Interpreters under fire

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Introduction

Montpellier, 6 June 2005. The Place de la Comedie is basking in the sun. Two huge banners hang from the top of the elegant, 19th century opera theatre. Two faces asking for their lives, their freedom. One of them is a man, a driver-interpreter to a woman journalist who was reporting on the war in Iraq. He is not so different from the driver-interpreter without whom I would not have been able to explore Northern Celebes. Not so different from me.

There is a difference. I rarely have to face intimidation; I don't risk social exclusion as a result of my work, let alone death. The occasional attempt at manipulation at most, easily warded off. There once was a knife in the witness stand and an attempt at strangling me in a police cell, but on the whole I am safe in my booth, in open court or in the barristers' mess. And home is almost always safe.

Back home, I prompt Google to search for any combination of words "interpreter", "war zone", "humanitarian aid", "human rights" - in various languages. The volume of info - verified, unverified, unverifiable - is overwhelming. And it is beginning to go back in time as well. Interpreters in war zones are just one group of interpreters under fire. What about those who work between a minority community and its host country?

Historical perspective

Whether Babel was God's job creation scheme for interpreters or not, ever since man began to travel the planet, in search of riches, adventure or knowledge, or fleeing from persecution or economic misfortune, he has needed other people to help him communicate. When the Dutch traders on Deshima paid their annual homage to the Shogun, they brought two interpreters in their train. For his part, the Shogun was assisted by his own interpreters. The Dutch interpreters are visible in the drawing of the caravan but dutifully disappear from the official picture of the meeting, as do their Japanese colleagues. Later in the same century, protestant Huguenots fleeing religious persecution in France settle in London and Bristol. Soon some of them set up as interpreters and translators. There is evidence that they were not always trusted either by their own people or their English hosts for they might be French, i.e. catholic, spies. However, they soon made themselves indispensable to English intellectual life by acting as its mediators for the rest of Europe. In the 1730s, Job ben Salomon, a freed slave from Ghana, began to translate from Arabic into English for the great Hans Soane in London and later that century Bougainville brought home to Paris the Tahitian man he had recruited locally to act as his interpreter. The German Jew who found himself in the Bastille was provided with a Yiddish interpreter recruited from the Parisian Jewish community.
From the accounts of travellers and administrators (interpreters rarely leave their own direct accounts), it becomes clear that the work of the dragoman, fan yi yuan or interpreter remained almost the same for many centuries. There were a few "staff interpreters" to kings and private companies, but they were certainly not organised as a profession. Even in more formal settings, we find the same trends over the centuries. The State recruits interpreters (we would call them "staff interpreters" today) from incoming refugees (Markham, an Irish Catholic, refugee ends up interpreting for the French King) and so does big business, such as the South Sea Company and the VOC.

**Recent history**

What has changed in recent times is the sheer size of the demand for interpreting and translation services brought about by the vastly increased mobility of the world's populations. More people than ever before travel out of curiosity, or to set up shop and put down roots elsewhere, either as free migrants in search of a better economic future or as refugees fleeing from religious or political persecution. Business is all about globalization and the world's catastrophes, natural and man made, have to be fed to a news hungry public. Minorities in host countries demand greater rights to retain their original linguistic heritage.

In response, interpreters (and translators) have become more numerous, more full-time and more organised as a profession, both at the national and at the international level. The creation of numerous international organisations employing thousands of translators and interpreters full-time has helped them to liaise with each other and to confront their clients, whether employers or contractual partners, when negotiating working conditions ranging from fees and salaries to working hours, health and safety at work, disability and old age pensions. They can provide for their families. They have to abide by their own codes of conduct but so do those who employ them. They are relatively protected, even if still seriously undervalued.

But the old need for local, incidental or informal interpreters has not disappeared, far from it. The military that move into a new country, the journalists who accompany them, the medical help in war zones or natural disaster areas, the human rights lawyers - they all need interpreters and rarely bring their own (I'll return to the reasons later). More often than not, they will rely on local recruits. Unorganised, insufficiently informed, they form the first obvious group of vulnerable interpreters. The other, perhaps less obvious group is made up of interpreters working with minority communities in their host countries, whom we tend to group together under the heading "community interpreters".

