Defining the role of the UK asylum interpreter: expectations, realities and training needs.

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Abstract

Public service interpreting in the UK continues to be a highly deregulated sector, and nowhere more so than in the asylum context. This study aims to draw back the curtain on UK asylum interpreting in its host of different settings from solicitors' practices to Home Office interviews to appeal hearings at the Immigration and Asylum Tribunal (IAT). I will examine the expectations of the linguists employed to work in the UK's hostile and increasingly complex asylum system, with a particular focus on the Scottish context. In terms of methods, documentary analysis of the policies employed by the bodies that hire interpreters within the asylum process is carried out. Several interpreter codes of conduct are examined, as are published guidelines for Home Office staff and immigration judges. The study also draws on remote participant observation of asylum appeal hearings that took place in Glasgow and Belfast, as well as a total of 9 semi-structured interviews with people who had direct experience of the asylum system as asylum seekers, interpreters and service providers.

An overarching conclusion is that there is a systematic failure to acknowledge how crucial interpreting is in the asylum process, with each and every word an applicant uses being scrutinised in minute detail by the Home Office in an attempt to undermine the applicant's credibility. Findings point to precarious employment practices for asylum interpreters that can lead to ethically compromising situations and conflicts of interest. A general lack of understanding of interpreting in this context as a task of complex linguistic and socio-cultural mediation rather than one of mechanistic language transfer is identified. Additionally, a widespread lack of practical, useful guidelines on how to communicate through interpreters, particularly for those seeking asylum and refuge was found. The main training programmes currently on offer in the UK are also found to be deficient in terms of preparing interpreters to work in the asylum system. This thesis includes several practical recommendations regarding interpreting that are of particular relevance as the Scottish Government finalises the third iteration of its New Scots Refugee Integration Strategy.

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List of Abbreviations

General abbreviations

CIOL – Chartered Institute of Linguists

DPSI – Diploma in Public Service Interpreting

GDPR – General Data Protection Regulation

HMCTS – His Majesty's Courts and Tribunals Service

IAT – Immigration and Asylum Tribunal

LSP – Language Service Provider

MoJ – Ministry of Justice

NABA – Nationality and Borders Act 2022 (UK)

NRPSI – National Register of Public Service Interpreters

SVPRS – Syrian Vulnerable Persons Resettlement Scheme

UKVI – UK Visas and Immigration

UNHCR – United Nations High Commissioner for Refugees

Field notes abbreviations

A – Appellant

ADV – Advocate (in Northern Ireland only)

HOPO – Home Office Presenting Officer

IR – Interpreter

J – Judge

S – Solicitor (for the appellant)

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Author's Declaration

I declare that, except where explicit reference is made to the contribution of others, that this dissertation is the result of my own work and has not been submitted for any other degree at the University of Glasgow or any other institution.

Printed Name: ADAM JAMES WILLIAMSON Signature:
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Chapter 1: Introduction

> *"I feel that the most crucial person in the whole process is the interpreter, because they are your friend, the person that tries to understand you, the person that, without shaking your hand, without giving you a hug, just with a look, tells you everything is going to be okay."*

The above quote comes from an extract of a response to a simple question: what would you say an interpreter's job is in the asylum process? Interestingly, the respondent, who successfully claimed asylum following appeal, as so many do[1], made no mention at all of language. They spoke of being treated with dignity, of being understood, of simple gestures of respect that allowed them to find some humanity, some sense of being heard in the face of a UK asylum system that is "hostile and re-traumatising" (Phipps *et al*., 2022: 46). But who are these interpreters? Are they as crucial to the asylum process as the interviewee above suggests, and should they be? What expectations do other actors in the system have of them? What kind of agency do they have and how well prepared are they to exercise this? These are the questions I am setting out to address with this research.

The UK, like so many other countries, has no standardised approach to interpreter training and accreditation across the asylum system (Tipton and Furmanek, 2016: 86-87), and the only quality assurance mechanism in place applies exclusively to interpreters working at appeal hearings, the very final stage of the process.

Spoken language interpreting, and particularly public service interpreting[2], is not the most visible of professions. This is partly because, by its very nature, the delivery of many public services does indeed take place behind closed doors, often in confidential settings such as medical consultations or meetings with social services. We don't see spoken language interpreters in the media the same as we see sign language interpreters, whose

[1] Around 51% of asylum appeals lodged were allowed in the year up to June 2022, meaning the initial refusal by the Home Office was overturned (Home Office, 2022a).

[2] In this thesis, I use the term 'public service interpreting' essentially to mean interpreting that takes place in the context of the healthcare and legal systems, as well as for any other state actors and third-sector organisations, as opposed to conference or business interpreting. The term 'community interpreting' has been popularised by scholars such as Sandra Hale, which according to her "includes specialised areas, such as legal, medical, mental health, welfare, religious or educational settings, which are sometimes seen as separate types of interpreting" (Hale, 2015: 66). I have chosen to speak about public service interpreting as I am talking in the main about interpreting in the asylum system, which is funded by the state through legal aid, whereas 'community interpreting' covers a slightly broader range of interpreting settings. The flagship UK interpreting qualification is also called the Diploma in Public Service Interpreting (DPSI), a further reason for adopting this terminology.

visibility is unavoidable and on the increase thanks to television and social media as well as presence at public events (Napier *et al*., 2021: 13). Many people will only ever catch a fleeting glimpse of spoken language interpreters when watching coverage of high-profile political and sporting events. It can hardly be any surprise then that, as Skaaden (2019) remarks, interpreting is a profession that is often poorly understood by those availing of an interpreter's services and continues to suffer from low professional status (Skaaden, 2019: 705).

This phenomenon of spoken interpreting being somewhat invisible is also reflected in academia. Despite interpreting and indeed written translation clearly being ancient activities, it is only really over the last half-century or so that empirical research and descriptive studies have replaced "anecdotal and largely prescriptive writings" on translation and interpreting (Angelelli and Baer, 2016: 1). A great deal of early empirical interpreting research focused on conference interpreting, with a particular interest in the cognitive load entailed by simultaneous interpretation and the way interpreters coped with this (Angelone *et al*., 2016: 45). Studies on public service interpreting have tended to focus on healthcare settings and court interpreting. However, research on how interpreters work within the specific setting of the asylum system has been a much more recent development and continues to be what Bancroft *et al.* (2013) calls a "grey zone" within interpreting studies. The overall impression gleaned from this study is that interpreters are still viewed in the UK asylum system as a relatively unproblematic solution to the 'problem' of asylum seekers who cannot communicate in English. This is something I will problematise throughout this thesis.

The 1951 UN Refugee Convention establishes the right to claim asylum based on a "well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion" (UNHCR, 1951: 6),", and as states have designed mechanisms to determine whether fears are 'well-founded', the need for interpreters has evolved. Demand for interpreters to work in the asylum system has fluctuated in the same way that the number of applications has in recent decades. Indeed, we have witnessed increases in forced migration due to ongoing geopolitical instability, armed conflict and the global climate emergency. In the UK, for example, the peak in terms of the annual number of asylum applications was reached in 2002, with a sharp

decline thereafter preceding a steady increase throughout the last decade, up to 50,042 in 2021 (Sturge, 2022: 10). This volatile demand may be one of the reasons why there have been relatively few empirical and description-based studies of interpreting in the UK asylum system compared to other interpreting settings. Other reasons may include researchers finding it difficult to access the full range of settings in the asylum system, particularly given the highly sensitive and personal nature of the subject matter in most cases, with any breach of confidentiality having potentially disastrous consequences. Furthermore, in an environment where it is ever more challenging to win funding for research in the arts and humanities, perhaps asylum interpreting is not seen as a priority for the moment, especially given that the entire asylum system seems to be under constant threat.

Returning to the quote at the start of this chapter from someone who negotiated the asylum process through several interpreters, however, it is clear that they perceived the interpreter's role to extend far beyond that of a linguistic sticking plaster. While it was perceived positively here, this is certainly not always the case, and as we shall see, interpreters have potential to do a great deal of damage as well as good within the asylum system. This research ultimately aims to add some colour to the 'grey zone' of UK asylum interpreting, to look at the reality of what happens in the different settings interpreters operate in and how these match expectations, particularly as regards official guidelines. Chapter 2 situates asylum interpreting in the wider context of language provision in Scotland, establishes a theoretical framework for the study and looks at other international studies on asylum interpreting. Chapter 3 lays out the methods used for this study, namely participant observation of asylum appeal hearings and research interviews. My positionality as a researcher and interpreter is also discussed. Chapter 4 considers how interpreters are employed in the sector and how this differs depending on the language and setting. Chapter 5 takes a detailed look at the official guidelines on how to work with interpreters and how this matches up to the observed reality, before chapter 6 considers two central ethical issues for asylum interpreters: impartiality and intercultural mediation, as well as a discussion of interpreter training. Chapter 7 rounds off the study by providing general conclusions in terms of the extent to which interpreters are prepared for and supported in carrying out what can be highly challenging work, and how we might take steps to both clarify their role and improve the training and support available to them. It

should be stressed from the outset that the empirical chapters (4 to 6) are only concluded briefly, and that the more detailed conclusion sections are found in chapter 7.

Chapter 2: Literature Review

2.1 Language Provision in Scotland

2.1.1 Overview

Before discussing the literature that deals specifically with interpreting in an asylum context, it is important to situate this within the broader field of language provision. As the research for this project has all taken place in Scotland, and the Scottish Government has competence over most public services relevant to refugee communities such as healthcare, housing and education (though, crucially, not immigration), I have focused my discussion in this section to literature that refers mainly to Scotland. This research project was funded as part of the 'New Scots' Refugee Integration Delivery Project at the University of Glasgow. As such, although immigration and asylum is an area of competence reserved to the UK Government, I have drawn principally on literature relating to Scotland, as it is in the Scottish context this study aims to have an impact. Furthermore, after discussion with my supervisors, it was felt that a comprehensive UK-wide study was infeasible for a one-year project such as this. Nevertheless, studies conducted elsewhere in the UK and further afield are referenced in the evidence chapters of this study (e.g., Gill et al., 2016, 2021; Hambly, 2019 [UK]; Maryns, 2013, 2016 [Belgium]; Dahlvik, 2019 [Austria]; Gibb, 2019 [France]; Danstrøm and Whyte, 2019 [Denmark] and Sorgoni, 2019 [Italy]), reflecting the fact that many of this study's conclusions and recommendations are applicable across the UK and potentially beyond.

In terms of identifying literature for review, as discussed above, the main parameter was geographical, with the emphasis placed on studies conducted in Scotland. However, particularly for section 2.2 (interpreting in the asylum context), literature referring to the UK asylum system as a whole will be drawn on, as this is fundamental to understand the system which applies in Scotland just as it does across the rest of the UK. Though not exhaustive, key search terms included 'Scotland', 'interpreting', 'asylum', 'immigration' and 'translation'.

In general terms, language interpretation and translation services continue to display a high degree of variation in terms of quality and standardisation both within and across different

public services. Despite not being required specifically by law to do so, most Scottish service providers tend to feel obliged to provide language support, often citing the 2010 Equality Act (McKelvey, 2021). A considerable proportion of recent research in this area, particularly as regards interpretation, has understandably focussed on the healthcare setting. Overall, despite evidence of good intentions and improved practice, there are still persistent and significant issues with language support provision.

There have been some positive developments in healthcare interpreting services, such as secondary care professionals stating that engaging family members to interpret for patients is "no longer accepted practice" (Da Lomba and Murray, 2014: 35), this having been widely criticised as unethical due to concerns over confidentiality and privacy (Nellums *et al*., 2018), with official NHS guidance advising against it (Public Health Scotland, 2020). However, for example, language provision for pregnant refugee and asylum-seeking women has been found to be "patchy", with some women having to give birth without access to an interpreter at all, leading to them being unsure of what was happening during labour (Fassetta *et al*., 2016). Some studies show that refugees have a high level of trust in interpreters (Strang and Quinn, 2021). However, there is equally evidence of highly unethical behaviour among interpreters, such as asking questions on a patient's behalf (Da Lomba and Murray, 2014). This could be due to public services often having to engage private language service providers (LSPs) to meet demand, even where in-house provision exists (McKelvey, 2020: 14). There is a high level of variation in the qualifications and experience required by LSPs when hiring freelance interpreters, with qualifications like the Diploma in Public Service Interpreting (DPSI) or an appropriate Masters in interpreting "desired but not required", inevitably leading to quality issues (McKelvey, 2020). Interpreter employment practices in the asylum system are discussed in detail in section 4.2.

In terms of court interpreting in particular, it has been found that, in the Scottish criminal justice system, an 'unassisted monolingual regime' is at times forced upon non-native English speakers during court hearings, with consequent risks for communication and justice (Monteoliva García, 2020: 264). If these people choose to speak English (with or without an interpreter on 'stand-by'), this affects both the accuracy of their account and how they are perceived by their interviewer, the consequences of which seem clear.

Furthermore, there has been a notable lack of research into legal interpreting in Scotland, particularly within the asylum system. Research conducted at the University of Exeter on asylum tribunal interpreting has suggested that asylum tribunals are viewed less seriously than other proceedings by interpreters and legal officials, with evidence of interpreters offering their own unsolicited opinions on appellants' nationality, or judges asking family members with no appropriate credentials to interpret, for example (Gill *et al.*, 2016). This project aims to make a contribution by looking closely at these issues specifically in Scottish courts and tribunals.

2.1.2 Deconstructing 'the language barrier': socio-cultural variables in language provision

A key problem in interpretation and translation service provision in Scotland is a tendency to fixate on purely linguistic concerns, neglecting crucial socio-cultural variables which affect the way people experience public services. This has been found to create and perpetuate healthcare inequalities, (see, e.g., Piacentini *et al*., 2019). Difficulties in accessing information for people in the asylum system revolve around both English language learning and socio-cultural differences in terms of "structures and ways of knowing how to effectively source, communicate and use information" (Martzoukou and Burnett, 2018: 1106). Many people seeking refuge and asylum are more familiar with an oral culture, as opposed to Scotland's largely written, digitised one, and have different expectations of services. For example, people frequently report being given documents in English by healthcare staff and the Home Office and relying on others (often friends and family members) to translate for them, with the availability of translated material being "patchy at best" (McKelvey, 2021: 49). They are still also sometimes told by their GP to use English-language-only telephone lines to make appointments for services they require (Fassetta *et al*., 2016: 38). This practice is particularly problematic, as even the most resilient new asylum seekers and refugees need appropriate support to negotiate bureaucratic systems, as well as to make benefit claims, for example (Strang *et al*., 2018). Monolingual telephone lines deter people from making claims promptly, leading to an increased risk of benefit sanctions being applied and applicants being made destitute, effectively punishing them for a lack of English language skills and cultural understanding (Strang *et al*., 2018). A system with first contact in key languages spoken by those seeking

refuge[3] would be an extremely useful first step to tackling such inequality (Weir *et al*., 2018).

2.1.3 Resettlement – a 'caseworker' role for interpreters?

Many interesting insights in terms of the importance of non-linguistic variables' relevance to language provision can be drawn from the Syrian Vulnerable Persons Resettlement Scheme (SVPRS), first implemented in early 2014. It is notable that, although language policymaking is still in its relative infancy in Scotland, there is increasing interest in and focus on the role of languages and multilingual realities in shaping integration (Phipps, 2017). This has led the Scottish Government to shape a refugee integration policy which rejects the dated notion of assimilation. New arrivals are not expected just to adapt and 'blend in' with the host community, instead, Scottish Government policy views 'integration' as "a multilateral and ongoing social process with onus on all parties - host communities and 'New Scots' - to work towards the formation of new intercultural, multilingual communities" (Phipps, 2017: 4). This evolving understanding of the role language plays in inclusion and integration has an inevitable impact on the demands placed upon language professionals. For example, a small group of Arabic interpreters played a key role in welcoming new arrivals to Edinburgh under the Syrian Vulnerable Persons Resettlement Scheme (SVPRS). The arrangements put in place were found to have exceeded the expectations of both refugees and interpreters (Weir *et al.*, 2018).

The SVPRS Arabic interpreters took on an almost 'interpreter/caseworker' role, providing a great deal of practical support to help refugees access services (Weir *et al.*, 2018). For example, Martzoukou and Burnett (2018) found that many Syrian New Scots saw attending accident and emergency departments as a route to accessing primary care and were extremely unfamiliar with the traditional Scottish GP triage system or gateway services such as NHS 24. This sometimes led to inappropriate care being delivered (Martzoukou and Burnett, 2018), a consequence of the kind of cultural differences the interpreters in the SVPRS helped to bridge. While clearly very useful and practical, this role exceeds what would traditionally be expected of an interpreter. Indeed, they are often

[3] Based on the 2011 census, though this will need to be updated after the 2022 version, among these would be Arabic, Polish, and Urdu as well as Punjabi and Chinese languages.

trained to remain 'neutral' or 'impartial' and discouraged from taking on this kind of role (Santamaría Ciordia, 2017).

Furthermore, UK interpreter codes of conduct, such as the Chartered Institute of Linguists' Code of Professional Conduct, encourage interpreters to "carry out all work impartially" (CIOL, 2017: 5). The National Register of Public Service Interpreters (NRPSI) code also emphasises that interpreters 'shall at all times act impartially'. However, many Edinburgh SVPRS interpreters understandably developed a close relationship with newly arrived refugees, and as a result were frequently contacted by them out of hours (Weir *et al.*, 2018). While this is not necessarily a problem in itself, all the SVPRS interpreters reported experiencing varying levels of distress in the course of their work (Weir *et al.*, 2018), which seems an inevitable consequence of having to continually relay the traumatic experiences of people with whom they had formed a close personal bond. There is therefore a clear need for further guidance, training, and psychological support to be made available to interpreters and for interpreters to be encouraged or even compelled to engage with such support services, particularly if they are to take on such an expanded role not just as an interpreter, but as a kind of one-stop-shop for advice and assistance. Issues around interpreter impartiality and the issues raised by the arrangement such as those under the SVPRS are discussed in full in section 6.2.

Finally, other more serious ethical issues within the SVPRS were identified in a study in West Dunbartonshire where, in many cases, young children were still acting as interpreters for their parents (Mulvey *et al.*, 2018: 20). Services such as the housing repair service were also unable to provide telephone interpretation. This led to a dependency on bilingual council staff (Mulvey *et al.*, 2018), the unethical nature of which is outlined above.

2.2 Interpreting in the asylum context

When discussing the legal context in which interpreters in the asylum system operate, it must firstly be recognised that the UK Government appears more determined than ever not only to create an ever more hostile environment, but to effectively end asylum in the UK as we know it, with anyone arriving to claim asylum without a visa being criminalised by the

2022 Nationality and Borders Act (NABA) (Right to Remain, 2022). Prior to NABA being passed, the normal asylum procedure was as follows:

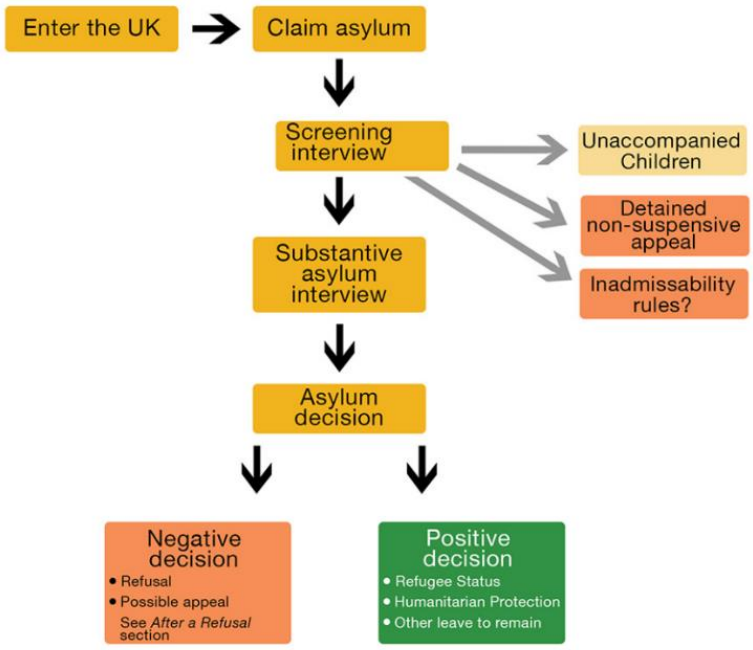

Figure 1 – Outline of UK asylum system prior to 2022 Nationality and Borders Act[4].

After claiming asylum, applicants have a screening interview to gather basic personal information and details on their journey to the UK. The next stage, the substantive interview, is much more in-depth and is the main source of information used by the Home Office to approve or reject the asylum claim. Once a decision is made, an applicant is either granted refugee status or humanitarian protection (or other leave to remain), or they have their claim refused, after which they have the right to appeal to the IAT. Huge emphasis is placed on the applicant's credibility and whether their declared fear fits within the Refugee Convention. Fisher *et al.* (2022) describe how every single word an asylum seeker uses in an interview is important:

> "Home Office caseworkers are required to analyse asylum interviews and search for inconsistencies in the narrative account, or to search for inconsistencies between the person's recollection of events and information contained in Country of Origin Information documents, the screening interview, other statements made to Home Office officials or information contained in documents held by the person seeking asylum." (Fisher *et al.*, 2022: 27)

It can be seen here that the starting point for assessing an asylum application is one of suspicion, with a sense that the Home Office is trying to catch people out with any inconsistency they can find. Clearly, any interpreting errors, even minor ones, have the

[4] Diagram extracted from https://righttoremain.org.uk/toolkit/claimasylum/

potential to be detrimental in such a context. As noted by Bergunde and Pöllabauer (2019: 3), "Errors, misunderstandings and faulty renditions of speakers' utterances by interpreters may put the welfare and even lives of asylum applicants at risk." The importance of specialised interpreter training to prepare them to work in this context is therefore patently clear.

Any applicant initially refused international protection by the Home Office is entitled to make an appeal against this decision. This is a very common occurrence indeed, with 75% of those initially refused asylum lodging appeals between 2004 and 2020 and around one-third of appeals eventually being allowed, and asylum therefore granted (Sturge, 2022)[5].

The UK's criminalisation of those seeking asylum has been described by Bowling and Westenra (2020: 163) as a "system directed exclusively at efficient exclusion and control". This is the legal environment in which interpreters must operate in the asylum system. It is a system that deliberately inflicts misery and destitution upon those who pass through it, run by a Government that tells people to use 'safe and legal routes' that simply do not exist. This has clear implications for the interpreter's impartiality and neutrality, which are discussed in greater detail in section 6.2.

2.3 Theoretical framework

In order to fruitfully analyse interpreter conduct later in the thesis, it is important to establish some of the theoretical concepts that underpin this analysis from a sociological and interpreting studies perspective. As noted by Wadensjö (2016: 82), "An instance of interpreter-mediated interaction is always part of various social, cultural and subcultural 'contexts'". Interpreter-mediated events within the asylum process bring together at least three parties who all enact certain 'roles', whether that be in a private meeting between a solicitor and a client, or the more formal settings of initial or substantive asylum interviews, and indeed any subsequent appeal hearing. For the purposes of this section, we

[5] In the year up to June 2022, 51% of appeals were granted, which means that refugee status was awarded after an initial refusal by the Home Office (Home Office, 2022a).

will focus mainly on the roles enacted by the interpreter in asylum appeal hearings, as this is the setting that I have had ample chance to observe as part of my research.

Goffman (1981) outlines a 'participation framework' for social interaction, differentiating between three speaker/producer 'roles', and two listener/receiver 'roles':

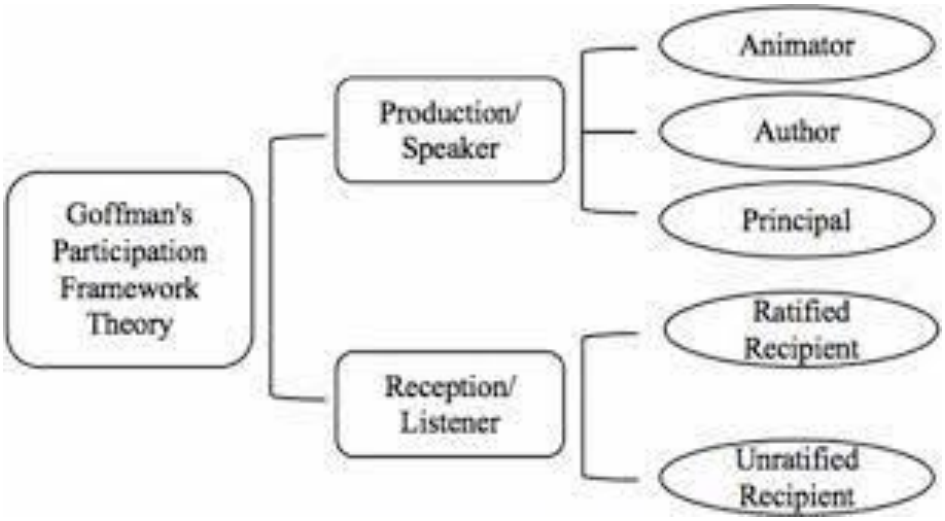

Figure 2 – Goffman's Participation Framework Theory (image from Zhang & Wang [2021]).

I decided to use this framework as it reflects the sometimes quite subtle differences in the roles interpreters play within an interpreted interaction, in both their passive role as listeners and witnesses, and their active role as speech producers with agency over the interaction. Susanne van der Kleij identifies Goffman's participation framework and the way it divides up the different roles enacted during an interpreted event, as being crucial to determining the similarity between the source and target text produced (van der Kleij, 2015). The degree of the agency interpreters can and indeed should have over the interaction is the subject of much debate, as we will see below. In essence, Goffman indicates there are two types of listener/recipient: a 'ratified' one, who has an official place or role in a certain scenario, and an 'unratified' one, who has access to that scenario, but in a non-official capacity. On the production side, the 'principal' is responsible for the message being delivered, the author determines the content and form that message takes, and the 'animator' is simply the person who utters that message (Marks, 2012: 4). Someone may or may not enact all three of these production roles and may not necessarily enact all of them at once (Goffman, 1981).

If we try to situate the asylum interpreter within this model, perhaps many would ascribe the role of 'animator' to them in terms of their production. After all, interpreters tend to still be seen as linguistic conduits through which a message, or, perhaps more accurately, meaning, flows, eventually donning its new shiny linguistic coat, but fundamentally unchanged in terms of substance. However, as Marks (2012: 3) points out, interpreters must be aware of how their presence and the role(s) they assume alters the way an interaction is structured and how it progresses (Angelelli, 2001, 2003). As Mason (2005: 32) notes, "the essential indeterminacy of meaning frequently surfaces as a problem that interpreters have to deal with on the spot". Along similar lines, Monnier (1995: 309) highlights that "the translation will always remain an interpretation of an asylum seeker's words, however good it may be."

