



Original article

The Pivotal Role of Legal Translation Practitioners in the Fight against Cross-Border Organised Crime

Juliette Scott*

Abstract: The networks and routes of organised crime cross international borders. Perforce, translations are required. Surprisingly, the contribution by translators working on written texts to crime prevention measures and prosecutions is often disregarded. If the topic is evoked at all, the focus is usually on interpreting—of the spoken rather than the written word—such as in police interviews of offenders or victims, and in courts. Nevertheless, significant volumes of written texts in this field are being translated in countries all over the world. Drawing from a global survey of legal translation practices (Scott 2016), this paper will suggest that it is very likely that security is severely inadequate, that there is considerable scope for miscarriages of justice, and that expertise is being underused and/or misused. Whilst legislation is generally translated inside institutions, many textual genres are translated by individuals who work through for-profit translation agencies. Such text types include, for example, Financial Intelligence Unit reports, human trafficking research, mafia surveillance transcripts, email exchanges, or asset-freezing applications in high risk and non-cooperative jurisdictions. There is also the question of ‘dark’ translation carried out for and by organised crime groups. This paper will contend that if cross-border cooperation is to be effective, serious consideration must be given to the role of individual translators working in the shadows in such “outstitutional” contexts.

Keywords: organised crime, legal translation, cross-border communication, outstitutional environments, textual genres, translators

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Introduction

In an increasingly globalised society, translation—whether we are always aware of it or not—is more and more a part of our everyday lives. People are routinely faced with text produced in other languages on the products they use, on the Internet, on social media, at work and when enjoying culture or entertainment. In their encounters with the law, translation of the written word and interpreting of the spoken word is a *sine qua non* which makes possible communication among all actors involved, via official forms, pleadings, injunctions, judgments and many other legal genres. International legislation frequently affects us directly, and access is often needed to national legislation in other languages – for example in cross-border business disputes, and in relation to individuals’ mobility or access to rights.

Translation and translators are therefore pivotal to many aspects of our lawful existence. Likewise, they play a key but often silent role in combating and reporting on cross-border organised crime, and even its actual workings: for example, unlawful or misappropriated business activities and financial transactions. The networks, routes and partnerships involving criminals and victims as well as efforts by law enforcement officials and judicial bodies to investigate and prosecute are necessarily enabled by a multitude of languages—and where we find language, we find translation.

At this point it is worthwhile, for the purposes of our quest, to specify what is meant by the term “translation”. Strictly speaking, translation is defined as conveying *text* from one language into another, while “interpreting”, sometimes called “interpretation”, refers to the conveying of oral communication. Discussions of interpretation in the sense of judges interpreting statutes do not form part of the subject matter at hand here. Rather confusingly, in general and academic use, “translation” may occasionally be used to refer to the oral channel, or indeed as an umbrella word to cover both translating and interpreting. This confusion has even been examined by the US Supreme Court,¹ and by the Court of Justice of the European Union². I will use the term “translate” and “translation” for the written word and “interpret” and “interpreting” for the spoken word, except when citing project names.

¹ E.g., in *Taniguchi v Kan Pacific Saipan, Ltd.*, see <https://www.law.cornell.edu/supremecourt/text/10-1472>.

² See

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=169826&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=262098> and <http://www.eulita.eu/first-cjeu-ruling-directive-201064eu-right-interpretation-and-translation-criminal-proceedings>

Surprisingly, there have been few concerted studies thus far with any bearing on the subject of written translation and organised crime.³ Certain European Union programmes have intersected on the periphery of law, language, and translation. Examples include: the European Judicial Training Network (Campos Pardillos 2015); programmes on improving judicial cooperation such as EUROJUST; and moves to speed up and simplify mutual recognition of judicial decisions. Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings spawned a number of projects, mostly involving interpreting.⁴ In Spain a nationally funded terminology project was aimed specifically at international cooperation on terrorism and organised crime (e.g., Ureña Gómez-Moreno, Alameda Hernández & Felices Lago 2011, Felices Lago 2015).⁵ A study specifically framed through a lens of combating transnational organised crime is the recently launched project “Transnational Organised Crime and Translation⁶ (TOCAT): Improving police communication across languages”, which will conduct trials in the UK and Belgium and look at how the police should work with interpreters when “victims, witnesses or suspects don’t speak the same language as investigators”.⁷ It aims to provide insights into whether new guidelines for the police are effective in practice, and if not, how they can be enhanced, and will also gather data on the experiences on frontline workers. The QUALETRA project⁸ on the other hand was explicitly devoted to the written word and “filling the gap with a project on legal translation”: it initiated work on training materials for legal translators and training guidelines for legal practitioners, with a case study on the European Arrest Warrant.

