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# Beyond neutrality: the translator-interpreter and the right to asylum in Britain\*

Jacob Lagnado

El asilo político constituye uno de los principales mecanismos burocráticos mediante los cuales los estados occidentales vienen controlando los flujos migratorios en la época pos-guerra fría. El traductor-intérprete ocupa un lugar clave dentro de la relación comunicativa que se establece entre el solicitante de asilo y el estado donde llega. Enfocándose en el Reino Unido, pero con muchas similitudes con los que sucede en otros países occidentales, el artículo discute cómo las controvertidas nuevas leyes de inmigración hacen que el traductor-intérprete que representa a los solicitantes de asilo se aleje cada vez más de la mítica “neutralidad” y analiza las implicaciones de esto.

Palabras claves: asilo político, traductor-intérprete, ONG

Political asylum is one of the main burocratic mechanisms used by Western states to control migration in this post cold war period. The translator- interpreter is occupying now a vital place within the communicative relation between the asylum seeker and the State they want to be received for. The discussion centers on how the new controversial laws of migration push the translator-interpreter, who represent the asylum seeker, to distance him/herself even more from the mythical “neutrality” and analyzes the consequences the situation brings about for them.

Key words: asylum, translator-interpreter, NGO

Les contrôles d’immigration sont l’une des stratégies bureaucratiques pour réguler l’entrée des demandeurs d’asyle. Le traducteur-interprète devient alors un lien entre l’immigrant et les autorités d’accueil. Selon qu’il soit employé par des ONGs ou par les services officiels, son rôle, à la fois crucial et ambivalent, se traduit par deux figures: celle du “traducteur-interprète juridique” et celle du traducteur-interprète communautaire”. L’auteur de cet article se circonscrit au cas de la Grande-Bretagne.

Mots-clés: traducteur-interprète, demandeurs d’asyle, droit d’asyle.

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## THE ROLE OF THE TRANSLATOR-INTERPRETER AND ASYLUM-SEEKERS IN BRITAIN

**A** sylum controls are one of the main bureaucratic forms by which the state has regulated migration in the post-cold war period. The formal communicative relationship established between the would-be refugee and the host state is one in which the translator-interpreter whose job it is to assist asylum-seekers can come to play a crucial role.

Here I will be discussing how this role is often hybridised with other roles to the point that, contrary to any imagined “neutrality”, the translator-interpreter has come to occupy an ever more legally ambiguous and politically controversial place as a result of contentious immigration laws, which themselves reflect the attempted transition from welfare state to neo-liberal state in western Europe. Thus, although I shall limit this article to the experience in Britain, many of the wider trends described are comparable to those taking place simultaneously beyond Britain’s shores.

Finally by way of introduction, I shall be referring to those translators-interpreters used by solicitors and voluntary agencies (NGOs), as opposed to those employed by courts and the state on a direct basis, which would warrant a separate commentary. Hence in professional terms I am talking about both ‘legal interpreters’ and ‘community interpreters’ and, most importantly, the grey area between the two.

## IMMIGRATION AND ASYLUM IN POST-WAR BRITAIN

Two key historical developments have set the foundation for the relationship between translator-interpreters and asylum seekers in Britain today: International recognition of the right to seek asylum, and the establishment of the welfare state.

The United Nations Convention of 1951 defined a refugee as someone “outside of the country of his nationality” due to “a well-founded fear of being persecution for reasons of race, nationality, religion, political opinion or membership of a particular social group, and is unable, or owing to such fear, unwilling to avail himself of the protection of that country”<sup>1</sup>. The governments which

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1. United Nations Convention 1951 Chapter 1 Article 1 quoted in Hardy p.11. The Convention first applied to the countries of Europe and was then extended to the rest of the U.N. member states in 1967.



signed the Convention were bound to grant asylum to anyone who they deemed to fit this definition<sup>2</sup>.

The purpose of the Convention was allegedly to avoid a repeat of the situation immediately prior to World War Two, whereby Jews and others fleeing the Holocaust were prevented from entering “safe” countries, including Britain, as WH Auden’s poem *Refugee Blues* eloquently testified at the time. But its new purpose was more a Cold War matter: NATO member countries now had a legal basis on which to accommodate the arrival of a trickle of defectors from the Eastern Bloc. Criteria such as «a well-founded fear of persecution» meant that in theory the onus was on the individual asylum seeker to prove his/her persecution, but in reality the decision to grant asylum was determined by the politics of the period.

