
BEHIND A WALL OF SILENCE: INTERPRETING SERVICES WITHIN IMMIGRATION DETENTION IN THE UNITED KINGDOM. / “TRAS UNA PARED DEL SILENCIO”: SERVICIOS DE INTERPRETACIÓN EN LA DETENCIÓN DE INMIGRACIÓN EN EL REINO UNIDO.

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Abstract: Immigration detention, a form of administrative detention, is used increasingly by states as a form of migration control. The United Kingdom has one of the largest immigration detention estates in Europe. Spoken foreign language interpreting provision in such facilities is often found to be lacking or inadequate. Former Prison Ombudsman Stephen Shaw’s critical 2016 review into immigration detention made vital recommendations on various aspects of detainee welfare, including interpreting provision. Shaw’s follow-up report in 2018 noted that interpreting services had improved and were more widely available but that in many cases interpreters were unqualified and that quality remains poor. Based on the limited literature available, this paper will review the current provision of interpreting services in the immigration detention estate, the changes reported between Stephen Shaw’s 2016 and 2018 reports and make suggestions for improvements to the service.

Keywords: Immigration detention; Quality; Telephone interpreting; Ad hoc interpreting.

Resumen: La detención de inmigrantes, una forma de detención administrativa, es cada vez más utilizada como medio para controlar la migración. El Reino Unido cuenta con uno de los mayores volúmenes de detención de inmigrantes de Europa. Ocurre con frecuencia que la provisión de interpretación oral de lenguas extranjeras es inexistente o insuficiente. En el análisis crítico que el antiguo mediador penitenciario, Stephen Shaw, realizó en el año 2016 sobre detención de inmigrantes, se hacían importantes recomendaciones sobre diversos aspectos del bienestar de los detenidos, como la provisión de interpretaciones. El informe posterior que Shaw redactó en 2018 señalaba que los servicios de interpretación habían mejorado y que existía una mayor disponibilidad, pero que muchos de los intérpretes no estaban cualificados por lo que las interpretaciones continúan siendo de mala calidad. Fundamentándose en la limitada literatura que hay disponible, en este documento se analiza la provisión que existe actualmente en materia de servicios de interpretación en el estamento de detención de inmigrantes y los cambios realizados en el periodo de tiempo entre el informe de Stephen Shaw de 2016 y el de 2018, y se aportan sugerencias a efectos de mejorar el servicio.

Palabras clave: Detención de inmigrantes; Calidad; Interpretación telefónica; Interpretación de enlace.

1. Introduction

In recent decades, improved transport and communication means have made it easier for people to move across state borders for work, leisure, family and education. At the same time, the number of people forced to move to flee conflict, climate change and poverty has also increased sharply. According to the United Nations, between 2000 and 2017, “The

number of international migrants worldwide has grown faster than the world's population" (2017: 5).

While the majority of migrants live in high-income countries (United Nations, 2017: 9), the reception in Europe, particularly towards asylum seekers, is becoming increasingly hostile with a number of migration control measures in place to restrict and deter lawful migration. Such measures do not necessarily reflect the size of migratory flows. They can also reflect populist trends, with some European Union states accused of using migration "to stoke fear, justify abusive policies, and block meaningful reform" (Human Rights Watch, 2019).

One of the most common measures applied, in some form or another, across all European states, and increasingly around the world, is immigration detention, which "refers to the deprivation of an individual's liberty, usually of an administrative character, for an alleged breach of the conditions of entry, stay or residence in the receiving country" (APT and UNHCR, 2014: 20). This can involve arbitrary and/or unlawful detention. Under international law, "immigration detention is only meant to be used as a last resort and where it is necessary, reasonable, and proportionate to a legitimate government objective" (International Detention Coalition, 2018).

The United Kingdom has one of the largest immigration detention estates in Europe (Silverman and Griffiths, 2018). It is the only European Union member state not to adopt the Return Directive (2008), which sets a time limit on immigration detention. The indefinite and arbitrary nature of detention means that this administrative deprivation of liberty can last from several hours to, in exceptional cases, over 5 years. Although the Home Office's rationale for this measure is to deal with the removal of illegal immigrants and foreign criminals (Javid, 2018), of the 27,300 foreign nationals who entered immigration detention in 2017, almost two-thirds were current or former asylum seekers or EU nationals (Silverman and Griffiths, 2018).

Immigration detention is not a new concept in British migration policy and has roots in its colonial past, stemming from "Britain's colonial project and its racialized post-World War II immigration policies that targeted non-white former colonial subjects for strict control and/or exclusion from the nation" (Turnbull, 2017b: 145).

