

**A legendagem de séries televisivas criminais e suas barreiras: um estudo sobre as
diferenças linguísticas e culturais no seriado “Lei & Ordem”**
**Subtitling in crime TV shows and its barriers: a study of cultural and linguistic differences
in the series “Law & Order”**

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***Resumo:** Este artigo compara as escolhas tradutórias de três termos recorrentes na série televisiva Lei & Ordem com as traduções propostas pelo Noronha Legal Dictionary (2003), ao mesmo tempo em que afunila o significado dos termos selecionados de acordo com os Códigos Penais de Nova Iorque e do Brasil. Nosso intento é encontrar e ressaltar os problemas originados pela diferença entre os Códigos e pelas diferentes formas de tradução, levando em consideração as limitações que esse tipo de mídia traz para o tradutor (NOBRE, 2011). Os conceitos de domesticação e estrangeirização de Venuti (2002) também serão utilizados para demonstrar como as possíveis traduções se comportam dentro dos sistemas tradutórios adotados. Finalmente, vemos que, adaptando os termos à cultura brasileira ou traduzindo-os literalmente, uma coerência e compreensão completa do sistema será dificilmente alcançada.*

***Palavras-chave:** legendagem; linguagem juridical; Lei & Ordem.*

***Abstract:** This research compares the subtitling choices of three recurrent terms from the TV show Law & Order with the translations proposed by Noronha Legal Dictionary (2003), while narrowing the meaning of the terms selected according to the Penal Codes of both New York and Brazil. The purpose of this study is to point out the problems originated by the different Codes and different translation options, taking into consideration the limitations that this kind of media can bring to the translator (NOBRE, 2011). Venuti’s (2002) ideas of domestication and foreignization will also be used to show how the translation possibilities work in the translation system adopted. Finally, whether the translator decides to domesticate the terms to the Brazilian culture or to translate them literally, a full coherence and understanding of the whole system will hardly be achieved.*

***Key-words:** subtitling; criminal language; Law & Order.*

1. Introduction

Subtitling for a TV show or movie will always be difficult due to too little space and time constrains that endanger the integrity of the original text. That becomes even more perceptible when specific language from an area of expertise is used. In the case of the TV show

Law & Order, the problem arises from the two different Penal Codes involved in the translation: the Brazilian Penal Code and the State of New York Penal Code. The definitions of different types of crimes, such as different categories of murders, bring forth two situations when translating: either we adapt the crime to the Penal Code of the viewer (the Brazilian's in this case) and risk losing the particularities from the original Code that are not specified in it, or we can leave it in a literal translation and risk losing the viewer's understanding of the situation presented. Both solutions, though, risk the coherence of the episode and of the system portrayed.

This study analyses the translation choices made in the second episode of the second season of *Law & Order*, and the translation made on the series' DVD will be considered the official one. A small number of legal terms – often used in court scenes throughout the series – along with their translations were chosen for being an important resort for the general understanding of the case being presented and its solution.

Two important concepts will guide this review, both created by the translation theorist Lawrence Venuti (2002): the concepts of domestication and foreignization. In Venuti's theory, to domesticate a text is to bring a foreign language and its cultural aspects to the culture of the language which the text is being translated into. It would be the search for an equivalent event in two cultures, even if this event is not the same. It is the meaning that it assumes within the culture that has to be (approximately) the same. Foreignization, on the other hand, would be to translate only the word (making the necessary structural changes so that the sentence can be read in the target culture), forcing the reader into making an extra effort to try to understand the different systems presented by the other language.

With these concepts and the Penal Codes from the State of New York and Brazil in sight, this article will analyze what problems the subtitles used in the Brazilian DVD of the series generated and what problems a different choice of translation might bring to the translator and to the viewer.

2. Why "*Law & Order*"?

Law & Order is an American drama television series, created by Dick Wolf, about police procedures and legal prosecution. It was originally aired in 1990 and it is set and filmed in New York City. The plot consists of two-part divided episodes: in the first half hour, the investigation of a crime and apprehension of a suspect by the New York City detectives occurs; the second half focuses on the prosecution of the defendant by the Manhattan District Attorney's office. Not all episodes follow this strict formula: sometimes the investigation of the crime by the police is maximized, and sometimes the prosecution of the crime in court is on the

spotlight. The plots are often based on real cases that have recently made headlines, being fictionalized by changing the details (NBC).

