, summarized in illustrative tables, show how translators seek concepts in the target legal system that perform the same role as in the source system. We evaluate how functional equivalence promotes legal accuracy and cross-cultural clarity by preserving the *function* and effect of terms, rather than their literal words. Finally, we discuss pitfalls: literal translations can mislead (for example, rendering **شريعة** simply “law” ignores its religious context), and functional equivalence has limits when no close counterpart exists. We suggest strategies such as explicitation, glossing, or hybrid approaches to address non-equivalence. Overall, functional equivalence remains a crucial but not exclusive tool for translators navigating the sociocultural gap between Arabic and Azerbaijani legal discourse.

**Keywords:** legal translation; functional equivalence; Arabic; Azerbaijani; Islamic law; civil law; legal terminology.

## INTRODUCTION

Legal translation demands both linguistic skill and deep cultural-legal insight, since **legal terms** are embedded in particular legal systems and societal values. When translating between Arabic and Azerbaijani, the challenge is magnified by differing legal traditions: many Arab countries derive laws from Islamic (Sharia) or mixed civil codes, whereas Azerbaijan’s system reflects its Soviet-civil heritage within a secular state. A literal word-for-word rendering often fails: terminology that exists in one legal culture may be absent or carry different connotations in another. *Functional equivalence* addresses this by seeking target-language concepts that perform the same function or have the same legal effect as the source terms. This paper aims to illustrate functional equivalence in practice between Arabic and Azerbaijani. We first define the concept via key theorists (Nida, Šarčević, Trosborg) and review legal-

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sociolinguistic backgrounds. We then analyze side-by-side examples of terms from civil, contract, criminal, and constitutional law. Finally, we assess how functional equivalence aids legal accuracy and clarity, and discuss its limits (including risks of literalism) with suggestions for complementary strategies.

## THEORETICAL FRAMEWORK

**Functional equivalence** is rooted in *dynamic equivalence* theory. Nida (1964) distinguished **formal equivalence** (focus on source-language form) from **dynamic or functional equivalence** (focus on response of target readers). In Nida's view, a translation should produce "the same effect" on target readers as the original did on its readers. His emphasis on conveying the *function* or *meaning* of the source has guided many translators to prefer natural, idiomatic renderings over literal ones. Later scholars applied this specifically to legal texts. Šarčević (2000) defines *legal* functional equivalence as "a term designating a concept or institution of the target legal system having the same function as a particular concept or institution in the source legal system". This comparative-law view highlights that legal systems are often incommensurate: translators look for an analogous institution (or explain its absence) rather than a lexical match. Functionalist translation theories (e.g. Trosborg's genre-based approach) similarly stress the purpose and *function* of the text, implying that legal terms must be rendered to fulfill the same legal (and communicative) role in the target system.

In practice, legal translators may adopt a *hybrid strategy* that blends formal and functional approaches. Fujii's study of Japanese-English legal translation emphasizes avoiding pitfalls of literal translation and argues for a freer approach when literal equivalents are misleading. Even Šarčević notes that traditional translators were "long convinced that all legal translation had to be literal," a "mechanical process of transcoding", which modern theory and practice have questioned. Thus, functional equivalence requires sensitivity to context: it involves not just term substitution but also preserving legal function, tone, and pragmatic effect.

However, functional equivalence is not a panacea. Some theorists caution that an over-reliance on dynamic equivalence can obscure legal precision or introduce undue target-culture bias. We must therefore consider also the limitations of functional equivalence (discussed below), including when to use alternative strategies like explicitation, footnoting, or conceptual borrowing.

## LEGAL SYSTEMS OVERVIEW

**Arabic legal context:** The Arab world does not have a single uniform system. Some countries (e.g. Saudi Arabia, Iran) follow a classical Sharia-based model where Islamic law governs most civil matters. Others (Egypt, Syria, Lebanon) have codified civil and penal codes (often influenced by French law) but reserve Sharia for personal status (family) issues. Still others (Tunisia, Algeria) enacted modern civil codes in the 20th century with secular orientation. In any case, *Islamic law* (Sharia) influences vocabulary and concepts. For example, terms like ميراث (*mirāth*, inheritance under Islamic rules) or وقفية (*waqfiyah*, religious endowment) reflect Sharia institutions that have no direct counterparts in most Western-based codes. As one review notes, most Muslim-majority countries have **mixed or secular legal systems** incorporating Islamic elements, rather than purely Islamic law.

Arabic itself also poses challenges: Modern Standard Arabic (MSA) is used in formal legal writing and differs sharply from colloquial dialects. Legal Arabic texts often employ *high-register* vocabulary (e.g.

Classical terms, Arabicized loanwords) and intricate syntax, demanding specialized translation skills. The **diglossic** nature (MSA vs spoken Arabic) means translators must ensure terms align with formal MSA usage.

**Azerbaijani legal context:** Azerbaijan’s system is a civil law regime developed under Soviet influence and retained after independence. The 1995 Constitution declares Azerbaijan a “democratic, legal, *secular*” state with separation of religion and state. It is codified and influenced by continental models (German and Russian law), and by international law obligations. Thus, legal Azerbaijani uses terminology often derived from Russian or Turkish legal concepts, though the language is Turkic. For example, “law/code” is *qanun* (from Persian), and “court” is *məhkəmə*. These terms may resemble Arabic words (*qanun* vs *qānūn*, “law”), but must not be conflated—*qanun* in Azerbaijan refers to civil statutes, whereas Arabic *qānūn* can refer to secular law or even the (historically Greek) notion of canon.

In summary, translators must navigate these **sociolinguistic and cultural gaps**. Key differences include: (a) *legal tradition* (Islamic vs secular), (b) *conceptual repertoire* (e.g. principle of *human rights* in constitution vs Sharia-based duties), (c) *language structure* (Arabic’s inflection vs Azerbaijani’s agglutination), and (d) *context of use*. For instance, religious concepts from Islamic jurisprudence (like *ḥadd* punishments or *ḥamūlah* trusts) may require considerable explication in Azerbaijani.

These considerations make functional equivalence especially valuable: it prompts the translator to seek target-language legal terms that serve the same **function** in Azerbaijan’s legal order as the Arabic source term does in its context.

## CASE ANALYSIS OF LEGAL TERMS

We now compare representative legal terms side by side. The following tables summarize examples from civil/contract law and criminal law. In each case, the **Arabic term** (with transliteration) and its **Azerbaijani equivalent** are given, along with the rough English meaning. The selected terms are drawn from real statutes or codes (Arabic civil/penal codes, Azerbaijani legal texts) and illustrated with cited definitions or examples when available.

**Table 1. Civil and Contract Law Terms**

Concept	Arabic Term (translit)	Azerbaijani Term (translit)	English Equivalent
<b>Contract</b>	عقد ( <i>‘aqd</i> )	müqavilə (müqavilə)	Contract
<b>Agreement (synonym)</b>	اتفاقية ( <i>ittifaqiyyah</i> )	razılaşma	Agreement
<b>Party (to a contract)</b>	طرف ( <i>ṭaraf</i> )	tərəf	Party
<b>Obligation</b>	التزام ( <i>iltizām</i> )	öhdəlik	Obligation
<b>Ownership/Property</b>	ملكية ( <i>mulkiyyah</i> )	mülkiyyət	(Property) ownership
<b>Guarantee/Security</b>	ضمان ( <i>ḍamān</i> )	zəmanət	Guarantee/Security (surety)
<b>Law/Statute</b>	قانون ( <i>qānūn</i> )	qanun	Law/Statute
<b>Trademark</b>	علامة تجارية ( <i>‘alāmah tijāriyyah</i> )	əmtəə nişanı	Trademark

For example, Arabic عقد (*‘aqd*) meaning “contract” corresponds functionally to Azerbaijani *müqavilə*. Both terms denote a legally binding agreement creating obligations, and are defined similarly in their civil codes. Table 1 shows several such parallels: e.g. Arabic التزام (*iltizām*, obligation) maps to *öhdəlik*

in Azerbaijani; **ضمان** (*damān*, guarantee) to *zəmanət*. These terms exist in both legal cultures, though they come from different linguistic roots. Notably, some English loanwords like *müqavilə* (from French *convention* via Turkish) have become standard legal vocabulary in Azerbaijani, requiring the translator to avoid choosing Arabic terms that might carry unintended Sharia connotations.

However, functional equivalence is not always one-to-one. For instance, Arabic **حق الملكية** (*ḥaqq al-mülkiyyah*, “right of ownership”) is a concept in civil law, and Azerbaijani has *mülkiyyət hüquqları* (“property rights”). A literal translator might render *ḥaqq* simply as “right”, but context demands *mülkiyyət hüququ*, explicitly linking to property law. Similarly, Islamic-specific contracts like **مرابحة** (*murābahah*, a Sharia-compliant sale on credit) have no direct equivalent in Azerbaijani law; translators either leave such terms untranslated (with explanation) or paraphrase them (e.g. “cost-plus sale agreement”).

**Table 2. Criminal Law Terms**

<i>Concept</i>	<i>Arabic Term (translit)</i>	<i>Azerbaijani Term (translit)</i>	<i>English Equivalent</i>
<b>Crime/Offense</b>	جريمة ( <i>jarimah</i> )	cinayət	Crime/Offense
<b>Punishment/Sentence</b>	عقوبة ( <i>‘uqubah</i> )	cəza	Punishment
<b>Intentionally (legal)</b>	عمد ( <i>‘amd</i> )	qəsd (note: in compounds)	Intentional/Deliberate Act
<b>Murder (premeditated)</b>	القتل العمد ( <i>al-qatl al-‘amd</i> )	qəsdlə adam öldürmə	Intentional homicide (murder)
<b>Manslaughter</b>	القتل الخطأ ( <i>al-qatl al-khaṭa’</i> )	səhlənkarlıqla adam öldürmə	Involuntary homicide (manslaughter)
<b>Theft</b>	سرقة ( <i>sariqah</i> )	oğurluq	Theft
<b>Robbery</b>	سطو ( <i>saṭw</i> )	quldurluq	Armed robbery
<b>Fraud/Scam</b>	غش ( <i>ghish</i> ) / احتيال ( <i>ihtiyāl</i> )	fırldaqçılıq	Fraud
<b>Police/Detective</b>	شرطة ( <i>shurṭa</i> ) / مفتش ( <i>muftiṣ</i> )	polis / müfəttiş	Police/Detective
<b>Law Enforcement</b>	إنفاذ القانون ( <i>infād al-qānūn</i> )	qanunun icrası	Law enforcement

In criminal terminology, **القتل العمد** (*al-qatl al-‘amd*) means “premeditated (intentional) murder”. Its Azerbaijani counterpart is *qəsdlə adam öldürmə*, literally “homicide with intent”. Both emphasize intent: *‘amd* in Arabic and *qəsd* in Azerbaijani derive from similar Semitic origins and indicate deliberate action. The Azerbaijani Criminal Code (Article 120) defines “deliberate murder” as “deliberate deprivation of life”, paralleling Arabic definitions of **القتل العمد**. In contrast, **القتل الخطأ** (*qatl al-khaṭa’*, “error killing” or involuntary homicide) finds its analogue in Azerbaijani *səhlənkarlıqla adam öldürmə* (homicide by negligence). Both systems distinguish these categories of unlawful killing, so a translator would render them in this functional sense rather than word-for-word.

Another example is **السرقه** (*as-sariqah*), “theft”, which Azerbaijani law calls *oğurluq*. As Table 2 shows, basic criminal terms largely match in function: **جريمة** (*jarimah*, “crime”) is *cinayət*; **عقوبة** (*‘uqubah*) is *cəza* (“punishment”). However, differences appear in phrasing. For instance, Islamic criminal categories like *ḥadd* (fixed punishments) or *ṣadaqah* (compensation) have no direct target equivalent; such terms must be translated functionally (e.g. as a fixed fine) or explained. The comparative examples above illustrate that, where functional equivalents exist, translators can map concepts reliably, but must choose terms carefully to preserve legal nuance (e.g. choosing *qəsdlə* specifically over a generic word for “with intent”).

## DISCUSSION

**Functional equivalence and legal accuracy:** The comparative analysis shows that using functional equivalence helps maintain *legal accuracy*. By translating **concepts**, not just words, the translator ensures that the target text triggers the same legal consequences. For example, rendering **عقد** as *müqavilə* immediately signals the proper legal framework (contract law) to Azerbaijani readers. This avoids confusion that might arise if one tried a literal but nonexistent Arabic calque in Azerbaijani. Similarly, understanding that **القتل العمد** is intentional homicide allows the translator to use the precise criminal-law term in Azerbaijani.

