

The copyright of this thesis vests in the author. No quotation from it or information derived from it is to be published without full acknowledgement of the source. The thesis is to be used for private study or non-commercial research purposes only.

Published by the University of Cape Town (UCT) in terms of the non-exclusive license granted to UCT by the author.



The Professional Interpreter in Transitional Justice: An Empirical Study

**A Minor dissertation in Partial Fulfilment of the Requirements for a Coursework Masters in
International Relations.**

Martyn Swain

Student No SWNMAR011

Supervisor: Annette Seegers

This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.

Signature

Date: 28 October 2011

ABSTRACT.

This study asks what are the problems experienced by professional simultaneous interpreters in meeting professional standards when operating in Transitional Justice settings.

The study first reviews the origins and development of conference and simultaneous interpretation and the problems faced by the interpreters who serviced the Nuremberg Trials.

The study proceeds with a selective review of scholarly literature dealing with the problems faced by interpreters in the multilingual courtroom and the standards that the judicial system sets for the performance of interpreters. It describes the development of professional standards by conference interpreters and investigates whether the standards set by the judicial system for the performance of interpreters are compatible with those set by the profession of conference interpreters.

The study goes on to describe the problems faced by interpreters in three contemporary Transitional Justice settings: the South African Truth and Reconciliation Commission, the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda.

The problems facing interpreters at the South African Truth and Reconciliation Commission are discussed through a review of scholarly literature and with reference to individual accounts by the interpreters. The discussion focuses on the role of interpretation at the hearings of the TRC and the specific problems the interpreters faced such as the lack of lexical equivalents in the languages that were used and the exposure to traumatic narrative and its impact on the interpreters.

The problems faced by interpreters at the UN Tribunals for the former Yugoslavia and Rwanda are discussed on the basis of responses to semi-structured interviews in the form of a questionnaire. The discussion and responses reveal that the interpreters are faced with special problems which result from the particular requirements of the international criminal justice process. These are the need to provide verbatim interpretation for use as the basis of the court transcripts, the lack of lexical and conceptual equivalents in the working languages of the Tribunals, the exposure to harrowing content and the moral dilemmas facing the interpreters.

The study concludes that the interpreters operating in the three contemporary Transitional Justice settings analysed are faced with significant problems in meeting the professional standards set by the profession of conference interpreters and those set by the institutional clients they service.

Consequently the role of the interpreters in these settings needs to be re-assessed.

Table of Contents

CHAPTER 1. INTRODUCTION.....	5
1.1 Introduction.....	5
1.2 Problem Statement and Research Question.....	7
1.3 Research Design and Interview Methodology.....	11
1.4 Limitations.....	12
1.5 Definition of Concepts and Terms.....	13
Abbreviations.....	15
CHAPTER 2.....	16
ORIGINS AND DEVELOPMENT OF CONFERENCE AND SIMULTANEOUS INTERPRETATION.....	16
2.1 Introduction.....	16
2.2 The Origins of Conference Interpretation and the “Battle of the Languages”.....	16
2.3 From Paris to Nuremberg: from Consecutive to Simultaneous Interpretation.....	18
2.4. Simultaneous Interpretation at the Nuremberg Trial.....	20
Despite the problems, the interpreters, in Uiberall’s view, had contributed to the holding of a fair trial. Chief US Prosecutor Justice Jackson is also quoted as saying, “The success and smooth working of this trial is due in no small measure to the system of interpretation and the high quality of the interpreters who have been assembled to operate it”(Gaiba, 1998:112).....	23
2.5 Conclusion.....	23
CHAPTER 3: INTERPRETERS IN THE MULTILINGUAL COURTROOM.....	23
3.1 Introduction.....	23
3.2 Interpreters in the Multilingual Courtroom.....	24
3.3 Interpreter Self-Representations.....	27
3.4 Conclusion.....	32
CHAPTER 4. INTERPRETERS AT THE SOUTH AFRICAN TRUTH AND RECONCILIATION COMMISSION (SATRC).....	33
4.1 Introduction.....	33
4.2 The Mandate of the South African Truth and Reconciliation Commission, (SATRC).....	33
4.3 Training and Recruitment of TRC Interpreters.....	35
4.4 The Demands and the Role of Interpreting at the TRC Hearings.....	36
4.5 The Impact on the Interpreters of the TRC Hearings.....	39
4.6 Conclusion.....	42
CHAPTER 5: THE PROFESSIONAL INTERPRETER IN THE UNITED NATIONS TRANSITIONAL JUSTICE SETTING. THE AD HOC TRIBUNALS FOR THE FORMER YUGOSLAVIA (ICTY) AND RWANDA (ICTR).....	43
Introduction.....	43
5.1 Background.....	43

5.2 Professional experiences of interpreters at the ICTY and ICTR: a survey	46
The questionnaire (attached) covered the topics which were identified in the Literature Survey as being of particular significance for interpreters working in the transitional justice and international criminal justice arenas. The main themes covered are: the language combination of the interpreters, the degree to which professional training is/was available, the specific problems of interpreting at the Tribunals, exposure to traumatic narrative, the requirements of verbatim simultaneous interpretation, the lack of lexical equivalents and the moral challenges facing the interpreters working in these settings.	
5.3 Interpreting in different language combinations at the ICTY and ICTR.	47
5.4 Nature and extent of professional training.	48
5.5 The special problems of interpreting in the transitional justice settings of the ICTY/ICTR.	49
5.6 Interpreting traumatic narrative; impartiality and neutrality or fidelity to the speaker's communicative intention?	50
5.7 Interpreting in the multilingual courtroom and the problem of verbatim transcripts.	52
5.8. The lack of lexical equivalents in the working languages of the tribunals.	58
5.9. The moral challenges facing the interpreter at the ICTY/ICTR.	60
Conclusions:.....	63
6. CONCLUSION.	65
Bibliography:	74
APPENDICES:	82

CHAPTER 1. INTRODUCTION.

- 1.1 Introduction
- 1.2 Problem Statement and Research Question
- 1.3 Research Design and Interview Methodology
- 1.4 Limitations
- 1.5 Definitions of Concepts and Terms

1.1 Introduction.

Interpretation, i.e. the rendering of utterances in one language into another¹, has a long and complex history. According to Bertone (Bertone, 2006:15) interpreters are mentioned for the first time in history in the texts of Herodotus. Later, the practice of interpretation accompanied the drive for expansion of the Hispano-American empire, during which time the first attempts to legislate the practice were made. (Bertone, 2006:19)

Until the 20th century, and regardless of the setting, diplomatic contacts or in the courts, the form that interpretation took was what is known now as consecutive interpretation (Gonzalez, 1991:359). In this form, the translated version of an utterance follows on the original and it is the traditional and most familiar form of interpreting. This study will focus on the use of simultaneous interpreting, and in particular its use in contemporary Transitional Justice settings. Simultaneous interpreting is a much more recent development and can effectively be traced to the Nuremberg Trials in 1945 (Gaiba, 1998; Baigorri Jalón, 2004). In simultaneous mode, the interpreter listens to and translates an utterance as the utterance proceeds, usually with an interval of a few fractions of a second between listening and

¹ See Section on Definitions of Concepts and Terms p 15

speaking. The Nuremberg Trials were also the first instance of an international Transitional Justice mechanism.

Prior to the Nuremberg trial, simultaneous interpreting had never been attempted and many doubted that it was physically possible. None of the handful of interpreting schools that existed at the time even taught simultaneous interpreting: those who were selected for the Nuremberg hearings received scant training in the form of mock trials and some of the interpreters received no training at all (Video Peter Uiberall, 1992; Baigorri Jalón, 2004: 233). Simultaneous interpretation was used for the first time to mediate between the courtroom participants in an event as unique as the Nuremberg Trials but there is extraordinarily little archival material on how it worked and on the interpreters themselves.

“The complete record of the trial in daily transcripts and supporting documents was published shortly thereafter in more than 40 volumes. Estimates vary, but it has been referred to as a ‘six-million word trial’. Yet, unbelievable as this may sound, not one word is said in this official, published record about the system of simultaneous interpretation that was created in order to permit the multilingual conduct of the trial” (Gaiba, 1998: Foreword).

At the end of the Nuremberg Trials in 1946, the interpreters, who had never done simultaneous interpretation before, dispersed to pursue their careers elsewhere, some at the United Nations, where simultaneous interpretation had begun being introduced thanks to the success of the experiment at Nuremberg (Keiser, 2004:20). Apart from the Tokyo War Crimes Tribunal officially known as the International Military Tribunal for the Far East, which took place between 1946 and 1948, simultaneous interpretation was not again used in the context of an international criminal tribunal until the establishment of the UN ad hoc tribunals for the former Yugoslavia and Rwanda, the ICTY and the ICTR respectively (Tayeda, 2008:10:1).

In the decades since the end of the Nuremberg Trials, however, simultaneous interpretation has become a profession (Keiser, 2004). The first professional association representing the interests of conference simultaneous interpreters, AIIC, was created in 1953².

Simultaneous interpretation is generally considered to be an exceptionally demanding type of work (Gile, 1999; Research Unit, 2002; Blumenthal P, 2006; Moser-Mercer, 2000/1). The main reason is that the interpreter is under immense pressure of time: even complex testimony has to be translated within literally seconds of the speaker uttering their last sentence. The burden becomes significantly heavier in

² Aiic stands for Association Internationale des Intèrètes de Conférence. It is the French acronym used to denote the International Association of Conference Interpreters.

Transitional Justice settings when interpreters are obliged to translate relentlessly traumatic narrative and be an impartial mouthpiece for indicted war criminals. Indeed, under such conditions interpreters may come to feel that their professional obligation to well and faithfully translate a speaker's utterance conflicts with their personal moral commitments.

Four settings of Transitional Justice are especially notable: the Nuremberg Trials, the ICTY, the ICTR and the SATRC, for the following reasons: The Nuremberg Trials were the first instance of an international Transitional Justice mechanism and the first time where simultaneous interpretation was used in an international criminal trial to enable the courtroom participants to communicate more effectively. The United Nations ad hoc Criminal Tribunals for the former Yugoslavia and Rwanda are current Transitional Justice mechanisms and are the first international criminal tribunals where simultaneous interpretation has been used since the Nuremberg Trial. These tribunals have been operating since 1994 and 1995 respectively, and the interpreters working in these settings have accumulated a significant amount of experience. The South African Truth and Reconciliation Commission, for its part, was in many ways a prototypical event insofar as the languages being used at the hearings had not been simultaneously interpreted prior to the TRC taking place; moreover since the hearings were held in public, the interpreters were highly visible in the process.

1.2 Problem Statement and Research Question

This study will examine the main problems experienced by the simultaneous interpreter in meeting the professional standards of simultaneous interpretation in Transitional Justice-settings.

The problems arise for three kinds of reasons. First, simultaneous interpretation is exceptionally demanding in settings such as those encountered routinely by interpreters in international meetings (Research Unit, 2002; Gile, 2002; Blumenthal P, 2006). This study aims to reveal how these intrinsic difficulties are handled by interpreters as individuals obliged to operate under especially stressful conditions.

Second: In these settings simultaneous interpreters are called on to function not only as individuals with special skills in translation but in a *professional* capacity. As in the case of the legal or medical professions, their work involves specialised knowledge and skills; a formal organisation guards the education and training of entrants to the profession; this professional body seeks autonomy and resists the intrusions of non-professionals; and as professionals they see their work as a "calling" (Moore,

1970:5/6). In common with other professionals they are subject to generic professional norms. Thus professional interpreters who belong to the International Association of Conference Interpreters are expected to observe a Code of Honour and a set of principles in the exercise of their professional activity, including the protection of client confidentiality, not accepting assignments for which they are not qualified, and refraining from acts which might bring the profession or the professional association into disrepute (aiic Code of Professional Ethics, 2010). More generally, the profession recognises certain specified norms. Thus it is the interpreter's professional duty to loyally and with fidelity render a complete and 'accurate' account of the *speaker* irrespective of his/her own personal views or beliefs. However, as a professional the interpreter may also agree to make these specialised services available to institutional and other *clients*, such as courts, conferences or diplomatic negotiations, which may impose their own institutional requirements on the conditions and products of interpreting.

Third: There are the additional kinds of problems professional interpreters have to face due to working in conflict-related settings. The problems of professional interpreters in conflict-related settings are not unique. Thus medical professionals confront similar problems of conflicting professional roles, personal stress and political obligations. Doctors and nurses have written eloquently of the numbing impact of prolonged exposure to broken and dead people (Scannel-Desch, 2010, 42:1; Deckard, 1994, Vol 32, No 7; Shakespeare-Finch, 2002, 16: 3). Military professionals, too, may be personally affected by exposure to combat or violent events (Gross, 2006; Gross, 2010; Moreno, 2004; Baum, 2004). In addition to such cumulative personal stress, doctors and nurses also face moral conflicts: they are obliged to help enemy soldiers, even at the cost to one's own wounded.

Professions may be alike in a number of fundamental respects, but they also differ in how they behave in conflict-related settings. More specifically professions are similar - but also different – in how they set standards for themselves, what they do to help people live up to those standards, and what they do when the pressure threatens to become just too much. Professions recognise that, if they do not provide relief from stress, professional standards will decline, even catastrophically so. Thus if relief is not offered to medical professionals, they may well develop behaviour that damages their professionalism (Sprang, 2007 Vol 12, No 3). With regard to interpreting as a profession, this must raise questions as to what the profession does to help people live up to their standards and what they do when the pressure on professionals threatens to become just too much.³

³ The author, who is a professional simultaneous interpreter, believes that the problems facing simultaneous interpreters are accumulating as simultaneous interpretation becomes more and more commonplace and as interpreters are called on to practice in a growing number of highly specialised settings. His own experience

Fourthly: There are conflicting demands on professional interpreters in Transitional Justice settings. Transitional Justice is a broad term for a new sub-field (Clark, 2008; Hayner, 2001; Kritz, 1995; Rigby, 2001) but usually involves special measures and processes to address past human rights abuses, crimes against humanity, crimes of aggression, and war crimes.

The 2004 report of the UN Secretary General on The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies describes these processes as:

” The full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.” (S. G. UN 2004: 4 para 8)

Prominent examples of transitional justice processes involving judicial mechanisms are: the Nuremberg trials; the International Military Tribunal for the Far East; the International Criminal Tribunal for the Former Yugoslavia (ICTY); the International Criminal Tribunal for Rwanda (ICTR); and the South African Truth and Reconciliation Commission (SATRC). The idea behind these legal and quasi-legal proceedings is that addressing past injustices will help long term peace-building. Holding countries, governments and individuals to account for gross human rights violations, for example, will help counter the culture of impunity and break cycles of vengeance. This study will focus on the role and involvement of interpreters in the judicial and quasi-judicial Transitional Justice processes of the ICTY, ICTR and SATRC. In particular it will focus on the interpretation of testimonies in trials at the ICTY and ICTR and on the interpretation during the hearings of the SATRC Human Rights Committee and Amnesty Committee.

We know a lot about some professions in conflict-related settings, for example, the medical and military ones. But we know very little of the actual pressures and professional conflicts experienced by the simultaneous interpreter in Transitional Justice-settings. Thus international tribunals as a prominent form of transitional justice-proceedings involve not only new international law, but also combine incompatible legal practices, with interpreters drawn from different national systems and likely to struggle with a new legal language and unfamiliar processes (Stern, 2004). How do these complications

influences this view. He believes that the modern Transitional Justice arena is a particularly challenging professional environment.

affect the professional functioning of simultaneous interpreters? We do not know, for example, whether legal proceedings are being distorted because of the intrinsic difficulties of simultaneous interpretation. Reliable facts are needed about its use in modern Transitional Justice-settings.

There are conflicting demands on professional interpreters in Transitional Justice-settings. On the one hand, the interpreter's professional duty is loyally and with fidelity to render a complete and 'accurate' account of the *verbatim testimony* of the speaker (whether victim or perpetrator). On the other hand, the 'client' (whether the court or some other institutional agent) may require the interpreter to produce an *authoritative written record* suited to the purposes of the (quasi-)legal process and the objectives of the transitional justice process. In practice these pull very much in opposite directions. But to what should professional interpreters themselves be committed? A verbatim rendering including all the ambiguities, silences, false starts, confusions and contradictions involved in the original testimony? Or a determinate, clear and unambiguous account? Transitional justice-proceedings require both, but these activities exist in tension and involve numerous dilemmas.

To interpret in these contexts, further, inevitably involves interpreting the words of both perpetrators and victims (to name but two types of actors) of gross human rights violations. Interpreters are supposed to translate with "the greatest fidelity and accuracy" (ICTY 1999, Article 10 a); yet what is spoken of, consists of horrible events. Interpreters are obliged to translate relentlessly traumatic narrative in trials that may last for years. Even worse, the interpreter is obliged to be, in effect, the mouthpiece of a war criminal (Hajdu, 2006). Interpreters may well feel that they cannot do justice to the victims. And it is precisely a central aim of Transitional Justice to acknowledge victims; that is, to acknowledge that a wrong has been done where that has previously been officially denied or publicly 'silenced'. In especially the victim-hearings of truth and reconciliation commissions' acknowledgement is the moral foundation for truth-telling (Du Toit, 2000: 122-140). Yet the professional duties of the interpreter may prevent them from being victim-oriented. Some of the aspirations of the Transitional Justice process may be compromised as a result.

To summarise: Transitional Justice is a broad term but usually involves actions to address past human rights abuses, crimes against humanity, crimes of aggression, and war crimes. Interpreting in these contexts imposes special demands on the interpreter. New legal language is involved. Interpreters are obliged to translate relentlessly traumatic narrative or be the voice of a war criminal. The interpreters may well feel that they cannot do justice to the victims, one of the key moral aspirations of Transitional Justice. And legal proceedings may well be distorted by the intrinsic difficulties of interpretation of

traumatic narrative. We need reliable facts about how these intrinsic difficulties are handled by the professions and the interpreters working in these settings.

The main research question to be addressed in the course of this investigation may thus be formulated as follows:

What are the main dilemmas experienced by simultaneous interpreters in meeting professional standards in Transitional Justice-settings?

This question can be developed in terms of three sets of sub-questions:

- What are the generic professional standards of simultaneous interpretation involved?
- What are the particular problems and dilemmas experienced by the simultaneous interpreter in meeting professional standards specifically in Transitional Justice-settings?
- How, if at all, are these problems and dilemmas addressed by the profession?

1.3 Research Design and Interview Methodology.

The thesis will take the form of a combination of selective literature-based research and a set of semi-structured interviews. This will be aimed at providing, first, a brief discussion of the history of the profession, especially the origins of the profession of conference simultaneous interpretation, based on research by scholars and interpreters into the history of simultaneous interpretation and interlingual mediation in a number of settings. Second, we will conduct a review of research by scholars and interpreters into the challenges of simultaneous interpretation and interlingual mediation in a number of settings. Special emphasis will be placed on published research into courtroom interpretation, multilingual tribunals and the unique difficulties encountered by interpreters at the South African Truth and Reconciliation Commission. This is designed to identify relevant problems experienced by professional interpreters in courtroom interpretation, multilingual tribunals and the South African Truth and Reconciliation Commission. Third, semi-structured interviews were conducted with professional interpreters working in two current United Nations transitional justice mechanisms, the ICTY and the ICTR. The objective of these semi-structured interviews in the form of a questionnaire was to elicit information on the professional background and on the problems and dilemmas facing interpreters working in these two jurisdictions. Fourth, the author attended a seminar held in September 2010 in The Hague, Netherlands, under the auspices of the Legal and Court Interpreters Committee of the International Association of Conference Interpreters, aiic. As the title of the seminar ("The 5th Hague Legal Seminar on the Law of Criminal Procedures: Coping Strategies for Traumatic Interpreting

Situations”) indicated, it was specifically concerned with our topic of professionals dealing with the problems and dilemmas of interpreting in conflict-related settings. Relevant insights from this seminar will be incorporated into the study.

The literature-based introductory parts of the thesis will thus be primarily descriptive while chapter 5 will report the results of the set of semi-structured interviews conducted with selected interpreters based at the ICTY and the ICTR. There are currently 31 staff interpreters at the ICTY in The Hague, Netherlands and 36 staff interpreters at the ICTR in Arusha, Tanzania. An outline questionnaire was prepared as basis for the interviews (see Appendix) Inter alia it asked respondents to indicate whether they had received professional training and in what setting and to describe the problems they faced in meeting the demands placed on them as professionals. The results will be reported through identifying the main themes to emerge from the responses as well as providing verbatim samples of interpreters’ responses.

