"Parlez-vous l'anglais ou le swahili?" The role of interpreters in Refugee Status Determination interviews in Kenya

by E Odhiambo-Abuya

Research undertaken in Kenya indicates that interpreters can hinder good communication in the RSD process.

The vast majority of claimants seeking asylum in Kenya are from the horn of Africa and Great Lakes region and speak a variety of languages. UNHCR Eligibility Officials, who conduct Refugee Status Determination (hereafter 'RSD') interviews, are limited in the number of languages in which they can communicate fluently. Eligibility Officials use English mostly, and Swahili sometimes, to conduct RSD interviews. Not all asylum seekers have a good grasp of English or Swahili and so interpreters are often needed.

Although interpreters play a fundamental role in the RSD process, there are instances where, instead of acting as a link between Eligibility Officials and asylum seekers, an interpreter can in fact be an obstacle to good communication. This adversely affects not only individual asylum seekers' cases but also the entire RSD scheme.

Research

From November 2002 to March 2003, while Kenya was in the throes of multi-party general elections, research was undertaken on Kenya's RSD procedures.[1] The research project examined different models for determining refugee status with a view to proposing an administrative system appropriate to Kenya's situation. Although Kenya hosts more that 200,000 refugees, it still lacks domestic legislation that would otherwise guarantee the rights promised to asylum seekers by international refugee law treaties. Current RSD procedures appeared to be inadequate in terms of fairness, efficiency and accuracy within the constraints of the rule of law.

I conducted detailed qualitative interviews with asylum seekers and refugees covering topics including: their experience of the RSD process; their expectations; whether they understood the processes through they were taken; whether they thought they were treated fairly; the problems they faced (if any); and if problems were dealt with to their satisfaction. Interviews with UNHCR, NGOs and officials of the Government of Kenya canvassed a similar set of issues but these concentrated on tapping views on how far this procedure meets international legal standards, its merits and what legal or policy changes were needed to improve the current system.

The role of interpreters

The main languages requiring interpretation in Kenya, encountered during the research, are: French (for Congolese, Rwandese and Burundians), Kinyarwanda (for Rwandese), Kirundi (for Burundians), Lingala (for Congolese), Arabic (for Sudanese, Somalis and Ethiopians), Amharic and Tigrenga (for Ethiopians) and Somali (for Somalis).

Interpreters are normally bilingual refugees who are able to speak English and a second or third language. Two UNHCR policy documents are available to assist and train interpreters in their roles: *Interviewing Applicants for Refugee Status* and *Handbook on Criteria for the Determination of Refugee Status.*[2] Employing refugees as interpreters is advantageous for two reasons. Firstly, providing paid employment for refugees reduces the number of refugees dependent on UNHCR.

Secondly, it introduces into the general status determination framework a third party who can identify with the realities of the claim:

> *One major problem [with the status determination procedures] is [Eligibility Officials] are educated and have no experience of fleeing. They are Kenyans, not refugees. If they had refugees alongside them at the interview, it will help because a refugee will know the tune of the problem.* (Baigana, a refugee from Uganda)

One of the hallmarks of a professional interpreter is possessing 'current' knowledge. Interpreters should be well informed about the past and current affairs of a claimant's state of origin and be fluent in the relevant vocabulary. Interpreters are required to keep all information revealed by a claimant stricly confidential.[3]

Many Eligibility Officials conduct 'ice-breaking' sessions to create an atmosphere of mutual trust and respect, in

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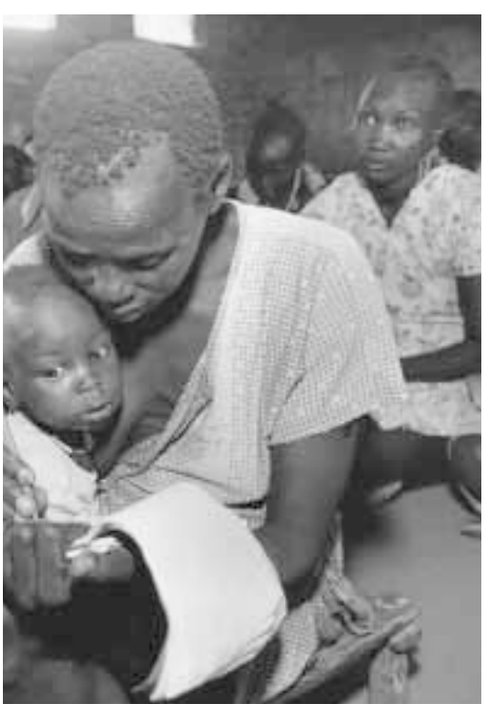
which a claimant feels comfortable and able to respond with ease to questions. The general purpose of the interview is then explained to the claimant, as are its principal objectives and what is expected of the claimant. The claimant is then asked to divulge all relevant information regaring their case, with the assurance that what they share will be treated confidentially. According to UNHCR, this reassurance is 'indispensable' to make claimants 'feel that it is safe to talk openly about past experiences and events'.[4] Claimants are then asked if they object to the presence of any individual in the room; if they raise no objections, the interview may commence.

