Representation of Foreign Justice in the Media: The Amanda Knox case

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Abstract

The work is interested in the use and recontextualization of certain legal lexis in the representation of mediatized legal discourse. Specifically, it focuses on the media portrayal of Amanda Knox, the American university exchange student who was convicted of and subsequently acquitted for the murder of British Exchange student, Meredith Kercher. A corpus-assisted empirical analysis of word frequencies and keywords is aimed at uncovering examples of recontextualization and misrepresentation of legal terms and concepts. The data are analyzed both quantitatively and qualitatively. From a theoretical point of view, the work is informed by the notion that distinctive contextual characteristics of the system, culture, language, and society and the frames and scripts that these imply must be taken into consideration when analyzing (mediatized) legal discourse. Crucially, it argues that recontextualization is both a selective and on-going process, which in the case of mediatized legal discourse can lead to mispresentation of both rules of law and the systems through which legal systems acquire 'their meaningfulness and meaning' (Cao 2007).

Key words: frame, script, legal discourse, media discourse, recontextualization

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1. Introduction

1.1 The Amanda Knox Case

The murder of British exchange student, Meredith Kercher, in November 2007 and the subsequent conviction (December 2009) and acquittal (October 2011) of American, Amanda Knox, and her Italian boyfriend, Raffaele Sollecito in Perugia, Italy made international headlines. The mass media's interest in the case is hardly surprising as this was a truly cosmopolitan case in which, according to the prosecution in the first instance trial, Kercher had been brutally murdered by Knox, together with her Italian boyfriend and the outsider, Rudy Guede (originally from the Ivory Coast) as part of a sex game that had turned violent. Many journalists were quick to take sides in the case often drawing on nationalistic lines. In the ensuing media portrayals, in the US Knox was frequently portrayed as an innocent young college student caught in the wheels of the Italian 'judicial inferno', while some news outlets in both Italy and Britain vilified her as 'a sex-crazed liar' (Associated Press 2010). Although the full details of the case are beyond the scope of this article,

before proceeding to the main focus of this work, i.e. the media depictions of a foreign legal system, it would be useful to repeat some of the main events in the case.[1]

Both Amanda Knox and Meredith Kercher had arrived in Perugia in 2007 to study Italian at the city's well-known University for foreigners. They ended up living together along with two Italian women in a small house just outside the city walls, a place that would become the scene of the horrific crime. On 2 November 2007 police discovered the victim's body under a duvet in her room, where she had apparently been stabbed and raped (Annunziato 2011: 63). Knox was quickly identified by the police as one of the main suspects and was arrested together with her boyfriend, Sollecito, on 6 November 2007. During her interrogation by local police Knox admitted that she had been in the house at the time of the crime and signed a written statement implicating her former boss, Patrick Lumumba, in the murder (Annunziato 2011: 65). Although Lumumba was quickly released due to lack of evidence linking him to the crime, the police subsequently arrested and convicted a third man, Rudy Guede. In July 2008 prosecutors in Perugia laid formal charges on all three of the suspects. While Guede was tried and convicted of taking part in the murder in a separate fast-track or 'expedited' trial, Knox and Sollecito were tried together in proceedings that began in January 2009 (Mirabella 2012: 240-241). In December 2009 Knox and Sollecito were found guilty by a panel of 2 professional judges and 6 lay judges and given 26 and 25 years respectively for their roles in the murder of Meredith Kercher (Annunziato 2011: 66). As allowed by Italian law, the case was sent to appeal in December 2010 and on October 3, 2011 both Knox and Sollecito were acquitted and cleared of the murder charges (Mirabella 2012: 253).

1.2 The Study

The study is based on the media descriptions of the case – with a specific reference to Amanda Knox – drawn from two different newspapers, *The New York Times* and *The Guardian*. The corpus-assisted empirical analysis is aimed at uncovering examples of recontextualization and especially examples of misrepresentation of legal concepts. The data are analyzed both quantitatively and qualitatively.

In line with Critical Discourse Analysis, one of the underlying assumptions of the work is that that news reports rely extensively on recontextualization of both communicative events and social practices, which are determined by 'the goals, values and priorities of communication in which they are recontextualized' (Fairclough 1995: 41). Yet, the language of the news is not only a product of these practices but also an important force in (re)shaping social practices. Specifically, the analysis aims to demonstrate that these recontextualization processes can be seen, at least in part, in specific lexico-grammatical realizations. As noted by Richardson (2007: 47), the investigation of certain words is an important step in doing discourse analysis. It is also assumed that these recontextualization processes reflect underlying social, economic and ideological values in the form of what van Dijk (1998) calls 'cognitive constraints', also known as frames and scripts. Moreover, news stories are constructed according to readers' mental categories which the media capitalizes on (Fowler 1991). Another important issue addressed in the

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work is the difficulty encountered by non-experts in understanding legal concepts and systems to that point that, as noted by Jackson (1985) '[l]egal language may only, to the extent that it resembles ordinary language, appear to be intelligible to the layperson'. In this regard, it is proposed that understanding is further confounded when unfamiliar, foreign judicial norms and systems (and their relevant frames and scripts) are involved. Thus, it is assumed that when a foreign system is under scrutiny, there is more possibility for misunderstanding and, thus, misrepresentation to occur.