Initially it was intended to record live audio interviews with interpreters at the ICTY, but this was not possible as the Tribunal prohibits the use of any unauthorised recording equipment at the Headquarters building. The Chief of Language Services at the ICTY arranged for the questionnaire to be distributed electronically and in hard copy to the full complement of staff interpreters. Data was collected by means of a set of questions that mostly required short answers though respondents were free to provide longer accounts in the electronic version of the questionnaire. Responses were handed directly to the author of this study and sent in electronic form. The Chief of Language Services at the ICTR similarly arranged for the questionnaire to be distributed electronically to 30 staff interpreters⁴. Responses were handed directly to the author of the study and sent in electronic form. In neither the case of the ICTY or the ICTR did the respondents have an opportunity to elaborate on or explain their responses in an interview with the researcher.

1.4 Limitations.

Out of a total of 31 questionnaires distributed to interpreters at the ICTY, 16 responses were received. At the ICTR, a total of 30 questionnaires were distributed and 7 responses were received. The responses from the ICTY thus form a more representative sample. It is arguable that the author’s visit to the ICTY Headquarters encouraged a more active response from interpreters than at the ICTR, which the author was unable to visit.

⁴ Not all 36 staff interpreters were available to complete the questionnaire.

As indicated above, the author had hoped to be able to record discussions with interpreters at the ICTY; however this was not possible for the reasons outlined. It is arguable that free discussions with interpreters would have produced different and possibly more confidential insights into the nature of the work at the Tribunal. It could be argued that, to the contrary, freedom to complete a questionnaire privately, would allow more confidential insights to emerge, especially since the questionnaire was anonymous.

Confidentiality was expressly mentioned in the Terms of Reference which the author was required to sign at the ICTY: relevant extracts of the terms of reference are included here:

1. Mr Swain shall conduct the questionnaire and interviews only with those staff members and contractors who have been assigned by the Chief of CLSS or his/her designate.
Mr Swain shall ensure that the all the activities are carried out in such a way as not to cause disruption in the day-to-day activities of the ICTY and shall conform to and abide by all written and oral ICTY rules and regulations regarding access to, safety and security on the premises of the ICTY.
2. No information shall be disclosed for the purpose of the Project that the Tribunal has designated as confidential, such designation to be made at any time by the Tribunal in its sole discretion.
5. Mr Swain shall ensure that the names and other personal details of staff members and contractors remain confidential and must not be disclosed to third party under any circumstances.

While informed consent from each of the interpreters was not obtained individually, the consent to conduct the interviews was granted by the Chief of Languages Services Section at the ICTY.

At the ICTR, the consent to conduct semi-structured interviews was granted by the Chief of Languages Services Section. No individual consent was obtained from the interview subjects.

1.5 Definition of Concepts and Terms.

TRANSITIONAL JUSTICE: “Transitional Justice refers to a field of activity and inquiry focussed on how societies address legacies of past human rights abuses, mass atrocity, or other forms of severe social trauma including genocide or civil war, in order to build a more democratic, just or peaceful future”.
(Dinah L Shelton 2005:1045)

PROFESSIONAL INTERPRETER: Among the general characteristics which define professionals Moore, in “The Professions, Roles and Rules”, cites the following:” the practice of a full-time occupation, often in formalised organisation, commitment to a calling, the possession of esoteric but useful knowledge and skills, specialized training/ education of exceptional duration and perhaps of exceptional difficulty, the exercise of professional judgment and authority, and autonomy restrained by responsibility”.(Moore 1970:5/6)

More specifically the interpreting profession places great emphasis on fidelity, accuracy, truth and completeness in the rendering of a speaker’s utterance by an interpreter. Other characteristics which define the approach of the professional interpreter are impartiality, neutrality, integrity, independence and the protection of client confidentiality.

SIMULTANEOUS AND CONSECUTIVE INTERPRETATION: Simultaneous interpreting consists in the act of listening to and translating a speaker’s utterance as the utterance proceeds, usually with an interval of a few fractions of a second between listening and speaking. “In simultaneous mode, the interpreter sits in a booth with a clear view of the meeting room and the speaker and listens to and simultaneously interprets the speech into a target language”. <http://www.aiic.net/glossary/default.cfm?ID=262> In Consecutive interpretation, the translated version of an utterance follows on the original after the original has been completed. The following definition of consecutive interpreting appears on the website of the International Association of Conference Interpreters, aiic: “The interpreter providing consecutive interpretation sits at the same table with the delegates or at the speaker’s platform and interprets a speech into the target language after the speaker speaks. The length of the speeches varies. For this purpose the interpreter may take notes”. <http://www.aiic.net/glossary/default.cfm?ID=103>

INTERPRETATION AND TRANSLATION: Though the rendering of utterances in one language into another is an essential part of simultaneous interpreting this is referred to as “interpretation” by the profession in order to distinguish it from “translation”, which is usually understood to be the written translation of texts. The essential difference between the two disciplines is that an interpreter translates spoken utterances at the same time as they are delivered, whereas a translator translates a text after it has been written and is able to consult terminological glossaries at leisure. Translation and Interpretation are often considered to be interchangeable by outsiders and translators and interpreters are not differentiated. The interpreting profession, however, maintains a distinction between the two

disciplines, in part because the training an interpreter receives is not the same as that received by a translator and because interpretation is performed solely on spoken messages (Anthonissen 2008:184).

In this study, wherever the terms “interpreter” or “interpretation” are used, these terms are to be understood as the terms that are used by the interpreting profession to describe what an interpreter does. They are not to be confused with what a translator does or with the meaning of the term “interpretation” given to it in literary or academic contexts.

MULTILINGUAL: This refers to an event or meeting where several languages are spoken by the participants. These events often require the intervention of interpreters to enable the participants to communicate with each other.

PARALANGUAGE: Paralanguage refers to the components of a spoken message that are produced independently of the verbal language. (Poyatos 2002)

RELAY INTERPRETING: Aiic definition of relay interpreting: “Relay refers to double or indirect interpretation into the target language of the audience. The speaker is first interpreted into one language, which is then interpreted into a second language. AIIIC discourages the use of relay because of the risk of errors creeping in as the number of intermediate languages increases. Nevertheless, this technique sometimes cannot be avoided for certain languages.” Accessed on aiic website <http://www.aiic.net/glossary/default.cfm?ID=79> 02.11.2010.

ON-SIGHT TRANSLATION: If a text or script of a statement is made available to an interpreter in the booth, the interpreter may well choose to do an oral translation of the text instead of interpreting the speaker simultaneously as they make the statement.

Abbreviations

SATRC/TRC: South African Truth and Reconciliation Commission

ICTY: International Criminal Tribunal for the former Yugoslavia

ICTR: International Criminal Tribunal for Rwanda.

Aiic: Association Internationale des Interprètes de Conférence (International Association of Conference Interpreters)

ILO: International Labour Organisation

LON: League of Nations

CHAPTER 2.

ORIGINS AND DEVELOPMENT OF CONFERENCE AND SIMULTANEOUS INTERPRETATION

2.1 Introduction.

The first part of this descriptive survey will review secondary literature on the origins and history of conference interpretation, beginning with the first appearance of the practice at the 1919 Paris Peace Conference. Secondly, it will describe the evolution of the practice which culminated in the use, for the first time, of simultaneous interpretation at the Nuremberg Trial in Germany in 1945. Thirdly, it will describe the problems which faced the interpreters at the Nuremberg Trial based on a first-hand account by one of the Chief Interpreters.

2.2 The Origins of Conference Interpretation and the “Battle of the Languages”.

In early 1919 as the Allied powers met in Versailles to negotiate the new map of Europe following Germany's surrender, another conflict was declared. The new conflict was arguably a direct consequence of the military conflict which had just ended. This time however, it was not territory that was at stake, but language.

Until the Paris Conference of 1919, the French language had enjoyed supremacy as the international language of diplomacy: however, as the 1919 Paris Peace Conference was about to begin, this supremacy was challenged by English-speaking participants at the Conference.

“Even though the confrontation had been brewing for a very long time, the decisive battle between French and English was fought only a few days before the inaugural conference. The French delegation had been led to believe that French would be the official language of the Conference and the Treaty texts: firstly, because of the long standing tradition of French as the international language of diplomacy and also because France had been the theatre of conflict: taken together, these two factors gave French an unchallengeable moral prerogative in the eyes of its protagonists” (Baigorri Jalón, 2004: 17: original text in French: translation by author).

The other powers, among them the United Kingdom and the United States, had other ideas. They felt that since France had been chosen as the seat of the conference and for the Presidency of the conference, some concessions could now be expected from it on the crucial issue of the official language or languages of the Conference. English speakers were in the majority (Baigorri Jalón, 2004:15).

Grist to the transatlantic mill came in the form of notes that had been taken in English of secret meetings of Foreign Affairs ministers by the de facto secretary of the Paris Conference, Lord Hankey, creating an undisclosed precedent for the use of a language of record other than French (Baigorri Jalón, 2004:13).

Even though the notes taken by Hankey were never approved as official records, - they had been taken secretly and published in breach of strict confidentiality rules, - their existence was to become a potent argument for the majority in favour of adopting English, at least as a second official language of record alongside French (Baigorri Jalón, 2004:13).

French President, Clemenceau, for his part insisted that the French language was particularly precise and therefore appropriate for something as sensitive as treaty language. US President Wilson argued that, while French could claim to have hitherto been the traditional language of diplomacy in Europe, it was nevertheless not the language of one of the major new non-European players on the European diplomatic stage, The United States. They, among others, argued that the war would not have ended

were it not for the contribution of the United Kingdom and its dominions and that of the United States (Baigorri Jalón, 2004:13)

While the wrangling over the official language doubtless proceeded in more than one language, the discussions were not mediated by what we now know as a professional conference interpreter. The profession of interpreter was unknown in the preparatory stages of the Paris Conference.

“It is clear that the profession of conference interpreter did not, as such, exist at the time. One did not become an interpreter as one became a lawyer or an engineer. One became an interpreter by chance, one learnt one’s trade on the job and it was considered as a temporary occupation” (Baigorri Jalón, 2004:18).(Original text in French: translation by author).

Those who were entrusted with interpreting the preparatory discussions of the Paris Conference, were not seconded to the diplomatic missions as interpreters but rather because they were career civil servants or military personnel. They were “those who had the luck or the privilege, as well as the ability, to learn another language in depth and share in other cultures” (Bertone, 2006: 21). Their work was just as likely to include the drafting of minutes and written translation as it was to interpret. No distinction was made between translators and interpreters.

The outcome of the “Battle of the Languages” was to change this. The French language now found itself sharing centre stage with English in international diplomacy. The consequence was that all statements and discussions at the 1919 Paris Peace Conference had to be interpreted into the “other” language. Conference Interpretation came into being.

2.3 From Paris to Nuremberg: from Consecutive to Simultaneous Interpretation.

The technical equipment which enabled the later Nuremberg trial to take place using simultaneous interpretation had not yet been invented. The result was that statements were interpreted in what is known as consecutive interpretation, that is to say, after the speaker had completed an utterance⁵. It was extremely time consuming, especially as each statement, sometimes lasting more than an hour or two, sometimes had to be interpreted into several languages one after the other.

⁵ See section on Definition of Concepts and Terms

It was the establishment of two organisations in terms of the Treaty of Versailles, the International Labour Organisation (ILO) and the League of Nations (LON) which propelled the development of professional simultaneous conference interpretation. (Baigorri Jalón, 2004:67) These organisations used several languages simultaneously and the traditional systems of consecutive interpretation that had hitherto been used in international meetings were no longer suitable.

The introduction by both the ILO and the LON of simultaneous interpretation on a pioneering, experimental basis in the 1930s not only allowed meetings to be conducted more efficiently, but it also enabled the practitioners of conference interpretation to acquire a degree of professional status. Up until this point the practitioners of conference interpretation bore few of the hallmarks of an established professional body. (Moore, 1970; Baigorri Jalón, 2004)

Though initially, the simultaneous interpretation practised by the interpreters in these two organisations bore little resemblance to what eventually appeared at the Nuremberg Trial, the stage was set for the birth of the profession of simultaneous interpreter.

The organisers of the Nuremberg Trial, or the International Military Tribunal, as it was officially known, had realised that without significant changes to the traditional forms of court and conference interpretation, the trial would be seriously compromised, both from the point of view of due process, but also in the eyes of the media and the outside world. (Gaiba, 1998:34) The US Chief Prosecutor, Justice William Jackson remarked:

“There is no problem that has given me as much trouble and as much discouragement as this problem of trying to conduct a trial in four languages. I think it has the greatest danger from the point of view of the impression this trial will make upon the public. Unless the problem is solved, the trial will be such a confusion of tongues that it will be ridiculous, and I fear ridicule much more than hate”. (Gaiba, 1998:34)

The concerns of the US Chief Prosecutor were heeded and wheels were set in motion both in Europe and in Washington to find a suitable system to replace the existing one. Colonel Léon Dostert, who had been US General Eisenhower's interpreter and who was responsible for language services at the Pentagon, made ready a demonstration of equipment adapted from the system that had been used experimentally at the ILO and LON. He invited both Justice Jackson and his Washington based assistant, Charles Horsky to attend. (Gaiba, 1998:36)

Though never before attempted, a group of interpreters that Dostert had trained for the occasion proceeded to interpret simultaneously into three different languages, extemporaneous speech by a woman on stage in an auditorium (Gaiba, 1998:36). A new chapter in the history of conference interpretation had opened.

2.4. Simultaneous Interpretation at the Nuremberg Trial.

While it was the unchallenged right of the defendants to use their own language to defend themselves which necessitated the use of interpreters at Nuremberg, it was the particular prescription of the Charter of the International Military Tribunal that the trial be conducted expeditiously which required the use of simultaneous interpretation (Gaiba, 1998:34).

Yet despite the success of the demonstration that had been given in Washington, many doubted its feasibility (Gaiba 1998:37). As Peter Uiberall, one of the Chief Interpreters at the main Trial and at the Subsequent Proceedings said in an interview in 1992, (Video Peter Uiberall, 1992), "a lot of people felt that it could not be done: there were many people who were quite sure that it was impossible to do a thing like that, so we had to demonstrate that it was possible".

Furthermore, what a suitable candidate for simultaneous interpretation at a multilingual war crimes trial actually should be, was to all intents and purposes, unknown. Would the professional interpreters who had come into being with the Paris Conference, but who had worked exclusively in consecutive interpreting, be suited to the pace and pressure of simultaneous interpreting?

Given that the discipline had barely come into being, little was known either by the practitioners or by the users about what was required to succeed. One of the few available measures was linguistic ability. From Uiberall's account, it is clear that there was no long-standing and well-established profession of simultaneous interpreting into whose specified professional standards the practice of simultaneous interpreting in a setting such as the Nuremberg Trials could be incorporated. Uiberall recalls how he himself was drafted into testing candidates: on reporting at the Pentagon, he was asked by an officer, "Do you speak German? »I said,« Yes, sir, it's my native tongue, I had some years at the University of Vienna. » « OK », he said. « In the next room there is a desk. You go in there and sit down, and I'll send you people, and you can test them for their German. » And that's how I started". (Baigorri Jalón,

2004, Gaskin 1990:12) This proved to be an inadequate criterion on its own, however, for as Salimbene (Salimbene, 1997:662) points out “Complete fluency in two languages is a sine qua non of accurate interpretation” and, as Hollander, cited in Salimbene, writes, “Contrary to popular belief, interpreter education is not foreign language centered since the mastery of at least two active languages at (or) near native level of proficiency is a prerequisite for work and/or study in the field” (Salimbene 1997:659). Consequently, many of those who were selected initially never achieved the necessary proficiency in the booth.

Once the Trial began, the interpreters faced a set of problems which were without precedent. Firstly, none of the courtroom participants had ever used simultaneous interpreters and, particularly, when performing cross-examination, the legal counsel would allow themselves to be carried away by the “breath-taking rhythm of traditional examination” (Gaiba 1998:102) and the interpreters could not keep up.

Secondly, the defendants spoke German, which is a language that is especially difficult to interpret simultaneously, as the operative verb is positioned at the end of a secondary clause. (Baigorri Jalón, 2004: 247) This requires the interpreter to wait until the end of the sentence to hear the verb before translating it into French or English. In practice, the interpreter either has to wait for the verb and thus hold up an exchange, or anticipate what a verb is going to be. Neither option is ideal in a courtroom exchange where speed and accuracy are at a premium.

Furthermore, with only some improvised training,⁶ (Baigorri Jalón, 2004:239; Gaiba, 1998: 50) the interpreters were exposed to often harrowing accounts of the brutality of the Third Reich⁷, of which some of the interpreters had had first-hand experience (Video Peter Uiberall, 1992)

Uiberall writes:

⁶ Uiberall recalls: “In the attic of the palace of justice the Nuremberg where the courthouse trials eventually took place we set up a mock courtroom for none of us knew how war crimes trials would operate, so we invented things, we took on the role of prosecutor the role of defence counsel, and the role of the interpreter of course. And so we played court in order to find out how it would work.” (Video Peter Uiberall 1992)

⁷ Gaiba writes: “Many reported they had nightmares, for example, about the horrors of the films that the U.S. Army had taken when they first entered the concentration camps. Interpreters were forced to see these movies because they were required to interpret them as they were shown” (Gaiba 1998:81)

“Nuremberg was a horrible experience as far as the content was concerned. Many interpreters developed nightmares. You know that as an interpreter, you do nothing mechanically, but you don’t really carry it with you afterwards: in Nuremberg, we did” (Video Peter Uiberall, 1992).

Uiberall recalls having the greatest admiration for the interpreters who had themselves been in concentration camps. He nevertheless recognised the challenges they faced: “We had a number of interpreters who came out of concentration camps and who did, of course, a magnificent job”....”The closer the people themselves had been to the events, the better they did in interpreting. But the Nuremberg trials were doubly difficult in that respect.” (Video Peter Uiberall, 1992; Gaskin 1990:116)

As for the users of interpreting, it has already been indicated that no-one was familiar with the practice, or the particular constraints under which the interpreters operated. This worked both for and against the interpreters. Never having witnessed the process before, many of the courtroom participants and the media covering the Trial thought the interpreting miraculous (Gaiba, 1998: 112) However, insofar as the constraints of using simultaneous interpreters necessitated an adjustment in their approach to proceedings, waiting for the interpreter before continuing a spirited argument in cross-examination, for example, some legal professionals resented the system (Gaiba, 1998: 113).

Among the defendants, some of the most notorious offenders among those on trial were, curiously, sometimes those who expressed the greatest appreciation for the work of the interpreters. Obergruppenführer Von Ohlendorff, who was head of the so-called Einsatzgruppe, (the extermination squads) wrote a letter to the Secretary General of the Tribunal “expressing his appreciation for the interpreters who had made it possible for him to be heard and to be heard fully” (Video Peter Uiberall, 1992; cf. also Gaskin 1990:117).

An efficient system of communication cannot have been to everyone’s advantage, however. Reichsmarschall Goering is reported to have quipped to the interpreters, “You are shortening my life by several years” (Gaiba, 1998: 110).

Despite the problems, the interpreters, in Uiberall's view, had contributed to the holding of a fair trial. Chief US Prosecutor Justice Jackson is also quoted as saying, "The success and smooth working of this trial is due in no small measure to the system of interpretation and the high quality of the interpreters who have been assembled to operate it"(Gaiba, 1998:112).

2.5 Conclusion.

The first part of this literature survey has shown that the first conference interpreters were not professionals as such. They had, in the case of the Paris Peace Conference, been propelled by a specific political conjuncture and by virtue of their position within the diplomatic élite, to intervene as interpreters when the Conference decided that there would be two official languages of record.

Secondly, The Nuremberg Trial necessitated the introduction of simultaneous interpretation in order for the trial to be conducted expeditiously. As in the case of the Paris Peace Conference, the first practitioners of simultaneous interpretation were self-taught and none of the handful of interpreter training schools taught the discipline.

Thirdly, it has been shown that the interpreters at the Trial faced specific problems, not least of which was the need for a degree of resilience in the face of the often harrowing content.

CHAPTER 3: INTERPRETERS IN THE MULTILINGUAL COURTROOM.