There is thus ample scope for future studies to focus on the myriad ways in which written translation plays a role in organised criminal activities as well as national and international efforts to counter them. However, in order to fully understand the role that legal translation practitioners can and could play in the fight against organised crime, it is essential first of all to appreciate the complexity involved in the legal translation

³ See, however, Whithorn 2014.

⁴ AVIDICUS, Building Mutual Trust, Co-Minor-IN/QUEST, ImPLI, JUSTISIGNS, Qualitas, SOS-VICS, TRAFUT, TraiLLD, Understanding Justice. On the subject of police interactions mediated by interpreters see the work of Gallai, e.g. 2013.

⁵ Project details: “*Elaboración de una subontología terminológica en un contexto multilingüe (español, inglés e italiano) a partir de la base de conocimiento FunGramKB en el ámbito de la cooperación internacional en materia penal: terrorismo y crimen organizado*” (FFI2010-15983), 2011-2013. Lead Researcher: Ángel Felices Lago, Universidad de Granada (Spain).

⁶ In the TOCAT project the term translation is intended to stand for interpreting.

⁷ <http://www.paccsresearch.org.uk/transnational-organised-crime-and-translation/>

⁸ <http://www.eulita.eu/qualettra>

endeavour itself, and in the following sections I will also draw extensively on my previous research, including a doctoral thesis (Scott 2016).⁹

Why Legal Translation is Not a Word-for-Word Affair

The Legal Translator's Textual Agency

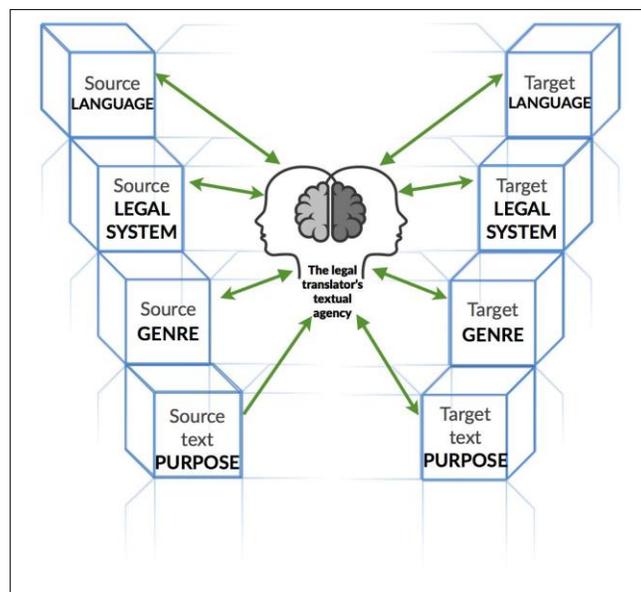
Legal translation involves a highly complex juggling of what we might model as eight multifaceted cubes—four relating to the text to be translated—the “source text”, and four relating to the translated text—the “target text”. The first pair to be juggled concerns the source and target **languages**, where the legal translator’s task might be regarded as similar to that of translators in other domains, albeit within a specific segment of general language, that of legal discourse. It is important to note that language variants also need to be taken into account—Portuguese is not the same in Brazil and in Portugal, for example. Particularly in the field of organised crime, variants can include dialects, slang and gang-speak. The legal translator must also, in parallel, negotiate solutions between source and target **legal system(s)** and their specific concepts. This task may be even more challenging depending on the “distance” between legal systems—for example a text translated from French to Italian may relate to these code-based, civil law systems, whereas a text from English to Arabic may involve crossing the gap between common law and Sharia law. In addition, the legal translator must ensure that the given **text type** or “genre” is appropriately transposed into the target genre (Bhatia 2006, 2014; Gotti 2012, Scott 2012). By way of illustration: if translated pleadings do not resemble pleadings in the target language, they are likely to be rejected by the receiver of the translation. Additional difficulties arise due to the fact that legal genres are often “hybrid” (Bhatia 2014) and incorporate elements from contiguous fields such as financial, and can even include technical content. One study has estimated non-legal terms to amount to as much as 50% (Gotti 2017). Finally, the legal translator must ensure that the **purpose** of the source text is correctly reflected in the target text, *if* such a reflection has been requested by the client; or, alternatively, the target text may serve a different purpose. For example, while the source text may be binding legislation on surveillance, the translation may be destined for a website providing access to information for the general public about their rights.

