



HAL
open science

Interstitial position or ‘bastard’ status? Interpreters at the French National Court of Asylum

Anaïk Pian

► **To cite this version:**

Anaïk Pian. Interstitial position or ‘bastard’ status? Interpreters at the French National Court of Asylum. *Ethnography*, 2022. halshs-03763179

HAL Id: halshs-03763179

<https://shs.hal.science/halshs-03763179v1>

Submitted on 29 Aug 2022

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L’archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d’enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

Version definitive publiée dans:

Anaik Pian [2022], « Interstitial position or 'bastard' status? Interpreters at the French National Court of Asylum », *Ethnography*. August 2022. doi:[10.1177/14661381221116351](https://doi.org/10.1177/14661381221116351)

Summary

This article, based on fieldwork conducted in 2016 at the French national Court of Asylum (CNDA), explores reflections on the role and position of interpreters in the examination of asylum applications. Interpreters occupy a position that is at once an interstitial position – that is, at the crossroads of the social worlds of judges and claimants – and a 'bastard' position, in the sense that, although they are indispensable, their legitimacy is never fully established. To grasp the full ambiguity and complexity of their position, on the one hand, the article aims to shed light on the trajectories and working conditions of interpreters as actors in this system whose legitimacy is fragile, yet who play an essential bridging role between the institutions and the foreigners seeking their protection. On the other hand, it seeks to identify and explore other factors, beyond the codification of the role within highly standardized hearings, which may influence the ways interpreters carry out their missions in practice, in both speech and behavior. The article takes an interactionist approach and combines contributions from the sociology of professional groups and of institutions, and from anthropology of language practices.

Keys words: asylum, interpreters, interpretation, French national Court of Asylum

Interstitial position or 'bastard' status? Interpreters at the French National Court of Asylum.

July 2016, French National Court of Asylum, Montreuil (Cour Nationale du Droit d'Asile - CNDA). One morning, as I walk up to two interpreters chatting in the halls to present my research on interpreting within asylum procedures, one of them, in her early twenties, exclaims: "For once, someone is paying attention to us! Sometimes people come to do studies, but it's usually for the lawyers and judges!" (Field notes).

Within the context of an application for international protection, how can one convince the institutions of the persecution that one has suffered or has reason to fear, simply through a personal narrative? How is it possible to tell one's story in the language of the country conducting the asylum procedure (Craig and Gramling, 2017) without having a command of the codes of "schematic world knowledge" (Gumperz, 1989: 127) that it upholds? And is this not all the more challenging when the traumas one has experienced have repercussions on the way the memory is structured and even the possibility of giving an account of it (Barsky, 1994; Feldman, 1995)? During the asylum process, issues related to orality are all the more significant, as it is difficult to provide material evidence of persecution and, even when it is provided, it tends to be treated paradoxically as suspect (Laacher, 2018), precisely due to the known difficulty of obtaining it.

In France, the asylum process is organized around two specialized institutions: OFPRA (French Office for the Protection of Refugees and Stateless Persons) and CNDA (the French National Court of Asylum). OFPRA, an office attached to the Ministry of the Interior, makes first-instance decisions on asylum applications. The CNDA, an administrative court which has been under the authority of the Council of State since 2007, intervenes only to rule on appeals filed by asylum seekers whose initial application for international protection has been rejected by OFPRA.

By recognizing that the applicant's oral statements can convince the judge and have legal effects, the decree adopted in France on 6 August 2013 confirms the importance of oral expression in the examination of asylum applications. In 2018, the law for "controlled immigration, an effective right to asylum and successful integration" reinforces the weight of

oral expression by specifying that asylum applications may file an objection before the French National Court of Asylum (CNDA) in instances of interpreting deficiencies that are "attributable to the Office" during the initial investigation of their applications.

Since the 1990s, the literature published in English has contributed to clarifying the role and position of interpreters within asylum procedures, based on fieldwork conducted in Canada (Barsky, 1994) in the United Kingdom (Good, 2007; 2011) or in Austria (Pöllabauer, 2004; Dahlvik, 2019). French research has turned to this issue only recently, before which such questions fell within a relative blind spot (Pian, 2020, 2017), both in the work on preparation of asylum narratives and in the work on the asylum adjudication system. Gibb and Good's 2014 article is a pioneer in this respect, providing a comparative perspective on how interpreting is practiced at OFPRA and CNDA in France, and at the UK Border Agency (a branch of the Home Office) and before the Immigration Judge in the United Kingdom.

This article, based on fieldwork conducted in 2016 at the CNDA, further explores such reflections on the role and position of interpreters in the examination of asylum applications. Interpreters occupy a position that is at once an interstitial position – that is, at the crossroads of the social worlds of judges and claimants – and a ‘bastard position’, in the sense that, although they are indispensable, their legitimacy is never fully established.

My use of this term is partly inspired by aspects of the notion of the "bastard institution" developed by Hughes (1984). By this, he refers to social forms that are organized and institutionalized, but that have little formal legitimacy and operate at the margins of recognized institutions. Hughes distinguishes several types of bastard institutions (e.g., cults, prostitution, medical fringe practices), some of which “are against the law” or “lie outside the realm of respectability” (1984: 99). This term is applied to the institution of interpreting in the asylum process, not in reference to the idea of "deviation" with respect to the law, but rather to the idea of a "bastard imperfection" (Hughes, 1996: 163), which in this context is attached to a subaltern position whose legitimacy is fragile, but which is nevertheless a constitutive part of the institution's functioning.

To grasp the full ambiguity and complexity of the position of asylum court interpreters, the article aims, on the one hand, to shed light on an aspect of interpreters' work that has received relatively little attention in the literature, namely the personal and professional trajectories that lead them into the profession. On the other hand, it seeks to identify and explore other factors,

beyond the codification of the role within highly standardized hearings, which may influence the ways interpreters carry out their missions in practice, both in their speech and their behavior. The article's contribution is to document practices in an area that has not yet been thoroughly investigated in the French context while also complementing the existing literature on asylum and on interpreting practices in the asylum process through its plural theoretical approach.