The first immigration detention centre opened in 1970, and since the 1990s, the use of such detention has expanded rapidly. Formally renamed "immigration removal centres" in 2002, immigration detention has become established as a permanent feature of British immigration and refugee policy. The estate currently consists of eight immigration removal centres (IRC) and three short-term holding facilities (STHF); several hundred detainees are also held in prisons under Immigration Act 1971 powers. Detainees held at prisons are not considered in the scope of this paper, as prisons are subject to separate rules.

Immigration detention can be a disorienting experience and has a negative impact on the mental and physical health of detainees (Turnbull, 2017a; Campbell, 2017: 27). Added to the indefinite nature of their detention:

Migrants who are detained find themselves in an especially vulnerable situation, as they may not speak the language and therefore understand why they are detained, or be aware of ways to challenge the legality of their detention. This may lead to situations in which they are denied key procedural safeguards, such as prompt access to a lawyer, interpretation/ translation services, means of contacting family or consular representatives and ways of challenging detention. (Crepeau, 2013: 2-3).

It may be expected that professional translators and interpreters would have an important role to play in such a sensitive and loaded multilingual and multicultural environment. Although various domestic and international rules and regulations recommend

the use of professional interpreters, and are required in some cases such as asylum and human rights appeals, access to interpretation/translation services, and the lack thereof, is often considered and dealt with as a secondary issue. Interpreting services, the focus of this paper, when available, are often not provided face-to-face but over the telephone and often not by qualified professionals but on an ad hoc basis by other detainees or centre staff.

The lack of adequate interpreting services reinforces the isolation and powerlessness of detainees; IRCs are often found in remote physical locations that are difficult for visitors and professionals, including interpreters, to access. Detainees thus find themselves behind a physical wall and an intangible wall of silence through their inability to communicate. This situation accentuates the power structure within such facilities.

The problems faced by detainees without access to interpreting services have been highlighted in reports by non-governmental organisations (for example, see Cutler and Ceneda, 2004: 80-82). In recent years, a number of reports have been commissioned by parliament or produced by parliamentary committees and bodies. These include the 2015 Detention Inquiry (All Party Parliamentary Group on Refugees, All Party Parliamentary Group on Migration, 2015) and a report by the Joint Committee on Human Rights (2019).

In 2016, a landmark independent report was commissioned by the Home Office and produced by former Prison Ombudsman Stephen Shaw CBE, which examines the welfare of detainees; a follow-up report into the implementation of its recommendations was produced in 2018. The recommendations made include interpreting provision, with quantitative and qualitative problems identified in this regard.

This paper will review interpreting services in immigration removal centres in the United Kingdom with respect to the legal and policy framework governing them and how the service is, or is not, provided in practice. It will also consider the different types of interpreter available, the changes reported between Stephen Shaw's 2016 and 2018 reports and offer some suggestions for the improvement of the current service, with respect to interpreters and quality.

The scope of this paper does not include interpreting at asylum and immigration tribunals. It will remain restricted and guided by the scope of Stephen Shaw's reviews, considering only conditions within removal centres and spoken foreign language interpreting provision. While information about foreign language interpreting in immigration detention is rather limited, there is none on sign language interpreting and it is thus excluded.

2. Uncharted territory

Academic interest in immigration detention, in all fields, is starting to gain ground. The sole contribution in the field of Translation and Interpreting Studies thus far is Navarro Montesdeoca's study of interpreting at an immigration detention centre in Spain, focusing on power relations with respect to the position of interpreters, the detainees they interpret for and others within the official hierarchy:

power relations underlie almost every utterance, and interpreters do their job within those relations. Power influences what is said, how it is said and when it is said. In representative democracies, power does not usually involve violence but is manifested through control over communication (or over its absence). (2006: 171).

Related studies, looking at interpreting in prison settings, by Baixauli Olmos (2013) and Martínez-Gómez (2014), look at ethical norms for interpreters, especially in such contexts where interpreting is usually provided on an ad hoc basis by fellow inmates and non-professional interpreters, as occurs in immigration detention centres.

Interpreting in asylum hearings (Pöllabauer, 2006), focusing on the role of the interpreter in communication, and in police settings (Foulquié Rubio, 2012) have been the subject of a larger number of scholarly studies. While there are similarities in the power structures at play, and the same community interpreters may be involved in both, there are also fundamental differences.

In the United Kingdom, not everyone appearing before the asylum or immigration tribunal is a detainee, and as an administrative measure, release is not always subject to a hearing. In addition, many detainees have no legal representation. The indefinite deprivation of liberty, sometimes without a clear justification, distinguishes the status of the immigration detainee, imposing additional time and space restrictions. Tribunal hearings can usually be attended by the public, which is easier to observe and collect data on interpreter use, or the lack thereof. On the other hand, immigration detention is “one of the most opaque areas of public administration” (APT and UNHCR, 2014: 21).

