

## Legal Interpreting in Britain

By Leo Hickey\*

Until 1994, anyone could present themselves to the British public as an interpreter or translator. No qualifications were required, no registration, no certificate, no regulation. In that year a National Register of Public Service Interpreters was established, allowing registration of anyone with a qualification in Public Service Interpreting - not necessarily a university degree - e.g. a Diploma (DPSI) and 400 hours' experience. There is no corresponding register of translators, so anyone who goes to Copenhagen - Blackpool will do just as well - for a week or a week-end can return, advertise in the Yellow Pages as a Danish translator and charge for their services. Furthermore, the Register of Interpreters applies, not to private work, but only to the Public Service - Police, Courts, Probation Service, Customs etc. This is my sector and here I intend to give my own impressions of how the system functions, based solely on my own experiences, and not on any official guidelines.

In January 2002, a national agreement came into effect under which only interpreters on the National Register should work for the Public Services. I am on that Register, of course: otherwise I would not be sharing these impressions, especially as I have never had the pleasure of visiting Copenhagen - or even Blackpool. Everyone knows that there are several modes of interpreting: simultaneous, consecutive, whispering, liaison etc. (for details, see Phelan 2001: 6-17), but in practice liaison (bilateral or *ad hoc*) is the most common in the Public Service, including Law, which is my specific field.

### *In practice*

First, a few words about how it all happens in practice. It invariably begins with a phone call from a police station, normally at about midnight, which is the favourite time for Spanish speakers to get themselves arrested in Britain. So if all such people went to bed after the 10 o'clock news, I would virtually be out of a job, since I deal only with Spanish speakers. Although the call may come from any public service, it most frequently comes from a police station - any police station, within a radius of perhaps 100 miles from my home. This is because the Custody Officer starts by telephoning interpreters living near the station but, on getting no answer or an answer like "Leave me alone, don't you know it's the middle of the night?", they go back to their alphabetical list and go down it until they come to "H" for "Hickey".

At the Police Station, the Detained Person (DP), is brought out of the cell or cells where, he, she or they have been held - whatever about political correctness, I shall use "he" and "they" for all notional persons from now on. They are asked their name, address and date of birth, and then they are "given their rights", mainly the rights to consult a solicitor (lawyer) free of charge, to have someone informed of their whereabouts and to consult the police codes of conduct. Their fingerprints, photograph and DNA are taken whether they like it or not - which they usually don't.

Very few people - lawyers, police or others - really know what an interpreter is or how one works. Very few have ever used an interpreter before and those who have had that unhappy experience will have tried hard to induce amnesia and forget it as quickly as possible. So the Custody Sergeant normally looks directly at me and says: "Would you ask him his name?" Now, my instinct is to reply: "*You* ask him yourself

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- he may be Spanish but he's not necessarily mentally defective". But interpreters must always be polite and I simply bark out "Tu nombre" ("Your name") in the tone in which I imagine a Spanish Civil Guard Sergeant would do so - having no personal experience of this delectable situation, I'm glad to say. I then repeat everything I hear, by whomsoever said, in the other language, using the first person all the time and never using reported speech ("He says..."). Interlocutors get used to the first person system within seconds, they realise that I am repeating what someone else has said and they quickly turn to the other and speak to them more or less naturally.

I took it as a compliment recently when a DP, on noticing that, while she was speaking, one of interviewing officers appeared not to be listening to her, shouted at him "Escúchame" ("Listen to me"), thus showing that she was unaware of my existence.

DPs usually do ask for a solicitor, at which point I sit down on a hard seat designed for maximum discomfort and minimum mobility in case the clients try to steal it, say "No thanks" when offered a cup of poisonous police station tea, and think deep thoughts (mainly along the lines that I get paid from the moment I arrive at the station until the moment I leave, whether I am asleep or awake) until the solicitor turns up. I have vaguely heard that there is a code of conduct for interpreters which forbids them to speak to DPs or to the police except when these are speaking to one another. However, when the DP is back in the cell, if the police are not busy - which they usually are - they often chat to me about Spain, Spaniards, Spanish police, Spanish wine, Spanish football, Spanish holidays and other fascinatingly boring subjects relating to Spain - about most of which I know nothing and care less but, since I am assumed to be an expert on everything Spanish, my opinions will be taken as gospel truth - but I never talk about *this* Spaniard or *this* case.