The article takes an interactionist approach and combines contributions from the sociology of professional groups and of institutions, and from anthropology of language practices. While it draws on a sociology of domination perspective to analyze the way in which the categories of the State impose themselves on individuals during "bureaucratic encounters" (Dubois, 2010), research in the sociology of institutions (Lagroye and Offerlé, 2011) has demonstrated how the participants in such systems tend to 'work' the institution that they support, going beyond their prescribed roles. Taking the sociology of professional groups as a starting point, the article looks at the activity in progress of interpreters to examine the way in which they 'work' the court within their roles, with particular attention to the scope for autonomy available to them. In fact, in spite of the highly standardized nature of hearings, the role of interpreters is still codified by relatively general principles and, in fact, is constantly being evaluated as it happens, in real time and circumstances, by the interpreters as well as the judges. Although interpreters occupy a structurally dominated position within the CNDA and within the "social and moral division of labour" (Hughes, 1958) that it belongs to, they do have a certain amount of power: indeed, they are the only ones with a precise understanding of the questions and answers emanating from the judges and the applicants. In this context, shedding light on the way interpreters perform their roles requires close attention to the codified process of turn taking and distribution of speech (Wadensjö, 1998), as suggested by an approach that treats language as a social practice (Canut *et al.*, 2018). From this perspective, the Court hearings can be seen as "speech events" (Canut *et al.*, 2018): although they are highly codified and ritualized, they also have a strong "event dimension" (*Ibid.*) which means there is never a strictly identical reproduction, despite their institutionalized form. Different ways of fulfilling the role of interpreter are negotiated at these margins.

This research is based on ethnographic fieldwork conducted at the CNDA between July and November 2016.¹ It relied on observations made during asylum hearings, together with floating observations made in the corridors of the Court where lawyers, interpreters and applicants meet. It also involved conducting interviews and informal discussions with the interpreters. As far as possible, I tried to go back over key moments of the hearings I attended during later discussions. The interviews I collected allowed me to learn about the interpreters' backgrounds, their entry into the profession, their intentions for future work, and their relationship with the judges, lawyers and asylum seekers. Interviews were also held with the head of the interpreting unit at the CNDA, as well as with the heads of four third-party interpreting agencies that arrange for interpreters to be available to the French Office for the Protection of Refugees and Stateless Persons (OFPRA) and the CNDA under the current public procurement procedure. These exchanges allowed me not only to observe the intense competition among the interpreting agencies to win and hold a position in this market, but also to better understand the recruitment process and the working conditions for interpreters.

The article is divided into three parts. The first part focuses on the sociological profile of asylum case interpreters, while also providing contextual information on how interpreting is organized at the CNDA. Without implying a deterministic stance, it is helpful to know *who* the interpreters are in order to better understand the way they position themselves in the hearings. The second part of the article demonstrates the significance of the interactional context, which can lead interpreters to modulate their ways of conveying speech acts in ways that go beyond their backgrounds and differentiated resources (in terms of diplomas, social origin, etc.). While interpreters are often suspected of being personally aligned with or biased toward asylum seekers, the third part of the article highlights the complexity of their relationship. In addition to shedding light on the French asylum system in practice, the article aims to contribute more broadly to the debate on the conditions of social production of interpreting within the defined context of official assessment of asylum claims.

¹ Carried out within the project ANR BABELS (Borders Analysis and Borders Ethnographies in Liminal Situations, 2016-2018) led by Michel Agier.

Interpreting at the CNDA: institutional codification and professional segmentation

Hearings at the CNDA take place in the presence of a panel of judges made up of three judges², a rapporteur³, a lawyer, an interpreter, a session secretary and, finally, the person (or family) applying for asylum. While hearings are generally held in public, they may also be held in chambers, for example in cases involving sexual violence. Over 90% of CNDA hearings are held in the presence of an interpreter⁴. The 2015 asylum reform⁵, which extends European directives, has led to clarification on the applicants' choice of the language in which they wish to be heard via an interpreter at the Court. Applicants may also indicate their preference as to the gender of the interpreter who will be assigned. Most importantly, they must indicate their choice of language at the time of appeal. In 2018, the act "for a managed immigration and effective right of asylum" provides that the language in which the applicant wishes to be heard is indicated upon registration as an asylum seeker and then imposed throughout the procedure.

In 2017, the Court hired 466 sworn interpreters, working in 110 languages, which represents an expense of about three million euros (CNDA, 2018). In 2020, the need went up to 580 interpreters in 160 languages (CNDA, 2020). The creation of the Court's interpreting unit dates to the early 1990s and, as of 2003, the recruitment of interpreters began to be organized indirectly, on the basis of a common public tender for the CNDA and OFPRA⁶. Consequently, the agencies win bids for tenders on language batches⁷ and make interpreters

²A judge presiding the panel, an assessor judge appointed by the vice-president of the Council of State, and an assessor judge appointed by the United Nations High Commissioner for Refugees (UNHCR) on the advice of the vice-president of the Council of State. Since 2016, single-judge hearings, instituted by the July 2015 asylum reform, have been introduced (a provision already applied in other European countries). Since 2018, the use of video hearings for applicants who do not live in the Paris region has been increasing.

³ At the beginning of the hearing, the rapporteur reads the report he or she has drawn up on the case in question, which contains a summary of the alleged facts and the main statements made by the applicant. Next, there is a review of the arguments given by OFPRA to justify a rejection of the application for asylum. The report concludes with the points that will need to be clarified at the hearing (for example, conditions of detention, the applicant's membership in a particular religious minority or other facts relating to the request), and concludes with a recommendation to the panel of judges. The recommendations are formulated in one of three possible ways: in favor of overturning OFPRA's decision or, conversely, in favor of rejecting the appeal, thus confirming the previous decision; a third option, most common among those observed during the research reported here, is to issue a reserved opinion, whose outcome will depend on further details and clarifications to be obtained from the applicant.

⁴ The relatively frequency of this type of situation was confirmed by the head of the Court's interpreting unit during an interview, and is also specified in the CNDA's annual reports. Cf., for example, CNDA (2018; 2020).

⁵ Law n° 2015-925 of 29 July 2015 on the reform of the right to asylum.

⁶ Since 2019, the CNDA has had a stand-alone market (CNDA, 2020).