The episode selected to be the source of the corpus of this analysis is one of the first episodes of the second season, when the terms used for the translation had not been solidified yet. Nowadays, though, the translation team counts on translating lawyers, originating subtitles that better fit the Brazilian Penal Code and court expressions (Gazeta do povo, 2008).

We selected this show because all of its tension is built upon finding the criminal and negotiating how and for how long they will be punished for their crimes. This is a good environment for the terms we want to analyze, making these terms interact with one another, which can leave gaps in the coherence of the series since the full translation of a system is not something easily done.

3. **Research methods**

We believe that there is not much research that studies translation considering the problem of subtitling. The space limitation, plus the impossibility of fully translating a system, generates problems to TV series and movies translators. Our hope is that, by pointing out the problems and impossibilities, our research clears the way for translators concerned with developing subtitles that can keep coherence within the story – and perhaps even with the target culture system.

Even though our research compares possible translations of the terms selected and analyzes the problems each choice of translation can originate, it is not our aim to indicate “the best translation” for legal terms in this kind of TV show.

For a better understanding of the situation presented we will define the three terms in English to be analyzed and their possible correspondents in Portuguese and discuss the problems and limitations caused by these subtitling choices. The terms to be studied are “manslaughter in the first degree” (or “man one”), “manslaughter in the second degree” (or “man two”) and “murder in the second degree” (or “murder two”).

In order to verify the correspondence between the translation made in Law and Order and the ones suggested by legal dictionaries, we will use Noronha Legal Dictionary for Portuguese and English (2003) – to see the possible translations for a specific term without context – as well as the Penal Codes from both Brazil and New York (state where the series takes place) – to discriminate more specifically what crime was committed according to the New York Code and what definition in the Brazilian Penal Code fits the original felony better. However, our focus goes beyond the coherence between dictionary and series, it is also the coherence within the series, highlighting how terms and choices of translation can be problematic to the TV show comprehension.

4. Literature Review

In this research, we will use Venuti's (2002) concepts of domestication and foreignization for a better understanding of the possible translations and to what purpose they serve better.

In the text *The Translation and The Cultural Identities Formation*, Lawrence Venuti shows through examples of translation of literature classics how difficult it is to choose between translating a text according to its original culture and according to the target culture, since the cultural characteristics are the biggest obstacle between two different languages. We will be able to see through the selected analysis material how hard it is to fit a crime in a system that does not work in the same way as the original one. The question is: how to translate two different realities, two nonequivalent views of the world? It will always be necessary to make a choice. The possibilities, according to Venuti, are: 1) foreignization, a translation in which the translator explains in the target text how the original culture works, emphasizing the differences between the two worlds (e.g. a footnote); and 2) to domesticate the text, adapting the original cultural aspects according to a similar aspect of the target culture. Among these two possibilities, Venuti emphasizes domestication as the most common, considered by him as inevitable in a translation.

“[...] a translation always communicates a foreign text that is partial and altered, and into which features that are peculiar to the target language are added. Actually, the goal of communicating can only be reached when the foreign text abandons its foreignness, becoming domestically comprehensible. Therefore, translation is an unavoidable domestication through which linguistic and cultural values intelligible to certain domestic groups are inscribed.” [our translation] (VENUTI, 2002, p.174)¹

Venuti also shows how domestication can be a proper or improper way of translating. It can be a positive approach when it does not change the main idea of the original text, this way the target reader will picture the same characters and story as the original reader, and hopefully, if the translator was able to find good equivalences, he will attribute the same values as the reader of the original text. On the other hand, domestication can bring more losses than gains when it changes the whole point of the original text - not necessarily by changing its story, but by changing the scenario or the costumes, trying to adapt them to the target culture in a case that

¹ “[...] uma tradução sempre comunica um texto estrangeiro que é parcial e alterado, ao qual se acrescentam características peculiares à língua da tradução. Na verdade, o objetivo de comunicar só pode ser atingido quando o texto estrangeiro deixa de ser inescrutavelmente estrangeiro, tornando-se compreensível de uma forma caracteristicamente doméstica. Assim, a tradução é uma inevitável domesticação, pela qual no texto estrangeiro se inscrevem valores lingüísticos e culturais que são inteligíveis para grupos domésticos representativos específicos.” (VENUTI, 2002, p.174)

the original culture represented a major character in the story. Therefore, the target reader will be reading a different story with different values attached, not the one pictured by the writer or the original reader.

