

RECHENSCHAFTEN



**Juristischer und literarischer
Diskurs in der Auseinandersetzung
mit den NS-Massenverbrechen**

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Breaks in Language at the Nuremberg Trials* (translation draft)

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1.

Any truth that is discussed in a trial is the outcome of a process, a process of multiple translations defined by rules of process. A court translates actions into words by converting a living circumstance investigated by the prosecution into a form (formula) for criminal proceedings. The pain that was caused is subsumed to a legal fact and phrases stammered from memory are developed into legal evidence. Eventually, the severity of the crime is converted into a formal equivalence determined by either the length of imprisonment or the amount of a fine.¹ One could say: the court is a translation machine. Discourses from different worlds meet in the courtroom and it is the task of the court to remediate the breaks in language that appear when the speeches derived from memory, encounter those of the unsaid, the unsayable and that of legal terminology.

The Nuremberg Trials, unlike regular court trials, had to deal with many more difficulties and confusions around language. Methods for attending to these challenges dramatise and expose what could be called the aporia of any legal trial: a categorical untranslatability of actions into words. A remainder that does not resolve itself in words, but always lingers. In Nuremberg the problem of translation was solved in such a way that it undermined the very premise upon which a juridical trial had been built. These derivations from a regular trial could have been put to rest: the Nuremberg Trial is closed. A critique would only have been of historical interest – if it hadn't become *the* model for *transitional justice*, for a justice and a judiciary undergoing change in the 21st century.² Den Haag's very foundation is based upon Nuremberg and Tokyo. The International Courts of Justice were inaugurated as a War Crimes Tribunal, one that was created in a rather ad hoc manner for a specific set of crimes, as was the case in Rwanda. These tribunals have been institutionalised and although they function, as would any other regular court, they do so without performing all of the details, or to be precise, without being able to perform all the details. One detail that might, at first sight,

appear to be a mere tool for the resolution of language problems proves, in fact, to be a fundamental disorder within the translational machinery called justice.

Such a disorder is due to the problems of translation that were confronted at the Nuremberg Trials. There, the breaks in language were multiplied as opposed to that of regular trials, and along with these breaks also the exigencies for translation. Not only did the clean language of the bureaucracy of National Socialism complicate the modification of language into actionable, war-related crimes, the participation - in all its literalness - of the four languages of the Allied Forces led to complicated translation requirements in court. German, English, French and Russian should have been spoken at the International Criminal Court.³ At least within a US-American understanding, the principle of a *fair trial* demands that the accused is able to defend themselves in their own language.

In the conditional framework of the International Criminal Court, a *fair trial* meant: translation. What followed was a permanent change in the approach to language, one that would have entailed doubling the duration of the planned time of the Nuremberg Trials. Realistically speaking it would even have meant quadrupling the time. However the sovereignty of each of the Allied Forces resulted in disagreement as to which common language could be used for translation into and from German. Applying a successive circuit of consecutive translation would have led to an exponential increase in the amount of interpretative work on the part of the courts and have bloated any tolerable or bearable time dimension.⁴ For this reason alone, one of the most important tasks in preparing the Trials was the design of a time-based economic framework that could be applied to the entire process. Article 19 of the Statute of the International Courts of Justice included the caveat, that the "Courts of Justice (...) was not bound entirely to rules of evidence, but could also bring an expeditious and informal process to bear upon its proceedings."⁵ However this acceleration and informalisation of the procedure alone was not able to fully compensate for the time used by interpretation, other techniques for economising discourse were required.

A model could not be found within extant juridical processes, because these typically encountered only one other language: the language of another country or that of sign language.⁶ The only model that presented itself, which was subject to equally time-consuming processes of translation and confronted with similar problems of understanding within a limited time frame and budget was that of the international

conference. In 1927 the international *Labour Conference* took place in Geneva, where a new technology was introduced that minimised the time of translation: simultaneous interpretation. Simultaneous interpretation worked in combination with other technical apparatuses such as conventional sentence-for-sentence translation that had been in use until then.⁷ This new technology, in which speaking and translating occurs simultaneously, was ideal because the time required for translation was not more time than the time of original speech.

Léon Dostert, chief interpreter for Nuremberg remembered the conference technologies of Geneva and proposed that they be acquired for the Trials to Justice Robert H. Jackson, US-prosecutor in charge of trial preparation. Although Dostert transferred the system from Geneva to Nuremberg, at no point one could speak of a mature technology. The installation at Geneva was outdated in technical terms and susceptible to failure.⁸ No engineer had given any thought to optimising this equipment, since it had been used only sporadically at conferences after 1927 and a wider demand did not seem to be indicated.

The simultaneous interpretation system, a kind of telephone system for translator's tasks, was invented in 1926 by Edward Filene and M. Finlay, a businessman and an electrical engineer, for the International Business Machine Corporation. That same year IBM-president Thomas Watson sought a patent for the technology, calling it a "Hushaphone Filene-Finlay System", a kind of hidden or hushed telephone system. Almost 20 years later, this same International Business Machine Corporation was willing to donate the Geneva installation and any technical equipment required for language tasks to the Nuremberg Courts free of charge.⁹ Their generosity was possibly not entirely altruistic. IBM was a company that manufactured administration machines, emerging in 1924 from a company founded by a US-American of German origin Herman Hollerith at the turn of the century. IBM had a subsidiary in Berlin-Lichtenfelde, Dehomag, which, until the end of the Second World War provided the technical administrative systems that performed the very logistics that were put on trial in Nuremberg: racial registration and population selection. These were technically mastered with Hollerith punch cards.¹⁰ The IBM technology that was intended to translate the crimes of the accused, indirectly, also translated the war technologies of its own subsidiary for the courtroom. Dehomag had never been accused of any culpability

with National Socialism killing policies – apparently protected by the well-established concept of the neutrality of technology.