3.1 Introduction.

In this section, we will survey secondary literature dealing with the problems and dilemmas facing the interpreter in the multilingual courtroom.

Firstly, we will discuss the prescriptions governing the work of court interpreters in history and in the present day. Secondly, we will assess judicial attitudes to interpreters. Thirdly, we will explore the

professional dilemmas facing the interpreter in the multilingual courtroom including the problems facing interpreters when faced with paralinguistic features in speech. Lastly we will assess the role of interpretation as seen through the eyes of its practitioners.

3.2 Interpreters in the Multilingual Courtroom.

As the previous section has shown, the Nuremberg Trial was the first multilingual courtroom to use simultaneous interpretation. Prior to this, consecutive interpretation was used in the courts whenever witnesses testified in a language other than the national language of the court. In the absence of an adequate set of specific professional standards to guide both the interpreters and their clients, the success of simultaneous interpretation in Nuremberg was arguably an accidental success.

Interpreting has been employed within the domestic court systems of multilingual countries since colonial times⁸ The modern multilingual courtroom is a highly ritualised environment, however, where every detail of a statement by a witness or defendant is scrutinised, not simply from a lexical point of view, but also from the point of view of what an utterance may betray about a speaker's motivation and intent, issues which are of primary consideration in assessing innocence or guilt. (Karton, 2008)

What does the court expect from the interpreter?

It was only in 1978 that the United States introduced the Court Interpreters Act (Gonzalez, 1991:47). The Act was introduced in response to a growing awareness of infringements of basic constitutional rights among language minorities in the US (Gonzalez, 1991: 43). However references to regulations governing the practice of legal interpreters can be found as early as the 1600s and accompanied the drive for expansion of the Hispanic-American Empire. These stipulated that, "Before undertaking their profession, interpreters had to take an oath to make good and loyal use of their work, translating impartially without hiding or adding anything, without favour for any of the parties, and with no interest in the trial other than their own fees" (Bertone, 2006:19).

⁸ Since the practice of court interpreting was introduced long before the equipment became available to enable simultaneous interpretation, court interpreters worked, and continue to work principally in consecutive mode, in contrast to the modern conference interpreter who principally works in simultaneous mode. In consecutive mode, the interpreter stands or sits next to a witness and renders his or her utterance and the questions of the legal representatives after the utterance has been completed. In modern simultaneous interpretation, the interpreter works from a sound-proofed booth either in the meeting room or outside it and renders utterances as they are being delivered.

There is a striking similarity between this and the Canon governing the work of court interpreters in the US in the present day. In addition, the modern courtroom prescribes what the court interpreter should and should not translate: “Court interpreters and legal translators should convey all of the meaning of the source language in the target language without adding to, leaving out or modifying anything given the cultural, syntactic and lexical limits of the target language.” (Berk-Seligson, 1990:237)

In effect, Morris argues, the judicial system idealises the role of the court interpreter as a mechanical facilitator of the language switching process. In this view, the interpreter becomes:

“a phonograph, a transmission belt, transmission wire or telephone, a court reporter, a bilingual transmitter, a translating machine, a (mere) conduit or channel, a mere cypher, an organ conveying (presumably reliably) sentiments or information, and a mouth-piece” (Morris, 1993: 2). It theorises that the interpreter should achieve a perfect translation, however “it bases this assumption on an ideal world in which total equivalence is automatically achieved by any individual performing interlingual interpretation in a forensic setting. It thereby discounts the ambiguities inherent in all human systems of communication because, in this idealized view, they are entirely overcome in the interpreting process”. (Morris, 2010:1).

This view of the interpreter is problematic. Firstly, as Bertone points out, “the pre-established equivalence of words being used does not necessarily ensure the equivalence of the message”. (Bertone, 2006: 60) Words, as Poyatos observes, “lack the capacity to carry the whole weight of a conversation, or speech, that is, all the messages encoded in the course of it, because our lexicons... are extremely poor in comparison with the capacity of the human mind for encoding and decoding an infinitely wider gamut of meaning” (Poyatos, 2002: 238).

Secondly, communication also involves paralinguistic factors. The judge and counsel as well as the jury do not assess the bona fides of a witness on the basis of the verbal content of their testimony only. Witnesses may appear more or less credible if they are aggressive, confused, hesitant and repetitive. As Karton points out: “What makes paralinguistic communication so important in the courtroom is that judges assess the witnesses’ credibility based not only the witnesses’ words, but also on their tone and demeanour” (Karton, 2008: 25).

Thirdly, it faces the interpreter with an intractable dilemma. If he/she respects the injunction contained in the Canon as cited above by Berk-Seligson, then nothing should be left out. However, if this is what

he/she does, it may place the interpreter in a potential conflict of loyalty between the exigencies of clarity and those of accuracy (Schlesinger, 1991:150). Morris, analysing the performance of the interpreters at the Demjanjuk trial which took place in Israel between 1987 and 1988, writes,

“Speakers in the Demjanjuk proceedings, like those in most other contexts, regularly hesitated, failed to finish their sentences, used incorrect grammar, suffered from slips of the tongue and so on. In standard conference interpreting practice, interpreters normally compensate for these foibles as far as possible. But... the prescriptive rules of court interpreting do not allow for such behaviour. Strictly speaking, the rules require any errors in the original to be reflected in the interpreted version, even at the risk of the interpreters themselves sounding incompetent” (Morris, 1995: 39).

Because of the dual view which the court has of the interpreter as both “a traitor and an instrument” (Morris, 1999:8), the court is more easily inclined to doubt the professional credibility of an interpreter when garbled testimony is reproduced verbatim than to doubt the credibility of a witness. As Bertone writes, “because of their respective status, it is the interpreter (and not the speaker) who will be suspected first of talking nonsense” (Bertone, 2006: 239).

As a result, Schlesinger says that interpreters will tend to “round-off” and “grammaticise” ungrammatical utterances in order not to appear incompetent (Schlesinger, 1991:150). Arguably, however, the oath which the court interpreter is expected to swear is ambiguous as it is not clear whether it expects accuracy or equivalence of meaning.

The preceding discussion throws into relief the question of the role of the interpreter and the professional standards and ethics guiding them in the performance of their duties, and, as Anderson writes, “In general, the interpreter's role is characterized by some degree of inadequacy of role prescription, role overload, and role conflict resulting from his pivotal position in the interaction network” (Anderson, 2002:212). The interpreter in the bilingual or multilingual courtroom is guided by the prescriptions of the judicial system and its emphasis on the importance of exact lexical equivalence in the interpretation. However, despite being sworn to an oath to “well and faithfully” a speaker, the interpreter must, as Schlesinger writes “reconcile his own understanding of “well and faithfully” with whatever he perceives to be the court’s understanding of the same concepts” (Schlesinger, 1991: 148). Interpreters are aware that, despite the court’s insistence on verbatim accuracy, a degree of interpreter latitude is necessary for an utterance in the source language to be re-encoded into the target language “well and faithfully”.

This discussion raises an important question in the context of the transitional justice settings which will be analysed later. Is there a conflict between the role of the interpreter as viewed by the judicial system and that held by the community of professional conference interpreters themselves?

3.3 Interpreter Self-Representations

It has been shown that during the early phase of the emerging profession of conference interpretation, the first simultaneous interpreters to be assigned to service an institutional client, - the Nuremberg Trials, - operated in the absence of any professional standards governing their practice. The International Association of Conference Interpreters, known by its French acronym, aiic, came into being in 1953. Its ambition then as now was to act as a professional association representing the interests of conference interpreters, simultaneous and consecutive, around the world.⁹ Furthermore, it aims to set standards for the practice of the profession.¹⁰

Initially, in seeking to recruit members from the few existing national associations in order to strengthen its international credentials (it was initially seen as Franco-centric having held its constituent Assembly in Paris) it had to relax the terms on which new members were admitted. Nowadays, stringent conditions apply to the admission of new members.¹¹

Currently, aiic is the only worldwide association of professional conference interpreters. It has published a Code of Ethics and a set of Professional Standards which can be accessed on the association's website, www.aiic.net. Breaches of the Codes by members can be met with disciplinary procedures which are set out in the Council Regulation on Disciplinary Procedures. (Procedure 2010)

The Code of Professional Ethics and the Professional Standards address issues of confidentiality and integrity for interpreters who are members of aiic. They are norms which are common to the legal, medical and other professions. They do not, however, offer advice to members on the kind of dilemma which faces the interpreter in the multilingual courtroom, stating only that, " Members of the Association shall be bound by the strictest secrecy, which must be observed towards all persons and with regard to

⁹ Conference Interpreting is an international profession. Many interpreters are assigned to service meetings away from their professional and personal domicile. The aim of an international association is to ensure that the same standards of practice apply irrespective of the country in which a meeting is taking place.

¹⁰ For details of aiic's objectives see <http://www.aiic.net/ViewPage.cfm/article8>

¹¹ Conditions for admission can be found at: <http://www.aiic.net/ViewPage.cfm/article118.htm>

all information disclosed in the course of the practice of the profession at any gathering not open to the public”, and, “Members shall refrain from deriving any personal gain whatsoever from confidential information they may have acquired in the exercise of their duties as conference interpreters” (aiic Code of Professional Ethics, 2009, Code of Honour Art. 2) No mention is made of what is expected of an interpreter in areas such as the accuracy and completeness of their output or what standards should be met in matters pertaining to neutrality and impartiality. The Code of Ethics and the Professional Standards refer only to “an optimum quality of work” and “the best quality of interpretation” (aiic Code of Professional Ethics, 2009, Working Conditions Art.7). While many researchers from within the profession (Anderson, 2002; Gile, 2001; Kurz, 2002; Moser-Mercer, 2000/1; Roy 2002) have turned their attention to quality assurance and professional standards, the results of their research are not reflected in aiic policy statements or guidelines.

Significantly, however, aiic is clear that the interpreter’s output or product should be considered as extemporaneous in nature and primarily intended to facilitate communication between meeting participants. It should not be relied on as authoritative or as the basis for official transcripts or records.¹²

¹² The reasons for this are explained in the following article on the aiic website, <http://www.aiic.net/ViewPage.cfm/article26.htm>, which states:

“Conference interpretation is an oral intellectual exercise, quite distinct from drafting a written text. Any attempt to put the content of recording of conference interpretation into written form, without considerable preliminary editing, can only yield questionable results. There is no known instance of spoken language being completely transferable into acceptable written form. It is therefore recommended that professional minute writers or translators be used to do the editing required.

The protection of intellectual and creative works and their use by third parties, are subject to national legislation, bilateral agreements and international agreements, in particular the International Copyright Convention and the Berne Convention for the Protection of Artistic and Literary Works.

The performance of conference interpreters is protected under international law. The Berne Convention provides protection for the interests of authors; translations are protected as original works and translators are protected as authors. When fixed in material form, of any nature whatsoever (printed, sound or audiovisual recording, records, discs, magnetic tapes, videograms, slides, films, wire, cable, transparencies, photocopies, microcards, or any similar method) the performance of the conference interpreter becomes a translation within the meaning of the Berne Convention and the exclusive rights foreseen in the Convention apply to the author.

The purpose of the rules governing copyright is the protection of the legitimate rights of the author. Thus, no one may publish the work of an author, nor exploit it in any other way without the preliminary consent of the author: the exclusive right to grant such authorization belongs solely to the author, i.e. the interpreter.”

By contrast, the United States Courts have issued specific standards which are expected of a court interpreter, including in the area of accuracy. Thus in the Code of Professional Conduct for Court Interpreters of the Massachusetts Trial Court, it states “Accuracy requires that interpreters bring to their work the ability to convey the totality of what was communicated, both verbal and non-verbal”. (Salimbene, 1997: 651) and “The interpreter has an obligation to convey every aspect of the witness’s testimony, not only words but also paralinguistic elements such as pauses, false starts, and tone of voice” (Salimbene, 1997: 651).

It should be mentioned that many of the Codes of Conduct for interpreters issued by the US courts date from as recently as 1996 (Salimbene, 1997), whereas aiic came into being in 1953 at a time when the practice of simultaneous conference interpretation was still a relative novelty and where explicit professional standards for practitioners were scarce. Furthermore, aiic is an association which represents conference interpreters not court interpreters. However the first simultaneous interpreters worked in a multilingual courtroom and professional simultaneous interpreters perform the same function nowadays in settings such as the UN ad hoc Tribunals for the former Yugoslavia and Rwanda, the ICTY and the ICTR. Such being the case, as a professional association has aiic has promoted a set of specific professional standards which guide present day practitioners in the performance of their duties? Additionally, how have these standards evolved in adapting to the numerous settings in which interpreters operate?

A three-stage sequence can be identified in the development of professional standards for conference interpreters. Firstly, an era during which interpreters operated unreflectively in line with the requirements of the different external contexts to which they were assigned, such as courts and conferences. The Nuremberg Trials are an example of this. As has been shown, the first practitioners of simultaneous interpreting operated in the absence of a set of professional standards. Neither the clients nor the practitioners knew what was expected of them. (Gaiba, 1998:112 ; Video Peter Uiberall , 1992).

In the second stage of the sequence, which coincided with the decade following the Nuremberg Trials, and which coincided with the establishment of aiic, interpreters themselves began to articulate an ‘autonomous’ self-conception of interpreting as a professional activity. Zwischenberger (Zwischenberger, 2009) discusses these early self-conceptions in a 2008 web-based survey of aiic members. She finds that early self-representations of professional interpreters were imbued with an almost messianic quality. The interpreter’s mission was to enable “communities to develop a deeper

understanding and respect for one another” and enable an “intellectual communion” (Zwischenberger, 2009:240)

Underlying this was nevertheless an emphasis on accuracy and fidelity to the speaker as expressed by Jean Herbert in *The Interpreter's Handbook* (Herbert, 1952):

“The interpreter should never forget that the immediate and essential object of his work is to enable his audience to know accurately what the speaker intended to convey, and to make on the audience the impression which the speaker wishes to be made” (Herbert, 1952: 23)

Another author, Edmond Cary, quoted in Zwischenberger states:

“The interpreter must also be an actor” “in order to faithfully re-transmit the speaker’s message. The same emphasis can be found in Seleskovitch who argues that the interpreter must be an intermediary, just as an actor who “adds his own performance to the author’s text” (Seleskovitch, 1968, cited in Zwischenberger 2009: 241).

In the third stage of the sequence, a phase during which the profession consolidated and developed, interpreters sought to position themselves as providers of professional communication services to a growing range of institutional clients such as the UN and its specialised agencies, the EU, etc. During this time, interpreter self-conceptions were increasingly articulated through the mouthpiece of the professional body, aiic. Aiic also took on the responsibility of defining the standards which it expected of aspirant and practicing members. As Kurz (Kurz, 2002) writes, however, for a long time, the professional body was preoccupied with setting quality standards which interpreters themselves thought important, without giving much thought to what the users of interpretation expected from its practitioners.

Thus, in 1990, Le Féal, quoted by Kurz (Kurz, 2002), describes the quality standards expected of aspirant and practicing members of aiic as follows:

“What our listeners receive through their earphones should produce the same effect on them as the original speech does on the speaker’s audience. It should have the same cognitive content and be presented with equal clarity and precision in the same type of language. Its language and oratory quality should be at least on the same level as the original speech, if not better, given that we are

professional communicators, while many speakers are not, and sometimes even have to express themselves in languages other than their own”(Kurz, 2002:313).

These considerations are important in establishing what the practitioners of conference interpretation consider to be the ideal objective of interpretation. The emphasis is on clarity and fidelity to the communicative intent of the speaker. However they are considerations which relate principally to the practice of conference interpretation. The courts, as several authors (Berk-Seligson, 1990; Morris, 2010; Salimbene, 1997) point out, have developed different and more detailed expectations of interpretation. These can be summarised as lexical accuracy, completeness and impartiality. However, to judge by the results of the survey presented by Zwischenberger, (Zwischenberger, 2009), conference interpreters do not feel bound by the same constraints as those imposed on interpreters by the courts. It is even arguable that the objectives of interpretation espoused by conference interpreters are at odds with those set down for the practice of court interpretation. Firstly, lexical accuracy does not extend to certain aspects of a speaker’s communicative intention (Bertone, 2006; Poyatos, 2002). Secondly, completeness is an ambition which may place the interpreter’s credibility at risk, (Schlesinger, 1991), and thirdly, impartiality may conflict with the conference interpreter’s objective of fidelity to the communicative intent of the speaker.

It therefore appears that conference interpreters aspire to standards that are not entirely compatible with those which the courts expect of an interpreter. Additionally, conference interpreters and the judicial system, diverge over who the client or beneficiary is of their professional services. Zwischenberger concludes that “Professional conference interpreters speak in the first person on behalf of the speaker, and, as such, *their primary loyalty is always owed to the speaker and to the communicative intent that the speaker wishes to realise*, (italics by author) whatever the speaker’s position or point of view”. (Zwischenberger, 2009: 242). The judicial system, by contrast, places the interpreter at the service of the court: “The interpreter serves as an officer of the court and the interpreter’s duty in a court proceeding is to serve the court and the public to which the court is a servant”. (Salimbene, 1997: 657).

Furthermore while the court places a high price on exact lexical equivalence as a prerequisite in the performance of a court interpreter (Berk-Seligson, 1990; Morris, 1999), conference interpreters tend to be tolerant of a degree of latitude in rendering a speaker’s utterance. In addition, age and length of experience in the profession are seen to have an impact on this trend, as the results of a survey on quality and role carried out among members of aiic in 2008 attest.

"Thus, AIC members' stated readiness to intervene in the original speech by moderating a speaker's words when they clash with cultural conventions, using their own language and style when interpreting, trying to ensure that the interpretation is intelligible even if the original is not, etc. increases proportionally with age and working experience". (Zwischenberger, 2008)

3.4 Conclusion

This section has shown that the interpreter in the bilingual or multilingual courtroom is faced with a number of dilemmas in exercising his/her professional autonomy. Compared with the prescriptions that govern the work of court interpreters in the US, for example, where "They are to render the original source material "without editing, summarizing, deleting, or adding while conserving the language level, style, tone, and intent of the speaker" (Morris, 2010:1), experienced conference interpreters, who are in the majority in modern transitional justice settings, appear to believe that such prescriptions are not in the interests of effective interlingual mediation. While lexical accuracy and completeness are regarded as indispensable norms by the judicial system, fidelity to the communicative intention of the speaker is the watchword for the professional conference interpreter. Additionally, where the judicial system places the interpreter at the service of the court, the conference interpreter considers the speaker to be the first beneficiary of his/her professional services.

To the extent that interpreting in court and conference interpreting setting can be separated out, conflicts and dilemmas involving professional standards would be expected to disappear. However in modern transitional justice settings which fuse elements of court interpreting with elements of conference interpreting, these conflicts and dilemmas are especially marked. The following chapters will discuss the problems and dilemmas of interpreters in two contemporary Transitional Justice mechanisms, the South African Truth and Reconciliation Commission and the UN Tribunals for Rwanda and the former Yugoslavia. We will see that in these two settings which combine elements of traditional court interpreting with those of conference interpreting, there are clear tensions between the demands of accuracy and completeness, detachment and impartiality on the one hand, and the demands of clarity and fidelity to the communicative intention of the speaker on the other.

CHAPTER 4. INTERPRETERS AT THE SOUTH AFRICAN TRUTH AND RECONCILIATION COMMISSION (SATRC)

4.1 Introduction.

In this chapter, we will discuss the problems facing the interpreters who serviced the South African Truth and Reconciliation Commission (TRC). Firstly, we will briefly discuss the mandate of the TRC and how, as a process, it can be differentiated from other truth commissions in recent history. Secondly we will discuss the training and recruitment of the TRC interpreters: thirdly, we will analyse the demands placed on the interpreters by the TRC hearings: lastly, we will discuss the impact of the hearings on the interpreters.