⁷ The common market is divided into ten language batches: Indian continent (batch 1), Asia (batch 2), Mediterranean basin (batch 3), Eastern Europe/Iranian world (batch 4), Balkan Europe (batch 5), West Africa

available to the Court. The interpreters are no longer recruited directly by the Court, but are attached to the agencies either as salaried employees or as freelancers, most often in the precarious "self-employed entrepreneur" (*auto-entrepreneur*) status. The latter are dependent on the agencies for interpreting assignments, which can be unpredictably scattered across the week, leading some to work in other areas such as restaurant delivery to make ends meet. As it necessarily responds to organizational and budgetary constraints, this subcontracting situation is also inexorably linked to issues of professionalization. From the point of view of interpreting services, the competitive tendering procedure might have been expected to allow for strengthening the institution's requirements in terms of interpreters' experience, qualifications, and knowledge levels (both linguistic and geopolitical). The agency directors interviewed, however, were much more aware of a downward pressure on costs that had resulted from the competition created among interpreting agencies.

In order to improve the quality of interpreting services, the CNDA's interpreting unit has begun work to codify the function. As pointed out by the head of the Court's interpreting division in an interview, this codification accelerated in the 2000s. It has materialized through in various forms, including the publication of a booklet for interpreters, followed by a compendium of ethical obligations and the introduction of a swearing-in ceremony in 2003. In addition, a reference guide on languages has been published for CNDA use since 2019⁸. A similar process is observed in the United Kingdom where the Immigration Appellate Authority (IAA)⁹ published a first guide for interpreters in 1993, followed by a second handbook for interpreters in 2003 (Good, 2007). At the CNDA, the work on the codification of the function aims to better define the rights and duties of interpreters during hearings, but it also aims to better define and manage their relations with judges, lawyers, rapporteurs and applicants. For these purposes, the interpreters' charter of ethical obligations insists on their duties of neutrality,¹⁰ impartiality, diligence, accuracy, professional confidentiality, as well as recusal (in case the interpreter knows the applicant). The Court is very vigilant with regard to any social

(batch 6), Central and Eastern Africa (batch 7), Horn of Africa (batch 8), Caribbean and Latin America (batch 9) and sign language (batch 10).

⁸ This guide serves to identify "the languages, their geographical areas of use and any regional particularities, and the number of interpreters available" (CNDA, 2020: 44).

⁹ The Immigration Appellate Authority (IAA) was replaced in 2005 by The Asylum and Immigration Tribunal (AIT), then in 2010 by the [Upper Tribunal Immigration and Asylum Chamber \(UTIAC\)](#) in 2010, which hears and decides on appeals against decisions made by the Home Office in matters of asylum, immigration and nationality.

¹⁰ However, as Dahlvik (2019: 140) notes about the substantive procedure in Austria, while officials conducting interviews ensure this neutrality with respect to the relationship with applicants: "In contrast, caseworkers typically tolerate or even appreciated it when interpreters act as their assistants in the interview".

proximity (whether proven or supposed) of interpreters to asylum seekers. At the CNDA and OFPRA, the majority of interpreters are of foreign origin: most were either born abroad or in France to immigrant parents and speak a language initially acquired through family socialization, even if some of them have further developed their knowledge of the family language through studies in languages and civilizations, for example. This profile is by no means exclusive to France: a few years ago, Good (2007) emphasized the widely varying skill and training levels for interpreters in the British context, a result of this ethnicization of the profession, which often calls on "biographical know-how" based on personal experience (Pian, Hoyez and Tersigni, 2018). In France, this ethnicization is illuminated by the interface between the socio-biographical trajectories of candidates and the structuring of the labor market, even though interpreters constitute a segmented professional group.

An initial segmentation can be seen in terms of qualifications. According to the requirements of the public contract, interpreters must have a minimum of two years of higher education and previous experience in interpreting or translation to qualify for working at the CNDA. Their educational background is nevertheless quite heterogeneous, both in terms of the programs they have followed (social sciences, literature, physics, mathematics, law, political science, journalism, biology, etc.) and the level reached in their studies, ranging from two years of higher education to a doctorate. They often do not have degrees in interpreting or translation, although many of them have such training or a specialized degree, particularly those who have graduated from the "Institut National des Langues et des Civilisations Orientales" (INALCO).

There is also another parameter of segmentation according to whether interpreting is a primary or secondary activity for those concerned. When it is a secondary activity, it is most often carried out in parallel with higher education or as a complement to precarious, informal, and/or part-time work (in catering, security, written translations, etc.). Among those interpreters who are students in parallel, various shifting configurations mark the relationship to the role. Some are doctoral students in foreign languages or civilizations and may teach university courses as adjunct lecturers (at INALCO, for example) in addition to their part-time work at the CNDA. For others, interpreting starts as a side job that allows them to finance their university studies in an unrelated discipline (mathematics, for example), although the interpreting experience acquired is often seen as a plus for their CV to be used in future job searches. At the same time, it is not uncommon for interpreting to become a primary job for students who take a break from or abandon their studies. Recent graduates often continue to work as interpreters

while waiting to find a job corresponding to their initial aspirations, without having planned it or projecting into the long term.

Moreover, in France, becoming an interpreter can be part of a professional retraining process after a career in various fields such as IT, management or accounting. These conversions are often described as a response to the need for reorientation in a new profession with more emphasis on a human and relational sense.

Another point of segmentation should be noted: even when interpreting is a person's primary activity, the frequency and regularity of interventions at the CNDA (as at OFPRA) varies. While most interpreters also work in other institutions (hospitals, reception centers for asylum seekers, maternal and child protection, etc.) and visit the Court and the Office relatively rarely, others work at the CNDA on an almost daily basis.

Therefore, even when interpreting is initially motivated by individual pragmatic considerations (to meet financial needs, to consolidate one's CV, or to maintain one's command of a language), the activity is also often linked to altruistic considerations and a desire to help. However, as shall become clearer, the relationship between interpreters and applicants remains complex. Moreover, over time, the desire to *help* often gives way to a feeling of *powerlessness* in the face of the rejection rate for asylum applications. In 2016, the CNDA's approval rate was 15.2%, including subsidiary protection. While it reached 18.4% in 2018, it remains highly variable when factoring in the applicants' countries of origin. However, over the long term, this feeling of powerlessness toward the suffering of others also tends to be accompanied by a certain weariness, or even exasperation with asylum seekers, who are perceived as "always telling the same story" as one interpreter put it.