It remains unclear whether IBM actually did try to divest themselves from the entanglements of their own subsidiary Dehomag in the logistics of the extermination of Jews by technically supporting the Nuremberg Trials or if it was just a calculated advertisement. But such a calculation, were it intentional, would indeed have worked out. The trial, under worldwide scrutiny, made simultaneous-relay-interpretation with IBM systems instantly famous. Today no large conference would be imaginable without it. The EU and the UNO as well as the International Criminal Court in Den Haag would not exist without such a technological solution to its language barriers¹¹.

IBM's interpretation technology is based upon a principle of telephone circuits. Users are entangled in all kinds of communicative paradoxes. A multi-lingual trial is transformed into a large-scale local phone call, where a dialogue with the crowd is transmitted, in essence a phone call with all those present. The system is a distanced medium without distance. It amplifies voices within earshot and produces long distance calls within eye contact. The earpiece of the telephone mutates into hundreds of headphones, the telephonic mouthpiece into microphones. Participants of the trial become call participants. They are connected with the events of the trial via wires and headphones.¹² Telephonic translation is a transmutation.

Classical courtroom architecture, which elevates the judge, is also affected by this transmutation of the teleconference through the technology of interpretation. Cabling each participant with everyone else, including the audience, inverts the hierarchical structure of the court. The interpreters in Nuremberg were placed above everyone else in glass cabins, in order to be able to gain eye contact with all the moving mouths in the room.¹³ Such an interpretation system puts the basic conditions of a regular trial out of order. The demands of translation technology restrict placement and the specific discourse of legal organisation. Judge, accused, and audience are subjected to its demands without distinction. The mob in the courtroom obeys and listens in conformity with what comes out of the headphones. In such a dehierarchised structure the six microphones, which are installed in the courtroom, establish a new kind of difference between sender and receiver. A difference that allows judges, accused, prosecutors, and witnesses to appear as senders, which distinguishes them from the audience who are mere receivers.¹⁴

A temporal synchronisation is at work that produces a procedural alignment to the court's relay circuits. *Relay interpretation* clocks the structure of the trial. A medial network between interpreters and telephone circuits synchronises speech-time with translation-time. Both, speech and translation happen simultaneously. Simultaneity is also independent of telephonic interconnection: a time span due to the lag in translation between speaking and listening. According to standard values of simultaneous interpretation, this time span is approximately 8 seconds.¹⁵ Professionals called this time span *décalage* after a technological term, which in 1922 adopted the meaning of delay or phase shift¹⁶.

This *time lag*, through its telephonic interconnections, had consequences for the whole of the trial events. It introduced a different timing to the trial: timings of simultaneity. Everything happens almost at the same time, in synchrony with an imperceptible lapse of a few seconds. In opposition to this, the court normally operates in a temporal mode of emulation. The court celebrates its translations at any level. It makes language gaps visible and audible: the back and forth between the language of the accused and that of jurisdiction, the transfer from a recollected crime and a juridical fact, and the transition from a hearing of evidence to a consideration of evidence. The defender is the advocate, or literally the interpreter (*Dolmetsch*) of the accused. The jargon of the witnesses is transformed into juridical argumentation, and so forth, until finally out of the many translations at work in the courtroom the verdict of the court arises in its very own language. In Nuremberg the teleconference dominated over the criminal proceedings of the trial. All the enacted and temporised acts of translation of a conventional trial were transformed into a simultaneous process. The master of the trial is not the judge; the master of the trial is the translation apparatus. It defines pace and processes the events of the court.

The medial network of interpretation and its technological apparatus introduced a measurement of 8 seconds into the courtroom, which had only ever before taken place in between the killing fields and the offices of the National Socialists. They had, as we know, to say it by way of an abbreviation, transformed law into order¹⁷. For media technologies this meant a shift from a written version in files to an oral version on the telephone. At least one of the accused in Nuremberg must have had an immediate awareness of the accelerated effect of the telephonic translation system. Hermann

Göring, it has been reported, recognised the efficient and lethal equipment that now became the main medium of the perishing Reich.¹⁸

This transfer to telephone technology was incidentally flanked by Paragraph 78 of *Geschäftsordnung der obersten Behörden des deutschen Reiches*¹⁹, which stated, "In official matters the use of telephones should be preferred, so to accelerate official communication."²⁰ Arnold Brecht, a protagonist of office reform developed this rule in the 1920s. In 1940 he published his work in the US in collaboration with Comstock Glaser under the title "The Art and Technique of Administration in German Ministries." The work had an outcome other than intended. Instead of initiating bureaucratic reform following a German model, a mere five years after its publication it became the standard reference book for restructuring the German bureaucracy and provided the terms employed by the US-American representatives in charge of de-Nazification.

The telephonic interpretative apparatus organises speech in the courtroom and consequently restricts the discursive force of the judge. They no longer control the right to speak. Instead of judge's regulations, relays dictate positions and modalities of speech. A monitor gives instructions through signals to all trial participants, including the judges. It undertakes the surveillance function of the judges to keep to procedural rules. Only after a question has been transmitted over the headphones, is the accused allowed a turn to speak. A yellow flashing light at the microphone signals the order to "speak slower", a red one indicates that a sentences needs to be repeated.²¹ The norm for producing the necessary conditions for interpretation is that of short and slowly spoken sentences. Accused war criminals at Nuremberg wilfully disregarded this norm, namely through constructing very long complex sentences with a verb at the end. This practice raised questions with regard to the work of interpreters as well as that of the whole trial as to what is negotiable in terms of permissible forms of speech.

Given the deprivation of the judge's powers through technology, it comes as no surprise that interpretation in the courtroom at multilingual trials had never been established. It is not a question of expenses, as has sometimes been stated, for the reason that judges reserve the right to abstain from using such interpretation systems, but is much more a question of trial hegemony.²² The court insists on the power of its discourse and therefore also the power of its emulation. Fundamental rules of the judiciary - having to hear and see what has been said - allow no simultaneous speech. They are cases for tribunals.²³

2.

At the Trial of the Major War Criminals in Nuremberg the interpreters had the duty of juris-diction (speaking law).²⁴ The interpreters did not need to pass judgement, but more than that, they had to speak out what is unspeakable. They carried on their shoulders the burden of making the enterprise of Nuremberg work. Juridical categories negotiated what had been hidden under a pseudo-jurisdiction or bureaucracy of the Nationalist Socialist regime of injustice. In order to ensure that the War Criminal Tribunal would not fail due to issues of speechlessness and language confusion, the interpreters (called *Dolmetscher* in German – which is itself a word that resists translation) had to make sure, that the untranslatability that is deeply embedded in the Holocaust would not be recognised.²⁵

Interpreters had to, even before the afore-mentioned "breaks in language"; say this differently and in honour to Ingeborg Bachmann. The blonde "poet's child" – as she is called by her colleague from the script department of US-American occupation broadcast Rot-Weiss-Rot in Vienna's 7th district²⁶ – recognises the language stress that the interpreters had to face at least to some extent, as she herself does translation work for the broadcaster.²⁷ As we know, her short story "Simultaneously" is based upon the centaur-like fusion of translator and translating machine. The interpreter Nadja, whose affair with one of the attendees of a congress were she had interpreted is, from the very first moment, in danger of being broken by the words said and unsaid: she "rubs her ears, where usually her headphones were".²⁸ Before this slave of the *hushaphone* continues her duty as interpreter at nothing but an IBM conference, she reflects on how "her circuits function automatically"²⁹.

The science of interpretation knows how the circuits of interpreters functions. It is based on theorems of mathematical information theory.³⁰ Claude Shannon articulated a theory for technical transmission systems, such as telegraphy, at the end of the war and hence at the very same time when the telephone system premiered in the courtroom, as in the Nuremberg Trials. The ability to apply mathematical communication theory to human language translation is possible not so much because of metaphorical double-speech, but due to a literal equality in the procedure of electronic news feed transmission and spoken translation. Interpreters' brains and computer hardware operates on the same law, the law of the neutrality of meaning. In

theory they do not care about sense. "(...) The interpreter (has to) concentrate only on syntax." writes Henry A. Lea, an emigrant from Berlin, who interpreted at Nuremberg for the Americans together with Wolfgang Hildesheimer.³¹ Mathematical information theory applies to the concentrated capacity of interpreters understood as the aspect of transmission capacity limited in time and physics. In order for it to be transmitted quickly, information is reduced to what can be left out without the information disappearing. This reduction is done through the coding of everyday language. The coding follows a principle of the static probability of strings, as in letter patterns or word patterns that appear in everyday language in certain frequencies (i.e. that are strung together). That it is more likely that an 'e' follows a 't' than for example a 's' or that a certain article is followed by a noun and not another article. These are probabilities that can be calculated through statistics – evoking the effect, that frequent letter patterns are coded with shorter translation signs than rare ones. The shortened codes then require respectively less capacity in the transmission channels.

A completely non-semantic criterion for what is to be transmitted, are probabilities of connection, so-called Markov-chains. Interpreters use a principle of information theory – the probability of connection – this limited transmission relieves the interpreter's attention and reduces the capacity of required interpreting. What is very likely to follow upon one word needs no extra attention and can pass the interpreter's ears as mere noise. Interpreters use this transmission capacity, which is released through the redundancy of human chatter, to aid in virtually simultaneous sending and receiving as well as simultaneous speaking and listening.³² What is to be translated and what has been translated crosses in the circuits of the interpreter, between their headphones – ear and tongue – microphone.

Interpreters are therefore doing precisely same task as the technical transmission devices with which they are interconnected. They filter noise. *Communication in the Presence of Noise*, as the mathematical information theorist Claude Shannon called it, means therefore also *Interpretation in the Presence of Noise*.³³ Interpretation here is to be understood as translation and not as the decoding of meaning – translation occurs only under the conditions of noise.³⁴

In Nuremberg the interpreters had to face very different kinds of *noise*. Many comments regarding sound levels appear in the trial minutes of journalists. For the interpreters this equated to a constant noise level. The cabins in which they worked

were not sound proofed.³⁵ And thus the voices of adjacent interpreters came through. But when voices become indistinguishable, a roaring appears.³⁶ Such a confusion of voices results in acoustic interference. It appears, when the speech of others is louder than the articulation of one's own voice, so that the speaker does not hear him/herself speaking. Thereby the consciousness – which, in a philosophical-idealistic imagination, is established in a reflexive act of hearing oneself – is turned off.³⁷ Only a partial elimination of consciousness makes simultaneous translation possible. There is no precise translation without noise the psychologists say, the information theorists say, there is no transmission without noise.³⁸

Neurophysiology has its own theory about noise and interpretation. These scientists say, that when interpreter's circuits are at work, both ears share the work of simultaneously hearing and listening. They divide the function of acoustic self-perception and external perception. The brain works as relay in between. Usually the left-ear, hence the right-half of the brain, is reserved for the recording of other voices. Therefore the right-ear and with it the left-brain hemisphere is free to control one's own speech.³⁹ Even so there is still minimal acoustic feedback. But the process of hearing oneself remains partial, always overdubbed by the voices of the others, and it does not serve the process of becoming subject or consciousness, as idealist philosophy would want it to. It has the sole purpose of co-ordinating speaking and listening. In this case ears are not a tool of self-consciousness. They function as the inputs and outputs of a neurophysiologic transmission machine called an interpreter.

Interpreters, whose job it is to listen to other people's voices, while they are speaking themselves, turn into speech-machines, or more precisely into translation machines. Interpreters react to spoken words with interpretation almost as a reflex, similar to the proverbial dogs of Pavlov. In the very best manner of self-referentiality towards his own theory, he used the then new simultaneous interpretation technologies for his inaugural speech at the international physiologist congress of 1935 in Leningrad.

While s/he is concentrating on the wording, the interpreter's consciousness is thoroughly deactivated, so that the meaning of the translated words does not come through. The monstrosities that were translated stoically or better, automatically by the Nuremberg interpreters, become conscious in and of themselves only with a delay in time. That is how the above mentioned translator Henry Lea explains the time lapse of

speechlessness, the *décalage* of 8 years that passed until the interpreters of Nuremberg finally began to speak and write about what they had heard and translated.

"It seems inscrutable that about eight years have passed, until the trials seemed to begin to have an decisive impact on Wolfgang Hildesheimer's works. This delay can be explained through the method of interpretation. The work of the interpreters demands an extremely intensified concentration – the highest grade that I have ever experienced. (...) the interpreter (has to) concentrate on syntax only and deactivate everything else. One gets so attached to the wording that one does not notice the content. Only years later one awakes gradually and realises the content, that had been registered somewhere subconsciously."⁴⁰

The noise in the courtroom is not always beneficial for concentrating on words. Acoustic interference, as it appears in regular court cases, is experienced as mere dysfunctional distortion. The 19th century architecture of the courtroom produced the impression that acoustic interference was everywhere, which in turn affected the judge's ability to work. A sound scientist of the time denounces the noise of the court:

"Today, quality time (...) of the courts of justice (should) not in an unproductive manner be exhausted in vain in trying to understand the imprecise uttering of the witnesses – this almost-impossibility, which regularly distracts the stream of justice from its predicted track. (...) Echoes do not wait politely, until the speaker has ended, but at the very moment, when he starts, and before he has said one word, they unleash on him with thousands of tongues."⁴¹

This disturbing echo of ten thousand tongues in an oral trial, produces a *décalage* or lag in the interpreter's own tongue during a telephonic process of simultaneous interpretation. At Nuremberg the stream of justice was not interrupted by the reverberating effects of its architecture.⁴² In the wired courtroom of Nuremberg a short-circuit was caused when more than one microphone at a time was on, which produced a kind of noise.⁴³

People who witnessed the trial remarked upon this reverberating noise in their headphones. The American writer John Dos Passos, who reported on the trial in the US, wrote: "It echoes in the headphones. First, voices rattle from far away, as if they come from deep down in the ground of an echoing prison hallway. Then they become clear."⁴⁴ The phonetic recapitulation of the passage from imprisoned to accused, from prison cell

to courtroom, which Dos Passos describes here, draws attention to a specific reverberation of simultaneous interpretation via telephone circuit.

Sound physician Ernst Chladni (1756-1827) defines reverberation as "an effect of a repeated other sound." Everything that is not repeated in a sound arrives as an echo. Reverberation and echo can therefore be distinguished based upon the timely distance of the reverb to the sound. If this mixes with the original sound we hear it as resonance, if it can be distinguished, we hear it as reverb, or echo.⁴⁵ According to Chladni a sound needs at least 1/9-second of distance to be felt as a repeated reverberation and not as a unison echo or resonance.⁴⁶

If we follow this distinction, the question arises, what kind of transmission-caused reverberation effects were at work in Nuremberg? Caused by voices, they seemed to arrive from far away within the earpiece of the headphones. If we set an eight second delay for interpretation, then, according to Chladni, the voice of the translation would come back as a reverberation. The interpreting *décalage* would therefore be an echo and not a resonance.