To conclude: it is important to stress that the legal translator does not negotiate the above eight elements one after the other. They are handled concurrently and the time

⁹ Some passages in this paper have been quoted verbatim from the following source: Scott 2016.

factor is therefore intrinsic. Having searched painstakingly for an adequate model to communicate the intricacy of this task and its dynamic character to stakeholders, I have offered a concept from mathematics—that of the tesseract (Scott 2016; Scott in press). The tesseract is the four-dimensional analogue of the cube—in other words the tesseract is to the cube as the cube is to the square (Darling 2004: 316). I adopt it purely to model complex cognitive activity, and take no account of the purely mathematical arguments involved. Given that time is one of the dimensions, a static representation – even if three-dimensional—is thoroughly inadequate, and several animated video models are available.¹⁰ Figure 1 below is a simplified depiction. This multidimensional view of the translator’s agency allows it to be freed from duality—the “word-for-word” syndrome.

Figure 1. A Simplified Representation of the Tesseract of the Legal Translator’s Textual Agency



Source: Scott 2016; Scott in press.

Briefing and Environment

Other major factors to be taken in account when appreciating translators’ work are the extent of the brief that they receive—or do not receive—and the environment in which they work. A professional brief contains information about the elements described in the previous section regarding language variant, applicable law, text type and textual

¹⁰ E.g. <https://www.youtube.com/watch?v=BVo2igbFSPE>

purpose, as well as reference material, previous translations if any, and the extent to which the translation should be literal—as required by certain courts¹¹—or should read as if it had been drafted in the target language.¹² Whether the brief is full and comprehensive or not is, in practice, closely linked to the translator’s working environment. When employed as staff at national and international institutions, or in-house at large law firms, translators generally have good access to those drafting and/or processing documents requiring translation. They are able to ask questions if their brief is incomplete, and work in a collaborative way (Strandvik 2015). It is also significant to note that translators in such environments are often able to give highly relevant feedback as expressed in adages along the lines of “nobody reads a document as closely as a translator”.

The situation is vastly different for much of the translation performed in “outstitutional” environments. I examined this in an extensive field study carried out across six continents and 41 countries, involving over 300 professional legal translators and 84 commissioning principals (Scott 2016). These translators are self-employed and receive translation work from their clients in tenuous, short-term relationships, often without any formal contract. This segment of the market is currently dominated by for-profit intermediaries known as translation agencies or translation companies. It is characterised by dubious practices such as, but not limited to: little or no background or security checks; serious questions relating to confidentiality and information security; splitting texts among different translators; failure to pass on information, questions and feedback; and unsatisfactory quality procedures. The chain of supply is so protracted and serpentine (Scott 2016: 36-43) that translators very often do not have any contact with the client or even know who they are. It transpires that only in 6% of cases are translators always informed of the consignee of their work, and only in 9% of cases are they always informed of textual purpose.

These for-profit agencies do not want to rock the boat, they want to retain their clients and above all else keep them happy. For example, many participants in my study reported situations such as:

In other words, agencies—especially the “accountant-run” multinationals—depend on sales people to secure jobs, and they make unrealistic promises that are very hard for both the project manager and the translator to meet. (Participant

¹¹ The French *Cour de cassation* [the highest court in France for civil and criminal matters, somewhat similar to a Supreme Court] has stipulated that “a ‘simple translation’ consists of rendering the literal meaning of a text and that it should be distinguished from an expertise [expert appraisal] which gives an appreciation, or an opinion of a technical nature of the text” (Monjean-Decaudin 2012: 226, my translation).

¹² I have offered a scale making explicit whether a legal translation needs to be “covert” or “overt”. See Scott forthcoming. Regarding briefing see also Strandvik 2015, Scott 2016.

144T, Scott 2016)

and

[...] the following scenario occurs with relative frequency [...] where an agency client is unable to answer my queries in relation to a particular legal text and lacks the confidence to pass them on to their client for fear of appearing “unprofessional” (Participant 118T, Scott 2016).