In order to act as a resource on the interpreting market, the linguistic skills interpreters have due to their personal background must interact with two other processes related to the structure of the interpreting market. The interpreting market is structured by very robust networks among potential interpreters with relevant language skills. All of the interpreters I met during my research had applied on the advice of relatives, friends or family members who often also worked or had worked as interpreters themselves. Similarly, the interpreting agencies also call on these networks, when the need arises and within a structural context in which interpreters of foreign origin are a second choice to fill in for the lack of interpreting candidates perceived as "ideal" by the institution (trained interpreters "of French origin" with a formal degree). It must be said that the precariousness of the working conditions acts as a deterrent for graduates

of training programs in interpreting and translation, which are still relatively rare across the country.

The interpreting market is also subject to strong pressure for flexibility, leading agencies to rely on self-employed freelancers for individual jobs, as explained above, rather than hiring interpreters as employees, thus avoiding both the constraints of employment contracts and the usual social charges paid by employers. These flexibility constraints were reinforced by the 2015 asylum reform leading to the acceleration of procedures: "When OFPRA puts all its focus on one nationality, we scramble like hell to make it work. Then, a few months later, nothing, no more requests... So what do we do with our interpreters, huh?" says one third-party provider. However, the "self-employed entrepreneur" status used by many freelancers in France remains precarious in terms of social benefits and working conditions (no unemployment insurance, paid holidays, or defined minimum wage): "it's a race to the bottom (...) I have degrees adding up to 7 years of higher education, and I am paid like someone with 7 years less than a high school diploma. Many of my colleagues actually have such low levels of education, especially those working in African dialects where it is difficult to find interpreters. And yet, we are all paid the same!" points out an interpreter in his forties, who had started and then abandoned a doctoral thesis in political science.

Unlike many other professions, the flat-rate remuneration at the Court and at OFPRA, where interpreters are paid by the half-day for their work, does not take into account the level of qualification. This precariousness can be very problematic for interpreters who need to renew their residence permits and who must, as part of the process, prove that they are integrated into the society through work. These unfavorable working conditions are reinforced by a lack of recognition – as highlighted in the scene reported in the introduction: in this context, the fact that these interpreters work in a situation based on a one-sided "trust" (Luhmann, 1974), which can be withdrawn at any time by the judges¹¹, contributes to their bastardized position within the institution. Given these circumstances, one may wonder what kind of space is left for them to carry out the role assigned to them within the division of labor governing the organization of the Court and the functioning of the hearings.

¹¹ In 2013, the interpreting unit introduced a "hearing incident" form allowing the panel chairs to report any shortcomings of the interpreters to the interpreting service.

Interpreting without a net within a restrictive framework.

At the CNDA, the interpreters work, as one of them put it, “without a net” as they only learn about the details of the case once they arrive at the court. The institutional expectations set out in the booklet and the 2003 code of ethics for interpreters require them to adapt their language, if necessary, "with a view to accurately conveying the meaning of the message" to make sure it is accessible and understandable to the applicants. The "work of adapting the register" (Canut et al., 2018) is based on the observation that there is often a gap between the formal language used by the judges – related in part to their social status, but also to a conversational script linked to their role – and the level of understanding that can be expected of illiterate or poorly educated applicants.

This "register adapting" (*Ibid*) involves the work of interpreters decoding what the applicants understand by using verbal and non-verbal clues (such as the social origin of the asylum seeker, bodily *hexis*, exchange of glances, etc). Difficulties in understanding may involve specialized legal or administrative terms that the applicant does not necessarily understand (e.g., the difference between a police report and a complaint). From the interpreters' point of view, however, such clarifications should be part of the lawyers' work prior to the hearing. But the question of understanding can also involve language that is, on the surface, more ordinary. Thus, when asked "Describe the infrastructure of your village", some interpreters will immediately add "for example, the roads, the hospital, the mosque...", while others will not. In this situation, two types of practices can be distinguished.

The first approach is to phrase the question in the target language as closely as possible to the way it was asked in French, and then to add clarifications only if there is a confirmed (and not just anticipated) lack of understanding in the applicant's response, either verbal or non-verbal. The second practice is to reformulate the judge's questions from the outset if they are deemed too abstract for the applicant to understand, by either simplifying them or providing examples. However, depending on the context of the hearing, the content of the exchanges, and the judge presiding the panel, interpreters may be cautious about such rephrasing. Some observe that the judges' use of a sophisticated register may be a way of ascertaining the applicant's social background or involvement in a given political or trade union activity, for example. In this case, too much rephrasing, when it can be perceived by the panel, could do the applicant a disservice by implying that he or she is incapable of understanding the question as asked.

However, when interpreters reformulate, the choice is not based solely on their perception of the applicant's understanding, but may be part of a general effort to elicit responses. For example, when an applicant's comments remained evasive in response to a judge who asked him to detail the circumstances of his attack, a Tunisian Arabic interpreter added details: instead of repeating the question "what happened?", he tried to elicit a more detailed answer "what did the attackers do to you? How many of them were there?". In a discussion the following day, the interpreter justified these differences first based on the discrepancy he perceived between a question that was simple in the judge's mind, but whose precise implications could be difficult for the applicant to grasp. He further legitimized this initiative with a concern for tempering the hearing's atmosphere, which he observed becoming more and more tense: "I do this when I see that it starts going around in circles, that it's a waste of time for everyone and doesn't do anything for anyone involved". For the interpreter, the work is not just a question of transmitting meaning, but there is also a goal of avoiding a stalled situation and the resulting exasperation that grows on both sides, making the interpreter's position as a "link" (Sinha, 2011: 25) all the more delicate.

The difficulty of acting as an interpreter is accentuated when the person in this role feels that the questions being asked do not make sense in the context of the applicant's country of origin. Yet, behind even the most banal words (Barsky, 1994; Good, 2007), misunderstandings contribute to damaging the credibility of applicants' self-presentation and narrative. The following example is revealing on this point: the presiding judge, echoing the points raised by the rapporteur¹², referred to the musical profession of a Somali refugee who had indicated during his OFRPA hearing that he had been imprisoned and tortured by the Islamic militia *Al-Shabbaab* for having violated the ban on playing music in his village.