Translation as an echo. This relation was drawn by Walter Benjamin.⁴⁷ According to him the task of the translator is to elevate the "echo of the original." Given that we are discussing interpretation, the role of the voice becomes crucial here, a fact which Benjamin's general translation theory does not emphasise. Only the voice of the translator makes his use of metaphors from the field of sound plausible and, even more, it literalizes his acoustic metaphors. Taken literally, Benjamin's linguistic philosophy of literal translation leads to a praxis of interpretation. The voice of the translator, which should evoke the echo of the original, is the voice of the interpreter. The condition for the appearance of the echo-effect in simultaneous interpretation is the discernability of original and translation, just as a sound differs from its reverberation. The difference in time of a *décalage* correlates with the difference of original and translation in translation technology. Why does Benjamin emphasise this difference? "What differs in the reverberation evades the shout from an intention."⁴⁸

"What differs in the reverberation is, in other words, a concentration on wording that ignores intentions. Benjamin describes the translator's syntactical unit as operating very precisely - word for word - to make the alienation of the language audible.⁴⁹ Their task is, "to find the intention towards the language into which the work is to be translated, on the basis of which an echo of the original can be awakened in it. Here we encounter a characteristic of translation that decisively

distinguishes it from the poetic work, because the latter's intention never is directed toward language as such, in its totality, but solely and immediately toward certain linguistic structurings of content. However, unlike a literary work, a translation does not find itself, so to speak, in middle of the high forest of the language itself; instead, from outside it, facing it, and without entering it, the translation calls to the original within, at that one point where the echo in its own language can produce a reverberation of the foreign language's work."⁵⁰

Such a beautiful and slightly mysterious image of a forest – from which, as you shout into it, it proverbially echoes. However fulfilling the task of the translator does not make anyone into a poet.⁵¹ Whereas the poet inhabits language, the translator comes into language from a distance. They are outside of the language, they translate, and they do not hear the calls for intention and sense. Their translation dissimulates what has been said. They throw back the alien or the differences of language in the form of an echo.

Whereas a different set of questions would arise if, after 1945, the poets retreated consciously to the task of translation after the National Socialists devastated the forest of language. Moreover they may have seen their task as that of poets in throwing back the unhomely echo of the bureaucratic language of mass extermination that they were hoping to mirror in the sound of their very own language within post-war society. Authors like Peter Weiss, who adhered to a style of protocols and administration, when they came to terms with National Socialism, have produced such a reverberation. But it has often been mistaken as a resonance, with the effect that these authors had been accused of a lack of authenticity, because they did not quote from official files, but invented their own sentences.

3.

In the field of literature mistaking reverberation with resonance causes misunderstandings of authorship, whereas in the courtroom it causes problems of accusation. Who speaks when the interpreter speaks? The system of interpretation of Nuremberg divided speaker and offender. What the interpreters say, they say as a medium and not as authors of a speech. This form of dissociation between the voice and body of the accused required a series of abstractions from the American, English, French and Russian judges of Nuremberg, who called the accused to account. The accused had to identify an authorless telephone-voice heard through headphones with a

visible, but mute accused, hence an anonymous interpreter's speech with a criminal action. They had to associate a bodiless voice with a massive uniformed body and a monotonous intonation with a cold-blooded crime.

Some interpreters in Nuremberg tried – so some trial reports said – to imitate the accused in intonations and gestures, as if they wished to minimalise the distance between their own voice and the speech of the accused. Hence they tried to produce a resonance that would help them forget that [what] they were translating. But this mimetic translation is useless. The problems of translation remain. In one way or another any trial faces translation problems – as in the end any speech in front of the court passes several language barriers even without interpreter before appearing as acceptable in trial. But an intermediary translation apparatus in conjunction with the interpreter exposes any missing immediacy in court. Even the principle of orality is not able to bypass this.

The missing immediacy of speech leads to a special attribution problem in the order of interpretation as soon as the *décalage* of the interpreters is used strategically by the accused, for example, in order to control treacherous emotions. Hence a suspicion nests within the irreconcilable distance between speech and translation. Besides strategies used by the accused and their defenders, this suspicion can also refer to actual translation errors. If the translation is an echo, it is constitutive that "it is never completely true."⁵² And so the translation as an echo alienates the accused from his own speech. The suspicion of "shifts, deformations (...), that could have always-already interfered" is unavoidable in an interpretation system at court.⁵³ At Nuremberg distrust was concretized as a distrust of the migrants of German origin who worked as interpreters for the allies.⁵⁴ The defenders employed so-called language-spies, who switched back and forth between the channels of the interpretation system, in order to reveal mistakes in translation.