Added to the known obstacle of translating – described by Venutti –, there are other problems that arise in this process when we are dealing with TV shows. Since the media of this kind of translation is audiovisual, it is important to settle these limitations of subtitling, which are very different from the translations made with written texts as the main focus. Nobre (2002) highlights some of the obstacles that a translator will find while subtitling a movie or TV show. First of all, Nobre (2002) brings to evidence that, to achieve a fully understanding of the movie, the audience has to be able to pick up the information from all the channels involved in the movie: dialogs, background music, sound effects, written texts within the movie (as newspaper, posters) and, of course, the images. Thus the subtitling cannot be an obstacle to the other channels that make up the movie, it has to be synchronized with them (NOBRE, 2002), otherwise, it might cause misunderstandings and discomfort to the audience:

“Therefore, it is necessary to highlight the entries and exits of each subtitle, a task that the translator should be responsible for, respecting the characters’ speech rhythm, their pauses and the cuts and fade outs for changing scenes that make up the cinematic language.”² [our translation] (NOBRE, p. 3)

Another issue that must be taken into consideration concerning the timing of the subtitles is the speed in which the viewer is able to read. The text contained in the subtitles cannot be too extensive when related to how long it will be on screen; otherwise the audience will not have the time to read them completely and still pay attention to other features of the scene (NOBRE, 2002). In addition to these timing issues, there are some aesthetic concerns that a translator must take into account: as said by Nobre (2002), subtitles must be discrete enough not to be consciously noticed by the audience, while being clear and legible.

Taking all this into consideration, to subtitle a TV show (or any other audiovisual media) is not an easy task. The translator has a limited space and a limited time to reproduce information spoken in another language in the best way he (or she) can. There is no place for translator’s note or any kind of explanation that does not fit into the line spoken by the character.

5. Analysis

² “É necessário, portanto, que seja feita uma marcação precisa dos momentos de entrada e saída de cada legenda, cabendo ao legendista definir estes momentos, respeitando o ritmo da fala dos personagens, as pausas e os cortes para mudanças de cena, que compõem a linguagem fílmica.”

As mentioned before, the three terms selected for our analysis are “manslaughter in the first degree”, “manslaughter in the second degree” and “murder in the second degree”. According to the New York Penal Code (S 125.20), manslaughter in the first degree happens when:

1. With intent to cause serious physical injury to another person, he causes the death of such person or of a third person; or
2. With intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme emotional disturbance, as defined in paragraph (a) of subdivision one of section 125.25. The fact that homicide was committed under the influence of extreme emotional disturbance constitutes a mitigating circumstance reducing murder to manslaughter in the first degree and need not be proved in any prosecution initiated under this subdivision;

In the episode, “man one” is literally subtitled as “homicídio em primeiro grau”, a foreignizing way of translating the term, which, isolated, does not cause any problems for understanding the series – it keeps the original system, the original hierarchy and the original term. However, as we will see later, the problems always arise when the terms are contrasted with each other.

Noronha (2003), on the other hand, does not present a very specific proposal of translation – since laws, mainly when seen between two languages and two systems, are always open for interpretation. His suggestion only covers the general term “manslaughter”, translated by him as “homicídio culposo”, leaving the “first degree” feature to be defined after further analysis of a virtual crime.

By taking the Brazilian Code and comparing it with the definitions made by the New York Code, we can see that this crime (man one) can correspond to two different felonies in Brazil. Thus, in case the homicide executed in the episode was, as says the first definition of manslaughter one, caused accidentally, the crime committed according to the Brazilian Code, would be “homicídio culposo”, just as Noronha suggested; but there is a problem: “homicídio culposo” does not foresee, at least it is not written in the Brazilian Code, the intention to hurt as “man one” does, leaving a small gap between the two felonies.