**The wrongs**

The wrongs to which interpreters may be exposed today are still job insecurity, low rates of pay, visual exposure and therefore easy identification, and threat to home, life and limbs, family and friends.

*The locally hired interpreters*

When the military or the press or human aid organisations move to an area whose language they do not master, they rarely plan the need for interpreters in advance. And even if they do, they will decide to rely on cheaper locals. When their task is finished, they will depart, leaving the locals behind, giving little or no consideration to the risks to which these interpreters are exposed.

And yet, we know that interpreters who work with the "occupiers" of a country or a region are often seen as "sleeping with the enemy". We know of the dozens that were murdered in ex-Yugoslavia.
Dozens more are being murdered in Iraq, even publicly executed on television, and are now actually having to live with the enemy permanently instead of going home. They will remain suspicious strangers in their own country long after the foreigners have gone home.

Why? One humanitarian organisation informed me that it prefers hiring local interpreters in order to protect its own staff. It had not considered the effect this practice might have on the interpreter's status in his own community. The Java Post and the Singapore Straights reported in June 2005 that a Chinese aid-worker had been shot and nearly killed while going about the country with her Indonesian driver. No mention of the driver, who may well have been acting as her interpreter.

Government organisations, NGO's and private "security" companies may have more cynical reasons for not bringing their own interpreters - locals are cheaper - cheaper in many ways: they cost less per hour or per day, they don't need to be insured, their rights go no further than what they are used to - and therefore often fall short of the minimum rights that we take for granted. Indeed, they may lose the few rights they had precisely because they are perceived as hobnobbing with the enemy.

If locals have any notion of the risk they are exposing themselves to - and some may not, because this is the first time they are letting themselves in for this job - they can be easily bribed: just offer them a little more than what they would otherwise be able to earn in their flood or war stricken country or region.

**Community interpreters**

On the home front, pressure on interpreters comes from different quarters too. The interpreter may live within the very community for which he liaises with the host country. Defendants in criminal cases, their families and friends, fathers or mothers in child care proceedings have been known to approach the interpreter directly in an attempt to bring him to their side by means of threats or bribes. Withdrawal of favours by the local community is another way; social exclusion generally yet another. To survive, the interpreter will have to adopt a strategy. The most obvious, but not necessarily the most helpful survival mechanism is to become the community's advocate. It is this that lies at the heart of so much of the interpreter-advocate debate.

Local interpreters are, of course, also useful sources of information to the host authorities. They may be persuaded (and authorities can afford to hurry slowly) to pass on confidential information under the threat of withdrawal of a residence permit or in return for all sorts of favours - more work, better paid work, a resident permit for a member of the family, etc.

**The Remedies**

In theory, where there is a legal wrong the law should provide a remedy. Leaving aside the cost of legal remedy (which may vary, depending on whether the interpreter seeks redress under public or private law), where basic human rights (to life, to freedom from torture and slavery, etc.) are being breached, human rights law, both international and national, should provide redress. So interpreters could look to either the Universal Declaration of Human Rights, which in reality is no more than an expression of a number of ideals, or such national law as there is granting them the same rights. That would normally be a public law right. The interpreter's remedies are less clear-cut when the risk seem to be specifically related to health and safety. Certainly within the European Union, most of these issues are dealt with either under statute or, more specifically, employment law, which is part of contract law, a private law domain.

**The locally hired interpreter**

There is little doubt that hiring interpreters locally is, at present, a cost effective solution, and that this plays at least as important a part in the decision to hire locally as the well-known lack of
planning for linguistic needs. Why is hiring locally cheap? Local rates are usually considerably lower and therefore offer considerable savings. Less obvious and more sinister: hiring locally in war-torn Yugoslavia, Ruanda, Iraq or the Congo means that the foreign organisation, whether a public body or a private company, can get out of the legal obligations which an interpreter might be able to claim it has under human rights law, contract law in general or employment law in particular. That is, if he is aware of his rights at all.

