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## **Translating the mafia: legal translation issues and strategies**

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### **ABSTRACT**

The mafia has long been a mainstay theme in crime fiction, Hollywood cinema productions and TV dramas. Indeed, the popular conception of the mafia outside of Italy has largely been created by books, films and TV programmes conceived, written and produced in English.

Although 'mafia' is used as a loan word in English, in Italian it is a much more semantically complex and culture bound term with a series of intrinsic connotations, including specifically legal ones, which present a challenge for translators, especially if applying the native speaker principle, as they may lack adequate cultural awareness. This paper briefly looks at issues involved in translating the terminology of Italian anti-mafia law within the context of the wider debate on the benefits and drawbacks of foreignisation or domestication strategies, and also considering the role of explicitation, with regard to legal culturemes. It examines possible solutions for the translation of two such specific terms (*associazione di tipo mafioso* and *omertà*) and concludes by suggesting the appropriate strategies to be adopted.

### **KEYWORDS**

Legal translation, mafia, culturemes, foreignisation, domestication, explicitation, popular culture.

## **1. The image of the mafia in popular culture**

The Italian term 'mafia' is used in almost every major language in reference to a particular kind of organised crime to the point that de Franchis, in the second volume of his *Dizionario Giuridico* (1996: 951) affirms that this is one of the few examples of Italian legal terminology that requires no translation. This widespread awareness of the phenomenon is largely due to the influence of popular culture, particularly Hollywood cinema productions, beginning with the legendary film *The Godfather*, based on the book by Mario Puzo and released in 1972. As well as the two sequels to this film, a whole host of others followed over the next three decades and these, along with the more recent TV series *The Sopranos*, succeeded in firmly establishing the figure of the *mafioso* in the public mind. Paradoxically, therefore, this uniquely Italian social, cultural and legal phenomenon has been recounted and portrayed outside of Italy almost entirely through cultural production in English, with any translations, dubbing or subtitling in other languages using English as the source language. Thus, we have seen the contradiction of Italian audiences watching films on the mafia dubbed into Italian based on English dialogues. In this situation the authenticity of the characters is already compromised due to the original dialogues being written in English and it is further compromised by the fact that, as any Italian will be

aware, *mafiosi* invariably communicate in their local dialect rather than in Italian, thus creating a double remove from what can be considered as an authentic setting.

The fictional image that has been created, however, is centred on the American mafia and was conceived in a cultural context very different from the one in which the Sicilian mafia and other similar organisations developed and continue to operate. It therefore bears only limited resemblance to reality and, while certain features of the mafia portrayed on screen coincide with those found in real life, such as ruthlessness and fierce loyalty to family and friends, a much larger number of characteristics embedded in the popular mind are in complete contrast with those observed in Sicilian or Italian society. The Hollywood *mafioso* is often depicted as a brash figure, vaunting his wealth and power and using brutal methods to threaten and intimidate his rivals. In reality, a typical mafia 'boss' keeps a very low profile, maintains a relatively modest and simple lifestyle and uses much more subtle methods to intimidate his enemies. In illustration of how the popular image clashes with reality Andrea Camilleri (2007: 157) recounts how Bernardo Provenzano, the 'boss of bosses' arrested in 2006, and generally described by those close to him as 'inscrutable', is only remembered to have laughed on one occasion; when one of his associates reminded him of the time they went to see *The Godfather*.

## 2. The mafia as an organised crime group

In addition to banishing the misleading popular image of the mafia from their mind, translators setting out to work on texts with mafia related terminology also need to be aware of the differences that exist between the mafia and other organised crime groups. Perhaps the most significant of these is the deep entrenchment of the organisation in a particular territory, not only in the sense that a particular 'family' or 'clan' controls illicit activities in a particular area, but in its wider form this entrenchment extends to controlling politicians and public officials, sometimes even members of the police and judiciary, through bribery and corruption. Even more significantly, this sense of control pervades the whole of society, leading to a culture of submission in all areas of life. As highlighted by Turone the mafia's

'history' of violence and intimidation ... has itself a strong threatening effect, so that the criminal group can acquire unlawful advantages through the simple unlawful use of other people's fear, mostly even without the need of explicit and new threats (2006: 52).