Functional equivalence also enhances *cross-cultural clarity*. It compels translators to consider the target legal culture: Šarčević's definition explicitly looks for a target concept "having the same function". In doing so, it bridges sociocultural gaps. For example, the Azerbaijani concept of *vicdan azadlığı* ("freedom of conscience") stems from secular philosophy, whereas an Arabic source text might speak of **حرية المعتقد** (*hurriyyat al-mu'taqad*, also "freedom of belief"). Translating both simply as "freedom of belief" misses that in Azerbaijan it is enshrined under a different framework (Article 48 of the Constitution speaks of freedom of conscience to profess any religion or none). A functionally equivalent translation would render **حرية المعتقد** as *vicdan azadlığı*, an already established term in Azerbaijani constitutional law, ensuring the audience interprets it under the correct legal notion.

**Risks of literal translation:** A literal approach can distort meaning in legal contexts. Literalism often fails to account for conceptual asymmetry. For instance, translating **إرث** (*irth*, "inheritance" under Sharia) directly might render an awkward phrase in Azerbaijani; functional equivalence would identify that *mirasyasiya* (inheritance law) is governed differently and might require an explanatory phrase or borrowing. Moreover, literal calques may carry unintended ideological or cultural loads. Directly inserting the word *qanun* everywhere "law" appears in Arabic could mislead, since *qanun* in Arabic law history has its own connotation (and in Azerbaijani is a technical term for legislation).

**Limitations of functional equivalence:** While often useful, functional equivalence has limitations. It presumes that an equivalent function exists in the target system, which is not always true. When translating from a Sharia-influenced text, one may encounter terms with *no Azerbaijani legal counterpart*. For example, **وقف** (*waqf*, religious endowment) has no secular equivalent; translators must decide whether to borrow the term, provide a descriptive translation (e.g. "endowment for religious purposes"), or add a footnote. In such cases, strict functional equivalence fails and other strategies are needed.

Functional equivalence also risks *over-adaptation*: excessively freeing the translation might blur the source's legal personality. A balance is needed. As Fujii noted in the Japanese–English context, translators should ideally integrate both literal and functional strategies. For instance, a judicial decree containing an unfamiliar Islamic term could keep the term but add an explanatory parenthesis or footnote, satisfying both functional clarity and faithfulness.

**Alternative strategies:** When functional equivalents are lacking or partial, translators can use: (a) **transliteration with explanation**, especially for culturally bound terms (e.g. *fatwa* or *sharia*), (b) **explicitation**, inserting extra context to clarify (e.g. "according to Sharia law"), or (c) **paraphrase/definition** integrated into the text. In other cases, **skopos theory** suggests focusing on



the purpose of the translated document: if it is meant for legal enforcement, accuracy is paramount; if for public understanding, more explanation might be allowed. Additionally, consulting *bilingual legal dictionaries* or building term bases (as Alaoui recommends) can help find the best equivalents. Ultimately, a *multidimensional approach* is advisable: the translator must weigh legal conventions, target readership, and the translator's own expertise (as Way notes, legal translators must bridge complex socio-legal divides).

## CONCLUSION

Translating legal terminology between Arabic and Azerbaijani illustrates the power and challenge of functional equivalence. By focusing on the **function** of terms within their legal systems, translators can preserve legal effect and avoid semantic traps. Comparative examples (civil contracts, criminal offenses, constitutional rights) show that, where target-language institutions align, functional equivalence yields accurate, clear translations. This method is especially crucial given the cultural and systemic distance: it forces attention to the socio-legal context behind words.

However, reliance on functional equivalence also has pitfalls. It may oversimplify concepts unique to one system, or yield omissions if no analogue exists. A balanced translator will therefore combine functional equivalence with other strategies – literal precision where needed, plus glosses or adaptation for unmatched terms. In all cases, deep comparative knowledge is essential. Legal translators must understand both legal cultures and language nuances to judge when to preserve the source term's “spirit” versus when to adapt it to the target context.

In conclusion, functional equivalence remains a cornerstone of legal translation theory, offering a principled way to achieve “equivalent effect” across legal cultures. Our analysis underscores its practical value for Arabic–Azerbaijani translation, while also highlighting the need for translator expertise and creativity. By acknowledging sociolinguistic, cultural, and legal factors, translators can improve accuracy and ensure that legal texts truly mean the same thing in both languages.

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