One particular reason for the gap in scholarship may be the difficulty in accessing data. With the exception of Morton Hall IRC, run by the Prison Service, detention centres are privately run; private facilities contracts ensure that secrecy and remoteness prevail. Research access is thus problematic (Turnbull, 2017a). In addition, there are issues about confidentiality, trust and the consent of interpreters and detainees.

In his prison setting study Baixauli Olmos found it impossible to “get the permit to interpret or to record interpreted encounters” (2013: 46), leading to the finding that “security is a differentiating feature and a conditioning aspect of this setting” (2013: 47).

In addition, in a dynamic and fast-moving environment, where detainees may be held for several hours before being moved, released or removed from the country, time is of the essence (Bosworth and Guild, 2008: 706). The process of acquiring permission and consent from the authorities, detainees and others, may pose an obstacle.

In research requiring the assistance of an interpreter, Mary Bosworth, a leading scholar on immigration detention, found that “detainees who had previously agreed to be interviewed sometimes failed to turn up, either because they had been released, removed or deported, or perhaps had simply forgotten or changed their mind” (2014: 78).

Furthermore, community interpreting is “generally a low status branch” (Wadensjö, 1998: 53) of interpreting, compared to more prestigious forms such as conference interpreting (Cronin, 2002; Aguilar Solano, 2012), even if it is “probably the kind of interpreting undertaken most frequently in the world at large” (Wadensjö, 1998: 49). It is still developing as a profession and is the subject of limited research.

While interpreting within detention – immigration detention or prison – settings could be a sub-category of research and study into community interpreting, overall Interpreting Studies tends to replicate the existing power structure and hierarchy in society, with a “bias towards prestigious forms of interpreting practiced in developed countries” (Cronin, 2002: 46). This has a “minoritizing effect” with the result that:

minority groups in developed countries (refugees, immigrants, ethnic minorities) can themselves be victims of this theoretical exclusion, as they often merit “conference” status when it is not they who speak but others (social workers, government officials, academics, the police) who speak for them (Cronin, 2002: 51).

The result is that the existing general discourse on immigration detention

predictably enough, excludes the voices and experiences of those whom it purports to describe, leaving a gap filled primarily by non-governmental organizations such as Amnesty International (2005) and the Refugee Council (2007b), along with some journalists, and the prison inspectorate, which visits detention centres as part of its monitoring remit” (Bosworth and Guild, 2008: 705-706).

This is reflected in the sources for this paper. The lack of accessibility of data and facilities also means that most scholarship on immigration detention, including that which is language-focused, is based on readings of law, policy and the media (Bosworth and Guild, 2008: 706), as is this paper.

Input from Translation and Interpreting Studies could, however, assist scholars from other fields who are “put off no doubt by linguistic barriers” (Bosworth and Guild, 2008: 706), for example in the parameters of assessing transcriptions of translated or interpreted interviews with existing or former detainees.

Interpreting and linguistic studies of immigration detention would help to define what the specific communication needs of detainees are, particularly if they are speakers of minority languages (Wallace and Hernández, 2017: 146). It would fill gaps in the awareness and knowledge of all stakeholders and agencies of the role interpreters play in such interactions (Foulquié Rubio, 2012: 130).

Most importantly, it could define what is meant by quality and adequate interpretation in this setting, with the dual function of informing the work of IRCs, organisations and academics and challenging the silence imposed on detainees through current provision.

3. Methodology

There are no statistics on the languages spoken in IRCs (Campbell, 2017: 48). This may be because such statistics are considered unimportant, or too expensive to collate, or may be due to a particular policy to suppress information of this kind. The purpose may be to protect the state, detainees or both through the secrecy around immigration detention in general.

The lack of data and statistics makes it difficult to assess the language needs of detainees and how these affect other aspects of their detention experience, such as mental health, physical health and communication as contributing factors in suicide attempts and self-harm, for example.

There are no quantitative data on interpreting in IRCs. Qualitative data draw largely from the findings of the 2016 and 2018 reports by Stephen Shaw into conditions in immigration detention, which include foreign language interpreting and translation provision, and regular inspection reports produced by Her Majesty’s Inspectorate of Prisons (HMIP). During such inspections, carried out every two to four years, “team members have unhindered, private access to detainees and to staff” (Bhui, 2018: 1). They offer a rare and useful source of information, shedding light on an otherwise opaque issue.

Other reports by official and parliamentary bodies and non-governmental organisations and areas of scholarship have been used to analyse and support the findings in the above sources. Since such reports generally do not have a specific focus on language provision or access, such information is usually only considered significant and reported where language poses a hindrance to the performance of the task at hand or in communication.