Metaphors such as that of the conduit or the 'invisible' interpreter, however, have become commonplace in popular conceptualisations of the interpreter's job and position within triadic bilingual exchanges. An essential point here is that interpretation (which is oral or signed) is not translation (which is written). A translator who works with the written word has the luxury of being able to step back from a text and carefully consider their choices. Interpreters must work under far greater time pressure, dealing with the unpredictability of interpersonal interaction. It could therefore be argued that the interpreter, as opposed to the translator, does not step back, consider, and 'animate' another's words, in Goffman's terms, but instead acts as a co-author of meaning alongside all other parties to an interaction.

Although it is an ancient profession, interpreting has only really begun to be studied as an academic discipline around the second half of the twentieth century (Angelelli and Baer, 2015). Therefore, metaphors such as the conduit model have had several centuries to become ingrained in the popular imaginary, only being subjected to critical challenge in recent decades. By the early 1990s, scholars were beginning to take more of an interest in such metaphorical conceptions of the interpreter's role, and some opined that they were actually hampering practitioners' own understanding of the profession (Roy, 1993: 127). Roy also notes that interpreting, which began to be more widely studied much later than translation, needs to develop its own theoretical foundations which are distinct from those used for analysing language transfer for the written word, "through borrowed or adapted

notions from communication, sociolinguistics, intercultural communication and other, similar disciplines" (Roy, 1993: 132).

Approaches like the sociological and linguistic-ethnographic one favoured by, among others Inghilleri (2021), have cast major doubt upon, if not completely deconstructed the myth of the interpreter as a neutral, invisible 'non-person' within an interpreted event (Inghilleri, 2021: 58). Other scholars, such as Barsky (1996: 46) even took this argument to the opposite extreme, appealing for interpreters to be seen as "agents of culture rather than transmitters of words" who "should be encouraged to participate more actively" in asylum hearings, acting more like expert witnesses than 'impartial' language service providers. This is problematic in a legal setting, as interpreters are not necessarily experts at all in the applicant's culture, though they should be experts in the language the applicant is choosing to speak. Barsky does acknowledge that specialist training for interpreters would be required which evidently would need to go far beyond language, including training in asylum law (Barsky, 1996). Even so, the ethical issues raised by an interpreter intervening actively on someone's behalf in a setting such as an asylum hearing are clearly significant. Barsky also makes a (potentially quite insulting) presumption when he indicates that appellants' testimony may feature "hesitations, grammatical errors and various infelicities" (Barsky, 1996: 52). The idea here is that the interpreter takes the appellant's testimony, which is deficient mainly in terms of form in the eyes of the adjudicating body, and uses their linguistic, socio-cultural and legal expertise to repackage that testimony into something more convincing, or more acceptable to the institution in question.

Perhaps, rather than making interpreters responsible for repackaging narratives in this way, we should acknowledge that the asylum process itself is unfit for purpose, focused as it is on finding any way possible to undermine an applicant's credibility. Monnier (1995: 305) described Swiss asylum interviews as 'rituals which legitimate official banishment'. As already noted, the UK is in the process of dispensing with even the ritual part of this equation, by directly banishing those claiming their human right to asylum to Rwanda, essentially transporting them against their will. The central point here is that interpreters working with asylum seekers do so within a badly broken and extremely hostile system that needs a radical re-think. Indeed, this was one of the key conclusions of the Independent Commission of Inquiry into Asylum Provision in Scotland, chaired by

Baroness Kennedy KC (Kennedy, 2022: 34). The interviewing procedures place huge emphasis on every word an asylum seeker uses, looking for any chance to undermine their credibility. The extent to which interpreters can and should act to compensate for this, or whether they should aspire to something closer to the conduit model is a moot point.

Wadensjö's seminal work (2016: 92) problematizes the notion of the interpreter as a conduit in perhaps the most comprehensive manner to date, beginning with a taxonomy of what she calls different 'modes of listening' – as *reporter*, *responder*, and *recapitulator*. The *reporter* simply attempts to memorise an utterance produced by someone else in order to repeat it verbatim, such as when someone takes an oath. The *responder*, meanwhile, is expected to listen with a view to advancing the discourse by subsequently introducing their own content in response to the utterance. The final type of listener, according to Wadensjö, listens in order to *recapitulate* what has been said, "giving an authorised voice to a prior speaker or group of prior speakers" (Wadensjö, 2016: 93). It is clear that the interpreter falls into this final category, very obviously so in the context of an asylum appeal, where the appellant's words (or those of the 'principal' in Goffman's terms) have limited currency until they are given that 'authorised' voice by the interpreter rendering them into the official language in use.

Returning to Goffman's classification of production above, we can see, as Wadensjö (2016: 93) notes, that interpreters, in their role as recapitulators, have the responsibility and authorisation to compose new versions of utterances, making them both animators and authors. It is this authorial role that seems to consistently be made invisible by, for example, judges asking interpreters to translate 'verbatim' or 'word for word', reducing a complex task of listening, analysis, and discourse organisation to a fairly simple linguistic transaction. As van der Kleij notes: "if the interpreter's role is not limited to the animator role, similarity [*between the original utterance and the interpreter's rendition*] will be affected at the form level and/or the pragmatic level and/or the information level as well" (van der Kleij, 2015: 42, my explanation in italics). The consequences of casting the interpreter in the verbatim 'animator' role and failing to recognise the multifaceted role they play in facilitating communication are discussed in sections 5.2.2 and 5.5.

Nevertheless, notions of 'role' are notoriously difficult to pin down in clear-cut taxonomies. The consequences of a lack of a clear understanding of the interpreter's role extend beyond the academic, though, as summarised by one of the main authorities on court interpreting, Susan Berk-Seligson:

> "…many of the problems regularly encountered by the court interpreter are a result of a misunderstanding of her role not only by clients (defendants, litigants, and witnesses), but also by lawyers and judges." (Berk-Seligson, 2017: 2)

It is clear, then, that perceptions of the interpreter's role require more attention. Goffman (1961), for his part, speaks about participants in social interaction being aware of each other as "multiple role performers". He further breaks these roles down into three categories: *normative role* (what participants think they do or what is described in deontological frameworks such as codes of conduct); *typical role* (accounting for common practice developed in order to deal with situations not covered by official norms and standards); and finally *role performance* (aspects of behaviour influenced by the specific characteristics of the interaction, including the physical environment in which it takes place and other parties present to it). Hence, an asylum interpreter's normative role may be as an 'impartial' or 'faithful' linguistic and cultural mediator, but they typically may find themselves involved in orienting the appellant in terms of behavioural norms in the tribunal setting, looking after their welfare by asking them if they need a break, or even taking on a practical role in guiding them round the building. They may even find themselves enacting a role performance, such as when their authority is challenged by one of the 'role others' in the interaction.

Goffman also talks about 'role distance', whereby someone can step outside the normative boundaries of their role in an interaction to relate to a 'role other' in a different way. For example, when waiting for a hearing to begin, an interpreter may interact with the appellant not as an interpreter, but as a compatriot, or as a member of the same religious community. Equally, they may interact with the Home Office Presenting Officer as a colleague within the asylum system. This has clear implications when considering ethical notions such as neutrality and impartiality.

Pöllabauer (2004: 143), with particular reference to asylum hearings, talks about interpreters frequently assuming 'discrepant roles', depending for example on what expectations they believe those with the institutional power in that setting (judges and solicitors) have of them. For example, they may directly intervene by asking the appellant follow-up questions during cross-examination or omit information as they regard certain

things said by the appellant to be irrelevant (Pöllabauer, 2004: 154). Issues of power in asylum appeal hearings are discussed in section 5.6.

Wadensjö (2016) has taken up the issue of the extent to which interpreters take responsibility for their utterances, which relates to the extent to which they project their impartiality. She theorises that interpreters have a series of strategies for limiting their responsibility for utterances, not merely through language, but also vocal pitch, gaze and body language. For example, Berk-Seligson (1999) has demonstrated that court interpreters systematically tone down the coercive force of leading questions, one of the main resources employed by Home Office Presenting Officers when attempting to cast doubt on an appellant's testimony. This is one example of a general finding by Berk-Seligson that court interpreters tend to alter the pragmatic intent of speakers during on-the-record hearings (Berk-Seligson, 2017: 24). This is particularly significant given the commonly held idea among legal professionals that interpreters are impartial figures who provide 'verbatim' oral translations. Berk-Seligson's findings demonstrate that, even if inadvertently, interpreters can and do exert agency, through their lexical and grammatical choices. Choices such as these are extremely difficult to account for in a code of conduct or ethics, given their subjectivity. Interpreter impartiality and positionality is discussed in section 6.2.

Wadensjö calls the use of strategies such as reducing the coercive force of questions "relaying by displaying", as opposed to "relaying by replaying", where the interpreter is seen to assume responsibility for the utterance more fully:

> "Interpreters routinely shift between more of a 'relaying by replaying' and more of a 'replaying by displaying' approach in order to achieve three basic goals in the role of interpreter, namely to promote primary interlocutors' continued focused interaction, their illusion of mutual and shared involvement in an activity in common and their (at some level) shared and mutual understanding" (Wadensjö, 2016: 274).

It is therefore abundantly clear that the interpreter in the asylum system is doing far more than serving as a simple conduit for some kind of disembodied message or meaning. As noted by Roy (1993: 151), they are "an active, third participant with potential to influence both the direction and the outcome of the event", for better or for worse.

Scholarly interest in the figure of the interpreter in asylum settings began to take root in the late 1980s and throughout the 1990s (Maryns, 2015). Kälin (1986) looked at 'cross-cultural

misunderstandings' in Swiss asylum hearings, emphasising the need for interpreters to transmit the 'cultural context of words and concepts' in their interpretation, as well as raising the issue that applicants may be wary of disclosing information to interpreters of the same nationality, fearing that this may be passed on to the government they claim to be persecuted by (Kälin, 1986: 233). Monnier (1995), also working in the Swiss context, highlights that interpreters in asylum interviews are effectively asked to 'translate without interpreting', once again corresponding to the idea of the existence of one 'correct' verbatim translation. Monnier, however, notes that "The way an interpreter presents the words of an asylum seeker is always debatable" (Monnier, 1995: 309). Barsky's (1994) study on Canadian refugee hearings represented the first in-depth field study of interpreting within an immigration system (Maryns, 2015). He suggested that interpreters could make up for the deficiencies of immigration and asylum institutions and processes by acting as active intermediaries, however this idea was roundly criticised for the assumptions it makes regarding the interpreter's own (lack of) ideology (Maryns, 2015).

In more recent times, issues of the interpreter's role, responsibility and power in the asylum system have been further explored. Pöllabauer's (2004) work in Austria found that interpreters played an active role in asylum hearings, for example by paraphrasing statements by appellants and volunteering explanations.

2.5 Conclusion

To conclude, asylum interpreting is a relatively young academic field, but it is one that has become increasingly significant as more and more people have been forcibly displaced over recent decades, up to a record 100 million people last year[6] (UN, 2022). From the literature, it is clear that when we discuss interpreting, we cannot disregard the context in which it takes place. This is crucial to how we might think about the interpreter's role along the lines of Goffman and Wadensjö in terms of authorship of utterances and how meaning is constructed. The main thrust of the conclusions of studies on interpreters in asylum, and indeed more generally legal settings, is that they do not and perhaps cannot limit themselves to simply being an impartial translation conduit. Their very presence influences interaction in many ways, some more subtle than others. The following two

[6] Of those 100 million people, 53.2 million were displaced inside their national borders (UN, 2022).

chapters look at how interpreters are weaved into the different stages of the UK asylum process and takes a macro- and micro-level approach to analysing the influence they can have.

Chapter 3: Methodology

3.1 Introduction

> *It is 8 am on the morning of your asylum appeal hearing, after the Home Office rejected your initial claim, as you were warned it almost certainly would. You have been called in by your solicitor, your four-year-old daughter in tow, to give a statement, the evidence on which your immigration status hangs. I, your interpreter, painstakingly translate your traumatic account to the solicitor, including threats of rape and murder. "Don't worry, we'll just make a summary," the solicitor says.*

It is nearly a decade since then Home Secretary Theresa May set out to create a 'hostile environment' for asylum seekers (Hill, 2017), also referred to by Bohmer and Shuman (2018) as a "climate of suspicion". Having begun working as an asylum system interpreter in 2019, as I understood it, it was my job to help people seeking refuge and asylum tell their stories in the face of this hostility and suspicion. These are flames that have been consistently stoked by successive UK Governments with deadly consequences, such as the premature deaths caused by the destitution inflicted on people of Caribbean origin during the 'Windrush scandal' (Griffiths and Yeo, 2021: 530), or the tragic deaths of two asylum seekers in crowded and cramped Glasgow hotel accommodation during the first months of the COVID-19 pandemic in 2020 (Guma *et al.*, 2021). The hostile environment has intensified to such an extent that it has been described by Phipps (2020) as a "new and peculiar version of psychological warfare" that places people in a state of constant danger and seemingly eternal waiting, a form of what Mbembe (2003) calls 'necropolitics,' a politics of death[7].

The disconnect between the deontological ideals of interpreting I had learned during my Masters course in interpreting and the reality of the job, immersed as it is in the necropolitics of the asylum system, could scarcely have been more acute, and the vignette at the start of this chapter is illustrative in this respect. The vignette describes a real experience I had during my first months as an asylum interpreter in which the solicitor not only summarised my interpretation from Spanish into English in the statement that they were entextualising for the client, but actually asked me on several occasions not to

[7] Mbembe describes necropolitics as the ways in which: "…weapons are deployed in the interest of maximum destruction of persons and the creation of *death-worlds*, new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of *living dead*." (Mbembe, 2003: 40)

interpret at all. This was because the solicitor's first language was Italian and they felt they had understood what the client was saying given their passive grasp of Spanish, at least well enough to write up their 'summary' before rushing off to the appeal hearing immediately afterwards. The gap between interpreter training, where summarising and omission, particularly in the context of legal interpreting, are presented as major failings, and the everyday realities of performing this kind of interpreting, where I found such failings not only to be commonplace, but to be perfectly acceptable and even encouraged, was stark. This mismatch I have identified that exists between interpreter training and practice is a central driver of this research.

In this chapter, I will firstly set out the qualitative methods and ethnographic approach I have chosen as the most appropriate to answer research questions on the interpreter's role and training needs. These methods consist of remote participant observation of asylum appeal hearings and semi-structured interviews with the three parties to the interpreted interaction: interpreters, service users, and service providers/stakeholders[8]. I will justify these choices, including the choice of Glasgow as a research site, and outline the merits and challenges of these methods based on my experience in the field. Secondly, I will discuss the ethical considerations relevant to the project as well as the mitigations implemented to minimise the risks identified. Finally, I will reflect on my own positionality as both a practising interpreter/translator and now researcher, thus acknowledging the roots of this project, through two key issues: my insider/outsider status with the different participants, and the power dynamics between us.

3.2 Legal Ethnography

3.2.1 Introduction

Before breaking down the methods chosen and their practical application for this project, I will firstly outline why I have decided to take an ethnographic approach. 'Ethnography', of course, is not a term with a simple, clear-cut definition, and has been described in many different ways, from 'the task of describing a particular culture' (Spradley and McCurdy,

[8] 'Service provider' can be a confusing term, as interpreters evidently also provide a service. However, this term will be used to refer to parties representing UK/Scotland-based organisations who require an interpreter to communicate with those seeking asylum and refuge.

1972: 3) to 'the textual rendering of social worlds' (Abu-Lughod, 2000: 261), to simply 'a theory of description' (Nader, 2011). Drawn in great part from the fields of anthropology and qualitative sociology, ethnography is generally seen as a methodology that involves some kind of participant observation within a particular community or field of study (Harrison, 2018: 5). In the field of anthropology, in the Western world, 'ethnography' in its most traditional sense referred to studies in which a researcher (typically a white male) aimed to 'understand the ways' of peoples in distant lands by living among the communities they were studying, for example Forde and Jones' study on the Ibo and Ibibio-speaking peoples of south-eastern Nigeria (Forde and Jones, 1950).

However, the term 'ethnography' has evolved significantly since the mid-1900s and is now regularly used to describe a less immersive research methodology which may look at, for example, a workplace or a particular social institution, often in the country where the researcher normally resides (Hammersley, 2006: 4). Hammersley also notes, though, that the vast majority of ethnographic projects do have certain shared characteristics, insofar as they tend to be based on a form of social and educational research that analyses '*at first hand* what people do and say in particular contexts' (Hammersley, 2006: 4), whether they are living among them or not. For the purposes of this study, if were to adopt a definition of ethnography, I would concur with the choice made by Gibb (2019: 157) to adopt Willis and Trondman's definition of it as "the disciplined and deliberate witness-cum-recording of human events…at least partly in its own terms" (Willis and Trondman, 2000: 5).

In this chapter, I will describe how I set out to understand at first hand the role(s) interpreters play in the UK asylum system, the challenges interpreting poses, and how well prepared all parties are to tackle such challenges.

3.2.2 Glasgow as a research site

Until July 2022, Glasgow was the only Scottish local authority to which asylum seekers in the UK had been 'dispersed' (Qadir, 2022), the term used by the Home Office to describe the process whereby asylum seekers arriving in London are sent to different parts of the UK while they wait on their claim being processed. Glasgow is also the UK local authority

with the largest number of asylum seekers, by quite some distance, as illustrated in table 1 below.

Local authority	Asylum seekers	Resettled refugees	Asylum seekers + resettled refugees	Total asylum seekers + resettled refugees per 10,00..
Glasgow City	4,400	521	4,921	77
Birmingham	1,737	622	2,359	21
Liverpool	1,602	161	1,763	35
Southwark	1,442	41	1,483	46
Cardiff	1,299	105	1,404	38
Coventry	1,264	750	2,014	53
Bradford	1,147	717	1,864	34
Newcastle u..	1,112	368	1,480	48
Nottingham	1,101	136	1,237	37
Leeds	1,089	398	1,487	19
Croydon	1,036	0	1,036	27
Belfast	1,029	411	1,440	42
Sandwell	985	0	985	30
Sheffield	906	436	1,342	23
Manchester	891	4	895	16

Table 1: Top 15 UK local authorities hosting the most asylum seekers and refugees (Walsh, 2022).

Glasgow is, therefore, it is an ideal location for any study involving the asylum system, given it is the Scottish local authority with the most experience in welcoming people seeking asylum. It is also the only location of immigration and asylum appeal hearings in Scotland, providing me with the chance to observe these public hearings. To date, most research on these kinds of hearings has related to hearings held in other parts of the UK (see Gill *et al.*, 2016, 2021), with a lack of data collected in Scottish tribunals. This study, therefore, aims to contribute to somewhat redressing this deficit.

3.2.3 Remote observation

There is an added peculiarity to this study in that the participant observation conducted of asylum appeal hearings could not take place in person as would be standard practice, but had to be conducted remotely using a virtual platform. Can we truly consider this method 'first-hand observation'? This is clearly not a simple question to answer. However, it must be emphasised that there was no choice to observe hearings in person, and remote observation was the only way to gain access to analyse how interpreters work in asylum appeal hearings. Given the commonplace nature of remote appearances in courtrooms, particularly in the wake of the COVID-19 pandemic, it could be argued that this kind of

'remote' or 'internet' ethnography is very much of its time. This remote observation, in combination with semi-structured interviews conducted both face-to-face and online, is therefore a form of ethnography which blends in-person and remote research methods to investigate the role of the asylum interpreter.

At the time of fieldwork (April-September 2022), asylum appeal hearings were once again taking place in person at the Glasgow tribunal centre after a period during the COVID-19 lockdown when initially only case management reviews were held by telephone, followed by the introduction of remote hearings via HM Courts and Tribunal Service's Cloud Video Platform or CVP (personal communication, 18 October 2022). The Immigration and Asylum Tribunal (IAT) is designed to be less formal than a courtroom, however it shares many similarities (Gill *et al.*, 2021). The judge is addressed as 'sir' or 'ma'am' and sits on an elevated dais in front of a large coat of arms, a symbol of state power. The room is also laid out in the same adversarial way as many courtrooms are, with the representative for the Home Office on one side and the appellant and their representative(s) on the other. A typical asylum appeal hearing room layout can be seen below in figure 3.

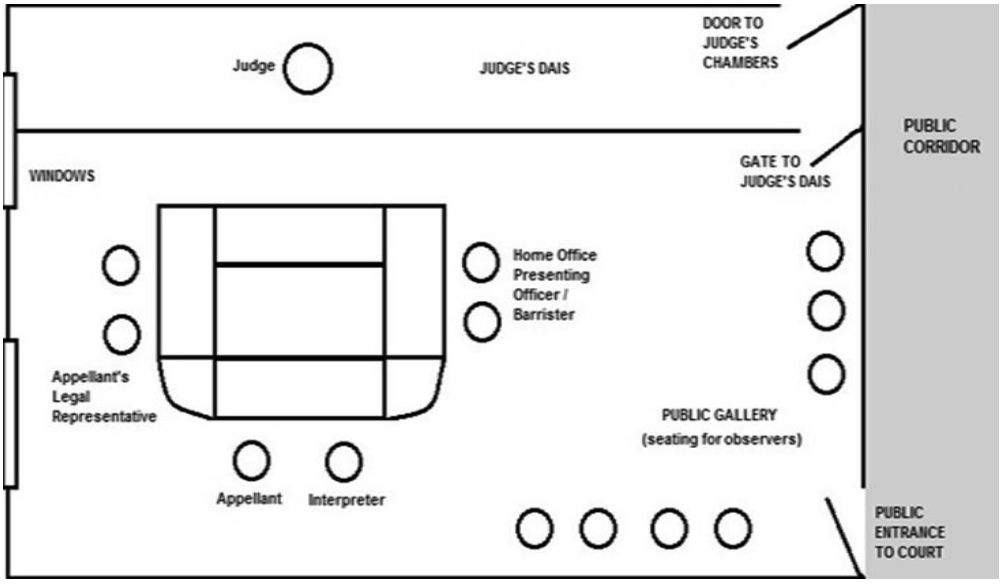

Figure 3: Layout of a typical Immigration and Asylum Tribunal hearing room (credit: Rebecca Rotter, originally published in Gill *et al.*, 2021: 66).

However, due to limitations on the number of people permitted to be present in the courtroom, one COVID-19 mitigation still in place, any observers had to join remotely via

the CVP. A representation of the typical view I had on my screen can be observed in figure 4.

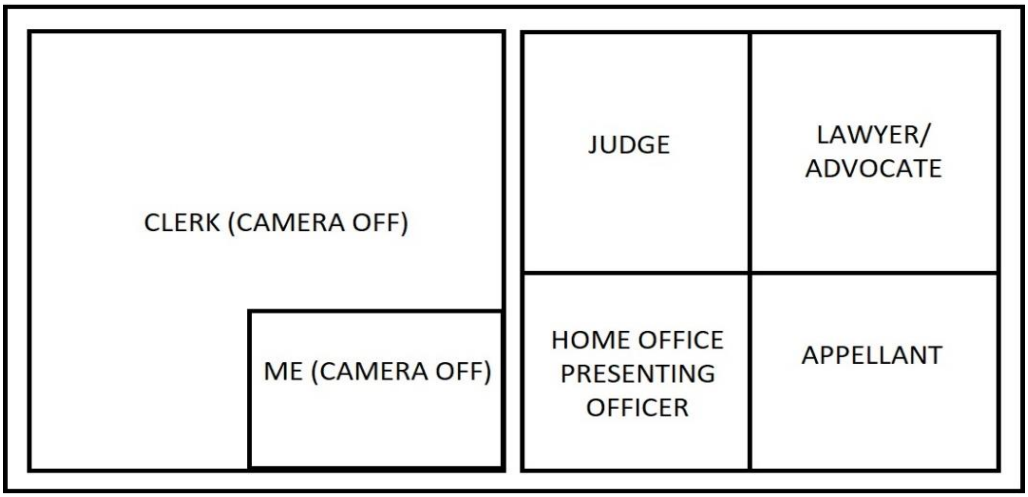

Figure 4: Typical view on the CVP when observing an asylum appeal hearing.

It can be observed from figure 4 that my view of the courtroom was extremely limited, with half of the screen split into four boxes, one for each of the main parties in the hearing. Perhaps the most important comment to make here is that the interpreter was almost never in view on screen, though they appeared to be visible to all parties present in the room, generally sat next to the appellant. Indeed, the only time I did have the chance to observe the interpreter physically was on the two occasions they joined remotely. This lack of visual information is something that is reflected in my field notes, though some interesting comparisons can actually be drawn between the majority of cases when I was blind, as it were, to the interpreter and those when I could see them clearly when they joined via the CVP as I did. This form of observation obviously meant I had no direct access to any of the people I observed, with my only points of contact being the court clerks who are responsible for taking care of the administrative functions required for the hearings to run smoothly.

The method of remote observation is a relatively new approach for research looking at court hearings. Recent studies have begun to analyse the consequences of conducting court hearings virtually (see, e.g., Rossner et al., 2021). In any case, the vast majority of cases observed for this project were not held virtually, with all participants present in court. It was my observation that was the *virtual* element of this project. Although digital ethnography or 'netnography' predates the pandemic, as does conducting interviews and focus groups using online platforms (Howlett, 2022: 2), 'live' participant observation using such a platform seems to not have been widely employed in court settings.

This form of 'disembodied' remote courtwatching is contemplated by Gill and Hynes (2021: 573), who note the importance of interrogating *"*the effect that a separation between the visibility of the court to observers and the embodied presence of watchers might have over legal participation, including observation." The argument here is that the observer's physical presence is essential for certain aspects of 'witnessing', such as showing solidarity with a litigant who appears to be being denied access to justice in some way and visibly holding the court to account for the way it discharges the power invested in it by the State. The extent to which an observer can and should show solidarity with any party in a court hearing is evidently open to interpretation. I was not personally concerned with 'bearing witness' or 'courtwatching' in this more active sense and was preoccupied with the conduct and practice of the interpreter rather than with any desire to influence the tribunal with my presence.

