

INTRODUCTION:

TRANSLATION, TREATIES AND TESTIMONIES

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This special issue of *Sites* is devoted to the twin themes of ‘cultural translation’ and the politics of interpretation. The term ‘translation’ generally sums up the problem of how something said or written in one language can be faithfully reproduced or expressed in another. The assumption here is that the seeming incommensurability of different languages and modes of thought can somehow be bridged by finding the right idiom through which the concepts, meanings and sentiments of one culture can be accurately transposed across linguistic and cultural barriers. What the contributors to this volume illustrate, both individually and collectively, is that translation is a process fraught with difficulties. Those difficulties are linguistic and practical as well as epistemological and political. Perhaps nowhere are the dilemmas of translation more apparent than in debates over the meaning of treaties, constitutions and other legal documents. Let me begin, therefore, with a brief illustration of a legal dispute that I observed while living in the United States, which set me thinking about anthropology and the politics of interpreting constitutional texts.

In December 2002 a case was brought before the US Supreme Court in Washington over whether burning wooden crosses by the Ku Klux Klan should be considered a crime (Bell 2004; Tsesis 2004). The Virginia Supreme Court, which brought the case, was seeking to overturn a 50-year old state law that banned cross burning ‘with intent to intimidate any person or persons’. Its argument was that this ban contravened the First Amendment of the US constitution, which guarantees freedom of speech, and that cross burning was not incitement to racial hatred but rather a form of ‘symbolic communication’ that, like a free press, should be guaranteed legal protection.¹ The core of the legal argument hinged on the issue of whether words are ‘merely words’, or whether they should be regarded as ‘speech actions’ and symbolic forms that necessarily have effects upon the world.² Interestingly, both the US public and media were sharply divided on the issue, and even liberal newspapers like the

Boston Phoenix, came out in support of the Virginia Supreme Court arguing that ‘stamping out the burning cross could begin a slide down the slippery slope of censorship to avoid offending people.’³ In the event, the US Supreme Court voted 6–3 to uphold the Virginia law, rejecting the claim that this muzzled free speech.

There are many ways we might interpret the anthropological significance of this incident and the contemporary cultural issues it raises - which include racism, violence, the analysis of symbols, and the vast legal industry that has grown up around interpreting the articles and sometimes contradictory amendments of the hallowed US Constitution. As Mike Goldsmith (this volume) wryly observes for New Zealand and the plethora of different meanings that have been attributed to the Treaty of Waitangi since 1840, ‘semiosis is potentially endless’. Extracting new meanings from old articles would seem to be something of a professional pastime for lawyers and anthropologists alike. However, perhaps the main (albeit obvious) point that this story raises is that translation is rarely an innocent or neutral activity and that every translation of a treaty or constitutional text is invariably entangled in the politics of interpretation and location: a constant process of negotiation and re-negotiating as past meanings are brought into alignment with present-day political and cultural agendas. This is perhaps the overriding theme that emerges from this collection of essays too. To give a slightly different twist to this argument, if translating treaties and interpreting legal and ethical norms raises problems for cultural analysis, then it is equally the case that translating *culture* often raises problems of a highly ethical, moral, political and legal nature. Salman Rushdie’s controversial philosophical novel *The Satanic Verses* provides another interesting illustration of this point. As I recall, part of what led to the book being banned in India and condemned throughout much of the Muslim world was not only its apparent questioning of the infallibility of the holy Qu’ran and its commentary on the wives of the Prophet Mohammed, but also its ‘heretical’ probing of the uncertainties governing the circumstances under which the Qu’ran came into existence – and its suggestion that the individual who ‘transcribed’ the words of Mohammed did so with a measure of poetic license. It is ironic, given that Rushdie has long been a fierce critic of American policy abroad, that his novel was used by Islamic clerics to reinforce their image of the United States (and its allies) as the Great Satan, and that the very people Rushdie thought he was writing for were those most ardently participating in the ritual burning and condemnation of his book.⁴ The politics of interpretation are echoed at every stage in the history of the ‘Rushdie Affair’ (Asad 1993). Whereas Christian missionaries have translated the Bible from Latin into vernacular languages throughout the world (although in medieval

times this was a capital offence),⁵ it is precisely concerns about loss of authority and betrayal of the ‘word of God’ that has made Islamic clerics so resistant to translating the Qu’ran outside of its native Arabic (Pálsson 1993).

