

Legal translation outsourced

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M. Rosario Martín Ruano

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BOOK REVIEW

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In recent years, the calls to draw on and to design integrative research models for approaching the complex, variegated and multifaceted practices falling under the vast interdisciplinary of legal translation have increased significantly (Biel and Engberg 2013; Biel et al. 2019; Monzó-Nebot and Moreno-Rivero 2020). Juliette R. Scott's book, which focuses on the growing trend towards outsourcing in legal translation, lives up to the expectations of methodological amalgamation and interdisciplinary sophistication which have recently seen an increase in demand. With great theoretical and methodological rigour, the author aptly combines concepts from different research strands in order to shed light on the factors behind legal translation as a product when it is externalised. Furthermore, drawing on sound knowledge of contemporary scholarly work on legal translation studies (LTS) and translation studies (TS) in general, as well as on extensive, first-hand experience as a practitioner in the field – an aspect which proves crucial for obtaining data from relevant stakeholders – she succeeds in fostering constructive reflection on the translation process as a whole when this involves practitioners from external institutions. In this regard, by critically examining interrelated aspects at both macro- and micro-level, Scott provides well-informed insights into the workings and, moreover, on the limitations of legal translation as it is so often practised in the commercial sector in our day and age, and offers valuable suggestions for its improvement.

The very selection of the main topic of the work and the focus which Scott adopts are pertinent in and of themselves. Approaching the study of translated legal texts from the assumption that these are frequently the result of an outsourced service is extremely relevant at this point in time. Scott herself acknowledges that “legal translation is no longer the preserve of in-house translators” (1), a very measured statement at a time during which a significant acceleration in the “upward outsourcing trend” that has been “associated with quality risk” (Biel 2017, 48) is being experienced in institutional settings across the globe. Additionally, the topic is also highly relevant in academic terms. As Scott also notes, “the study of translation at international courts and institutions has dominated legal translation studies for many years” (3). Effectively contributing to combating what could be termed as a “legicentrist” bias in LTS (see for instance, Biel [2018] for a criticism of legicentrism in corpus studies), the book describes the “outsourced legal translation environment” in which a growing reliance on external suppliers is accompanied by other features and phenomena, identified and addressed in detail (9–16), which both explain and reinforce this tendency. Among these are: the lack or scarcity of instructions for translators' performance; the lack of recognition of the status of professionals who ideally need a variety of transversal, thematic and translation-related competences; the significantly transformed market conditions in which these professionals operate – and which are continuing to change even more dramatically with the increased pervasiveness of machine translation in recent years – a fact which paradoxically invites or allows for various levels of quality (including, one might decry, underprofessionalism). Scott offers a realistic and extremely insightful representation of this “entity”, “industry” or “market” which is portrayed as being “fragmented”, “disordered”, and “disparate” (8). Demonstrating

a great capacity for categorisation and systematisation, she explains the interrelations among the variety of actors and stakeholders who function as different links in the “chain of supply”, an unfavourable structure which often functions to the detriment of the translator’s task. With the help of Agency Theory as a complement to functionalist perspectives on translation that she adopts with reservations, she also identifies a number of “risks” that may ultimately hinder quality translator performance, most notably sheer asymmetries in relation to relevant information and power differentials. Scott presents the convincing argument that these asymmetries may adversely affect the capacity of translators to bring the multi-level negotiations which legal translation requires, explained in Chapter 2, to a successful conclusion. All these negotiations – with regard to the linguistic dimension of legal texts, their prototypical features and their variation across different genres; the disparity at textual, terminological and conceptual level which exists between separate legal systems with diverse textual traditions; the features of the original text in order to guarantee that the translated product complies with the standard of fitness-for-purpose and with the needs of end users, etc. – are represented through a design based on the mathematical concept of the “tesseract” (53), which offers a very visual but invariably dynamic image of the “translator’s textual agency”. The use of the word “agency” to characterise the translator’s tasks is not insignificant, and weaves links between Scott’s work and a wealth of scholarly work in TS and, more specifically, in LTS, that addresses issues of power and authority, and critically reacts to them. In fact, Scott repeatedly argues for more “proactive behaviour” on the part of translators in order to overcome the difficulties posed by constraints that may influence legal translation performance before, during and after the translation process.