The tribunal at Nuremberg in endeavouring to produce a *fair trial* was suspicious that interpreters deliberately translated incorrectly, and that the accused misused the timely gap in transmission to gain an advantage and better present themselves. Furthermore the tribunal itself was suspected of not being able to handle its language problems, and therefore also suspected of not being able to act fairly. Trial reports often mention that the audience also switched between the four channels of the interpretation system, just like the language spies employed by the tribunal.⁵⁵ While

zapping through the language channels it became apparent that the technologies of relay translation could actually hide things. It proved that the language gaps, with which the trial had to struggle, to the ears of bilingual listeners like those of journalist and writer Wilhelm Emanuel Süskind were significant. "Always again it (the combination of words by the interpreters) speaks to me through the head phones, and (...) I (...) compare how this expression is taken in its English translation."⁵⁶ Süskind concludes that the National Socialists' language of bureaucracy is untranslatable. How can one translate, he asks, "Großeinsatz" or "kolonnenmäßigen Einsatz"? Maybe as *large-scale assessment* and *emplotment in columns*?⁵⁷ And would one expect that these harmless terms would be able to reveal the mortal factum of the task forces?⁵⁸

What had appeared as a problem to polyglot observers during the trial does not exist anymore in the trial's afterlife. As a form of writing, transcribed speech, sublime to all suspicions, has been cleaned of all language-gaps. Language confusion as well as untranslatability does not exist in the files of Nuremberg. The tribunal solved the problem at the level of writing, the very same level that it had followed in structuring its aims. The Nuremberg Trials were mainly interested in producing sources, and that meant producing files (mainly from Nazi files),⁵⁹ which contained a juridically accredited historical truth, to which all following court cases as well as generations of historians would refer.⁶⁰

Consequentially in Nuremberg great accuracy was used for the written deliverance of the trial, the *recording* of which was a synonym for a *fair trial* in Nuremberg.⁶¹ Following the rules of procedure of the International Military Courts of Justice an oral hearing had to be realised in a stenographic proceeding.⁶² Then the Official Proceedings in all four languages – with German as the official version – had to be produced from it. Stenographs transcribed the speeches in court in the languages of the Allies and the accused.⁶³ They were connected with the events in court through headphones like everybody else in the courtroom and they stenographed therefore only those words which were spoken into the microphones. Interjections from other languages remained unheard to the ears of the stenographers as was the word "Schweinehund" that was flung against a witness by Göring, which a trial observer reported in posterity.⁶⁴

Not all the words that ran through the interpreting relay found their way into the Proceedings. "Unnecessary translation" should be left out. A couple of times there

appear orders in the Proceedings of the Nuremberg Trials, that the documents that are used in court should not be included in the Proceedings in their entirety, but only the quoted parts, so as to avoid "unnecessary translations."⁶⁵ For the final edition of the Proceedings stenographic rewriting was cross-referenced with other media recordings. In the evenings it is said, the lights never went off in the Nuremberg Courts of Justice Building.⁶⁶ Adjustments of the daily record were made through comparison with the recordings on tape, record-disc and film to clarify the language confusion of the trial.⁶⁷ The subsequent adjustment brought semantic coherence to the sentences, which the simultaneous process had been unable to achieve.

The legal Proceedings that were produced for posterity were sanitized of any language-gaps. This retroactively produced record is prohibited from being readjusted again in reverse, whether from written proceedings to oral speeches and translations. At least the main Trial of Nuremberg can no longer be cross-referenced, because all records of the interpreters' voices on tape and disc have been lost, for whatever technical reason.⁶⁸ What remains are forty volumes of the Official Proceedings of the Nuremberg Trials, which line up to canonise the sources of the Holocaust. In extracts they record closely the process of the trial, but they contain not a word about the interpretative installation and the interpreters, who had been the real masters of the trial.

Nothing has changed since in the technical organization of trials, although the interpreters' cabins in later war crime tribunals in Den Haag were to become more discrete, the headphones less noisy and the wiring less visible. An unmistakable hint at its origin in Nuremberg is the level of noise, which is still present in Den Haag despite all technological refinements. A trial observer of the tribunal against Milošević in 2002, Peter Handke, noted: "And I'm not used to that permanent noise, loud voices, slamming doors to the visitor's room open to the staircase during the trial, which led me to – even with reluctance – putting on the headphones (but even then the noise came through, and at the third time, now in June, the process had to be interrupted, because someone next door started working with a drill)"⁶⁹.

This level of noise would be prohibited in a regular court, which always advocates silence. And even if the noise and the language confusion of the interpreters in Den Haag has now subsided to a level of none-recognition, this will not convert it into a regular court. The rhythm of simultaneity, which arrived with the interpreter's system

at the International Courts of Justice, is categorically different from the mode of emulation in which a regular trial operates.

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Notes

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¹ Antoine Garapon, Justice out of Court; The Dangers of Trial by Media, in: David Nelken (ed.), Law as Communication, Aldershot England, 1992, p 231-245, here: p. 236.

² See also Ruti G. Teitel, Transitional Justice, New York, 2000.

³ On the difficulties of translation because pronunciation, facilities and past had been unknown, see Francesca Griba, The Origins of Simultaneous Interpretation: The Nuremberg Trial, Ottawa, 1998, p. 103. As it was the case in the main trial. In the following trials French and Russian were renounced.

⁴ Translators note on *dolmetsch*: Vismann uses the German term *dolmetscher* for interpreter, a form of translation that happens simultaneously to the original speech, or *dolmetschen* for interpreting. This word epistemologically derives from a Turkish term. The German term hence lacks the relation to interpretation as a form of reading, whereas she also says below, that this is precisely what an interpreter /*dolmetscher* does not. See also note xx.

⁵ Internationaler Militärgerichtshof Nürnberg (Hg.), Der Prozess gegen die Hauptkriegsverbrecher vor dem Internationalen Militärgerichtshof, Nürnberg, 14. November 1945-1. Oktober 1946, München 1947-49, here d 1, p 16.