Then the solicitor appears in his own good time. This is usually a duty solicitor, from a firm which is on a 24-hour rota for a certain number of days per month. The police show him (in an informal procedure called "disclosure") the main evidence against his client (statements made by witnesses, by the arresting officer etc.) and then he has a consultation with his client through me in a private room. Here an important part of my job is to ensure that the client doesn't understand more than about 20% of what the solicitor says, for the simple reason that much of what solicitors say is incomprehensible to normal human beings and my job is to utter in one language what has been said in the other, but I must definitely not explain anything to anyone. So, for example, - and, by the way, all my examples are real - when a solicitor (who had just got out of bed and was still half asleep) said: "You were caught on CCTV, what are your instructions?", I do not explain that he means: "You were somewhere today where the closed circuit security television caught you doing something suspicious, I don't know what you did, the police don't know what you did because they haven't yet examined the video tape, but you do know what you did and what the camera saw. Therefore you may wish to tell me what happened or you may not: it's up to you". (To "instruct" or give "instructions" to a lawyer means to ask them to represent the client and to give them whatever information the client wishes).

Two practical points may be mentioned here. First, since lawyers usually know nothing about how languages, and much less how interpreters, work, they often think they are being helpful by breaking up sentences into short segments and perhaps doing so in places that make no sense. For example: "I want to ask you...[pause]" - which I cannot interpret because in Spanish "ask" has four different translations and I don't know whether it will be followed by something like: "where you were at 3 o'clock today" (preguntar), "for your own account of what happened" (pedir), "a few

questions” (hacer) or “to listen to me” (rogar). And since speakers hate their words of wisdom, however meaningless, to be followed by silence, I often just invent something (e.g. “If your don’t mind”) until I hear what comes next.

The second point is that I have only *words* to go on: I know nothing about the *realities* behind them. Once a solicitor said to his client: “The police say they found cocaine in your bag”. Since I didn’t know what kind of “bag” the client was carrying, I had to avoid using any word until I managed to get the client to use it first. “Bag” in English is a generic term covering suitcase (maleta), plastic shopping bag (bolsa), rucksack or shoulder bag (mochila), handbag (bolso), canvas bag (saco), large bag (saca) etc. So I said something vague like “The police say you were carrying cocaine”, hoping the matter would be clarified soon. The important point here is that a) the interpreter must be instantly alert to the polysemy of words like this and b) not pick just one meaning e.g. a suitcase. In my work philosophy, I would never ask the speaker what kind of bag was involved because he wouldn’t understand why I was so stupid as not to know what a “bag” was.

The solicitor represents, advises and defends his client and will a) explain the format of the police interview, which follows immediately after the private consultation, b) stress that the client need not answer any questions and the consequences of answering or not answering them, and c) advise his client on whether to answer questions or to say “No comment”.

After the solicitor-client consultation, the police interview begins: it is taped but not normally videoed. (British police are much too polite to “interrogate” people: they “interview” them). The investigating officer introduces everyone in the room and then gives the caution: “You have the right to remain silent. However, it may harm your defence if you fail to mention, when questioned, something which you later rely on in court. Anything you say may be given in evidence.” Naturally, I have a Spanish version of this in my memory, but imagine the reaction of a person (of any nationality or any level of intelligence) who hears (in any language) this technical formula whose legal implications would take hours to explain properly!

I change from the informal solicitor-client style to a formal style (the Spanish “tú/usted” is only vaguely comparable to the Danish “du/de”) in the interview - except for children - because the whole situation is now much more formal. Of course, the more formal a situation, the easier it is for an interpreter, because the format is simpler: question/answer, question/answer, with little overlapping or interrupting.

After the police interview, the interviewing officers report to the Custody Sergeant, who (after consulting the Inspector or the Crown Prosecution Service if the matter is complex) has several options: e.g. he may release the suspect without charge, release him on bail with or without conditions, charge him with some offence or give him a caution. Now this “caution” has nothing to do with the first “caution” that says “You have the right to remain silent” etc. This caution is a “reprimand” or “telling off” administered by a Police Officer (usually not below the rank of Inspector) provided three conditions are met: the suspect admits the offence, it is a minor offence and it is a first offence. In my experience, about 50% of all offences committed by Spanish speakers in Britain end with a caution, which is entered into the police computer, but it is not a conviction nor does it really constitute a criminal record.

If the suspect is charged, he may be either held in custody to appear before the Magistrates the following morning or released on bail to appear in Court at a later date. The interpreter who has acted in the police interview cannot act in the same case in Court. I have never heard a rational explanation of this crazy rule but it means that if I act in court - as I often do - some other interpreter has done the police station

session. The first Court is always the Magistrates' Court, where the magistrates are normally three unpaid lay persons, non-lawyers. Sometimes there is just one professional judge, called a District Judge, who usually hears particularly difficult cases. If the matter is serious, the Magistrates may commit (i.e. send) the case to the Crown Court, or the defendant may choose to be tried in the Crown Court by a Judge and jury.

### *The interpreter at work*

Now a few words about how an interpreter acts in (an English) Court. The most important thing is to speak in a loud, clear, confident voice, never hesitating or saying "Ah", even if the speaker is seen by everyone present to be hesitant, because this will be attributed, not to imitating the speaker, but to the interpreter's incompetence. (For a different view, see Berk-Seligson 1990: 140-142). What we actually say is less important (that's heresy, of course, so don't believe it!) since no one is likely to understand both languages and "quality control" is virtually nil.

There are three particularly acute problems for a legal interpreter working with Spanish. First, he has to react somehow to bits of incomprehensible "English" uttered by Spaniards who may not know a word of English. After "What is your name?", the defendant is asked his address, to which he may mumble something incomprehensible like /sisifai ani cou wiwu/. Now, I may be a hundred miles from home, so I cannot even guess that he is trying to say 65 Alpey Court, Wheatwood, because I have never heard of that place. If totally baffled, I may "intervene" and say "Your Worships, the defendant is speaking in English". Sometimes defendants mix bits of incomprehensible English with Spanish and then it may be impossible even to guess which bits are attempts at English. Recently a suspect, who worked in a food-processing factory, repeatedly spoke of /levo/, which is neither English nor Spanish. Only hours later, when he was asked about a box of labels and his reply was all in Spanish except for /levo/, did I realise that /levo/ was his attempt at the English word "labels"!

The next problem is those two impossible Spanish words "Sí" and "No". "Sí" can be a) "Yes", b) "I/you/he/she/they...am/are/was/were/will be" etc.) or c) "Yes, I am (was" etc.), the differences being pragmatically, and there is no Spanish alternative to "Sí" and "No" in all of these cases. Now, every English speaker knows the Spanish words "Sí" and "No", so when they hear them they expect me to say "Yes" or "No". They assume that there is some other Spanish way of saying "I am" or "Yes, I am" - not that they ever think about this point, of course - so if I say anything other than "Yes" or "No", they think I am not doing my job. It happens that in English it is rather impolite or abrupt to say "Yes" or "No", especially in Court. A colleague of mine was once directed by a Judge to interpret "Sí" as "Yes" and "No" as "No". Naturally, I cannot comment on this Judge's intelligence (?), not because he did not know Spanish - an English judge has no obligation to know any Spanish -, but because a) he assumed that he knew something about Spanish (by infused knowledge from the Holy Ghost?), b) felt able to run a case on the basis of such divinely-infused knowledge, and b) in doing so and in directing the interpreter to present the defendant to the jury as acting on a certain level of politeness or impoliteness (about which he knew nothing), he was probably giving the Defence grounds for an appeal. (For the impact of politeness as interpreted in Court, see Berk-Seligson 1988).

The third major difficulty is numbers. I have, and use, a very short short-term memory, so in longer contexts I can remember two or three digits, but not four, such

as a date of birth. The colleague mentioned above was once interpreting in a case involving complex figures and bank accounts and she asked the judge's permission to use a notebook. Whereupon he sacked her! (I'm not sure whether this judge was the same one as assumed the Holy Ghost had infused him with knowledge of Spanish). Why did he sack her? Not for using a notebook, obviously, – that is perfectly normal and permissible – but since judges, like everybody else, usually know nothing about interpreting, because she asked his permission, he assumed that she was doing something wrong or forbidden or showing incompetence. She should simply have opened her notebook and got on with the job.

Perhaps here I should explain “intervening”. To intervene means to speak in the interpreter's own voice, not in someone else's voice. When an interpreter does this, he must say he is doing so: otherwise everyone will assume he is still interpreting. So, for example, if I can't hear what counsel are saying (a frequent occurrence), I move a metre away from the Defendant and say in a loud, clear voice: “Sir” or “Ma'am” (for a District Judge or a presiding magistrate), “Your Worships” (for all the magistrates) or “Your Honour” (for a Crown Court Judge), “the interpreter intervenes to request that you direct the Prosecutor to speak up” – which I once varied to: “...that you direct the Prosecutor to whisper less inaudibly”. The Judge usually apologises, knowing that he should not have allowed this to happen. The physical move away from the speaker is optional, but I do it symbolically.

If I am asked whether I find interpreting stressful, I answer that I find it extremely stressful and sometimes I even panic, and this doesn't stop until I actually find the damned place. This is fairly accurate: finding the place - a police station in West Yorkshire at 1.00 am, or a court in Nottingham that I have never seen before - can be a nightmare. When I have found the place, the rest is easy, although Mason (1999: 148) seems to consider it “stressful and sensitive” while Kroughlov (1999: 285) speaks of “the rather extreme circumstances of a police interview”.

### *Interpreting is...*

Interpreting is nearly always interesting. Some time ago I was called to a certain airport where the eagle eyes of the airport police had spotted a man with no luggage sleeping all night in the arrivals lounge. He had a Spanish passport but they suspected that he was not Spanish. Immigration officers were called and he was taken to the police station. The Spanish Consulate was telephoned but said they knew nothing about Spaniards or passports; the Spanish Ministry of Foreign affairs was telephoned but could do nothing because the person in charge of passports was having his breakfast at the time. Anyway, when I introduced myself to the man he greeted me with “Buenos días, doctor”: it thus took me three words, or three seconds, to know that he wasn't Spanish. Ten hours later, the officers were still asking him penetrating questions like “Who is the president of Spain?” (to which, by the way, he very wisely answered “Mr. Smith”) - that was before his solicitor asked “Is there a president of Spain?” While two people in the room knew that he was not Spanish, namely he and I - though neither of us was telling -, when it came to technical questions like whether Spain had a president, only one person knew the answer, namely I, and I was not there as a technical adviser, but only to interpret.

Another important point was that I must not allow the DP to suspect that I knew he wasn't Spanish: that would have prejudiced my impartiality. Since he assumed that everyone spoke exactly as he did, he had no idea that his speech identified his place of origin to me. After ten hours (with breaks, of course), the officers gave up, locked

him in a cell for the night and we all went home. End of story as far as I was concerned. One of the main qualities of an interpreter is that he must never be curious. If you are curious, you might want to ask questions, and questions are out of the question. For example, I might have asked that man why he was pretending to be Spanish or why he had come to Britain in the first place - but of course I didn't. I might have wanted to find out what happened to him the following day, but I couldn't care less.

Interpreting is often crazy. A Spanish gentleman had used a long knife and threatened to kill three people living in the same house as himself. The custody sergeant decided (for various reasons) not to charge him, but neither did he want him to go back to the house and finish the knife job. So the sergeant said to him: "Roberto, you have two options. Either you go to Court tomorrow morning and then possibly to prison or you must find somewhere else to sleep for the rest of tonight. Which do you want?" The reply was: "Well, I'm not sure. What's your advice, sergeant?" A high-level intellectual conversation ensued until the sergeant asked him: "Do you know anyone who could give you a bed for tonight?" "Sure." "Good, who?" "Elena." "Good, what's her second name?" "Don't know." "Where does she live?" "Don't know." "Has she a telephone?" "Don't know." "Have you ever been to her house?" "Yes, often." "What's her address?" "Don't know." "Could you draw me a map?" "Sure." So paper, pens and other artists' materials were produced and the young man drew a lovely map, with wide streets and narrow streets, intersections, traffic lights etc. The only detail missing from this cartographical masterpiece was the name of a single street or district. "Could you tell me the name of any of these streets?" "No." The sergeant, in turn, then drew a triangular map for the young man: at the top, the police station; at the bottom left, the Court and an arrow pointing to prison; at the bottom right, Elena's house with a big question mark. "Now where would you like to go from here?" "Well, I'm not sure. What's your advice, sergeant?" And so it went on for a few more hours until we all got tired and went home.