In Section 2 I will highlight the most salient theoretical considerations discussed in the work. This is followed by a discussion of the corpus and methodology in 3. Section 4 provides a discussion of the data from both a quantitative and qualitative point of view, and 5 offers some preliminary conclusions.

2. Theoretical Framework

2.1 Recontextualization in News Reports

In the literature, recontextualization has been described as one of the most widely used means of text production and text-to-text interaction (Wodak and De Cillia 2007: 323). Put simply, elements of one social practice are appropriated within another, often dominant, context or text for some strategic purpose (Chilton and Schäffner 2002: 17). Fairclough, however, stresses the selective nature of the process:

> Relations of recontextualisation involve principles of selectivity and filtering devices which selectively control which meanings ([...] discourses, genres and styles) are moved from one field to another. But there are also internal relations within the recontexualising field which control how recontextualised meanings are articulated with, recontextualised in relation to, existing meanings. (2010: 76)

Through recontextualization texts are transformed in various ways through a process which is 'contingent upon the nature of the events and texts that mediated meanings move into' (Fairclough 2010: 73). This process is further influenced by the underlying goals and assumptions of text producers (Cf. Fairclough 1995), i.e. the journalists (and editors), who 'help to legitimate the existing power structure and the existing ways of seeing and doing things" (Dunlevy 1998, in Richardson 2007: 89). The use of recontextualization in newsmaking is not surprising as most of what journalists write about is based on second-hand information rather than direct observation (Bell 1991: 52). Furthermore, news producers play an important role in determining social practice, as noted by Richardson (2007: 13):

> through its power to shape issue agendas and public discourse, it can reinforce beliefs; it can shape people's opinions not only of the world but also of their *place* and *role* in the world; or, if not shape your opinions on a particular matter, it can at the very least influence *what* you have opinions on; in sum, it can help shape social reality by shaping our *views* of social reality.

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Wodak and Weiss (2005: 127) note that studying recontextualization processes in the media allows us to gain 'a systematic comprehension and reconstruction of media reports, for example, and the (separate) development of 'discursive strands' in a variety of other settings and genres'.

Another important aspect of news production is its 'layered' or 'embedded' nature (Bell 1991), so that '[a]t each stage in the production of the story, earlier versions are transformed and recontextualised in ways which correspond to the concerns, priorities and goals of the current stage [...]' (Fairclough 1995: 48). Yet it is not just previous versions that are recontextualized, but also the source texts upon which the stories are originally based, such as interviews, foreign news reports, court documents, etc. (Fairclough 1995). To return to Bell (1991: 51), the full communicative event that generated a news story is implied in each of the various layers of news reporting. Another level of complexity comes into play when these source texts are written in a foreign language, or when media reports cross language boundaries' (Schäffner and Bassnett 2010: 10), and therefore are subject to translation.

At this point, we should ask what are the bases for the values propagated in the media. According to Fowler (1991: 19) news values are regulated by the 'mental categories which are present in readers' and which the media further builds upon. This echoes what was mentioned above about the 'cognitive constraints' (van Dijk 1998) that influence news values and are a reflection of social, economic and ideological values. Richardson (2007: 86) sees value judgements as operating at all phases of development during the news making process, in a process of what we may call on-going recontextualization. Furthermore, the news also reflects what Bell (1991: 157) calls 'consonance', i.e. presuppositions about the social group or country where the news actors come from. But news reports can also challenge people's preconceptions especially if they validate 'our negative schemata' about people and places and 'the perspective of description is consonant with these schemata' (van Dijk 1998: 122). Both of these notions are relevant for the present analysis, as the main actors (both the victim and the accused) are both foreigners in a foreign system (Italy).

In this particular case much of the source information upon which the news reports are based comes from the genre of trials, which produces 'multi-perspectival and multi-voiced' narratives of legal discourse (Cotterill 2002: 147). The discourse used in trials, in turn, is also the result of various overt recontextualizations – Fairclough's (1992) 'manifest intertextuality' – so that '[b]y the time a case reaches the courtroom, it has potentially be subject to a large number of retellings in a variety of contexts, including police interviews, grand jury, and plea-bargaining sessions as well as pretrial indictment and hearings' (Cotterill 2002: 147). Yet meanings are also dependent upon those who are interpreting them especially in the courtroom. Thus, as noted by Stubbs (1996: 106) 'the standards which words are interpreted are inevitably different for the legal professional and the lay public, and it is inevitable that judge and jury will use language differently'. In addition, we cannot forget the important role played by the lawyers who often purposely try to create divisions, so that they often appear 'as divided selves torn between the need to conform to the Weltenschauung of the law on the one had, and the necessity

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to communicate with lay people unversed in that world-view on the other' (Heffer 2002: 231).