The relationship between translation, morality and politics is an issue flagged throughout these essays. The volume has its origins in the ASAA/NZ conference held at the University of Auckland in December 2004. The theme for that conference was, fittingly, ‘Translations, Treaties and Testimonies: The Cultural Politics of Interpretation’. I say fittingly because events in New Zealand politics at that time made this a particularly salient subject for debate. That wider national context included an impending general election, growing Maori unrest at new government legislation concerning ownership of the Foreshore and Seabed (an issue that provoked wildly differing interpretations), and an overt attempt by Dr. Don Brash, the recently elected leader of the National Party, to challenge New Zealand’s official policy of biculturalism and question the post-1980s national consensus on questions of race, multiculturalism and the status of the Treaty of Waitangi. However, as conference organisers we were conscious of the need for anthropology to broaden the terms of the debate and push the analysis beyond New Zealand and, indeed, beyond the confines of law, treaty disputes and textual analysis. By taking a larger and more inclusive approach to the question of translation, we also hoped to provide a broader ethnographic context for exploring these debates, one that includes the personal, everyday dimensions of the way translation works, including situations of inter-cultural communication, the exchange of ideas, interpretations of the past, and the ‘translation’ of ideas and policies into practice.

From this brief commentary it should become apparent that the term ‘translation’ is being used here (as it was during our conference debates) in a number of alternative ways, some of which have more to do with *interpretation* and *explanation* – or even *application* – than elucidation and understanding. But this is precisely the point: ‘translation’ is a polysemous term that is used to express different things, both by anthropologists and by the peoples they study. Part of the task for anthropological analysis, therefore, is to identify the different concepts of translation that people use, the ways these are put to work in different contexts, and their overlapping – and sometimes contradictory – layers of meaning.

A key aim of the 2004 ASAA/NZ conference was to interrogate the idea of ‘cultural translation’ and question its utility as an analytical concept. ‘Translation’, as several of the contributors to this volume note, is sometimes used as an idiom for anthropology itself: like professional brokers or ‘cultural interme-

diaries', the role of anthropologist is to translate between cultural worlds in order to render the concepts and cosmologies of alien cultures comprehensible in the idioms of our own language. However, as anthropologists we know only too well that this is an ambitious and optimistic ideal, that the meaning of words cannot always be 'carried' from one language to another and that our translations often result in *misunderstanding* or *incomprehension*. We also know, as Jackson (this volume) reminds us, that 'unspoken political and ethical judgments influence every translation'. These complications arise not only because of the irreducible differences between languages and people and the 'lack of fit' between different classificatory systems (Ardener 1971), but also because translating – certainly where legal meanings are concerned – is an unavoidably political act, and one shaped by the power relations between the parties involved (Asad 1986).

THE SCOPE OF THIS VOLUME

The articles in this volume set out to examine some of the social processes involved in attempts to negotiate meaning cross-culturally or between different levels of social and political organisation. We have chosen to emphasize treaties and formal texts because they provide an especially useful arena for probing these themes ethnographically and historically. At the same time, they also compel us to engage with the perspectives of other disciplines concerned with legal and constitutional issues, including law, politics and international relations. However, as with our approach to the concept of 'translation' we have taken the term 'treaty' in its broadest sense to include any 'formally ratified or concluded agreement between persons'. Seen in this light, 'treaties' include interactions and exchanges not only between states and government officials, but also between companies, informal groups and individuals. In order to assist with the comparative aspect of this project, our contributors were asked to focus their analyses around a set of common questions:

- How are cultural meanings articulated and negotiated in formal treaties?
- How do formal and informal political processes shape negotiations?
- What kinds of metaphor do the different parties involved use and what are their implications?
- Are there any concepts or idioms that cannot be meaningfully translated? And if some meanings are lost in the translation, what are the consequences?