The argument could be made that virtual observation, with no physical observer present, may mean that parties are less likely to 'be on their best behaviour', or, conversely, to 'put on a show' by performing their roles with increased gusto in the knowledge they are being watched (Fisher *et al.*, 2022: 29). Remote observation may therefore offer the researcher a more representative picture of everyday practice, as discussed further below. I also overheard several conversations between parties before the arrival of the judge which shed light on some of the practices and procedures of the tribunal, some specifically related to interpreting. It is unclear whether the parties would have been more guarded in their conversations had I been physically present in the room with them.

I conducted 20 observations in total, ranging in time from around 45 minutes to 3 hours in length. On one occasion, a sponsor for the appellant was present instead of the appellant themselves. There were 11 languages in total spoken by appellants, as can be seen in table 2 below.

Language spoken by appellant	**Number of hearings observed**
Kurdish Sorani	*5*
Arabic	*4*
Mandarin	*2*
Urdu	*2*
Amharic	*1*
French	*1*

Luganda	*1*
Romanian	*1*
Tamil	*1*
Tetun	*1*
Vietnamese	*1*

Table 2*:* Languages spoken by appellants during their asylum appeal hearing.

Of the languages spoken by the appellants in the study, I only had a reasonable understanding of one of them, French, which appeared in just one hearing. While this has obvious disadvantages in terms of being able to analyse the interpreter's renditions into and out of English, the focus of this study is not the 'quality' or 'accuracy' of interpreting per se, but on the different roles interpreters perform in the asylum system. It could even be argued that not understanding the language used by the appellant was of benefit as a researcher, as I was just as dependent on the interpreter for my understanding of the appellant's and witnesses' testimony as the judge and legal representatives were.

A clear downside to this remote method was being unable to interact with participants before and after the hearings, except briefly with the clerks by email, both in terms of gaining their insights into any incidents that had occurred and potentially recruiting interviewees. The experience was not as immersive as I imagine it would have been if had I been there in person. My field notes may reflect this, as they may be lacking in the 'thick description' which, among many others, Geertz (1973) extols as a virtue of the ethnographic method. My notes inevitably lack a full description of the physical setting, the journey of moving through the space of the tribunal centre, the sounds, smells, and intangibles such as atmosphere (Gill and Hynes, 2021).

In the end, I felt my presence in the courtroom was reduced to almost an imperceptible one. The only time my presence was sometimes acknowledged was at the start of the hearings when the judge would introduce me to the parties and inform them that I was observing. The way judges did so varied hugely, from not actually acknowledging me at all to asking me to switch my camera on and confirm I was observing from a private, quiet location. It has been noted that research participants may modify their behaviour when under observation, perhaps to project a more positive image of themselves, what Goffman (1961) may refer to as 'role performance', a reaction to the situation of being under observation. However, my presence in the room was largely reduced to a black box on a

screen with my name on it. I am not even certain all participants had a view of this screen, as it was impossible to tell from the view I had. It is, therefore, I would argue that, in light of the above, it is likely that what I observed across my 20 observations constitutes a fairly representative sample of how asylum hearings were normally conducted in what were still admittedly relatively abnormal times in the wake of a global pandemic.

3.2.4 Interviews

The central aim in terms of conducting semi-structured interviews was to collect data from three distinct groups: interpreters, service users (asylum seekers/refugees), and service providers (e.g., third-sector stakeholders). As such, my positionality as a researcher was continually renegotiated according to the interviewee, as discussed in detail in section 3.4 below.

From the outset, I felt it was important to attempt to engage with all three parties to the interpreted interaction. This is because some studies, such as Da Lomba and Murray's (2014) on maternity access for refused female asylum seekers, interview health professionals and identify many issues with interpreting services in Glasgow but do not interview any interpreters as part of their data sample. While this is entirely understandable and reasonable insofar as the role of the interpreter is not necessarily the main factor under consideration in such studies, it is symptomatic of a time-honoured conception of the invisibility of the interpreter in communicative events, a notion that has been subject to numerous, comprehensive attempts at deconstruction (see, e.g., Angelelli, 2002; Downie, 2017). Equally, other studies such as that by Weir *et al.* (2018) on interpreters' role in the Syrian Vulnerable Person Resettlement Programme have excluded those seeking asylum and refuge from the interview process, instead asking interpreters to speak on their behalf. It is my conviction that to truly understand the expectations placed upon the interpreter in the asylum system as well as how this compares to their actions, perspectives must be sought from each of the three vertices of the triangle of the interpreted event: the person seeking asylum, the interpreter, and the service provider.

However, recruitment for interviews proved the most challenging aspect of the fieldwork, and my interview data is slightly biased here towards the perspective of the interpreter,

perhaps understandable given my background and contacts in the profession. This same difficulty may explain the aforementioned fact that previous studies tend to focus on participants from one party to the interpreted event (only interpreters or only people seeking asylum or refuge).

I was unable to secure interviews with any legal professionals who work with interpreters, despite contacting several immigration and asylum law firms. It was also a particular challenge to recruit people who had been through the asylum system for interview. I reached out to several local community and third-sector groups in Glasgow who work with those seeking asylum and with refugees with limited success. A reluctance among this over-researched group to participate is perfectly understandable, particularly as this would inevitably mean once again having to relive what at best would likely have been an uncomfortable experience of negotiating the asylum system. Nevertheless, I was able to make use of some contacts I had from my interpreting work to recruit several people who had been through the asylum system, as well as a number of interpreters and service providers who had engaged interpreters to conduct their work.

In interviewed 10 people in total, of which there were 6 interpreters, 6 people with personal experience of the asylum system, and 2 service providers/stakeholders. It should be noted that several interviewees belonged to more than one of these groups. For example, three of the interviewees had both been through the UK asylum system as applicants and had worked subsequently as interpreters within it. Of the 9 total interviews, 6 were conducted in person and 3 were conducted remotely, using Microsoft Teams or Zoom. One interview was conducted with 2 participants, with the rest being individual interviews. Three in-person interviews were conducted in Spanish to allow the interviewees to express themselves in their first language, and one online interview took place in Arabic and English with the assistance of an interpreter. The rest of the interviews were conducted in English. I noted no significant difference in quality in terms of the quality of interviews between in-person and online formats. Nevertheless, some in-person interview settings, such as a supermarket café with high levels of background noise, did pose issues in terms of recording clarity. The interview conducted through an Arabic interpreter was a particularly interesting experience. The interpreter asked a number of follow-up questions and appeared to engage in short conversation with the interviewee a number of times. As a

researcher, it did feel somewhat disconcerting to be 'out of the loop' on these occasions, though I certainly did not suspect anything untoward was being said nor that the interpreter was behaving inappropriately. Being 'on the other side' (i.e., having to depend entirely on the interpreter to understand the interviewee) was a very useful experience for me as an interpreter myself, one which gave me a greater sense of empathy for those who deliver services and perform functions through interpreters.

The question scripts I used were adapted to each individual, and in the case of the service providers/stakeholders, these were further tailored to these people's precise roles within their respective organisations. Questions inevitably focused on participants' own experiences of interpreted events within the asylum process. When interviewing interpreters, particular focus was placed on any ethically challenging incidents, and how well supported they felt in terms of any training and any other support they had received to look after their own well-being when doing this work. People who had been through the asylum system were asked about the level of guidance they had received on communicating via an interpreter, the different settings in which this had taken place during the asylum process, and their understanding of what an interpreter should and should not do in particular settings.

The service providers/stakeholders I interviewed had very specific functions: one had responsibility for training at a refugee advocacy organisation, another used to have responsibility for organising interpreting for a specific public service in Glasgow. The questions asked were therefore quite open-ended, but still centred mainly around the ethically challenging situations that arise in the course of interpreting work for those seeking asylum and refuge, perceptions of the role of the interpreter and training needs.

3.2.5 Document analysis

I analysed a number of official documents in order to establish how interpreters are employed in the asylum system and the parameters within which they operate. Policy documents from the two Language Service Providers (LSPs) responsible for providing interpreting services at the First-tier Tribunal for Immigration and Asylum, namely 'thebigword Group' and 'The Language Shop' were analysed. Particular attention was paid

to the qualifications and experience required of interpreters depending on their language combination as well as quality assurance procedures. Several interpreter codes of conduct were also analysed as part of the study, including those of the National Register of Public Service Interpreters (NRPSI), the Chartered Institute of Linguists (CIOL), the specific codes of conduct for screening and substantive asylum interviews (published by the Home Office), and the code for interpreters engaged for Ministry of Justice assignments, which include asylum appeal hearings (this code is published by The Language Shop, as the LSP responsible for quality control).

In addition, given a sizeable portion of the thesis is dedicated to analysing observations made of interpreted asylum hearings at the First-tier Tribunal, the relevant sections of a document entitled the Equal Treatment Bench Book have also been closely analysed. The main bench book referred to applies in England and Wales. There is a separate version published by the Judicial Institute for Scotland, which is also briefly referred to in this thesis. With immigration and asylum being reserved matters under UK law, IAT judges sitting in Scotland apply Scots law using guidance from both sources. As noted by one judge, though: "Our first port of call is the English and Welsh Guidance as we endeavour to maintain a UK-wide approach to issues before us; and we then check against the Scottish Guidance to see if there are any inconsistencies which require us to adopt a specific Scottish approach[9]" (personal communication, 09 January 2023). Hence, to ensure this thesis is more relevant to the whole UK, greater attention has been devoted to the England and Wales bench book. This is a document which lays out in-depth guidance and advice to judges on how they should conduct hearings with litigants who could be marginalised for a whole variety of reasons, which, apart from language, include age, physical and mental disability, gender, race, cultural and ethnic differences, religion and sexual orientation. The inclusion of language in this document is indeed very welcome and reflects the perception among service providers that language provision falls within their obligations under the Equality Act 2010, despite its lack of official recognition as a "protected characteristic" (McKelvey, 2020: 132).

Documents for analysis were identified in collaboration with supervisors, some of whom had conducted similar participant observation in tribunal settings in the past. As an active interpreter myself, I was also already aware of the different codes of conduct published by

[9] It should be noted that the word 'asylum' does not figure at all in the Scottish bench book but appears 121 times in the England and Wales version, underlining the latter's greater relevance to asylum appeal hearings.

professional bodies in the language services sector. In the case of the Equal Treatment Bench Books, which are lengthy documents, only the sections of the documents relevant to interpretation and language were analysed. These sections were selected based on the mention of words such as 'interpreting', 'translation' and 'language' in the section headings, and a search was also carried out for mentions of these terms in the rest of the document. As for the codes of conduct, their entire content was analysed. Document analysis took place in parallel with participant observation and interviews, as I became more familiar with the workings of the IAT and the asylum system overall. These documents were also referred to extensively during data analysis.

3.2.6 Methodology of Analysis

When coding my ethnographic data from my field notes, I devised four different categories I wanted to investigate. Coding was initially done manually, having printed out the first batch of my field notes, and was subsequently completed with the assistance of the Nvivo data analysis software programme. The first category included logistical issues related to the smooth running of the interpreted hearing, for example, determining the mode of interpreting (consecutive or simultaneous[10]) to be performed. The second category looked at the interaction between the parties, particularly with or about the interpreter. Thirdly, I coded for specific features of interpreting I felt were significant in some way to the interpreter's perception of their role. This included, for example, any deictic shifts from speaking in the first person and assuming the voice of the original speaker, 'relaying by replaying' in Wadensjö's terms (Wadensjö, 2016: 274), to adopting reported speech or impersonal constructions in an interpreted utterance. Wadensjö refers to the latter as 'relaying by displaying'. The final category included any notable observations that related to my own positionality and experiences as a researcher undertaking remote observations, an important way of maintaining reflexivity throughout the process. These four categories emerged rather organically from the observation process, and were designed to gather data on the reality of what actually happens at the tribunal on a pragmatic, practical level, as well as to identify how this matches up to deontological expectations based on formal training, and whether interpreters are indeed well prepared to operate in the asylum setting.

[10] Consecutive interpreting: when an interpreter takes notes based on a speech and then delivers a version in the target language. Simultaneous interpreting: when an interpreter listens to the speaker and delivers an interpretation in 'real time', either whispered (chuchotage) or through a headset.

All interviews were transcribed by me, either manually or by post-editing the text automatically generated by the speech-recognition software on Zoom or Microsoft Teams. The interview transcripts were then coded in a similar way to my observation field notes, making use of the same Nvivo data analysis software. This time, I devised three slightly different tags or categories: examples of good/bad interpreting practice, conceptions of the interpreter's role, and issues related to interpreter training. These themes were developed in collaboration with the project supervisors in order to tie in with the key aims of the research: to look at the reality of how interpreters work within the asylum system, to compare that with expectations (particularly from a deontological perspective), and to look at how well current interpreter training prepares interpreters for this setting, looking for any ways this can be refined and developed. Data from interviews and observations was discussed regularly at supervisory meetings, which helped to develop my analysis and interpretation.

3.3 Ethics

In terms of the ethical considerations relevant to this type of qualitative research, four main risks were identified and mitigated. The first risk was a sole researcher conducting interviews. Secondly, there was concern over participants being unable to give informed consent, for example due to difficulty in understanding the information statement written in English. Thirdly, the preservation of participant anonymity was considered of utmost importance, and finally there was a recognition that some participants may be members of a socially identifiable group with special cultural or religious needs or political vulnerabilities. Therefore, it was particularly important to ensure they could not be identified from any information published in order to avoid negative repercussions for them. This section will set out the mitigations put in place in each case.

3.3.1 Sole researcher interviews

Many of the interviews were conducted by a lone researcher away from university premises. It was therefore important for me to abide by the University of Glasgow's lone worker policy. Technology such as Zoom and Microsoft Teams was used to conduct

interviews where this was more convenient or comfortable for participants, with one opting to turn off their camera, for example, and face-to-face interviews were conducted in public places where it was hoped participants would feel at ease: a library, cafés and university premises. Meeting in public places was a basic safety precaution for both researcher and participants.

The issue of privacy also had to be taken into account for both observations and interviews. For my second observation, I chose to join and observe proceedings from a café as I was away on a short trip. Although it was a quiet environment and I was using headphones to listen to the audio, I did not feel comfortable observing in a public space like this as participants were visible on screen, including some of their names. From then on, I conducted observations exclusively in private spaces where I was the only person able to see my screen and hear the audio from the tribunal room.

For interviews, I was careful to choose public places that allowed for some level of privacy to be maintained, such as large café spaces or university premises. To mitigate against our conversations being overheard, I avoided using or asking for names of individuals or, for example, law firms, and always chose a position which allowed for an appropriate distance between us and any other people. Although background noise was a minor issue in some of these settings, the use and proper positioning of the Dictaphone helped to mitigate this.

3.3.2 Informed consent

To ensure interviewees could give informed consent, they were sent the project information sheet in advance by email or WhatsApp, along with the question script. At the interview, I would also produce a hard copy of the information sheet, as well as a consent form. Participants were given time to read through the information and ask any questions before the interview began. I was able to conduct interviews in both English and Spanish, and the information sheet, question script and consent form were all available in both languages. An interpreter was engaged for only 1 interview and the interpreter was asked to sight-translate the information sheet and consent form to the interviewee. Verbal consent was also sought before the interview began in all cases.

In terms of the practicalities of conducting observations ethically in the field, I faced several challenges. Though I obtained official ethical approval to observe asylum appeal hearings, I needed to consider very carefully how best to approach this task and especially the issue of informed consent. It should be recognised here that there is a great deal of social context to a setting such as an asylum appeal hearing. This includes the institutional power dynamics of such an event, which could make the appellant feel unable to object to my presence, especially if I am not sufficiently differentiated from the active participants in the hearing, especially the Home Office representative, who is arguing against their claim. However, Corrigan (2003: 787) argues that focusing on informed consent as an absolute moral principle leads to an "empty ethics that strips the principle of consent away from its social context". The social context of the remote appeal hearing therefore made obtaining informed consent very difficult. This social context also highlights the lack of agency in asylum appeals of certain actors (most notably the appellant and the interpreter) who, as will be noted below, were frequently not invited to raise concerns over my presence by the presiding judges.

Ideally, I would have liked to have had access to participants to be able to fully explain the purpose of my research, allowing them enough time to digest this information before consenting, as I did before interviews, and making sure to put in place a mechanism for checking in at appropriate times to ensure continued consent. However, it proved extremely difficult to obtain informed consent for these observations for two main reasons. Firstly, as I was observing remotely, I had no opportunity to interact with anyone present in the courtroom, my only contact being with the clerks. Therefore, I relied on the clerks to inform the judge of my presence, and in turn on the judge to make the parties aware of this and to allow them to raise any concerns. Out of the 20 hearings I observed, the judge only mentioned my presence at the start of the hearing 6 times, mostly to simply confirm I was in a quiet space suitable for observing court proceedings. I was only asked to turn my camera on once to confirm this. The appellant was never asked if they objected to my presence, and on only one occasion did the judge ask the HOPO and the appellant's solicitor if they objected to me observing proceedings.

However, it is important to stress that asylum appeal hearings are open to the public and law students frequently observe appeals (although there were none present during my observations). To begin with I also used to put a brief note in the chat function on the CVP introducing myself and stating that I was studying how interpreting worked in asylum appeal hearings, though I stopped doing this over time as I realised the parties did not seem to have access to a screen, apart from the clerk who was already aware of why I was observing. Hence, I made the judgement that as long as the parties were aware of my 'virtual' presence and raised no objections, and they understood any data gathered would be appropriately anonymised, I had met an acceptable threshold for informed consent in these specific circumstances. Secondly, even if I were in a position to interact with the appellant, this is clearly a particularly stressful time for them and possibly also for the interpreter. Approaching an appellant in this context to try to explain a research project and obtain explicit informed consent to observe what is after all a public hearing may unnecessarily add to any distress or discomfort they may be experiencing.

3.3.3 Identification of individuals

Care was taken to de-identify all data collected from both participant observation and interviews, in compliance with GDPR, as well as not to include questions that could have led to an individual being identified. In addition, any quotes drawn from interview transcripts, names and places have been anonymised appropriately.

3.3.4 Researching with vulnerable participants

Participants in this project included people with refugee status, a group that can be considered politically vulnerable and may have special religious or cultural needs. Interview questions were formulated to specifically address the experience they had of communicating through interpreters in the asylum system in the UK and religious or cultural issues that could prove controversial among certain communities were avoided as far as possible. Care was also taken not to seek details about the reasons behind interviewees seeking asylum, instead allowing this information to be volunteered by the participants if they felt it was of relevance.

Scholars such as Camacho (2016) have argued for placing emotion at the centre of ethnographic research, arguing that, as we cannot completely suppress human emotion, we as researchers should "learn to anticipate, prepare and manage the emotional reactions of participants and ourselves" (Camacho, 2016: 691). In conducting observations and interviews with asylum seekers, I anticipated dealing with strong emotions resulting from discussions that would not only bring up traumatic events leading people to seek asylum and refuge, but also the trauma of experiencing the asylum system itself, the experience of living in limbo as one waits for a decision, for an appointment, for housing, and all the many forms of waiting inflicted on people by the Home Office (Phipps, 2019). Instead of suppressing these emotions, emotions that I previously encountered during my interpreting work, I anticipated them and tried to manage them and reflect them in my fieldnotes. This was not purely for my own well-being, but to avoid presenting my data as having been collected in a vacuum. For example, I noted when I was feeling particularly tired after observing a long hearing or frustrated at how a judge was handling the interpreting, as this would have inevitably coloured the observations I made.

I also developed a plan for handling any emotionally charged situations arising from interviews with research participants. I ensured all participants were aware they could stop the interview at any point, and also made a judgement that I would ask participants if they would like me to stop the interview if I observed obvious signs of distress, such as crying or extremely tense body language. Equally, while there is a tendency to assume that emotions released in research interviews will be negative ones, they can also provide quite a deep sense of connection and even catharsis for interviewees. It was my intention to make the interviews a positive, constructive experience for both myself and participants.

3.4 Positionality

3.4.1 Insider or outsider?

The notion of being an insider or outsider when conducting ethnographic research is a prominent one in the literature. However, as noted by Dwyer and Buckle (2009: 54), viewing positionality as a dichotomy like this is not necessarily the most fruitful approach. In the field of migration studies, Carling *et al.* (2014) have argued for several 'third

positions' for ethnographic researchers, reflecting the different ways they might perceive themselves and be perceived by participants.

For this study, I was observing and interviewing a range of research participants, some with whom my background aligned more closely from a professional perspective (interpreters), and many others who had completely different life experiences and professional backgrounds (refugees, lawyers, judges, and other service providers/stakeholders). This is, after all, a study on the role of the interpreter conducted by an interpreter. It is therefore inevitable that my observations and interview questions for all participants are coloured by this perspective. For this reason, I felt it was especially important for me to engage in interviews with non-interpreters, people who have had to rely on people like me to negotiate the asylum system. I used my Spanish language skills to be able to conduct interviews with Spanish-speaking asylum seekers, and also engaged an interpreter to interview an Arabic-speaking asylum seeker. Though I was unfortunately unable to secure interviews with legal professionals, I did interview stakeholders with vast experience working with people seeking asylum and refugees with the assistance of interpreters, including a third sector training consultant and a former manager of a large Scottish public service interpreting service.

As someone who was born and raised in Glasgow, and as a white Scottish, university-educated male, I could certainly be positioned as an 'insider' vis-à-vis an average Glaswegian immigration lawyer. However, I am equally an outsider to the legal profession. I speak Spanish as a second language, which may position me as a linguistic 'insider' with some asylum seekers, yet I have never experienced displacement.

In addition, I only learned Spanish as it was one of the two colonial European languages offered to me as a teenager at my Scottish secondary school, alongside French. My Spanish was, to a great extent, learned in the north of Spain, the very country which invaded and colonised the Central American countries of every single person for whom I have interpreted in Glasgow. My Spanish is a different, foreign Spanish to them, in terms of accent and dialect. It is fairly obvious I have learned Spanish as a second language, and my speech has none of the features of southern Spanish that would be more familiar to a Latin American ear, such as *seseo*, whereby Z, as well as C before E or I, is pronounced as /s/

rather than /θ/. The bloody history between Spain and Latin America is of course the only reason I shared a language at all with my clients. Except for having had one university tutor from Central America, I had never had significant contact with people from these countries before starting work as an interpreter. I knew nothing of their political climate, little of the gang warfare that destroys the life of so many of their citizens and little else of their culture before I started to research in preparation for my meetings. Therefore, if I was a linguistic insider, I was and still am only in a problematic and limited sense, and I was certainly not a cultural insider, which is significant if we expect, as many people do, an interpreter to act as an intercultural mediator (see e.g., Barsky, 1996; Reynolds, 2020).

Nevertheless, it has been argued that researchers sharing ethno-national origins with participants is not intrinsically emancipatory or unproblematic, as it can, for example, draw attention to differences in class, education, or migration history (Carling *et al.*, 2014: 52). Also, as I was not a member of the local diaspora, it is possible that the people for whom I interpreted would have felt less concern about me potentially betraying their confidence and disclosing culturally sensitive information about them to other members of their community. There is evidence that interpreters themselves sometimes disclose such information, something mentioned by participant 10 in this study. In the end, the key was to be aware of these insider-outsider dynamics and to be reflexive about my positionality as it was continually renegotiated throughout the research process.

3.4.2 Power

This study fits into a wider project that informs Scottish Government policy on refugee integration. This research is, therefore, overtly political, which brings up certain ethical considerations. A reflection on power dynamics within my project is particularly needed. Gillies and Aldred, from a feminist standpoint, assert that:

> "…while conducting research constitutes a political activity in that knowledge produced is knowledge subsequently lived, there are limits to what can be achieved through the process of feminist research" (Gillies and Aldred, 2002: 15).

I am wary of the emancipatory idea behind my research, a desire to support asylum seekers and refugees by improving the language provision offered to them as they negotiate what I perceive and have personally experienced as an often dehumanising and unjust process. However, as Letherby (2003: 115) notes, "making people feel more powerful does not

necessarily change the objective material circumstances". Indeed, my own assumption that I, as a postgraduate student, hold any significant power to change material circumstances such as the quality of interpreting services can clearly be contested. Nevertheless, if we are to attempt to deconstruct the colonising linguistic practices I would argue are embedded in the asylum and immigration systems, particularly in the Home Office, and build something more humane and fairer in its place, we would do well to heed the following advice from Phipps:

> "If we are going to do this, if we are going to decolonise multilingualism, let's do it as an attempt at a way of doing it. The only way to decolonise is to do it. It needs some forethought but ultimately it needs actions which are redolent with decolonising attempts, adding to critical learnings of previous decolonising attempts." (Phipps, 2019: 5)

In other words, even though this project may have an element of idealism to it, that is no excuse for not tackling it, in the hope that it may stand to make a long-term impact alongside the work of others.

During my fieldwork, different power dynamics were clearly at play. I was conducting observations of a setting where State power was front-and-centre. I only had (remote) access to this space thanks to the assistance of the court clerks, and the blessing of the judge, who is an all-powerful figure in the context of the asylum hearing as they are taking a decision with huge consequences for an individual's life. As I was observing remotely, I had no power at all to influence proceedings or to, for example, talk to any of the parties regarding any of the events I had witnessed. Indeed, I could not even see the interpreter most of the time.

I was also mindful of power dynamics when conducting research interviews, particularly with people who had been through the asylum system. I found myself wanting to stress my independence from the Home Office or UK Government to them, conscious of the fact they had to take on these hostile, powerful actors in order to win the right to live in this country. I was conscious that I wanted the interview to feel more like a loosely structured, friendly conversation, allowing participants time and space to explore issues surrounding interpreting they felt were important. Meeting these participants in a café or library that was convenient for them, instead of university premises, for example, was an important way to be accommodating and establish an informal atmosphere, an attempt to mitigate

against any potentially intimidating institutional power that belonging to the university confers upon me in the eyes of interviewees.

3.5 Conclusion

I have outlined the origins of this project and its aims, the methods used and relevant ethical considerations as well as my reflections on my positionality and ontology as a researcher looking into asylum and refugee language provision. My relative inexperience in participant research meant I had to carefully develop my methodology, ensuring to reflect consistently on my positionality. As for what I hope to achieve, material circumstances are very unlikely to be changed by one research project. I do, however, take encouragement from the extremely positive impact the UNESCO RILA team to which I belong has made in the domain of refugee integration. It is also heartening to be working in a political climate in Scotland where there seems at least to be a collective will to do better for those arriving in our country under the most challenging of circumstances.