Meanwhile, the foreign party gets out of the cost of providing healthcare, safe working conditions, disability benefits, pensions, looking after the family, etc. etc. when the interpreter is killed on duty. It is quite scandalous that a profit-making company, which by recruiting one retiring police officer within the UK as its main interpreter on very favourable terms, shows that it is fully aware of the risks to which it exposes its interpreting staff, should then hire all the local interpreters without offering them comparable rates, physical protection or level of compensation for injury or death.

**Redress under Human Rights law?**

In recent years we have seen how easy it is to trample on human rights law, even international human rights law. Brute force is not the only expression of disregard; there are more subtle ways. One favourite ploy is to argue that the law's jurisdiction ends at geographical borders. To put it simply: prisoners are kept in Guantanamo Bay because it is outside the US' geographical and political territory and therefore neither the US Constitution or any of its human rights law applies; the UK's Military Police do not have to comply with UK provisions on legal protection of an arrested person's rights if that person is taken into custody and held in Iraq. Or so they say. Human Rights lawyers all over the world have begun to undermine this convenient construction of the law by arguing that the concept of jurisdiction cannot be restricted to geographical borders - the person carrying his duties abroad carries his legal obligations with him.

A second ploy much loved by governments is to subcontract duties to private companies. The national government can then no longer be held liable for anything that happens to the private contractor's staff or part-time workers. It may well be possible to argue that subcontracting is not a lawful way for a government to divest itself of its duties, but I am not aware of any case law in that area.

**Redress under contract or employment law**

Employment law, unexpectedly perhaps, might offer redress. European Union employment law confers a certain number of basic rights and duties on employers and employees, and it doesn't look at the words used in a contract to decide whether a person is employed or not - it looks at the facts. So outsourcing does not always become the cop-out public authorities or private companies would like it to be.

Doubtlessly, European Union employers or hirers of interpreters abroad will argue on jurisdiction. But there seems to be no reason why the scope of employment law could not be extended in the same way as that of human rights law is beginning to be.

**Community interpreters**

It is not mere coincidence that as interpreters and translators grew in strength by organising themselves and thereby became less easily manipulated, public authorities began to hog the unorganised and unprotected interpreters to themselves by creating new definitions for "interpreting" and "minimum qualifications". This is in no way to be read as a criticism of those community interpreters - often they were in no position to bargain. Existing organisations did not help themselves or their aspiring colleagues by not confronting the new needs and trends. But although community interpreters work within a single jurisdiction, they can still rely on both human rights law
and contract/employment law to protect themselves. In the UK, as everywhere else in the European Union, the burden is on the employer to take all reasonable steps to ensure the health and safety of his employees. But I don't hold out too much hope in a country where a judge tells a female interpreter that being touched up by the defendant during a trial should be considered a compliment, the courts send cheques for payment showing the name of the case on the envelope, and solicitors can disclose interpreters' home addresses without breaching even their own code of conduct. Moreover, human nature being what it is, a freelance interpreter (and most community interpreters are freelance) who complains ends up an interpreter without work.

**Professional solidarity**

What could organised professionals do to help the vulnerable interpreter? I am, of course, assuming that we are not going to stand by and do nothing. Even this article is only a reminder of what we already know. We could prevent some of harm by ensuring that information about interpreting (technical and ethical) reaches vulnerable interpreters. It is not about telling them how to do their work; it is about telling them what their rights are, so they are better able to decide whether to accept the work and on what terms.

We could, and perhaps should, lobby major hirers of local interpreters, press, humanitarian and relief organisations, NGOs, trade unions, lawyers, and profit making businesses to make them aware of the risks to which they are exposing their local staff. Once we can prove that they have been made aware of the risks, it will be easier to name and shame them and force them to improve their practices. (If I did not identify the humanitarian organisation referred to earlier in this article, it is because it at least took the trouble to reply to my questionnaire - and replied honestly.)

But we could also provide an observatory, a point to which information about vulnerable interpreters can be reported and, if all else fails, organise a mechanism able to help vulnerable interpreters reach a safe haven.

If I say "we", I really mean our national and international professional associations. When two interpreters were arrested in Iran a few years ago, it was professional solidarity that got them out. Surely, that too is what being professional is about?

These last words are written amidst the silent Minehasan warugas. One such carved tombstone represents a European man, dressed in late 17th century dress. Who would have been his interpreter? What would have been his fate?

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