- How are disputes avoided or settled? And why is ambiguity sometimes encouraged?
- How are problems of translation reflected in non-verbal ways?

The opening essay by Cris Shore surveys some of the main points of contention in anthropological debates over the problem of cultural translation, focusing on the different ways that the idea of translation has been conceptualized. One way of exploring these different conceptions, I suggest, is by analyzing the idioms and root metaphors that are used to convey the idea of translation. However, central to the debate about the *meaning* of translation is the question of whether it is best depicted as an act of ‘empathy’ and ‘dialogue’ or ‘appropriation’, ‘domination’ and ‘betrayal’. These themes are explored in the context of the European Union, its draft constitutional treaty, and the starkly contrasting ways that it was interpreted by political leaders in different EU member states. My analysis highlights the various hidden political agendas and power plays at work behind these treaty debates and the (so far unsuccessful) tactics that were used to get the document ratified. I conclude that cultural translation raises problems that go beyond questions of language and meaning, and that we must also focus also on the politics of location and institutional practice if we are to fully understand what translating entails.

The role of metaphors in shaping the way treaties are interpreted is a theme closely explored in Richard Dawson’s essay. The Reverend Henry Williams is often blamed for failing to deliver an ‘accurate’ translation of the Treaty of Waitangi into Maori. However, Dawson suggests that the problem perhaps lies more in our unrealistic understanding of translation and, specifically, the often unexamined ‘conveyor’ metaphor which leads us to imagine that the meaning of keywords (such as ‘sovereignty’ and ‘rights’) can simply be picked up and moved from one language to another like pieces of household furniture. The problem, however, is that the English version (‘the Treaty’) and Maori version (*te Tiriti*) say different things and are substantially at odds with each other. One of the reasons for this stems from what Bruce Biggs (1989) aptly termed the ‘Humpty-Dumpty principle’; the assumption that one can assign new meanings from the source language (in this case English) to an existing word in the target language (Maori). ‘The hope is that by re-defining an indigenous word by fiat, as it were, it will mean what it has been chosen to mean’ (Biggs 1989: 304). The problem is that words do not mean exactly what we choose them to mean, nor is this dilemma resolved simply by borrowing a word from the source language (such as ‘governorship’ or the Christian idea of ‘forgiveness’) in order to introduce a new concept into the target language.

Despite these difficulties, Dawson concludes optimistically that it is possible to overcome the ‘misery’ of translation and engage in conversation if issues of justice are addressed.

The next two papers also have an explicitly New Zealand and Maori-English focus. Michael Goldsmith looks at a hitherto unexplored dimension of the Treaty of Waitangi: namely, the way it represents the Treaty partners, particularly the ‘Crown subjects’, a term sometimes conflated with ‘Pakeha’. Goldsmith shows that the identities of those assumed to be the Treaty signatories are far less straightforward than is commonly assumed, and in doing so, he raises deeper questions about the purpose of the Treaty and who it was signed for – and what the term ‘Pakeha’ most likely meant in 1840, in contrast to its contemporary uses and meanings.

The importance of understanding the subtle and often elusive meanings of words in their proper ethnographic context is poignantly illustrated in Joan Metge’s short essay. Drawing on over five decades of fieldwork among Maori, Metge explores some of the creative and subversive ways in which Maori use language and silence to convey different messages, and her own journey in discovering those meanings. Whereas many contributors focus on the *problems* of translation, Metge’s essay celebrates the way Maori play with language, and the often humorous consequences of mis-translation.

Moving beyond New Zealand, Eveline Dürr’s essay shifts our attention to the issue of legal pluralism in Mexico, and its impact on social relations in a small southern municipality in Oaxaca. Following the 1992 constitutional reform, the Mexican government set out to acknowledge indigenous rights and local autonomy, advancing the principle that indigenous communities should be able to regulate their own affairs by customary law (*usos y consumbres*). However, as Dürr shows, this policy exacerbated local divisions resulting in one town council faction promoting an essentialized and static notion of culture and an idealization of practices defined as ‘traditional’, and another drawing political capital from the discourse of democracy and modernity. What her study illustrates, beyond the ambiguous implications of translating laws into practice, is the way that ‘ethnic’ groups are themselves produced by practices of a political and legal kind.

The remaining two papers by Trnka and Jackson both explore, *inter alia*, dimensions of translation that go beyond spoken or written language. Based on many months of observing patient-doctor interactions in a Fijian health clinic, Susanna Trnka looks at the way Indo-Fijian women’s complaints about

bodily pain are translated, both by themselves and by their community, as well as by doctors in the clinic. Her analysis shifts the focus beyond this local and empirical setting in order to situate expressions of bodily pain in the wider context of Hindu notions of gender, morality and personhood. For Indo-Fijian women, expressions of pain are thus not only intended to communicate personal physical discomfort, they also serve to communicate women's pride in their work efforts and, more importantly, the need to have the value of their labour socially recognized.

Our final paper also reflects on unspoken aspects of translation and the strategies used to communicate pain. Michael Jackson provides a moving personal narrative account of the way people come to terms with loss, suffering and reconstruction in war-torn Sierra Leone. Yet mingled within his often poetic reflections on existentialism and pain is a powerful critique of Western human rights rhetoric, which not only fails to capture or translate Sierra Leonean understandings of suffering and reconciliation and the way these are embodied in discourse and practice, but also disguises and perpetuates power inequalities between Africa and the West. His message is that translation is not simply a matter of 'doing justice to the speech or writing of others', but rather a path to greater self-understanding and a way of forestalling the often harmful unspoken ethical and political judgments that shape relations between Africa and the West.

Taken together, these essays provide a timely reminder that the politics of interpretation underlie every translation and transaction. They also show why the concept of 'cultural translation', despite its limited value and shortcomings as an analytical category, nonetheless continues to be a productive and central theme in contemporary social anthropology.

NOTES

- 1 NB. To give some context: Cross burning is a potent symbol of Ku Klux Klan white supremacists. Between 1882 and 1930 there were 2,500 documented case of African-Americans lynched in Southern US states.
- 2 There are interesting parallels here with the case of the Italian Marxist intellectual, Toni Negri, who was convicted of 'crimes of association' and insurrection against the state (a charge later dropped) and sentenced to 30 years in jail on the basis that he was 'morally responsible' for acts of violence against the Italian state during the 1960s and 1970s, due to his writings and association with revolutionary causes and groups. The burning issue of contention here

was whether it is legal to prosecute someone not for their deeds, but for their political thoughts and writings – an issue that has again resurfaced in Britain over radical Muslim clerics in the wake of the July 2005 London bombings in London. Perhaps a useful comparison in a New Zealand context could be made with the law regarding burning of the national flag (which was made illegal in 1981 by the National Party government of Robert Muldoon).

- 3 Harvey A. Silvergate 2002 'Freedom Watch. Free-speech fire drill', *Boston Phoenix* 20 December 2002: 24.
- 4 Rushdie himself has written of the dismay caused to him as a writer of fiction by the response to his novel. 'The saddest irony of all, Rushdie admits, 'was that after working for five years to give voice and fictional flesh to the immigrant culture of which I am myself a member, I should see my book burned, largely unread, by the people it is about, people who might find some pleasure and much recognition in its pages. Cited in Lisa Jardine 1998 'Book Review. The Satanic Verses' *New Statesman* 4 December.
http://www.findarticles.com/p/articles/mi_moFQP/is_4414_127/ai_53567097#
[accessed 27/10/2005]
- 5 I am grateful to Christine Dureau for reminding me of this point.

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