Chapter 4. Interpreting in the asylum system – expectations vs. reality

4.1 Introduction

Interpreting happens in different settings within the asylum system, from the very public arena of the courtroom to the semi-public space of an airport, to the much more private spaces of immigration lawyers' offices. The different ways in which interpreters are recruited to work in these different spheres, and the official expectations placed upon them in terms of their conduct and the standards expected, varies widely. This chapter examines in detail how interpreters are recruited and employed in the aforementioned different settings of the asylum system. Section 4.2.1 examines the formal setting of the asylum tribunal, where the observations for this work were carried out. We then move on to look at the more 'behind-closed-doors' settings of Home Office interviews and interactions with stakeholders such as third sector organisations in section 4.2.2. Finally, section 4.2.3 is dedicated to looking at the interpreter employment practices of solicitors.

There is a thread of commonality running through all the interpreting settings mentioned in this chapter in the sense that there tends to be some discrepancy between what is expected of the interpreter (either formally in a code of conduct or informally based on certain common assumptions), and the realities on the ground. Through discussing and analysing these issues, I hope I will be able to arrive at a deeper understanding of the different roles interpreters play in the asylum system, and to point to some areas which may require greater thought and attention from interpreters, as well as those who employ them and work with them to deliver services.

4.2 A peek behind the curtain: interpreter employment practices

Before discussing the mechanics of the way interpreting actually functions in the asylum system and the roles interpreters play, it is worth considering the conditions under which these interpreters are employed. This includes looking at who is responsible for hiring interpreters and monitoring their performance, as well as the qualifications and experience required of them in order to work in the different settings of the asylum system. The focus of the majority of the literature is, understandably, on the interpreted interactions

themselves, and practices that are external to those interactions are rarely analysed in detail in the literature on asylum interpreting. McKelvey (2020), however, does notably raise several issues related to poorly qualified interpreters in Scottish public services.

In this section, I will explore common practice when it comes to engaging and employing interpreters across the different settings of the asylum system. Namely, these settings are Home Office asylum interviews, meetings with solicitors, appeal hearings and meetings with other asylum stakeholders. The overall picture is of an interpreting sector that is still highly deregulated and varies a great deal depending on the service being provided and the physical setting in which the interpreting takes place. As will be noted, though, some significant steps have been made towards professionalisation. The way the quality of interpreting services is monitored and managed also shows a high level of variation, leading to inequality in the levels of service that can be expected depending on the client's language and the individual practices of lawyers, and generating potentially serious conflicts of interest for interpreters.

Within the asylum system, the clearest distinction in terms of the settings where interpreters work is between interpreting that happens at the first-tier tribunal for asylum appeals and interpreting that takes place outside the tribunal. The latter encompasses interviews with immigration officials and private meetings applicants have with their legal representatives as well as other asylum stakeholders such as third-sector organisations. The ways in which interpreters are recruited, managed and monitored in these different settings vary substantially, and such differing practices will be the focus of this section. It is also highly likely that those seeking asylum and refuge will have contact with interpreters in more settings than those mentioned, such as appointments with health professionals or social services, however, such interactions fall outside the remit of this study, which is focused on spoken language interpreting within the asylum process itself.

4.2.1 Interpreting at the Immigration and Asylum Tribunal

His Majesty's Courts and Tribunal Service (HMCTS) has outsourced its interpretation services since February 2012, and since October 2016 spoken language interpreting services have been provided by thebigword Group, who won a 4-year extension of their contract in February 2021 (Henderson *et al.*, 2022). The contract for sign language interpreting services is currently held by Clarion UK Limited, though the limitations of this study do not permit me to include a detailed discussion of non-spoken language interpreting[14]. Another language services provider (LSP), The Language Shop, maintains a register of interpreters who are approved to work in courts and tribunals. In terms of determining the qualifications required to be included on the register, this is done according to two separate criteria, one being if the target language is categorised as a 'core' or 'rare' language, and the other being if the assignment is judged to be 'standard' or 'complex'. As Dahlvik (2019: 139) notes, this is a case of "legal pluralism" (see Moore, 2001 for a detailed exploration), whereby there are two sets of norms applied: one formal and one informal.

There is a list of 49 'core' languages published by thebigword group. However, there are inconsistencies in terms of whether different variants of the same language are listed. For example, the Brazilian and European variants of Portuguese as well as the Indian and Pakistani variants of Panjabi are listed as separate languages. This seems to be a somewhat arbitrary distinction given that several other languages that have just as many or even more variants that are spoken across different countries and continents. Languages such as French, Arabic and Spanish, for example, are listed as one single language with no distinction made between variants. However, this core list is not simply a list of what we in the Western world might consider major languages with global or commercial reach; it does include many key languages spoken by refugees in the UK, including Pasto, Dari, Kurdish Sorani, Amharic, Tigrinya, Tamil and Ukrainian. Any language which does not feature on this list is considered by thebigword group to be 'rare'.

The requirements in terms of both qualifications and experience for interpreters to work vary in terms of whether the language is 'core' or not, and whether the assignment is

[14] Signed language 'community' or public service interpreting has generally achieved a higher level of professionalisation than spoken language interpreting in many countries (Napier, 2004). This is particularly true in 'pioneer' countries such as the US and Canada (Pöllabauer, 2013: 5).

‘standard’ or ‘complex’. To be employed as an interpreter for a ‘standard’ category assignment with a ‘core’ language, linguists are required to hold at least a college-level qualification in community interpreting, or to “Be enrolled on a course and have completed key modules for a qualification from the table on page 5 [at least a “basic interpreting qualification”]; and have 100 hours of experience of interpreting services in the relevant language” (thebigwordgroup, n.d.). In the case of a ‘standard’ assignment in a ‘rare’ language, the requirements are much less stringent. The interpreter must have:

- “Sufficient ability to communicate in the relevant language; and
- Experience in the relevant language; or a qualification from the table on page 5 [at least a “basic interpreting qualification”]; or an English Proficiency Test; or your primary language is English” (thebigwordgroup, n.d.)

In this case, “sufficient ability to communicate” is not defined, nor is the kind of “experience in the relevant language” required or the nature of the English proficiency test mentioned. It is hard not to get the impression that there is an attempt here by the LSP to cover all bases to a certain extent in terms of ensuring they have as much room for manoeuvre as possible when hiring interpreters for ‘rare’ languages. Nevertheless, if the case in question genuinely is ‘standard’ (as determined by the tribunal), insofar as it is a routine assignment which should not have any great bearing on the final outcome of the appeal, such as a bail hearing, it could be argued this may not present serious problems.

For cases deemed ‘complex’ by the tribunal, the qualifications and experience requirements for both core and rare languages increase significantly. For core languages, the interpreter is required to have not only an interpreting qualification (with undergraduate or postgraduate degrees, a postgraduate diploma or the DPSI strongly preferred) but also at least 100 hours of interpreting experience in the relevant language. Meanwhile, for a rare language, the interpreter must fulfil the same requirements as for a standard case, with the added stipulation that their experience in the relevant language must equate to at least 50 hours. It is also noted that all interpreters for both core and rare languages must be able to supply the company with suitable references.

What we can see from the above is a rather complex system for handling interpreting requests within the justice system. This is inevitable to a certain degree, as we cannot expect to impose one inflexible set of criteria on all interpreters, irrespective of their language combination. Some languages are simply not as widely spoken and refusing someone the only available language support due to an inability to impose the Western

concept of official qualifications and certification on the interpreters concerned would not benefit anyone. Certification is no fool-proof guarantee of quality, and it may even be impossible for an interpreter who works with certain languages to obtain officially recognised qualifications with a particular language combination[15]. In such cases, though, particularly in 'complex' cases, decision-makers in the asylum system should be cognisant of the possibility that if someone is communicating through an interpreter in a 'rare' language, the interpretation support may be of a lower standard than for someone who speaks a 'core' language. Judges regularly emphasise the importance of every single word in testimony from appellants, and if underqualified interpreters are to be engaged, the potential repercussions of this cannot be ignored. These repercussions are illustrated in section 5.5, a case study featuring an interpreted appeal hearing with a 'rare' language. I will examine how a lack of high-quality interpretation support and a failure to recognise and deal with interpretation problems promptly can have series consequences for the appellant's case.

The MoJ guidelines undoubtedly represent a concerted attempt to foster the professionalisation of court and tribunal interpreting in the UK, with high benchmarks set, particularly for those wishing to work on complex cases with core languages. The advice given to judges in the Scottish Equal Treatment Bench Book on how to work with interpreters recognises this explicitly, stating that "The standard of interpreters provided for court work has steadily improved, and qualifications in interpreting are now required" (Judicial Institute for Scotland, 2019: 42). However, the second part of this statement does give somewhat of a false impression, given that, as we have seen above, in some cases interpreters who work with 'rare' languages and do not have qualifications are employed on MoJ assignments. Indeed, the significant gap in terms of the qualifications and experience deemed necessary for core and rare languages in both standard and complex cases means there is effectively a two-tier interpreting service. Quite plainly, those who speak core languages can expect their interpreter to be better qualified and more experienced than those who speak a language not included on the list.

[15] In Scotland, for example, only Heriot-Watt university offers undergraduate and postgraduate spoken language interpreting degrees (available with French, Spanish, German and Chinese). The DPSI is run by the Chartered Institute of Linguists, which determines the acceptable language combinations for each examination session. See https://www.ciol.org.uk/ciol-diploma-public-service-interpreting-dpsi for more information.

The fact that quality assurance for language services provided under the Ministry of Justice contract, including the handling of any complaints, is also handled by The Language Shop raises a number of questions in terms of conflicts of interest. For face-to-face interpreting, quality assurance involves a range of 'assessments', including a 'mystery shopper assessment' whereby an interpreter is randomly chosen to be observed and assessed on four main criteria: adherence to the Ministry of Justice (MoJ) Professional Code of Conduct (MoJ, n.d.), subject matter knowledge, interpreting technique and accuracy, and language ability. The same assessment may also be carried out at the request of the MoJ or when a complaint is raised against a specific linguist, in which case it is referred to as a 'spot check'. The interpreter is awarded a pass or fail, and in the latter case they are afforded the chance to undergo an in-person assessment by the Language Shop, which takes place either in-person or by video link. This assessment takes the form of a roleplay with a 'native' speaker of the appropriate target language in the presence of one other assessor (Language Shop/MoJ, n.d.)[16].

There are some ethical issues worth raising in relation to this assessment process. The assessors are themselves freelance linguists with experience in the legal field who are offered training in the assessment methodologies employed by the Language Shop. It is noted that assessors are required to declare any conflicts of interest, such as a personal or financial relationship with the linguist being assessed. However, the Language Shop recognises that a lot of language professionals with the same language combination working in the same part of the country will know each other well. They indicate that this need not necessarily be considered a conflict of interest, and state that each situation will be considered individually. The idea that this is not necessarily a conflict of interest seems open to question, as where the assessor knows the linguist being assessed, it could be argued there is a clear conflict of interest.

On a basic level, if the assessor fails the interpreter in question, this reduces the pool of interpreters able to access tribunal work, which is slightly more lucrative interpreting work when compared to other settings such as healthcare[17]. Thus, a kind of gatekeeping role can

[16] **https://moj.languageshop.org/assets/pdf/QA guide v6.pdf**

[17] Thebigword group pays an hourly rate of £18 for a standard case and £24 for a complex one. By way of comparison, a major Scottish LSP offers an hourly rate of £15 for interpreting assignments in NHS Lothian, with an increase to £19 per hour if the interpreter holds a Diploma in Public Service Interpreting (DPSI).

be affected whereby only a small number of interpreters have access to tribunal work. Alternatively, the assessor may be concerned about the interpreter's reaction to them if they award them a fail, potentially compromising their working relationship. This may lead the assessor to pass an interpreter even if they do not feel their performance is satisfactory. Should an interpreter fail at this stage, they will normally be removed from the Language Shop's MoJ register, though they are provided with a development plan and may be invited to a further MoJ assessment in future.

4.2.2 Interpreting at asylum interviews and meetings with other stakeholders

Much of the interpreting that happens in the asylum system takes place outside of the tribunal setting. The requirements in terms of qualifications and experience for interpreters to work in these contexts tend to be much more variable, and generally far lower than for the IAT. This sector of interpreting was even described by participant 7, a coordinator for a third-sector refugee association, as 'the wild west' (personal communication, 04 July 2022). Although requirements placed upon interpreters are lower outside the IAT, interpreting in this context is equally as crucial. There are many stages prior to an appeal (see figure 1) including the 'screening' interview (conducted immediately after someone first arrives in the UK claiming asylum) and the 'substantive' interview (a much more in-depth interview, which can happen from one week to one year after arrival, or even later), in addition to lawyer appointments, encounters with public services and third-sector organisations.

UK Visas and Immigration (UKVI) is responsible for providing interpreting services for interviews conducted with asylum seekers by immigration officials. They have a simpler list of qualification requirements than HMCTS that does not make any distinction between the complexity of the cases concerned or the common or rare nature of the language spoken in the UK context. Interpreters working for the UKVI must either be a full member of the National Register of Public Service Interpreters (NRPSI)[18], or hold one of the

[18] The NRPSI sets its own criteria for membership. These include a recognised interpreting qualification as well as over 400 hours of experience in the sector. There is also an 'interim status' for interpreters who are either working towards a qualification or do not meet the 400 hours requirement, as well as a 'rare language status' which covers languages for which no PSI qualification is currently available in the UK. More information is available at http://www.nrpsi.org.uk/downloads/Qualifications_and_Experience_Criteria_for_Entry.pdf

following qualifications or assessments: DPSI in Law or a letter of credit in all oral components, TQUK Level 6 in Public Service Interpreting (RQF), CIOL Qualification Diploma in Police Interpreting (DPI) Level 6, assessment by the Asylum and Immigration Tribunal (AIT), or assessment by the Metropolitan Police (UKVI, 2021). It should be noted here that there is no requirement for experience, and an extremely broad range of qualifications at various levels are deemed acceptable, including many which are at a considerably lower level than that deemed acceptable for the IAT. The establishment of such requirements to work as an interpreter in asylum interviews is a welcome step towards professionalisation. However, if the bar is potentially as low as having your language skills approved by the police, with no indication that qualified language professionals are carrying out said assessment, this calls into question the seriousness with which these requirements are regarded.

It is clear, however, that the Home Office does, to some extent, place value upon having qualified linguists for asylum interviews. As well they might, as this part of the asylum process is equally crucial, if not more so, as any subsequent appeal, given that it is the first chance people have to make their case. Any severe interpreting errors at this stage of the process, when the applicant is required to lay out their account in minute detail in order to prove they have a well-founded fear of persecution, could mean the claim is initially refused, which leads to the need for an appeal in the first place. It is perhaps surprising, then, that the requirements in terms of qualifications and experience for interpreters at this stage in the asylum process, in which interviews can last for several hours and take place in challenging conditions, are considerably lower than those for the IAT. There is a similar attempt to cover all bases with the option for interpreters to be 'assessed' by the IAT itself or the Metropolitan Police. However, there is no detail provided as to what such assessments entail, and neither of these institutions are specialised in language or interpreting assessment. The following quote from the UKVI's 'guidance for freelance interpreters', published on its website, is indicative of an underlying relaxed attitude towards the need for qualified interpreters. It appears under the heading 'Why do you use interpreters?':

> "Passengers arrive in the United Kingdom from many different countries. The vast majority of overseas nationals are able to communicate satisfactorily with immigration officers but in some cases, where communication proves impossible, the immigration officer will call on the services of an interpreter." (UKVI, 2021)

No evidence is provided for the over-generalisation that the 'vast majority' of those entering the UK are able to communicate 'satisfactorily' with immigration officials, nor is it specified whether this statement relates to all overseas nationals (i.e., including those with passports and visas whose communication with immigration officials should be fairly short and straightforward) or specifically to those arriving to claim asylum. It is also noteworthy that UKVI policy is only to engage an interpreter 'where communication proves impossible', casting the interpreter as a kind of last resort, to be avoided if at all possible. If this policy is applied strictly, the potential exists for a great many people seeking asylum who either need or would prefer to communicate through an interpreter to be denied access to this service. If the applicant speaks some English and the UKVI officials consider that communication with them is therefore not impossible[19], they may be interviewed in English, an added stress for the applicant in an already stressful situation. In this case, there is a strong probability of misunderstandings and confusion taking place, which can have very severe consequences given the importance the Home Office places on the applicant's credibility when assessing their claim.

Official Home Office guidance for screening and substantive interviews is unclear in terms of the choice claimants have in terms of language. For the screening interview, it is stated that "where possible", an interpreter qualified in the claimant's preferred language should be engaged. However, if this is "impractical", the claimant should be asked if they can complete the screening interview in another language, with any difficulties being noted down by the interviewer (Home Office, 2022b: 57-58). It is easy to imagine someone feeling under pressure to conduct the interview in a language of which they may have good passive knowledge, but in which they are not accustomed to communicating, particularly in such a formal setting. Someone having to use a language they are not entirely comfortable with, added to the unfamiliar experience of communicating through an interpreter in a formal and stressful situation of an asylum interview, is clearly not a recipe for that individual having a fair opportunity to substantiate their asylum claim. This is particularly alarming given that evidence from screening interviews is regularly used in asylum appeal hearings (Fisher *et al.*, 2022: 27). Robert Gibb (2019) identifies this problem in asylum 'admissibility interviews' in France, the equivalent of the UK screening

[19] In some circumstances, UKVI can assume that entrants will have a command of English due to this being a requirement of visa applications. However, the right to seek asylum is not contingent upon visas and hence entrants to the UK cannot and should not be assumed to have any proficiency in English as a matter of course.

interview. He speaks of one particular case he observed in which an asylum claimant was interviewed at an airport, with the interviewing official 'testing out' three different telephone interpreters in different languages, one of which the claimant does not understand. The interview is also delayed several times due to several technical difficulties with the telephone interpreting. Clearly, relying on evidence collected at an interview held under such circumstances to determine someone's credibility as an asylum applicant is potentially problematic to say the least.

What is more, Home Office guidance on substantive interviews says that claimants may have their screening interview conducted through an interpreter in one language but express a preference to have the substantive interview conducted through an interpreter in their preferred language. However, it is stated that, if an interpreter cannot be found for that preferred language, an interpreter who speaks the language used at the screening interview must be "used [sic], "unless the claimant's command of the language is not good enough for the asylum interview" (Home Office, 2022c: 21). The main issue here is that interviewing someone through an interpreter in a language that is not their preferred one is highly questionable, given the huge emphasis placed on detail and consistency in terms of establishing a claimant's credibility (Fisher *et al.*, 2022). It would be bad enough to do this at the screening interview, but to then compound that error by engaging an interpreter for the same language in the substantive interview would be even worse. As for who is the judge of whether the claimant's command of the language is good enough for interview, no detail is provided. Even excluding the issue of interpreting altogether, some, such as Danstrøm and Whyte (2019), referring to the Danish asylum process, go as far as to say that an asylum seeker's narrative is portrayed and summarised a multitude of times throughout the asylum process, which can lead to it being rather unrecognisable to the asylum seeker themselves.

The Home Office interview guidelines for interpreters also reveal highly unrealistic expectations of interpreters, particularly bearing in mind that they are happy to hire interpreters who sometimes have no experience at all, with as few qualifications as a language 'assessment' by the police. The following are the most striking examples:

- Interpreters must retain every element of information that was contained in the original message and interpret in as close to verbatim as English allows – they cannot attempt to summarise what has been said and you must challenge them if they try to do this.

- interpreters must not show emotions - the only reactions they must express are those of the customer.

(Home Office, 2022c: 66-67)

Once again, what emerges here is an image of the interpreter as more a piece of translation machinery than a human being. People who may have no language qualifications, let alone interpreting ones, and potentially no experience at all of professional interpreting, are expected to 'retain every element of information'. Interestingly, the mention of 'verbatim' interpreting is in one direction only, into English, underplaying the importance of the questions put to the claimant being translated from English with precision.

Furthermore, interpreters are asked not to show emotions, to essentially behave like an inanimate object. There is not a single mention of debriefing or any procedure in place to look after the well-being of interpreters, the vast majority of whom will have no training in working with traumatised individuals. I would argue it would be entirely inappropriate for interpreters not to show emotions under certain circumstances. Showing basic human empathy is surely key to making someone feel comfortable enough to share potentially very harrowing details about what led them to claim asylum. Equally, the emotions which determine inquiry, and clarification are also required. Reference to the claimant as a 'customer' here also seems rather bizarre, as if anything it is the Home Office that is the customer purchasing the interpreting services.

An interpreter having qualifications and experience is, of course, not a cast-iron guarantee of successful communication. Even when an applicant does have access to a well-qualified, experienced interpreter in their preferred language, there are ample opportunities for confusion to arise in the asylum interview process. One such instance of confusion was referenced by an interpreter interviewee:

> "There was a case where somebody's initial application for asylum had been rejected because of a discrepancy in numbers, which then had turned out to be an interpreting error in the asylum interview. I listened to the recording and read through the transcript, and it was interpreter error." (Participant 1, interpreter)

Of course, it is not possible to simply attribute instances such as this to a lack of training or experience on the part of the interpreter; experienced interpreters can and do make mistakes, which are particularly common in the case of numbers. Certain numbers can sound extremely similar when said quickly or with certain intonation – sixteen and sixty, or thirteen and thirty in English, for example. Nevertheless, it is more likely that a qualified

or experienced interpreter who has been properly trained in consecutive notetaking will write numbers down and be sensitive to the possibility of confusion in such instances, ensuring to double-check numbers with the applicant.

Another factor to consider is the sheer length of some asylum interviews and the often less-than-ideal conditions in which they can take place. Participant 5, who claimed and was granted asylum within the past decade, said the following of their partner's screening interview, which took place in the airport shortly after their arrival:

> "It was two or three hours. it was very long I remember because we had Fatima; she was a baby and she was crying in my arms" (Participant 5, refugee)

According to Home Office guidelines, the initial screening interview is designed to establish the basis of the asylum claim, "without exploring the substantive detail" (Home Office, 2022b: 54), as well as collecting details on how the claimant arrived in the UK and any family members they have. One could be forgiven for thinking that this 'screening' process would not take between two and three hours as it did here. Those who claim asylum at a port of entry may be experiencing extreme fatigue from a very long journey as well as the stress of arrival in a completely new country, and, as in this case, may have young children who are likely to be even more distressed by the strange environment of an airport interview room. The two parents in this scenario were also interviewed separately, a practice which may add to the stress experienced by young children. It can be little surprise that misunderstandings and confusion can arise under such circumstances. Indeed, it would be perfectly understandable even if the applicants spoke English as a first language and we removed the added factor of the interpreter.

The length of the interview is undoubtedly a key factor for the quality of interpreting. Studies in the field of conference interpreting have established that quality in simultaneous interpreting begins to deteriorate quickly after around 30 minutes (see, e.g., Moser-Mercer *et al.*, 1998). Interpreters will likely not be performing simultaneous interpreting in asylum interviews, unless they are providing *chuchotage*[20] (whispered interpreting). However, it is reasonable to assume that, given the similar, if not identical, cognitive load represented by

[20] *Chuchotage* is a form of simultaneous interpreting which does not require any specific equipment or technology. In a court setting, the interpreter usually positions themselves slightly behind the client and whispers their interpretation to them, so it is audible only to them. It is an ideal interpreting mode for a single-person audience but can also be used for small groups.

consecutive interpreting, we cannot expect one single interpreter to be able to maintain a high standard of quality for an interview that lasts between two to three hours. This is particularly true if regular breaks are not implemented. In all, it seems that the UKVI faces two key issues in terms of interpreting in asylum interviews. The first is their recruitment process, which does not include any requirement in terms of the amount of experience the interpreter has and provides for the acceptance of somewhat vague qualifications such as a police assessment. The second issue is that I would argue the conditions in which asylum interviews are conducted make confusion and misunderstanding almost inevitable, with sometimes exceptionally long interviews taking place in a stressful and unwelcoming environment with potentially inexperienced and underqualified interpreters.

A general lack of policy and indeed training around interpreting within organisations outside of the formal asylum system that work with asylum seekers and refugees was also identified by participant 7, a training consultant who has worked with a range of public and private bodies:

> "…what I come across most frequently is that organisations who do need to use interpreters either on an irregular or a regular basis have a procedure for booking interpreters. They actually don't have a policy around interpreting or translation." (Participant 7, service provider)

> "…what I find is that they have a blind spot around interpreting particularly and that there is there's a really fundamental assumption that is made around interpreting and interpreters, that they are well trained to a high level, and I mean degree graduate level." (Participant 7, service provider)

These comments once again reveal a view of interpreting as a rather straightforward transaction, a delivery of a service in which the other actors are largely passive actors, or 'animators' in Goffman's terms (Goffman, 1981). Of course, though, for an interpreted interaction to function and for communication to successfully take place, all three parties, or usually four in the case of an asylum tribunal, have a key role to play. The two main parties to the interaction must have a clear idea of what the interpreter is there to do, and how to tackle any problems that may arise.

4.2.3 Interpreting in meetings with solicitors

Interpreting for private meetings between asylum applicants and their solicitors tends to be outsourced to a number of different LSPs. There are often no formal interpreting qualifications required to register as an interpreter with an LSP, with fluency in the given language often considered acceptable, especially for languages which are considered rare

(McKelvey, 2020: 117). Participant 9, who had been through the asylum system, remarked on the difference in quality between interpreters who had studied languages at university and one who had not:

> "She was “bilingual”, in inverted commas. She was Mexican but had grown up in the United States. But she hadn’t studied […] and I think that has a really big effect.” (Participant 9, refugee)

Solicitors should therefore be cognisant of the fact that because someone says they are bilingual does not mean they are skilled at translation and interpreting. One of their languages may be very passive, meaning that their comprehension is good, but they cannot express themselves with ease and nuance, something which is essential when assembling a case for an asylum appeal.