2.2 Frames and Scripts

Frames are 'stores of structured cultural knowledge' (Chilton 2004: 52) that people have about objects, people, places, interactions, etc., which are constantly being updated on the basis of their experience (Tannen and Wallat 1999: 349).[2] Fairclough notes that 'institutions simultaneously facilitate and constrain the social action of its members [and] provides them with a frame for action without which they could not act' (1995: 38). What is important for the present discussion is how certain lexical items can be understood, and therefore recontextualized, in terms of these stored frames, a concept illustrated by Chilton (2004: 51) using the various synonyms of *kill*: 'the meanings of the verbs *kill*, *murder*, *assassinate*, *execute* can be defined in terms of stored mental frames in which different types of actor fill the agent and the victim roles, the killing is legal or not legal, and other kinds of social and political background knowledge is involved'. Framing is closely related to the way that words are used in the presentation of the news. As noted by Richardson (2007: 48):

> The words used to communicate the message(s) of a text – whether about an individual, a group of people, an event, a predicted or *expected* event, a process, a state of affairs or any of the other subjects and themes of newspaper texts – frame the story in direct and unavoidable ways.

Scripts are similar to frames in that they 'are culturally determined mental models', but unlike frames they imply some sort of 'temporal sequence' (Koller 2008: 173). Thus, people then have stored, but often unconscious, mental scripts for the ways certain kinds of event proceed, as, for example, a trial. Crucial for the present discussion, events are also perceived as scripts even when they are presented differently from what might be expected (Bell 1991: 157).

Both frames and scripts are present on many different levels. First of all, text producers in the media activate them when they are interpreting and creating news stories. Secondly, news reports are produced for a readership and in order to understand the information presented therein, as van Dijk (2004: 10) explains, people need to be able to build a mental model for it. In a CDA perspective text producers and receivers 'decode the meaning of texts using knowledge and beliefs of the world' while the texts produced (and decoded) subsequently 'shape (through either transformation or reproduction) these same readers knowledge and beliefs' (Richardson 2007: 45).

In this work it is argued that frames and scripts, which are present in the minds of both text producers and receivers, are fundamental in shaping the ways in which news about legal frames and scripts are reported. Yet, understanding a legal system is also based on mental images (or frames and scripts) which produce 'a vision of authority, an awareness of rights and a means to evaluate acts, decisions and laws' (Villez 2010: 2). At the same time, the mediated legal frames and scripts are activated by the text processors. Yet, as we saw above, even if the mediated scripts and frames do not always correspond to what readers expect, they will most likely be perceived as

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correct, since journalists and news outlets generally occupy a prestige position in society and, as noted by Fairclough (2010: 468-9) 'are the main source of views and ideas, of a sense of what is right and what is possible, and the main providers of credibility and legitimacy for the powers that be'.

2.3 Legal Discourse

The complexity of legal language and discourse for non-experts has been the subject of much discussion in the literature (Azueolos-Atias 2011; Bhatia 2010; Cao 2007; Jackson 1985, 1987; Mattila 2006; Sarcevic 1997; Tiersma 1999). As noted by Mattila (2006: 35), the hermetic nature of legal language can mean that a 'legal message is sometimes formulated in such a complex way that a lay individual can hardly understand it'. This incomprehensibility is due to both systemic and linguistic factors. Firstly, understanding legal discourse implies understanding the legal system and its laws:

> legal language is distinctive because it presupposes the existence of a legal system and presupposes particular rules of law, against the background of which legal system obtains its meaningfulness and particular meaning, and because of the distinctive features of rules of law as rules. (Cao 2007: 16)

This system boundedness has implications for linguistic practices, so that '[e]ach society has different cultural, social and linguistic structures developed separately according to its own conditioning' (Cao 2007: 24). Similarly, Bhatia (2010: 37) stresses the necessity of context-based (rather than hearer- or reader-based) interpretation of legal discourse, which, he argues, is one of the main differences from other professional discourses. Interpretation of legal discourse, then, often occurs 'irrespective of the participants involved' (ibid.).

Lexis in the legal language is also quite distinct from the ordinary language. One of the reasons for this is that many of the concepts expressed by the legal lexicon denote metaphysical phenomena rather than physical ones (Bhatia 2010). Furthermore, terms are related to each other in different ways than in ordinary language so this lexis should be evaluated independently of ordinary language (Jackson 1985). A well-known characteristic of legal lexis is the wide use of archaic terms and phrases, which, according to van Dijk (2008: 51), are a reflection of legal tradition and communication practices among legal professionals, but sometimes have the effect of excluding 'lay persons from effective understanding, communication and, hence resistance' (van Dijk 2008: 51). Azueolos-Atias (2011: 43) argues that it is 'the rigid formats of legal argumentation' together with technical legal lexis that lead to misunderstanding of legal discourse by the general public. Complications also arise on a syntactic level through the wide use of hypotaxis, formal paragraph structure and formulaic expressions used to link discourse.

