International and national court interpreting: so different?

Attendance at the Hague Legal Symposium on International Criminal Law inspires a re-examination of interpreter working conditions in national courts.

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Court interpreting has been a regular feature in the news recently – for all the wrong reasons, especially the disastrous outsourcing of language services by the UK’s Ministry of Justice. So it was a welcome change to spend three days at the 6th Hague Legal Symposium jointly organized by AIIC’s Legal and Court Interpreting Committee and Dutch region and hear how court interpreting is successfully organised in a non-UK context.

The symposium was held at the Special Tribunal for Lebanon (STL), established in 2009 by a UN Security Council resolution at the request of the Lebanese government with the primary mandate of holding trials of people accused of carrying out the attack of 14 February 2005 in Beirut.

The STL is a bit of a hybrid: it is neither a UN institution nor part of the Lebanese judicial system. The case is to be tried under Lebanese criminal law, with interpreters working under the UN regime. It all sounded rather abstract at first, although it seems to be an ideal fit: national criminal law for lawyers and international UN standards for interpreters. To what extent, I wondered, could international standards for court interpreting be applied to national courts. After all, the STL may be seen as an example as it applies domestic rather than international law and is partially funded by a national government.

Conference interpreting has never been totally absent from criminal courts at the national level. It has been used in several major trials that attracted wide media coverage, such as the Madrid train bomb trial, the Lockerbie trial, trials of suspected IRA members and Kurdish separatists in Germany, and most recently the Breivik trial in Norway. Such high profile cases, however, are not very frequent and the daily grind of court interpreters, who usually work long hours on their own in whispered or consecutive mode, is indeed far removed from the world of international conference court interpreters, who work in spacious booths as part of a team.

Still, is it so unrealistic to hope for some shared standards such as team strength, length of day, rest time, preparation time, cancellation terms, briefings, and access to documents? Even in the UK there is already very good guidance on court interpreting as illustrated by practice notes for cases with the Welsh language dating from 2005 and written by two justices (not available in the public domain but easily obtained via the Freedom of Information route).

It states in point 9:
When there is a need for translation into English and Welsh, it is essential to have two interpreters present. Even in those cases, when the case only requires translation into one language (e.g. when both counsel speak Welsh), two interpreters are required for any hearing when the interpreter would have to translate for any length of time so that the interpreters have regular and frequent breaks without delaying or extending the length of the hearing unnecessarily.

The 2007 UK national agreement for the use of interpreters explicitly excludes interpreting in Welsh from its provisions but covers interpreting in all other languages, including British Sign Language, even if interpreting takes place in Wales. It is disappointing that the guidance on working with Welsh interpreters did not inform the national standards. There is no mention of an extra interpreter if interpretation is to be two-way – it is taken for granted that a court interpreter should have two active languages and should be equally proficient in both of them. The guidance allows for a team of two interpreters only if a trial lasts several days or weeks (presumably they consider it OK for one interpreter to work alone for one or two full days) and in complex or particularly sensitive cases such as terrorism trials.

A concession is made for sign language interpreters.

Sign Language interpreting and other forms of communication support for D/deaf people are recognised as being particularly intensive, and it is therefore more likely that LSPs \[1\] will need to work in teams.

The guidance does not reference any research in this field so it is not quite clear what is meant by intense and how this intensity is measured, but the implication is that other types of interpreting are somehow less intense.

There is also this curious provision in clause 4.9.5.

Where there is more than one defendant sharing a language a single court interpreter may interpret for all of them during court proceedings if this is feasible, preferably with the aid of technology such as headphones or professional interpreting booths.

I wonder if there was a feasibility study carried out on how a single interpreter will be able to perform whispered interpreting for a whole day for several defendants at the same time.

It is not entirely inconceivable that some standards, such as work in teams, access to documents and preparation time may indeed be common to conference and court interpreters. It is also not unreasonable to hope, in the name of fairness and common sense if nothing else, that the good standards for Welsh are extended to all spoken language interpreters working in the UK justice system.

Interpreting teams have long been standard in conference interpreting, while it seems that at least in the UK (apart from Welsh interpreters) it is still considered a novelty in the courtroom even though court interpreting has been around for much longer than conference interpreting. The first case with the use of an interpreter at the London Central Criminal Court was in 1678, only four years after the first surviving record at the court. While the legal profession in England and Wales has moved on since then, somehow court interpreters have remained more or less on the same level, i.e. it is ultimately up to a judge to accept as an interpreter anyone who claims to speak the required language or who has been sent in by an agency without any statutory obligation to check interpreter credentials. Perhaps one of the reasons is that conference interpreters managed to band together relatively quickly and professionalise by establishing a code of ethics and by recommending sound working practices. Court interpreters who work in isolation started to organise much later – the first association of court interpreters in the UK was set up in 1974.

Court interpreting is a growing sector. According to the UK’s MoJ statistics, between 30 January
and 31 August 2012 there were 72,043 completed requests for interpretation covering 163 languages. This represents sizeable demand, and quite an important market as it includes many languages for which opportunities in other sectors are fairly limited, at least for now.

Much has been said about the need for training, exams and qualifications for UK court interpreters, as well as the need for statutory protection. But perhaps equal attention needs to be given to working conditions, which are equally important. It’s true that they may be particularly difficult to enforce in a courtroom where there are so many other players with conflicting interests. And given the current situation it may also seem quite far-fetched to discuss team-work when other essentials are being disregarded. However, if the topic is not raised by interpreters, it is doubtful that it will be raised at all, and interpreters’ terms and conditions will continue to be influenced by parties who have never practised the craft.

[1] LSP stands for language service professional. The same document states that “LSPs are trained to communicate with people with hearing problems who may communicate through a BSL/English interpreter, a Lipspeaker, an Interpreter for Deafblind People (Manual) or a Speech to Text Reporter.”

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