In addition, rather than lawyers using LSPs to source interpreters, casual employment arrangements between individual solicitors and interpreters can also be found. Take the following example from one interpreter interviewed for this project:

> “The head solicitor who I was working with quite liked me, I guess, because I had done three straight hours so they then asked if I could go on full-term directly with them rather than through an agency.” (Participant 1, interpreter)

The casual nature of this employment situation contrasts with the intensity of the work, both in terms of the hours worked and the subject matter of asylum claims. Participant 1 found themselves working practically as a full-time interpreter for this particular firm. They ended up taking on far more than an interpreting role, being given responsibility for scheduling appointments with clients using their personal mobile phone, giving clients direct access to them. They reflected that:

> “Again, at the time, I was just happy to be getting paid and to be working consistently but I think, in hindsight, that’s a big red flag.” (Participant 1, interpreter)

Indeed, public service or community interpreting can be a precarious profession, given the generally low rates and insecure employment it offers. Evidence suggests that interpreters are paid around £15 per hour on average, with some earning as little as £10 per hour[21]. Therefore, interpreters often find themselves having to accept several bookings per day, giving them a tight schedule. When there are inevitable delays and meetings and appointments overrun, it is easy to see how this can become stressful and difficult to manage for both the interpreters and those depending on them to communicate with clients. An offer of regular and relatively stable work could be very

[21] Figures taken from: ‘Average interpreter Hourly Pay in United Kingdom’ [online] Available at: https://www.payscale.com/research/UK/Job=Interpreter/Hourly_Rate (Accessed 05 January 2023).

appealing to a freelance interpreter, especially to a recent graduate looking to build up their experience, as was the case with participant 1. As Dahlvik (2019) notes, when public officials regularly hire the same interpreter, this has consequences in terms of creating the false impression that the interpreter and public official are colleagues within the same institution, calling into question the interpreter's impartiality. This is equally true for the kind of interpreter employment practices I found in solicitors' practices. This shows the importance of asylum claimants being aware of the fact that the interpreter is (or at least should be) an independent party.

The consequences of such informal arrangements proved very challenging for participant 1 to handle, placing them in potentially uncomfortable situations where they were being asked to go 'above and beyond' and take on a role which extended far beyond language support at the solicitor's firm. Once their personal contact details had been passed on to the client, they found themselves being contacted out of hours, as noted below:

> "I would get phone calls on a Friday night or on a weekend. I have had calls before and, if somebody's child was missing and the police were involved but they couldn't understand because the interpreter hadn't shown up and they didn't know what was going on, stuff like that, obviously, I would try to help. It reached the point where I was getting a call at midnight on a Saturday, I think that's one of the moments where I thought, no, actually, for my own sanity and my own mental health, this isn't on me." (Participant 1, interpreter)

When an interpreter finds themselves in this situation, where they feel compelled to essentially volunteer their services due to a personal connection with clients, there seems to be clear potential for the interpreter's well-being to be jeopardised and also for a conflict of interests. It is in the interpreter's interests financially to continue to benefit from regular employment, but to gain this they are being asked to take on extra (non-remunerated) work and expose themselves to being contacted outside working hours by clients, something which may compromise their impartiality.

It should be noted that not all instances of interpreters going 'above and beyond' are intrinsically negative or harmful, though. Interpreters working in the asylum system do tend to build up a reasonably extensive knowledge of how the system works and are often in a position to provide friendly advice on issues such as housing, employment and education, for example. This was mentioned by participant 10, who benefitted from an interpreter's help when seeking asylum:

> "An interpreter from the council helped us to get accommodation, even though it wasn't his job. He helped us to bid for permanent accommodation". (Participant 10, refugee)

The assistance provided by this interpreter to help this person negotiate the housing system corresponds to the 'caseworker' role interpreters took on in the SVPRS in Edinburgh, discussed in section 2.1.3. In cases such as this, the interpreter can provide advice and assistance during working hours with minimal incursion into their own private lives, explaining often complex procedures in the person's own preferred language, a highly valuable service. Of course, the problem remains that interpreters are not typically remunerated for such work and may simply not have the time to carry it out.

It is also not uncommon for an interpreter to become reasonably well known within a particular language community, something which immigration solicitors may try to exploit in order to attract more clients, effectively turning the interpreter into a kind of recruiting sergeant for those seeking asylum, as mentioned by participant 7 (personal communication, 04 July 2022). This is financially lucrative for the solicitor, as they stand to benefit from legal aid payments for every new client they represent, and it is in the interpreter's interests as well if they wish to continue having a stream of regular, stable work. They will also have a more or less fixed place of work, not having to dash from one appointment to another. The lack of governance around interpreting in this setting, particularly in comparison to the much more comprehensive guidelines around interpreting at the IAT, has the potential to cause severe problems for those seeking asylum and refuge.

To conclude, if interpreting errors are made in their asylum interview and in solicitor appointments, this can lead to their application being incorrectly rejected, wasting public money and forcing the applicant to go through a stressful appeal process which can take several months or even years. Given that the majority (51%) of appeals in the year up to June 2022 were allowed, a figure which is up from 29% in 2010 (Home Office, 2022a), it is reasonable to assume that there are several factors which are leading to incorrect decision making on initial asylum applications. We cannot say with any certainty that issues with interpreting quality are a key factor in this. However, based on the evidence available it seems worthwhile to implement higher standards for interpreters from the very beginning of the asylum process (particularly in screening and substantive interviews) in order to minimise the chance of cases going to appeal due to interpreting errors.

Chapter 5. Working with interpreters

5.1 Introduction

In this chapter, I will explore some of the key findings arising from this project in terms of how the different actors within the asylum system currently work with interpreters. In 5.2, I begin with an analysis of the limited official guidelines available to those seeking asylum, before looking at the far more abundant published advice for asylum appeal judges. We then move on to look at several specific issues arising from the participant observation conducted, interwoven with data from research interviews. Section 5.3 looks at the way judges confirm that appellants and interpreters understand each other at asylum appeal hearings. As will be shown, failure to do this successfully at an early stage can lead to much time and energy and many resources being wasted.

Related to this, section 5.4 looks in detail at the issue of dialect and the very real consequences a dialect mismatch can have for those seeking asylum and refuge, particularly in terms of their credibility. It should be noted that issues with dialect are highly relevant to the two subsequent sections as well. Section 5.5 is a case study on power relations in an asylum appeal hearing, drawing on a particularly complex case I observed (observation 15) which eventually had to be adjourned due to interpreting issues. Finally, section 5.6 is an analysis of the way legal submissions, which are the closing arguments of the legal representatives arguing for and against the appeal being allowed, are interpreted in asylum appeals. Particular attention is paid to the influence interpreters have on the way this part of the hearing is interpreted, and how their level of professional training may affect this. There is inevitably some overlap between sub-sections in terms of themes such as power relations and impartiality, though these are approached from different angles each time.

5.2 Official guidelines

5.2.1 Guidelines for those seeking asylum

In general, there is a lack of detailed published guidance available to the main parties involved in the asylum system in terms of how to interact with interpreters, though Home

Office interviewers and judges have access to far more information than asylum seekers, their solicitors, and other stakeholders. Without doubt, it is those seeking asylum who have least access to such guidance. The First-tier Immigration and Asylum Tribunal's user guide (which is aimed at appellants) confines its information on interpreters to the following short paragraph:

> "An interpreter will attend the hearing if the appellant has asked for one. They'll interpret what is said during the hearing so everyone can understand each other. Interpreters are independent of both sides. The interpreter should not be asked to translate documents. These should be translated and submitted before the hearing." (HMCTS, 2021).

This basic interpreter's job description offers no practical advice at all on how to communicate via an interpreter. The only advice related to interpreters in this user guide for appellants, the only freely available online version of which is in English, is that appellants should notify the tribunal if they require an interpreter. Angermeyer (2013) notes that when lay participants such as appellants have limited or no proficiency in official languages (English, in this case), "the power asymmetries that are inherent in institutional talk and evident in such interactional genres as cross-examinations or police interrogations, are reinforced and emphasized by the participants' disparate access to valued linguistic resources" (Angermeyer, 2013: 107). Despite the evident problem that someone who needs an interpreter may have difficulty navigating to the relevant web page and with reading and understanding this document in English, the lack of detail on interpretation is striking, particularly as this is likely to be the first time many appellants and witnesses have communicated via an interpreter in such a formal setting.

The interpreter is presented by HMCTS as an entirely uncomplicated solution for someone who is unable or would prefer not to address the tribunal in English. Instead of 'impartial', which seems to be the favoured terminology in most interpreter codes of conduct, the appellant is told the interpreter is 'independent'. Again, this is a term that is open to question. The interpreter is independent in the sense they are not employed by either of the two parties in the asylum appeal and they are not an official employee of the tribunal. However, it could be said they are indirectly employed by the tribunal through the MoJ's language services contract. It could be argued it is in interpreters' financial interest for people to continually be refused asylum and for many appeal hearings to be held, providing a fairly constant supply of work. Then again, the MoJ and the tribunal would likely be seen by most as 'independent' arbiters themselves, with responsibility for the asylum process and asylum policy lying with the Home Office. One particular comment

made by a judge when faced with an extremely anxious appellant seemed to assert the independence of the tribunal, even painting it as rather benevolent:

J[22] asks A if he needs a break before they take his evidence. A replies that he is okay to proceed but his "heart is racing". J to A: "I can see that you're nervous, but we're here to assist."	HOPO certainly is not there to assist. He is there to try to get A deported to a country he claims he isn't from. This veneer of being "there to assist" is a false one.[23]
J decides to take a 5-minute break before A's evidence.	

Observation 19

The interesting part about the judge's remark that "we're here to assist" is who exactly 'we' refers to. The HOPO is certainly not there to assist, as they are arguing strongly against their asylum claim. The appellant's solicitor is clearly there to assist, but the judge is, of course, independent, and we are told the interpreter is as well. The interpreter has also signed up to a code of conduct stating they must remain 'impartial', an issue problematised in section 6.2. By 'assist', it is likely the judge does not mean that she and others are there to help the appellant achieve refugee status, but to help them have a fair hearing. Her granting of a five-minute break to allow the appellant to steady their nerves before giving evidence is an example of the "small acts of courtesy" that remind other participants that the appellant is worthy of respect (Gill *et al.,* 2016: 20). I also observed interpreters performing such acts of courtesy, as in the following example:

13.27 – IR: "may I ask A if he is okay?", when discussing A's relationship with a deceased family member.	IR clearly showing compassion and concern for A's well-being, in a proactive way. Is this actually overstepping the mark?

Observation 14

As noted on the right above, it may be argued by some that an interpreter, or indeed a judge, asking such a question undermines their 'independence' or 'impartiality' in a strict sense. It may give the appellant the impression that the interpreter is there to help them, or that they are 'on their side', when in reality they are simply there to do a job. However, showing empathy to someone who is clearly in distress is an innate human quality, and to expect a stony-faced response in both situations above could equally create the impression that the judge and interpreter respectively are hostile to the appellant. Therefore, in response to the question posed in my field notes above, I would

[22] Key to abbreviations: A – Appellant; ADV – Advocate (only relevant in cases observed that took place in Northern Ireland); HOPO – Home Office Presenting Officer; IR – Interpreter; J – Judge; S – Solicitor for the appellant.

[23] Note: Observation field notes are laid out in two columns, the idea being that general notes on the events observed are on the left, with more reflexive notes and comments in the right-hand column.

say the interpreter does not overstep the mark here in terms of impartiality. How to react in this situation is a personal judgement call for the individual involved.

Some people with direct experience of the asylum system who were interviewed for this study reported an almost complete lack of guidance, written or verbal, in terms of how to communicate through an interpreter across the various settings of the asylum process. Although this did not present many serious problems initially, being left to one's own devices to negotiate such an unfamiliar situation can cause confusion and lead to some potentially awkward predicaments. The following interview extract begins with a description of participant 6's initial screening interview upon arrival in the UK, and outlines his experiences with interpretation throughout the asylum process:

> [...they [the immigration officer] just put the phone on speaker mode and said the person who was going to translate for us was already on the line. The interpreter introduced themselves, they told me they were going to do, to interpret the conversation, they told me their name, they asked me mine, it was fine. And, but the immigration officer never told me 'you have to do this or you have to do that', actually. Then, we didn't ask them any questions either, but we were too nervous to feel like asking questions. Then, likewise, throughout the process, with the solicitors as well, they never once told me 'look, you have to maintain these boundaries with the interpreter' or 'you can't overstep this mark'. Because, during a particular interview at the tribunal I exchanged words with the interpreter, had a chat with him. Then, when the judge asked him, or rather told him, to speak to me to see if we understood each other in Spanish, he told her he had already chatted to me. She asked him why he had done so, and told him he shouldn't have, that it wasn't ethical. So, I didn't know that, because nobody had ever told me 'look, you can't do this', or 'you *can* do this'. So, it was a bit uncomfortable...] (Participant 6, refugee, my translation)

What comes through in this extract is a sense of just how hands-off an approach there is in terms of advising those seeking asylum on how best to work with interpreters, from the very moment they arrive in the country right through until they appear at any potential appeal hearing. Like participant 6, many people seeking asylum will not have previous experience of working with an interpreter. Having to do so over the phone, as was the case in participant 6's screening interview, is an added complication, depriving both the interpreter and the other parties of the rich resources of gesture, facial expression and body language. Indeed, participant 6 pointed out that the interpreter not being physically present added to their unease.

The specific comment made by the judge around the interpreter's chat with participant 6 is also significant. It is relatively common for interpreters to have a brief conversation with clients before appointments, as this allows any initial, obvious issues in terms of

language or dialect to be raised immediately. At the IAT, in almost every case I observed, the interpreter and appellant were in the room together for several minutes before the judge arrived. For the interpreter not to engage with the appellant at all in such circumstances, not even to introduce themselves, could be interpreted as a lack of respect, particularly in certain cultures where professional boundaries are understood differently to in the UK. For the judge to reprimand the interpreter publicly in this way, when no mention is made in their published guidelines of such a requirement for there to be no interaction between them and the appellant before the hearing begins (see Judicial College, 2021), is likely to cause a great deal of added stress to the appellant, as was the case here. A combination of a judge's personal interpretation (I would argue an erroneous one) of what constitutes ethical behaviour from an interpreter prior to the hearing, and the absence of any information available to the appellant that would lead them to be even remotely cautious in their interactions with the interpreter, led on this occasion to entirely avoidable tension.

5.2.2 Guidelines for first-tier tribunal judges

Official guidance is published for first-tier tribunal judges in terms of how to handle an interpreted hearing; this is included in a lengthy document called The Equal Treatment Bench Book[25] (Judicial College, 2021). This book supplies judges with highly detailed information and guidance on how to conduct hearings with litigants who could be marginalised for a whole variety of reasons, including age, physical and mental disability, gender, race, cultural and ethnic differences, religion and sexual orientation. It also includes a great deal of guidance on conducting hearings remotely, including a specific section on doing so when an interpreter is required. The word 'interpreter(s)' is used 186 times in the document, giving an idea of the substantial attention paid to the issue. In essence, the guidelines make it clear that the judge is the actor responsible for handling the practical aspects of how interpretation is conducted in their courtroom and ensuring a 'fair' hearing. In particular, it is stressed that, although the judge has no part in determining the need for an interpreter or booking one prior to the hearing, it is their responsibility to intervene if they feel one is needed:

[25] It should be noted that this document is not specific to asylum proceedings and covers treatment of litigants in England and Wales. There is a separate Equal Treatment Bench Book for judges in Scotland, it being a distinct legal jurisdiction. Reference is made in this thesis to both these documents, although strong emphasis has been placed on the England and Wales version as this is the "first port of call" for all UK asylum judges (personal communication, 09 January 2023).

> "Situations may arise where the judge has to take a proactive role, and make some effort to clarify and resolve the extent of any language difficulty faced by a witness. It is part of the judge's function to check everyone understands each other so as to ensure a fair hearing. If a judge hearing a case considers that an interpreter is required, an adjournment should be granted for that purpose." (Judicial College, 2021: 230-231)

The requirement for the judge to ensure the interpreter and the witness understand each other does not come with specific guidelines on how this is best done, which leads to a variety of approaches, which is the subject of section 5.3 below. It is clear that the issue of interpretation is taken very seriously, with the guidelines going on to state that particular consideration should be given to factors such as the matching of dialect between the interpreter and the witness (or appellant in the case of an asylum appeal). It is also noted that witnesses may feel a degree of pressure to proceed in English, even when a substantial loss of understanding is taking place.

The Equal Treatment Bench Book includes a specific section on 'How to communicate through an interpreter', containing five key pieces of advice which are summarised below:

1. Address the witness directly, using 'I' and 'you', looking at them rather than the interpreter.
2. Slow the pace of your speech to match that of the interpreter.
3. Pause after every 2-3 sentences, ensuring not to pause in the middle of a sentence.
4. Do not tell the interpreter not to translate an aside or something you consider unimportant.
5. Intervene to restore order if several parties start speaking at once as this makes interpretation impossible.
   (For the full version, see Judicial College, 2021: 232)

Across the 20 hearings I observed for this project, there was substantial variation as to the extent to which judges followed the guidelines above. The first variation pertains to the first guideline above; I found it was quite common for the judge to address the interpreter rather than the appellant, as can be observed below:

J to IR: "what was his answer, when?"	J circumvents A here and directly addresses IR.

(Observation 4)

J to IR: "A is smiling, can we check if she is amused or puzzled by something?"	Quite an awkward moment.
J to IR: "there's nothing that's concerning her?" IR answers "No" on A's behalf to this, based on his previous exchange with her.	IR should really have put this question to A.

(Observation 13)

What we see above are two different scenarios in which it may be tempting for judges to circumvent the appellant and instead address the interpreter. In the first example, the judge is simply seeking clarification. This is either down to difficulty hearing the interpreter or understanding their latest utterance in English. Rather than directly addressing the

interpreter and referring to the appellant as 'him', it would be best practice for the judge to state to the court that they are going to ask the interpreter to repeat their last utterance, thus ensuring all parties in the hearing are aware of what is happening. If the judge has heard but not understood the utterance, best practice would be to address the appellant directly, asking them to answer the question again or to rephrase their answer.

The second example from observation 13 is drawn from a more complex situation in which the appellant was being treated as a vulnerable witness. The judge in this case clearly thought the appellant's demeanour to be unusual, and instead of addressing them directly, she uses two different strategies: an impersonal "can we ask her" (the 'we' here is strange as the only person who can ask her anything in her own language is the interpreter), and a direct question to the interpreter in the second instance. Highlighting such instances may seem somewhat pedantic, but the principle behind this is important, and there is a reason judges are instructed to directly address witnesses. Circumventing the appellant leads to the creation of a 'cold atmosphere' (Gill *et al.*, 2021: 68) in which the appellant can feel excluded, intimidated or disrespected, which may lead to them losing trust in and disengaging with the judicial system.

Loss of trust and disengagement with the legal system can also happen as a result of instances where the judge instructs the interpreter not to translate something. Requests for the interpreter not to translate were something I observed a lot during the procedural stages of the appeal hearing, such as the judge telling the interpreter there was no need to interpret the case number (observation 13) or saying to the interpreter "you don't need to interpret this" (observation 17) when having a discussion with the two legal representatives about a procedural point before the HOPO's cross-examination. Conversely, there was also an example of good practice in observation 1, when the judge reminded the interpreter to translate the question they had asked them as to whether they had understood the appellant. Judges were generally very cognisant of the need for all parties, including themselves, to speak at a reduced pace and to pause more frequently for the benefit of the interpreter. They intervened numerous times to remind parties of this need:

J reminds S to "leave space for madam interpreter".	This J is going out of his way to show respect for IR and her work.

Observation 3

J tells S to "go a bit slower".	

Observation 4

IR appears to attempt quasi-chuchotage when HOPO begins cross-examination. J asks HOPO to slow down for IR. IR then reverts to short consecutive.	I've noticed this quasi-chuchotage a few times, but it doesn't usually last for long, and may be seen as disruptive by J here?

Observation 7

The first two cases here are examples of judges showing respect and understanding of the challenges the interpreter faces, with the judge in observation 3 using the honorific 'madam' to underline this sense of respect. In the third example, the HOPO had just begun cross-examining the appellant, and the interpreter was attempting simultaneous whispered interpreting, or *chuchotage*. However, they were clearly audible to all parties, overlapping with the HOPO's speech. The judge here perceived the interpreter to be struggling to keep up with the HOPO and requested the latter to speak more slowly. The HOPO did exactly that and started to leave longer, more obvious pauses for the interpreter to work in. The initial confusion here could have been avoided if the judge had simply confirmed the mode of interpreting they wished to be employed before the hearing began, although it is important to recognise that they solved the issue very efficiently in this case.

The Equal Treatment Bench Book also attends to the issue of translation difficulties, offering judges some key points in relation to language of which to be aware during interpreted hearings. Judges are asked, for example, to be extremely clear with numbers and figures and to explain acronyms, as well as to avoid legal jargon if possible or to explain it in 'plain' English. Words such as 'adjourn', 'hearsay' and 'burden of proof' are given as examples of terms which could prove troublesome for interpreters (Judicial College, 2021: 232). In a similar vein, the following guideline is relevant to several hearings I observed:

> "Many words in English do not have exact single-term equivalents in many other languages: these include words for culturally varying concepts such as 'fair', 'reasonable', 'evidence', 'impartial', 'commitment', 'bias', 'compromise', 'mediation', 'depression', 'opportunity', 'efficiency', 'liability'. As a result, an interpreter may need to use longer phrases or sentences to convey the speaker's full meaning across a cultural divide" (Judicial College, 2021: 233)

In spite of this very clear information, a number of comments made by judges reflected a conceptualisation of interpreting as an exercise in mechanistic, 'word-for-word' translation, something Good (2011) suggests is a prevalent fiction in the legal world:

IR has bother understanding the term 'gist', but J explains it and he indicates he has done this before for submissions. J: "you don't have to summarise it word for word"	Contradiction in terms from J?

(Observation 13)

J to IR "every single word matters in this tribunal." She says she needs "word-for-word interpreting".	There is no such thing.
J: "I'm very conscious every word has to be right".	Reveals an assumption of absolute equivalence, which is inaccurate.

(Observation 15)

In the first case here, the judge informs the interpreter he only needs to summarise the submissions part of the hearing to the appellant and implies that he needn't do so 'word for word'. Apart from a 'word-for-word' summary appearing to be somewhat of an oxymoron, it also implies the interpreter has been acting as a verbatim 'animator' in Goffman's terms (Goffman, 1981). The second example comes from a situation where the interpreter's credibility had been called into question after seeming to give translations of the appellant's answers that were much shorter than the original utterance. The judge here states the importance of every word being 'right', implying the existence of one correct translation for each individual word spoken by the appellant. This, again, is clearly not the case. On another occasion, an interpreter provided a very concise but highly insightful response to a judge in a similar situation to those outlined above:

J to IR: "are you translating it word-for-word?". IR: "No, sentence by sentence".	IR's comments are revealing here. Of course, there is no such thing as a word-for-word translation, but he is forced to dance round this notion.

(Observation 17)

This reply from the interpreter seems very simple at first sight. However, in reality, it rather ingeniously encapsulates the key difference between the mechanistic conception of 'word-for-word' interpreting and the reality of the multifaceted task it actually is, including active listening, processing, analysis and finally speech production. The interpreter indicates here that his unit of work is not the word, but the phrase or sentence. Interpreters, indeed, often say they work at the level of ideas rather than words (Llewellyn Smith, 2022), meaning that even if certain words are unfamiliar, the meaning can still be followed and transmitted.

Indeed, it is not just procedural or linguistic issues that are important.

As recognised in the Equal Treatment Bench Book, anyone who is providing a service to someone in the asylum system should also be aware of culturally sensitive issues within certain communities. One such issue is mentioned in advice to judges in relation to the Roma community in the statement that "there is concern that information is not interpreted correctly and some report discrimination from interpreters" (Judicial College, 2021: 219). Participant 7, who has decades of experience working with organisations that support

asylum seekers and refugees, also identified the potential for tension between the interpreter and the client due to differences in ethnicity or caste:

> "I mean, you know, I've heard a lot of Afghans talking, you know, Pashto and Dari speakers talk about the Hazaras as if they are the scum of the earth. And if a Hazara person gets a Dari or a Pashto interpreter, they might speak those languages, but the whole attitude of the interpreter informs the whole thing." (Participant 7, service provider)

It should firstly be noted that this statement is highly generalised and will be unrepresentative of many interpreters who work with Pashto and Dari. Rather than being a slight on any individual interpreter, what it aims to illustrate is a lack of awareness of these kinds of ethnic tensions that could potentially come to the fore, especially when someone could be claiming asylum due to persecution based on their ethnicity or race. Official guidelines, resources or training relating to such issues for people who interact on a professional basis with refugees and asylum seekers through interpreters is very scarce.

However, as is often the case, the third sector has made efforts to plug the gap, with the Scottish Refugee Council offering a 'working with interpreters' training course. This course emphasises the need for those providing public services to take responsibility for managing interpreted interactions and to be sensitive to any potential for tension between the service user and the interpreter. Failure to recognise the possibility that, under certain circumstances, the interpreter may behave in a way that is hostile to or undermines the service user has clear repercussions in terms of ensuring fair access to public services for those seeking asylum and particular consequences for their access to justice.

5.3 Confirming mutual comprehension

A crucial step at the beginning of any interpreted interaction is to check whether the client and the interpreter actually speak the same language and understand each other. One could imagine this to be a rather simple formality, with any problems being immediately identified and steps taken to address them. However, the reality is more complex and, once again, depends on the context in which the interpreting is taking place. In public service interpreting, checking comprehension is usually left up to the interpreter, either before or at the beginning of the interpreted event, with no formal mechanism usually in place to check this is the case. The responsibility is therefore placed on the interpreter to raise any issues with the service provider. It can be argued this is an ethical issue, as some interpreters may not wish to admit they cannot understand the client, either out of embarrassment or simply because they do not wish to lose the fee for that job. As already established, employment

for public sector interpreters is highly precarious, and some interpreters can ill afford to lose an hour's pay.

In a court or tribunal setting, however, there is a legal duty on the court to ensure that the appellant understands the interpreter. This is reflected in the Equal Treatment Bench Book, which states that judges must "ensure that the interpreter speaks the correct dialect of the language in question and that the witness and interpreter can communicate properly" (Judicial College, 2021: 231). Therefore, in asylum appeal hearings, the judge will typically make an attempt to confirm comprehension between the appellant and the interpreter at the start of the hearing. From my observations, very few judges made any mention of dialect unless it appeared to become a problem in the course of the hearing. What is noteworthy, though, is that the way judges initially checked mutual comprehension varied widely. Some simply asked the appellant if they understood the interpreter, while others asked the appellant a question that they seemed to have designed in order to verify comprehension. Below are some examples, with subsequent discussion.

> 10.44 –- J arrives and introduces himself. IR interprets this, and J asks if A and IR understand each other. IR says they do.

Observation 11

What is notable here is the passive construction the judge uses to ask this question. They don't address the appellant or the interpreter directly, whereas according to the published guidance they should address the appellant (Judicial College, 2021: 232). Ultimately, the interpreter is the only one of the two parties who understood this question, and to an extent the judge had to rely on their honesty. It is, though, likely that any issues with comprehension will be picked up through the appellant's body language and other non-verbal cues as well. It could be argued that the interpreter has all the power in this situation, as they could downplay any concerns the appellant raises. It may have been more useful for the judge to ask the same question to both the appellant and the interpreter separately.