However, if the homicide was caused under extreme emotional distress, the felony would be “homicídio privilegiado”, which, in Brazil, does not carry this feature of an accidental fact that this crime assumes in New York law when it is transferred from “murder two” (killing intentionally) to “man one” (killing without intention or under too much distress to be responsible for their own actions).

Also, the division and categorization of crimes are different from one Code to the other. “Man one” and “man two” can be both accessed by “manslaughter” within the series when, for example, negotiating the prosecution of the defendant. While “homicídio privilegiado” is not a

subdivision of “homicídio culposo”; they are different crimes. We did not find a specific scene where *this* difference proves to be a problem, but we do not discard the possibility of it happening.

The second term analyzed, “manslaughter in the second degree”, was subtitled in the series as “homicídio em segundo grau”. This felony, when looked up in the dictionary, meets the same problem faced by “man one”: the degree of the crime is not specified.

According to the New York Penal Code, the crime addressed by “manslaughter in the second degree” is the one in which the felon “recklessly causes the death of another person”, a crime that according to the Brazilian Penal Code also fits the term “homicídio culposo”; a match that seems to fit better than the one made between “man one” and “culposo”.

However, New York law has yet another crime that could be within the Brazilian term “homicídio culposo”, but that in their system receives a separate entry: “criminally negligent homicide”, which, in the episode, is translated as “homicídio criminalmente negligente”. Therefore, if the translator has to oppose these two terms “criminally negligent homicide” and “manslaughter in the second degree”, he or she will have to either abandon momentarily the domestication (changing the system is in itself a loss of coherence) – because they would have to oppose “homicídio culposo” to a domesticated form of “criminal negligent homicide”, which *is* “homicídio culposo” – and simply translate the term literally by explaining the crime – which would also be a problem, since the explanation addresses the crime itself.

When analyzing the third term, “murder”, several issues emerged throughout the episode. “Murder in the second degree” received three different subtitling choices: “assassinato em segundo grau”, “qualificado em segundo grau” and “qualificado”. This was the first legal term (within the ones chosen) to be domesticated by the translator of the episode.

According to the New York Penal Code, murder two happens when a person commits homicide without any mitigation (e.g. being under emotional distress) or aggravation (e.g. the victim was incapable of self-defense). The problem in the subtitles is that “homicídio qualificado” (though being one of the terms suggested by the dictionary to translate this felony), in Brazil’s law, is an aggravated murder. “Qualificado” implies some kind of torture, cruel reasons or methods motivating or being used during the crime. According to the Brazilian Code, it happens

§ 2º If the homicide is committed:

I – due to payment or promise of reward or any other vile reason;

II – due to a futile reason;

III – through use of poison, fire, explosive, asphyxiation, torture or any other cruel mean, or by means that can endanger others;

IV – by betrayal or ambush or any other means that disable the victim’s self-defense;

V – to assure execution, impunity or benefit of another crime;³ [our translation]

So, by translating what would be a “homicidio simples” or “homicídio doloso” as “qualificado”, the crime suggested grew drastically in severity and, virtually, it would double the time in prison that should be spent by the felon.

Because of these differences, some sentences ended up having an unclear meaning. An example is the sentence: “It’s not murder, it’s manslaughter”, which was translated as “Não é qualificado, é homicídio”. In Brazilian laws this makes absolutely no sense, for every “qualificado” is an “homicídio”, something that does not happen in the original sentence: a crime is either a murder or manslaughter and both are homicides, even though the severity and conditions of the crime can be discussed.

This distinction that exists in English between murder and manslaughter originated, in Portuguese, an attempt at reproducing it. As it was said before, one of the translations adopted to “murder in the second degree” was “assassinato [em segundo grau]”, while both “man one” and “man two” were translated as “homicídio”. In Brazil these two terms do not present the same difference as manslaughter and murder do in the US; even though they might create different values for a Brazilian speaker, they do not recreate the distinction existent in English between what is considered as intentional and non-intentional homicide. This kind of distinction is created in the Brazilian Code by, for example, the terms “culposo” and “doloso” (which are not always the best translation; as we have mentioned before, the felony has to be studied in details to prevent opposing a crime to itself or creating a contrast that is different from the original one). However, we would like to clarify that what is considered as non-intentional in one code is not necessarily considered the same way by the other.

We have two charts for a better visualization of the subtitling possibilities. Chart 1 represents the possible translations we have found by comparing both penal codes and Chart 2 represents the translation used on the series.

	Culposo	doloso	qualificado	privilegiado
Man 1	x			x
Man 2	x			
Murder 2		x		
CNH	x			

Chart 1: CNH stands for “criminal negligent homicide”.

³ Original: § 2º Se o homicídio é cometido:

I - mediante paga ou promessa de recompensa, ou por outro motivo torpe; II - por motivo fútil; III - com emprego de veneno, fogo, explosivo, asfixia, tortura ou outro meio insidioso ou cruel, ou de que possa resultar perigo comum; IV - à traição, de emboscada, ou mediante dissimulação ou outro recurso que dificulte ou torne impossível a defesa do ofendido; V - para assegurar a execução, a ocultação, a impunidade ou vantagem de outro crime;

	Hom. 1ºgrau	Hom. 2ºgrau	Assassinato 2º	Qualificado	HCN
Man 1	x				
Man 2		x			
Murder 2			x	x	
CNH					x

Chart 2: CNH stands for “criminal negligent homicide”; HCN stands for “homicídio criminalmente negligente”.

6. Discussion and conclusion

As we could see, to translate a system when deprived of enough space and time to explain your choices can be tricky. At some point the different systems and terminology will bring the translator to a dead-end, forcing him or her to leave some kind of gap in the system they are trying to recreate.

In the dictionary, these dead-ends are somewhat bypassed by translations made in the opposite direction: from Portuguese to English. These translations are more specific – as we can see in Chart 3 – but they do not constitute equivalent terms to the original felonies. The terms in italics listed in English are attempts for explaining the Brazilian felony - they do not belong to the New York Penal Code. Therefore, the impression we get from the chart that there are actually narrower definitions in English which would correspond to the Brazilian ones, is an illusion.

Portuguese	English
Homicídio	<i>Assassination</i>
Homicídio culposo	<i>Involuntary manslaughter</i>
Homicídio doloso	murder
Homicídio involuntário	Manslaughter
Homicídio privilegiado	<i>Excusable homicide</i>
Homicídio qualificado	Murder
Homicídio simples	manslaughter

Chart 3: translation suggested by Noronha (2003) in the Portuguese to English section.

This can be explained by the internal organization of the systems. The New York Code divides homicides mainly between “manslaughter” and “murder”, subdividing these terms further using the classifications “on the first degree” and “on the second degree”, which still are open to more than one definition. The Brazilian Code, on the other hand, has one term for each crime, no subdivision. Therefore the translator – if domesticating – has to be careful when translating the more general terms of the New York Code to more specific ones of the Brazilian Code.

If, on the other hand, the translator decides to stick to a foreignizing translation, the problems will be more a matter of terminology than of the system itself (even though the system ends up being “hurt” as well), for the system is what he or she is keeping: the New York Code. The question is, then, how to translate terms of a system that is inexistent in the target language. If the system does not exist, chances are that the terms used to organize it will be inexistent too: that is the problem of translating “murder” and “manslaughter” by foreignization: they are terms that have a meaningful contrast between them: the intention to kill. And, as mentioned before, the easy way out would be to create a distinction that does not exist (*homicídio vs assassinato*) or to domesticate (*culposo vs doloso*), which would corrupt the system by breaking its coherence.

In the series, both of these solutions are used, which make the translation much less coherent than would be expected from the official copyright. The series’ subtitles major “sin” is not to stick – nor attempt to stick – to one way of translating: there are foreign terms, Brazilian terms, all mixed in a fuzzy system.

Noronha (2003), on the other hand, sticks to the domesticating way of translating – using paraphrases when the ideal term is not reached. Because of the absence of a context, some terms in the English to Portuguese are translated in a more superficial way, but it does not constitute a flaw, since the New York Code itself works with more general terms.

We do realize that our research does not indicate the ideal translation, we only point out some flaws that can (and sometimes did) happen in each choice of translation. Our hope is that, by highlighting these problems, future researches and translators can find a way to fix these “sore spots” in crime series subtitling – or, if not all, at least some of them.

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