Another feature of the mafia which contrasts with other organised crime groups is the fact that the mafia, while obviously interested in economic power, also attempts to gain social and political power or, indeed, power for power's sake; as pointed out by Europol (2013: 5), "economic power is

of paramount relevance to Mafia-type organisations, but it is by no means the only form of power they seek, and possibly not even the most important.” The combination of territorial entrenchment and thirst for power means that in the areas in which it operates the mafia enters into direct competition with the state, collecting its own ‘taxes’ through extortion and offering its own ‘services’ through protection rackets. The stronger the organisation feels, the further it extends its sphere of influence, right up to the highest echelons of the Italian political and economic structure.

### **3. Why is translating the mafia important?**

‘Translating the mafia’ is of growing importance as attempts are increasingly made to harmonise legislation on a European and international level in order to combat what has now become a worldwide phenomenon which crosses national and, thus, linguistic boundaries. As part of this process, great attention is being paid to the legal provisions that have been put in place in Italy over the years as possible examples to follow (de Magistris 2012: 275), especially within the EU, given that Italy undoubtedly has considerable experience in this field. However, the peculiar nature of the mafia as an organisation and the peculiar legislative framework developed in Italy to combat it mean that the concepts involved are not easily transferred to another culture since, as asserted by Biel (2008: 23), “Legal systems have their own history, organising principles, patterns of reasoning and have been designed to answer the needs of a particular nation.” This lack of cultural equivalence inevitably brings with it a lack of linguistic, and therefore, translation equivalence.

The fact that such system specific legal concepts frequently have no exact or even near equivalent in another system means that legal translators are sometimes faced with considerable responsibility when dealing with sensitive documents. In recent years there have been numerous cases in which the Italian authorities have requested the extradition of mafia suspects, wanted for or convicted of the offence of *associazione di tipo mafioso* (see below for possible translation solutions), only for this to be refused or not even taken into consideration. These cases often involve jurisdictions with a common law or ‘mixed’ system (Nicaso 2012: 223) such as England, Scotland, South Africa, Canada and Australia, and the decisions have often been motivated by the fact that this offence does not exist in the host jurisdiction and hence the principle of double criminality applies. In some cases extradition was later granted after clarifications were offered by the Italian authorities as to the nature of the offence or corrections made to the arrest warrants. There is no way of knowing whether translation issues played any part in the need for clarifications and corrections, but there is clearly a potential risk.

Introduction of the European Arrest Warrant (EAW) in 2004 has made extradition easier within the EU, as the offence of *associazione di tipo mafioso* clearly falls into one of the thirty-two categories of crime, specified by Council Framework Decision of 13 June 2002, for which double criminality does not apply, namely 'participation in a criminal organisation' (Council of the European Union 2002) — translated as *partecipazione a un'organizzazione criminale* in the Italian version. However, while the UK Extradition Act 2003 maintained identical wording when incorporating the Council Framework Decision into national law, Italian Law 69/2005, which implemented the same Framework Decision, did not use *partecipazione a un'organizzazione criminale*, opting instead for a 'localised' formula: *partecipare ad una associazione di tre o più persone finalizzata alla commissione di più delitti* ('participating in a criminal organisation of three or more persons for the purposes of committing more than one offence' – own translation). Thus, the UK and Italian drafters selected differing strategies, with the former preferring adherence to the more neutral EU terminology, while the latter based their wording on article 416 of the Italian Criminal Code. It is not easy to judge which strategy is more effective as it would be necessary to make a study of actual cases in order to identify any practical difficulties that have arisen. However, the underlying purpose of the EAW is to make extradition within the EU a simpler and more efficient process and use of standard terminology would seem to be an effective way of contributing to the achievement of this goal. The incongruities between legal systems are already substantial and inconsistency in terminology, such as that created by national drafters domesticating terminology when implementing EU law, can only further exacerbate the difficulties encountered, even by experienced legal practitioners, when struggling to understand 'alien' legal concepts. Thus:

It is the legal translator's responsibility to find adequate ways of explaining, transmitting and clarifying these aspects for readers with a different legal background to be able to grasp the meaning as accurately as possible from their viewpoint of the legal world (Pommer 2008: 362).