A study by Abdallah and Koskainen drawing from a set of qualitative data on Finnish translators (no subject specialism specified) gave rise to similar findings regarding an adverse and multi-layered environment – they describe fundamental changes in the way translation services are supplied: “With network-based production, the translator’s position and role as the translation expert seem to have diminished”, “the original client may be several links away from the translator”, with no contact or interaction between them; and, moreover, “translation companies are not too keen to disturb their client” (2007: 674-6). More evidence of this is provided by Suojanen, Koskinen and Tuominen who note that “Most translators run their own small businesses and work as subcontractors for big agencies. They are, somewhat ironically, outsiders in the translation process” (2015: 126). The authors go on question the usability of translation work produced in such a scenario (*ibid.*).

Bearing in mind on the one hand the complexity of the translation task and on the other the risks and information asymmetries arising in outstitutional contexts, let us now see how and where translators appear in the practices surrounding organised crime and its prevention.

How Legal Translators’ Work Permeates and Underpins Communication Networks Pertaining to Organised Crime

Communication Aimed at Combating Organised Crime

Success in the fight against organised crime necessarily involves effective communication among practitioners, academics and policymakers across the globe. However, in this setting communication primarily involves language, which is often a source of difficulties and failures. Even people communicating in same language can fail—Groysberg and Slind (2012) give five examples of high-profile disasters in monolingual corporate communication citing, among others, the Enron Corporation. When we translate one

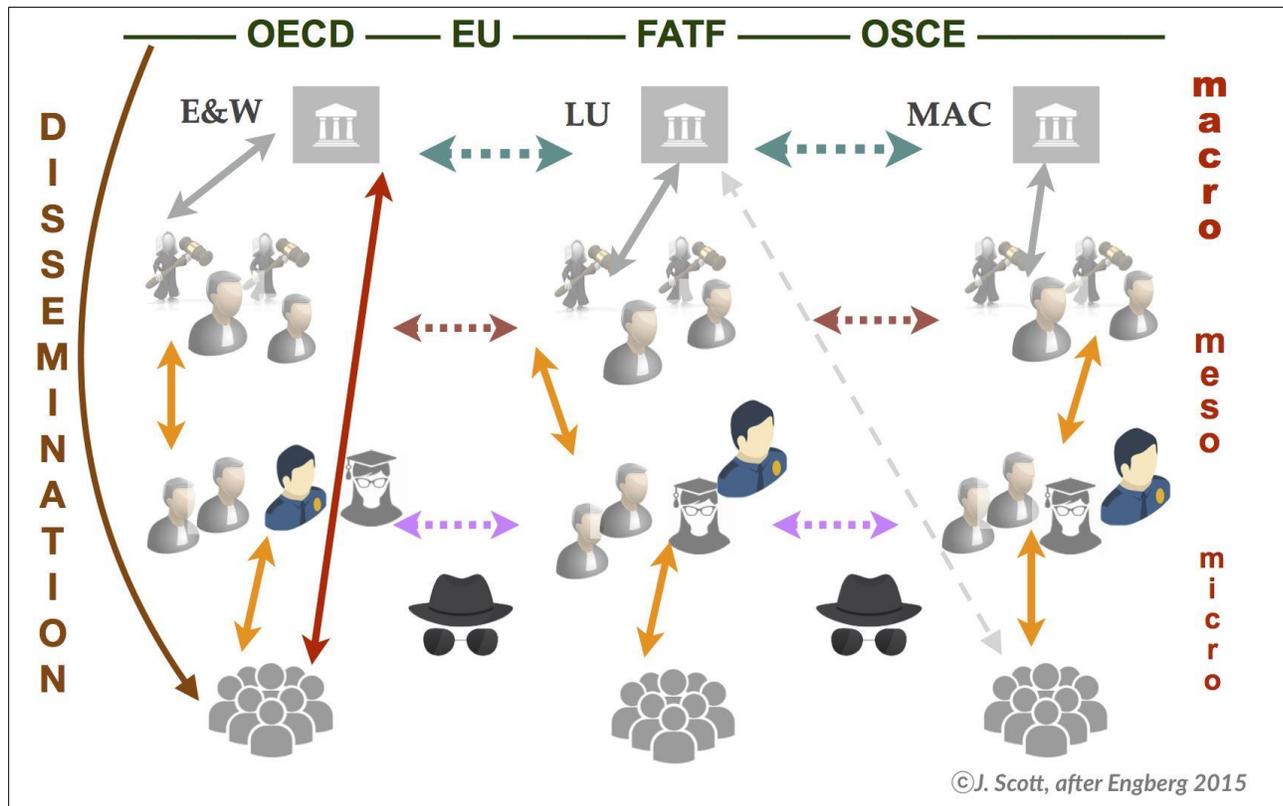
language to another, the likelihood of miscommunication or incomplete communication increases sharply.