"Well, you say you're a musician. What are the scales of musical notes in Somali?"

– The interpreter, with an embarrassed look: Mr. President, excuse me, I am sorry but I cannot translate this question, it must correspond to something in Somali.

¹² After reading his report, the rapporteur concluded with a recommendation to the panel. As is often the case, he issued a reserved opinion on the application for international protection and stressed the need to provide further details.

– *The Chair rephrases his question, in an annoyed tone: Yes, well, there are notes. What are the scales? How many notes are there?"*

The interpreter seems to be in trouble. He launches into explanations in Somali. The applicant does not seem to understand. He is unable to answer. The president of the group then asked him, via the interpreter, to name traditional Somali instruments. With the applicant still being unable to answer, the Chair asked him to describe traditional Somali instruments. The applicant says he does not know. The impatience felt by the panel becomes palpable through the exchange of glances, sighs expressed and the tone of voice used. The president continued:

“Alright, you're telling us that you're a musician! So then, what do you play?"

– *The interpreter relates the question, and the ensuing response: You know, back home, we play music by cutting a jerrycan in half, and making a rhythm with chopsticks." (Field notes, 2016)*

This scene shows how the term musician refers to very different social representations depending on the position of the interlocutors in the social space. This gap in usage remains on the level of an unspoken taboo if it is not made explicit. At the CNDA, in the 2003 compendium of interpreters' ethical obligations, the following example is given to make interpreters aware of the risks of intercultural misunderstanding: "The judge asks an applicant from Darfur to state how many kilometers separate two towns. The shepherd in Darfur will find it totally incomprehensible to assess the distance. He won't understand. So it is up to the interpreter to play a positive role in getting an accurate answer. The question will need to be phrased in miles (the system used in Sudan), and even by asking how long it takes to get from one town to another, either on foot or by donkey. The interpreter will need provide an explanation of this work to the judge and relate the response exactly as received from the applicant. The considerations are the same for the cardinal points: the same shepherd will be unable to locate the region where he lives in relation to our geographical north, our cardinal point of reference; a Muslim does not know the north, he knows the east, the orientation of the prayer." But isn't it a culturalist view to argue that a Muslim (with the singular used an encompassing and homogenizing category) does not know the north, *because* he knows the east, by virtue of his religion? Does the reference to prayer imply that the religion is necessarily practiced when one is a Muslim? Here we can clearly see the difficulty of codifying such practices into a very general framework without falling into an ethnocentric view of applicants.

Conversely, interpreting applicants' responses requires a great deal of anticipation. In many cases, the interpreters barely have time to finish formulating what the applicants have said before the judges move on to other questions. But very often they are also cut off by the judges, who point out that "these explanations are sufficient" or that "is not the question being

asked". When dealing with a pace over which they do not have complete control, interpreters may opt to reformulate the answer by change the order of information. This may certainly be a choice to make the answer more understandable and audible (and to avoid the judge asking the same question again), but is also done in order to begin with what is considered *the most important*, and thus to be sure of having the time *to say the essential* before being cut off.

The bastardized position of interpreters is characterized by precisely the same dilemma highlighted by Hughes (1956: 6) for the service professions which are based on a direct relationship, whose members often complain that "they are prevented from doing their work as it should be done" when "someone [in this case, judges] interferes with this basic relation." In this context, this type of practice aiming at recomposing the order of the narrative is based on a calculated anticipation of both the speaking time that will be granted by the panel and the answer expected by the judges. This anticipation of the answer is sometimes formulated verbally by the interpreters. For example, seeing that the judges are not satisfied with the answer, some of them suggest rephrasing the question ("Wait, I'll rephrase the question"), which may be approved or denied ("no, there's no need; no, I'm the one asking the questions"). If these reformulations raise the question of the "social and moral division of labour" (Hughes, 1958) between interpreters and judges, they also show how the former participate, in spite of themselves, in the construction of the narrative presented.

Finally, interpreters sometimes intervene very explicitly when faced with what they believe to be a lack of knowledge by the judges of the country's context, a source of possible misunderstanding. The following scene is an example:

The case involved an Albanian asylum seeker and the hearing soon turned to the assault he allegedly suffered when neighbors moved onto his family's land. The assessor judge, recruited by the Council of State, asked several questions about the individuals who are alleged to have improperly appropriated the land in question and, above all, asked for details about the course of events. After several questions and answers along these lines, the Albanian language interpreter, a woman of about 35, intervened: "Excuse me, Madam Assessor, if I may, this is the context of Albania that goes back to the 1990s." The interpreter explained that this type of expropriation is frequent and gave a few minutes of details on the Albanian agricultural and land context. The panel let her speak, and then the assessor judge recruited by the Council of State asked the applicant a new question. When it was the lawyer's turn to speak, she noted in her plea: "As the interpreter explained very well with regard to the agricultural and land context..." The interpreter, motioning with her hand and stepping back, addressed the panel of

judges in a whisper, "Yes, excuse me..." But a few minutes later, she interrupted the lawyer to explain the political situation. No one openly objected, although the panel of judges and the lawyer stared at her in amazement.

When the hearing was adjourned, the lawyer and the applicant left the room. The secretary then informed the interpreter that the next applicant would be a little late. During this waiting period, a discussion took place between the interpreter and the panel (mainly with the assessor judge recruited by the Council of State and the president of the panel). The interpreter then spoke again about the Albanian agricultural and land context, re-situating historical elements (going over the beginnings of communism and the nationalization of land, and then to the way in which land was arbitrarily redistributed after the fall of the communist regime). She added that her own family had been the victim of such expropriations, and pointed out that these situations can lead to very violent conflicts and killings. The assessor judge and the presiding judge then asked her some more questions. In support of her argument, the interpreter added that some of her colleagues from Albania were themselves engaged in legal proceedings to recover family land, but that, without a bribe – and even with one – they rarely succeed. (Field notes, 2016)

This scene shows a shift in the posture assumed by the interpreter who, during the hearing, began to play the role of both expert and lawyer (which is emphasized by the lawyer). In fact, the two go hand in hand: the interpreter's role as an expert in providing contextual, historical, geopolitical and cultural details – both during and after the hearing – serves to support the applicant's case. As Dahlvik (2019) shows in the context of the Austrian asylum procedure, interpreters often deal with tensions between the demands of professionalism and professional ethics, and even more so when they feel the need to transgress the rules in order to fully perform their function.