In Britain, as in much of Western Europe, immigration in the post-war period came largely in the form of labour destined to help reconstruct the national economy according to the Fordist formula of mass production

and mass consumption. Between 1963 and 1990 approximately 30,000 immigrants arrived each year from Commonwealth countries (ex – colonies) such as Jamaica, Trinidad, India and Pakistan<sup>3</sup>.

Historically speaking, however, the state and capital have had more than one use for immigrants. For as well as providing cheap labour in periods of growth, immigrants also serve as a scapegoat in times of recession. Post-war Britain was no exception. As black and Asian faces became more common on London buses and provincial corner shops, a series of legislative acts were passed to make immigration to the ‘mother country’ more difficult, starting with the 1962 Immigration Act. Such laws were and are used by successive governments to legitimize the xenophobia which they themselves foster. (The parallel with laws against drug trafficking are plain to see: prohibitive legislation simply raises the cost of the commodity – be it heroin or human labour – thus making the business more profitable).

At the same time, the application of Keynesian economics meant that

2. For a historical analysis of the right to asylum with a Latin American emphasis, see Burelli Rivas, Miguel Angel, 1998, *El Asilo como Derecho*, Caracas, Planeta.
3. For literary testimonies of the experience of the first generation of Caribbean immigrants, see for example *The Lonely Londoners* by Sam Selvon or *The Mimic Men* by V.S. Naipaul.



working class needs were for the first time formally recognized in the capitalist West in the form of the welfare state, largely as a response to the revolutionary waves of the pre-war period. The welfare state gave a legal mandate for the central or local state to employ community translators in dealing with the minority of immigrants who did not speak the imperial language, including those who arrived as asylum seekers. The latter group also benefited from the subsidized right to legal representation enjoyed by persons of few economic resources ('Legal Aid') necessarily included the contracting of translator-interpreters by legal firms representing asylum claims.

## THE RISE OF THE REFUGEE

The process of capitalist globalization, with its origins in the early 1970s was marked by two inter-related tendencies relevant to our discussion: on the one hand, greater fluidity of international capital and the application of "neo-liberal" economic policies in order to attract this footloose capital. This process "globalised" by the early 90s to the point of embracing the ex Soviet bloc and China; and in doing so was accompanied by a second tendency: the outbreak or intensification of a series of wars. The result in each

case has been an exodus of persons escaping both tendencies, in other words both economic and physical violence, whether as displaced persons within their own country, or entering another country. In this sense the case of Colombia, with its triple characteristics of neoliberalism, war and mass migration, is far from being exceptional as many people believe.

In the cases of those persons who chose Britain as their destination (see chart 1), application for asylum or refugee status has been until now one of the chief means by which to have some kind of legal basis and hence livelihood upon arrival. Indeed, by the 1990s the series of repressive laws referred to earlier had left it as practically the only legal means of staying, a legacy of the social protection of the Keynesian period which the state had so far left untouched.

## THE ROLE OF THE TRANSLATOR-INTERPRETER

As noted earlier, migrants soliciting refugee status need to prove that their reasons for doing so are "well-founded". At the same time the new immigrant - the would-be refugee - is generally not a speaker of English. In



theory at least, the success of the asylum-seeker's claim rests on the credibility of the case they present before the state, and the translator-interpreter plays a key role in determining the quality of the case presented. For the asylum-seeker, failure to convey clearly his arguments may result in deportation and even death.

Initially, if the asylum seeker is lucky enough not to be interviewed immediately upon stepping foot on British soil, s/he will attempt to present his/her claim with the help of a solicitor. On the basis of an interview, the solicitor will draw up a statement and submit it to the Home Office along with any documentary evidence to back up his/her claim. This evidence may take the form of anything from scrawled threats to TV news footage. As increasing numbers are refused asylum, and many asylum-seekers exercise their right to appeal against negative decisions, the quality and quantity of such evidence has come to be seen as ever more vital.

The translator-interpreter's initial job then is to interpret at the interview with the solicitor, and translate the

documents the asylum-seeker has submitted. S/he is perhaps also asked to translate the transcript of the interview back to the source language with the asylum-seeker so that the latter may check its veracity. A solicitor working to a tight budget may even ask him/her to select from a mountain of written evidence that which he best thinks will serve the client's case. Here, as in other moments of the process, the translator-interpreter's cultural and political knowledge of the client's home country may be of great help.