However, as already mentioned above, misunderstanding mainly arises from 'lack of knowledge of the system, rather than lack of knowledge of individual lexical items' (Jackson 1987). And when more than one legal system and tradition is involved it becomes difficult and sometimes impossible to transpose information from one system to another (Villez 2010), as elements taken from a source legal system cannot be moved (or recontextualized) easily into the target legal system (Sarcevic 1997: 13). The reports in empirical data in the present analysis are based on three different systems, the American and

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English Common-law systems and the Italian one based, for the most part, on Continental Roman legal tradition.[3] Briefly, the underlying difference is that the Common-law system is generally based on fact patterns and case law, or 'the doctrine of precedence', while Continental Civil law is founded on more abstract legal principles and norms (Cao 2007: 26). Due to their different histories and, specifically, 'the peculiar history of English law' terms that look the same in two languages can refer to completely different notions in England and in continental Europe (Mattila 2006: 221).

At this point, we should mention some of the main characteristics of the Italian criminal legal system, as it does not conform entirely with either the Continental systems or the Anglo-American models. Italian criminal procedure was reformed beginning in 1989, so it is now commonly considered a hybrid system which 'incorporated adversarial procedures into an inquisitorial foundation' (Mirabella 2012: 232). Thus, many aspects of the (Continental) inquisitorial process still remain, especially at the trial, where the judge is allowed question witnesses and suggest to the parties any new information that needs to be discussed (Mirabella 2012: 235). Another leftover from the previous system is that defendants can intervene throughout the trial to challenge witness testimony and they are under no obligation to tell the truth (Mirabella 2012: 235-6). Furthermore, unlike Common-law systems, Civil law does not traditionally have a jury. But in Italy a 'hybrid system for adjudication for serious crimes' was created and include two professional judges and six lay judges (or *giudici popolari*) (Mirabella 2012: 236). Together they discuss issues of both fact and law and they do not need to be unanimous in their verdict as a mere majority is sufficient (ibid.). These aspects are not to be underestimated because, as suggested by Mirabella (2012: 232) the negative attitude of the American media towards the Italian legal system 'may stem from a misunderstanding of how the Italian system works, from a basic disconnect between concepts of 'truth' in common law and civil law systems, and from an imperfect comparison of fundamentally different criminal procedure systems' (Mirabella 2012: 232). We shall now turn to the empirical data to further test the validity of this statement.

3. Corpus

Two sub-corpora were created from articles published in *The New York Times* (www.nytimes.com) and *The Guardian* (www.guardian.co.uk) online. The texts were selected on the basis of the search term Amanda Knox (on the respective webpages) and limited to those published in a four-year period, from 6 November 2007, when Amanda Knox was first arrested as a suspect in the murder of Meredith Kercher, until December 2011, when the reasons for Knox's (and Sollecito's) acquittal on 5 October 2011 were released. The data for the two subcorpora and the BNC[4], which was used as a reference corpus to generate keyword lists, are provided in Figure 1.

Corpus	articles	tokens	types
NYT	36	27,820	3,855

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Guardian	144	93,541	6,889
Total	180	121,361	
BNC	–	99,465,296	512,588

Figure 1: Corpora used in the study

The first thing to emerge from Figure 1 is the difference in size between the NTT and Guardian corpora. Not only were there more articles in The Guardian but the various stages of the case were covered in more detail from the beginning to the end, with various genres of article (news report, news analysis, opinion, etc.) devoted to the various stages. This is most likely due to the fact that the actual crime, the murder of a British exchange student, was considered more newsworthy in the UK and consonant with the newspaper's readership, from the very beginning. These differences are illustrated more clearly in Figure 2.

		N of articles (%)	
Time Frame	***Criminal Proceedings/Legal Frame***	***NYT***	***Guardian***
11-12/2007	Preliminary Investigation Phase Murder Arrest	4 (.11)	27 (.19)
2008	Preliminary Hearing Phase Prosecution Charges Hearing (Guede Fast-track Trial)	4 (.11)	28 (.19)
1/2009-3/2010	Trial Phase	15 (.42)	40 (.28)
6-10/2010	Slander Indictment	-	2 (.01)
11/2010-12/2011	Appeal Phase	13 (.36)	47 (.33)
	Total	36	144