In the above case, in an interview conducted a few days later, the interpreter confided that she had taken this initiative (which she considered exceptional) because, in her opinion, it was a matter of restoring meaning. The applicant's answers were confusing in the context: they did not seem to make sense to the judges, while they made sense to her, referring as they did to both a collective history (that of the country) and a personal one (her family experience). She had therefore taken the liberty of adding contextual details, she explained, in order to convey this meaning. But it may be hypothesized that the issue of meaning alone does not fully explain the position adopted by the interpreter in this situation. A combination of several factors seems to be more broadly relevant and these should be considered together.

First of all, we can assume that this interpreter enjoys a certain ease in addressing the panel due to her social background (relatively privileged), her higher education (even if incomplete), and her professional experience, both in journalism (fixer, interpreter for news reports) and at the CNDA (where she has been working for the past ten years).

Secondly, the applicant's story touches her personally: in other words, she believes in it. Although the "structure of the involvement" (Goffman, 1974) may fluctuate according to a combination of factors (accumulated fatigue, atmosphere of the hearing, attitude of the judges and the applicant, etc.), whether or not an interpreter gives credence to the applicant's story also tends to determine the degree of interpreter involvement in how they perform their role. In other words, believing in the story and in the sincerity of the person telling it and being touched by the narrative can encourage a form of personal involvement in the interaction, a factor which gives way to greater detachment when this sensitivity is lacking. Consequently, the attitudes of involvement shown by interpreters are linked not only to their personal experience and social trajectories, nor to the way they situate themselves in relation to the asylum system (distancing, more or less critical or advocating stance, etc.). These personal attitudes are also brought to life in the singular setting of each hearing where they may influence aspects of interpreter involvement.

In the scene mentioned above, neither the panel of judges nor the lawyer directly challenged the interpreter's speech at any time. However, this type of initiative is clearly not always tolerated, whether by judges or by lawyers, who may request a postponement of the hearing on the grounds that the interpreter is not impartial. Within the Court's interpreting service, the official rule now instructs interpreters not to take on the role of cultural mediator.¹³ On the one hand, in the interest of equal treatment of all asylum seekers, lawyers have complained about the inequality of interpreting services, specifically in terms of whether or not the interpreters are able to perform this role in terms of their knowledge of the country. On the other hand, it is important to avoid the interpreters speaking in the place of applicants, although they are still asked to ensure cultural understanding between the parties. The fact remains that cultural or contextual contributions offered by the interpreters can always be cut short by the judges, who have the power to let them speak or not. For the interpreters, it is then a question of identifying whether or not the clarifications they can provide meet an implicit expectation of the judges.¹⁴

¹³ In contrast, this role is described by Barsky (1994) in the context of the adjudication of asylum in Canada.

¹⁴ Sometimes the panel may explicitly ask the interpreter to convert a calendar or local currencies, which he or she may not be able to do otherwise.

According to several interpreters, this definition of the situation implies an element of intuition corresponding to what they describe as a work habit. This refers not only to experience or seniority in the profession, but more broadly to a known framework of interpersonal interactions: working regularly with a given judge allows for better anticipation of their expectations and, therefore, of the initiatives that may or may not be accepted. This is the case in spite of the fact that interpreters tend to be suspected of connivance with the applicants.

After highlighting the dilemmas of the "bastard imperfection" (Hughes, 1956; 1996: 163) associated with the position of interpreters, bringing into play, within a highly standardized division of labor, "issues of competence, of specialized knowledge" but also of "respectability" (Hughes, 1996: 63), the last section of the article sheds more light on the complexity of the relationship between interpreters and requesters.

Between distancing and assigned proximity: an interstitial place "on the edge"

Although interpreters may try to maintain a certain distance from the applicants during the hearing (e.g. by moderating eye contact), they may also respond to some of the applicants' requests after the hearing. This is the case when, at the request of the applicant or their lawyer, an interpreter provides them with the contact details of local organizations in connection with community networks and may also be likely to be able to help them find social, charitable and/or psychological assistance. However, interpreters are sometimes confronted with other forms of solicitation without the knowledge of the panel. This is the case when applicants ask the interpreters to not translate everything or to answer in their place and this, during the hearing or before it begins, in less visible areas such as the washrooms. An Albanian interpreter described a conflictual hearing in which a father and son disagreed on how to answer the judge. This is the case mentioned earlier about a family facing a vendetta issue:

"Yesterday, I don't know if you [interpreter addressing me] noticed, there was a moment of confusion between the father and the son. In fact, the son wasn't answering the Presiding Judge's question. The father had perfectly understood the question, which I had just translated. And the father absolutely wanted to answer and say (...) So the father answered and then the son wanted to blame me afterwards, and wanted me not to translate it. And at one point I intervened, I said

to him: "Your father understood the question very well and you don't understand it? [...]. I am here to serve the applicants, but also the court, and I have taken an oath, I don't want to lose my job because the guys are fighting among themselves".

Taking distance from established normative approaches to loyalty, Gravier (2003) distinguishes two ideal types of loyalty, based on a study of European civil service, namely “identity loyalty” and “mercenary loyalty”. For the author, identity loyalty implies a strong identification with the norms and principles of the institution, whereas mercenary loyalty characterizes a self-interested relationship with the institution, in particular providing a salaried job. The mercenary loyalty model, unlike identity loyalty, does not imply adherence to the values of the institution or a sense of belonging to it. Most of the interpreters I met with, especially those who entered the profession "for lack of anything better", do not identify with the CNDA if we understand "identifying with an institution means identifying with its goals" (Gravier, 2003: 87). On the contrary, they are often quite critical of the way it operates, which leads to a high rate of rejected asylum claims. But this doesn't mean they will be disloyal to the institution. As expressed in the story above, interpreters have a clear sense that any betrayal of the original commitment, sanctioned by an oath at the swearing-in ceremony, would mean a risk of losing the job. This type of configuration therefore seems to refer more to mercenary loyalty than to identity. However, it may be suggested that the segmentation of interpreters as professional group creates differentiation in their stance toward the court with respect to the imperative of loyalty (and of maintaining a ‘good’ reputation). That is, such factors will clearly not have the same implications for a student working very occasionally at the CNDA, for example, as for an interpreter who wishes to pursue a career in the field. Moreover, identity issues cannot be completely eliminated when, from the institution's point of view, the interpreters' loyalty tends to be questioned with respect to their presumed social proximity to the applicants.