4.2 The Mandate of the South African Truth and Reconciliation Commission, (SATRC).

As a mechanism to expose government-sponsored human rights abuses and foster reconciliation in post-conflict societies, the Truth Commission came to prominence in the latter part of the 1990s. Three substantial examples were the Argentine (1983), Chilean (1990) and South African (1995) Truth Commissions. While both the Argentine and Chilean examples were created by presidential decree, the South African Truth and Reconciliation Commission (SATRC) came into being following the signing of a

legislative act, The Promotion of National Unity and Reconciliation Act 34 of 1995. Furthermore, while the Argentine and Chilean commissions took submissions from non-governmental organisations and, in the Chilean case, members of the public, their hearings were never held in public. Reports were commissioned for submission to the President, and latterly, published. The SATRC by contrast held many of its hearings in public (Hayner, 2001:42). These hearings generated intense media interest both nationally and internationally and were broadcast live on national radio and television in South Africa. (Hayner, 2001: 42)

The SATRC was conceived as a transitional justice mechanism which had evolved significantly beyond the Argentine and Chilean Truth Commissions and, for that matter, the Nuremberg Trials, which is still regarded by many as a manifestation of victor's, punitive justice (Rigby, 2001). As Van der Merwe points out, "Although other Truth Commissions preceded the South African body, the TRC had the most expansive mandate, the widest powers, the greatest resources, and the largest professional staff" (Van der Merwe, 2008:8). As well as uncovering the truth about apartheid-era human rights violations, the Promotion of National Unity and Reconciliation Act, mandated the TRC to:

- "promote national unity and reconciliation in a spirit of understanding that transcends the conflicts of the past;
- facilitate the granting of amnesty to persons who make full disclosure of all relevant facts related to violations associated with a political objective;
- restore the human and civil dignity of victims by granting them an opportunity to relate their own accounts of the violations affecting them and by recommending reparation measures in respect of them, and;
- make recommendations to the president on measures to prevent future violations of human rights. (Promotion of National Unity and Reconciliation Act, 1995: 8/9)

The mandate of the TRC mirrored the expanded ambition of modern transitional justice processes. In the 2004 Transitional Justice report of the United Nations Secretary General, these are described as, "the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation." (S. G. UN 2004: 4 para 8).

The Promotion of National Unity and Reconciliation Act determined that, in contrast to the Argentine and Chilean Truth Commissions, the hearings of the TRC would, as a general principle, be held in

public (Promotion of National Unity and Reconciliation Act, 1995: 24). Additionally, the Act contained two important provisions related to language: firstly, that “victims shall be treated equally and without discrimination of any kind, including race, colour, gender, sex, sexual orientation, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin or disability, and that “appropriate measures shall be taken to allow victims to communicate in the language of their choice” (Promotion of National Unity and Reconciliation Act, 1995: 11). This provision required the creation of an interpretation service, the formation of which was entrusted to the Unit for Language Facilitation and Language Empowerment of the University of the Free State. (Raditlhalo, 2009:91).

4.3 Training and Recruitment of TRC Interpreters

As in the case of the interpreters who were assembled to service the hearings of the Nuremberg Trial, the training the TRC interpreters received was perfunctory, amounting to two weeks in total. Initially, the team of trainees numbered twenty-three, eventually growing to thirty-five to service all the possible language combinations involved in translating into and out of South Africa’s eleven official languages. . (Raditlhalo, 2009:91; Lotriet, 2006:112).

Lotriet describes the selection criteria for initial training and the service conditions of those who were finally selected, following training. The candidates had to have a tertiary level qualification, ideally in a language-related field, they had to be 25 years or older since it was expected that they would be exposed to traumatic and unsettling material and they had to be able to interpret into English. (Lotriet 2006:112). The interpreters at the TRC hearings would be expected to work in simultaneous mode as conference interpreters do, in contrast to the majority of court interpreters who still work in consecutive mode.¹³

The service conditions which the selected interpreters were expected to encounter included widely divergent working environments ranging from modern, well-equipped buildings to “dilapidated halls in rural areas” (Lotriet, 2006: 112). They were also expected to be able to service hearings where the lexicon could range from graphic accounts of acts of brutality as told by victims, to the precise and formal lexicon of the courtroom in the case of the Amnesty Hearings. (Lotriet, 2006:112.).

¹³ See Section on Definition of Concepts and Terms

Given that the hearings were to be held in public, another important feature of the work of the interpreters at the TRC was that their production or output would be used by both national and international radio and television. (Lotriet, 2006: 113) This meant that, to all intents and purposes, the interpreters would not only be the voices of those who testified, but that their products would find its way into public record and official transcripts. This was something which some interpreters resented, arguing, as one interpreter did in reflecting on the role of the interpreters at the TRC, that their primary function was oral. (Anthonissen, 2008:171). As a formulation of the interpreter's self-representation, this is in line with the International Association of Conference Interpreters, aiic. Aiic insists that, as a general principle, the interpreter's output should be understood as extemporaneous in nature and primarily intended to facilitate communication between meeting participants. It should not be relied on as authoritative or constitute the basis for official transcripts or records.

Despite the limited training, - a conventional interpreter training course in conference interpreting lasts between one and two years generally at postgraduate level, - the TRC interpreters seem to have realised that it was unavoidable:

"They also understood and accepted the urgency of getting the TRC process going no matter how limited the time and facilities for professional training. There was a sense of 'we've been doing this kind of thing for most of our lives already'. If there were feelings of insecurity, these were not articulated. Rather, one finds a sense of pride: 'it was difficult, but we had what it takes, we gave it our best, we know we did work of value'. There is a prevailing view that regardless of training, interpreters have to have a knack for the job" (Anthonissen, 2008: 172).

This view mirrors those articulated by Uiberall in describing the conditions facing the interpreters at the Nuremberg Trial on beginning their work there. (Video Peter Uiberall, 1992)

4.4 The Demands and the Role of Interpreting at the TRC Hearings.

The specific problems that faced interpreters at the TRC hearings arose from the unique and unprecedented breadth of the TRC's mandate. On the one hand, the hearings of the Human Rights Violations Committee would be a very public stage on which the personal trauma of victims and perpetrators would be re-enacted. The TRC, Du Toit points out, was conceived in such a way as to enable "a range of individuals to *"tell their own stories"* rooted in diverse local and communal settings

and to have them officially acknowledged.” (Du Toit, 2000: 131). The effectiveness of this process depended to a significant degree on the interpreters faithfully re-telling emotionally charged accounts of what had happened to people, especially those of victims.

On the other hand, the interpreters were expected to be conversant with the complex, technical lexicon and adversarial legal style which dominated the Amnesty Committee hearings (Lotriet, 2006:112). Anthonissen comments: “during the Amnesty Hearings, many speakers or their legal representatives took a special interest in the exact rendering put forward by the interpreter. Suddenly, even those who did not need the interpreters because they were sufficiently fluent in both languages listened in and objected or offered corrections if they did not agree with the interpreter’s wording” (Anthonissen, 2008: 181). In this context, therefore, the institutional expectations associated with court proceedings took precedence as consequential issues of rights and justice were at stake. Completeness, accuracy and exact lexical equivalence were at a premium. Yet the TRC interpreters did not have the benefit of a well-developed equivalent lexicon in some of the target languages. The result was that the TRC interpreters were, in interpreter Marais’s words, “the originators of the vocabulary of the TRC in the indigenous languages. There were no references and we could check and counter-check nothing. We just had to work (things) out as we were running”. (Marais, quoted in Krog, Mpolweni and Ratele, 2009: 107). Or, as interpreter Mathibile stated the problem:

“Consider for a moment, if you were in the shoes of an interpreter how you would immediately translate such a word such as ‘amnesty’ into isiXhosa, Sesotho, Setswana, Afrikaans? And what of ‘reparation’, ‘perpetrator’, ‘sub judice’, ‘cross examination’, ‘testimony’, ‘witness’...the list is endless”. (Mathibile, quoted in Villa Vicencio, 2006: 116).

Moreover, it was not simply a question for the interpreters of improvising new terms or phrases for purposes of expediency but also because of the moral ambition of the TRC:

To ‘break the silence’, to speak out about things that some could not and others would not say. It was not just a problem of saying the unspeakable; it was often also a problem of not having the words.... The interpreters had an important role to play in finding the right words, coining new ones if necessary” (Anthonissen, 2008: 174).

Thus the TRC interpreters were, in contrast to the mechanical role and lack of agency expected and required of the court interpreter, required to go beyond the most basic conception of interpreting as

language switching or verbal transfer/transcoding. They performed a set of tasks which included the production of text and discourse and also mediation, ensuring the creation of dialogue where, without interpretation, this could not have existed (Pöchacker, 2006:221).¹⁴ Additionally, as Anthonissen comments: “They constantly had to manage the ambivalence of having to be simply a medium, a neutral channel, a conduit, ‘just a pipe transporting these messages’ (Mathibile), and at the same time being human, being touched by the narratives they put into new words” (Anthonissen, 2008: 173).

For her part, author Krog argues that the importance of the contribution of the interpreters at the TRC lay in the fact that:

“Testifiers before the TRC could access, through translation, their deepest emotions, wisdom and feelings and it did not end somewhere in a cul-de-sac of gender, area, politics, language or culture. More importantly, testifiers could access their victims and perpetrators.” (Krog, 2008: 226).

Without translation¹⁵, Krog argues, one’s ability to express oneself is compromised:

“Translation always brings empowerment with it. In one’s mother tongue one has access to the entire majestic pipe-organ of one’s body and brain and all its registers of emotion and observation; in the dominating language, one often tries to express oneself on a toy piano” (Krog, 2008: 236).

Such considerations were of particular significance in a society where:

“The dominating narrative for three hundred years (in South Africa) had been white. The official sound of the country was white. Black people were written about, imagined, recorded, filmed in the way white people thought black people were. Authentic black voices often had to carry the burden of resisting this white noise instead of experiencing the freedom of simply being” (Krog, 2008: 226).

Moreover, Krog writes that it was in the act of communicating their stories at the TRC hearings, that the process of healing for victims, began.

¹⁴ For more on mediator roles, see Kriesberg L, 2003, “Mediating Conflicts” in *Constructive Conflicts: From Escalation to Resolution*, 2nd Edition. USA, Rowman & Littlefield Publishers, pp 234-267.

¹⁵ Krog uses the term “translation” to describe what the interpreting profession calls “interpretation”.

“Appearing before the TRC, a victim who survived a massacre testified how his wife’s upper body fell on to his lap and how he saw a butterfly, a red, growing butterfly on her blouse. I was fascinated by the choice of the word butterfly to describe the fatal wound. In an interview afterwards with his psychologist, I was told that it took the man four years to arrive at that word, and that, at that moment, he made his first step to healing. Thus, in order to start the process of healing, one needs to find words for one’s experience” (Krog, 2008: 226).

As both Krog and Anthonissen conclude, it was the interpreters who enabled the victims to speak and thus to take the first steps on the path to healing.

4.5 The Impact on the Interpreters of the TRC Hearings.

The use of simultaneous interpretation enabled the SATRC to complete its work in a little over two years, considerably less than would have been the case if consecutive interpretation been used. Without it, it is estimated that the process would have continued until 2020 (Lotriet, 2006:115). However, as the TRC interpreters themselves testified, the impact that the experience had on them was profound and enduring. Some were irrevocably affected as interpreter Mathibile attests:

“I know an interpreter from Bloemfontein, he is so emotionally disturbed – he is so nothing, nothing. He told me three weeks ago, ‘Lebohang I don’t know where I am heading to with my life, everything I put my hands on seems to fall off.’ I asked him why. He said, ‘You need to ask?’ It punishes you to see there was this good person and after the TRC the family cracked and people fall away.”
(Mathibile, quoted in Krog, Mpolweni and Ratele, 2009: 118).

How the TRC interpreters responded to the demands inherent in interpreting the TRC hearings was discussed by a number of former TRC interpreters during a workshop organised by the University of the Western Cape (UWC) in April 2006. Reflecting on the problem of having to interpret the traumas experienced by victims during the hearings of the Human Rights Violations Commission, interpreter Mathibile says:

“..in the end, it was the emotional aspect that we were not prepared for. When people broke down, - you know interpreters are people too. We have emotions. In our training, no matter what, we were told to put a capsule around us – but we realised in the first week that it was not possible. We were

interpreters, but we are emotional human beings above all else and so we broke down and cried". (Mathibile, quoted in Krog, Mpolweni and Ratele, 2009: 110).

Krog, who reported on the TRC for the media, participated in the discussion: she recalls an incident involving one of the Xhosa interpreters who had just had a baby: "The next day, she was there in the booth and I remember there was one shot on the television, picking her up in the glass booth, breastfeeding while the tears were running down her cheeks onto the baby". (Krog, Mpolweni and Ratele, 2009: 111).

Interpreter Marais recalls the challenge of interpreting the testimony of perpetrators:

"It was also at times difficult to contain your anger. People would come and very calmly relate how they blew a person up, how they dissected the person, and you have to look down or close your eyes so that you don't see them and get annoyed with anger in your voice. They described it as if it were a picnic and your voice must portray that, but actually you want to say, 'It is a person you are talking about'" (Marais, quoted in Krog, Mpolweni and Ratele, 2009: 111).

Krog reveals that in the analysis of the transcriptions of the testimonies the interpretation would become inaccurate, a phenomenon which interpreter Mathibile explains in the following terms: "Yes, because you start to sympathise. You begin to use energy and concentration to sympathise and that affects your product". (Mathibile, quoted in Krog, Mpolweni and Ratele, 2009: 111). Harvey confirms that "Internal nonneutrality is an involuntary psychological reflex for well-adjusted persons, particularly when in close proximity to someone seen as being oppressed or otherwise demeaned" (Harvey, 2010: 207).

However for the interpreter, who is speaking in the first person and thus, according to Wiegand, "more susceptible to assuming the emotions of the witnesses" (Morris, 2010: 22) this empathetic response can have a debilitating effect on their performance. As Anthonissen points out:

"Accuracy consciously remains an ideal, but it is accepted that under the pressure of having to produce difficult texts in strenuous circumstances, the usual frailty of spoken language, the usual interference and contamination that characterises orality, slips of the tongue, repetition, rephrasing, ungrammaticality, will be more evident than otherwise" (Anthonissen, 2008: 185).

Not only was the interpreter's live performance affected by the empathetic responses towards the speaker, but also, as Anthonissen suggests, "some residue of the texts they mediated remains with them" (Anthonissen, 2008: 183). Interpreter Mathibile confirms this:

"So you were not actually a conduit. I remember a mother was separated from her daughters, she was in one room and her daughters were in the other. She could hear them crying, they shot one, and she heard only three cries, then she heard only two, and she mentioned them by name as she recognised the cries, so the last shot went off, and she said, 'And I gave up.' I get nightmares about that. I still see her." (Mathibile, quoted in Krog, Mpolweni and Ratele, 2009: 116).

Thus the notion that the interpreter was simply, as Morris describes it, "a phonograph, a transmission belt, transmission wire or telephone, a court reporter, a bilingual transmitter, a translating machine, a (mere) conduit or channel, a mere cypher, an organ conveying (presumably reliably) sentiments or information, and a mouth-piece" (Morris, 1993: 2), was shattered by the experience of the interpreters at the TRC.

Furthermore, as Radithlalo writes, falling outside the auspices of the TRC as they did, the interpreters did not have recourse to counselling or debriefing as did other TRC employees. (Radithlalo, 2009:91). Yet as Radithlalo indicates, the TRC interpreters were engaged in an act that was almost unprecedented in the history of interpretation:

"Few people have needed to translate as the translators of the TRC did—speaking in the first language, alternating between the words of the accused and accuser, becoming a conduit for the wretched stories and soulless excuses, speaking with a matter-of-factness that belied the gruesome testimonies." (Radithlalo, 2009: 97)

These testimonies, Radithlalo writes:

"Lodged themselves in the minds of the translators—initially vicarious participants in narrated events, who found themselves becoming active participants through the act of translation. This led to a collapse of the assumed spaces between the identities of the translators, their senses of communal bonds, and separateness from the witnesses, as the "storying" and "re-storying" of the past became a palpable presence through their secondary roles." (Radithlalo, 2009:92)

The much prized neutrality and impartiality of the professional conference and court interpreter was an impossible ambition for the TRC interpreters. As victims relived the memories of torture, “Taking on these kinds of memories, the translators acted without filters and were interpellated by language into the deep memories of the victims. A sense of detachment here becomes impossible” (Radithalo, 2009: 94)

4.6 Conclusion.

In this chapter, we have seen that the interpreters at the TRC were faced with unique demands which resulted from the unprecedented breadth of the TRC’s mandate. They were required to beyond the basic conception of interpretation as translation or language switching. Furthermore, the TRC interpreters had no guidance other than a few short weeks of training (Lotriet 2006:112). To this extent, they found themselves in a situation similar to the interpreters at the Nuremberg Trials. In addition, they were confronted with the need to find equivalents in languages which had not been interpreted simultaneously prior to the hearings (Interview with Antje Krog, 2010) and to create new text and discourse. Lastly, the Human Rights Violations Hearings confronted the interpreters with narrative content which was traumatic, and speakers whose personal trauma they were obliged to relive in the retelling of it (Radithalo,2009: 94). They received no counselling and support.

To the extent that the interpreters became the mouthpieces for victims of serious human rights abuses, whose stories it was crucial for the TRC to hear and acknowledge, the much prized neutrality and impartiality of the professional conference and court interpreter was arguably, an unsuitable and unachievable ambition for them. For the process to be credible and for the victims, particularly, to feel that their stories had genuinely been told and heard, a degree of involvement on the part of the interpreter was almost essential. If the interpreters had remained aloof and detached from the narrative, it could have been seen as an abrogation of their responsibility of fidelity to the communicative intention of the speaker.

The experience of the TRC interpreters suggests that existing professional standards relating to detachment and impartiality on the part of the interpreter need to be reassessed when the interpreter is operating in a Transitional Justice context of this kind. Anthonissen goes so far as to suggest that “we

may gain more by defining the interpreter's mediating role as guided, constructive intervention.”
(Anthonissen, 2008:184)

In the following chapter, we will explore whether similar challenges face the interpreters in two current United Nations transitional justice mechanisms, the International Criminal Tribunal for the Former Yugoslavia, (ICTY), and the International Criminal Tribunal for Rwanda (ICTR).

CHAPTER 5: THE PROFESSIONAL INTERPRETER IN THE UNITED NATIONS TRANSITIONAL JUSTICE SETTING. THE AD HOC TRIBUNALS FOR THE FORMER YUGOSLAVIA (ICTY) AND RWANDA (ICTR)

Introduction

In this chapter, we will examine the responses to a set of semi-structured interviews carried out among the staff of professional interpreters working in two current United Nations Transitional Justice settings, the UNICTY and the UNICTR. The discussion summarises the professional background of the interpreters and examines the problems and dilemmas they face in their work.

5.1 Background

The United Nations has established several special courts with limited temporal jurisdiction and has assisted with post-conflict criminal justice processes in a number of countries, including the former Yugoslavia, Rwanda, Sierra Leone, Cambodia, Timor Leste, Kosovo, Bosnia and Lebanon.¹⁶

¹⁶ Source: The International Centre for Transitional Justice, <http://www.ictj.org/en/tj/781.html>

In the case of the former Yugoslavia and Rwanda, the UN Security Council established ad hoc international criminal tribunals. These are the International Criminal Tribunal for the Former Yugoslavia (ICTY) 1993, The International Criminal Tribunal for Rwanda (ICTR).

The International Criminal Tribunal for the Former Yugoslavia, (Full title, The International Tribunal for the Prosecution of Persons responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia since 1991) was created in terms of United Nations Security Council Resolution 827 on 25 May 1993. This was at a time when the conflict in the former Yugoslavia was ongoing. Prior to this, the UN Security Council had adopted Resolution 780 “establishing a Commission of Experts to investigate and collect evidence on grave breaches of the Geneva Conventions and other violations of international humanitarian law’ in the conflict in the former Yugoslavia.” (Barria, 2005:354).

As a transitional justice mechanism, the ICTY falls squarely into the category of retributive justice mechanisms, defined as “the repair of justice through unilateral imposition of punishment” (Wenzel, 2008). UNSC Resolution 827 states in Paragraph 2, that the establishment of the Tribunal shall be “for the sole purpose of prosecuting persons for serious violations of international humanitarian law committed in the territory of the former Yugoslavia” (UNSC, Resolution 827, 1993: 2). While this is the explicit purpose of the Tribunal, the UNSC nevertheless stated that it was convinced that prosecution of such individuals would “contribute to the restoration and maintenance of peace” (UNSC, Resolution 827, 1993: 1) in the territory of the former Yugoslavia.