The specific terms used by the judge when formulating the question as to whether the appellant and interpreter understand each other and the way the interpreter renders these are also potentially significant. The following example is unique in that it was the only time across my 20 observations when I had a reasonable grasp of the target language, in this case, French:

J asks A if he is "content with the interpretation services". IR translates this into French as "can you understand?". There is a clear shift in meaning here.	Not only is this rather early to ask such a question, but is A really going to say no in this situation? If they did, what would happen?

Observation 2

The judge here asks whether the appellant is 'content with the interpretation services'. To respond 'no' in this specific question would represent a far greater threat to the face of the interpreter than answering 'no' to the question actually asked in French by the interpreter–- '*vous pouvez comprendre?* [can you understand]?' Again, asking the appellant so early in the hearing, when they are still getting used to the setting and the interpreter's speech, whether they are 'content' with the interpreting services may not be the best approach. The appellant and the interpreter understanding each other and the appellant being 'content' with the interpreting services are also potentially two quite different things. They may understand each other perfectly, but the interpreter may have arrived late and made a poor first impression on the appellant. The latter is probably not the judge's concern when asking if the appellant is 'content'. It should also be noted that appellants regularly wait several months for their asylum appeal to be listed and heard, and in the period between their initial claim being rejected and the appeal decision they are unable to work. Hence, it is clearly in the appellant's interest to have the appeal heard as soon as possible. This may lead them to proceed with an interpreter with whom they are not entirely comfortable.

Another common phenomenon when judges are checking mutual comprehension is for them to address only the interpreter, bypassing the appellant entirely:

J asks IR to confirm her name and asks her if she has had a chance to speak to A to confirm the understand each other. IR replies they have had only a very brief chat, so J asks IR to have a further conversation with A. IR reports they understand each other.	J does not confirm that they both speak the same language or dialect, only that they "understand each other."

Observation 10

Here, the judge asks the interpreter to have a further conversation with the appellant in order to confirm they understand each other, rather than giving the appellant the chance to raise any concerns they have. This could be down to the judge viewing the interpreter as something of an expert in their field, but it does immediately cut the appellant out of direct dialogue with the tribunal, highlighting the high degree of power the interpreter can have in this setting. Additionally, it is worth noting that what is being checked at this stage is not

whether the interpreter speaks the appellant's preferred language, but simply whether they understand one another.

Understanding a language is potentially very different from being comfortable using it to express yourself in a courtroom when your asylum claim is being scrutinised. This is especially relevant as it is well known that there are particular tendencies for interpreters to modify certain forms of speech which are very common in the courtroom. A key authority on court interpreting, Berk-Seligson (1999) found that Spanish court interpreters systematically tended to weaken the force of coercive questions asked by attorneys, for example by omitting question tags (e.g., 'didn't you?', or 'isn't that so?'), severely undermining the pragmatic force of the question. If we are told that every single word matters in the courtroom, something like the omission of a question tag could lead to the appellant not realising this is a key point where their account of events is being robustly challenged, leading to them failing to provide sufficient information to rebut a certain interpretation of events.

Some interpreters also have a tendency to tone down or even omit certain features of speech, such as offensive language, as noted by Hale *et al.* (2020) in the context of police interviews. If this were to happen in court, again it could significantly impact on the illocutionary force of an appellant's or witness' testimony. Maryns (2013) has also discussed how a perceived lack of emotion or descriptive detail from a witness, particularly in the context of sexual assault survivors, can undermine their credibility (Maryns, 2013: 681). It is therefore crucial that an interpreter at an asylum tribunal is capable of rendering certain subtleties of expression into the official language of the court, hence the importance of ensuring solid comprehension between the interpreter and the appellant.

5.4 Issues with dialect

In this section I will attend to the matter of dialects and the fact that there is poor understanding in practice of how dialect can impact on interpreting. This is an issue that crops up in several sections of this thesis, notably section 5.5, but it is important to dedicate some space here to the underlying principles at hand. In basic terms, two people who speak the same language may be happy to declare before a judge or official that they

understand each other, but their different dialects may make this tricky at key moments. This is particularly significant in view of the fact that the Home Office pores over every single word of an applicant's evidence (Fisher *et al.*, 2022), purposely looking for any tiny inconsistency in a claimant's account of their fears. Take the following comment from an Arabic interpreter, discussing the difference between the dialects spoken in Morocco and Egypt:

> "You could use an expression in Egypt when if used to a Moroccan you may be killed because it's really offensive. Most important, anyone has the right to get an interpreter from his same accent or same nationality because it's not just Arabic, it's not just English." (Participant 3, interpreter/refugee)

Similar comprehension difficulties between different Arabic dialects were also referenced by participant 10:

> ""It's very difficult for me as a Syrian to understand people from North Africa [when they speak Arabic]." (Participant 10, refugee)

Participant 3 went on to give a concrete example in which a dialect mismatch could have caused major issues for an asylum seeker, related to the different terminology used to describe the secret police in two Arabic-speaking states:

> "For example, someone, a friend, he used a word or a term for secret police. In our country it's called state security. The interpreter had the same secret police, but in his country, in Iraq, it's called intelligence, [but] not as they know [the intelligence services] here. The Home Office has its own guidelines for every single country. They know too much about every single country. They know exactly what's in Egypt.
>
> In Egypt, intelligence is military. It doesn't have anything to do with [the secret police]- yes, they do now but the basic, the essential one or the main one who is dealing with politicians, protests and this kind is the state security or the national security, the secret police." (Participant 3, interpreter/refugee)

This is a case where the interpreter and claimant speaking two different dialects can create the impression of a clear inconsistency in the claimant's account of events, with the interpreter suggesting the claimant was being pursued by the military rather than the secret police force. It is likely the interpreter simply lacked sufficient knowledge of the Egyptian system and used the terms with which they were most familiar from their own country's forces. But this potentially innocent mistake could have had grave consequences for the claimant, whose credibility would likely be questioned, leading to their claim being rejected. One can therefore imagine the potential for errors like this being compounded when you consider that it is very normal for several interpreters, who are unlikely to all share the same nationality and dialect, either with the claimant or with each other, to work on the different stages of an asylum application. This is because interpreting services for the various stages of the process (screening and substantive interviews, solicitor meetings and tribunal hearings) are all provided through different procedures and by different LSPs, as detailed in section 4.2.

The potential for apparent inconsistencies like the one above, which are simply down to a slightly different use of terminology between two nations that share an official language, is considerable. This is especially true when we bear in mind that the aims behind retelling the story and the focus within them is constantly shifting. Grieshofer offers the following illustration of this shifting of aims:

> "…appellants have minimal control over the topics (these are defined by interviewer or adjudicators) or the final framing of their narratives (defined by an interpreter and recorded by an interviewer). Furthermore, the appellants' disempowered institutional position does not encourage them to take interactional space and raise communication-related issues." (Grieshofer, 2022: 7)

Hence, appellants must continually adapt their narrative to the situation at hand, over which they have minimal control. When we add an applicant-interpreter dialect mismatch to this already precarious dynamic, I would argue that it would be very fortuitous if interpreting issues were avoided.

5.5 Recognising problems with interpreting: the case of Tetun

Failure to identify complications related to interpreting early in a hearing or interview can lead to a significant waste of time and resources. More importantly, it can cause additional stress and hardship for the applicant or appellant. Focusing on the IAT for now, if an appeal is adjourned, appellants may have to live for several more months, or even years, 'in limbo' (Phipps, 2019: 46), trying to survive on £40.85 per week (if they are lucky), without the right to take up employment or access to public funds. Therefore, it is important to consider which party or parties have the power to decide if and when dialect, or comprehension in general, is a problem, and when this may require a hearing to be adjourned or even abandoned. I observed a particularly fascinating hearing which contained a number of complications in this respect. The hearing took place in Belfast, with all intervening parties present there in the courtroom except the HOPO, who was appearing remotely from Scotland. A clerk in Scotland was also managing the virtual platform to facilitate the HOPO's appearance.

The appellant in this case spoke a language called Tetun (sometimes written 'Tetum'), an Austronesian language spoken on the island of Timor in Southeast Asia. It is the official language of Timor-Leste (East Timor), and has two main dialects: Tetun-Terik, generally considered to be a more indigenous dialect, and Tetun-Prasa (also known as Tetun-Dili),

which contains a considerable number of Portuguese-origin words, developed as it was under Portuguese colonial rule[26]. The word '*prasa*' in Tetun-Prasa comes from the Portuguese word *praça*, meaning 'town square', hinting at its use to communicate with Portuguese traders in the town markets of the 18th and 19th centuries. There are numerous other dialects of the language, as well as several other languages spoken on the island. Without having any of this background knowledge prior to the hearing, I noted the following a few minutes into observing it:

I notice I can understand some of the language being used and wonder if it's actually Portuguese being spoken. However, it is clarified that it is Tetun (Tetum), an official language of East Timor. The IR's speech is heavily inflected by Portuguese, and though A hasn't said much yet, his speech seems to also contain elements of Portuguese, for example he responds "*sim*" (yes) to some questions.

Observation 15

In retrospect, it seems reasonable to deduce that the interpreter in this case may have been speaking the Tetun-Dili/Tetun Prasa dialect, inflected as it is with Portuguese vocabulary, leading to my slight confusion at being able to pick up a few words based on my knowledge of that language. I had unfortunately missed the very beginning of this hearing due to some technical issues with the CVP platform, so I was unable to observe the judge checking mutual comprehension between the appellant and the interpreter. Whatever the case, it became clear rather quickly that the appellant was having trouble understanding the interpreter, as they failed to provide answers to very simple questions (see example below). To add to the appellant-interpreter dialect mismatch, there was the further complication that the HOPO was appearing remotely from Scotland. They spoke with an accent that was markedly different from the rest of the anglophone parties in the courtroom, and their sound quality was also an issue at several points, to the extent that the judge had to ask them to repeat themselves on a number of occasions. The HOPO was using a pair of standard MP3 player earphones with an inbuilt microphone, which may go some way to explaining the poor sound quality. The situation descended into a complete breakdown in communication, as can be observed from the following fieldnotes extract:

10.36–- HOPO raises concerns over whether IR and A understand each other, or whether IR can hear his questions properly. The questions are very basic at this stage, e.g., "who did you live with in East Timor?"	It is interesting that it is the HOPO who raises this concern rather than A's solicitor.

[26] East Timor gained its independence from Portugal in 1975, after which it was invaded and annexed by Indonesia. Resistance continued, and the Indonesians relinquished control of the island in 1999. Timor-Leste was officially recognised as an independent sovereign state by the UN on 20 May 2002.

ADV[27] remarks that he knows IR "needs shorter sentences" based on his interaction with him outside the courtroom.	At this stage it doesn't appear to me there is a problem with IR, and the issues are more likely to be down to extremely poor sound quality of HOPO.
J says that HOPO's sound is 'fuzzy', but that it isn't interfering with IR's ability to hear the questions.	Interesting that she makes this judgement. It might not be affecting J's ability, but she is a native speaker of English. HOPO also has a clearly different accent (Scottish), which won't aid comprehension.
HOPO repeats the same simple question "who did you live with in East Timor?" many times, and IR seems to fail to illicit a clear answer from A. The last time HOPO asks it, IR merely turns to A and says "*comprende*?" (do you understand?)	There is clearly an issue here. A trained IR would never behave in this way.

(Observation 15)

As can be seen, there is certainly more than just a dialect mismatch between the appellant and interpreter at play here. There are a number of factors which are making it very difficult for the hearing to proceed in a coherent manner, leading to a complete breakdown in communication. As Hambly (2019) notes, this rather chaotic quality to UK asylum appeal hearings has been widely remarked upon by academic observers, practitioners and non-governmental organisations. Firstly, the advocate's remark that he is aware the interpreter "needs shorter sentences" after having a conversation with him prior to the hearing is revealing. Indeed, the interpreter appeared to be rather nervous and behaved in an agitated and hyperactive manner throughout the proceedings. He appeared unfamiliar with the setting of the tribunal and, as can be seen in the final row of the above extract from my fieldnotes, he showed a lack of professionalism which is indicative of a lack of training by simply turning to the appellant at this point and asking them directly whether they understood the judge's question. This is very poor practice, as the interpreter addressed the appellant directly without informing the court he was doing so.

Overall, this case presented a perfect storm of complications: an interpreter whose behaviour was inappropriate for the courtroom, a mismatch between the dialects of the appellant and the interpreter, and a HOPO with a different accent appearing remotely with extremely poor sound quality. Toxic sound and poor lip synchronisation, both of which were factors present in this case, have been identified as key factors that make remote

[27] The Advocate (ADV) mentioned here is the main legal official representing the appellant here, as is typical in asylum hearings held in Northern Ireland. In Scotland, the appellant is defended by a solicitor who has usually been involved in preparing the appellant's case. This is usually not the case in England and Wales, where a barrister usually defends the appellant at the tribunal (Gill *et al.*, 2021: 66). The role of an advocate in this asylum appeal is similar to that of a barrister.

interpreting more problematic than face-to-face interpreting (Grieshofer, 2022: 3). In this case, not only was the HOPO using a basic microphone built into a set of earphones, but the interpreter also only had access to the audio output from the courtroom speakers. Under normal remote interpreting circumstances, the interpreter would have access to a quality headset. Despite the fact there was a comprehension problem becoming clear relatively early in the hearing, proceedings went on for well over an hour before they had to be abandoned[28]. The judge, as can be seen above, was happy to speak on the interpreter's behalf, indicating that the HOPO's poor sound quality was not a significant impediment, and not acknowledging any potential difficulty for the interpreter in understanding the different accents of the English-speaking parties.

To some extent, the judge in this case used their power to quash the interpreter's ability to raise concerns. Nevertheless, it is important to note that, although the judge is by far the most powerful figure in the room in an asylum appeal hearing, their power alone cannot force a hearing to continue if there are major issues with the interpreter. This underscores just how much power and responsibility the interpreter has in this environment. The appellant, for their part, was asked if they were having difficulty understanding the interpreter a number of times, but appeared rather embarrassed and uncomfortable, replying that they "understood the language and the interpreter, but not the questions". The judge eventually decides to pause the hearing to see if another Tetun interpreter can be sourced.

A number of interesting things happened after this point. Firstly, the clerk, evidently searching for a new interpreter, asked the appellant's legal team if the appellant spoke Portuguese, which they said they did not. Therefore, as soon as interpreting seems not to have been successful in the appellant's preferred language, the first instinct here was to attempt to revert to a colonial language. This reflects the fact that the guidelines do not state that appellants are guaranteed access to an interpreter in their preferred language, though in practice every effort appears to be made to ensure this is the case. During the pause in this hearing, the advocate had a conversation with the appellant and interpreter and made some interesting comments when the hearing resumed. It seems that the

[28] This eagerness to proceed with a hearing in less-than-ideal conditions may arise from a desire not to add to an already huge backlog of asylum cases, with a 66% increase in people awaiting an initial decision from the Home Office between June 2021 and June 2022, costing the taxpayer a record £2 billion per year (ECRE, 2022).

appellant did have difficulty understanding the interpreter, but felt unable to raise the problem more assertively due to the highly formal and potentially intimidating atmosphere of the tribunal, as shown below:

ADV says A can see IR is not translating accurately from English to Tetun. He says A and IR are both in an "agitated state". He describes IR as a "bit scrambled, perhaps".	
J returns at 11.36. ADV reveals A does in fact have concerns over IR. He suggests the "formal atmosphere" of the tribunal perhaps prevented A from raising this with J during the hearing.	Fascinating. Even though J tells A to raise problems doesn't mean they will feel able to do so, especially when IR is right beside him.

(Observation 15)

This situation highlights the possibility that an appellant may feel too overwhelmed by the formality and the physical setting of the courtroom to feel able to raise concerns, even when it is clear that a problem has arisen with the interpreter, like in this case. The positioning of the interpreter right next to the appellant is something also highlighted in my notes. It would be difficult for most people to raise concerns over a service being provided by a professional standing right next to them, let alone in such an unfamiliar and ceremonial situation where your life and future are on the line. The advocate confirmed that the appellant felt too intimidated by the tribunal setting to raise the problems they were having understanding the interpreter more clearly, although it could be argued they had done so to a certain degree. The judge's response to this is interesting, as they appear to call the appellant's credibility into question, stating that they are concerned the appellant may have similar issues in the future with a different interpreter, an opinion they failed to substantiate.

In the end, the judge decided to call the interpreter back in to explain the decision to abandon the hearing to the appellant, perhaps a questionable decision given that it had been established the appellant did not understand that interpreter. The judge remarked that "there must be absolute understanding of every single word". This once again reflects the mistaken idea of absolute word-for-word equivalence between languages, and also ignores the fact that large sections of asylum appeal hearings are regularly either summarised or not interpreted at all (see section 5.6). It can be seen, therefore, that the hiring of an inappropriate interpreter, potentially down to a lack of understanding of the sociolinguistic particularities of Tetun, caused a major problem in this case. Failure to identify and deal with this problem early in the proceedings led to a significant waste of time, energy and resources for all concerned.

5.6 Issues of power and responsibility: interpreting submissions at the tribunal and choice of interpreting mode

In asylum tribunals there is a high degree of variation as to the extent to which the interpreter plays a coordinating role in the proceedings. This includes, for example, determining the mode of interpreting to be employed (consecutive or simultaneous), deciding when to interrupt other parties to give their interpretation, or requesting clarification from the different parties. As Dahlvik (2019) notes, it is even common in asylum proceedings for interpreters to make decisions about what information offered by the claimant is relevant and therefore to be translated or not. Equally, judges may instruct interpreters not to interpret certain parts of proceedings, or, as Barbara Sorgoni observes in the case of an Italian appeal hearing, only to interpret when specifically instructed to do so (Sorgoni, 2019: 224). In many cases I observed for this study, the judge appeared even to take the lead from the interpreter in terms of how interpreting should be conducted. Some may view this as understandable, given that we cannot reasonably expect judges to be experts on interpreting as well as the law. However, the judge does have overall responsibility for ensuring a fair hearing, which includes the appellant being able to fully understand proceedings in the same way an appellant with English as their first-learned language would.

A key moment in the hearing where I observed interpreters having particular influence in determining how proceedings are conducted is the final part of the hearing, the legal 'submissions'. This is when the HOPO (who usually goes first) and the appellant's solicitor outline the legal arguments upon which they wish the judge to rely in order to either refuse or allow the appellant's appeal, respectively. At this point, the appellant cannot give further evidence. As I experienced, it is common for appeal hearings to last for several hours, particularly if the case is complex and numerous witnesses are called. When it comes to this final part of the hearing, the closing submissions, there is therefore a natural desire among all parties to bring the hearing to a close as promptly as possible. In particular, the judge will likely have other cases to hear, and the interpreter will likely be highly fatigued if they have been working for several hours, as may the other parties.

All parties who participate in the submissions part of the hearing (judge, HOPO and solicitor) communicate exclusively in English; they do not require the interpreter to understand one another. Although the appellant can no longer give evidence at this stage, it was expressed that they should be made aware of the content of submissions, as illustrated by the following quote from a judge:

J: "It's very important A is given some explanation of submissions" "It would only be the gist anyway"–- They are discussing whether IR should stay for submissions here. 13.20–- hearing suspended.	

(Observation 13)

In this case, the interpreter had requested to leave the hearing early as they had another appointment scheduled that afternoon. The judge was reluctant to allow the interpreter to leave, and they indicated that the appellant having an understanding of submissions was an important part of ensuring a fair hearing. However, we can see there is a distinct shift away from the idea of every single word being important, indeed, a 'gist' is considered sufficient. The exact same word was used by a different judge in observation 16 to refer to how the submissions would be interpreted:

J: "the IR will translate the gist of the submissions" but gives IR no further direction as to what the 'gist' is.	They love that word–- 'gist', but is it good enough?

(Observation 16)

This idea of the interpreter giving the appellant the 'gist', or a summary of the submissions was prevalent in many cases I observed, and the obvious question is why the appellant should have to make do with the gist while the judge and HOPO pore over their every word. Moreover, it was often left almost entirely up to the interpreter to determine how to proceed, as can be seen in the following examples:

IR: "Sir, do I translate" [referring to submissions]. J: "people do it different ways".	
IR decides to "summarise" submissions.	

(Observation 9)

J asks IR to inform her of how submissions will proceed. A confirms she wants IR to give her the 'gist'.	
IR has bother understanding 'gist', but J explains it and he indicates he has done this before for submissions. J: "you don't have to summarise it word for word"	Contradiction in terms from J?

(Observation 13)

In the first example here, the judge has given no indication whatsoever to the interpreter in terms of whether their services are required at all at this stage. The judge's answer

effectively delegates responsibility to the interpreter as to how to proceed. In the second case, the judge asks the interpreter how they would prefer to work, and the interpreter then, in turn, asks the appellant their preference.

There are essentially 3 different options in terms of how interpreting could work here. Firstly, the interpreter could perform simultaneous whispered interpreting, providing they are physically present and positioned sufficiently close to the appellant. Secondly, the interpreter could perform consecutive interpretation, either short consecutive (without notes, intervening after every 2-3 sentences), or long consecutive (with notes, intervening every 5-7 minutes). The final option, and by far the most regularly observed, was to offer some kind of summary to the appellant at the end of each representative's submissions. Sometimes the mode of interpreting to be employed was not defined at all before submissions began, leading to confusion:

During submissions, IR performs quasi-chuchotage, as HOPO does not allow adequate room for short consecutive. Lots of these legal arguments remain uninterpreted, meaning A must be unaware of many of the legal arguments being used against him.	

(Observation 1)

In this case, the interpreter appeared to want to continue to perform short consecutive interpreting, but as this had not been established, the HOPO delivered his submissions without pausing at all, as if the interpreter were not there. The interpreter dealt with this by attempting to perform whispered interpreting, although it was clear he was struggling to do so and missing large chunks of information. This is understandable given the HOPO's delivery speed, as well as the greater use of legal jargon in this part of the hearing. In observation 14, the appellant's solicitor requested that the interpreter perform simultaneous whispered interpreting, which seemed to take the judge somewhat by surprise:

J says to IR: "you have a proficiency that not all IRs have", referring to chuchotage.	Not only do many not have chuchotage ability, many don't seem to be able to take effective notes for long consecutive interpreting.

(Observation 14)

This comment reveals that judges generally do not expect IAT interpreters to be trained in and able to perform simultaneous whispered interpreting. This mode of interpreting is a compulsory part of most interpreting qualifications. One judge even seemed to be under the impression that specialist equipment would be needed in order for simultaneous interpreting to take place (observation 17), which is not the case.

Chuchotage is a skill that trained interpreters should certainly have and would be an appropriate choice for a part of the hearing like submissions, when all the interpreting is in one direction, from English into the appellant's language. Issues around note-taking mentioned in the above extract are explored further below.

It was also notable that, in the many cases where submissions were summarised, the summaries given were drastically short, and there were some cases where summaries simply were not provided at all:

IR takes around just 10 seconds to summarise HOPO's submissions, which last for around 10 minutes. It's not clear if she may have performed some chuchotage, but if this is the gist, it really is a very scant gist indeed.	
There is NO OPPORTUNITY AT ALL given to IR to interpret ADV's submissions. So, A is potentially totally unaware of the issues that arose regarding documentation etc.	

(Observation 16)

HOPO's submissions last around 5 minutes, whereas IR's rendering is less than 30 seconds. Can this truly be described as a summary? IR's rendering of S's submissions is also drastically shorter.	No mention is ever made of this by J or legal officials. It seems they are happy for IR to be as brief as possible, even when it is clear that the vast majority of detail must have been omitted.

(Observation 9)

Evidently, a 10-second summary of 10 minutes of submissions, or even a 30-second summary of 5 minutes, can hardly be considered a true summary at all. It can more accurately be described as a few details the interpreter picked out of a long monologue, without any indication from the legal officials as to which details should be afforded greater importance. As noted in my fieldnotes from observation 9 above, the general impression from the experience of observing submissions was that there was a preference for the interpreter to be as brief as possible, to give the appellant some kind of notion of what was being said, but without considering this to be crucial.

Again, given the pressure on judges to hear cases and clear the significant backlog, along with the fact the appellant can no longer actively participate in the hearing at this stage, the impression is that interpreting becomes essentially a secondary concern, a clear example of an instance of what Hale and Gibbons (1999: 207) call the interpreter being "tolerated rather than welcomed". It is noteworthy that this happens as soon as the English-speaking parties no longer need to rely on the interpreter to communicate. So secondary a concern is

interpreting at this stage that, as seen in observation 16, sometimes there is absolutely no interpreting of submissions at all.

A general point to be made here is that a change in interpreting mode seems appropriate when it comes to submissions. Until this point, the hearing generally takes a question-and-answer format, with the judge first outlining procedures and checking the appellant and interpreter understand each other, followed by examination-in-chief from the appellant's solicitor, and cross-examination from the HOPO. For these mostly back-and-forth exchanges–- essentially dialogues–- the most suitable mode of interpreting is short consecutive (generally performed without notes), with the interpreter intervening after every few sentences. Submissions are different in that, instead of questions and answers, the two legal representatives each give what is in essence a monologue, a list of legal points they believe the judge should use to either refuse or allow the appeal. As can be seen from the above fieldnote extracts, the length of submissions can vary, but they generally last approximately between 5 and 15 minutes. For longer monologues like this, short consecutive is not a very effective mode of interpreting, as it interferes with the flow of the arguments being constructed by the speaker. This is why interpreters are trained in the long consecutive mode. However, as noted in section 4.2.1, many court interpreters do lack this kind of specialist training, the effects of which come to bear particularly in this part of the hearing.

In long consecutive mode, interpreters listen to a speaker making a speech and take notes in their own personal shorthand[29]. They then reproduce that speech in the target language. A general ideal length of speech for long consecutive interpreting would be around 5-7 minutes, though it is common for interpreters to deal with speeches considerably longer than this, up to 20 minutes long even (Gillies, 2017: 5). Despite long consecutive being an obvious choice of mode here, few interpreters appeared to select it, though it is not possible to say this with complete certainty due to the remote nature of the observations conducted and the inability to confirm this with the interpreters themselves. The following examples illustrate problems related to the long consecutive mode:

IR's "summaries" seem to be far, far shorter than the original submissions. This cannot	I'd be very interested to know what IR's note taking practice is here.

[29] Though there are a variety of 'standard' symbols many interpreters use for consecutive notetaking, with the most influential text being that by Rozan (1956), note-taking is highly personal to each individual interpreter, with some making more use of symbols and abbreviations than others. See also Gillies (2017).

therefore be described as true long consecutive.	

