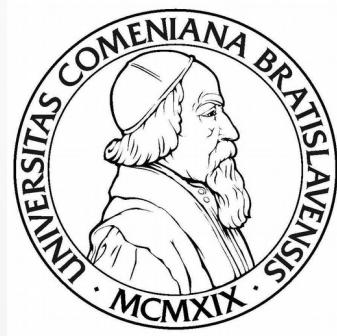


Information matters: towards positive pathways of migrants' integration

Danube Region Information Platform for Economic Integration of Migrants,
Bratislava 26.10. 2017

Understanding culture, understanding law. Ethnography of linguistic flexibility in asylum courts



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Fieldwork

- Asylum court participant observations and interviews
 - 2016 – 2018
 - 2006 – 2008
- Communicating rights for asylum applicants in CE
 - 2010 – 2011



Cultural misunderstanding

- Who is speaking in the language of my tribe?
- Intepreting words versus
Intepreting discourse, norms, unwritten rules
- What remains lost in translation?

Research focus

- Asylum courts:
 - The interview context
 - Persons present with their tribes
 - Use of legal language
 - What is not in the records
- Written documents used in the courts
- Feedback from the participants

Guidelines for communicating rights to non-native speakers of English in Australia, England and Wales, and the USA by AAAL

- USE STANDARDIZED VERSION IN **PLAIN ENGLISH**
- DEVELOP STANDARDIZED STATEMENTS IN OTHER LANGUAGES
- INFORM SUSPECTS ABOUT ACCESS TO AN INTERPRETER AT THE BEGINNING OF THE INTERVIEW
- PRESENT EACH RIGHT INDIVIDUALLY
- DO NOT DETERMINE UNDERSTANDING BY USING YES OR NO QUESTIONS
- ADOPT AN IN-YOUR-OWN-WORDS REQUIREMENT
- VIDEORECORD THE INTERVIEW

Understanding guidelines

- Why not to use *closed* questions?
- Why use *plain* language?
- Why seek for in-your-*own*-words understanding?



Legalese and its Interpreting

Žalovaný dospel k záveru, že v prípade žalobcu k uvedenému nedošlo.
Z výpovede žalobcu je „**zrejmé**, že v krajine pôvodu nikdy **nečeli**l absolútne žiadnym problémom zo strany štátu ani neštátnych pôvodcov, ktoré by mohli byť považované za prenasledovanie v zmysle § 2 písm. d) zákona o azyle.“

Právnik MU tvrdí v reakcii na to odvolanie **Ligy**, že azyl sa dáva ľuďom v prípade, že splňajú nejaké **konkrétné** podmienky, že čelia práve prebiehajúcej perzekúcii a nie pravdepodobnosti hrozby - zo strany štátu alebo neštátnych organizácií. Že teda MU **vydelenkovával**, že ty, v tvojom prípade k takému **nedošlo**, a že z tvojej výpovede je jasné, že ty konkrétnie sám si sa s **takýmito** problémami **nestretol**.

Well-founded fear

A: "Je tam bezprávie. Prenasledovali nás."

S: "Obava žiadateľky je len subjektívna"

MU: "Nič nepredstavovalo perzekúciu....Nepodarilo sa preukázať opodstatnené obavy z prenasledovania."

S: "ja v tom nevidím hrozbu.(...) X žiadne konkrétné údaje neuviedla, ako sa s ňou zaobchádzalo."

A: "vždy mi zdôrazňovali (tj. polícia), hovorte krátko."

Verdict

Judge:

Rozhodnutie
žalovaného, ČAS:
MU-PO-12-34/2017-Ž
zo dňa 1.1.2017 sa
v celom rozsahu
zrušuje a vec sa
vracia žalovanému
na ďalšie konanie
a nové rozhodnutie.

Interpreter:

“X sa pozrel, že: čo?
Na chodbe ti povieme
s Y (práv.zástup.)

Nebol som si istý.
Ked' toto povedala, že
to ruší, tak som
nevedel, že **čo ruší?**”

Key terms and key actors

- Race, Social group
- Religion, Nationality
- Trustworthiness
- Persecution
- Well-founded fear
- Objective, subjective
- Credibility
- Facts
- Consistency
- Asylum applicants
- Interpreters
- Attorneys
- Judges

Both asylum applicants and judges

- differ in linguistic flexibility and relevance
- their speech is decontextualized and recontextualized
- their words are retold and evaluated
- the interview record conflates what the applicant said with the interpreter's retelling and the decision-maker's summary

Research problem: whose discourse?

Mastering language registers influence interpretation of statements in communication between people with differing access to power.

People of law's understanding may be flexible, but this linguistic flexibility is not allowed to applicants and interpreters.

The interpreter as a non-person

(Wadensjö, Eades)

- “If you are an interpreter, ensure you are perceived as a neutral catalyst”
- “Just act as a medium, be invisible”
- Such expectations are incompatible with current understandings of how language works

Relevance and trust in communication

- There can be no such thing as a neutral utterance (M.M.Bakhtin)
- To understand an utterance, you need to grasp its relevance (D.Sperber & D.Wilson)
- How can we connect legal (rule-oriented) approaches with anthropological (relational oriented) ones? (Anthony Good)

An anthropological perspective on interpretation

Interpreting is bound up with an understanding of one's discourse:

- unspoken rules of “tribes”
- nonverbal communication
- feeling for the game
- what is relevant for whom
- sensing language variants:
geographic (dialects)
socioeconomic (sociolects)
contextual use of language (registers)



Discourse: regular vs irregular

A decisive discourse
of legal professionals:

- Legal
- Supposed to be understood
- Untranslated
- Who comprehends?

A contestable
discourse of asylum
applicants:

- Non-legal
- Supposed to be understood
- Untranslated
- Who comprehends?

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Thank you!

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"I swear to tell the truth, the whole truth, and nothing but the truth, from my perspective."