Given the lack of samples of interpreted interactions from within IRCs, the approach of this study only offers a descriptive reflection of interpreter provision and suggestions on how this provision can be improved in practice. Suggestions made are drawn from and build on those made by Shaw in 2016 and 2018.

4. Interpreting in immigration detention: rules and practices

4.1 *A history of immigration detention in the United Kingdom*

With the demise of the British Empire in the post-World War II era, immigration controls were gradually introduced through various pieces of legislation, restricting the right of entry to the United Kingdom, particularly of former colonial subjects. The 1969 Immigration Appeals Act, which gave Commonwealth citizens the right to appeal decisions to exclude them or refuse them entry, saw Harmondsworth Detention Centre, near Heathrow Airport, open in 1970, to detain them pending appeal (Taylor, Girvan and Matthews, 2018).

Harmondsworth was placed immediately under the private management of Securicor, signalling the for-profit nature of this administrative form of detention. In spite of protests and deaths, Harmondsworth, a facility for men, has expanded over the years. Coming under single management with neighbouring Colnbrook IRC in 2015, under the name of Heathrow IRC, it is currently the largest facility of its kind in Europe (Taylor, Girvan and Matthews, 2018).

The colonial link to immigration detention remains undeniable: “the nationalities of those detained reflect Britain’s colonial and imperial legacies, with India, Pakistan, Bangladesh, and Nigeria as the four most prevalent in 2016, constituting 35% of the detained population” (Turnbull, 2017b: 146).

At the same time, other such facilities opened and grew with the rise in the number of asylum seekers. Since the 1990s, the use of such detention facilities has expanded rapidly, and is backed by legislation, in particular the Immigration and Asylum Act 1999 (Taylor, Girvan and Matthews, 2018).

The 2002 Nationality, Immigration and Asylum Act saw detention centres officially renamed “removal centres” to “reflect the part played by detention in the removal of failed asylum-seekers and others” (2002); the criminalisation of migrants through administrative detention became a permanent part of the discourse and policy surrounding immigration.

Given the large number of citizens of Commonwealth states held in immigration detention, and of detainees who have spent almost all of their lives in the United Kingdom, as evidenced in the Windrush scandal (Joint Committee on Human Rights, 2018: 10), language is not always a barrier. Nonetheless, even in this case, detainees are still entitled “to receive information in a language understood by them” (International Organization for Migration, 2010: 10); the language used must, in all cases, be accessible, comprehensible and safeguard detainees’ rights.

4.2 *Language and detention rules*

The entrenchment of immigration detention as a policy at the beginning of the twenty-first century was followed by rules governing it, starting with the 2001 Detention Centre Rules. While debating the rules in the House of Lords, Lord Avebury and Baroness Williams of Crosby noted that, among other matters, they excluded the right to an interpreter in dealing with centre staff and in medical consultations (Hansard, 2001).

By 2005, however, a consolidated Detention Services Operating Standards Manual for Immigration Service Removal Centres was produced by the Home Office (2011), including 2004 standards on the use of translators and interpreters. This provides that while the “The Centre must retain details of official interpreters who can be called upon if needed to ensure that clear communication can take place” (Home Office, 2011), that “It is acceptable for the Centre to use other detainees, visitors or staff to interpret for other detainees, provided that both parties agree”, as well as the use of telephone interpreting services (Home Office, 2011).

Translation and interpreting facilities are to be provided in accessing legal services, recreation, where necessary and is at the discretion of the doctor and healthcare team in medical matters (Home Office, 2011).

Following the recommendations in Stephen Shaw's 2016 review, Detention Services Order (DSO) 06/2013 (updated in July 2018) was re-issued to address some of Shaw's concerns. This provides staff with "guidance on the process for admitting, inducting and discharging a detainee from an immigration removal centre, short-term holding facility or the pre-departure accommodation." (2013: 1). This guidance was updated to provide that "Professional interpreting facilities must be used whenever language barriers are identified on reception, induction or discharge." (2013: 3) and that "other detainees must not be used for detainee specific translation purposes due to confidentiality and quality issues, however peer support detainee workers may be used to translate for general purposes, for example during group inductions." (DSO 06/2013: 7).

Based on the recommendations made by Shaw and other recent reports (such as Campbell, 2017), the latest Expectations for Immigration Detention, the criteria through which HMIP assess the conditions and treatment of immigration detainees, for 2018, includes greater inclusion of interpreters and accredited interpreting services as well in some instances (Her Majesty's Inspectorate of Prisons, 2018: 42).

However, it notes that "there are currently no comprehensive human rights standards relating to administrative or immigration detention" (Her Majesty's Inspectorate of Prisons, 2018: 6). The National Preventive Mechanism, which HMIP is a part of, also recommends access to "good-quality interpretation and translated documents" (2017: 15) and "[i]f the subject matter is confidential or requires accuracy, professional interpretation should be used" (2017: 16).