#### **4. Mafia as a cultureme**

The word 'mafia' and related legal terminology are clear examples of what Nord (1997: 34) calls "culturemes," defined by Katan (2009: 79) as "formalized, socially and juridically embedded phenomena that exist in a particular form or function in only one of the two cultures being compared." Thus, although the word may be widely used in other languages, it is only in Italian culture that it can be described in the above mentioned terms, and consequently loses a great deal of its propositional meaning when employed in very different cultural, social and legal contexts from the one in which it originated and developed. This constitutes a considerable challenge for any translator confronted with the

task of rendering mafia related terminology in an Italian source text in the target language, without emptying it of its intrinsic connotations or legal content. Culturemes represent a particularly problematic obstacle when applying the principle of translating into the translator's native language, as an exceptionally high degree of cultural awareness is required in order to convey the inherent connotations and, however well trained a translator may be, familiarity with such deeply embedded cultural concepts cannot be acquired through training or professional development, but requires extended exposure to and immersion in the relevant cultural setting. In short, thus, when translating culturemes, the translator does not only function as a linguistic mediator, but also needs to act as a cross-cultural mediator (Bassnet 2011) and, as asserted by Taft (1981 cited in Katan 2009: 88), "a mediator must be to a certain extent bicultural."

Naturally, in the case of legal culturemes, the translator also requires adequate knowledge of both the source and target language legal systems and, in the case of translations from Italian into English, this could mean knowledge of the English, Scottish, U.S., Canadian or other systems using English, as well as the Italian system, depending on who the target text readers will be. As noted by Biel (2008: 25), knowing which is the target system is fundamental when deciding on functional equivalents. Thus, in addition to linguistic and cultural skills, "The translator must possess the skill to compare the legal content of terms in one language (...) with the legal content of terms in another legal language" (de Groot 1987: 797). In the case of culturemes, it is highly probable that no functional equivalent can be found and the translator may be faced with the need to illustrate the legal content of a source language term using methods of explicitation. Pym (2005) considers explicitation from a risk management point of view and this can be considered especially true for the translation of legal culturemes in which the risks for the translator of not fully succeeding in conveying all the legal connotations of a particular concept are particularly high. Of course the use of explicitation strategies, such as introducing new elements in the target text, explicative paraphrasing or the use of footnotes, also involves risk since the translator may appear to be interpreting or commenting on the legal concept and even if one agrees with the assertion that "...comparative law forms the basis for translating legal texts" (Gutteridge 1949 cited in de Groot 1987: 797), the translator's job is to translate and too much explicitation may inadvertently lead to straying beyond professional boundaries.

## **5. Foreignisation or domestication in the translation of mafia related terminology?**

The long-running debate concerning the comparative advantages and disadvantages of adopting a foreignisation or domestication translation strategy is of particular relevance to the issue of how to translate culturemes, especially in the legal translation field. While domestication,

or target language oriented, strategies may be considered appropriate in many other text genres, in extreme circumstances leading to the “invisibility” of the translator (Venuti 1995), this is not generally true for the translation of legal texts where translators have generally felt it necessary to work within strict confines since “For the sake of preserving the letter of the law, [they] have traditionally been bound by the principle of fidelity to the source text” (Šarčević 2000). This is often reinforced by the historically conservative approach adopted by the legal profession. It is true that some theorists, such as Pommer (2008), have put forward the idea of a certain degree of ‘creativity’ in legal translation, but any moves in this direction have largely been limited by what Wolff (2011: 228) describes as a “stretch and snap” effect, returning to “the default position of linguistic fidelity” if stretched too far.