(Observation 8)

IR doesn't seem to have long consecutive skills for submissions This seems essential to me. He ends up doing short consecutive, which becomes very laborious and cumbersome.	IR seems to have experience, but perhaps not great training. Lack of long consecutive skills in particular.

(Observation 13)

The caveat here is that, since I had to observe online and often could not see the interpreter, I was unable to observe if they were taking notes for long consecutive (though it would have likely also been impossible to view this in-person as well).

Issues with the mode of interpreting employed were not limited to submissions. In one case, an interpreter decided to employ long consecutive with notes during cross-examination, and the judge expressed displeasure at the interpreter taking notes:

IR's consecutive technique certainly facilitates longer answers from A. However, J does not like this. She stops A in her tracks, saying "that's too much for IR to translate". She also tells IR she shouldn't be writing down A's answers.	This indicates an awful understanding of interpreting on J's part. It is clear to me that IR was competently and successfully performing consecutive interpreting with notes, not even particularly long consecutive interpreting. J's indication that notes shouldn't be allowed is interesting. I feel this is probably untrue, as IRs are advised to simply destroy their notes at the end of the hearing, not to avoid taking notes altogether. J not only imposes monolingualism on A, but she is imposing a chunking of her narrative that runs contrary to tradition in many cultures (see Cooke [1996] on Aboriginal evidence). I feel IR could have been stronger here though, explaining that she was capable of interpreting longer answers due to her training. This is what happens when you work with untrained interpreters so often though!

(Observation 16)

Point 124 of the Equal Treatment Bench Books states that judges should allow interpreters to take notes (Judicial College, 2021: 232). Therefore, in this instance, the judge imposed the short consecutive mode on the interpreter against their will, when they clearly had sound long consecutive technique and the hearing was flowing smoothly. As noted in the field notes, this kind of 'chunking' of a narrative is unnatural in many oral traditions (Cooke, 1996). This is not new knowledge. In 1986, Walter Kälin noted the following, citing evidence from as early as 1955:

> "Several authors have observed that in certain non-Western societies it is important to let persons involved in legal procedures speak freely about issues which appear to be not directly relevant to the topic of the procedure (e.g. Gluckman, 1955:95 for African courts; Starr, 1978:274/275 for Turkish

courts; Gumperz, 1982:174-85 in a case study concerning the interaction between a British counsellor and an Indian client" (Kälin, 1986: 232).

Explicit reference is made to this very idea in the following quote from the Equal Treatment Bench Book, under the heading 'communicating interculturally':

"Certain South Asian witnesses when answering a question will adopt a 'narrative style,' providing lengthy context first, before arriving at the 'point'" (Judicial College, 2021: 207).

This style of answering is certainly not limited to South Asia and extends to other traditions such as the Aboriginal one in Australia, as detailed by Cooke (1996). Therefore, the imposition of short consecutive mode by the judge in this instance not only interrupts the flow of the interpreter but could also have a very limiting effect on the ability of the appellant to give full answers to the questions put to them. The power exercised by the interpreter in selecting long consecutive mode has in this instance been usurped by the judge, who is acting against the guidance given to them in the Equal Treatment Bench Book.

The judge in observation 16 also infringed yet another point covered in the guidelines by imposing monolingualism on the appellant:

J to A after A answers simple procedural question in English: "either you're using IR or you're speaking in English, but not both."	This remark from J completely invalidates A's bilingualism and comes across confrontational. She is effectively being denied access to her full repertoire of linguistic resources, the consequences of which are well understood in legal settings. What is more, this was a very simple answer A gave in English and could have been a way of trying to demonstrate politeness or respect for the tribunal. It was thrown coldly back in her face.

Observation 16

This action from the judge clearly contravenes point 113 of the Equal Treatment Bench Book, which clearly states:

"113.Some people also 'code-switch' as they talk, switching unconsciously between languages as they search for the most natural way to express themselves for the point they are making. They should not be stopped from doing this." (Judicial College, 2021: 231)

The judge in this case exercised their power to effectively displace the appellant from their linguistic 'habitus' and impose their own monolingual worldview upon them, a 'habitus being a set of dispositions acquired during socialisation that incline agents to act and react in certain ways (Bourdieu and Thompson, 1991: 12). What the judge engages in here is something akin to what del Carmen Castro Vasquez (2011) calls a 'subordination practice', a term she uses in relation to the frustration of women's right to medical information. Given that this is explicitly discouraged in the published guidelines, it is hard not to view this incident as an abuse of power. As Grieshofer notes, "The incognisance of the inherent linguistic and socio-cultural complexities within the

interpreting process in immigration settings constitutes a critical barrier for access to justice for non-native speakers" (Grieshofer, 2022: 7). The imposition of monolingual testimony on a bi- or multi-lingual speaker certainly constitutes such a barrier.

In summary, this chapter has found a lack of official guidance for those seeking asylum on how to communicate via an interpreter. What advice there is for judges and immigration officials also remains scarce and lacking in useful detail. The participant observation conducted for this study revealed particular problems with confirming mutual comprehension between the interpreter and appellant at asylum hearings, as well as a lack of awareness of how crucial a factor dialect can be. Particular confusion was also identified in terms of how the final 'submissions' part of the hearing is interpreted. Section 7.3 explores these conclusions further, and some recommendations for improvement are laid out in section 7.4.

Chapter 6. Ethical considerations and training for interpreters

6.1 Introduction

Now that we have considered the way interpreters are employed in the asylum system and the different practices that are found in terms of how people work with them, we turn now to asylum interpreters themselves and their perceptions of the ethical boundaries of their role. Due to the limited space available, I will be focusing on two debates which crop up repeatedly in interpreting studies: the impartiality of the interpreter and the interpreter as intercultural mediator. As will be shown, both these concepts take on extreme significance in the UK asylum context. This is especially true given the ever-increasing hostility shown towards those seeking asylum and refuge by the Home Office and how potentially powerful an incidence of intercultural mediation can be in an asylum case, in both a positive and negative sense.

6.2 Impartiality

One of the most common phrases found in interpreter codes of conduct and ethics is that the interpreter must be an 'impartial' figure. For example, the Ministry of Justice, which provides outsourced interpreting services for HMCTS, requires all interpreters to ascribe to the following in their code of conduct:

> "3.1 Interpret impartially between the various parties, taking reasonable action to ensure effective communication and clear understanding." (Ministry of Justice, n.d.)

Likewise, the Chartered Institute of Linguists' code of conduct contains the following stipulation:

> "6.3) Where the nature of the work is for an independent client, either directly or through an agency, then Members/Chartered Linguists will carry out all work impartially." (CIOL, 2015: 5)

What is noteworthy is that neither of these codes make an attempt to define what impartiality means in this context. This is perhaps understandable given that they are both trying to cover a wide range of interpreting settings with what are admittedly broad guidelines, particularly in the case of the CIOL, where, for example, interpreting for social and healthcare services is also covered by the code cited above.

There is more unpacking of the term 'impartial' in the NRPSI's code of professional conduct, which also covers interpreting across all public services. This is exemplified in the two points below:

> "3.12 Practitioners shall at all times act impartially and shall not act in any way that might result in prejudice or preference on grounds of religion or belief, race, politics, gender, age, sexual orientation or disability otherwise than as obliged in order to faithfully translate, interpret or otherwise transfer meaning."
>
> "4.2 Practitioners are obliged (3.12 above) to carry out all work contracted to them with impartiality and shall immediately disclose to the Principal any factor which might jeopardise such impartiality. This shall include any financial or other interest they may have in the work contracted to them." (NRPSI, 2016)

As we can see, this code of conduct spells out many of the factors that interpreters should take into account when it comes to impartiality, with the first point above covering issues of prejudice and discrimination based on protected characteristics such as race and gender, and the second point covering the issue of financial or other interests that may potentially be related to the job, an example being the interpreter having a personal relationship with one of the 'Principals' (one of the other two parties). This guidance seems more comprehensive and gives us a clearer picture of what impartiality may mean in the specific context of asylum interpreting. One such example is illustrated by an interpreter interviewed for this project, who was hired by a solicitor to interpret for a client whose asylum claim was based on persecution due to their sexuality, something which made the interpreter uncomfortable due to their religious beliefs. In the end, the client communicated very well in English and did not communicate through the interpreter, though the incident did prompt this reflection from the linguist concerned:

> "If I'm not feeling comfortable, maybe I'm still honest but maybe someone else tries to do something bad for the asylum seeker which is not moral. If you don't want to do it, okay, just stop and say, "I'm not comfortable. I don't want to. But maybe someone else has a religious position or political position or any other agenda, belief, ideology, he could try to harm the asylum seeker himself or herself. This is very important. You don't have to expose the asylum seeker to any kind of trouble." (Participant 3, interpreter/refugee)

In this case, the interpreter indicates they are aware that, even if subconsciously, their professional impartiality may be compromised by interpreting for this client due to their unease with the issues being relied upon by the claimant. Serendipitously, on this occasion, they were not required to intervene, but they did indicate they would have withdrawn from the assignment if they had been required to interpret. This course of action seems to fit nicely with the guidelines around impartiality in the NRPSI code of conduct.

However, under certain circumstances, there does seem to be scope for rather different understandings of the term impartiality in the context of interpreting in the asylum system. Take the following quote from participant 4:

> Q: What do you think are the main traits of a good interpreter in the context of the asylum system?
>
> A: They have to be completely objective, they can't offer opinions, they must be extremely professional and know what the topic is about, undergo training beforehand (Participant 4, interpreter).

It is not uncommon for the 'objectivity', or 'impartiality' of an interpreter to be put to the test by other parties during asylum proceedings. For example, in his ethnographic study on French asylum proceedings, Gibb (2019) found that it was common for barristers to ask the interpreter for a few minutes of their time to help them explain something to the appellant in the corridor of appeal centres. Interpreters would traditionally be strongly advised against this kind of practice in any legal setting, and those who have received training should be aware of this. However, Hale (2007) identifies four key challenges presented by 'community' or public service interpreting training: "a) a general lack of recognition for the need of training, b) a lack of compulsory pre-service training for practitioners, c) a lack of adequate training programmes and d) considerable differences regarding the quality and effectiveness of training measures" (Hale, 2007: 163, cited in Bergunde and Pöllabauer, 2019: 4). Although applicable across the range of different 'community' or public service interpreting settings, these challenges are particularly acute in the case of asylum interpreting, where the consequences of hiring untrained interpreters are well documented. Despite this, many countries continue to spend considerable amounts of money on providing a poorly managed service with minimal or no quality control (Bergunde and Pöllabauer, 2019: 2).

Returning to participant 4's quote above, they reveal an understanding of impartiality in terms of the interpreter limiting their agency over the interpreted event – emphasising the need to avoid giving their own opinions. While interpreters seem to understand it is not their role to give their opinion, another participant noted that it is not unheard of for an interpreter to be asked their opinion on the veracity of an asylum seeker's account:

> "Sometimes people will turn and be like, "Do you believe them? I don't believe that. That was awful. They're talking bullshit." Again, that's not my job. I might have my own opinion about it, I might recognise that ''ve interpreted completely conflicting statements but it's not my job to say whether or not… It's totally unethical for me to give my personal opinion to you so don't even ask. It's putting me in a bit of a tricky position." (Participant 1, interpreter).

It seems fair to deduce, therefore, that not offering personal opinions on clients and their interventions during appointments is seen by interpreters as key to respecting impartiality.

However, in other situations, this may not be so clear-cut. For example, participant 8 was put in a rather uncomfortable position when interpreting at Home Office premises for people who were required to present themselves for 'reporting'; they described some of the comments made by staff to and about those seeking asylum:

> "You know, conversations. The comments that they would make about people coming in and saying they didn't have money or whatever it was, they would be humiliating them or trying to by saying things like, "How can you afford to get your hair done? That must have cost you money." Just awful, you know?" (Participant 8, interpreter/service provider)

In these circumstances, the interpreter felt they had to intervene:

> "I remember saying to him, "I just don't think that's appropriate, and I don't think you should put me in a position to translate that either. That's not appropriate, to speak to people like that." I'm saying it now as if I said it super-confidently. I think I had probably a bit more of a shaky voice, you know, because I just thought, "My God…" I felt nervous doing it, but I thought, "This is not right." Calling out that kind of language." (Participant 8, interpreter/service provider)

One might reasonably ask, then, whether this calling out is actually an example of breaking impartiality. The NRPSI code of conduct talks about not acting in a way that may lead to prejudice or preference, so if a service provider makes a cruel comment to an asylum seeker based on their immigration status or financial situation, would it break impartiality if the interpreter challenged such behaviour? In this case, the participant saw their practice as an interpreter as being value-driven, based on anti-racism and a desire for social justice. It could be argued that the impartial thing to have done in this instance would simply be to have relayed the Home Office official's crude remarks to the person seeking asylum, but perhaps the bigger question is whether it would have been ethical to do so.

Situations such as this highlight the difficulties which can arise when we use terms such as 'impartiality' as if their meaning is clear and transparent to all. On the contrary, its meaning will depend on both the interpreter's own boundaries and on the interpreting context itself, as well as the other actors involved. If the interpreter adjudges one interlocutor, particularly the one in a more vulnerable position in terms of the relevant power dynamics, to be subject to hostile or abusive behaviour, can the interpreter truly be said to be impartial if they do not call this out or take some kind of action to acknowledge it? One could argue that not to do so would be tantamount to the interpreter siding with the perpetrator of such behaviour.

6.3 Intercultural mediation

Another key debate in the field of interpreting studies is the extent to which interpreters should act as intercultural as well as linguistic mediators. This is potentially the moment of

greatest conflict with the popular conceptualisation of the interpreter as a "non-person" (Shisheng and Shuang, 2012; Wadensjö, 2008), as intercultural mediation inevitably involves a more visible, active role for the interpreter. Rather than 'merely' translate, intercultural mediators intervene as participants in their own right, using their knowledge of the cultures of those for whom they are interpreting to mitigate potential misunderstandings. This means they must step outside the boundaries of what Wadensjö, drawing on Goffman (1990[59]) calls the "non-personhood" that she argues is "inherent in the social role of interpreter" (Wadensjö, 2008: 187). Goffman defines non-persons as those who are "present during the interaction but in some respects do not take the role either of performer or of audience" (Goffman 1990[59]: 150). Servants, photographers and broadcast technicians are mentioned as examples of non-persons. Incidentally, I would be tempted to add appellants in UK asylum appeals as an example of people who become 'non-persons', particularly with regards to the submissions part of the hearing, as discussed in section 5.6. Wadensjö, for her part, is happy to ascribe the label of 'non-person' to interpreters, arguing that they act as "a kind of servant rather than a main figure" (Wadensjö, 2008: 187).

It is important to note here that non-personhood in these terms need not necessarily translate into low status and poor working conditions. Indeed, to take Goffman's examples of broadcast technicians and photographers, these may be seen as very specialised professions with relatively high status. Applying non-personhood to interpreters, though, has a different dimension to it in that by disregarding the interpreter's own ego and agency and making them invisible, we absolve them to some extent of personal responsibility for the act of representing the other parties to the interaction, something particularly troublesome in any legal proceedings. Interpreters are not behind a camera like a photographer or a technician, they are central to every interpreted interaction and the choices they make have very profound consequences for how communication takes place. I would argue that the notion of the interpreter as a non-person is a dangerous one, particularly in the asylum system where, as we have seen, cases can break down due to difficulties related to interpreting.

On the opposite end of the spectrum from those advocating non-personhood for interpreters, there are those who would have interpreters play a much more active role than that of a servant to communication. Barsky (1996) argues that interpreters should be "legally recognized as active intermediaries" in the context of convention refugee hearings,

even “intervening with questions and clarifications that are pertinent to the case and likely to improve the claimant’s chances of obtaining refugee status” (Barsky, 1996: 46). Other scholars, while certainly not arguing for interpreters to take on such a partisan role, do recognise that the interpreter does play a far more active, verbal role than many institutions who work with them realise (see, e.g., Berk-Seligson, 2017). In the context of the courtroom in particular, ‘intrusion’ and ‘coercion’ on the part of interpreters has been found to work both for and against lawyers when questioning witnesses (Berk-Seligson, 2017: 93-4). Therefore, whether we think of interpreters as ‘non-persons’ or not, the evidence suggests they do not have a neutral effect on communication.

In some countries, such as Italy, it is common for intercultural mediators to be employed in the place of public service interpreters, though interpreting does account for a significant proportion of their work. Italy has a number of Migrant Support Centres, where intercultural mediators collaborate with social workers to “enhance positive intercultural relations between institutions and migrants”, part of which involves providing interpreting (Baraldi, 2018: 14). It was found that, though mediation could not eradicate inequality and social exclusion, it could better equip institutions to deal with migrants’ problems (Baraldi, 2018: 25-6). Intercultural mediators have also been introduced particularly in healthcare settings in countries such as Spain, Belgium and the USA, though it was found their role was often not well defined according to the needs of individual institutions, and they were often poorly integrated within those institutions (Van Keer *et al.*, 2020).

There were mixed views on interpreters acting as intercultural mediators among interviewees for this project. Participant 7, a training consultant for a third sector organisation, felt strongly that interpreters acting as mediators was problematic and to be avoided:

> “[The interpreter’s job is] to facilitate communication. And the reason that I keep it as simple as that, especially when I’m delivering training, is because there’s a lot of assumptions that go along with it, that the interpreter’s job is to interpret cultural issues to, to give advice, to give comfort to, you know, judge either the service provider or the person that we’re working with in one way or another, and either holding the service provider to account in terms of, well, you should be providing this, this and this service. […] I find that there is a trend at the moment to using interpreters as cultural mediators. And I think it blurs the lines.” (Participant 7, service provider)

This interviewee gave a specific example of a particular problem with intercultural mediation they had experienced when an interpreter informed the service provider there were no gay people in Iran, in the presence of an applicant claiming to have been

persecuted for their sexuality in that country. As participant 7 noted, this may have been "partly because that's what the government says. That's what the legislation says and everyone in Iran who is gay is likely to be put to death. So, it's not necessarily completely untrue." This challenges the idea that interpreters performing intercultural mediation will be benevolent to those seeking asylum and refuge, highlighting the fact that they bring with them their own political views and ideology. One can imagine, expanding upon this example, the difficulties that would be faced by an LGBTQ Iranian appealing a rejected claim based on the basis of discrimination due to their sexuality if they had to communicate through this interpreter who was unwilling to even acknowledge their existence.

Nevertheless, some interpreters interviewed for this research did see intercultural mediation as central to their work in the asylum system. Participant 2 talked in particular about the difficulties they faced in dealing with sex-and gender-based violence in Home Office interviews:

> "People from North Africa, for example, who are coming from Arabic cultures and also different religious backgrounds, would never want me to ask that question because it's so culturally sensitive and I wouldn't even answer that question. In that kind of situation, the only thing I can tell is I can't ask that question to these people. How do you then get information out of these people?" (Participant 2, interpreter/refugee)

According to the code of conduct for interpreters working for the Home Office, this refusal to interpret certain questions based on cultural sensitivity is strictly forbidden. However, if the interpreter had gone ahead and interpreted those questions, this would likely have caused the applicant much distress, and they would likely have been unable to give answers that were satisfactory in the Home Office's eyes. Participant 2 suggested that a chance for the applicant to provide written testimony which could then be translated or sight-translated by the interpreter is one potential way to try to work around such a sensitive issue.

From a personal perspective, having observed 20 interpreted asylum appeal hearings, I observed interpreters performing different degrees of intercultural mediation, to greater and lesser effect. By far the most useful instances were where interpreters used their specialist socio-cultural and socio-linguistic knowledge to explain certain concepts or terms from the appellant's language or culture. Take the following examples:

IR offers a cultural explanation of 'Habesha'– - people who live in both Eritrea and Ethiopia.	
IR spells out a place name and informs J it is of Hebrew origin.	

Observation 20

IR explains he was explaining the term 'psychiatrist', as there is no ready equivalent in Luganda. This seems to be standard practice for him.	

Observation 13

IR appears to offer a cultural explanation to J over practices surrounding the issuing of death certificates in Iraq, after consulting with A.	

Observation 4

In each of these three cases, the interpreter elucidates fairly simple misunderstandings that have taken or are about to take place, from describing the cross-border territory inhabited by a particular ethnic group, to the lack of a specific term in Luganda for 'psychiatrist', to the significant differences in how death certificates are issued in Iraq and the UK, respectively. All of these are issues which could lead to confusion and misunderstandings that are often used as evidence of inconsistency in asylum seekers' accounts, damaging their credibility in the eyes of the Home Office.

There were also occasions when I felt the interpreter either attempted intercultural mediation in an inappropriate way or did not step in when it would have been appropriate to do so. There were examples of both of these in observation 6:

A degree of cultural confusion arises over the use of the term 'uncle', whether this relative is a blood relative or not.	IR does not step in here to offer any cultural explanation for the use of this term. It may or may not have been appropriate, depending on how relevant it is to A and IR's understanding of Kurdish culture.
IR appears to ask A to calm down when answering a question about whether it is safe for him to live in a certain region.	This seems to me a clear example of IR overstepping the mark. It is surely for J to ask A to calm down if he feels this is necessary.

Observation 6

Terminology used to designate kinship differs substantially between languages (see e.g., Keselman *et al.*, 2010: 89), therefore in the first instance here the interpreter's intervention to explain the use of the term 'uncle' may have been helpful to all parties. In the second instance, the interpreter tells the appellant to calm down after he becomes agitated when responding to a question from the Home Office. Such behaviour is generally frowned upon in UK courtrooms, with the judge in charge of maintaining 'order', yet appellants are also

somewhat paradoxically expected to display emotion at appeal hearings in order to establish credibility. Maryns (2013), for example, discusses how a lack of openly displayed emotion and narrative detail on the part of survivors of sexual assault can undermine asylum seekers' credibility in Belgian asylum interviews. Maryns cites McKinnon (2009) when she says that asylum seekers face a "paradox of enactment, constantly vacillating between narrative emotionality (indexing genuine narration) and narrative rationality (not 'too extreme to be true' (McKinnon, 2009: 215-6). The interpreter in the example above therefore appears to make an effort to get the appellant to conform to their idea of how one should behave in a UK courtroom, in a sober and calm manner. The appellant's display of emotion could actually have gone in their favour in terms of credibility though, which led me to feel this subtle attempt at intercultural mediation was ultimately inappropriate and constituted the interpreter overstepping the mark in terms of their role.

To summarise, I would argue that most interpreters fall somewhere in between the two extremes identified at the start of this section, somewhere between a 'non-person' servant to bilingual communication, and an active mediator intervening on the appellant's behalf. Certain forms of intercultural mediation seem indispensable in the context of the asylum system, such as explaining differences in terms of the institutions that exist in different countries and terminological differences between certain languages. However, it seems to me that there is a definite line asylum interpreters should not cross. On the other side of that line, I would of course include obviously unethical conduct such as giving advice to appellants on how to answer questions or asserting one's own ideological or political beliefs. But I would also include more subtle behaviours, such as trying to exert influence over a client's demeanour or behaviour by making a 'shh' gesture too them (observation 8) or asking them to calm down (observation 6). This is especially important in asylum interview or appeal settings where the applicant or appellant's demeanour and conduct will be taken into account by those sitting in judgement.

To conclude, this chapter has problematised two central notions in terms of the ethics of asylum interpreting: the 'impartial' interpreter and the interpreter as intercultural mediator. Both of these are useful and relevant notions, but a more nuanced understanding of them applied to the specific context of the asylum system is required. A more precise definition of the boundaries of the interpreter's agency, for example of when they could intervene to call out prejudice or discrimination, or to offer intercultural mediation, would be of benefit

to all parties. These conclusions are expanded upon in section 7.5, with some final recommendations in section 7.6.

Chapter 7. Conclusions and Recommendations

7.1 Interpreter Employment Practices: conclusions

We can draw several broad conclusions about the employment practices of interpreters in the asylum system. Firstly, there are clear inequalities in the standard of interpreting people can expect depending on the language(s) they speak. As outlined in section 4.2.2, applicants are not guaranteed to have their asylum interviews conducted in their preferred language, even if it is clear that efforts are made to ensure this is the case. However, it is possible those with a fairly sound grasp of English may choose to proceed with their interview in English to avoid it being postponed, especially if immigration staff indicate they feel their English is sufficient for communication to take place. The numerous pitfalls of using English as a lingua franca are examined in detail by Maryns (2016), who concludes that an advanced level of English is required in such a setting, including familiarity with specific terminology and the socio-political context of certain words (Maryns, 2016: 124).

Secondly, those responsible for assessing and monitoring interpreters working in asylum and immigration tribunals are the same people who are also involved in providing that service. The argument The Language Shop makes when it says that it is not necessarily a conflict of interest when an assessor is a close colleague of the interpreter they are assessing does not seem convincing. In fact, I would argue that a close colleague assessing an interpreter clearly *is* a conflict of interest, and the establishment of an independent pool of assessors would lend this quality control process a great deal more credibility.

Finally, it is evident that interpreters are being placed in ethically compromising situations due to insecure and highly informal contracts and arrangements. This has led to some interpreters taking on a role which encompasses much more than simply turning up and providing their services, acting as a first point of contact for people who are trying to negotiate many difficulties after they arrive in the UK. This can lead to interpreters being overworked and taking on unpaid duties, with professional boundaries being blurred.

7.2 Interpreter Employment Practices: recommendations

1. Where they are not conducted in English, both screening and substantive asylum interviews should always be conducted with an interpreter in the applicant's preferred language. Immigration officials should never, under any circumstances, attempt to coerce an applicant into conducting any interview in English, no matter how competent they judge the applicant to be in that language.

2. An independent pool of assessors should be established to provide quality control of language interpretation across the different settings of the asylum system (interviews, solicitor meetings and the Immigration and Asylum Tribunal). These assessors should ideally not currently be working as interpreters under the MoJ language services contract and should be drawn from a different part of the UK to the area in which they are assessing. Spot checks should be carried out regularly, and a clear mechanism should be put in place for appellants to lodge complaints.

3. Any firm of solicitors that regularly employs interpreters should have a clearly established code of practice which lays out the professional boundaries to be respected with interpreters, which should be explained to all new clients.

4. If local authorities wish to assign interpreters a 'caseworker' role whereby they assist newly arrived people seeking asylum and refuge with matters such as housing and seeking employment, as was the case with the SVPRS in Edinburgh (see section 2.1.3), they should ensure interpreters are correctly trained and remunerated for such a role.