Figure 2: Article coverage of Amanda Knox case in NYT and Guardian Corpora

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4. Discussion

4.1 Data Analysis

During the first stage of analysis wordlist frequencies were generated using WordSmith Tools 5 (Scott 2008) and then manually scanned for legal-related lexis. This was done because it was thought that a high frequency of certain legal lexemes could be evidence of the triggering of certain frames and scripts in the legal procedure. The words were then categorized into a number of subgroups including general legal, crime-related, criminal procedure-related terminology, and specific elements of this case. In Figure 3 the 30 most frequent legal-related lexical items in the two sub-corpora are provided.[5]

N	NYT	Guardian	N	NYT	Guardian
1	case	murder	16	knife	prosecution
2	murder	police	17	defense	judges
3	trial	trial	18	experts	sex
4	evidence	court	19	jury	prison
5	prosecutors	evidence	20	justice	prosecutors
6	DNA	case	21	accused	Mignini
7	court	DNA	22	convicted	hearing
8	police	house	23	judge	forensic
9	crime	appeal	24	guilty	death
10	lawyers	judge	25	prison	convicted
11	verdict	lawyer	26	sentence	killed
12	killing	lawyers	27	sentenced	verdict
13	sex	killing	28	scene	accused
14	system	crime	29	body	jail
15	appeal	knife	30	legal	statement

Figure 3: Most frequent legal lexical items

It should be noted that the 30 items in Figure 3 account for 5.54% of the total word frequency in the NYT and 5.33% in The Guardian. Furthermore, 18 of the items are identical in both wordlists, and almost all of the top 15 items correspond in some way. With the exception of the general legal term *case*, all of shared lexical items refer either to the crime (*murder*, *crime*, *killing*, *sex*) or the criminal procedure (*trial*, *evidence*, *prosecutors*, *DNA*, *court*, *police*, *lawyers*, *verdict*, *appeal*, *knife*, *convicted*, *judge*, *prison*). Most of the terms in the latter category are indeed system-bound and, therefore, could be indicative of both legal frames and misrepresentation. This hypothesis will be further tested below in the keyword analysis, but first we need to look at the differences between the frequencies in the two corpora.

The differences, which have been highlighted in Figure 3, include *system*, *defense*, *jury*, *justice*, *guilty*, *sentence*, *sentenced*, *scene*, *legal*, in the NYT, and the singular form *lawyer*, *prosecution*, *judges*, *Mignini* (the prosecutor), *hearing*, *forensic*, *death*, *killed*, *jail* and *statement* in The Guardian. While many of the differences are merely different forms of the same lemma (*killed*, *prosecution, lawyer*), the data diverge at least in part. First of all, in the NYT the lexeme *system*, which collocates with *Italian*, *justice*, *judicial*, *American* and *legal*, most likely provides an indication that the articles were interested, at least in part, in describing and possibly evaluating the Italian system. In addition, the frequency of the terms *accused*, *jury*, *sentence*, *sentenced* seem to be indicative of the higher number of articles in the NYT corpus devoted to the trial and appeal phases of criminal proceedings. Finally, the presence of the term *jury* in the NYT frequency was considered significant for reasons which will be discussed in the next section. Of the items present only in The Guardian frequency list the most interesting are *judges* and *hearing*. While the former is most likely used in reference to the Italian criminal system, as serious crimes are adjudicated by a panel of judges (unlike the Anglo-American system), the latter would appear to be an indication of The Guardian's more well-rounded coverage of the case (precisely during the preliminary hearing stage, as mentioned above in Figure 3).

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In the next stage of analysis the raw wordlists were compared against the BNC reference corpus to determine keyness i.e. the measure of saliency (Baker 2006: 125) or the main focal terms (Stubbs 1996) of the two corpora. The keyword lists were then sorted manually to eliminate certain data including grammar words and those absent from the reference corpus (e.g. *Knox*, *Guede*). Since I was interested in determining legal 'aboutness' (Scott 2008) at this stage most adjectives, verbs and place-names (*Italy*, *Perugia*) were also eliminated. The top 30 lexical keywords are provided in Figure 4.

N	NYT	Guardian	N	NYT	Guardian
1	prosecutors	murder	16	jury	prosecution
2	murder	trial	17	court	knife
3	trial	student	18	sentenced	suspects
4	DNA	boyfriend	19	experts	appeal
5	student	DNA	20	media	judges
6	case	police	21	forensic	verdict
7	defense	prosecutors	22	sex	convicted
8	evidence	court	23	courtroom	bra
9	housemate	lawyer	24	police	jail
10	verdict	lawyers	25	accused	prosecutor
11	lawyers	evidence	26	guilty	investigators
12	crime	flatmate	27	college	crime
13	killing	forensic	28	justice	prison
14	knife	killing	29	suspects	case
15	convicted	judge	30	judge	hearing

Figure 4: Most frequent Keywords

Interestingly, almost two thirds of the keywords are the same, which is better represented in Figure 5.