In the case of legal terminology in general, and of culture-bound legal terms especially, it would certainly seem to be generally inappropriate to adopt target language oriented strategies widely found in literary translation, such as cultural substitution, described by Baker (2011: 29) as:

replacing a culture-specific item or expression with a target-language item which does not have the same propositional meaning but which is likely to have a similar impact on the target reader, for instance by evoking a similar context in the target culture.

This is impossible to achieve for mafia related terminology since no similar context exists in the target culture. Indeed, even though the mafia is an international phenomenon, as pointed out by Europol (2013: 8 original emphasis), “Outside the territory, members of the Mafias cannot and do not *take advantage of the intimidating power of the association and of the resulting conditions of submission and omertà to commit criminal offences*”; this is because the social and cultural environment does not allow it.

Foreignisation strategies may appear to be more appealing when translating terminology of the kind in question and this may take the form of retaining the source language term and providing a gloss, footnote or explanation in the target language. This is an extremely valid strategy, as the reader can use it as a starting point for further research, provided that the translator bears in mind certain limits. The danger of straying into commenting on legal concepts has already been mentioned, but there is also the risk of confusing or distracting the reader with excessively long or complex explanations. If properly applied by the translator, taking into account the above mentioned limits and making appropriate use of explicitation by adapting explanations or footnotes to the specific requirements of the target text reader, this strategy may avoid the risk of a target language oriented text “inevitably lead[ing] to confusion of the reader [because] this reader, accustomed to a different system, will

automatically approach the text from his own frame of reference” (Rayar 1988 cited in Biel 2008: 25).

## 6. The Legal Definition of Mafia under Italian Law

In Italy the concept of ‘mafia’ is legally defined in article 416bis of the Italian Criminal Code, which specifies the essential features a criminal group or organisation must have in order to be considered *mafioso*, therefore subjecting its members to the very heavy penalties which the article provides for, also extending this concept beyond the Sicilian *Cosa Nostra* and specifically naming other organisations, such as the *Camorra* and the *’ndrangheta*. This article was introduced in 1982 but, as underlined by Scotti (2002: 159), initially proved extremely difficult to interpret and enforce. Indeed, it was only fully implemented from 1992 onwards, following confirmation by the Italian Supreme Court of Cassation of most of the sentences handed down in the so called Palermo maxi-trial of 474 *mafiosi*. Incredibly, this was the first time that the Italian legal system officially acknowledged the existence of the mafia as a stable organisation, with its own structure and discipline. It is apparent, therefore, that if some of the terminology involved was problematic for the Italian courts to interpret, the task of adequately translating it for non-Italian readers becomes even more challenging.

In order to consider some of the possible strategies for dealing with these translation problems, two specific terms from article 416bis of the Italian Criminal Code will now be examined as examples; they are shown in bold type below in a brief extract from the same article containing the fundamental elements of the concept. A full translation of the extract will be provided after having discussed the two selected terms:

### ***Associazione di tipo mafioso***

*... L'associazione è di tipo mafioso quando coloro che ne fanno parte si avvalgono della forza di intimidazione del vincolo associativo e della condizione di assoggettamento e di **omertà** che ne deriva per commettere delitti ...*

## 7. Examples of translation solutions for specific terms

For the purposes of comparison a selection of documents are examined as possible sources for translation solutions. Many of the documents selected are from EU institutions since, as mentioned above, there are moves to harmonise European legislation in the fight against organised crime and, moreover, it is possible to verify the consistency, or lack of it, in use of the relevant terminology:

- i) European Parliament Resolution 2010/2309 (INI) of 25 October 2011 on organised crime in the European Union (2013);



- ii) European Parliament Resolution 2011/2154 (INI) of 10 May 2012 on the protection of the European Union's financial interests — Fight against fraud — Annual report 2010;
- iii) European Parliament Legislative Resolution on the proposal for a Council framework decision on the fight against organised crime (COM(2005)006 — C6-0061/2005 — 2005/0003(CNS));
- iv) European Parliament Special Committee on Organised Crime, Corruption and Money Laundering (2012) Working Document on Organised Crime;
- v) Court of Auditors of the European Communities Special Report N° 11/2000 on the support scheme for olive oil;
- vi) Commission of the European Communities Proposal for a Council Decision 2008/0101 (CNS) on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2008/XX/JHA.