Interpreting is often frustrating. A young Spaniard was hitchhiking. A driver gave him a lift and stole his rucksack with all his possessions inside. The victim was making a statement to the police and the point came when they asked him, not unreasonably, what was in the rucksack. Now all in Spanish: "Well, in the rucksack I had some friends" ("amigos" in Spanish). Now, this person was not a suspect, he was genuinely trying to help the police to get his property back. Therefore I could be very informal: "So, you had some friends in the rucksack?" "Yes, that's right". "Forgive my stupidity, but what kind of friends were they?" "Well, friends, friends 'amigos' in Spanish, friends in English". The police officer was there with his pen poised ready to write down the contents of the rucksack; what could be simpler? Presumably he was expecting two pairs of dirty socks, three pairs of underpants etc. But no, this interpreter seemed to be having some difficulty in understanding things like dirty socks and underpants. Finally it turned out that "amigos/friends" is the brand name of some kind of rock-climbing equipment about which I knew nothing, by which time I was wishing the driver had taken them and wrapped them around this victim's neck.

Interpreting is often great fun. Just before going into Court one day (and much legal work is done minutes before going into Court), a Spanish husband was in conference with his solicitor and barrister (specialist advocate) - so it was a very serious matter: barristers become involved only when the matter is in, or may go to, a higher Court. Anyway, the barrister said to him: "Mr. Escarabajall, you have breached the injunction, you are here on committal proceedings and you may have to enter into a recognisance not to....ah, ah..." [speaking directly to me] "I'm not sure how to say

this in a way that you'll be able to translate in Spanish." "Well, try me." "I want you to tell him that he must not harass his wife; can you say that in Spanish?" – "I think I can." "How will you say it?" – "I'll say 'acosar'". – "What does that mean?" "It means 'You may have to enter into a recognisance not to harass your wife'". "Exactly, that's precisely what I want to say. Tell him that!"

Now, this is a typical example of how an intelligent person – it's axiomatic that all barristers are intelligent and, since I am one myself, it is not in my interest to cast any doubt on the axiom – may have no idea how languages work. This lady seemed to have a classification of phrases in her mind into "easy" and "difficult", and she assumed that I could say "easy" things like breaching injunctions, committal proceedings or entering into recognizances, while "difficult" things like harassing your wife were different. But then when *I told her* that I would say "acosar", and when *I told her* what that meant, she was perfectly happy. I could have said "escarabajillar" (a non-existent word) so long as I *told* her it meant "You may have to enter into a recognisance not to harass your wife".

Interpreters must be tactful. A simple example of how lawyers perceive interpreters' work is that of a solicitor who, on entering the interview room where her client was to be interviewed, said to me: "Sit there beside María so that you can interpret for her". Naturally, I felt like asking: "And who will interpret for you and the police?" but, as always, my politeness is paramount and I said very gently: "I prefer to sit in the middle to show that I am impartial". I suspect that if I had said: "I'll sit on the floor" (or on the ceiling) she would have taken it with the same uncomprehending equanimity.

Interpreters may be cunning. I am unsure how interpreting is taught nowadays and, naturally, I have no intention of contradicting any of it. However, I personally have never once admitted that I didn't know or understand something and never once admitted that I was wrong, nor have I had any need to do so. For example, if I misunderstand something or say something meaningless, the hearer will reply "I don't understand" or "What do you mean?", and I always attribute the lack of understanding to the hearer or to the speaker's expression. This can happen just as easily in a single-language conversation and the speaker simply repeats what he has said using different words. This practice is particularly useful when dealing with dialects unfamiliar to the interpreter. When a witness said recently: "Vino a fajarse con nosotros" ["He came to *fajarse* with us"], having no idea what "fajarse" meant, I simply said: "He came up to us" and the interview continued with: "And what did he do?"

### *Procedural points*

Now a few procedural points, reflecting the general matters I have already mentioned.

1) The solicitor arrives at the police station and, while waiting for his client to emerge from the cell, asks me: "Is he in good spirits?" The answer is: "We'll see now when he comes out". Although it is not for an interpreter to act as a messenger, especially since the client may want to give the solicitor his own version of his spirits, I never let anybody see that they have done anything "wrong" or "inappropriate", because there is no reason to expect others, including lawyers, to know anything about my functions.

2) During a break, the prisoner asks me: "How am I doing?" or "What will happen to me?" The answer is: "It depends on what is decided". I cannot give the prisoner any information, especially as the Custody Sergeant may prove me wrong by doing exactly the opposite and then the prisoner could justifiably claim that the interpreter

had led him to expect something else. But neither would I ever explicitly refuse to answer a question.

3) A police officer, taking a witness statement through the interpreter, announces: "You carry on; I'll be back soon" - and he goes off. Until I discovered that this frequently happens with other interpreters, I had firmly believed that the police felt able to leave me to take the statement because I was doing it so expertly! In one case my officer went to Liverpool (65 kilometres away) on an unrelated case and returned about three hours later! I have vaguely heard that some code of conduct requires that in such a situation we must jump up and refuse to do any more work unless the officer remains present. I, however, simply carry on and when the officer returns I read him in English what has been written in his absence and ask him if anything else occurs to him. I repeat that, in my opinion, no interpreter should ever antagonise anyone, remembering that they have no idea what an interpreter is capable of doing. By the way, unlike Spanish statements, English statements are made only in the witness's words and in the first person. Usually, the officer asks questions to prompt the witness or guide him towards what is relevant, but only the witness's words constitute the statement.

4) Once in Court, the defendant and I smiled at the same time when counsel asked: "Do you live in Ebro?" and nobody else knew why we were smiling. This is a typical situation for "intervening" and I said: "The interpreter intervenes to say that the defendant and the interpreter are smiling because the Ebro is not a place but the name of a river".

5) The target language, in my case Spanish, may have no term for "pre-trial review", "bail hostel", "committal proceedings", "kerb-crawling" or countless other concepts and realities which do not correspond from one legal system to the other. The most important point here is not to mislead the hearer into thinking that he understands the implications of the terms, that they correspond to something in his own system and therefore he knows what they are. It is much better for the hearer not to understand than to misunderstand. It is for the solicitor, not the interpreter, to explain such terms and realities to his client.

6) The interviewee or defendant directly asks the interpreter: "What does that mean?" or "What do you mean?" This situation exemplifies my point that the interpreter must answer no questions and need not even let it be seen that anything untoward has happened. So I always simply pass the question on to the interviewer or counsel: "What do you mean?", never acting as a "responder" myself (in the sense explained in Mason 1999: 152).

7) The interviewee makes no reply whatsoever to a straightforward question like "Were you in Tesco today"? The interpreter interprets only spoken language, not silences, coughs, grunts, gestures, nods or shakes of the head. He does not repeat the question, but simply remains silent until somebody (usually the interviewer) repeats the question or otherwise continues the talk.

8) If something very specific is said requiring accurate terminology in the target language, the interpreter may have to signal the distinction clearly. For example, if the solicitor says: "I'll instruct a barrister", (the solicitor/barrister distinction being peculiarly English), I say something like "I'll contact a lawyer specialising in this field", thus allowing the client to ask for clarification and the solicitor to explain the distinction.

9) Interpreters, like translators, may often use a general term if unsure of a specific one, but not vice versa. For example, "Escrow Company" (and, to judge by my own

work, escrow frauds are in fashion nowadays) may be translated as “Company”, at least until the specific term is used in the target language, but not vice versa.

10) Finally, it is taken for granted that interpreters must have no feelings, emotions, opinions or views on anything to do with any case. We never even dream of thinking: “Did he do it or didn’t he?”, much less “He’s a nice person”. If we did, we might unconsciously twist what is being said in ways that might help or hinder someone. The ideal ability sometimes advocated for interpreters (although questioned by some authorities on the subject) is the ability to impersonate a bilingual, though mechanical, telephone, which merely transmits what is said without in any way interpreting it and, as I have argued above, the last thing an interpreter must do is interpret anything for anyone.

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