After drawing up and submitting the statement, the solicitor may ask the translator-interpreter to accompany a legal representative of the firm to the client's interview with an immigration official, who will usually interview the asylum seeker questions about his or her claim.

At the interview the solicitor's interpreter is present as a witness to ensure that the immigration department's own interpreter, who is the person officially appointed to interpret during the interview, does not commit errors likely to undermine the client's case<sup>4</sup>. The translator-

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4. The government's desire to appease anti-refugee sentiment has resulted in it taking notorious short cuts to cut down on the backlog of cases. One such short cut has been to use employment agencies in order to contract interpreters. The agencies, in their bid to save money and who have turned out to be unprepared and unqualified for the experience. See Hill, Amella, 2001, Asylum translators lost for words, *The Observer*, Apr. 29. This and other *Guardian* newspaper articles referred to can be accessed via internet.



interpreter will be accompanied by a legal representative or else perform that role him/herself. In such a case s/he has two further tasks: to ensure that the interviewing officer does not abuse his powers (for example with threatening behaviour); and to transcribe the interview in full should disputes over what was said arise at a later stage.

This 'later stage' may actually be a judicial appeal launched against a refusal by the authorities to grant asylum following the interview. During the appeal the translation of the interview is one of the aspects scrutinised by the defence. In one case, an 18 year old youth from Cali was interviewed immediately upon arrival at London's Heathrow Airport, without the benefit of a legal representative present. He was refused asylum. One of the chief arguments of the barrister in charge of the subsequent appeal was that, according to his client, the Home Office interpreter at the interview, a middle-aged man of Argentinian origin, was unable to convey in full

the young man's testimony, because the latter's use of juvenile and regional expressions. The barrister then corroborated the young man's impression by interviewing him using an interpreter familiar with the vocabulary of young caleños, and comparing the translation with the Home Office interpreter's translation<sup>5</sup>.

The legal area is not the only one in which an translator-interpreter may work on behalf of the asylum-seeker or refugee. As the asylum-seekers awaits a final decision, s/he needs to make some kind of a new life for him/herself. For this s/he may use paid or voluntary interpreters who work voluntarily for non-governmental organizations (NGOs) which provide assistance to immigrants<sup>6</sup>. Their work, will usually consist of interpreting and at the same time 'advocacy', which means representing the person in their dealings with the local state.

Thus the community interpreter, like his/her legal counterpart, can fulfil a role which goes beyond 'merely' interpreting. S/he needs to have a

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5. For an interesting study of the challenges of legal interpreting with particular reference to Spanish/English translators, see *The Bilingual Courtroom*.

6. NGOs are increasingly used by the state as a means of saving money by subcontracting welfare services. In this context the increasing use of volunteer community interpreters by NGOs tends to deprofessionalize the work of the interpreter, and the use of volunteers in general overrides the rights won by state sector workers. The irony is that NGOs receive a large portion of their budget from the state.



thorough understanding of the situation s/he is going to try and help resolve<sup>7</sup>. Furthermore, unlike the interpreters sometimes employed by government offices, the interpreter-advocate is far from 'neutral'. Nevertheless, in another example of role hybridization, the self-employed interpreter may be hired to work one day by an NGO as an immigrant's advocate in a government office, and the very next day may be hired by that same office as a 'neutral'.

So far we have seen multiple ways in which the legal or community translator-interpreter who defends the translator-interpreter both takes on other roles and in doing so loses his/her neutrality. What then does s/he become?

As noted earlier, in times of crisis the immigrant becomes a scapegoat for the crisis. An enemigo de la patria, a potential subversive<sup>8</sup>. Indeed, in

Britain as elsewhere, the figure of the immigrant and the subversive have been traditionally conflated<sup>9</sup>. Hence the person who uses their skills to aid the immigrant, whether out of conviction or self-interest, is by definition a collaborator, a traitor. In recent years the figure of the refugee, as the latest resurrection of the immigrant, has been cast in the role of demon by the British and other Western European politicians and the media, with a view to diverting working class anger at the social and economic problems caused by the restructuring of capital. As part of their rhetoric, they make the charge that refugees are 'economic' and not 'political', drawing the false distinction between the two realms so characteristic of bourgeois thought.