shared	NYT	Guardian
case	accused	appeal
convicted	college	boyfriend
court	courtroom	bra
crime	defense	flatmate
DNA	experts	hearing
evidence	guilty	investigators
forensic	housemate	jail
judge	jury	judges
killing	justice	lawyer
knife	media	prison
lawyers	sentenced	prosecution
murder	sex	prosecutor
police		
prosecutors		
student		
suspects		
trial		
verdict		

Figure 5: Most frequent shared Keywords (in alphabetical order)

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With the exception of *student*, all of the shared keywords once again have to do with the crime and the case or the criminal procedure. Moreover, only three of the shared keywords differ from the shared items in the frequency lists (3): *forensic*, *student*, and *suspects*. The presence of *student* in the keywords can be attributed to the fact that victim and both Knox and Sollecito were students thereby guaranteeing a higher frequency in comparison to the reference corpus. *Forensic* most commonly collocates with *evidence* making it part of the criminal procedure category, while *suspects* is more difficult to place, but probably belongs to the preliminary investigation and hearing stages and therefore is part of the criminal procedure. Furthermore, upon closer observation, many of the keywords found in only one of the corpora are, in fact, synonyms (*housemate*, *flatmate*, *courtroom*, *jail*, *prison*), part of the same lemma (*prosecution*, *prosecutor*, *judges*), or hyponyms (*bra* < evidence). Some of other terms warrant further investigation. Among the keywords found only in the NYT most of the terms also belong to criminal procedure (*accused*, *courtroom*, *defence*, *experts, guilty*, *jury*, *sentenced*) and, for the most part, have abstract meanings. The abstract noun *justice* is more general in its use because it can be used in all spheres of law, but in this case it is mainly in the collocation Italian criminal *justice* system. As with the rest of the keywords most of the *Guardian* keywords refer primarily to the criminal procedure varying between more abstract terms (*appeal*, *prosecution*) and more concrete terms referring to the main actors in the trial and the case (*boyfriend*, *investigators*, *lawyers*, *judges*, *prosecutors*) or places that are part of the trial and procedure (*jail*, *prison*).

The keyword analyses would appear to confirm that the texts in the corpora are *about* (Italian) criminal procedure, as almost all of the keywords belong to the sphere of criminal procedure. As noted, this category includes both more abstract, or 'categorising' (Heffer 2002), terms and more specific ones referring to specific places or people that are part of the case. All of these terms, however, are fully understandable only in light of the system of Italian criminal procedure. I would also argue that both the frequency and saliency of these lexical items are most likely based on and reproduce a specific script (criminal procedure) and other legal frames about how the law and legal system function. At this point, however, we should look at some examples in context to determine how the frames and scripts are represented to test the hypotheses that have so far been put forth.

4.2 Example Discussion

In this section, the discussion will be limited to the terms having to do with *evidence* and *judge(s)/jury*. As we saw in the previous section the lexical items have both a high frequency and saliency in the sub-corpora. Furthermore, the terms refer very distinct concepts in the Anglo-American system, on the one hand, and the Italian, on the other (Cf. Mirabella 2012), reflecting the particular rules of law of each system and against the background of which each of the legal system obtains its meaningfulness (Cf. Cao 2007).

We should recall that in the Common-law adversarial system, as neutral arbiters, judges neither ask questions nor do they seek answers, rather they weigh the material presented to them by the prosecution and defence (Matila

2006). In the Continental system the judge is generally in charge of the enquiry from the very start and plays an active role in it working beside the prosecution and defence (ibid.), which is more or less what happens in Italy despite the judicial reforms of the criminal procedure (Mirabella 2012). However, as noted above, there is a hybrid system of adjudication for serious crimes in Italy, which consists of a panel of judges including two professional judges and six lay judges (*giudici popolari*, literally people's judges) who, together, consider questions of both fact and law. It should be noted that the official word in Italian is *collegio giudicante*, translated as 'panel of judges', while the word *giuria* (the direct translation of 'jury') is only rarely used, but is nonetheless erroneous. Another important distinction is the fact that a common-law jury must deliver a unanimous verdict, while in Italy the verdict is determined by a majority with the leading judge carrying any extra vote in the case of a tie.

Evidence is also the subject of much debate in the articles, and its precise meaning fundamentally different in the two systems due to different systems of law and procedure. Since the Continental system, including Italy, emphasizes the importance of discovering the truth at trial there is no exclusion of evidence (as, e.g. in the US Rules of Evidence) (Mirabella 2012: 233). Furthermore, since civil and criminal trials can be heard at the same time in Italy (as was the case in the Amanda Knox trial), evidence pertaining to the various trial will inevitably be heard, and 'certain evidence which would be probative for a civil suit or for the defamation case could potentially get more weight in the criminal verdict' (Mirabella 2012: 241). Finally, character evidence is also allowed at trials in Italy, and in the Knox trial 'the prosecution capitalized on [her] personality by repeatedly and emphatically referring to her perceived promiscuity and odd behavior' (Mirabella 2012: 242).