⁶ Under the aspect of multilingualism the international courts of justice were without precedence. On vague precursors in criminal courts, see: Lawrence Douglas, The Memory of Judgement. Making Law and History in the Trials of the Holocaust, New Haven, London, 2001, p. 17, and Teitel, Transitional Justice, p 34 f.

⁷ More precisely: Joseph Persico, Nuremberg, Infamy of a Trial, New York 1994, p. 53. On the economisation while reading documents of evidence in the trial see Douglas, Memory, p. 18

⁸ Ingrid Kurz, Simultandolmetschen als Gegenstand der interdisziplinären Forschung, Wien 1996, p. 23.

⁹ Edwin Black, IBM and the Holocaust, New York 2001, 421. Persico, Nuremberg, p. 54. Ann Tusa, John Tusa, Nuremberg Trial, London 1995, p. 109 f.

¹⁰ Götz Aly, Karl-Heinz Roth, Die restlose Erfassung. Volkszählen, Identifizieren, Aussondern im Nationalsozialismus, Frankfurt am Main 2000 (Originalausgabe 1984), p. 21 ff. Black mentions - vaguely - the calculation of bomb destruction with Dehomag-Operators as another logistical work, Black, IBM, p 422.

¹¹ Kurz, Simultandolmetschen, p. 34.

¹² Gaiba, Origins, P. 68.

¹³ Interpreters were seeing the prosecution from the right profile. More precise: They were seeing lectern, judge's table and prosecution. They were not able to see the screen on which films as proofs were projected and the witnesses stand. Kurz, Simultandolmetschen, p. 24, Gaiba, Origins, p. 67.

¹⁴ Four microphones were reserved for the judges, one for the witness' stand and one for the lectern, Kurz, Simultandolmetschen, p. 24. Less specific Gaiba, Origin, p. 61.

¹⁵ Gaiba, Origins, p. 16, After Kurz, their *time lag* varies individually. Kurz, Simultandolmetschen, p. 106.

¹⁶ After Trésor de la Langue Française, part 16, Paris 1978, "Décalage" origins form 'cale' - wedge.

¹⁷ Raul Hilberg, Die Quellen des Holocaust. Entschlüsseln und Interpretieren, Frankfurt am Main 2002, p. 39, 43.

¹⁸ After Kurz, Simultandolmetschen, p. 26

¹⁹ Standing Orders of the Highest Council of the German Reich (transl. note)

²⁰ See in more detail: Cornelia Vismann, Akten. Medientechnik und Recht, Frankfurt am Main, 2000, p. 289f.

²¹ Kurz, Simultandolmetschen, p.26, Gaiba, Origins, p.101

²² As in Gaiba, Origins, p.16

²³ For the distinction between trial and tribunal see Cornelia Vismann, Tele-Tribunals. Anatomy of a medium, in: Greyroom 10 (2002), p. 5-21.

²⁴ At that time there were no educated interpreters. On the difficulties of recruitment Gaiba, Origins, p 40 ff.

²⁵ the word *Dolmetscher* can be traced back "with amazingly little transformation for about 3500 years, back to the language of Mitanni from Asia Minor, which was spoken in northern Syria and Mesopotamia, Thomas Kling, Itinerar, Frankfurt am Main, 1997, p. 53.

²⁶ Jörg Mauthe, "Script-Department - Was ist das?", in: Wolfgang Kudronofsky, Vom dritten Reich zum Dritten Mann. Helmut Qualtingers Welt der vierziger Jahre, Wien, Zürich, München 1973, p. 247-255, here: p 254.

²⁷ Hans Höller, Ingeborg Bachmann, Reinbek b. Hamburg 1999, p. 47.

²⁸ Ingeborg Bachmann, in: Werke 2, Erzählungen, hg. von Christine Koschel, Inge von Weidenbaum, CLEMENS Münster, München, Zürich 1982, p. 284 - 317, here: p 295

²⁹ *ibid.*

³⁰ Kurz, Simultandolmetschen, p. 72

³¹ Henry A. Lea, Verfolger und Verfolgte: Wolfgang Hildesheimers Erfahrungen der Nürnberger Prozesse, in the same reader, p. 76.

³² Kurz, Simultandolmetschen, p. 93, 99.