With race as a protected characteristic (making it illegal to discriminate against persons presenting said characteristic) under the Equality Act 2010, the British government has a duty to provide interpreting and translation services in prisons, including immigration removal centres.

4.3 International obligation

The United Kingdom is also bound under various international human rights conventions, including the European Convention on Human Rights and various European legal instruments. Notably, the United Kingdom has opted out of the European Union's Return Directive (2008), "an instrument that sets common standards for return procedures in the Member States" (Cornelisse, 2016: 1), as well as the various asylum directives adopted as part of the second phase of the Common European Asylum System (CEAS).

Nonetheless, it is bound by the rules of the Council of Europe, whose standards include that "[f]oreign nationals should receive, when necessary, the assistance of qualified interpreters. The use of fellow detainees as interpreters should, in principle, be avoided" (European Committee for the Prevention of Torture, 2017: 3).

Many language rights under international law concerning detainees relate to the right to a fair trial and understanding of the legal process, particularly in criminal proceedings, such as in Article 14 of the International Covenant on Civil and Political Rights (ICCPR) and thus do not cover those subject to administrative immigration detention. Nonetheless, "[t]he fundamental principle applicable to standards of detention is enshrined in Article 10 of the ICCPR which states that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." (International Organization for Migration, 2010: 4).

5. Interpreters in immigration detention

Community interpreting is provided face-to-face and over the phone (Phelan: 20). As a developing profession, “in a yet-to-be regulated market, the participation of non-professional interpreters, who have traditionally been the key linguistic and cultural brokers in these settings, seems unavoidable” (Martínez-Gómez, 2014).

The level and quality of interpreting services varies across the estate, as well as compliance with DSO 06/2013. Similarities exist nonetheless. The findings of a 2017 inspection of Harmondsworth IRC, a facility with a high number of detainees presenting mental health problems and “many feeling depressed or suicidal” (HMIP, 2018a: 19) on arrival, found that “[m]any detainees did not speak fluent or any English. Apart from in health care, use of professional interpreting was low, although many staff spoke other languages” (HMIP, 2018a: 16).

The inspection further found that “[a]lthough staff were aware of the professional interpreting service available, they were reluctant to use it and many staff we spoke to preferred to use other detainees to interpret or made hand gestures to convey their messages” (HMIP, 2018a: 22).

An April 2018 inspection of Tinsley House IRC found that “there was a reliance on other staff and on detainees” and “detainees said immigration staff did not always use interpreters when necessary. We observed an induction interview during which an interpreter should have been used but was not” (HMIP, 2018b: 28).

These and other inspection reports have made recommendations for the provision of interpreting services for non-English speakers and, for example at Harmondsworth, “professional translation and interpreting services should be used in all cases where confidentiality or accuracy is required” (HMIP, 2018a: 36).

In 2016, an inspection of Morton Hall IRC took place almost immediately after the introduction of a new contract between the Ministry of Justice and a private sector contractor to provide foreign language interpreting and translation services across the justice sector, covering prison facilities for the first time. Under the contract, Language Line, a company providing telephone interpreting services to the public sector worldwide, was replaced by another agency, thebigword. Qualitative and quantitative problems under the new arrangement, with the “professional telephone interpreting” (HMIP, 2016: 31) service in particular, were observed almost immediately. These have also been identified in other inspection reports and Shaw’s 2018 follow-up report (2018: 124).

There are various reasons for the problems identified above with the two types of interpreter generally used.

5.1 *Ad hoc interpreters*

Other detainees or multilingual staff members should not be used as interpreters. There are different reasons for this, such as unsubstantiated language competence (Straker and Watts, 2015), both in English and another language. Detainees have no reason to trust centre staff, whom they may view as part of the structure of oppression and detention they are subject to. There is also no basis to assume that people who share a language or nationality have any natural affinity.

Trust and confidentiality issues may prevent a person from disclosing important information during a medical examination. Even to a friend, they may feel embarrassed to mention issues relating to their sexuality or use of drugs or alcohol for cultural reasons. Finding themselves at the bottom of the power structure, detainees have no reason to trust

anyone they meet in detention, including other detainees, and may thus withhold information about their history, family or medical condition.

Relying on other detainees can also put pressure on them. Relationships of respect based on cultural, age or community considerations may make another detainee feel duty-bound to help.

In research on immigration detention, Bosworth found:

Detainees sometimes offered to translate. However, this too was not always a successful strategy. Not only did it raise ethical questions about confidentiality, but those interpreting usually found it hard to avoid intervening. ‘Interview with Bangladeshi man who didn’t speak very good English. I spoke to him with help from a friend of his who translated. The friend often disagreed with how the first man answered my questions, and so didn’t tell me what he said’ (2014: 78).