However, in some instances, interviews do not adhere to these procedures. Likambo, a Congolese, demonstrates the undesirable consequences of failing to observe this simple procedure:

> *I was interviewed on 1st August 2002 by a male UNHCR Official with the aid of an interpreter from Congo who I had earlier met outside the interview room. I had identified him as a "Congo man", but when I asked him if he truly came from Congo, he denied. When I entered the interview room, I was shocked to see him, and because he had earlier lied to me, I did not trust him. My heart said, "go on and be interviewed", but I hid some facts from him. I did not tell it all. …. I hid my reasons for flight because I did not trust him. Maybe he was connected with the people I was fleeing from. I was scared for my life. …. Despite the [Eligibility Official's] assurance that the interpreter was only to interpret, I still had doubts.*



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Incompetent interpreters

A good interpreter is one who, firstly, is able to translate a claimant's words into clear and simple English, or the Swahili equivalent, and, secondly, who is able to convey this without missing the precise meaning and the claimant's original intention.

> *I was interviewed through an interpreter because I was fearing and without confidence. I wanted to tell everything in my mind and I cannot do it in English. That is why I prefer the interpreter. I was satisfied; she interpreted everything because I could hear.*[5] (Getu, an Ethiopian refugee)

In some situations, however, instead of facilitating communication, interpreters become obstacles.

i) The 'omniscient' interpreter

'Omniscient' interpreters are those who put words in the mouths of claimants or significantly filter what has been stated. Eligibility Officials, both in Nairobi and at camp level, admitted that in some instances they would pose a question to a claimant who would respond in a couple of words; the interpreted words, however, were overwhelmingly more numerous. When I came across an omniscient interpreter during my fieldwork and asked for an explanation of such a disparity, the response was simply: "I know what the claimant wished to say." This goes against the basic principle that requires interpreters to be impartial throughout the conduct of proceedings. Even more disturbing are the interpreters who abandon their disinterested role and instead take a more active part in the interview.

Alan Crouch, former Coordinator of the Interpreting Services and Migrant Advisory Bureau, Melbourne, Australia, condemns this extremely worrying practice:

> *It is not [an interpreter's] role to depart in any way from what is being said, or to leave things unsaid, however irrelevant, illogical, or indeed abusive they may appear to him. …. his prime concern should be to render accurately the entire sense of what is to be conveyed without adding to it or detracting from it.*

ii) The 'distortional' interpreter

In this second category are those interpreters who misconstrue statements made by claimants. Refugees and asylum seekers alike express concern that sometimes interpreters fail to 'do a good job'. I witnessed that not all Eligibility Officials ask claimants if they require the assistance of an interpreter. This is contrary to the clear wording of UNHCR's Eligibility Interview Form which requires Eligibility Officials to ask claimants what language(s) they speak, the language they would prefer for the interview, and if they have any objection to the interpreter being used.[6]

Some assume that all Somalis, for instance, are unable to speak, or communicate effectively, in English or Swahili. In many Somali cases, therefore, the Eligibility Officers did not bother to ask claimants if they required the assistance of an interpreter. Rukia (a Somali from Dadaab refugee camp) was forced to speak through an interpreter despite her ability to communicate in English:

> *I was not asked whether I needed an interpreter or not. I just found him in the interview room and when he asked questions, I responded. … sometimes the interpreter made mistakes. For instance, I told him I arrived in Kenya in '1999'; he interpreted it as '2000'. I corrected him but I am not sure he made the interviewer aware of this.*[7]

As far as possible, the conversation between a claimant and interviewer should be direct. Primarily, it saves time, which is a precious commodity in asylum claims.[8] Secondly, it is more likely to reduce instances of misinterpretation, particularly where it is problematic to find an English or Swahili equivalent of a word or phrase used by a claimant. Lastly, direct communication also instils confidence in the mind of asylum seekers. Ntibantinganya, from Burundi, expressed the following views in this regard:

I did not like the interpreter because he does not express well the idea I want to give. There are some [French] words, which lack an English equivalent.