At the same time, asylum seekers whose applications have been rejected by OFPRA frequently blame the quality of the interpreting service for the negative decision they received.¹⁵ This means that interpreters often find it uncomfortable to work at both OFPRA and the CNDA. They express discomfort at running into an applicant in the CNDA corridors for whom they have been an interpreter at OFPRA. Although this was rare during my observations, fights can

¹⁵ I also observed this during my fieldwork with volunteer interpreters within solidarity organizations for foreigners, many of whom are rejected asylum seekers. Cf. Pian (2017).

break out, requiring intervention by the institution's security guards. It can be hypothesized that these confrontations combine several dimensions.

It is certainly easier for the applicants to directly confront the interpreters than the judges: the interpreters are more accessible within the institution (they circulate much more in the corridors) and there is much less social distance between them than with the judges. This leads to the hypothesis that through a confrontation with the interpreter, it is the institution that is targeted. As Bourdieu points out (1997: 275): "When revolt is expressed, it stops at the limits of the immediate universe and, since it cannot go beyond insubordination, bravado in the face of authority, or insult, it attacks people rather than structures." At the same time, it can be assumed that these confrontations, at least in some cases, may involve class, age, and inter-ethnic tensions. In her novel based on her experience as a Bangali interpreter at OFPRA and the CNDA, Sinha (2011) does not hide her contempt and exasperation towards Bangladeshi asylum seekers. She is very critical of those fleeing the misery "of the human condition" and seeking asylum by delivering prefabricated narratives, bought in the streets of Paris. Conversely, however, the applicant may belong to a higher social category than the interpreter, who may become a target of visible disdain – especially when there are caste hierarchies in the countries of origin.

Another delicate situation can sometimes arise for interpreters who they find themselves face-to-face in a hearing with an applicant for whom they had intervened at OFPRA, even though the appeal refers to interpreting errors: "I once came across an applicant for whom I had interpreted at OFPRA. And in the appeal file, it is said that the interpreter had misinterpreted and had an aggressive attitude. I couldn't believe it... And what's more, my name was in the OFPRA report, so the rapporteur knew that I was the interpreter! At the end, the applicant told me 'I'm sorry', and I didn't blame him. It's his defense strategy," said an Arabic interpreter.

Since 2015, interviews at OFPRA have been recorded and lawyers can ask to see them, although few ever do in practice. Interpreters are divided over this measure, with some seeing it as increased control and surveillance over them, others as a guarantee against unfounded accusations against them. Even though some interpreters say they understand these tactics aimed at challenging rejection by the OFPRA, they still tend to decry them as soon as their own legitimacy is undermined.

Thus, even though the interpreters deny that they are trying to judge the truth or falsehood of the stories they hear, they very often unwittingly form an opinion on the sincerity and credibility of what applicants report. During hearings, when interpreters feel that applicants are deliberately not understanding the question, this type of situation is denounced as "very tiring" - to repeat a sentiment repeatedly expressed in this context. There is a threshold at which exasperation is put to the test. This is particularly the case when asylum seekers directly accuse the interpreters of incompetence, as when, during a hearing where an applicant exclaims in French, with a strong accent: "He understands nothing in Bangali, he understands nothing!". Going back over this scene, the interpreter in question does not say that he is so much affected by the asylum seeker's attitude; above all, he contests the lack of immediate intervention by the presiding judge, which he perceives as a blatant lack of recognition. This incident played a role in the rest of the hearing. When a judge cuts him off while he is interpreting the applicant's response, he openly asks to be given time to relate everything considering that, as he says, "that his translation is being challenged." The different examples presented here demonstrate how the interpreters' interstitial position can create complexity around issues of proximity vs. distance with the applicants, which then converges with the interpreters' relationship with the institution to reinforce their bastard position.

Conclusion

As participants with a key role in the asylum procedure, interpreters occupy a 'bastard' interstitial position, accentuated by the "dilemmas and contradictions of status" (Hughes, 1984), inevitably linked to the majority sociological profile they are associated with. That is, due to their real or supposed foreign origins, together with their linguistic and cultural skills being acquired partly through biographical know-how, interpreters tend to be perceived *first* – via "an ascriptive mode" (De Rudder, 1995: 43) – as being foreign, or of foreign origin, before being perceived as professionals with an established legitimacy. The interpreting service's work to codify this function has undeniably led to some degree of professionalization and formalization of the *involvement* that links the interpreters to the CNDA, while establishing a minimum of institutional trust. With an aim to "minimize equivocation and vagueness, especially in interactions" (Bourdieu, 1987: 99), this codification reduces the 'risks' that follow from delegating to the interpreters a certain knowledge, and therefore a certain power: that of understanding and conveying what is said between the parties. The codification of their function

nevertheless involves an element of uncertainty, all the more irreducible as language is by no means a univocal or transparent structure.

In this context, the article has sought to show how the ways interpreters say things are inseparable from the face-to-face encounter with judges and applicants¹⁶ within a binding institutional framework. Of course, the segmentation of this professional group, with the diversity of the personal trajectories that create it, induce differentiated resources for interpreters to position themselves in terms of the interactions during hearings. However, going beyond the social determinants alone (qualifications, social origin, seniority and experience, primary work activity or not, etc.), an ensemble of other dimensions may play a role in the way interpreters convey the words of others, such as the pace of individual hearings, the unique relationship with the applicants, and the attitude shown by the judges. Here it may be pertinent to recall Mauger's formulation (1991: 129) when he emphasizes that "practices, reactions, opinions are always defined in the relationship between dispositions and perception of the situation [...]". In this context, providing insight into the conditions of production of interpreting during the process of examination of asylum applications requires going beyond a purely intercultural approach; it implies contextualizing, in a situated manner, the power dynamics through which interpreters manage to reserve some scope for initiative and flexibility in the way they convey speech acts, all the while being necessarily caught up in a co-production of discourse.