Researchers in Greek detention centres found that

In specific cases, we relied upon other detainees to help us with communication. Nevertheless, this strategy has often been criticised. Not only does it raise ethical questions about confidentiality and trust, but those interpreting usually found it boring and offered their own summation of other people’s accounts, rather than their exact words (Fili, 2016).

In medical situations, “doctors should be aware of the risks of using another detainee in this manner, particularly of the possibility of there being coercive elements in the relationship, and make a decision on how to proceed on this basis” (Campbell, 2017: 48).

Martínez-Gómez raises some of these and other issues in her study on non-professional interpreting in prison settings. She found that “[d]espite these interpreters’ limitations in linguistic and translational competence, most alterations and disruptions tend to be caused by their shifts in participation status” (2014): “these transgressions of the ‘normative space’ assigned to the interpreter (in terms of participation status and degree of agency) [...] have proven problematic and even shown to lead to communication breakdowns” (Martínez-Gómez, 2014). These norms include accuracy, impartiality, confidentiality, respect, the professional role of the interpreter and professional behaviour and competence (Martínez-Gómez, 2014).

5.2 Telephone interpreting

“The advantage of telephone interpreting is that it is available from anywhere, around the clock in a large number of languages” (Phelan: 13). It is often seen as a middle ground between the use of unavailable professional interpreters and ad hoc interpreters. Particularly for minority languages, it is considered better than no interpreter at all. In using telephones for interpreted communication during the monitoring of such centres, the team involved should “should keep in mind risks and implications with regard to eavesdropping and confidentiality” (APT, 2009: 201), although “it is usually preferable to have the interpreter physically present” (APT, 2009: 201).

The telephone interpreting services available are commercial and usually provided by “large agencies that provide interpreters of non-publicly verifiable qualifications and experience” (Wallace and Hernández, 2017: 149); in the United Kingdom, such a service was previously provided by Language Line, and currently by thebigword under the Ministry of Justice framework agreement for language services in the justice sector.

Even over the telephone, an interpreter may not be available (Campbell, 2017: 48). In Shaw’s follow-up report, he noted that with telephone interpreters provided by thebigword, there was “the presence of domestic noise in the background” (2018: 59), “background noise including children and a dog” (2018: 173) and “examples of poor conduct including when an

interpreter hanging up half-way through a mental health session, and background noises suggesting the interpreter might not be in private” (2018: 50).

In medical situations, the lack of visual cues, gestures and facial expressions, for example, can impair and undermine the interpreting process. Particularly for asylum seekers, the unknown identity of the interpreter could compromise their safety and confidentiality (Straker and Watts, 2015).

Telephone interpreting services offered by companies like Language Line and thebigword use a pool of interpreters worldwide, some of whom have relevant interpreting training and others who do not. With the legal and medical context of the United Kingdom being quite specific, even if a telephone interpreter is qualified and accredited, their experience and knowledge may not be relevant to interpret for a detainee in such a situation.

5.3 Professional interpreters

Various instruments and reports referred to in this paper, including DSO 06/2013, call for the use of “professional interpreters”. Others, such as the British Medical Association call for the use of the “services of a professional and accredited interpreter” (Campbell: 48). Within a United Kingdom context, although no formal accreditation exists, this is often taken to mean having a Diploma in Public Service Interpreting (DPSI), registration with the National Register of Public Service Interpreters and/or membership of the Institute of Translation and Interpreting and Chartered Institute of Linguists (Wadensjö, 1998: 57); all three bodies have their own ethical codes of conduct.

On the other hand, while demanding that “professional interpreters” are used, no official definition of who or what a “professional interpreter” is has been offered. This may explain the lack of progress in improving the quality and professionalism of the service as the term is nebulous and perhaps, in official documents, is deliberately undefined. The very use of such terms mean the demand for professional interpreter services can be made and brushed aside as there is no consensus on what is meant by “professional interpreter”.

Being a professional interpreter is usually a question of qualification, training and experience, something that can be harder to prove and achieve for minority languages, as there is simply no qualification or accreditation available and the means of assessing interpreters providing those languages is limited (Wallace and Hernández, 2017: 146).

Within the current United Kingdom context, where foreign language interpreting services across the justice sector are provided under a framework agreement by a single agency, thebigword, interpreters used by it are expected to be professionals. Quality assurance of this professional status – relevant qualification and experience – is supposed to be provided by another agency, The Language Shop, under the same framework agreement. However, with respect to the interpreting service these same agencies provide at asylum tribunals,

there is little evidence yet that the serious concerns raised under the previous MoJ [Ministry of Justice] Framework Agreement regarding the *'highest standards of fairness'* that are required in asylum and human rights appeals have been properly addressed (Henderson, Moffatt and Pickup, 2018).

