

Peer Review of Helena Tužinská, *[between the lines]: The Ethnography of Interpreting in Asylum Court Hearings.*

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Helena Tužinská's book is important both ethnographically and as a contribution to theory. It adds to the small but growing body of ethnographic studies of asylum systems in Europe, a topic of immense political, legal and moral importance, especially in recent years. It is also a major contribution to the fascinating disciplinary field of forensic linguistic anthropology.

Even though EU countries have tried to constitute a Common European Asylum System (CEAS) based upon a set of shared Regulations and Directives, procedures in each country are still greatly influenced by the particularities of their national legal systems. Although a few comparative studies have been made, these were all until recently written from the standpoint of legal scholarship. As a result, they were normative in two senses: they described the legal and administrative procedures drawn up within each country for assessing asylum applications and appealing against first instance decisions; and they focused on how those rules and procedures were intended to work, rather than how they operated in practice.

Yet in reality, for a variety of reasons, actual procedures depart from these norms. There are sometimes, of course, bureaucratic errors and judicial mistakes, and occasionally a degree of malice and incompetence, but there are also inconsistencies arising from the inherently pluralistic contexts in which asylum procedures are located, bringing together international and national law, professional codes of ethics, and the informal codes of interaction negotiated by the various actors in these processes through their experience of cooperating or coming into conflict with one another. In addition, bureaucratic and judicial decision-makers enjoy a high degree of discretion in reaching their decisions. It is hard to imagine how anything other than an ethnographic approach could hope to disentangle such convoluted examples of strong legal pluralism.

In addition to all these complications, there are complex and multi-faceted issues around language. Law is of course concerned above all with the power of discourse; it is lawyers' mastery of a specialised, technical vocabulary that allows them to constrain the speech and discourse employed by the lay persons whom they question in court. But in asylum cases another aspect of language is equally important. In almost every instance the asylum applicant cannot speak the language of the court and communication demands the use of an interpreter. It would be hard to overstate the importance of the role played by interpretation in asylum procedures, and this of course is the central theme of Helena Tužinská's monograph.

Although it covers the entire administrative and legal process of claiming asylum in Slovakia, her book focuses mainly on the ethnographic observation of court hearings in which asylum seekers are appealing against decisions of the Slovak Migration Office. Three lengthy case studies are presented, and aspects of the procedure are then analysed in the three main chapters. Each case study is very rich, and as I suggest later, one could certainly write other books based upon these same examples but bringing other aspects to the fore. The chapters also

report on numerous interviews in which key participants such as police, Migration Office officials, lawyers and interpreters, reflect on the processes in which they participate.

The case studies are analysed and interpreted with reference to the linguistic domains that each utterance exemplifies. Following Dell Hymes, one of the founders of anthropological linguistics, her basic assumption is that every ‘language event’ is made up of a distinctive form (involving, for example, particular modes of expression, speech genres and cultural conventions) and takes place in a specific context (a particular time and place, a distinctive set of participants, etc.). In short, there is a great deal more going on than the mere transfer of factual information, or to put it another way, each speech utterance or written document has to be seen as conveying far more than mere propositional content. I return to this issue below.

As Helena Tužinská clearly shows in her three extensive case studies, the task of the court interpreter is complex and demanding. They are not merely required to translate the actual words used by the asylum applicant, lawyer, government official or judge – and legal systems almost invariably impose the unrealistic and counter-productive requirement that they do so ‘verbatim’ – but must simultaneously mediate between two often very different sets of cultural assumptions, and convert technical terms from one idiosyncratic legal system into the nearest equivalent terms in another. What is more, they must do all this without specialised legal training of their own, with virtually no time to reflect and choose their words carefully, and without actually having in front of them the particular documents to which the legal actors are referring.