The first two examples we analyze come from an opinion article by legal correspondent Matthew Harwood published in *The Guardian* on 25 February 2010.

(1)

> But for the people who still believe in a reasonable doubt, there's considerable unease that the two young people may be spending a good portion of their lives behind bars because the jury, the prosecution, and Italian society did not approve of the lives they led, especially Amanda Knox.

(2)

> The jury in the Perugia sentenced Knox and Sollecito to prison for about a quarter of their lives, despite no motive, scant physical evidence, and no prior criminal histories.

In both examples the author simply refers to the *jury* without mentioning the fact that the notion (and meaning) of jury is fundamentally different in the Italian from what British readers might imagine. In (2) he also criticizes the lack of evidence, once again without offering any parameters for comparison for a likely British readership. In another opinion article in the corpus, however, also from The Guardian, the author rather ironically speaks of 'the eight appeal judges' making no distinction once again between the

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professional and lay judges. In the next two examples, however, taken from the *New Yorks Times* and published on 5 and 4 December 2009 respectively, the Italian hybrid system is explained,

(3)

> The verdict and sentencing were delivered at midnight local time, capping a drawn-out trial in which the jury — made up of two judges and six civilians — was not sequestered. The proceedings were so distinct from the American justice system, and so confounding to some. [journalist]

(4)

> The jury of six civilians and two judges is not sequestered and has access to news media coverage of the case. They must convict if they are convinced beyond a reasonable doubt.

As we can see in (3) and (4), the members of the panel of judges are specified although the word order differs. Yet, the word *jury* is still used and the lay judges are referred to as *civilians*, a term more frequently used in military contexts. Once again, the true nature of the panel and the role played by the lay judges true are obscured. Furthermore, one of the main criticisms of the Italian criminal system in the US media is voiced, i.e. that the jury was not sequestered. Interestingly, however, sequestration is rarely used nowadays in the United States even in the case of highly publicized cases such as this one (Mirabella 2012), a clear demonstration that the journalists are unfamiliar with (and misrepresentative of) both the source (US) system and the target (Italian) one.

We will now look at a few examples containing direct quotation, a strategy is used in almost all newspaper reports. (5) is attributed to the Associated Press, but was published in *The Guardian* on 8 September 2011. It is a direct quote by Curt Knox, Amanda Knox's father, who speaks about a court ruling which denied the prosecution's request for further DNA testing.

(5)

> He said the court's ruling showed 'the judge and the jury believed in what independent experts brought back to them'.

In this case the author (here, the AP) uses the rather neutral *he said* as a reporting verb, but the phrase is made more complex by the anaphoric reference to the court's ruling. Interestingly, the author(s) decide to recontextualize what Kurt Knox has to say about *the judge* and *the jury*. While the use is similar to (1) and (2) here it is an external voice who is speaking about the Italian system, but as Knox's father he is personally and emotionally involved. The strategic use of the direct quotation lends more credibility to the statement, but at the same time the speaker's use of the terms *judge* and *jury* give no indication of their roles in the foreign system. I would argue that the quote quite clearly illustrates the frame of an American courtroom. We should recall that in the Italian system the judge or judges generally work together considering both facts and points of law to determine their decision and ultimately produce a written report (something that does not happen in the

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case of juries in the American and English systems). The next two examples, from a *New York Times* article by Rachel Donadio, published on 6 December 2009, also contain examples of direct quotation

(6)

> In a statement after the verdict was delivered early Saturday, Senator Maria Cantwell, Democrat of Washington, said, 'I have serious questions about the Italian justice system and whether anti-Americanism tainted this trial.' She added, 'The prosecution did not present enough evidence for an impartial jury to conclude beyond a reasonable doubt that Ms. Knox was guilty.'

(7)

> 'It appears clear to us that the attacks on Amanda's character in much of the media and by the prosecution had a significant impact on the judges and jurors and apparently overshadowed the lack of evidence in the prosecution's case against her,' the family said in a statement.

These examples contain references to both *the jury* and *the evidence*. While (6) is attributed to a person in a position of authority and power (a Senator from Amanda Knox's home state of Washington), (7) is attributed to a statement by Amanda's family, clearly more emotionally involved in the case. In (6), Cantwell questions the paucity of evidence presented by the prosecution and makes assumptions about the *jury*'s *impartiality* without offering any terms of comparison. She is also highly critical of the Italian system about which she has *serious doubts*, a statement most likely based on Italy's non-conformity with the US system. Similar criticism of the prosecution's alleged *lack of evidence* emerge in (7) as well, but in this case *judges* and *jurors* are groups into the same category. In addition, by directly quoting Amanda's family the journalist is able to tap into readers' feelings giving more credibility to the opinions expressed by both external voices and the journalist's. But, crucially, neither of these examples offer any true points of comparison between the US system and the allegedly inferior Italian one. These recontextualized presuppositions about how the law and laws should work are embedded within the more general notions of what constitutes right and wrong, abstract concepts which, ultimately, are system-based. The result is very often a misrepresentation of the Italian judicial system and its procedures. Although these views are often propagated by incorporating different voices in the form of reported speech, they are recontextualized within a new text (the news report) and become a crucial part of the journalist's presentation of the events. All of the examples presented in this section, paint a rather one-sided and generally erroneous picture of the Italian criminal justice system. Such misrepresentation is achieved in many different ways. First, non-expert text producers (here, including journalists for the most part, but also 'legal experts' in the case of examples 1 and 2) are interpreting Italian criminal procedure and the facts of the case in light of what they know (but not necessarily understand) about their own criminal law system. Second, since all news reports depend upon reported speech, at least to some extent, they are open to a myriad of recontextualized voices, which may or may not be accurate in the portrayal of the law and legal systems. Finally, since there are fundamental differences of both law and system