“Fairness” here would refer to the ethical norms, such as accuracy and impartiality, which are expected of an interpreter.

The power structure and control of information within immigration detention centres (Navarro Montesdeoca, 2006: 171) can pose a challenge to the ethical norms expected of professional trained interpreters. It is sometimes the very conditions of the detention that

make this desirable, if not necessary. From her research in prison settings, Martínez-Gómez states that

[n]orms cannot be understood in a vacuum nor in isolation from one another. What is more, they also seem to be dependent on specific interaction goals. Even within one same setting, they might be variable according to circumstances (2014).

6. The Shaw Review

In spite of the secrecy surrounding what happens inside immigration detention centres, numerous reports have been drawn up by non-governmental organisations advocating or working with current and former detainees. More recently, undercover media reports have shed further critical, and sometimes disturbing, light on conditions inside. In view of the material and time resources available and accessible, constraints and the interests of the stakeholders, many of these reports have a specific focus, such as, for example, mental health, a particular category of detainee, or gender-specific issues.

In February 2015, following the publications of the findings of an external review into mental health issues in detention, then Home Secretary Theresa May commissioned former Prisons and Probation Ombudsman for England and Wales Stephen Shaw CBE to review and inspect “detention facilities, review healthcare provision and scrutinise all Home Office policies and operational practices” (Home Office, 2015). The report, published in January 2016 was critical and damning of practices in the immigration detention estate.

It flagged up problems related to communication and access to interpreters: “detainees often struggled to access healthcare, for reasons including language and cultural issues” (Shaw, 2016: 22), and how this impacts mental health. In addition, examples of (mal)practice in various detention centres were also noted. Among the 64 recommendations made, two related to interpreter use:

46: I recommend that the Home Office review the use of fellow detainees as interpreters for induction interviews.

47: I recommend that the Home Office remind service providers of the need to use professional interpreting facilities whenever language barriers are identified on reception.

By the time Shaw published his 2018 “Assessment of government progress in implementing the report on the welfare in detention of vulnerable persons”, the government’s commitment to changes in certain areas was starting to bear fruit. 56 of his 64 recommendations, including those on interpreter use, were accepted. Positive steps such as a reduction in the overall number of detainees, currently at its lowest figure for over a decade, and action to close some detention facilities due to the smaller size of the estate, were noted. However, the statistics also hid “troubling” realities (Shaw, 2018: viii). The overall impact of the changes is perhaps best evidenced in the spike in the number of deaths by suicide and incidents of self-harm in 2018 (Taylor, Walker and Grierson, 2018).

The two recommendations related to interpreter use, deemed minor operational recommendations, were formally addressed with the re-issue of DSO 06/2013, providing guidance on the use of interpreters. While in 2016, the main problem related to interpreter use was quantitative, due to the lack of professional interpreters and the reliance on ad hoc solutions, by 2018, the problems were largely qualitative: “use is now widespread but that quality remains an issue” (Shaw, 2018: 59).

There is greater use of telephone interpreting; however, the problems do not appear to stem from the Home Office alone, but from the Ministry of Justice “with its responsibilities for prisons and probation” (2018: viii). Since 2011, the Ministry of Justice has used a framework agreement consisting of a contract with a single commercial language service provider to provide translation and interpreting facilities in courts and tribunals and to other Ministry facilities and agencies. In 2016, under a new contract with a new provider for foreign language translation and interpreting services, the service was rolled out across the entire justice sector to include prisons and probation. This contract has proved controversial with problems related to both the quality and quantity of interpreters, and their qualifications (Maniar, 2016).

The problems cited by Shaw and reported to him by centre staff reflect those noted elsewhere in the justice sector relating to the same company, thebigword, as well as by lawyers before the immigration tribunal (Lindley, 2017). Consequently, of the 44 recommendations made in this report, number 19 states: “The Home Office and Ministry of Justice should conduct a review of the quality of interpreter services in IRCs” (Shaw, 2018: 124).

7. Suggestions

Shaw’s recommendation of a quality review of interpreter services presents an opportunity to carry out a thorough qualitative and quantitative study of interpreter provision, and the quality of the service in general. Such a review should not be carried out by commercial entities like thebigword or The Language Shop. In order to assess quality, compliance with and deviance from the types of norms typically expected of an interpreter needs to be considered. Quality is not viewed in the same way by all parties to an interpreted exchange, and thus community interpreting questionnaires “where service providers, interpreters and users of interpreting services [... are] questioned about interpreting needs, role expectations and satisfactions” (Pöchhacker, 2008: 40) should be used.