The International Criminal Tribunal for Rwanda, (Full title: The International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for Genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994) was established by UN Security Council resolution 955 of 8 November 1994. As a transitional justice mechanism, it was conceived as an attempt, both to bring to justice the ringleaders of the 1994 genocide in Rwanda and, in doing so, to facilitate reconciliation among Rwandans. (UNSC Resolution 955, 1994). From the outset the ICTR was controversial insofar as it was viewed by the Rwandan Patriotic Front (RPF), which had defeated the Rwandan Armed Forces (FAR) and put an end to the genocide, as no more than an attempt by the International Community to do penance for its failure to act in preventing the genocide. It was also controversial because the Security Council elected to set up the Tribunal outside Rwanda thus barring Rwandans

from having any judicial responsibility. At the same time, it was decided that the Tribunal would try all crimes committed in 1994, including those committed by the RPF.

From the outset, its relationships with Kigali were fraught. The RPF even resorted to competing with the ICTR in rounding up suspects which it knew the ICTR was trying to arrest. (Cruvellier, 2010:11).

For its part, the RPF decided that it would pursue a different path of post-conflict accountability. Given that the ICTR would only try a small number of elite functionaries suspected of having masterminded the genocide, it tracked down tens of thousands of individuals who were also suspected of having taken part in the genocide and tried them in Rwanda using the traditional “gacaca” courts. Although the process has been controversial both at home and abroad, (Bakunda, 2007) (HRW World Report 2010), the “gacaca” have been substantially more productive than the ICTR, and have, according to the National Service of Gacaca Jurisdictions (SNJG) decided more than 1.6 million genocide cases since their inception in 2002 (HRW World Report 2010:148). The ICTR, for its part, had, at the time of writing completed 36 cases, with 8 pending appeal, and 52 acquitted, 12 awaiting trial and 22 cases in progress.¹⁷

The Rules of Procedure of the ICTY, adopted on 11 February 1994, state in Rule 3 on Languages, that:

- (A) The working languages of the Tribunal shall be English and French.
- (B) An Accused shall have the right to use his own language.
- (C) Any other person appearing before the Tribunal may, subject to Sub-rule (D), use his own language if he does not have sufficient knowledge of either of the two working languages.
- (D) Counsel for an accused may apply to the Presiding Judge of a Chamber for leave to use a language other than the two working ones or the language of the accused. If such leave is granted, the expenses of interpretation and translation shall be borne by the Tribunal to the extent, if any, determined by the President, taking into account the rights of the defence and the interests of justice.
- (E) The Registrar shall make any necessary arrangements for interpretation and translation into and from the working languages. (UNSC Resolution 955, 1994).

The Rules of Procedure of the ICTR on Languages¹⁸ are identical to those of the ICTY.

¹⁷ Accessed on ICTR website www.unicttr.org 10.11.2010

¹⁸ Accessed at <http://www.unicttr.org/Portals/0/English/Legal/Evidence/English/290695e.pdf>

The service responsible for the provision for translation and interpretation at the ICTY is the Conference and Language Services Section. It is responsible for providing simultaneous interpretation into and out of French, English, Bosnian/Croatian/Serbian, Albanian and Macedonian. The interpreters at the ICTY are, therefore, operating in conditions comparable to those that prevail in multilingual conferences and not those generally found in the bilingual courtroom, where the interpreters habitually work in consecutive mode.¹⁹

At the time of writing, the ICTY employed a total of 31(thirty-one) staff interpreters and, depending on the number of trials scheduled, anything from 0 (zero) to 25 (twenty-five) freelance interpreters in a single day. The Tribunal Language Services has more than 100 (one hundred) interpreters with different language combinations on its roster.

At the time of writing, the ICTR employed a total of 36 staff interpreters. The Conference and Language Services Section of the Registry is responsible for providing simultaneous interpretation into the official and working languages of the Tribunal. While English and French are the official languages, Kinyarwanda has been used at the Tribunal hearings since the first trial in 1996.

Initially, Kinyarwanda interpreters worked in consecutive mode, that is to say, they sat in the trial chamber and not in sound-proofed booths and they began their interpretation after the speaker had completed an utterance. There were no trained simultaneous interpreters working from Kinyarwanda into English or French at the time the Tribunal began its hearings in 1996. Consecutive interpreting in the courtroom was extremely time consuming and, according to the Chief of Language Services, “the level of language was very poor and staff members had no notion of what interpretation is or what was expected of them.” The introduction in 2003 of simultaneous interpreting from Kinyarwanda into English and French, following the establishment of an in-house training programme, was described as “an important step forward” by Tribunal President, Judge Navenethem Pillay. (Rwanda, 2003)

5.2 Professional experiences of interpreters at the ICTY and ICTR: a survey

Semi-structured interviews were carried out among professional interpreters at the ICTY and ICTR in 2010 .Data was collected by means of a set of questions that mostly required short answers, though respondents were free to provide longer accounts in the electronic version of the questionnaire.

¹⁹ See section on Definition of Concepts and Terms

Questionnaires were distributed both in electronic form and in hard copy to staff and freelance interpreters at the ICTY and in electronic form only to staff interpreters at the ICTR. Respondents were not allowed an opportunity to elaborate on or explain their responses in interviews with the researcher.

The questionnaire (attached) covered the topics which were identified in the Literature Survey as being of particular significance for interpreters working in the transitional justice and international criminal justice arenas. The main themes covered are: the language combination of the interpreters, the degree to which professional training is/was available, the specific problems of interpreting at the Tribunals, exposure to traumatic narrative, the requirements of verbatim simultaneous interpretation, the lack of lexical equivalents and the moral challenges facing the interpreters working in these settings.^{5.3} Interpreting in different language combinations at the ICTY and ICTR.

There are two main language combinations among interpreters at the ICTY: Bosnian/Croatian/Serbian (B/C/S) into and out of one or both of the two official languages of the Tribunal, English and French, or French into English and vice versa. This means that if a statement is made in B/C/S, it is interpreted both into English and French and all statements made in English and French are interpreted into B/C/S. The B/C/S language interpreters are mostly required to work from their mother tongue into a second language, -English or French, - since there are few French or English mother tongue interpreters who have B/C/S in their passive language combination. Relay interpreting²⁰ is therefore used systematically at the Tribunal. This is a situation similar to the one that prevailed among interpreters at the SATRC, where all the interpreters, regardless of mother tongue, were required to be able to interpret into

²⁰ See section on Definition of Concepts and Terms. Relay interpreting has become a common practice in many intergovernmental and international organisations where not all the interpreters have all the official working languages of the institution in their language combination and where the number of official languages has proliferated substantially, such as in the EU. It is a contested practice because of the increased risk of errors occurring when the interpretation has to pass through another interpreter before being rendered in the final target language. The use of relay is inevitable when a source language is comparatively rare, as in the case of Kinyarwanda at the ICTR and, to a lesser extent B/C/S at the ICTY. While it is a contested practice because of the increased risk of errors, the increased time lag between the production of the first interpretation and the relay interpretation is minimal and allows meetings to proceed more or less as if there was not a second/relay interpreter interposed between the original and the final interpretation.

English and where the English rendition was re-interpreted into other national languages. (Lotriet 2006:112).

Professional training at interpreter school for students with B/C/S mother tongue was available at one established interpreter school, the Sorbonne-based Ecole Supérieure d'Interprétation et de Traduction, (ESIT), at the time the Tribunal began its activities. However, of the respondents with B/C/S as mother tongue, the majority had received in-service training at the Tribunal as opposed to at an interpreter school. The 1 respondent with French or English as mother tongue had received training at interpreter school. Of the total of 16 respondents at the ICTY, 80% had the following language combination: Bosnian/Croatian/Serbian (B/C/S) into English and French and vice versa, (one) French into Croatian and vice versa, and 1(one) English into French and vice versa.

The language combinations of the interpreters working at the ICTR are either English into French and vice versa, or Kinyarwanda into English or French and vice versa. Relay interpreting is used systematically at the Tribunal as there are no French/English mother tongue interpreters with Kinyarwanda as a passive language. In other words, all testimony given in Kinyarwanda is first interpreted into French or English by a Kinyarwanda native speaker, and then re-interpreted into one or the other of the two official languages.

Moreover most of the functionaries at Tribunal hearings were not native speakers of one of the two official working languages of the Tribunal. At the time of writing, the following nationalities were represented among the Permanent Judges at the ICTY: 1 Korean, 1 Maltese, 1 Jamaican, 1 French, 1 German, 1 Bahamian, 1 Turkish, 1 Chinese, 1 Belgian, 1 Polish, 1 South African, 1 British, 1 Australian, 1 Senegalese and 1 Italian.²¹

5.4 Nature and extent of professional training.

Largely in contrast to the interpreters at the Nuremberg Trials and the SATRC, most of the respondents to the survey had received some form of professional training. Most of the respondents at the ICTY indicated that they had received training in –house, while a minority had received training at interpreter school. Most of those who had received in-service training are those who have Bosnian/Croatian/Serbian (B/C/S) in their language combination. This is probably due to the fact B/C/S

²¹ Source, icty website, <http://www.icty.org/sid/151> accessed 02.11.2010.

was not a common diploma language at the major interpreting schools at the time the Tribunal began its hearings. According to one respondent at the ICTY, there is no longer any specific training provided to staff interpreters when they begin contracts there. There is an opportunity for staff to familiarise themselves with ICTY case law, terminology and cases.

At the ICTR most respondents were trained at interpreter school, though, significantly, not the interpreters working with Kinyarwanda. The questionnaire did not ask where the interpreters had received their training, though since many of the respondents were Cameroonian and belonged to either the Cameroonian national association of translators and interpreters and/or aiic, it can be assumed that many of them received training there. A majority of the interpreters from the ICTR who responded to the survey, do not have Kinyarwanda in their language combination. There were no trained simultaneous interpreters working from Kinyarwanda into English and French at the time the Tribunal began its hearings in 1996. According to the Chief of Language Services, “the level of language was very poor and staff members had no notion of what interpretation was or what was expected of them.”

On the basis of the responses received, it appears that initially, there was only a very limited amount of professional training available for the ICTY interpreters working with B/C/S, which necessitated the provision of in-house training. The same can be said of the Kinyarwanda interpreters at the ICTR, though, in their case, no professional training was available at the time the Tribunal began its hearings. It could be concluded that the need to provide interpretation from and into some of the relatively rare languages used by the Tribunals, initially presented a problem, but that, over time, the institutions have provided adequate solutions.

5.5 The special problems of interpreting in the transitional justice settings of the ICTY/ICTR.

Most of the respondents at the ICTY, agreed that the work of interpreters at the Tribunal presented specific problems which would not be encountered in other conference interpreting settings.

Among interpreters at the ICTR, the same theme is repeated. The main themes to emerge from the responses to this question were the subject matter, “*people's lives are at stake here*”, as well as the requirements and technicalities of International Criminal Law. In this regard a special problem was the lack of equivalence between the legal lexicons of English/French and Kinyarwanda, “*dealing with*

people with different legal backgrounds and from different judicial systems is a major challenge as concepts and procedures do not always match and may even differ greatly”(ICTR 6).²²

For interpreters at the ICTY, the principal themes to emerge from the analysis of responses were the challenge of interpreting emotionally charged witness testimony, the demand for 100% accuracy given the legal context, and the burden of responsibility arising from the potential outcome of inaccurately interpreted testimony. A similar theme emerges from respondents at the ICTR.

5.6 Interpreting traumatic narrative; impartiality and neutrality or fidelity to the speaker’s communicative intention?

One of the areas which interpreters at the ICTY and ICTR were invited to comment on is that, in the course of their work in a Transitional Justice setting such as the ICTY/R, testimony is occasionally, if not frequently, emotionally charged. As illustrated by this comment by an interpreter at the ICTR:” *Most testimonies are traumatic (we are dealing here with murder and rape most of the time”. (ICTR5)*

In interpreting situations such as these, how do the interpreters view their professional obligations and in particular the injunction contained in section on Truth and Completeness in the Code of Ethics for interpreters at the ICTY, which requires that:

- (a) Interpreters and translators shall convey with the greatest fidelity and accuracy, and with complete neutrality, the wording used by the persons they interpret or translate.
- (b) Interpreters shall convey the whole message, including vulgar or derogatory remarks, insults and any non-verbal clue, such as the tone of voice and emotions of the speaker, which might facilitate the understanding of their listeners.

Are they inclined to remain detached from the emotive charge communicated in the original testimony, or do they rather view it as a professional obligation to reproduce the tone as well as the lexical content of such utterances? Moreover, if they are deeply affected by the emotive charge of the testimony, does this have an impact on their output?

²² The numbering of the respondents to the questionnaire corresponds to the number used in the results matrix compiled by the author to match individual responses with individual respondents.

In several responses, interpreters stress that, faced with conveying harrowing testimony they seek to maintain a degree of detachment from the speaker, focusing on their production as something technical and on the facts to be conveyed. The following comments illustrate this:

“Distance yourself emotionally as much as possible and focus on your performance, as something professional and at times almost technical.”(ICTY21)

“Yes, you try to convince yourself that you are doing your job and you have to remain professional.

“You stay neutral and professional. It’s our job.” (ICTY23)

“Yes, by trying to detach myself from the speaker and focus solely on the message to be communicated, thinking about the role we have to play in the process.” (ICTY22)

“Try to act the professional you are trained to be.” (ICTR5)

“Usually I focus on the facts that are recounted and try not to dwell too much on their emotional content. We generally have more than enough time to do that after court sessions or at home”. (ICTR5)

Others, however, believe that it is unprofessional to remain detached and that conveying the emotive content of an utterance is a professional obligation as well. This view is illustrated by the following comments:

“Emotional distancing in this particular setting would be unprofessional because it would not do justice to what the witness came to tell the world. Hence a degree of involvement which does not hurt the quality of the interpretation is a must.”(ICTY20)

“Interpreting in a near-crying way an account given while the witness is crying.... technically speaking....., is only a highly faithful interpretation”. (ICTY9)

There is, thus, a variety of professional approaches to the management of traumatic testimony by the interpreters, however there is agreement that conveying this testimony can affect the interpreters in such a way as they need to develop certain coping strategies to reproduce the testimony in detail. The questionnaire invited the respondents to share these insights, some of which follow:

ICTY Interpreter: *“I tried to distance myself by forcing myself to think that the testimony is not real, that we are not talking about real persons”. (ICTY15)* The same theme is taken up by an interpreter at the ICTR, who writes: *“connecting it to similar previous testimony/testimonies/life stories read in books helps you give the impression that you’ve heard it before, and so you cope better”.(ICTR6)*

Many interpreters at the ICTY concentrate on the demands of performing the task of interpretation, avoiding exposure to the narrative whilst not actually interpreting, known as being “on mike”: *“I only listen to the harrowing account during my half hour and try to do something else when I am not working. It is not very professional, but I feel I can listen and interpret but not just listen.”*(ICTY13) This comment reveals that the need to disengage from emotionally charged testimony while not performing the task of interpretation means that the interpreter will not listen to the accounts while they are not on their turn “on mike”. It is generally accepted in the profession that interpreters work in teams in order to be able to assist each other by, for example, looking up technical terms which the colleague on mike is having difficulty in finding. Obviously, if the second interpreter is not listening, they will not be aware when this is happening; moreover they will not be familiar with the arguments under discussion when it is their turn to be on mike.

Another ICTY Interpreter comments that despite being affected by the act of re-telling a traumatic account, the interpreter felt under a professional obligation to render the account fully and faithfully: *“I remember once thinking, as I was on the verge of tears, that I had to do justice to the witness whose sad and terrible words I was interpreting, that this testimony was such an important moment in her life and that “I was doing it for her”.* (ICTY16)

As to whether the impact of interpreting traumatic testimony can be such that it affects the ability of the interpreter to perform, three respondents recalled either having cried on mike, or having to use the cough button or having had to hand over to another colleague because of being unable to continue. Thus it is not simply that the interpreters are affected and display empathetic responses towards a speaker, but that these responses make them unable to continue, at which point, obviously, the interpretation is interrupted.

5.7 Interpreting in the multilingual courtroom and the problem of verbatim transcripts.

In Chapter 3.2, and 3.3, we discussed the professional standards that apply in court and conference interpreting. We concluded that the objectives of interpretation espoused by conference interpreters are at odds with those set down for the practice of court interpretation. While the court places a high price on lexical accuracy in the interpretation, lexical accuracy does not extend to certain aspects of a speaker’s communicative intention. Secondly, striving for the completeness which is required by the

courts even at the expense of clarity is an ambition which may place the interpreter's professional credibility at risk.

We will now discuss how the interpreters respond to the conflicting professional demands of court and conference interpretation as they occur in the contemporary Transitional Justice settings of the ICTY and ICTR. Is it the experience of the interpreters working in these settings that they are able to satisfy the two conflicting sets of professional requirements that the institutional client sets and the standards set by conference interpreters, who are in the majority in the settings analysed?

The questionnaire asked the interpreters: "Are you expected to provide a verbatim account of proceedings or is a degree of interpreter latitude tolerated/encouraged"?

Out of a total of 23 respondents, 4 answered categorically that a verbatim account was expected and that no interpreter latitude was allowed. 13 respondents indicated that a combination of both was expected from the interpreter and that, to a certain degree, it was left to the discretion of the interpreter to decide when to provide verbatim interpretation as opposed to condensing and synthesising an utterance as conference interpreters are trained to do. Significantly, perhaps, it is the B/C/S interpreters at the ICTY who received in-service training and who had previous courtroom interpreting experience, who are most categorical about the need to provide verbatim interpretation. Only two Kinyarwanda interpreters from the ICTR responded to the questionnaire, one of whom was categorical about the need to provide verbatim interpretation, saying that without it "the parties would never stop arguing", while the other acknowledged that a degree of interpreter latitude was encouraged as long as it did not alter the original message.

It is largely among the interpreters who have conference interpreter training that there is a degree of ambivalence over the expectations of the court and the limitations of verbatim interpreting, as the following comments attest:

"If you do interpretation, you may be told that what you do is not accurate. On the other hand, if you provide a verbatim account, you may be told that you need to provide interpretation."(ICTY14)

"Users expect a verbatim account, which I don't think is possible. A degree of interpreter latitude is tolerated and even encouraged but the interpreter needs to know which interpreting situation lends itself to "more interpreting". The "verbatim" requirement is not the same in fact witness testimony and in legal arguments or opening statements, etc.:" (ICTY16)

From the first comment it is clear that the interpreter feels that their professional discretion and autonomy is sometimes challenged by the client and from the second comment it is obvious that the interpreter is aware of having to straddle two sets of standards. A further comment indicates that the techniques that conference interpretation favours do not apply in the legal setting and that interpreting becomes more difficult as a result:

“While the necessity for a verbatim account is obvious in a legal setting, it makes interpretation harder and less rewarding, since the creativity and resorting to summarizing and other techniques when it gets too fast and difficult is largely diminished”. (ICTY9)

One interpreter at the ICTR echoed the concern discussed by Schlesinger, Morris et al, that by interpreting nonsensical or ungrammatical utterances verbatim, the interpreter’s own professional credibility may be challenged by the court:

“Rendition has to be 100 % accurate and complete even if it does not make sense, you are expected to make sense out of nonsense or repeat the same nonsensical utterances and run the risk of being accused of distorting the evidence.” (ICTR7)

This dilemma is amply demonstrated by the following excerpts presented by Taravella in her study on the agency of interpreters at the ICTR. (Taravella, 2008: 102) The first extract is from testimony given by the former commander of the United Nations Mission in Rwanda, General Roméo Dallaire. The original is in French. It is followed by a verbatim translation into English provided by the author. The second extract is the actual interpretation made by the ICTR interpreter.

« Alors, euh, j'avais l'impression que le souci était un souci qui devrait, tse... de, d'être attaqués ou abusés par le Front patriotique, qui devait faire face... qui devait avoir lieu beaucoup plus dans les négociations avant l'accord de paix, que des négociations après l'accord de paix. »

This is how the extract translates verbatim :

« So, um, I had the impression that the concern was a concern which should, um, of, of being attacked or abused by the Patriotic Front, which had to face...which had to take place much more in the negotiations before the peace agreement than the negotiations after the peace agreement »

The second extract is the actual interpretation :

“So I had the feeling that their concern was... was that they could be attacked by the RPF, and this is something that should have been dealt with more before the peace agreement, rather than after the signing of the peace agreement (Taravella, 2008: 102)..”