These constraints, also presented in a very visual manner (57) which captures the intricate interrelations among factors which may condition the outcome of legal translation, are analysed in Chapter 3. With help from revealing examples, Scott reviews a whole series of issues that condition the translator’s activity or how it is ultimately perceived by different agents: prevailing expectancy norms and ethical norms currently in force in the target context, as well as the individual stance of translators themselves and the quality of the original text; elements such as ambiguity, the context-bound specificity of legal concepts, genre-specific conventions and related expectations; requirements deriving from the purpose for which the translation is requested; interpersonal issues (or, more precisely, problems derived from a scarcity in or lack of the interpersonal component); the frequent lack of specification of purpose, which may present a problem when it comes to complying with fitness-for-purpose and which may even generate consequences in terms of legal liability; and essential aspects in the daily lives of practitioners which are often ignored or neglected by scholarly analyses of (legal) translated texts, such as time and budget. Again, the conclusion to which the reader seems to be repeatedly invited in this comprehensive analysis is that the successful management of all these diverse and important variables requires a coordinated response involving all the links that form part of the chain of production of translated texts in outsourced processes.

However, both her knowledge of the workings of professional reality and corroborating evidence obtained in a comprehensive survey among principals and professional translators (detailed results of which are examined both in quantitative and qualitative terms in pages 103–176) allow Scott to claim – and denounce the fact – that this is still a desideratum in the sector of commercial legal translation, where dialogue among translators, text drafters and other intermediaries is scarce; where the specifications (for instance in relation to target text purpose, text status, and applicable law), relevant reference materials and important contextual information provided to the translator are often insufficient; and where, not surprisingly, the satisfaction levels of the various stakeholders with regard to the current situation leave much room for improvement.

In the final pages of the book (177–178), Scott provides a concrete contribution to improving this bleak picture in the form of a technical brief for practitioners. The relevance of this proposal is supported by references to existing scholarly literature that has highlighted the usefulness of the “brief” in TS and by an analysis of examples of its application in sectors such as law, advertising and copyrighting, as well as in the professional world of translation.

Despite its obvious applicability, this is not, in my opinion, the greatest contribution which this book has to offer. Notwithstanding its merits, as with any concrete proposal, its usefulness and convenience must first be assessed and measured in light of the peculiarities of the contexts for which it might be considered. Indeed, in some of these, transforming it into an unbreakable rule, into *law*, could be counterproductive – as a case in point, it might not always be advisable to ask clients to define and/or justify their desired degree of “literalness” or “opacity” of the translation (100, 177). As Derrida said in a text that is relevant for legal translation, “justice as law is not justice” (1992, 12), but a mere a realisation of it. Justice is an “always unsatisfied appeal” (Derrida 1992, 21) that needs to be constantly sought after and realised anew in “translations” thereof which simultaneously deconstruct and construct it. Scott’s brief certainly encompasses the possibility and the necessity of being “deconstructed” and “constructed” once more – in a word, “translated” – for translation contexts, no two of which are ever the same.

In my view, the most valuable aspect of Scott’s work is to be found in the emphasis on the higher-order goal pursued by the proposed brief – that is, in the call for and commitment to *dialogue*. From an idea of the outsourced translated text as, inevitably, the result of a “team” venture (be it well-functioning or otherwise) and of the translator as an “interface” or “hub” (91–94), Scott not only argues for “collaborative working practices” (95) in abstract terms, but also expressly encourages the translator to dynamically engage in the pursuit of that collaboration through “proactive behaviour” which, coupled with the highest levels of professionalism, may maximise cooperation and the flow of information relevant to the process, ultimately enhancing the quality of the final outcome. As a methodological aid through which to operationalise this, Scott urges translators to develop a “relational agency” (95–96). This scalable and adjustable, context-aware competence may advise on how (or even to what extent) to agree with the client and other actors on the “textual agency” and “interpretive autonomy” to be exercised by the translator (97–98). More broadly, it emerges as a vital, effective tool for greater individual empowerment and for fulfilling the larger objective of enhancing the recognition of the translation profession among other agents. On the back cover of the volume, Jan Engberg claims that the book “will actually enable bridge-building”. To my mind, it does so in many ways. Combining highbrow theoretical reflection with extensive data, telling examples and even practical tips, *Legal Translation Outsourced* guides the reader towards turning hierarchical structures into relationships of cooperation, an essential factor for success within that teamwork-based process that is any act of outsourced translation.

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Notes on contributor

M. Rosario Martín Ruano is Associate Professor at the University of Salamanca, Spain, where she is a member of the Research Group on Translation, Ideology and Culture and co-leader of the



research project entitled VIOSIMTRAD (“Symbolic Violence and Translation”, FFI2015-66516-P; MINECO/ERDF, UE [2016–2020]). Her research interests include legal and institutional translation, translation and ideology, and gender and post-colonial approaches to translation. She has published widely on these issues, including a number of books, coedited volumes and chapters in volumes, as well as articles in journals.

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M. Rosario Martín Ruano

Department of Translation and Interpreting, University of Salamanca, Spain

 mrmr@usal.es  <http://orcid.org/0000-0003-1383-6977>

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