HMIP inspections of prisons already involve surveys for detainees to complete, which can be completed in other languages and include information on access to interpreters and language services during induction and medical consultations. The scope of these surveys could be extended to include a specific section on interpreting. The survey could include questions on satisfaction with the interpreting service provided. This could assist the quality assessment of interpreting services.

Such a section could also be included in an English survey for those detainees who read but do not speak English, and to ensure that there are no communication issues for monolingual English speakers. This could also be an effective means of introducing information and data about sign language users and their needs.

The outcome of the review of quality of interpreter services recommended by Shaw (2018: 124) could be used to devise training for interpreters working in IRCs with a view to improving professionalism and awareness of ethics. This training could help to bridge the gap between qualified and experienced professional interpreters and interpreters who, due to the rarity of their language, have fewer opportunities for training and practice. In particular, most if not all interpreters could benefit from trauma-informed training:

the interpreter him/herself needs to be robust, and have had the benefit of training which strengthens their ability to render accurately often sensitive and distressing information between the two parties, their knowledge of specialist medical terminology and the need for debriefing (Straker and Watts, 2015).

Training currently offered by medical non-governmental organisations, who produce medico-legal reports for asylum claims, to professional interpreters who work in IRCs alongside their doctors could be adapted for other interpreters working in IRCs. Training would be vital for interpreters working in this unusual field, in order to understand their role and the function they play within the “institutional system of control” (Wadensjö, 1998:13).

As witnesses and accessories to the conditions detainees find themselves in inside immigration detention, it is essential that professional interpreters are fully informed of the circumstances and purposes of immigration detention so that they can make an informed choice on the role they are asked to play.

Although interpreters are not government employees in the United Kingdom, such training should be funded by the Home Office as part of the four priorities the Home Secretary announced in response to Shaw’s follow-up report (2018), which include “staff training and support to make sure that people working in our immigration system are well equipped to work with vulnerable detainees” (Javid, 2018). This should also include training for IRC staff on how to work with interpreters.

In order to meet the need for greater transparency, the Home Secretary also stated “I will publish more data on immigration detention” (Javid, 2018). These data must include information about languages spoken (and sign languages) and interpreter use in order to assess and address gaps and issues found therein. At the least, the data should consider which languages are interpreted, with statistics of the frequency they are required and used, interpreter attendance (or over the telephone), and whether the task was completed when an interpreter was available.

8. Conclusion

In his 2018 report, Shaw further noted that:

It is regrettable that the Home Office does not do more to encourage academic and media interest in immigration detention. Indeed, I think its reluctance to do so is counter-productive – encouraging speculative or ill-informed journalism, while inhibiting the healthy oversight that is one of the most effective means of ensuring the needs of those in detention are recognised and of preventing poor practice or abuse from taking hold (2018: 7).

Immigration detention is an important feature of immigration and asylum policy in all European states in some form or another. Globally, it is an expanding issue, one whose policies and practices need to be studied and questioned. Within Europe, many of these practices bring states into direct contradiction with their domestic and international human rights obligations, yet as an administrative measure, far lower standards of protection are available to detainees.

Disregard for the importance of interpreting services may not simply be “the result of the authorities’ lack of knowledge about the nature and importance of the work performed by interpreters” (Foulquié Rubio, 2012: 130) but a deliberate ploy to demoralise detainees:

One woman also pointed to the fact that the communication problems were not just a language issue: in her opinion, detainees were also denied the opportunity to express themselves. (Cutler and Ceneda, 2004: 80).

Scholarship about immigration detention can help to challenge and shed light on the status quo. Interpreting studies has placed greater focus on interpreting in asylum proceedings but it is not only where the interpreter and the client are visible that poor interpreting does or

does not take place, or that rights are violated through the lack of or provision of a poor interpreting service. Legal and other forms of community interpreting take place in immigration detention, behind closed doors, and here too, the quality and provision of that interpreting needs investigation and study. From the studies cited in this paper, demands have been made for improvements and adequacy in interpreting provisions since the 1990s, with little progress made.

While quantitative progress has been made since Stephen Shaw's 2016 report, for qualitative progress to be made, interpreting scholars need to define what quality and professional mean and require within this challenging environment.

In his study on interpreting in prison settings, Baixauli Olmos states: "Prison interpreting remains relatively unexplored by the professional and research communities and needs to be charted." (2013: 46). Charting interpreting in detention will raise the visibility of the interpreting in this setting and the detainees who need interpreters. It will take the discourse beyond vague discussions on the need for professional and qualified interpreters to clear definitions of what those terms mean and how this can be achieved, and can help to place pressure on the state authorities to achieve them.

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