Taking a chronological and broad-brush approach, we might set out written communication acts aimed at combating organised crime into three stages: prevention, investigation and prosecution, all of which are likely to require translation assistance. Prevention measures can involve international policy efforts, and raising the awareness of the general public and of those working in financial institutions. They may also come in the form of calls for assistance (e.g., regarding mafias, or terrorism) and analysis by academics. Investigation involves such action as intercepting potentially criminal communication via email and social media surveillance; examining suspicious financial and property transactions; document seizures, and collecting victim and witness statements. Prosecution requires a case file to be amassed, and of course gives rise to the issue of a variety of documents by the courts.

Alternatively, and for further depth of analysis, we can examine communication acts relating to organised crime by focusing on the actors and institutions involved. Figure 2 below represents cross-border communication—by nature predominantly multilingual—among institutions, specialised and non-specialised actors involved in national and international transfers of legal knowledge and legal as well as quasi-legal information, and evidence. I adopt Engberg’s trichotomy of “macro”, “meso” and “micro” strata of knowledge-oriented specialised communicative interaction in collective and individual multilingual settings, where interrelatedness is an essential feature (2015).

Here I use three jurisdictions as arbitrary examples of interaction in the nexus of national and international political, legal and quasi-legal practices relating to organised crime: England & Wales, Luxembourg and Macao. The selection highlights some of the complexities raised in Section 1. In terms of legal systems: England & Wales is an example of a common law jurisdiction, Luxembourg is a civil law jurisdiction differing from but with close links to the French system, while Macao operates under the principle “One country, two systems”, applying its Basic Law using Chinese legal traditions alongside five Codes based on the Portuguese civil law system. Language complexities are also illustrated in the selection. Luxembourg legislation is drafted in a variant of French, while the country has three official languages—French, German and Luxembourgish. Macao is a melting pot of Cantonese, (mainly) Lusitanian Portuguese, (Hong Kong) English, a creole patois and, more recently, Mandarin. British English differs considerably from American English, as it does from the English used in international organisations and the European Union, and may cause its own communication and translation issues.

Figure 2: Strata of Cross-Border Communication in the Fight against Organised Crime



Source: author’s own.

At the macro level we find supranational organisations, such as the OECD, OSCE, or FATF, and national institutions laying down the “rules” for a given legal system (Bhatia 2006)—i.e., legislation and conventions, to be applied vertically. In the case of international treaties, for example, the institutions or governments also communicate with one another horizontally for the purposes of international cooperation. Examples of legal and related textual genres produced within this stratum and involving translators are: cross-border agreements, treaties, conventions, correspondence between heads of state, CJEU case law, legislation, regulations and recommendations. Such information may then be disseminated via journalists and the press, public information campaigns, or reports, to specialists and to the general public in the form of reports, circulars, notices, or posters. In general, but not always, such translations are performed by legal translators and lawyer-linguists employed by institutions, and as noted earlier, they have access to considerably more resources than their colleagues working in “outstitutional”

environments. Although bespoke machine translation systems are already in use at institutions such as the European Union for gisting and triage purposes (Kluvanec 2017), document significance and sensitivity determines the extent of human input required.

The meso level of communication is situated within and across national entities such as the judiciary, financial authorities and security agencies, as well as below them the police, academia and legal professionals. We find horizontal collaboration between national courts, security and law enforcement services, sometimes channelled through the macro stratum as in service of process via a central authority, e.g., letters rogatory, international summonses, or asset freezing orders. Other instances involving translators may include the sharing of Financial Intelligence Units reports, e.g., via the Egmont Group; online anti-money laundering (AML) training for banks to be implemented at all subsidiaries; expert legal opinions, or academic legal opinions. These relatively ‘high-level’ genres are often entrusted to experienced legal translation practitioners who are often also dual qualified in law.