Additionally, two documents from authoritative sources are consulted for terminology comparison purposes:

- vii) A paper by Giovanni Turone, a judge sitting on the Italian Supreme Court of Cassation, entitled "Legal Frameworks and Investigative Tools for Combating Organized Transnational Crime in the Italian Experience" presented at a UN training course in 2006;
- viii) a 2013 Europol publication, *Threat Assessment: Italian Organised Crime*.

### ***Associazione di tipo mafioso***

This term, used to describe the actual offence committed, is problematic in itself as it is used in reference to both the organisation and membership of the same organisation. The issue is further confused by the fact that, although this is the exact term found in the Italian Criminal Code, similar terms, such as *associazione mafiosa* or *associazione di stampo mafioso* are widely used in the press and even in official documents. The legal concept of *associazione* is found in numerous civil law jurisdictions; it applies when more than two people join together in order to commit crimes (not a single crime). *Associazione* shares some of the features of the common law concept of conspiracy, although it differs in many others (for an assessment of the equivalence of the two terms, see below).

European Parliament Resolution 2010/2309 uses a source language oriented solution, 'mafia association', which may be criticised for its failure to convey the propositional meaning and legal content since the word

'association' does not evoke any specific legal concept in the mind of the target text reader and, moreover, may not convey the idea of a stable, structured and disciplined group, as 'association' may elicit the idea of a much looser arrangement.

The Court of Auditors Special Report N° 11/2000 adopts the strategy of leaving the original Italian term *associazione di tipo mafioso* with an English gloss in brackets, a valid solution which "... is particularly common in dealing with culture-specific items..." (Baker 2011: 33). Interestingly, the English gloss used is 'mafia style conspiracy', the only document among those examined to use the term 'conspiracy', perhaps due to awareness of the fact that the two terms are at best only partial equivalents (Šarčević 1997: 238) and in certain circumstances may be judged non-equivalents (see below).

The Commission Proposal for a Council Decision 2008/0101 recalls the previous reference to Council Framework Decision of 13 June 2002 (see above) in that both the English and Italian texts employ the neutral form of 'participation in a criminal organisation' and *partecipazione a un'organizzazzione criminale* when first mentioning this category of offence but, while the English version is consistent in its use of the term 'criminal organisation' for the three further occurrences, the Italian version, which will almost certainly be a translation of the English text in accordance with standard EU practice, switches to domesticated terminology, albeit only for the third reference. The English 'knowingly taking part in the criminal activities of a criminal organisation' becomes *partecipazione intenzionale ad attività criminali di una associazione per delinquere / partecipazione intenzionale ad un'associazione di tipo mafioso*, again resorting to the domesticated formula of *associazione*, in line with national law. Moreover, it is unclear why this is the case in only one of the four occurrences. This highlights, once again, the point mentioned above with regard to the choice between using standard 'neutral' terminology, or domesticated culture-specific terms. Criminal law is still only harmonised to a very limited degree within the EU and this makes consistency in terminology use erratic, with translators often resorting more readily to domesticated terminology, as in the case of the Italian translations here and in the Italian national law implementing the EAW mentioned above. Harmonisation in criminal law is much more controversial than in other fields of law and terminological inconsistency in the few areas in which it has been implemented, such as the EAW, may give rise to problems of interpretation and application which discourage further moves in this direction.

In the paper by Turone three different solutions are to be found, 'mafia association', 'mafia-type association' and 'mafia-type unlawful association', all of which are subject to the same criticisms expressed above in reference to use of the term '*association*' and insertion of a

redundant term, in this case 'unlawful'. Turone's paper does however offer valid solutions to the problem of the second meaning of *associazione di tipo mafioso*, i.e. the condition of belonging to the organisation. Two different terms are employed, 'participation' and 'membership'. While the general meaning is clear when using either of these terms, Turone (2006: 55) himself points out, there has been a long debate in Italian legal practice regarding a possible distinction between "internal membership" of and "external complicity" with the mafia, although case law has established that the offence committed is the same. For this reason, 'participation' covers both eventualities.