- ³³ see also Firedrich Kittler, *Signal – Rausch – Abstand*, in: s.a. *Draculas Vermächtnis*, Technische Schriften, Leipzig, 1993, p. 161-181, here p. 168.
- ³⁴ Translators note
- ³⁵ Gaiba, *Origins*, p. 67.
- ³⁶ See also Bettine Menke, *Prosopopoiia*, *Stimme und Text bei Brentano, Hoffmann, Kleist und Kafka*, München 2000, p. 481.
- ³⁷ Menke, *Prosopopoiia*, p. 461, Kittler, *Signal – Rausch – Abstand*, p. 169.
- ³⁸ David Grever, *The effects of Noise on the Performance of Simultaneous Interpreters: Accuracy of Performance*, in: *Acta Psychologica* 38 (1974), p. 159-167.
- ³⁹ Kurz, *Simultandolmetschen*, p. 169.
- ⁴⁰ see here more precisely Lea, *ibid.*, in this reader, p. 75. f.
- ⁴¹ Henry Matthews in the prologue of his monography: *Observations on Sound* (1826), quoted after Avital Ronell, *The Telephonebook*. Nebraska, 1989, p. 435, note 108. On the acoustic problem in court rooms and other public buildings see also Menke, *Prosopopoiia*, p. 319 (esp. note 3) and p. 382 f., Menke, *Die Wiederholung, die das Echo ist*, in: Klaus Müller-Woille, Detlef Roth, Jörg Wiesel (ed.), *Wunsch – Maschine – Wiederholung*, Freiburg 2003, p. 167-192, here p. 176 (note 25)
- ⁴² Translator's note: *reverb, reverberation, echo, Hall, Nachhall, Wiederhall*
- ⁴³ Gaibe, *Origins*, p.69
- ⁴⁴ *Nürnberger Tagebuch vom 19.November 1945*, after Steffen Radlmeier (ed.), *Der Nürnbergrer Lernprozess – Von Kriegsverbrechern und Starrreportern*, Frankfurt am Main 2001, p. 55.
- ⁴⁵ see note 45
- ⁴⁶ After Menke, *Prosopopoiia*, p. 477. "The distance that comes from the echo, gets audible in a timely hiatus." Bettine Menke, *Die Wiederholung*, p. 182.
- ⁴⁷ Walter Benjamin, *The Task of the Translator(WO?)*, See here (problematising this relation) Menke *Prosopopoiia*, p. 312 (Rem. 1) and Menke, *Die Wiederholung*. Bettine Menke finds the echo of Benjamin's echo of translation in a text of the baroque poet Harsdörffer, in which he locates the echo (Gegenhall) in "trees and bushes." Bettine Menke, 'Wie man in den Wald hineinruft, ...' – Echo der Übersetzung, in Christiaan Hart Nibbrig, *Übersetzen: Walter Benjamin*, Frankfurt am Main, 2001, p. 367-392, here p 385.
- ⁴⁸ Menke, *Die Wiederholung*, p. 168
- ⁴⁹ On literalness of translation, see esp. Menke, 'Wie man in den Wald...', p.381
- ⁵⁰ Benjamin, *The Task of the translator*", here version: Steven Rendall, *traduction, terminologie, rédaction*, vol. 10, n° 2, 1997, p. 151-165.
- ⁵¹ Translator's note: "As one shouts into the forest, its echo comes around." is a German proverb which means: What goes around, comes around.
- ⁵² Karl Maurer, quot. after Menke, *Die Wiederholung*, p. 178, see also there for non-identical translation. Also Menke, 'Wie man in den Wald' p. 381.
- ⁵³ Menke, *Prsopopoiia*, p. 314, dies., *Die Wiederholung*, p. 171, 180.
- ⁵⁴ Oral note from Henry A. Lea
- ⁵⁵ See here reports in Radlmeier (ed.), *Nürnberger Lernprozess*, p. 26 f, 48.
- ⁵⁶ Trial report by W.E. Süskind in *Süddeutsche Zeitung* on 18.12.1945, after Radlmeier (ed.), *Nürnberger Lernprozess*, p. 182 f.
- ⁵⁷ These are examples that W.E. Süskind uses in his trial report in *Süddeutsche Zeitung* on 18.12.1945, after Radlmeier (ed.), *Nürnberger Lernprozess*, p. 183.
- ⁵⁸ see here also Lea, *ibid.*, in this reader, p.70 ff.
- ⁵⁹ "Vorlagen, Niederschriften und alle Urkunden, die eingereicht werden sind Bestandteil des Protokolls". *Vorschrift 9 der Verfahrensordnung des Internationalen Strafgerichtshofs, Internationaler Militärgerichtshof Nürnberg* (ed.), *Prozess gegen die Hauptkriegsverbrecher*, Bd. 1, p. 20 ff.
- ⁶⁰ Teitel, *transitional Justice*, p. 73, Hilberg, *Quellen*, p. 240.
- ⁶¹ Gaiba, *Origins*, p. 99
- ⁶² *Vorschrift 9 der Verfahrensordnung des Internationalen Strafgerichtshofs, Internationaler Militärgerichtshof Nürnberg* (ed.), *Prozess gegen die Hauptkriegsverbrecher*, Bd. 1, p. 20 ff.
- ⁶³ Gaiba, *Origins*, p. 97
- ⁶⁴ Gaiba, *Orignis*, p. 83
- ⁶⁵ So as in the protocol of March 8th, 1946, *International Military Court of Justice Nuremberg* (Ed.), *Process agains the main war criminals*, bd. 9, p. 7.
- ⁶⁶ the court building is enlightened all night long, because of the never-ending translations, copies, transcriptions. Trial report by W.E. Süskind in *Süddeutsche Zeitung*, 18.12.1945, after Radlmeier (ed.), *Nürnberger Lernprozeß*, p. 183.
- ⁶⁷ Gaiba, *Origins*, p. 95ff, Tusa/Tusa; *Nuremberg Trial*, p.110.
- ⁶⁸ Gaiba, *Origins*, p. 96.
- ⁶⁹ Peter Handke, *Rund um das große Tribunal*, Frankfurt am Main 2003, p. 35-38.