It is clear that the verbatim rendition would not have assisted the listening audience in understanding the speaker and would arguably have presented the interpreter in a very poor light.

In summary, it is not always obvious that the two sets of professional standards of court and conference interpreting cohabit unproblematically in the settings discussed.

A further problem relating to the verbatim requirement on interpreters at the ICTY and ICTR is the fact that their output is reproduced as a real time transcript of the court's proceedings. Thus the interpretation into English from B/C/S or French appears almost simultaneously with the interpretation on computer monitors in the courtroom and in the interpretation booths and is used by the court reporters to establish the minutes. The transcript of the interpretation into English then appears as the official record of proceedings in documents and on the institution's website. The transcript also indicates when it is the interpreter's rendering.

As discussed previously in Chapter 3, the International Association of Conference Interpreters, aiic, insists that, as a general principle the output of the interpreter is extemporaneous in nature and is intended only to facilitate communication and should not be relied on as authoritative text. The reasons for this are clearly explained in Chapter 3.3 on Interpreter Self-Representations. Clearly, the practice of transcribing the output of the English interpretation for official records runs counter to this principle.

There are two concerns which arise from this. Firstly, relating to accuracy. As Anthonissen concludes in her article on interpreters at the TRC, “accuracy consciously remains an ideal, but it is accepted that under the pressure of having to produce difficult texts in strenuous circumstances, the usual frailty of spoken language, the usual interference and contamination that characterises orality, slips of the tongue, repetition, rephrasing, ungrammaticality, will be more evident than otherwise” (Anthonissen 2008: 185). While interpreters strive for accuracy, many factors can conspire to make complete accuracy an unachievable ideal. Several of these are listed by respondents and include excessive

speaker speed, inaudible utterances, overlapping speakers, nonsensical utterances, incompatible legal systems and concepts and harrowing testimony among other difficulties.

In the particular Transitional Justice settings analysed, complete accuracy becomes, more than in conventional multilingual conferences, an almost impossible objective. And yet because of the setting, accuracy is at a premium. As one ICTR interpreter put it, *“People’s lives are at stake and everybody depends on what you say to make their case. So, what you say is very crucial as it may be relied upon to punish an innocent individual or to set a criminal free. It can also be potentially misleading for the judges, the parties, the public at large and posterity who will consult the records years later. It may not only affect the outcome of the trial, but also the fate of other persons in whose cases these records may be used”*.(ICTR7)

Thus, even though corrections may be made to the record when an error in the interpretation is discovered by comparing the interpreted transcript with the audio recordings that are also made, the interpreters nevertheless feel that they are under undue pressure to produce an entirely accurate rendition at all times. Several participants at the 5th aiic Legal and Court Interpreters Committee Symposium on 11 and 12 September 2010 in The Hague, (also attended by the author) indicated that this created an additional source of stress.

A related concern is the use by both the judges (and occasionally the interpreters) of the real time transcript. As discussed earlier, communication involves paralinguistic factors, in other words, the components of a spoken message that are produced independently of the verbal language. The judge and counsel as well as the jury do not assess the bona fides of a witness on the basis of the verbal content of their testimony only. Witnesses may appear more or less credible if they are aggressive, confused, hesitant and repetitive. As Karton points out: “What makes paralinguistic communication so important in the courtroom is that judges assess the witnesses’ credibility based not only the witnesses’ words, but also on their tone and demeanour” (Karton 2008: 25). The use of real time transcript in English by the judges (the transcript is only available in English and not in the other working languages of the Tribunal) has the effect of undermining the assessment they may make of a witness’s credibility on the basis of paralinguistic devices used by the witness. The tendency, one interpreter confided, is for the judges’ panel and other courtroom participants, to watch the transcript as it appears on the screen, as opposed to observing the witness.

The interpreters also receive the transcript on screens in the interpreter's booth, thus it can occur that, instead of watching a witness for visual cues which may assist in interpreting non-verbal communication, the interpreter will rely on the transcript.

Thus while the real time transcript may be a useful tool in enabling the courtroom participants to see a verbatim account of testimony displayed as it is delivered, for both the interpreters and the courtroom participants, it can be a double-edged sword. One interpreter indicated that the tendency for the interpreter is to use the transcript to do an on-sight translation²³ instead of interpreting what a witness says. This sometimes has the advantage of enabling the interpreter to translate passages which would normally be beyond the ability of the interpreter for reasons of speed or complexity, however it can also occur that the transcript itself is erroneous for the same reasons. The potential, therefore, is for any inaccuracies to be multiplied by the interpreters using the transcript as opposed to interpreting the speaker directly. Arguably, however, since any interpreter using the transcript would be interpreting in relay (from English into French or from French into English into B/C/S) they might be relying less on paralinguistic, non-verbal cues to interpret accurately.

A further inconvenience arises if the interpreter relies on the transcript alone. If they do so, it may be that the transcript into English appears only some time after a witness has spoken for particularly lengthy or complex passages. For the courtroom participants relying on the interpretation, it can occur that the interpreter only completes a translation of what appears on the transcript some time after the speaker has completed an utterance, significantly later than if the interpreter had interpreted the utterance simultaneously. This has the effect of preventing listeners from taking part in a debate, - an important element of the courtroom dynamic, - which is over by the time they hear the interpreted statement.

In summary, the respondents identify the dilemmas that result from the verbatim requirement of the court and the impact on their professional credibility resulting from the need to reproduce nonsensical utterances without seeking to clarify them. They also feel under immense pressure to produce completely accurate renditions for the court record even when accuracy remains an almost unachievable objective. Additionally, the use of the real time transcript by the court functionaries compromises their ability to assess the credibility of a witness on the basis of paralinguistic elements in their speech.

²³ See section on Definitions of Concepts and Terms

It could be argued that a solution to some of these problems would be to heed the advice provided by a.i.c. that the interpreter's output should not be used as an authoritative record and that provision should be made for professional minute writers to record court proceedings in all of the working languages. These would then be translated. Though it would doubtless increase costs, it would relieve some of the pressure on the interpreter and arguably ensure greater accuracy in the production of the court record.

5.8. The lack of lexical equivalents in the working languages of the tribunals.

Authors who have analysed the problems facing interpreters working in some transitional justice settings, point to the lack of equivalence between the lexicons of source and target languages as presenting a particular difficulty for the simultaneous interpreter. This was found to be a significant challenge for the interpreters who serviced the hearings of the SATRC. (Villa Vicencio, 2006: 116). (Krog, 2009: 109). In the context of the SATRC, this was largely due to the fact that the legal lexicons of the source languages had not been fully translated prior to their use in the hearings. (Interview with Antjie Krog, 2010: May).

Stern (Stern: 2001) identifies the existence of a similar problem between the working languages of the ICTY. Common concepts such as allegation, cross-examination, pre-trial, plead guilty or not guilty or beyond any reasonable doubt, for example, do not have equivalents in the lexicons of the French and B/C/S languages. (Stern, 2004)

Furthermore, there are difficulties in finding exact equivalents for culturally specific terms, as illustrated by the following example:

“A common problem is the lack of one single equivalent, in the target language (eg, English), to fairly common, frequently used words that exist in the source language (eg, B/C/S). In some cases words in the B/C/S have a broader meaning compared to English. For example, depending on the context, the B/C/S word *komšija* can mean either ‘a next door neighbour’, or ‘a man who lives on the other side of the mountain’, or else ‘a cell-mate in a detention centre’. *Naselje* can mean a variety of ‘settlements’ or villages, and *šuma* may refer either to its original meaning, the woods, or to the derivative one, underground (i.e., *maquis*), hence two possible meanings of the expression ‘to go to the woods’. On other occasions, however, English may have only one word where the B/C/S offers

two possibilities. Thus, the English word 'commander' can be translated into B/C/S either as *komandir* or as *komandant*. The difference in the meaning can be crucial, as the former word indicates a commander of a level that does not exceed a company, whereas the latter indicates a higher level of command." (Stern, 2001: 6/7).

A similar theme emerges from respondents at the ICTR. As one interpreter writes, it is "*Very difficult to find legal terms from Kinyarwanda into French, French into Kinyarwanda and English into Kinyarwanda. These are not sister languages.*" (ICTR5)

Respondents to the questionnaire at the ICTY, provided similar examples and the strategies they used to overcome the difficulty.:

ICTY Interpreter: "*on the spot, it's hard to find a satisfactory new term, the strategy is to say something which reflects/describes the idea, and then adopt a term in consultation with colleagues.*"(ICTY9)

ICTY Interpreter: "*Mainly for old "communist/titist" concepts which are difficult if not impossible to translate into French let alone into American. (Anything that has to do with ownership, for example) Usually, the French booth tries to find a word that illustrates the concept and to stick to it.*" (ICTY13)

ICTR Interpreter: "*This is a very tricky situation where the interpreter has to deal with ambivalent or ambiguous utterances, especially when made by non-native speakers in a peculiar judicial set up combining several systems in one place. You stick to the original concept until it is established that there is an acceptable equivalent. This works because "international lawyers" usually understand and the composition of teams on both sides (Prosecution and Defence) as well as judges panels and registry staff is usually multilingual and multicultural. If they do not understand, they will ask what the interpreter is saying and someone in the courtroom may clarify that.*" (ICTR7)

It is obvious from these accounts that the lack of lexical equivalents between the source and target languages poses practical difficulties for the interpreters, and given the requirement for complete accuracy in the international criminal justice arena, also poses a significant challenge to the interpreters meeting professional standards. However it also raises an important question as to the role of the interpreter in a setting in which incompatible legal systems and concepts are forced to cohabit. It may often happen that an interpreter is obliged to improvise new terms in order to facilitate an exchange in a typical conference interpreting setting; by way of example, the technique used by criminal investigators

in the US to discover evidence by sifting through the waste of a suspected criminal is called “dumpster diving”, however this does not have an obvious equivalent in French. An interpreter will find an appropriate paraphrase or expression which renders the idea in order to allow a discussion to proceed. However in the context of the International Criminal Tribunals which involve bringing to bear highly developed and complex Western legal systems and procedures in local societies where these are unfamiliar or less developed as indicated precisely by the lack of lexical equivalents for basic and technical legal concepts, what does this imply for the role of interpreters? If the interpreter overcomes the lack of an existing lexical equivalent by coining a new term then this amounts to a qualitatively different operation. Moreover, this is not just a lexical invention: by introducing a set of such new lexical coinages interpreters are, unwittingly, playing a part in imposing a legal practice in a context in which it had been unfamiliar.

From the above, it is clear that the lack of lexical equivalents between the working languages of the Tribunals is more than simply a problem of language, but one which goes to the heart of the assumptions of contemporary international human rights legislation. Along with a number of other factors detailed in this study it possibly calls for the role of the interpreter to be re-assessed. This question will be taken up in the conclusions to the study.

5.9. The moral challenges facing the interpreter at the ICTY/ICTR.

There are a number of important stipulations in the Code of Ethics on Professional Integrity and Dignity that interpreters at the ICTY and ICTR are expected to observe in the conduct of their work. These state that:

Article 8, on Impartiality

Interpreters and translators are bound to the strictest impartiality in the discharge of their duties.

And in Article 10, on Accuracy:

Truth and completeness

(a) Interpreters and translators shall convey with the greatest fidelity and accuracy, and with complete neutrality, the wording used by the persons they interpret or translate.

(b) Interpreters shall convey the whole message, including vulgar or derogatory remarks, insults and any non-verbal clue, such as the tone of voice and emotions of the speaker, which might facilitate the understanding of their listeners.

(c) Interpreters and translators shall not embellish, omit or edit anything from their assigned work.

(d) If patent mistakes or untruths are spoken or written, interpreters and translators shall convey these accurately as presented.

In other words, under no circumstances is an interpreter to allow his or her moral or ethical opinions to interfere with their professional conduct. Yet, given that interpreters at the ICTY and ICTR speak, in the first person on behalf of hundreds of individuals whose utterances, personalities and acts they may find morally repellent, just as interpreters at the SATRC did, is there any evidence that such conflicts may arise? And if they do, do they manifest themselves in a way that puts the interpreter in conflict with the Code of Ethics? Is the agency of the interpreter visible in ways other than in the language-switching process?

Hajdu (Hajdu, 2006), herself an interpreter at the ICTY makes an analysis of transcripts and recordings of hearings at the ICTY in which she identifies devices used by the interpreter which, in one instance, have the effect of increasing the cohesiveness and assertiveness of the utterance, a technique which conference interpreters are in any case encouraged to use. However the device has the effect of making the speaker appear more powerful than the original utterance would have suggested, and increased cohesion is associated with greater competence in the mind of the listener. Is it possible, Hajdu, asks, that the interpreter intended to make the speaker sound more powerful when the speaker was, in fact, trying to appear to be a relatively powerless participant in the acts of which he was accused?

In another excerpt, Hajdu reveals that choices made by the interpreter have the effect of shielding a victim from embarrassment and helping her to understand Tribunal protocol and the questions being asked by the judge. Though the shifts are small they potentially reveal sympathy for the victim/witness on the part of the interpreter.

Interpreters who responded to the questionnaire do not believe that their own moral or ethical predisposition interferes with the fidelity of their interpretation, although there is awareness that certain devices when used by the interpreter can have a significant impact on how a speaker is perceived, as this example attests:

“We have powerful tools at our disposal as even in a perfectly accurate interpretation the tone can make a huge difference and make the person sound more insincere or impertinent or cynical than in the original.”(ICTY9)

In summary, a number of interpreters feel that the particular settings of the ICTY and ICTR make them more aware of the need for impartiality, given that lives are at stake however, from the analysis presented by Hajdu, it is not clear that this impartiality is always maintained.

Finally, since this study aimed to find out how the interpreting profession behaves in a conflict-related setting such as the International Criminal Tribunals, it is important to raise the problem of prolonged exposure to traumatic events through the re-telling of these as interpreters. As Wiegand cited in Morris points out, interpreters, speaking in the first person are “more susceptible to assuming the emotions of the witnesses” (Morris 2010: 22) and as Anthonissen, referring to the interpreters at the SATRC, suggests, “some residue of the texts they mediated remains with them” (Anthonissen 2008: 183.) Interpreters at the SATRC provided several examples of how some of their number were affected both during and after the Commission’s hearings. Similarly, interpreters at the ICTY and ICTR indicate that prolonged exposure to the harrowing content of the hearings leaves its mark. An internal survey carried out at the ICTY in 1998 and reported by Morris “found that among its personnel, post-traumatic stress (PTS) disorder affects interpreters most frequently”. (Morris 1999:25). Interpreters at the ICTY speak of “*secondary traumatic stress symptoms such as nightmares, incapacity to deal with violence on screen or in books, a distorted and sometimes too negative vision of life and people, and the proximity of the idea of death that can fall upon us at any moment...*” (ICTY9), or “*grief, anger and revulsion, you just bottle it up because it has no place in the booth*”. (ICTY11) François Bembatoum, former Chief Interpreter at the ICTR said in an interview in 1998:

“The day you are able to walk out of court and crack a joke and laugh out loud, it means that you are already changing. It means that you have become less sensitive to human suffering. I think that my nature is no longer the same. I am a different person”. (University of Washington 2008)

Currently, the profession is only beginning to realise that prolonged exposure to traumatic events and testimony through the re-telling of these, needs to be taken seriously. The 5th aiic Legal and Court interpreters symposium on “Coping Strategies in Traumatic Interpreting Situations” held in The Hague in September 2010, was the first example of its kind. It was addressed by psychologists and counsellors who are now beginning to work with interpreters at the ICTY and the ICC (International

Criminal Court). If one is to believe the accounts of respondents to the questionnaires for interpreters at the ICTY and ICTR, the profession needs to take the problem more seriously.

Conclusions:

The semi-structured interviews (questionnaire attached) carried out among interpreters at the ICTY and ICTR dealt with several themes which were identified in the Literature Survey as being of particular significance for interpreters working in the transitional justice and international criminal justice arenas. The main themes covered are: the language combination of the interpreters, the nature and extent of professional training, the specific problems of interpreting at the Tribunals, exposure to traumatic narrative and its impact, the requirements of verbatim simultaneous interpretation and the production of court transcripts, the lack of lexical equivalents between the working languages of the Tribunals, and the moral challenges facing the interpreters working in these settings. Finally, the effects of long-term exposure to traumatic testimony on the interpreters were discussed.

On the question of the language combination of the interpreters, we saw that because of the languages used by the Tribunals, relay interpreting is used systematically. The use of relay interpreting has the potential to adversely affect accuracy therefore its use at the Tribunals has implications for the interpreters being able to achieve the standards of accuracy expected by both the profession and by the client they service.

On the nature and extent of professional training, we saw that most of the interpreters at the ICTY working with B/C/S had received in-service training, while most of the interpreters with French and English had received training at interpreter school. At the ICTR, most of the interpreters with French and English had received training at interpreter school while the Kinyarwanda interpreters received in-service training. While the provision of training at interpreter school generally prepares the interpreter for the practice of conference interpretation, it is not clear that this training is suited to the demands of interpreting at the Tribunals. Responses of the interpreters to the question on the need for verbatim interpretation confirm this. Conference interpreter trained respondents find that the verbatim requirement sometimes places them at odds with their professional standards as conference interpreters. The interpreters who are trained in service do not challenge the verbatim requirement in the same way. There was no professional training available for the Kinyarwanda interpreters at the ICTR at the time the Tribunal began its hearings. One ICTR interpreter recognised that the fact that

most of the interpreters at the ICTR were conference-interpreting trained and had no experience with court interpreting. The same respondent indicated that despite having requested the provision of court interpreting workshops when the Tribunal began its hearings, these were not organised. In summary, it may be advisable to provide appropriate court interpreter training in order to help the interpreters meet the professional standards set by the Tribunals.

On the issue of interpreting traumatic narrative and its impact on the expected standards of neutrality and impartiality, respondents fall into two categories. The first category finds that the difficulty of interpreting traumatic testimony forces them to adopt a particular approach: one of detachment, where the accounts being heard and interpreted are fictionalised in an attempt to attenuate their potency. The other category finds that, however disturbing, it is the appropriate professional response to reproduce the emotive content of the original in the interpretation. The type of response of the first category arguably has the effect of depriving the testimony of some of its illocutionary force, however it is an understandable coping mechanism, without which the performance of the interpreter would be compromised. Indeed as the second category of respondents indicate those who reproduce the emotive content in the interpretation are so affected by the faithful re-telling of the testimony that their interpretation is sometimes interrupted. It would thus seem that the demand that is made by the Code of Ethics that "Interpreters shall convey the whole message....including the emotions of the speaker..." is one that some respondents have difficulty satisfying.

On the issue of providing verbatim interpretation and court transcripts, as already indicated, those who have previous courtroom experience or who receive training in-service, are categorical about the need to provide verbatim interpretation. By contrast, those who have conference interpreter training are more ambivalent. It is clear from the responses, however, that the court itself expects the interpreter to satisfy two sets of standards simultaneously. However, regardless of which standard they strive to achieve, the particular setting of the Tribunals in which they operate, makes complete accuracy in the interpretation an almost impossible objective. Additionally, the onus on the interpreter to provide the basis for the written court transcript in English is regarded as placing undue pressure on the interpreter: it is also regarded by the professional conference interpreters' association, aiic, as inappropriate given the extemporaneous nature of interpretation as opposed to written translation. As already suggested, it may be appropriate to consider the use of minute writers to establish the court record and allow the interpreters to fulfil their primary responsibility as facilitators of oral communication.

As regards the problem posed by the lack of lexical equivalents between the working languages of the Tribunals, it is clear that this poses practical difficulties for the interpreters and, along with many other factors, militates against the interpreters achieving complete accuracy in their interpretation. More importantly, it is an inevitable weakness in an International Transitional Justice system which forces incompatible legal systems to cohabit in a single jurisdiction.

As to the moral challenges faced by the interpreters working at the ICTY and ICTR, many respondents agree that the particular setting of the International Criminal Tribunals requires exacting standards of impartiality on the part of the interpreter. The Code of Ethics is also explicit on this issue. Some research has shown, however, that complete impartiality may be an objective that is difficult to achieve, particularly for participants in the International Criminal Justice process such as interpreters, whose task it is to speak on behalf of both victims and perpetrators and not to leave any trace of themselves on the utterances they interpret.