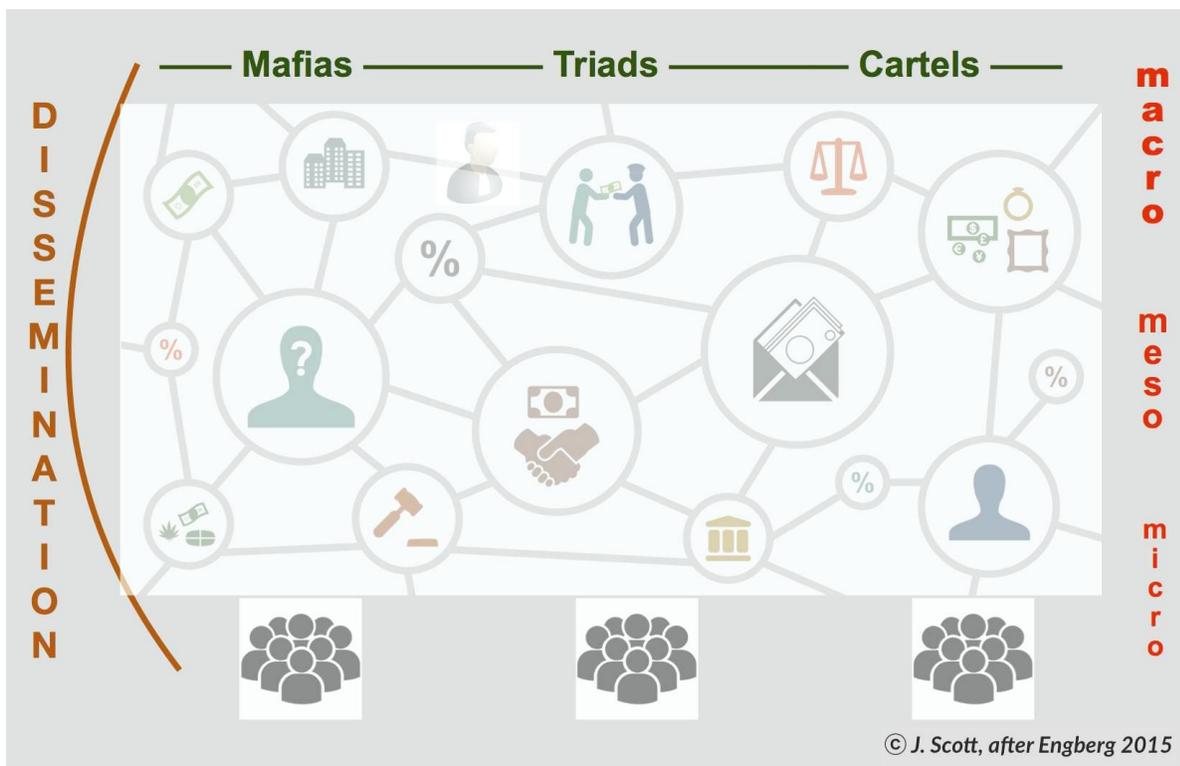
At micro level communication occurs between, for example, legal and banking professionals, the judiciary, and non-legal specialists such as the general public or offenders. Here lies the largest body of textual genres outsourced to legal translators directly as self-employed practitioners or via agencies acting as intermediaries. These genres encompass investigation and subsequent attempts at prosecution: surveillance transcripts, email exchanges, legal opinions relating to tax fraud or evasion, bond offerings for shell companies, investment fund scams, written submissions, asset-freezing applications in high-risk and non-cooperative jurisdictions, and so on. Where case file volumes are substantial, specialist agencies may be called upon to process very large quantities of legal documents for discovery/disclosure purposes—they mainly use bespoke software for such texts in order to identify which items should subsequently be translated to a higher standard by a human translator. The latter can apply for example to public procurement fraud cases or mafia surveillance transcripts. In cases of extreme lack of budget and/or in certain countries the police may even resort to mass-market automated text translation tools, despite the inherent confidentiality issues.

Communication within and across criminal networks

Let us now draw some parallels with communication taking place in and between criminal networks. In Figure 3 below, I have applied Engberg’s frames (2015) in the same way as in the foregoing section. The macro level may involve, for example, temporary concordat or mutually beneficial arrangements and ceasefires among criminal groups, and high-level political or large-scale banking corruption. The meso stratum of communication

comprises individual banks, lawyers, intermediaries, buyers and sellers of illegal goods, senior traffickers, and so on, while the micro stratum includes individual victims, street drug dealers, prostitutes, and the general public both as receivers of threats and propaganda, and as a recruitment pool. In this universe too, translations are an inextricable part of communication streams.

Figure 3: Strata in Cross-Border Communication between, by and within Criminal Groups



Source: author’s own.