Interpreters should only be used once an Eligibility Official verifies that a claimant lacks a reasonable command of English or Swahili.

iii) The 'nought' interpreter

This category describes instances where 'interpreters' are completely unable to interpret. There have been occasions where interpreters have been brought in to interpret only to discover that they speak different languages from the claimants. UNHCR standards require an Eligibility Official to ask a claimant if they 'can understand the interpreter'. Mekele's experience is a classic example:

I was not harassed during the interview. But the interpreter did not speak or express my feelings well in interview. Leave alone English, he cannot even speak Amharic, my mother tongue, well. He is Oromo and I am Tigrenga. I was not happy. When I am talking to him, he cannot [understand] me very well.

In cases such as these interpreters should admit their inability to perform the task, and step down and proceedings adjourned until a competent interpreter can be found.

The Government of Kenya has expressed concern with regard to the role of interpreters. I met an Official of the National Refugee Secretariat in the Ministry of Home Affairs, the Ministry in charge of refugee affairs in Kenya, who said that part of the problem inherent in the UNHCR status determination process was "interpreters who are very fast and interpret their own things".

Suggestions

Without effective communication between Eligibility Officials and asylum seekers, the entire protective regime is gravely weakened. I offer four suggestions to improve the current state of affairs:

- Eligibility Officials need to be vigilant during RSD proceedings, watchful for signs of omniscient interpreters as well as those who are unable to communicate with claimants.
- Hire Eligibility Officials who can speak asylum seekers' languages. Effectively, this removes interpreters from the picture, turning the interview into a one-on-one dialogue.
- Use interpreters who have no interest in the outcome of the interview such as refugees in the resettlement pipeline. In Kenya, it is impossible to find Kenyan nationals suitable to employ as Eligibility Officials who have a good grasp of all native languages spoken in neighbouring states. In cases involving asylum seekers from Lingala, Kinyarwanda, Tigrenga, Kirundi and Amharic backgrounds, neutral interpreters should be used. A UNHCR Eligibility Official explains the importance of using such interpreters:

  The problem with interpreters sometimes arises at resettlement where some tend to be biased. How do you employ a fellow refugee to interpret for a fellow who is due to be resettled? It is better to get a refugee who is similarly on the resettlement pipeline.

- Eligibility Officials must read back the Interview Report to claimants and ask, firstly, whether they wish to provide any 'additional information' in respect to the interview and, secondly, if the questions asked were 'clear' and the claimant 'satisfied' with the answers they gave. This is an official requirement (see UNHCR *Handbook*, Para 199) and yet one which is sometimes ignored. In interpreter-assisted interviews this step is crucial; without it, cases of interpreters putting words in the mouth of a claimant might escape undetected.

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2. UNHCR, 'Interviewing Applicants for Refugee Status' (Geneva: 1995). Go to www.unhcr.ch, type 'Interviewing Applicants for Refugee Status' into search facility, and find: 'Training Module RLD4 – Interviewing Applicants for Refugee Status'. UNHCR *Handbook on Criteria for the Determination of Refugee Status* (Geneva: 1992) (follow same procedure to locate it online).
3. Refugee Review Tribunal, *Interpreters' Handbook* (Canberra: RRT, 1996). See also Robert M W Dixon, A Hogan & A Wierzbicka *Interpreters: Some Basic Problems* (Victoria Clearing House on Migration Issues, 1980).
4. *Supra,* note 2, UNHCR, *Interviewing Applicants for Refugee Status;* UNHCR, *Handbook on Criteria for the Determination of Refugee Status.*
5. Interview with refugee, Kakuma Refugee Camp, Kenya, 25 January 2003.
6. See UNHCR, *Eligibility Interview Form*, Checklist.
7. Interview with asylum seeker, Daadab Refugee Camp, Kenya, 6 February 2003.
8. Interpreter-assisted interviews last about twice as long as they would were the conversations conducted in English or Swahili.