Finally, the survey discussed the impact of prolonged exposure to traumatic testimony on the interpreters working in the Tribunals. Responses to the questionnaire concur with the findings of previous research that interpreters at the ICTY are particularly susceptible to Post Traumatic Stress Disorder.

6. CONCLUSION.

This study set out to examine the main problems and dilemmas experienced by the simultaneous interpreter in meeting the professional standards of simultaneous interpretation in Transitional Justice-settings. Three sets of sub-questions have been addressed, namely:

- What are the generic professional standards of simultaneous interpretation involved?
- What are the particular problems and dilemmas experienced by the simultaneous interpreter in meeting professional standards specifically in Transitional Justice-settings?
- How, if at all, are these problems and dilemmas addressed by the profession?

The study has described the history and development of the profession of conference interpretation and the introduction of simultaneous interpretation at the Nuremberg Trials. It has discussed the development of professional standards for practitioners in two contexts which are somewhat problematically combined in modern Transitional Justice settings; conference interpretation and court interpretation. It has revealed that the standards applying to each of these contexts differ in terms of what the client expects from the interpreter and what interpreters themselves consider to be a priority. Among conference interpreters, fidelity to the communicative intent of the speaker even at the expense of exact lexical equivalence, is considered primordial. By contrast, the judicial system places a high price on completeness even if this is at the expense of clarity. Since the modern Transitional Justice settings analysed combine elements of both court and conference interpretation, they present particular problems for the interpreters.

The problems and dilemmas experienced by simultaneous interpreters in meeting professional standards in Transitional Justice settings can be summarised as follows:

- The provision of appropriate professional training
- Exposure to traumatic narrative and emotional proximity to the narrative
- The conflicting demands of court and conference interpreting and the production of official records by the interpreters
- The lack of lexical equivalents in the working languages of the Transitional Justice settings analysed
- The moral/ethical challenges facing interpreters in Transitional Justice settings

Firstly, the provision of appropriate professional training.

It was revealed that the interpreters who serviced the Nuremberg Trial were largely untrained, certainly in the practice of simultaneous interpretation, and had to set their own professional standards. From the few accounts that are available, it would appear that the users were satisfied with the performance of the interpreters and the interpreters themselves believed that they had enabled a fair trial to take place, despite the problems they faced. It was also assumed that, in the absence of professional training, their success was due to their innate linguistic abilities (Video Peter Uiberall, 1992; Gaiba 1998:112).

The interpreters at the SATRC had limited training (3 weeks) (Lotriet, 2006 :112) and they faced additional problems compared to the Nuremberg interpreters. They serviced hearings that placed very different demands on them. The Human Rights Violations Committee was a public stage on which the stories of personal suffering were re-enacted by the individuals concerned and by the interpreters. This required a particular kind of resilience on the part of the interpreters which many confirm they did not possess, nor had the limited training prepared them for what they experienced. (Krog, Mpolweni and Ratele, 2009; Anthonissen, 2008). They were also required to service the hearings of the Amnesty Committee which necessitated a familiarity with the courtroom lexicon and with the complexity of legal argument. Those involved confirm that the absence of lexical equivalents presented a particular problem. (Lotriet 2006:112) Arguably, specific court interpreter training would have prepared them for the complexity of legal argument, though it would not have solved the problem of the lack of lexical equivalents.

In the case of the ICTY, the majority of the respondents to the survey indicated that they had received some form of in-service training at the Tribunal, although training at at least one interpreter school was available for interpreters working with B/C/S²⁴. The training offered by the Tribunal ranged from short courses, to familiarisation with ICTY case law and cases, service with the translation unit and training in consecutive interpreting techniques. 25% of the respondents indicated that they had had prior courtroom interpreting experience. Though the question was not asked specifically, none of the respondents indicated that they thought the training unsatisfactory compared to a typical conference interpreter training course. Those who had received formal training as a conference interpreter tended to be more aware of the difficulties they faced in providing the verbatim interpreting required by the Tribunal. This was not because of verbatim interpretation as a technique but rather because the conventions of conference interpreting, condensing, synthesising, clarifying, clash with the requirement of verbatim interpretation.

In the case of the ICTR, the majority of respondents indicated that they had received training at interpreter school. The two Kinyarwanda speaking respondents indicated that they had received training in-house. This is because there was no interpreter training school offering Kinyarwanda as a diploma language at the time the Tribunal began its activity.²⁵ One respondent indicated that it may have been a disadvantage that all of the interpreters at the Tribunal were conference interpreting

²⁴ Correspondence with the Secretariat of the ESIT interpreting school in Paris, November 2010.

²⁵ Correspondence with the Chief of Language Services at the ICTR, November 2010

trained, since all but one had no specific court interpreting experience. In general, however, the professions of both conference and court interpreter regard training as important. While the organisers of the Nuremberg Trials thought that linguistic ability was all that was required to be able to interpret, we now understand that linguistic ability is a sine qua non for an aspirant conference or court interpreter. To the extent that training enables the student to understand and practice the complex processes involved in interpretation, such as the use of short term memory, the listening, analysis and production efforts and the management of speed and technical complexity in contemporary interpreting settings, it is regarded as advantageous.

Secondly, exposure to traumatic narrative and emotional proximity to the narrative.

Each of the settings analysed reveals that the exposure to traumatic testimony is a commonplace in the work of the interpreters in Transitional Justice processes. In the case of the Nuremberg Trial, Uiberall (Video Peter Uiberall, 1992) recognised that emotional proximity to the narrative was a double-edged sword for the interpreters involved. On the one hand, personal experience of the events made the interpreters able to give the closest possible account of the original testimony. At the same time, however, proximity to the events made these accounts the most challenging for the interpreters. (Video Peter Uiberall, 1992.)

In the case of the SATRC, the same concern is repeated. Insofar as the interpreters were mediating the traumatic testimony of fellow citizens, their emotional proximity to it undoubtedly made them effective in their rendition. However, the same emotional proximity to the narrative made it difficult to remain sufficiently detached to perform the task of interpretation. (Krog, 2009; Lotriet quoted in Villa Vicencio, 114; Raditlhalo, 97; Anthonissen, 173)

In the case of the ICTY and the ICTR, the survey respondents agree that it is at times difficult not to empathise with a witness who is sharing an account of personal suffering. For the most part, respondents argue that adopting certain techniques such as striving for detachment or fictionalising the accounts they hear and interpret, allow them to continue working without interruption. Some recall having been so affected, however, that they were unable to continue, or nearly unable to continue. While a broken and temporarily interrupted interpretation may inconvenience the court, some respondents argue that this is technically only a highly faithful interpretation of the original utterance.

Thirdly, the conflicting demands of conference and court interpreting and the production of official records by the interpreters.

Respondents to the survey have differing analyses of how this affects their performance. Of those who have formal training as conference interpreters, the majority felt that the verbatim requirement creates a conflict between the standards required of them as professionally trained conference interpreters, and the prescriptions and professional standards of the multilingual courtroom. One respondent complained of the frustration of having to repeat nonsensical utterances verbatim without editing them because to do otherwise would invite criticism from one or other of the courtroom participants.

From the point of view of due process, the verbatim requirement on the interpreter is a guarantee against possible challenges by one or other of the parties. However there are many factors of which respondents complain, such as excessive speaker speed, overlapping speakers, interruptions, lack of lexical equivalents and confused and nonsensical utterances, which militate against complete accuracy. While there is always the possibility for inaccuracies in the interpretation to be counter-checked against the recordings made of the hearings, it is on the basis of what an interpreter says that the course of an exchange in the courtroom will be decided. Thus that it is ultimately the official, edited transcripts which will become the basis for future case law does not relieve the pressure on the interpreter, who is, as has already been indicated striving for an accurate rendition in spite of many factors which conspire against this. Furthermore, the position of the interpreter is in no way comparable to that of an official minute writer who does not have to translate but only listen to and record the original or interpreted version.

Interpreters at the TRC were ambivalent about the fact that their output was recorded and ultimately appeared in the final report as an authoritative record. They worked under highly stressful conditions, usually for longer periods than is recommended for professional interpreters (Anthonissen, 2008:185) and inevitably, inaccuracies would occur which were arguably inevitable given the nature and content of the hearings. These inaccuracies were then reproduced in the verbatim record and the interpreters were later criticised for their poor output. However, it was not properly understood that the transcriptions themselves were imperfect, which magnified the inaccuracies of the interpreters. Furthermore, as Anthonissen points out, "simultaneous interpreting is an exercise in working with spoken discourse; written transcripts are not part of the interpreter's brief, and the possibility that the oral work may be transcribed, has no structuring or disciplining effect during the interpreting process". (Anthonissen, 184)

Fourthly, the lack of lexical equivalents in the working languages of the Transitional Justice settings examined.

Interpreters at the SATRC were occasionally required to improvise new vocabulary while the hearings were continuing. Interpreters at the ICTY and ICTR have faced the same problem. In a setting as ritualised and specialised as a multilingual courtroom, this conspires against achieving the standards of complete accuracy that is expected of the interpreter. Moreover, it points to a potential weakness in the current system of Transitional Justice and the assumptions of international human rights law as the standard of transitional justice as opposed to local and contextualised Transitional Justice mechanisms and processes. As indicated earlier, the decision to locate the ICTY and ICTR outside the countries in which the conflict occurred necessarily required the intervention of interpreters as the conflict narrative was exported from a local, monolingual setting to a multilingual setting. But in the case of both the ICTY and the ICTR, the working languages of the Tribunals are English and French, which has meant that testimony has been de-contextualised from B/C/S and Kinyarwanda then re-contextualised in two linguistic and legal cultures which neither share references with the source language and culture, nor between each other. (Stern, 2004). While this poses practical difficulties for the interpreters and, along with many other factors, militates against the interpreters achieving complete accuracy in their interpretation, it is arguably also an indictment of an International Transitional Justice system which forces incompatible legal systems to cohabit in a single jurisdiction

Lastly, the moral/ethical challenges facing interpreters in the Transitional Justice settings analysed.

Interpreters at the Nuremberg Trial were faced with mediating testimony by individuals who were indicted for war crimes and crimes against humanity. Some of the interpreters had had first hand experience of concentration camps, (Gaiba, 1998: 144) and, as Uiberall (Video Peter Uiberall 1992; Gaskin, 112) indicates, this made the task of interpreting their testimony particularly difficult. Even without having personally suffered, it was difficult for the interpreters to remain detached.

At the SATRC, the interpreters recall having been profoundly affected by the experience of interpreting both victim and perpetrator testimony, all the more so for their proximity to the facts and to the history. They recall feelings of anger when hearing the accused describe their actions. Whether or not the interpreters actually allowed their feelings of anger to interfere with their output is something only forensic analysis of the recordings would reveal. Certainly, from their own accounts, they were aware of being able to manipulate the speaker in some ways. As Anthonissen comments:” in their interpretation

they can speak softly in rendering hard content and so indicate empathy (conversely they are certainly also capable of indicating annoyance and lack of empathy); they can take on a monotonous tone when a speaker's narrative becomes longwinded" (Anthonissen, 2008: 185). Even if their output was altered in some way it seems clear that the interpreters were agents in a process by which they were also personally, indelibly touched. As Anthonissen writes:

"What one can finally conclude is that interpreters are not 'conduits' who are merely 'swapping . . . words from one language to another' It is clear that they were often also 'catalysts' and cultural consultants... who not only brokered between alienated parties, but who were also personally affected" (Anthonissen, 2008: 185).

The same is incontestably true of the interpreters at the ICTY and ICTR and these interpreters continue to be affected, as responses to the questionnaire and earlier research attest. As to whether the moral and personal prejudices of the interpreters interfere with their output, Hajdu has hinted that close analysis of the court transcripts reveal a degree of agency on the part of the interpreter which may be due to a particular moral predisposition. Further investigation would be needed to substantiate these findings.

In summary, the simultaneous interpreter in the Transitional Justice settings examined is faced with several problems and dilemmas which challenge their ability to meet the professional standards expected of them. They are entrusted with conveying testimony that is distressing and possibly inarticulate, and with confronting an accused with a detailed indictment in legal language that the source and target languages do not share. They have to accept that what they say will become the record of the proceedings and will thus possibly become the basis for future case law. They are expected to do this and at the same time remain transparent and invisible and not to leave any trace of themselves on the original utterance that could be attributed to their own prejudice or predisposition. Is this a realistic proposition? Would it not be more appropriate to acknowledge that interpreters in the Transitional Justice setting face special demands which require an alternative to the conventional assumptions of impartiality and detachment that apply in typical court and conference interpreting settings? As Anthonissen suggests:

"The assumption that interpreters are neither authors nor co-authors, that their assignment is to mechanically transfer a message from one language into another so that it comes across untouched, has to be revisited and interrogated; the invisibility of the interpreter is misleading. We

may gain more by defining the interpreter's mediating role as guided, constructive intervention" (Anthonissen 2008: 185).

How, if at all, are the problems described above addressed by the profession?

As regards training, aiic, as the body which represents the interests of professional conference interpreters around the world, recommends that anyone wishing to enter the profession, undergo adequate training. Aiic has published a set of guidelines for appropriate courses to enable graduates to enter the profession on completion of their studies.²⁶ The ICTY and the ICTR have established in-house training programmes which aim to equip interpreters with the necessary resources to perform to the appropriate standard.

From the preceding discussion, however, it is obvious that the professional standards to which conference interpreters aspire, are not entirely compatible with the standards that are expected of court interpreters. As has been previously indicated, the lexical accuracy required by the court does not extend to certain aspects of a speaker's communicative intention (Bertone, 2006; Poyatos, 2002). Secondly, completeness is an undesirable ambition where it conflicts with clarity and which may also place the interpreter's professional credibility at risk, (Schlesinger, 1991). Thirdly impartiality may conflict with the conference interpreter's objective of fidelity to the communicative intent of the speaker. This places the interpreters working in modern Transitional Justice settings in an ambiguous position.

From the discussion and the responses to the semi-structured interviews, it is clear that exposure to distressing narrative is a commonplace in the work of interpreters in modern Transitional Justice settings. Many of the interpreters at the ICTY and ICTR indicate that they have developed strategies to manage the effects of having to interpret traumatic narrative; however the impact of this exposure is profound and enduring. As indicated earlier, an internal staff survey at the ICTY in 1998 established that interpreters suffered most from Post-Traumatic Stress Disorders and a number of respondents to this survey testified to this as well. Counselling services are available at the ICTY and ICTR however responses to the survey indicate that few interpreters avail themselves of this service. The interpreters at the TRC received no counselling and support yet they were also profoundly affected by their experience. The profession as a whole needs to take this problem more seriously and the seminar organised by aiic in The Hague in September 2010 is an important initiative in this regard.

²⁶ For details of aiic's recommendations for interpreter training programmes see <http://www.aiic.net/Viewpage.cfm/page3420%22>

On the issue of using the interpreter's output as an authoritative record, the professional association, aiic, has made it clear that interpretation should not be confused with translation and that the interpreter's output should not be taken as an authoritative record of proceedings.²⁷ It would be important to heed aiic's recommendation that interpreters be allowed to fulfil their primary function as facilitators of oral communication and that professional minute writers be assigned the role of establishing the official record of court proceedings.

As regards the problem of the lack of lexical equivalents in the working languages of the ICTY and ICTR as well as those that were used at the SATRC, it would seem as if the interpreters who find themselves faced with the problem feel under a professional obligation to find an improvised equivalent which is suitable in the cultural and legal context in which they operate. However it is clear that the major underlying issue concerns the recourse to imposed mechanisms of international human rights law as against the alternative of domestic transitional justice processes.

Lastly, the interpreters who operate in modern Transitional Justice settings are confronted with manifest challenges to their impartiality. They speak in the first person on behalf of hundreds of individuals whose utterances and attitudes they may find morally repellent or which may move them to tears. While the greatest detachment and impartiality are expected of the interpreter, professionals recognise that their agency in the process is visible (Hajdu, 2006). It could be argued that interpreters and their clients in the Transitional Justice system need to acknowledge that it is an impossible ambition for the interpreter to remain completely detached and that, as in the other problem areas discussed above, alternative professional standards need to be developed for interpreters operating in modern Transitional Justice settings. Anthonissen's conclusions mentioned above (Anthonissen 2008: 185) may be useful in taking this reflection forward.

²⁷ See footnote 12.

Bibliography:

Books:

- Baigorri Jalòn, Jesùs. 2004. De Paris à Nuremberg: Naissance de l'Interprétation de Conférence. Ottawa: Les Presses de Université d'Ottawa,
- Berk-Seligson, Susan. 1990. The Bilingual Courtroom: Court Interpreters in the Judicial Process. Chicago: University of Chicago Press, 2nd Ed.
- Bertone, Laura. 2006. The Hidden Side of Babel. Buenos Aires: Evolucion Publishing.
- Clark, Phil. 2008. After the Genocide: Transitional Justice, Post Conflict Reconstruction and Reconciliation in Rwanda and Beyond. London: Hurst.
- Cruvellier, Thierry and Voss, Chari. 2010. Court of Remorse. Madison, Wisconsin. University of Wisconsin Press,
- Gaiba, Francesca. 1998. The Origins of Simultaneous Interpretation: The Nuremberg Trial. Ottawa, University of Ottawa Press.
- Gaskin, Hilary. 1990. Eyewitnesses at Nuremberg. London: Arms and Armour Press.
- Gonzalez, Vasquez and Mikkelson. 1991. Fundamentals of Court Interpretation. Durham N Carolina: Carolina Academic Press
- Gross, Michael L. 2006. Bioethics and Armed Conflict. Cambridge, Mass: MIT Press.
- Gross, Michael L. 2010. Moral Dilemmas of Modern War. New York: Cambridge University Press.
- Herbert, Jean. 1952. The Interpreter's Handbook. Geneva: Librairie de Université Georg.
- Kritz, Neil J. 1995. Transitional Justice: how emerging democracies reckon with former regimes. Washington DC: US Institute of Peace Press.
- Krog, Antjie. 1998. Country of My Skull. Johannesburg: Random House South Africa.
- Krog, Antjie, Mpolweni, Nosisi and Ratele, Kopano. 2009. There Was This Goat. University of Kwazulu-Natal Press.

Moore, Wilbert E. 1970. *The Professions: Roles and Rules*. New York: Russell Sage Foundation.

Rigby, Andrew. 2001. *Justice and Reconciliation: After the Violence*. Boulder, Colorado: L Rienner,

Shelton, Dinah L. 2005. (Editor-in-Chief) *Encyclopaedia of Genocide and Crimes Against Humanity*. Farmington Hills. Thomson Gale

Schlesinger, M and Pöchacker, F (eds). 2002. *The Interpreting Studies Reader*. New York & London: Routledge.

Sonnenfeldt, Richard W. 1992. *Witness to Nuremberg*. New York: Arcade Publishing,.

Thompson, Dennis & Rotberg, Robert I (eds). 2000. *Truth vs Justice: The Morality of Truth Commissions*. Princeton and Oxford: Princeton University Press,.

Van der Merwe, Hugo and Audrey R Chapman. 2008. *Truth and Reconciliation in South Africa: Did the TRC Deliver?* Philadelphia: University of Pennsylvania Press.

Villa Vicencio, Charles and du Toit, Fanie (eds). 2006. *Truth and Reconciliation 10 years On*. Claremont: David Philip.

Book Sections:

Anderson, Bruce R. 2002. "Perspectives on the Role of the Interpreter." In Miriam Schlesinger and Franz Pöchacker (eds), *The Interpreting Studies Reader*, 211-215. New York and London: Routledge.

Barik, Henri C. 1994. "A Description of Various Types of Errors of Translation Encountered in Simultaneous Interpretation." In S Lambert and B Moser-Mercer (eds), *Bridging the Gap: Empirical Research in Simultaneous Interpretation*, 121-137. Amsterdam and Philadelphia. John Benjamins Publishing Company.

Berk-Seligson, Susan. 2002. "The Impact of Politeness in Witness Testimony." In Miriam Schlesinger and Franz Pöchacker (eds), *The Interpreting Studies Reader*, 279-292. New York and London: Routledge

Du Toit, André. 2000. "Truth v. Justice: The Morality of Truth Commissions" in "The Moral Foundations of the South African TRC: Truth as Acknowledgement and Justice as Recognition" by Robert Rotberg and Dennis Thompson (eds), 122-140.