(procedure) between Italy and the US and England, there is often a mismatch between these concepts of truth in the two systems leading to misunderstanding and misrepresentation in the mediatized versions.

5. Conclusions

This work has attempted to demonstrate how the use and recontextualization of certain legal lexical items may lead to an erroneous interpretation and retelling of the events and facts of foreign criminal procedure in the media. On the one hand, the frequency of certain lexical lexemes in the two corpora demonstrate a significant concentration of lexical items belonging to the often fuzzy category of criminal proceedings and procedure. The terms include both abstract terms referring to points of law and more concrete ones referring to the facts in this particular case. Many of the former lexical items elicited in the data analysis are open to varying interpretations based on 'conflicting versions of reality' (Stubbs 1996: 104). The keyword analysis would appear to corroborate the saliency of these terms, which it is argued, are the reflection of certain legal frames and scripts in the minds of the text producers. However, no text is produced in isolation, and there is a myriad of voices and information that is recontextualized from other sources. The comparative analysis of the two sub-corpora produced very few significant differences. Thus, we could tentatively confirm that the NYT and The Guardian adopted similar legal lexical and semantic categories in their descriptions of the Amanda Knox/Meredith Kercher case.

From a theoretical point of view, the work proposes a multi-layered application of recontextualization. While it might very well be impossible to ascertain precisely where the various voices and pieces of information that make up the final mediatized story come from, we cannot ignore the role that this information plays in the final product. The sources for recontextualization come from police interrogations, media report about these interrogations (at least in this case), court report and transcripts, statements by the prosecution and various actors both in and outside of the courtroom. Furthermore, media discourse is by its very nature layered and therefore earlier versions of stories are embedded within new ones. Moreover, as already noted, this particular case took place in a foreign country so much of the recontextualization by the news agencies, news outlets and journalists was subject to and the result of translation. Finally, it is a journalist's job to sift through these various sources to select what are considered to be those most relevant and consonant to the story. At the same time the journalist must also add his/her own voice to the retelling. Recontextualization, then, is both a selective and an ongoing process.

The work has also attempted to demonstrate that cognitive constraints play an important role in recontextualization. People use their own background knowledge and presuppositions about what is right and wrong in the form of stored frames and scripts. In the case of legal discourse non-experts often lack access to the complete set of frames and scripts because they do not fully understand their own (and foreign) legal system. Furthermore, legal language is hermetic due to the presence of 'universally applicable abstract categories' (Heffer 2002), a complex argumentation structure (Azuelos-Atias 2011), its

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context-based nature (Bhatia 2010) and archaic lexicon and that often even well-educated individuals do not fully understand its meanings. In this particular case, there is the added complication of a very distinct foreign system (and the frames and scripts that this implies) which often leads to what Mirabella (2012) calls 'imperfect comparison'.

The analysis has briefly demonstrated how such mismatching and misrepresentation can occur by illustrating the use and misuse of the system-bound terms *evidence*, *jury* and *judge(s)*. Future research should focus more on similar examples to determine how far this mismatching goes. It should also consider the wider co-text in order to ascertain better the correct and erroneous representation of both fact and law. Finally, we should consider just how much the average 'lay' reader is influenced by the mediatized retelling of the facts and events of legal discourse and, ultimately, how much text receivers apply their own cognitive constraints in interpreting legal discourse.

Notes

1 For a full discussion of the details in the case see Annunziato 2011, Mirabella 2012 and Simon 2011.

2 The term originally comes from Minsky (1974) who defined a frame as 'a data-structure from representing a stereotyped situation'.

3 The discussion, for the most part, ignores the many differences between the US and English systems as 'the approach to the legal order, fundamental principles and concepts of law, as well as essential legal terminology, remain the same in England and the US' (Mattila 2006: 241).

4 Downloaded from http://www.lexically.net/wordsmith/.

5 The discussion is limited to the 30 most frequent items for the sake of brevity, as it was thought that this was a sufficient number to determine the use of legal language, which might be indicative of legal frames or scripts.

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