5. Any organisation in the asylum system that works with interpreters should ensure they are provided with a copy of UNHCR Austria's *Handbook for Interpreters in Asylum Procedures*, which is freely available online (UNHCR, 2022). This handbook is full of useful and practical information about asylum procedures, with 13 modules covering everything from notetaking to professional ethics, interpreting for vulnerable applicants and the interpreter's emotional experience.

7.3 Working with interpreters: conclusions

To put it plainly, there is simply no advice made readily available to those seeking asylum and refuge on how to interact via an interpreter. What advice there is available to immigration officials and other actors within the asylum system is also scarce and often problematic, perpetuating unhelpful notions of direct equivalence between languages and failing to properly acknowledge the socio-cultural dimension of interpreting. Making simple, practical advice available should help to avoid misunderstandings. It should also deter clients from making inappropriate demands of

the interpreter, for example, asking them whether they think a particular answer is likely to benefit their case.

My observations of the different ways in which judges handle interpreted hearings points to a need for greater training covering both the guidelines provided for judges and how these should be implemented. A standardised way of checking mutual comprehension between appellants and interpreters in asylum tribunals is much needed, one that goes beyond simply asking them if they understand each other. An example of a possible approach is the image test outlined in recommendation 6 below. This would provide concrete evidence of comprehension difficulties rather than relying on the judgement of the appellant or, more likely, the interpreter. It would then be a call for the judge on whether to proceed or request another interpreter, perhaps also asking the appellant if they are happy to continue with the interpreter after the image test. One particular case where this may have been useful is discussed in section 5.5.

There is a clear power imbalance between appellants and other parties in asylum appeal hearings. My observations led me to conclude that appellants often feel unable to raise any concerns they have with the interpretation services provided, even when it appears that there are clear comprehension difficulties (see section 5.5). Judges and interpreters also have and sometimes use the power to restrict the appellant's access to certain parts of appeal hearings, particularly the legal submissions (see section 5.6). Although in theory the burden of responsibility falls upon the judge to ensure the appellant and interpreter understand each other, thus ensuring a fair hearing, in practice it is the appellant who often shoulders this.

7.4 Working with interpreters: recommendations

1. All organisations working with people seeking asylum and refuge should have a clear translation and interpreting policy which goes beyond a hiring or procurement policy, including a code of conduct for the interpreter. Training on working with interpreters, such as the Scottish Refugee Council's course, would be extremely beneficial.

2. People seeking asylum and refuge should be given basic advice on how to communicate through an interpreter, starting from the screening interview. This

should be made available in a simple, accessible format, ideally freely available online in audio-visual form in different languages. The text should also be made available for interpreters to explain to applicants before interviews if the video cannot be shown to them. This would include information such as the fact the interpreter is not there to advocate on their behalf but to facilitate communication between both parties, meaning that personal questions are best to be avoided. Applicants should be advised from the beginning to raise any difficulties they have understanding the interpreter, and to speak as clearly as possible at a steady pace, addressing the immigration official or whomever they happen to be interacting with. Sample instructions are provided in appendix II.

3. It should be clearly stated at the beginning of any asylum appeal hearing if the appellant is speaking a language considered 'rare' under the MoJ's classification. This is because requirements in terms of qualifications and experience for interpreters are lower, and there should be increased vigilance in terms of identifying any issues with interpreting.

4. No immigration official or judge should ever tell an applicant or appellant they can only speak in one particular language, whether an interpreter has been hired or not. They should also avoid instructions such as "answer only the question(s) put to you", which impose a simplistic style of answer which is unnatural in many oral traditions.

5. All interpreters working on asylum cases should have sound long consecutive skills, allowing them to interpret long and complex answers. This is especially crucial for interviews and appeal hearings.

6. One example of how a judge could check mutual comprehension between the appellant and the interpreter is to make an image available to the judge and the appellant only, containing several different elements that can be described. The judge could then simply ask the appellant to describe the image, without the interpreter being able to see it. This would allow the judge to verify the interpreter's ability to translate simple questions and descriptive answers. Such an approach may seem rather peculiar or infantile, particularly in such a formal setting, and it would evidently also not be suitable for appellants with reduced vision. However, in general terms, if the judge notes any difficulty in obtaining a reasonably accurate description of a simple image through the interpreter, this would be a good indication that there could be some issues with the interpreter. A sample image and questions can be found in appendix III.

7. A first step to redressing the power differential between appellants and other parties in asylum appeal hearings would be to include a requirement for judges to confirm not only that appellants understand the interpreter at the beginning of the hearing, but that they are comfortable with their dialect, and to raise any initial concerns they may have. They should also check in again with the appellant after a relatively short period of time has elapsed, for example after the introductory remarks and before the appellant is cross-examined. The appellant should be asked once again to raise any issues of comprehension and to confirm they are happy to proceed to give

evidence. The court should also clearly give the interpreter agency to declare if they think the appellant is not understanding them fully, which should not be considered a breach of impartiality.

8. Interpreters should be transparent about when they have to clarify any points with the appellant in order to achieve comprehension, particularly around terminology relating to specific institutions and groups, and to raise these with the tribunal immediately. There is no ideal solution to this issue, but it seems crucial that the tribunal is at the very least aware of the potential that exists for misunderstandings simply due to different nomenclatures and terminology used in different countries.

7.5 Ethical considerations for interpreters: conclusions

There is one clear and obvious conclusion in terms of the ethics of interpreting in the asylum system. While interpreter codes of conduct do govern official interactions with the Home Office such as asylum interviews as well as any subsequent tribunal appeal proceedings, a great deal of interpreting takes place within the asylum system that is not governed by any code of conduct or ethics at all. Solicitors are able to employ their own interpreters on a casual basis, who may not even be registered with a recognised LSP. Given the critical importance of quality interpreting when a solicitor is building an asylum case, this is a key weakness in terms of the ethics of asylum interpreting.

The notion of impartiality on the part of interpreters proves problematic in the UK asylum system. Impartiality is an important idea worthy of inclusion in codes of ethics and conduct, but it must be clearly defined in order to be truly useful. The definition provided in the NRPSI code of conduct, with its stipulation that interpreters must avoid 'prejudice and preference' based on protected characteristics such as race and gender (see section 6.2), seems like a good baseline definition. However, in the UK asylum context, this definition of impartiality must also be adapted to reflect the reality of the way the system treats those seeking asylum and refuge. At the time of writing, the UK has gone through almost two decades where legislation has been introduced that is "aimed at keeping those deemed undesirable and undeserving away and making life in the UK increasingly hostile" (Mainwaring *et al.*, 2020: 75). The current UK Government, with its NABA, which became law in July 2022, has criminalised people for simply exercising their human right to seek asylum, paving the way for them to effectively be transported en masse to Rwanda. If you do not fit the criteria for one of the ad-hoc 'schemes' currently run by the UK

Government[30], there are simply no safe and legal routes to claim asylum. In other words, the current UK Government has effectively ended asylum as we know it. The obvious question in terms of interpreter impartiality is, then, if you believe in human rights, including asylum, what does being impartial mean in this context? This is ultimately a deeply personal question, and there are no straightforward answers. If I may offer my own response, though, it seems to me that, as someone who believes in the human right to seek asylum, it would be my responsibility as an interpreter to take certain action which others may consider a breach of impartiality. This would include calling out any instances of prejudice or discrimination against the person seeking asylum, as mentioned by participant 8, a fellow interpreter (see section 6.2). I would also, for example, consider it appropriate for me as an interpreter to show basic empathy and kindness to someone seeking refuge, trying to make them feel as comfortable as possible and therefore more able to negotiate the different stages of the asylum process. This includes what Gill *et al.* (2016: 20) call 'small acts of courtesy': pouring a glass of water for them, asking them about their day, or even simply offering them a smile and a few comforting words. While some may consider such behaviour to breach of impartiality, I believe not to engage in such behaviour and remain stony-faced could equally make the interpreter appear hostile to the person seeking asylum and refuge. I am in complete agreement with Dahlvik (2019: 150) when she says that "A professional role performance does not imply passive neutrality, it means conscious and reflexive—that is professional—active intervention".

In the specific context of asylum appeal hearings, where the appellant faces the institutional might of a hostile state square in the face, I do believe the interpreter has an important potential to redress the huge power imbalance at play. I see no issue, for example, with an experienced interpreter explaining the processes and procedures of the hearing to the appellant beforehand, though I accept that any attempt to guide the appellant or influence their responses or behaviour once the hearing begins would be inappropriate. In cases of comprehension difficulties between the appellant and the interpreter, though the impartial thing for the interpreter to do may be to wait for the appellant to raise these, I would argue that it is the interpreter's duty to take action in such cases. For an interpreter to continue working in the knowledge that there are comprehension difficulties between

[30] Even these are fraught with difficulties for applicants, see, for example, Wright (2021) on the complications experienced by those applying to the Afghan resettlement scheme.

them and the appellant that could damage the latter's asylum case would constitute an abuse of power.

In terms of the idea of the interpreter as an intercultural mediator, there is certainly some scope for this to be applied in the asylum system. Indeed, whether we approve of it or not, I have observed that many interpreters already fulfil this role. Ultimately, there are two fundamental issues to highlight here. The first one is that the UK asylum system is fundamentally broken and flawed (see Kennedy, 2022) and no amount of intercultural mediation, no matter how skilful, can possibly compensate for that. The second issue is that interpreters are generally never trained to be intercultural mediators. The main public service interpreting courses in the UK such as the DPSI are highly focused on language transfer, and actively discourage intercultural mediation, emphasising 'impartiality' as an ideal to which interpreters should aspire.

The issue of asylum interpreter training is a complex one, however we need not look too far for an example of best practice. Bergunde and Pöllabauer (2019) describe how a training course for interpreters in an asylum context was developed in Austria, initiated by UNHCR Austria and co-financed by the European Refugee Fund and the Austrian Federal Ministry of the Interior. From humble beginnings as a 'brief curriculum for interpreter training', this project led to a fully-fledged, comprehensive course offered at certified adult education centres, as well as a handbook for interpreters in asylum procedures (UNHCR, 2022). The course consists of 13 modules that cover a plethora of issues, from asylum and refugee protection to note-taking technique, interpreting for vulnerable applicants and emotional and psychological aspects of interpreting in the asylum context[31]. This handbook[32] and course is essentially an 'off-the-shelf', freely available resource based on extensive and rigorous research. It is not an exaggeration to say that the course is a potential game-changer for asylum interpreting training. It could be delivered as a module within a Masters interpreting programme, integrated into the DPSI, or delivered as a stand-alone course by higher or further education institutions in the UK. Dahlvik (2019) notes

[31] For full details, see UNHCR (2022). The 13 modules included in the handbook are: asylum and international protection; the personal interview and interview techniques; the basic principles of interpreting; the interpreter's role; professional ethics and professional conduct; interpreting modes; note-taking; sight translating interview transcripts; interpreting for vulnerable applicants; interpreters as experts in multicultural and transcultural communication; information mining for interpreters; the interpreter's emotional experience and distance interpreting in asylum proceedings.

[32] The handbook is currently available online in English, French, German and Russian.

that a 'voluntary qualification measure' for asylum interpreting is now offered by adult education centres in Austria in cooperation UNHCR. At the very least, any organisation in the asylum system that employs interpreters should distribute a copy of the UNHCR handbook to interpreters and staff as a matter of course.

7.6 Ethical considerations and training for interpreters: recommendations

1. All parties involved in operating the UK asylum system (the Home Office, Border Force, solicitors and the IAT, for example) should recognise the need for interpreters to have sufficient training opportunities, and to have completed some basic ethical training prior to being engaged. The latter should ideally be a legal requirement rather than simply a guideline.

2. Any organisations hiring interpreters should have a code of conduct for interpreters which must be signed by the interpreter prior to carrying out any paid employment. I would recommend the NRPSI definition of 'impartiality' as a baseline definition, but this must be understood within an extremely hostile asylum system.

3. Any course leading to a qualification in public service interpreting, especially flagship qualifications such as the DPSI and Masters-level courses, should devote time to discussing intercultural communication and mediation, and how this can be both useful and dangerous in the asylum system. No public service interpreting course should focus exclusively on language transfer.

4. Specialised and advanced training for interpreters working in an asylum context must be made available. This can be based entirely on the UNHCR Austria's *Handbook for Interpreters in Asylum Procedures* handbook[33]. This resource is freely available online and includes a rigorous, comprehensive 13-module asylum interpreting course. Delivering this course would be a fantastic opportunity for educational institutions to make an immediate impact on improving the language support offered to those seeking asylum and refuge in the UK.

7.7 Table of final conclusions

1	The importance of high-quality interpreting is not properly recognised in the asylum system, particularly in Home Office screening and substantive interviews.
2	The UK asylum system is deeply, fundamentally broken and aimed at denying people their right to claim asylum. A discussion about what it means for interpreters to be 'impartial' in this context is badly needed.

[33] Available at: https://www.refworld.org/docid/59c8b3be4.html

3	The way interpreters are employed in the asylum system varies highly from setting to setting. It is still possible for interpreters with no formal training or experience to be employed in the sector, particularly if they speak 'rare' languages.
4	The quality control mechanism in place for interpreters working in courts and tribunals presents a conflict of interests; an independent pool of assessors should be established to work across the whole asylum system (interviews, solicitor meetings and appeal hearings).
5	Casual interpreter employment practices by solicitors can lead to interpreters being expected to take on a range of responsibilities for which they are often not trained or remunerated, placing them in ethically compromising situations.
6	There is a dearth of advice available to newly arrived people seeking refuge and protection in the UK on how to communicate through an interpreter. A standardised set of instructions could easily be made available.
7	The Equal Treatment Bench Book provides some useful advice for judges on how to manage interpreted hearings, but the extent to which judges seem to put this into practice varies substantially, indicating a need for further training.
8	Particular attention must be paid to confirming mutual comprehension between applicants or appellants in asylum interviews or appeal hearings. A simple image-based description test would be a simple and quick way to do this.
9	Where there are problems with interpreting, the formal atmosphere of asylum appeal hearings can deter appellants from raising concerns. Indeed, they are sometimes unaware they even have the right to raise such concerns.
10	Much of the interpreting that takes place in the asylum system, particularly in meetings with solicitors, is not governed by any code of conduct or ethics. A standardised code of ethics across the whole asylum system would be of benefit.
11	Training courses for public service interpreting in the UK continue to focus heavily on language transfer and pay little or no attention to issues such as ethical dilemmas or intercultural communication and mediation. A specific training course for interpreting in the asylum context is needed, and one has already been carefully developed by UNHCR Austria, which could be implemented immediately as a module within an existing degree programme or as a stand-alone course.

7.8 Final reflections

It was a simple quirk of fate that my first professional assignments as a public service interpreter should take place in the asylum system. From day one, I realised that I was working in an environment that was nowhere near as professionalised or regulated as I had assumed, an assumption I know many people will share. A further clear memory from that very first day is how poorly I felt my training (which was fairly extensive in comparison to many other interpreters) had prepared me to be working so closely with people who had been through some of the most traumatising experiences imaginable, people who had been pushed to the limits of human endurance. My interpreting training had certainly prepared me to carry out linguistic and intercultural mediation, but it had failed to prepare me for the very human experience, the weight of responsibility that conveying many asylum seekers'

stories brings. I felt that I had been given a window into a world that is to a large extent invisible to the general public, whether due to assumptions that all is good and well in terms of asylum system interpreting arrangements, or a simple lack of interest in the issue. After all, interpreting cannot really hope to compete for headlines with the current UK regime's numerous spectacles of cruelty towards asylum seekers, from detention on legionella-infested barges to attempted deportation to unsafe third countries. It is my hope that this project has done at least something to shine a light on interpreting as a potentially highly significant factor in the asylum process, as well as to highlight some relatively simple ways we can improve the likelihood of interpreting being successful or at least not being detrimental in terms of someone's asylum claim.

In terms of my perception of my own role and positionality as an interpreter, conducting this research has led me to challenge several beliefs and notions. The most obvious one is impartiality. While it would obviously be highly inappropriate for an interpreter to openly advocate for or against an asylum applicant, for example by providing legal advice, I think it would be equally inappropriate for an interpreter not to intervene if, for example, the applicant is asked a question which touches on a cultural taboo, or if they think the applicant is being addressed in an inappropriate manner, being insulted, for example. There were also instances I came across where interpreters went far further than I would feel comfortable with in terms of showing compassion to applicants by giving their personal phone number to them, assisting with school enrolment, or responding to calls in the middle of the night after encounters with the police. These latter examples would, in my opinion, potentially jeopardise an interpreter's ability to act faithfully in a professional capacity for the clients concerned in asylum proceedings. However, it is understandable, particularly in the case of inexperienced interpreters, that it may not be immediately obvious where to draw professional boundaries. From a personal perspective, the UK asylum system currently offers very little by way of compassion towards those seeking asylum and refuge. This project has given me the conviction that it is my duty as an interpreter to be compassionate if I can, though always being conscious of overstepping the mark.

The theoretical foundations of interpreting, as Roy (1993) calls for, have indeed evolved greatly in recent decades beyond simply borrowing those of translation studies.

Interpreting studies is now a fully-fledged field of its own, influenced by several other disciplines such as sociolinguistics and intercultural communication. I hope this study has reflected that trend towards problematising the role of the interpreter by focusing in on the specific setting of the asylum system. As well as recognising the agency interpreters have, and how this can be best exercised or constrained, I have also endeavoured to highlight the need for a trauma-informed approach to asylum interpreting and for interpreter training programmes to systematically incorporate such approaches. This study has laid out several practical steps that can be taken to try to provide a more reliable and successful interpreting service within the asylum system, one which is healthier and more humane for the benefit of all who work within it.

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Appendix I: Executive Summary and Recommendations

Public service interpreting in the UK continues to be a highly deregulated sector, and nowhere more so than in the asylum system, with its host of different settings from solicitors' practices to Home Office interviews to appeal hearings at the Immigration and Asylum Tribunal. This research project has shone a light on asylum interpreting as an under-researched field, examining the expectations of the linguists employed to work in the UK's hostile and increasingly complex asylum system, with a particular focus on the Scottish context. The methods used include remote participant observation of asylum appeal hearings in Glasgow and Belfast, as well as semi-structured interviews with those who have direct experience of the asylum system as applicants, interpreters and service providers.

An overarching conclusion is that there is a systematic failure to acknowledge how crucial interpreting is in the asylum process, with each and every word an applicant uses being scrutinised in minute detail by the Home Office. This makes the fact that many organisations, including the Home Office, are still content to employ interpreters without recognised qualifications and experience under certain circumstances highly alarming. The findings of this project include precarious employment practices for asylum interpreters (and public service interpreters in general) that can lead to ethically compromising situations and conflicts of interest. A general lack of understanding of interpreting in this context as a task of complex linguistic and socio-cultural mediation rather than one of mechanistic language transfer is identified. Additionally, a widespread lack of practical, useful guidelines on how to communicate through interpreters, particularly for those seeking asylum and refuge was found. The main training programmes currently on offer in the UK are also found to be deficient in terms of preparing interpreters to work in the asylum system. A new training programme and handbook for asylum interpreters has been developed by the United Nations High Commissioner for Refugees in Austria, which has potential to be rolled out quickly in Scotland and across the UK.

Below are a number of practical recommendations regarding interpreting that are of particular relevance as the Scottish Government finalises the third iteration of its New Scots Refugee Integration Strategy.

Interpreter Employment Practices: recommendations

1. Where they are not conducted in English, both screening and substantive asylum interviews should always be conducted with an interpreter in the applicant's preferred language. Immigration officials should never, under any circumstances, attempt to coerce an applicant into conducting any interview in English, no matter how competent they judge the applicant to be in that language.

2. An independent pool of assessors should be established to provide quality control of language interpretation across the different settings of the asylum system (interviews, solicitor meetings and the Immigration and Asylum Tribunal). These assessors should ideally not currently be working as interpreters under the MoJ language services contract and should be drawn from a different part of the UK to the area in which they are assessing. Spot checks should be carried out regularly, and a clear mechanism should be put in place for appellants to lodge complaints.

3. Any firm of solicitors that regularly employs interpreters should have a clearly established code of practice which lays out the professional boundaries to be respected with interpreters, which should be explained to all new clients.

4. If local authorities wish to assign interpreters a 'caseworker' role whereby they assist newly arrived people seeking asylum and refuge with matters such as housing and seeking employment, as was the case with the SVPRS in Edinburgh (see section 2.1.3), they should ensure interpreters are correctly trained and remunerated for such a role.

5. Any organisation in the asylum system that works with interpreters should ensure they are provided with a copy of UNHCR Austria's *Handbook for Interpreters in Asylum Procedures*, which is freely available online (UNHCR, 2022). This handbook is full of useful and practical information about asylum procedures, with 13 modules covering everything from notetaking to professional ethics, interpreting for vulnerable applicants and the interpreter's emotional experience.

Working with interpreters: recommendations

1. All organisations working with people seeking asylum and refuge should have a clear translation and interpreting policy which goes beyond a hiring policy, including a code of conduct for the interpreter. Training on working with interpreters, such as the Scottish Refugee Council's course, would be extremely beneficial.

2. People seeking asylum and refuge should be given basic advice on how to communicate through an interpreter, starting from the screening interview. This should be made available in a simple, accessible format, ideally freely available online in audio-visual form in different languages. The text should also be made available for interpreters to explain to applicants before interviews, if the video cannot be shown to them. This would include information such as the fact the interpreter is not there to advocate on their behalf but to facilitate communication between both parties, meaning that personal questions are best to be avoided. They

should be advised from the beginning to raise any difficulties they have understanding the interpreter, and to speak as clearly as possible at a steady pace, addressing the immigration official or whomever they happen to be interacting with. Sample instructions are included in appendix II.

3. It should be clearly stated at the beginning of any asylum appeal hearing if the appellant is speaking a language considered 'rare' under the MoJ's classification. This is because requirements in terms of qualifications and experience for interpreters are lower, and there should be increased vigilance in terms of identifying any issues with interpreting.

4. No immigration official or judge should ever tell an applicant or appellant they can only speak in one particular language, whether an interpreter has been hired or not. They should also avoid instructions such as "answer only the question(s) put to you", which impose a simplistic style of answer which is unnatural in many oral traditions.

5. All interpreters working on asylum cases should have sound long consecutive skills, allowing them to interpret long and complex answers. This is especially crucial for interviews and appeal hearings.

6. One example of how a judge could check mutual comprehension between the appellant and the interpreter is to make an image available to the judge and the appellant only, containing several different elements that can be described. The judge could then simply ask the appellant to describe the image, without the interpreter being able to see it. This would allow the judge to verify the interpreter's ability to translate simple questions and descriptive answers. Such an approach may seem rather peculiar or infantile, particularly in such a formal setting, and it would evidently also not be possible for appellants with reduced vision. However, in general terms, if the judge notes any difficulty in obtaining a reasonably accurate description of a simple image through the interpreter, this would be a good indication that there could be some issues with the interpreter. A sample image and questions can be found in appendix III.

7. A first step to redressing the power differential between appellants and other parties in asylum appeal hearings would be to include a requirement for judges to confirm not only that appellants understand the interpreter at the beginning of the hearing, but that they are comfortable with their dialect, and to raise any initial concerns they may have. They should also check in again with the appellant after a relatively short period of time has elapsed, for example after the introductory remarks and before the appellant is cross-examined. The appellant should be asked once again to raise any issues of comprehension and to confirm they are happy to proceed to give evidence. The court should also clearly give the interpreter agency to declare if they think the appellant is not understanding them fully, which should not be considered a breach of impartiality.

8. Interpreters should be transparent about when they have to clarify any points with the appellant in order to achieve comprehension, particularly around terminology

relating to specific institutions and groups, and to raise these with the tribunal immediately. There is no ideal solution to this issue, but it seems crucial that the tribunal is at the very least aware of the potential that exists for misunderstandings simply due to different nomenclatures and terminology used in different countries.

Ethical considerations and training for interpreters: recommendations

1. Any organisations hiring interpreters should have a code of conduct for interpreters which must be signed by the interpreter prior to carrying out any paid employment. I would recommend the NRPSI definition of 'impartiality' as a baseline definition, but this must be understood within an extremely hostile asylum system.

2. Any course leading to a qualification in public service interpreting, especially flagship qualifications such as the DPSI and Masters-level courses, should devote time to discussing intercultural communication and mediation, and how this can be both useful and dangerous in the asylum system. No public service interpreting course should focus exclusively on language transfer.

3. Specialised training for interpreters working in an asylum context must be made available. This can be based entirely on the UNHCR Austria's *Handbook for Interpreters in Asylum Procedures* handbook[34]. This resource is freely available online and includes a rigorous, comprehensive 13-module asylum interpreting course. Delivering this course would be a fantastic opportunity for educational institutions to make an immediate impact on improving the language support offered to those seeking asylum and refuge in the UK.

[34] Available at: https://www.refworld.org/docid/59c8b3be4.html

Appendix II: Example Instructions for asylum applicants on how to communicate through an interpreter

1. The interpreter is here to help you and the officials from the (e.g., Home Office/IAT) communicate with each other. You have the right to an interpreter, even if you feel your English is good enough to proceed without one. Research shows that using English when it is not your preferred language has negative consequences for communication in asylum proceedings.

2. Interpreters are not legal officials and cannot give any advice on your asylum case or any answers you should or should not give. They are also bound by confidentiality, which means they are forbidden from disclosing any details about what is said in the meeting or hearing to third parties.

3. Before the meeting/hearing, the interpreter should have a short conversation with you to confirm you understand each other. It is crucial that if you have any concerns about understanding the interpreter or them understanding you, that you tell the officials present as soon as possible, no matter when in the proceedings this occurs.

4. During the meeting or hearing, do not speak directly to the interpreter. Instead, address and look at the people asking you questions.

5. The interpreter may need to ask you a question to clarify a point, in which case you should answer them directly. The interpreter should always inform the other parties present when they ask you anything.

6. Please do not ask the interpreter for their personal contact details or ask them any questions about their personal life.

7. If you feel uncomfortable with the interpreter or you have any concerns about them, it is important to inform the officials present as soon as possible.

Appendix III: Sample Image and questions for checking interpreter-appellant mutual comprehension in asylum hearings

Image reproduced from: https://www.visitsoutheastengland.com/family-fun/seaside

Questions:

1. How many people can you see in this image?
2. Can you describe where these girls are located?
3. What kind of activity do the girls seem to be doing?
4. Can you describe the implement the girls are both holding?
5. Can you describe the small item that is on the ground behind the girls?