Europol (2013) employs a wide variety of solutions, most frequently 'mafia-type organisation', but also 'mafia-type criminal organisation', 'mafia-type criminal group' and 'mafia-type criminal association'. It can be argued that the use of the adjective 'criminal' in the latter three terms is redundant, since the concept is already inherent in the word 'mafia'. Is it possible for a mafia-type organisation not to be criminal? Among these various alternatives, mafia-type organisation would appear to be an adequate functional equivalent, as intended by Newmark (1988: 83), in that it "occupies the middle ... area between SL language or culture and the TL language or culture." As well as being neutral, and thus, as Newmark (1988: 83) puts it, "deculturalising" the term, it adequately conveys the idea of a stable, structured and disciplined phenomenon.

The same observations made for Europol (2013) can be repeated for European Parliament Special Committee on Organised Crime, Corruption and Money Laundering (2012), which also opts for 'mafia-type organisations' and 'mafia-type criminal organisations'.

Considering the Italian term *associazione di tipo mafioso* from the viewpoint of *essentialia* and *accidentalialia* (Dahlberg 1981 cited in Šarčević 1997: 237), the *essentialia* can be identified as (membership of/participation in) a well structured and highly disciplined organisation of more than two people for the purposes of committing multiple crimes, particularly through the creation of a climate of fear and intimidation. Elements of *accidentalialia* include the territorial entrenchment of the organisation and the fact that creation of the climate of fear and intimidation does not necessarily require specific threats or acts of violence.

The following observations can therefore be made regarding the translation solutions discussed above:

- i) the idea of a group committing multiple crimes by exploiting fear and intimidation is adequately conveyed by the word 'mafia' in itself, as this is a universally recognised feature inherent in the term, even when used in languages other than Italian;

- ii) none of the solutions employing the literal translation 'association' adequately transmits the concept of a well structured and highly disciplined organisation, nor does this term evoke an appropriate legal notion for the target text reader, thus rendering it non-equivalent;
- iii) use of the common law term 'conspiracy', while evoking a specific legal concept in the mind of the target text reader, constitutes an example of non-equivalence in reference to the mafia since the elements of *essentialia* which differ with respect to the Italian concept of *associazione* are fundamental in this context, in particular: *associazione* involves more than two people, requires the intent to commit more than one offence and is a purely criminal law concept (Favata 2012: 49); a conspiracy can also exist between just two people, the intent may be to commit just a single offence and it can also apply to civil offences (Cornell University Law School – Legal Information Institute 2014);
- iv) in reference to the action of taking part in the organisation, 'participation' is preferable to 'membership' as it allows a wider interpretation in line with Italian case law (see above);
- v) the elements of *accidentalialia* are extremely difficult to relay in any concise manageable form.

In the light of the observations made above, the author suggests '(participation in) mafia-type organisations' as a translation for *associazione di tipo mafioso*. Perhaps inevitably, given the culture bound nature of the source language term, this is at best a partial equivalent, but nonetheless a functional one.

## **Omertà**

This term is commonly translated in English as 'code of silence' and, indeed, this is the solution found in the European Parliament Legislative Resolution on the proposal for a Council framework decision on the fight against organised crime. The common misconception created by this translation is that *omertà* is something which applies only to members of the mafia, that it is some kind of internal code observed by *mafiosi* and, while it is true that this is one of the elements of *essentialia* inherent in this term, *omertà* is a much wider and more complex concept, including other elements of *essentialia* and *accidentalialia*. Indeed, it indicates a general condition within society in which citizens do not cooperate with the authorities, or indeed with one another, due to the widespread sense of mistrust and fear induced by the pervading presence of the *mafia*; consequently, even in an everyday situation such as a simple road traffic accident, it is difficult to find anybody willing to act as a witness.