While the focus on interpreting contributes fundamental perspective on the mechanisms of production of asylum narratives, it also invites us to explore a dimension that has thus far received little attention in the field of migration: rather than the circulation of people, the focus of the asylum procedure is the self-narrative, apprehended in all its spatial and temporal variations. In fact, an entire narrative is amended, clarified, nuanced, is what circulates through the different stages of the asylum procedure, and through what can be described as different times and spaces of interpretation. It is a narrative produced by several voices (social workers, volunteers, lawyers, but also sometimes others from the same country, etc.), which circulates through many different spheres (intimate, family, organizational, and institutional). This circulation invites further examination of the porosity of boundaries between private and public,

¹⁶ The question of the relationship of interpreters to lawyers could not be pursued within the scope of this article, but it is another issue to be taken into account.

and of how these spheres interact and interpenetrate within the self-narrative that is presented to institutions.

Article translated from the French by Corinna Anderson

BIBLIOGRAPHY

Barsky R F (1994) *Constructing a Productive Other: Discourse Theory and the Convention Refugee Hearing*, Amsterdam/Philadelphia: John Benjamins (Pragmatics and beyond 29).

Bourdieu P (1997), *Méditations pascaliennes*, Paris : Seuil.

Bourdieu P (1987), *Choses dites*, Paris: Ed de minuit.

Canut C, Danos F, Him-Haquilli M, Panis C (2018) *Le Langage, une pratique sociale. Éléments d'une sociolinguistique politique*, Besançon, Presses Universitaires de Franche-Comté.

CNDA (2018) *Rapport d'activité 2018*,
<http://www.cnda.fr/content/download/153729/1556582/version/6/file/RA2018-FINAL-internet.pdf> (consulté le 06/02/2020).

CNDA (2020) *Rapport d'activité 2020*,
<http://www.cnda.fr/content/download/179204/1758937/version/2/file/RA2020-book.pdf> (consulté le 06/02/2020).

Craig S and Gramling D (2017) Is there a Right to Untranslatability? *Asylum, Evidence and the Listening State. Tilburg law review* 22: 77-98

Dahlvik J (2019) Why Handling Power Responsibly Matters: The Active Interpreter Through the Sociological Lens. In Gill N and Good A (eds), *Asylum Determination in Europe: Ethnographic Perspectives*. Cham: Palgrave Macmillan, pp.133-154.

De Rudder V (1997) Désignation et origine: production sociale et production savante de "l'ethnique". *Cahiers de la Méditerranée*, 54 (1): 69-80.

Dubois V (2010) [1^{re} ed.1999]. *La Vie au guichet. Relation administrative et traitement de la misère*. Paris: Economica

Feldman A (1995) Ethnographic States of Emergency. In Nordstrom C and Robben A. (eds.), *Fieldwork under Fire: Contemporary Studies of Violence and Survival*. Berkeley: University of California Press, pp. 224-253

Gibb R, Good A (2014) Interpretation, Translation and Intercultural Communication in Refugee Status Determination Procedures in the UK and France. *Language and Intercultural Communication*, 14 (3): 385-399.

- Goffman E (1974) *Frame Analysis, An essay on the organization of experience*. Harvard: University Press.
- Good A (2007) *Anthropology and Expertise in the Asylum Courts*, Abingdon/New-York: Routledge-Cavendish.
- Good A (2011) Tales of Suffering: Asylum Narratives in the Refugee Status Determination Process. *West Coast Line*, 688: 89.
- Gravier M (2003) D'une loyauté à l'autre. Éléments d'analyse sur le statut de la fonction publique européenne (1951-2003). *Politique européenne*, 3 (11): 79-98.
- Gumperz J (1989) Cadrer et comprendre une politique de la conversation. In Castel R, Cosnier J & Jacob I (eds), *Le Parler frais d'Erving Goffman* (Colloque de Cerisy, « Lecture d'Erving Goffman en France », 17-24 juin 1987). Paris: Éd. de minuit, pp.123-154.
- Hughes, E. C. (1956) Social role and the division of labor. *The Midwest Sociologist*, 18 (2): 3-7.
- Hughes E C (1958) *Men and Their Work*. Glencoe: The Free Press.
- Hughes E C. (1984) Bastard Institutions. *The Sociological Eye: Selected Papers*, pp.98-105, <https://www.taylorfrancis.com/chapters/mono/10.4324/9781315135045-10/bastard-institutions-everett-hughes-david-riesman-howard-becker>
- Hughes E C (1996) *Le regard sociologique. Essais choisis*. Textes rassemblés et présentés par Jean-Michel Chapoulie, Paris: Ehes.
- Laacher S (2018) *Croire à l'incroyable. Un sociologue à la Cour nationale du droit d'asile*. Paris: Gallimard.
- Lagroye J, Offerlé M. (eds) (2011) *Sociologie de l'institution*, Paris: Belin.
- Luhmann N (1979) *Trust and Power*. Chichester: Wiley.
- Mauger G (1991) Enquêter en milieu populaire, *Genèses*, 6: 125-143.
- Pian A (2017) Devenir interprète bénévole dans des associations de solidarité pour demandeurs d'asile et sans-papiers. Temporalités biographiques et institutionnelles. *Sociologie*, 8 (4): 351-368.
- Pian A, Hoyez C and Tersigni S (2018) Interpreting in mental health: Social, moral and spatial divisions of labor in health care for migrants. *Revue européenne des migrations internationales*, 2 (34): 55a-78a. URL : <https://www.cairn.info/revue-europeenne-des-migrations-internationales-2018-2-page-55a.htm> (Traduit par Jean-Yves Bart – service editing MISHA)

Pian A (2020) L'interprétariat à la Cour nationale du droit d'asile : lorsque le récit est transporté par la parole d'un tiers. *Terrain et Travaux*, 36/37: 137-158.

Pöllabauer S (2004) Interpreting in Asylum Hearings: Issues of Role, Responsibility and Power. *Interpreting*, 6 (2): 143-180.

Sinha S (2011) *Assommons les pauvres !*, Paris: Éditions de l'Olivier.

Wadensjö C (1998) *Interpreting as Interaction*, London: Longman.