This rhetorical offensive found its legal echo in the form of the Immigration and Asylum Act 2000. This latest round of anti-immigrant

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7. For the particular challenges of language teaching, as opposed to translation/interpreting, readers may wish to consult, 2000, "How do you teach English to asylum seekers and refugees", (anonymous), *The Guardian Unlimited*, Jul. 31.
  8. For an interesting elaboration of the immigration in the urban imagination, see the chapter "¿Cómo se puede ser extranjero en una ciudad?", Manuel Delgado Ruiz, 2000, *Ciudad líquida, ciudad interrumpida*, Medellín, Universidad Nacional.
  9. This was the case for example at the beginning of the 20th century, when socialism and anarchism were defined as 'foreign ideologies' not only in Britain (see) but also in South America, and further back too when British followers of the French Revolution were charged with being anti-patriotic.





legislation is, as its name implies, directed against the right to asylum<sup>10</sup>. It treats refugee policy as a historical anomaly, another aspect of the Keynesian state which needs to be 'reformed', if not abolished.

On a broader level, the Act forms part of a project promoted by the European Community not to 'abolish' immigration as such, but to fit it to more closely to the needs of capital as part of the ongoing consolidation of a new, 'post-globalization', European pole of accumulation. Within this scenario, the right to asylum is curtailed, and only invoked when politically convenient. At the same time bilateral agreements are made to import labour, such as the current agreement between Colombia and Spain administered by the SENA, or the attempt by Germany to attract technicians from the Indian sub-continent.

The Act legitimized the already apparent gap between legal theory and state practice with regard to asylum, in which the 'fair trial' which the law supposedly guarantees, which translator-interpreters and solicitors

work to in good faith, and which the asylum-seeker often believes in is often overridden by political considerations, which translate into the British government applying blanket policies to certain groups in denying or granting them asylum. Thus Kosovar Albanians in 1998-2000 were granted asylum, whilst in the year 2000 almost all Colombian asylum seekers who had spent up to ten years awaiting a decision were refused asylum, receiving practically identical letters. To paraphrase Orwell, all asylum seekers are equal, but some are more equal than others.

As legislation makes it more difficult to enter countries such as Britain on a legal basis, so the translator-interpreter working in defence of immigration is left with an increasingly narrower terrain on which to work. S/he may out of conviction, self-interest or both enter the underground networks of contacts which allow people to migrate. In this latest example of the hybridization and goodbye to neutrality, s/he may be associated with that official folk-devil the 'human trafficker'.

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10. Space prevents me from detailing the Act here. It basically aims at reducing the number of asylum seekers who arrive by tightening travel controls and facilitating deportation. Many of those who do arrive are put in detention camps, and those who are 'free' given vouchers instead of money as a means of subsistence, thus turning them into second class citizens. It is essential to add however that the Act has run into many difficulties in its application, not least because of the emergence of opposition groups such as No Borders, which have, among other activities, succeeded in physically preventing deportations from taking place. See [www.noborders.co.uk](http://www.noborders.co.uk).



Such was the case when in June 2000, in one example among many of the violence innate to immigration controls, 57 Chinese immigrants and would-be asylum seekers suffocated to death whilst hidden in a lorry waiting to get through controls at the British port of Dover. In the trial that followed 29 year old Ying Guo, the translator-interpreter awaiting these would-be refugees, was sentenced to six years imprisonment for being party to 'human trafficking'<sup>11</sup>.

The role of the translator-interpreter in Britain is undoubtedly changing. With the new Act, the perception of the translator-interpreter as collaborator gains legal currency. After the 'boom' of the 90s, the translator-interpreter may thus be turning full historical circle, back to his/her original, lawless self.

## CHART 1: UNITED KINGDOM ASYLUM APPLICATIONS 1998

Europe 29,000 (Yugoslavia 14,000)  
Africa 18,000 (Somalia 7,500)  
Asia 18,000 (Sri Lanka 5,000)  
Middle East 4,000 (Iraq 2,000)  
Americas 2,000 (Colombia 1,000)

(Source: [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk))

## CHART 2: REFUGEES RECEIVED (MILLIONS) 1998

Iran 1.9m  
Jordan 1.4m  
Pakistan 1.2m  
Gaza Strip 746,000  
U.S. 500,000  
Yugoslavia 500,000  
Guinea 430,000  
Sudan 365,000  
U.K. 75,000  
(Figures: US Committee on Refugees)

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11. Kelso, Paul, 2001, "Search for a new life ended in cauldron of death", *The Guardian*, Apr. 6.