Professional translation practitioners, by the same token as lawyers, realtors, bank employees, accountants, and financial advisors, may also ‘facilitate’ organised crime, particularly of a white-collar nature. Whilst their barely attributed and low status (Pym *et al* 2012; Katan 2011; Dam & Zethsen 2010; Scott 2016) makes them unlikely to be classed as “enablers” of organised crime (Middleton & Levi 2015), the translator is often an unwitting and helpless link in a money-laundering chain. Translations are often a requisite when setting up shell companies in jurisdictions where the official language differs from that of the beneficial owner, such as English-speakers in Luxembourg,

oligarchs in Monaco, and non-anglophones in Bermuda or the Cayman Islands. Luxury property transactions are another example. Regarding asset dissimulation chains, I refer back to the behaviour of translation agencies described in Section 1.2, whereby translators employed by such intermediaries are largely left to their own devices without any support or reporting mechanisms. Clearly, such a state of affairs leaves even more leeway for criminal groups carrying out this kind of operation to go untraced.

The increasing globalisation of criminal networks makes it highly likely that translators are required for internal communication between groups—say Arabic/Russian in heroin smuggling, or English/Spanish in firearms smuggling, or between Chinese and European languages in counterfeit products (UNODC 2010). Such translators might be professionals, but are more probably non-professionals with varying levels of proficiency in the languages concerned. At the same time, they may also be members, kin or associates of organised crime groups, and/or they may be subjugated. I will term these individuals here as “dark translators” following the coining of the “dark web”/“dark net”. As well as inter- or intra-group communication, such dark translators could be called upon, for instance, to operate online forums and websites acting as recruitment tools for slavery and exploitation such as those discussed by Goose (2010: 127-131), and to produce documents:

guides for sex tourists and clients of prostitution, manuals for refugee-candidates describing step by step how to get to a country and how to establish themselves there, going as far as listing behaviour to be adopted to avoid police inspections and controls (Goosse 2010: 127-128).

Furthermore, Goose considers that the languages used to create and use traffickers’ websites are an investigatory limitation. The role of translation in the above areas of communication, among criminal groups or between criminals and victims, whilst extremely difficult to research, may well be a useful focus for infiltration or surveillance action.

The third translation facilitator that I would like to single out is automated software. This can come in the form of Google Translate, or for example an app to be installed on a mobile phone. Although the quality of machine translation is very far from acceptable in critical legal, political and medical contexts, its performance is now serviceable for many non-crucial applications such as travel, chatrooms, and user-generated content (e.g., Moorkens 2017). It can also be invaluable where no human translators are available – for example when communicating in relatively rare languages. Such adoption can clearly be to legitimate ends but may also subverted—for example in human trafficking.

Ethical considerations

To recap, in the previous sections we have seen legal translators in different guises: the professional practitioner as an expert intervening in high-level proceedings and transactions; agency translators subject to severe constraints as regards contextual information; the “dark” translator co-opted within and across criminal networks; as well as cloud-based software and device-based apps as low-level but omnipresent tools. I contend that the majority of these translation activities, that are either enabling organised crime or hampering its investigation and prevention are going unnoticed and potentially unmonitored – which brings us to the subject of ethics.

The ethics of translation, particularly where the law is concerned, is a relatively unexplored and grey area. Anthony Pym, in his work *On Translator Ethics*, which he describes as a discussion of the “translator’s professionalism in philosophical terms” (2012: 2), sets out three responsibilities: “responsibility to the matter”; “responsibility to the client”; and “responsibility to the profession” (2012: 76-81). In the context of organised crime, one might add responsibility to the common good, or to the rule of law. Pym offers a number of principles for translator ethics, from which I have selected certain points most salient to the discussion here:

1. “Translators are responsible for their product as soon as they accept to produce it” [...]
2. “Translators are responsible for the probable effects of their translations” [...]
3. low-cost translations need to be linked to total transaction costs which “also include the work needed for receivers to turn cheap translations into knowledge-use” [...]
4. “Translators, insofar as they are more than simple messengers, are responsible for the capacity of their work to contribute to long-term stable, cross-cultural cooperation.” (2012: 166-167)

In the fight against organised crime, points 1, 2 and 4 raise serious questions about how far the professional translator’s responsibility extends, while point 3 is useful counsel for taking a wide-ranging view where machine translation is implemented. In order to further explore translators’ responsibility—or even liability—we also need to consider the importance of *client* responsibility. In a dispute with a client that had invoked a translator’s liability, a Swiss court found in favour of the translator: the court stated that

“target texts could not be based on source texts, but had to be based on product specifications” (Hammond, 1995: 234)—the client had supplied no translation brief.

Before going any further, it is necessary to explode a myth—that of the ‘neutral’ translator. Translational action cannot be devoid of any effect whatsoever on the text. The uninformed might hold that the translator should be given as little contextual information as possible to avoid “bias”. In fact, the opposite is true. Redacting and generating information asymmetries seriously hamper quality. Gawn (1988, p. 457) refers as follows to withheld reference materials:

short of a miracle, it is unlikely that a [...] version produced in such circumstances can measure up to the quality of the [...] original. It would indeed be unreasonable to expect it to do so.

As we have seen, in order to succeed in the multidimensional feat described in Section 1.1 and translate as accurately as possible, the legal translator requires comprehensive contextual and referential material.

This ought not to pose a problem in highly sensitive cases if professional translation practitioners are employed, where they are members of a chartered body with a stringent code of ethics. However, as amazing as it may seem, legal translation is not a regulated profession, and in almost no country is there any requirement to work with accredited professionals on legal matters—including organised crime. To further complicate matters, the content of codes of ethics varies considerably from one professional body to another—although confidentiality is a given.¹³ Still, as we have seen, not all translators active in this field are professionals.

Let us now consider the dilemma of a translator who became a whistleblower to report large-scale corruption and criminal negligence. This is an extract from her personal statement via her attorneys:

[She was] the professional translator in charge of translating Japanese documents from Toyota. [She] reviewed the documents that she was translating and realized that Toyota was covering up the problem of sudden unintended acceleration in many of their cars. She then blew the whistle on Toyota and went to the US congress with her knowledge, ultimately resulting in Toyota being forced to recall millions of vehicles, pay 1.3 billion dollars in a class action lawsuit settlement, and pay 1.2 billion dollars to the department of Justice.¹⁴

¹³ International Federation of Translators, FIT Europe, Regional Centre Europe (undated). Code of Professional Practice. Retrieved from http://www.fit-europe.org/vault/deont/European_Code_%20Professional_Practice.pdf

¹⁴<http://www.bestattorney.com/auto-defects/sudden-unintended-acceleration/toyota-sua-whistleblower-personal-statement.html>

We might draw parallels here with the source that provided the financial data and documents leaked as the Panama Papers, or Mark Felt aka “Deep Throat” in the Watergate conspiracy. At what point can we consider that the translator’s responsibility to their client is superseded by a responsibility to the common good or compliance with the law?

Conclusion

In conclusion, we have seen that the fight against cross-border organised crime harbours a situation that is propitious to questionable translation quality: the topic falls under the radar in terms of being listed on anti-crime agendas; parties commissioning translation for prevention, investigation and prosecution rarely provide essential contextual material; and there is little or no due diligence regarding the performance of translation work.¹⁵ As regards academic enquiry to investigate written translation’s role in criminal networks, this has been entirely neglected to date.

We might ask what the potential consequences of such a situation are. They include such issues as: failed prosecutions due to unreliable evidence; failed applications; failed service of process; failed international requests for mutual cooperation; misunderstanding of foreign legislation and regulations; misunderstanding of rights; security issues; and, perhaps most ironic of all, the fact that expertise is being underused and even misused.

So what solutions can be envisaged? First and foremost, efforts to combat organised crime need, at a minimum, to consider the topic of translation and the circumstances in which it takes place. Second, we might explore how translators could be involved in prevention and investigation. For example, under what circumstances might it be acceptable to place translators under covert surveillance, or to intercept the documents they receive and return—let us note in passing that this would be an easy task due to the unregulated supply chain and a fragmented professional locus. Alternatively, we might consider introducing reporting requirements such as those already in place for banking personnel and lawyers. Last but not least, there is considerable scope for translators as not-to-be-neglected trusted partners for prosecutors and investigators – to strengthen their cases through consultation and dialogue, and to provide invaluable intercultural background and insights.

¹⁵ The only comparable area to which we might look for ideas is that of legal process outsourcing, e.g. Harmon A. R. (2008). The ethics of legal process outsourcing to India—Is the practice of law a “Noble Profession,” or is it just another business? *Journal of Technology Law & Policy*, 13, 41-83.

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