Gerver, Davis. 2002. "The Effects of Source Language Presentation Rate on the Performance of Simultaneous Conference Interpreters." In Miriam Schlesinger and Franz Pöchacker (eds), *The Interpreting Studies Reader*, 53-66. New York and London: Routledge

Gile, Daniel. 2002. "Conference Interpreting as a Cognitive Management Problem." In Miriam Schlesinger and Franz Pöchacker (eds), *The Interpreting Studies Reader*, 163-171. New York, London: Routledge,.

Goldman-Eisler, Frieda. 2002. "Segmentation of Input in Simultaneous Interpretation." In Miriam Schlesinger and Franz Pöchacker (eds), *The Interpreting Studies Reader*, 68-76 - . New York, London: Routledge,.

Hayner, Priscilla B. 2001. "Unspeakable Truths: Confronting State Terror and Atrocity." Ch. 2 of *Unspeakable Truths: Confronting State Terror and Atrocity*, 32-49. New York and London: Routledge,.

Kurz, Ingrid. 2002. "Conference Interpretation: Expectations of Different User Groups." In Miriam Schlesinger and Franz Pöchacker (eds), *The Interpreting Studies Reader*, 313-324. London and New York: Routledge.

Lederer, Marianne. 2002. "Simultaneous Interpretation, Units of Meaning and Other Features." In Miriam Schlesinger and Franz Pöchacker (eds), *The Interpreting Studies Reader*, 163-171. New York London: Routledge.

Lotriet, Annelie. 2006. "Translation and the Media: Translation and Interpretation." In Charles Villa-Vicencio and Fanie du Toit (eds), *Truth and Reconciliation in South Africa: Ten Years On*, 102-119. Claremont: New Africa Books.

Pöchacker, Franz 2006. ""Going Social? On Pathways and Paradigms in Interpreting Studies." In Anthony Pym, Miriam Schlesinger, Zuzana Jettmarova (eds) *Sociocultural Aspects of Translating and Interpreting*, 215-232. Amsterdam/Philadelphia: John Benjamins Publishing.

Poyatos, Fernando. 2002. "Non-Verbal Communication in Simultaneous and Consecutive Interpretation." In Miriam Schlesinger and Franz Pöchacker (eds), *The Interpreting Studies Reader*, 235-246. New York London: Routledge.

Rotberg, Robert I. 2000. "Truth Commissions and the Provision of Truth, Justice and Reconciliation." In Robert I Rotberg and Dennis Thompson (eds), *Truth Versus Justice*, 3-21. Princeton: Princeton University Press.

Roy, Cynthia B. 2002. "The Problems with Definitions, Descriptions, and the Role Metaphors of Interpreters." In Miriam Schlesinger and Franz Pöchacker (eds), *Interpreting Studies Reader*, 345-353 New York London: Routledge.

Seleskovitch, Danica. 2002. "Language and Memory: A Study of Note Taking in Consecutive Interpreting." In Miriam Schlesinger and Franz Pöchacker (eds) *The Interpreting Studies Reader*, 120-129 - . New York, London: Routledge,.

Journal Articles:

- Almqvist, Jessica. 2006. "The Impact of Cultural Diversity on International Criminal Proceedings." *Journal of International Criminal Justice*, Vol 4, Issue 4, pp 745-764.
- Anthonissen, Christine. 2008. "On Interpreting the Interpreter - Experiences of Language Practitioners Mediating for the TRC." *Journal of Multicultural Discourses*, Vol 3, No 3.
- Barria, Lilian A and Roper, Steven D. 2005. "How Effective are International Criminal Tribunals? An analysis of the ICTY and the ICTR." *International Journal of Human Rights*, Vol 9, No 3, 349-368.
- Baum, Dan. 2004. "The Price of Valor." *The New Yorker*, Issue of 2004-07-12 and 19, 22. July 2004.
- Blumenthal P, Britt T, Cohen J, McCubbin J, Maxfield N, Michael E, Moore P, Obler K, Scheck P, Signorelli T, Wallsten T. 2006. "Stress Effects on Bilingual Language Professionals' Performance." *International Journal of Bilingualism*, Vol 10, No 4, 477-495.
- Bos, Geesje, and Soeters, Joseph. 2006. "Interpreters at Work: Experiences from Dutch and Belgian Peace Operations." *International Peacekeeping*, Vol 13, No 2, 261-268.
- Burke-White, William W. 2003. "Regionalisation of International Criminal Law Enforcement: A Preliminary Exploration." *Texas International Law Journal*, Vol 38, 729-760.
- Cooke, Michael. 1995. "Interpreting in a Cross-Cultural Examination: An Aboriginal Case Study." *International Journal of Sociology and Language*, Vol 113, 99-111.
- Deckard, Gloria, Meterko, Mark, Field, Diane. 1994. "Physician Burnout: An Examination of Personal, Professional and Organisational Relationships." *Medical Care*, Vol 32, No 7: 745-754.
- Du Toit, Marijke. 2000. "Telling Tales: The Politics of Language in Oral Historiography." *South African Historical Journal* Vol 43: 1, 89-120.
- Engstrom, David W, Roth, Tova and Hollis, Jennie. 2010. "The Use of Interpreters by Torture Treatment Providers." *Journal of Ethnic and Cultural Diversity in Social Work* Vol 19: 1, 54-72.
- Friedman N, Schnurr P, McDonagh-Coyle A. 1994. "Post Traumatic Stress Disorder in the Military Veteran." *Psychiatric Clinics of North America*, Vol 17: 20, 265-277.
- Gile, Daniel. 2005. "Empirical Research into the Role of Knowledge in Interpreting: Methodological Aspects." Published in Dam, Helle V., Jan Engberg & Heidrun Gerzymisch-Arbogast (eds). *Knowledge Systems and Translation*. Berlin, & New York: Mouton de Gruyter. 149-171. 2005

Gile, Daniel. 2008 "Local Cognitive Load in Simultaneous Interpreting and its implications for empirical research." *Forum* Vol 6, no 2, 59-77.

Gile, Daniel. 1985. "Le Modèle d'Efforts et l'équilibre d'interprétation en interprétation simultanée." *Journal des Traducteurs*, Vol 30, No 1 44-48.

Gile, Daniel. 1999. "Testing the Effort Model's Tightrope Hypothesis in Simultaneous Interpreting - A Contribution." *Hermes*, 153-172.

Gile, Daniel. 2001 "Consecutive vs Simultaneous Interpreting: Which is more accurate?" *Interpretation Studies*, Vol No 1, 8-20.

Harvey, Michael A. 2003 . "Shielding Yourself from the Perils of Empathy: The Case of Sign Language Interpreters." *Journal of Deaf Studies and Deaf Education* Vol 8, No 2, 207-213.

Karton, Joshua. 2008. "Lost in Translation: International Criminal Tribunals and the Legal Implications of Interpreted Testimony." *Vanderbilt Journal of Transnational Law*, , Vol 41, No 1.

Keiser, Walter. 2004. "L'interprétation de Conférence en tant que Profession et les Précurseurs de l'Association Internationale des Interprètes de Conférence 1918 - 1953." *Erudit*, Vol 49 No 3: 576-608.

Koren D, Caspi Y, Leiba R, Bloch D, Vexler B, Klein E. 2009. "Acute Stress Reactions Among Medical and non-medical personnel in a general hospital under missile attacks." *Depression and Anxiety*, Vol 26: 123-128.

Krog, Antjie. 2008. "My Heart is on my Tongue." *Journal of Analytical Psychology*, Vol. 53: 225-239.

McGovern, Patricia and Lundy, Mark. 2008. "Whose Justice? Re-thinking Transitional Justice from the Bottom-Up." *Journal of Law and Society*, Vol 35, No 2, 265-92.

Moreno, Jonathan. 2004. *In the Wake of Terror: Medicine and Morality in a Time of Crisis*. Cambridge, Mass and London, England: MIT Press.

Morris, Ruth. 1993. "The Interlingual Interpreter - Cypher or Intelligent Participant." *International Journal for the Semiotics of Law*, Vol 6, No 18.

Morris, Ruth. 1995. "The Moral Dilemmas of Court Interpreting." *The Translator*, Vol 1, 25-46.

Morris, Ruth. 1996. "Interpreters and the Legal Process." *New Law Journal*, Vol 146, No 6759, p 1130.

Morris, Ruth. 1999. "The Gum Syndrome: Predicaments in Court Interpreting." *Forensic Linguistics*, Vol 6, 1.

- Moser-Mercer, Barbara. 2000. "Simultaneous Interpreting: Cognitive Potential and Limitations." *Interpreting*, Vol. 1: 83-94.
- Mpolweni, Nosisi Lynette. 2008. "The Importance of the Original: Challenges in Interpreting Xhosa Testimony before the South African TRC." *Journal of Multicultural Discourses*, Vol 3, No 3.
- Raditlhalo, Sam. 2009. "Truth in Translation: The TRC and the Translation of the Translators." *Biography*, Vol. 32.1.
- Salimbene, Franklyn P. 1997. "Court Interpreters: Standards of Practice and Standards for Training." *Cornell Journal of Law and Public Policy*, Vol 6, 645-672.
- Scannel-Desch, E, Doherty, Mary Ellen. 2010. "Experiences of US Military Nurses in the Iraq and Afghanistan Wars, 2003-2009." *Journal of Nursing Scholarship*, Vol. 42:1: 3-12.
- Schlesinger, Miriam. 1991. "Interpreter Latitude vs Due Process. Simultaneous and Consecutive Interpretation in Multilingual Trials." In: S. Tirkkonen-Condit (ed.) *Empirical Research in Translation and Intercultural Studies*. Tübingen, Günter Narr Verlag, 147–157.
- Seeber, Killian. 2007. "Betrayal, Vice or Virtue? An Ethical Perspective on Accuracy in Simultaneous Interpreting." *Meta, Journal des Traducteurs*, Vol. LII,: 291-298.
- Shakespeare-Finch, Jane, Smith, Sandy, Obst, Patricia. 2002. "Trauma, Coping Resources and Family Functioning in Emergency Services Personnel: A Comparative Study." *Work and Stress*, 16: 3: 275-282.
- Sprang, Ginny, Clark, James, Whitt-Woosley, Adrienne. 2007. "Compassion Fatigue, Compassion Satisfaction and Burnout: Factors Impacting a Professional's Quality of Life." *Journal of Loss and Trauma*, Vol 12, No 3: 259-280.
- Stern, Ludmilla. , 2001. "At the Junction of Cultures: Interpreting at the International Criminal Tribunal for the Former Yugoslavia in the Light of Other Interpreting Practices." *Journal of the Judicial Review of New South Wales*: Vol 5, No 3, 255-274.
- Stern, Ludmilla. 2004. "Interpreting Legal Language at the ICTY: Overcoming the Lack of Lexical Equivalents." *Journal of Specialised Translation*, Issue 02, pp 63-75.
- Sunde, Hans. 1998. "Supervision of Refugee Interpreters: 5 Years of Experience from Northern Norway." *Nordic Journal of Psychiatry*, Vol. 52: 403-409.
- Tayeda, Kayoko. 2008. "Interpreting at the Tokyo War Crimes Tribunal." *Interpreting*, Vol.10:1: 65-83.
- Verdoolaege, Annelies. 2008. "The South African Truth and Reconciliation Commission and Multicultural Discourse." *Journal of Multicultural Discourses*,: Vol 3, No 3.

Wenzel, M., Okimoto, T, Feather, N and Platow, M. 2008. "Retributive and Restorative Justice." *The Law of Human Behaviour*,: Vol 32, pp 375-389.

Zimanyi, Kristina. 2009. "On Impartiality and Neutrality: A Diagrammatic Tool as a Visual Aid." *International Journal of Translation and Interpreting Research*, Vol 1: 55-70.

Zwischenberger, Cornelia. 2009. "Conference Interpreters and their Self-Representation." *Translation and Interpreting Studies*, Vol. 4:2 239-253.

Institutional Publications:

aiic, 2010. "Code of Professional Ethics, Code of Honour". www.aiic.net

aiic. 2010. "Council Regulation on Disciplinary Procedure." aiic basic texts, www.aiic.net.

aiic, Research Unit. 2002. *Workload Study*, Geneva: Association Internationale des Interprètes de Conférence

HRW. 2010. *Human Rights Watch World Report 2010. Annual Report*, HRW: Accessed at www.hrw.org

ICTY. 1999. *Code of Ethics for Interpreters and Translators Employed by the ICTY*. UNICTY,.

ICTY. "Rules of Procedure and Evidence." 14 March 1994.

SATRC. , 1998. *Report of the Truth and Reconciliation Commission of South Africa Volume 1*. Juta and Co. Cape Town.

Secretary General, United Nations. 2004. *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*. New York: United Nations Security Council.

South Africa, Government of. 1995. *Promotion of National Unity and Reconciliation Act*. Government Publications,.

ICTR Rules of Procedure and Evidence. 29 June 1995.

UNSC 1994. *Resolution 955 on the Establishment of an International Tribunal for Rwanda* New York: UN,.

Online Publications:

Morris, Ruth. *Eichmann vs Demanjuk*. The Hague: Aiic Court Interpreting Seminar, 2001. <http://sites.google.com/site/ruthmorris13/AIIC Hague Eichmann vs Demanjuk.pdf>

Morris, Ruth. "Historical Aspects of Court Interpreting." Bar Ilan University, Ramat Gan, Israel. <http://sites.google.com/site/ruthmorris13/HistoricalAspectsOfCourtInterpretingFINAL.pdf>

Morris, Ruth. 2002. "Meeting of the Mouthpieces." 6th International Forum on Legal Translation and Court Interpreting.

Paris. <http://sites.google.com/site/ruthmorris13/MouthpiecesNAJIT.doc>

Morris, Ruth. 2010. "Taking Liberties? Duplicity and the Dynamics of Court Interpreting." <http://sites.google.com/site/ruthmorris13/MorrisDemjanjukJUNE2007ALLCHANGESACC.doc>

Morris, Ruth. 2010. Madame du Barry: Privilege and the Organ of the Attorney.

<http://sites.google.com/site/ruthmorris13/MadameduBarry.pdf>

Zwischenberger, Cornelia. 2008. "Summary of Results of Survey on Quality and Role Among Members of aiic." www.aiic.net accessed 04.06.2010.

Unpublished Papers:

Bakunda, Pierre Célestin. 2007. "Les Mécanismes de Résolution de Conflits au Rwanda: le cas des "Gacaca"." Leiden

Hajdu, Nata. 2006. Voices of Victims and Villains: Interpreting at the international Criminal Tribunal for the Former Yugoslavia. Universitat Rovira i Virgili, Spain

Taravella, AnneMarie. 2008. "Manifestations de l'interprète de tribunal dans une juridiction pénale internationale." Université Concordia, Montreal, Quebec,.

Videos and Films:

Video Peter Uiberall, Rosi Meza Stahl. 1992. "Peter Uiberall, Interview." Video.

Video Interview supplied by the Voices of the Rwanda Tribunal Project of the University of Washington. <http://www.tribunalvoices.org/voices/video/102>

Interviews:

"Interview with Antjie Krog." Interview, Cape Town, 2010, May.

APPENDICES:

Questionnaire for ICTY interpreters

Questionnaire for professional interpreters at the ICTY.

TRAINING AND PROFESSIONAL EXPERIENCE:

- What training have you received and in what setting?
- Has your training been mainly in service/on-the-job training and/or professional training at an interpreter school?
- Does the Tribunal provide you with specific training when you join and throughout your tenure?
- Are you a member of a Professional Association? If so, which one?
- How long have you worked as an interpreter for the ICTY?
- Do you work as a staff interpreter or freelance?

- Did you work in the legal/courtroom setting before working for the ICTY/R?

- What language combination/pair do you use?

- Do you work mainly into your mother tongue or into a second language?

- **THE SPECIFIC CHALLENGES OF THE INTERNATIONAL CRIMINAL TRIBUNAL:**

Do you think that, compared to other conference interpreting settings, your work at the International Criminal Tribunal is more difficult? If so, in what way?

Have you ever found yourself in a situation where:

- You have to interpret a person whose testimony influences you emotionally? If so, what strategies did you use to manage this? Do you think that these strategies were effective?
- You have to “invent” new language for concepts that are being used in a hearing? If so, what strategies did you use to manage this? Do you think that these strategies were effective?
- You feel that the translation you choose does not accurately reflect the original utterance. If so, what strategies did you use to manage this? Do you think that these strategies were effective?

- Are you required to interpret particularly difficult or traumatic narrative and, if so, have you developed strategies to manage this in the booth?
- Does the institution you work for offer any form of post-trauma counselling?
- Do you work mostly in relay or direct from the original?
- If you work often in relay, do you think that this affects the accuracy of your output and does it affect the impact on you of interpreting traumatic narrative?
- Is your output monitored for accuracy?
- Are you expected to provide a verbatim account of proceedings or is a degree of interpreter latitude tolerated/encouraged?

PROFESSIONAL ETHICS:

- Do you believe that interpreting in this setting faces you with particular moral challenges compared to other settings in which you have worked as a conference simultaneous interpreter?
- Does emotional proximity to the narrative you interpret affect your attitude to any of the participants in the trial and, if so, do you think that this may affect your output?

OTHER CHALLENGES:

- Please feel free to share with us any other concerns which may potentially affect your performance and the degree of job satisfaction you experience working at the Tribunal?

The questionnaire distributed to interpreters at the ICTR is identical with one exception. The ICTR questionnaire included a question on Nationality which the Chief of Language Services at the ICTR allowed. It was not allowed by the Chief of Language Services at the ICTY.

Research Terms of Reference ICTY.**Terms of Reference**

Dissertation Research Project, Mr. Martyn Swain
University of Cape Town, South Africa

These terms of reference (the "Terms of Reference"), governing access to staff members and contractors of the Conference and Language Services Section (hereinafter, "CLSS") of the International Criminal Tribunal for the former Yugoslavia (the "Tribunal") by Mr. Martyn Swain (hereinafter, "Mr. Swain"), a student at the University of Cape Town writing his dissertation, entitled "The Professional Interpreter in Transitional Justice: An Empirical Study," in partial fulfillment of the requirements for a Masters in Social Sciences at the University of Cape Town, for the purpose of conducting a survey and interviews in connection with the writing the aforementioned dissertation (hereinafter, the "Project"), as more particularly set forth herein and on Annex I (Dissertation Proposal and Questionnaire) attached hereto and made a part hereof, are made effective this day of July, 2010. WHEREAS, Mr. Swain requested to conduct a questionnaire and interviews with staff members and contractors of the CLSS; WHEREAS, the Tribunal has agreed to assist Mr. Swain in his efforts to conduct the questionnaire and interviews for the Project, subject to the terms and restrictions hereof; and NOW, THEREFORE, the undersigned do hereby agree:

1. Mr. Swain shall conduct the questionnaire and interviews only with those staff members and contractors who have been assigned by the Chief of CLSS or his/her designate.

Mr. Swain shall ensure that all the activities are carried out in such a way as not to cause disruption in the day-to-day activities of the ICTY and shall conform to and abide by all written and oral ICTY rules and regulations regarding access to, safety and security on the premises of the ICTY.

2. No information shall be disclosed for the purpose of the Project that the Tribunal has designated as confidential, such designation to be made at any time by the Tribunal in its sole discretion.

5. Mr. Swain shall ensure that the names and other personal details of staff members and contractors remain confidential and must not be disclosed to third party under any circumstances.

6. Notwithstanding anything contained herein to the contrary, other than as expressly set forth herein, Mr. Swain shall not disclose any non-public information obtained in connection with the Project. Furthermore, Mr. Swain shall not disclose any information obtained during the course of the arrangements contemplated by these Terms of Reference to any third party except as expressly permitted hereunder. The obligations under this paragraph shall survive completion of the Project.

7. Mr. Swain shall not use the name of the Tribunal or the United Nations in connection with the Project in a way that could be perceived as an endorsement of the Project by the Tribunal or the United Nations or of any other non-Tribunal or non-United Nations entity. Mr. Swain shall not issue any press releases or other public statements including the Tribunal's or United Nations' name or emblem/logo without the prior written consent of the United Nations and the Tribunal. Nothing contained herein shall be construed as an endorsement of the Project by the Tribunal or the United Nations.

8. The terms of this Terms of Reference shall be in effect for the questionnaire and interviews scheduled to take place in August and September 2010, and any subsequent projects to be conducted by Mr. Swain in future.

Name: Mr. Martyn Swain

Date: 13. 09. 2010