It is important to note that the issues arising here concern far more than the technical competence of the interpreter. However skilful they may be, the mere fact of their involvement converts the kinds of formalised, question-and-answer dialogues that characterise legal proceedings – and which normally serve to enhance the power of the legal actors – into triologies where the interpreter is every bit as much an active participant as the lawyer and the asylum applicant. Indeed, the interpreter’s control over proceedings may in practice be greater even than that of the judge, who is ultimately dependent upon the quality of the translation rendered to them. And yet, unless communication obviously and irretrievably breaks down, the interpreter’s key role is systematically overlooked by the other actors in court. Interpreters are written out of the script, both literally and metaphorically, and the court is unaware of the moral dilemmas and technical difficulties they face. Having said all that, some interpreters are of course far more skilful and sensitive than others, and as in other European countries, the courts often have to call on *ad hoc*, untrained interpreters, especially for languages which few residents of Slovakia can speak. The dangers this poses to the proper administration of justice are amply illustrated by the three case studies.

The theoretical framework of the book is built around Helena Tužinská’s analyses of the various communicative domains manifest in the utterances of the actors in court. In particular, she shows how the use of certain linguistic domains serves to diminish or conceal the agency of the asylum applicant. Collectively these make up the domain that she labels **[omitted subject]**.

The most obvious and straightforward examples involve the domain designated as **[third person]**. Some or all of the legal actors, and sometimes the interpreter too, routinely disregard the basic requirement of interpreted discourse, whereby questions should be framed in the second person and answers in the first person – to give an example of my own, instead of ‘What did you

do next?’ I went to the airport’, the judge and interpreter actually say: ‘What did he do next?’ ‘He went to the airport.’ Similar distancing may occur through use of the domain **[passive voice]**, as in case study 3 where the answer ‘they would have detained me’ is rendered as ‘he thinks that he would have been detained’. In fact this illustrates the **[third person]** domain too.

It also exemplifies another domain of particular interest, namely, **[indefiniteness]**, whereby indefinite pronouns and modal particles (in this case, ‘*he thinks that...*’) are used accidentally or deliberately to qualify or cast doubt on utterances that were intended by the speaker to be plain statements of fact. In an unpublished seminar paper I have analysed the use of this particular device in the official Country of Origin Information reports produced for asylum decision-makers by the UK Home Office and the French OFPRA, where it serves as a means of attaching authority to certain statements while almost subliminally detracting from the impact of others.

As I said, Helena Tužinská’s analytical approach is novel and the interpretations to which it leads are to my eyes entirely convincing. But of course that need not be the end of the story. In my view, the richness of her ethnographic material cries out for other forms of interpretation too, which would crosscut and complement the perspective taken here. One such approach derives from the linguistic philosophers J.L. Austin and John Searle. It distinguishes locutionary or propositional utterances which convey information, from perlocutionary utterances designed to persuade, such as the pleadings made by lawyers in court. Thirdly, illocutionary utterances bring about, through their performance, the state of affairs to which they refer: an example here would be the judge announcing her decision in case study 3.

That approach is mentioned in passing in her book, but it would be interesting to elaborate it further. Yet another possible theoretical approach, which I adopted in the seminar paper just mentioned, is developed in the book *Laboratory Life* by Bruno Latour and Steve Woolgar, which looks at the ways in which scientific papers attach varying degrees of ‘facticity’ – roughly equivalent to the legal notion of evidential ‘weight’ – to the statements and assertions they contain. They argue that scientific statements lie along a continuum, from those whose factual status is so secure that they need never be explicitly justified ($1 + 1 = 2$, for example) to mere hypotheses or guesses about future research. The level of facticity allocated to each statement is conveyed by what they term ‘processes of literary inscription’, such as the inclusion of qualifying ‘modalities’. Thus, in our earlier example, the factual statement ‘they would have detained me’ is rendered hypothetical by the interpreter’s insertion of the modality ‘he thinks that...’.

Latour and Woolgar’s ‘modalities’ correspond broadly to Tužinská’s ‘indefinite pronouns and modal particles’ and their notion of ‘literary inscription’ closely matches her ‘microlinguistic domains’ (p. 11). Their approach is thus very similar to hers, and it would be fascinating to apply their framework to her material and see what further insights it might provide.

Finally, as befits a book dealing with language, the quality of writing in the English version is excellent. For example, Helena Tužinská elegantly sums up the message of her entire book when she notes that, through the asylum procedures she describes, ‘control was maintained not only on the state borders but also on the frontiers of language’ (p. 151).

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Signature:

