

# Translating Evidence and Interpreting Testimony at a War Crimes Tribunal

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# Translating Evidence and Interpreting Testimony at a War Crimes Tribunal

Working in a Tug-of-War

Ellen Elias-Bursac

*Independent Scholar and Literary Translator*

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*To all those translators and interpreters  
whose work takes them into war*

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# Contents

<i>List of Figures and Tables</i>	x
<i>Preface</i>	xii
<i>Acknowledgements</i>	xv
<i>List of Abbreviations</i>	xvii
<i>“The End and the Beginning”, Wisława Szymborska, translated by Joanna Trzeciak</i>	xix
Introduction	1
<b>Part I The Translators and Interpreters</b>	
<b>1 The Practitioners</b>	<b>17</b>
1.1 Field interpreters and language assistants	18
1.2 From ‘fig leaf’ to war crimes court	23
1.3 The chronology	25
1.4 The workplace	29
1.5 Why work at the ICTY?	30
1.6 The Language Services Survey	32
1.6.1 The most rewarding experience	35
1.6.2 The most challenging experience	40
1.6.3 Responding to criticism of the tribunal	44
1.6.4 Trauma	46
1.7 Bias	53
<b>2 The Practice</b>	<b>58</b>
2.1 The Conference and Language Services Section	59
2.2 Working in French	60
2.3 The languages of the accused and the witnesses	65
2.3.1 B/C/S: Bosnian, Croatian, Serbian	67
2.3.2 Albanian	72
2.3.3 Macedonian	72
2.4 Interpreting	73
2.4.1 Courtesy	75
2.4.2 Praise for interpreters	77
2.4.3 Criticism	78
2.4.4 Speaking up	84
2.4.5 For the record	88

2.4.6	'Verbatim'	89
2.4.7	Interpreting lacunae	92
2.5	ICTY staff on the stand	93
2.6	Between interpreting and translating	98
2.6.1	Terms for the practitioners	98
2.6.2	Professional mobility	99
2.7	Translation	100
2.7.1	Pre-trial translation	100
2.7.2	Document-heavy trials	105
2.7.3	The bottleneck	107
2.7.4	Duplicate translations	108
2.7.5	The Document and Video Unit	109
2.7.6	The variety of documents for translation	111
2.7.7	Standards for translation accuracy	114
2.7.8	Revision	115
2.7.9	Challenges to authenticity	118
<b>3</b>	<b>Practicalities</b>	<b>120</b>
3.1	The translating institution	121
3.2	Slow-down requests	121
3.2.1	Neutral requests	124
3.2.2	Warnings	124
3.2.3	Time pressure	126
3.2.4	Commending the interpreters	127
3.2.5	Requests to slow down emotional testimony	127
3.2.6	Courtroom decorum	129
3.2.7	Levity	129
3.3	Error correction	130
3.3.1	Verification memoranda	132
3.3.2	Correction routines	136
3.3.3	Misunderstandings	137
3.3.4	Clarification	138
3.4	Annotating translations	140
3.5	Negotiating meaning, ethnic slurs	143
3.5.1	<i>Balija</i>	145
3.5.2	<i>Šiptar</i>	149
<b>Part II The Courtroom</b>		
<b>4</b>	<b>The Witnesses</b>	<b>165</b>
4.1	The challenges of witnessing	166
4.2	The initial interview	168
4.3	Criticism of the witness-statement procedure	169

4.4	Preparation for trial	171
4.5	Testimony	172
4.5.1	Routine discussion of the witness statement	172
4.5.2	Minor disputes	173
4.5.3	Claims of manipulation	174
4.6	Negotiating meaning, the witnesses	176
4.7	Witnesses; translators; interpreters	178
4.8	Witness satisfaction as a measure of tribunal success	179
<b>5</b>	<b>The Office of the Prosecutor</b>	<b>181</b>
5.1	Negotiating meaning, the prosecution	181
5.2	<i>Asanacija</i>	182
5.2.1	<i>Asanacija in Slobodan Milošević</i>	186
5.2.2	<i>Asanacija in Krstić</i>	187
5.2.3	<i>Asanacija in Popović et al.</i>	189
5.3	Unmasking a massacre	192
5.4	Denial	193
<b>6</b>	<b>The Defence</b>	<b>194</b>
6.1	Equality of arms	195
6.2	Monitoring quality	197
6.3	Ownership of language	199
6.4	Negotiating meaning, the defence	203
6.4.1	<i>Komandant, komandir</i>	205
6.4.2	<i>Rukovodjenje</i>	208
6.4.3	Negotiating colours	214
6.4.4	<i>Stacionar</i>	217
6.5	Other defence matters	222
6.5.1	Procedural matters and the self-represented accused	222
6.5.2	Interpreters and confidentiality	229
6.5.3	The interpreter trope	234
<b>7</b>	<b>Chambers and the ICTY Legacy</b>	<b>241</b>
7.1	The judges	241
7.2	The judgements	243
7.2.1	Trial judgements	245
7.2.2	Appeals judgements	246
<b>8</b>	<b>Conclusion</b>	<b>249</b>
8.1	The institution	250
8.2	The tug-of-war beyond the tribunal	252
8.3	Shortcomings	254
8.4	Success	256

<i>Appendix 1: ICTY and CLSS</i>	258
<i>Appendix 2: Trial Summaries</i>	259
<i>Appendix 3: Language Services Survey</i>	262
<i>Appendix 4: Data Summary</i>	270
<i>Appendix 5: Survey Data Tables</i>	273
<i>Notes</i>	276
<i>Bibliography</i>	286
<i>Index</i>	297

# List of Figures and Tables

## Figures

- |     |  |     |
|-----|--|-----|
| 5.1 | First page of interim combat report, handwritten BCS source text | 184 |
| 5.2 | First page of interim combat report, English translation         | 185 |

## Tables

- |     |  |    |
|-----|--|----|
| 1.1 | The approximate number of staff working in CLSS in each phase  | 25 |
| 2.1 | Yearly output for the Conference and Language Services Section | 60 |

# Preface

The Egyptian bas-relief on the book's cover dates from 1300 BCE. To the left: Pharaoh Horemheb, Egypt's ruler after Tutankhamen. To the right: his subjects in various postures of supplication, their headgear and dress denoting the part of the kingdom they hail from. Between the Pharaoh and his subjects: an interpreter—a single interpreter—shown facing first the Pharaoh and then his subjects. His expression seems equally attentive to both, but how does he feel as he bows, smiling, first to the right and then to the left? Whom is he serving? This bas-relief demonstrates that interpreters have been playing their part in the tug-of-war between the power and the people for over three thousand years.

I didn't understand right away the complexities of the tug-of-war that goes on at every trial at the International Criminal Tribunal for the former Yugoslavia among the parties, Chambers, and the language services. The remarkable visibility of translation and interpreting was what first intrigued me when, in 1998, I spent my first summer working in the English Translation Unit as one of a team that was revising translations of documentary evidence. This experience of joining a staff of over a hundred translators and interpreters was radically different from my years of working on my own as a freelance community and literary translator, translating from Bosnian, Croatian, and Serbian into English.

'[A]ll court proceedings are held in at least three, and sometimes four, languages while the vast majority of its written documents are translated into anywhere from two to five languages. Interpreters, who work with the spoken word, and translators, who work with the written text, are therefore critical to practically every aspect of the Tribunal's work' (ICTY website). Interpreters are involved in interviewing witnesses, interpreting for detainees at the detention centre, and interpreting in the booth; translators translate indictments, documentary evidence, and judgements. I found that the process of translation/interpreting was visible in every encounter, with every witness, and with every courtroom dispute over the wording of a document.

But translation and interpreting do more than just facilitate the proceedings. They shape them. The more I looked, during the six years I worked there, the more I saw them determining not only the daily routines of the courtroom, but defining the experience of witnesses testifying, informing the strategies of the attorneys for the prosecution

and defence, and cited in the trial and appeal judgements which constitute the legacy of the ICTY. As I have read about the work of other international criminal courts and tribunals, such as the tribunals held in Nuremberg and Tokyo, the International Criminal Court (ICC), also in The Hague, the Rwandan Tribunal (the ICTR) in Arusha, Tanzania, and the other *ad hoc* tribunals adjudicating war crimes, I have seen that translation and interpreting have played similar roles there as well.

My short-term contract was just for six weeks that first summer, and it was quite a departure from my regular job of teaching in the Department for Slavic Languages and Literatures at Harvard. I had so many questions. Could I handle revising documents about war crimes every day? What would it be like to do such disturbing work on my own, without the comfort of home and family? I still had many questions in 2010 when I finally left The Hague, after having worked at the Tribunal on a team of revisers for a total of six and a half years in several shorter and longer stays, and it was to explore them further that I undertook this study. The question everyone asks me is whether the International Criminal Tribunal for the former Yugoslavia has been a success as an institution prosecuting war crimes. This book is not designed to consider the success or failure of the Tribunal as a legal institution, but it will consider the quality of the language services units, and whether the Tribunal has been a successful translating institution.

The inquiry into what success would mean in terms of translation and interpreting can begin with a few observations from observers outside the Tribunal about the work of the ICTY language professionals as 'able to deliver high-quality, quick translations, so fast that translated courtroom exchanges proceed almost as fast as monolingual dialogue. It is a bit like watching a dubbed movie in real life, but at least it is smooth (...) it seems (...) to have dealt well with language, one of international lawyers' biggest sources of difficulty' (*Economist* blog 2013), and they are held up as the gold standard in comparison to the Guantanamo Bay Detention Center (*Washington Post* 2008). This would seem like a productive place to start, for had the interpreters and translators been consistently poor in quality, any discussion of their work would have been mired in examples of their incompetence, denying the reader the chance to find out what the pros and cons are of translating institutions such as this.

From 1993, when it was established in the middle of the war in Bosnia and Herzegovina, to 2015 or 2016 when the last appeals will be completed, the Tribunal will have been trying war crimes cases in a multilingual court for over twenty years, in approximately 10,000 days

of trial. This longevity—particularly as compared to the brief tenure of the Nuremberg and Tokyo war crimes tribunals—is another compelling reason to examine it and have a look at what routines and policies have developed and what the stumbling blocks have been over time.

A third reason to pursue this study is to look at the ways the parties, bench, and witnesses negotiate meaning through discussion about translation and interpreting. Translated evidence and interpreted testimony have a provisionality that seems to invite challenge and dispute. The defence and prosecution query words, phrases, titles, and terms as they pursue their case. These language-related challenges shape even the judgements.

And, finally, the perspective of the language practitioner provides a fresh view of the inner workings of the Tribunal and the interactions between the bench and the parties. Many institutions have teams of translators and interpreters. But at the Tribunal the language services are faced with a particular set of challenges, from terminology to workload to the adversarial sparring that goes on through the language practitioners in the courtroom. And the availability of the transcripts with which to explore these issues facilitates the research. I present a selection of these issues here and sincerely hope that readers of this book will continue the exploration.

# Acknowledgements

The people to whom I am most indebted for their help on this study are my colleagues from the Conference and Language Services Section: the three section chiefs, Maja Draženović-Carrieri, Christina Pribičević Zorić, and Maja Ružić, for their generosity in allowing and encouraging the study, the unit heads James Cook, Philip Hepburn, Sanja Matešić, Marijana Nikolić, Brana Šarkić, and Srđan Vujica for their patience with my questions, and, most of all, to the CLSS administrators, interpreters, and translators whose collegiality has informed every word on these pages. Special thanks to Christi Merrill and Benjamin Paloff for inviting me to give the keynote address at the symposium they organized on translating testimony at the University of Michigan in 2009. My preparations for that talk set me to work on this project. Thanks to the scholars and graduate students at the UMass Amherst Translation Studies program, particularly Maria Tymoczko, Edwin Gentzler, Jim Hicks, Moira Inghilleri, Yonjoo Hong, Bouchra Bouziane, Anna Strowe, and Shannon Farley, who welcomed me into their midst and offered me opportunities to articulate the ideas expounded upon here after I moved back to the United States from The Hague in 2010. My gratitude both to Zrinka Stahuljak for pointing me to the *Languages at War* project, and to the editors, Hilary Footitt and Michael Kelly, for their willingness to include this study in their *Languages at War* book series with Palgrave.

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The excerpts from transcripts and all other ICTY documents cited throughout this study are available to the public on the ICTY website. They have been provided courtesy of the ICTY.

Express permission was given by each respondent to cite the quotes used from the Language Services Survey.

# List of Abbreviations

AJ	appeals judgement
BCS, B/C/S	Bosnian, Croatian, Serbian
CIU	Conference Interpretation Unit
CLSS	Conference and Language Services Section
DPZ	socio-political community
DSZ	social self-protection
DVU	Document and Video Unit
ECCC	Extraordinary Chambers in the Courts of Cambodia
ECMM	European Community Monitoring Mission
EDS	Electronic Disclosure Suite
ELMO	brand name for the projector used in the courtroom
ETU	English Translation Unit
FRY	Federal Republic of Yugoslavia
FTU	French Translation Unit
ICC	International Criminal Court
ICJ	International Court of Justice
ICRC	The International Committee for the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IMT	International Military Tribunal
JNA	Yugoslav People's Army
KDOM	Kosovo Diplomatic Observer Mission
MICT	Mechanism for International Criminal Tribunals
MUP	Ministry of the Interior
NO	national defence
OIOS	Office of Internal Oversight Services
ONO	All-People's Defence
OS	armed forces

OSCE	Organization for Security and Co-operation in Europe
OTP	Office of the Prosecutor
OUR	Association of Associated Labour
RS	Republika Srpska
RSK	Republic of Serbian Krajina
RTDPU	Reference, Terminology and Document Processing Unit
SDA	Party for Democratic Action
SDB	State Security Service
SDS	Serbian Democratic Party
SFOR	Stabilization Force
SFRY	Socialist Federative Republic of Yugoslavia
SIV	Federal Executive Council
SSNO	Federal Secretariat for the National Defence
STIC	Court Interpretation and Translation Section (at the ICC)
STL	Special Tribunal for Lebanon
TJ	trial judgement
TO	Territorial Defence
TRC	Truth and Reconciliation Commission
UNCIVPOL	United Nations Civilian Police
UNCRO	United Nations Confidence Restoration Operation
UNHCR	UN High Commissioner for Refugees
UNMO	UN Military Observers
UNPROFOR	UN Protection Force
UNTAES	United Nations Transitional Authority in Eastern Slavonia, Baranja and Western Sirmium
VJ	Yugoslav Army
VRS	Army of Republika Srpska

## **The End and the Beginning**

*Wisława Szymborska*

*translated by Joanna Trzeciak*

After every war  
someone has to clean up.  
Things won't  
straighten themselves up, after all.

Someone has to push the rubble  
to the side of the road,  
so the corpse-filled wagons  
can pass.

Someone has to get mired  
in scum and ashes,  
sofa springs,  
splintered glass,  
and bloody rags.

Someone has to drag in a girder  
to prop up a wall.  
Someone has to glaze a window,  
rehang a door.

Photogenic it's not,  
and takes years.  
All the cameras have left  
for another war.

We'll need the bridges back,  
and new railway stations.  
Sleeves will go ragged  
from rolling them up.

Someone, broom in hand,  
still recalls the way it was.  
Someone else listens  
and nods with unsevered head.  
But already there are those nearby  
starting to mill about  
who will find it dull.

From out of the bushes  
sometimes someone still unearths  
rusted-out arguments  
and carries them to the garbage pile.

Those who knew  
what was going on here  
must make way for  
those who know little.  
And less than little.  
And finally as little as nothing.

In the grass that has overgrown  
causes and effects,  
someone must be stretched out  
blade of grass in his mouth  
gazing at the clouds.