European Parliament Resolution 2011/2154 (INI) employs 'criminal silence', a peculiar solution as it implies that remaining silent is in itself criminal, rather than the silence being the result of criminal intimidation.

The European Parliament Special Committee on Organised Crime, Corruption and Money Laundering (2012) shows a preference for giving an English gloss while retaining the source language term: *omertà* (code of silence). In this case, by using the English gloss 'code of silence', the chosen solution omits *essentialia*, as indicated above.

Europol (2013) utilises a pure foreignisation strategy by retaining the source language term *omertà* without any gloss or explanation. This is something of a 'purist' approach and depends on the target text reader being familiar with the term; otherwise, rather than avoiding any loss of propositional meaning, there is the risk of no such meaning being relayed to the reader.

Turone (2006) also employs the commonly used term 'code of silence' but interestingly, at another point, adopts an original solution, 'attitude of silence and refusal'. This latter solution comes much closer to conveying the *essentialia* of the semantically complex word *omertà*, although it may be considered a little too cumbersome.

Summarising the above translation solutions for the term *omertà*, it can be said that:

- i) the widely used expression 'code of silence' should be considered only a very partial equivalent as it omits certain elements of *essentialia*, particularly by failing to relay the prevalent and deeply entrenched nature of the phenomenon in society as a whole;
- ii) retaining such an 'untranslatable' source language term in the target text appears to be best strategy, providing that explicitation in the form of an appropriate gloss or footnote is used to ensure propositional meaning is conveyed.

*Omertà* remains an extremely problematic term to translate adequately into English, but the author's own preference is for retaining the source language term with a gloss in English, thus: *omertà* (culture of silence). By employing the word 'culture', rather than 'code', it is possible to better convey the concept of a widespread and deep-rooted social phenomenon, without using excessively cumbersome expressions, and thus allow functional, albeit partial, equivalence to be achieved.

Having considered the various possible translation solutions above, it is now possible to offer a translation of the extract from article 416bis of the Italian Criminal Code previously cited:

**(Participation in) mafia-type organisations**

... an organisation is of a mafia-type when those participating in it take advantage of the organisation's power of intimidation and of the resulting conditions of submission and **omertà (culture of silence)** in order to commit criminal offences...

**8. Conclusion**

Mafia related terminology presents a considerable challenge for translators and, as can be seen just from the limited number of examples cited above, there is a great deal of inconsistency to be found in the choice of possible translation solutions. In order to face this challenge translators need to be able to mediate on three levels: linguistic, legal and cultural. Thus, in addition to linguistic skills, there is a requirement for adequate knowledge of both the source and target language legal systems and sufficient cultural awareness to be able to select translation solutions that keep loss of propositional meaning to a minimum.

How, therefore, should translators approach the translation of legal culturemes, such as those to be found in Italian anti-mafia laws? Considering this question within the context of the foreignisation versus domestication debate, and in the light of the terminology found in the documents examined, the most appropriate strategy for the translation of legal culturemes would appear to be one that tends more towards foreignisation or, at least, the use of culturally neutral terms, rather than towards domestication. The adoption of foreignisation strategies may seem to tie legal translators to "a slavish subordination to another writer's work" (Bassnet 2011: 97) but, even within the somewhat rigid confines of legal translation, there is the need for a certain degree of 'creative skill' from the translator in formulating appropriate glosses or explicative footnotes that clarify the meaning for target text readers, without overstepping the dividing line between translating concepts and commenting on or interpreting them.

This paper obviously represents only a very brief reflection on this theme and further detailed study needs to be made into the translation of Italian anti-mafia law terminology, using a much wider sample of documentation, also in order to establish whether there are circumstances in which domestication strategies can be successfully adopted.

Inevitably, however, whatever the translation strategy adopted, when dealing with culturemes the translator will always leave "silences," which are "...the most revealing with regard to cultural differences" (Gentzler 2001: vii-viii).

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