



ENGLISH FIRST FOUNDATION

OUR SYMBOL IS THE STATUE OF LIBERTY TORCH, CAPTURING THE SPIRIT OF IMMIGRANTS WHO LEARNED ENGLISH AND BECAME FULL MEMBERS OF AMERICANS SOCIETY

English First Foundation Special Report:

Translation, bin Laden and E.O. 13166

by

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BIN LADEN: (...Inaudible...) we calculated in advance the number of casualties from the enemy, who would be killed based on the position of the tower. We calculated that the floors that would be hit would be three or four floors. I was the most optimistic of them all. (...Inaudible...) due to my experience in this field, I was thinking that the fire from the gas in the plane would melt the iron structure of the building and collapse the area where the plane hit and all the floors above it only. This is all that we had hoped for.¹

Person's who are unfamiliar with Arabic translation issues have received a crash course in the subject thanks to the release of the Osama bin Laden videotape and the debate the translation of that videotape has engendered.

The English translation of bin Laden's words was prepared for the Pentagon by two experts in Arabic: George Michael, a translator from the Diplomatic Language Services, and Kassem M. Wahba, the Arabic language program coordinator from the School of Advanced International Studies at Johns Hopkins University.² It is worth noting that even these experts could not always agree:

The two translators hired to turn Osama bin Laden's spoken Arabic into understandable English disagreed at times over what he and his associates were saying. That explains why a transcript of the videotaped conversation, broadcast around the world Thursday, is punctuated throughout with the word "inaudible," said translator George Michael. . . . When they disagreed over what bin Laden, suspected of plotting the Sept. 11 terrorist attacks, or his companions had said, "we would say, 'inaudible,' even if we were 50-60 percent sure," said Michael.³

Some speakers of Arabic praised the translation: "Ahmed Mourad Hussein, 33, an engineer, said . . . 'I am sure that the translation is right because I heard the Arabic.'"⁴ There were also those who rejected it:

¹ "Excerpts From Bin Laden Videotape," *Reuters*, December 13, 2001, http://dailynews.yahoo.com/h/nm/20011213/ts/attack_videotape_transcript_dc_3.html.

² "U.S. Officials Look for Clues in Bin Laden Tape," *ABC News*, December 14, 2001 http://dailynews.yahoo.com/h/abc/20011214/wl/obltaperelease011214_1.html.

³ "Translators Found Tape Difficult," *Associated Press*, December 13, 2001, http://dailynews.yahoo.com/htx/ap/20011213/us/bin_laden_translators_1.html.

⁴ Marjorie Miller, "Many Watch, but Opinions Mostly Unchanged," *Los Angeles Times*, December 15, 2001, <http://www.latimes.com/news/opinion/commentary/la-000099385dec15.story?coll=la%2Dnews%2Dcomment>.

US President George W. Bush needn't have been enraged that there were those who doubted the tape's authenticity. It would have done him no good for any number of experts - even Islamists familiar with the discourse of the Islamist currents in the region and with bin Laden and his views, thinking and religious background - to verify the tape's authenticity and confirm that everything in it was consistent with that current's views.⁵

Still other Arabic speakers complained of omissions of relevant details: "The translators missed a lot of things on the tape," said Ali Al-Ahmed, director of the Saudi Institute, an organization that promotes human rights in Saudi Arabia.⁶

Arabic: Not One Tongue But Many

Much of the honest debate over the bin Laden translation is because of the many variations of spoken Arabic. Arabic is not one language, but many. Just as there are differences between American English and British English, there are also variations of Arabic.

Professor Alan Kaye of California State University Fullerton explains:

The colloquial dialects [of Arabic] number in the thousands. . . .the differences between many colloquials and the classical language are so great that a *fallah* [peasant] who has never been to school could hardly understand more than a few scattered words and expressions in it without great difficulty. . . . [T]here can be a high degree of mutual unintelligibility among the various colloquial dialects, where a Syrian Arabic-speaking friend of mine once heard a tape of a Nigerian speaking Nigerian Arabic and confessed he understood almost nothing of it.⁷

⁵ Jamal Khashoggi, "Osama's videotape is only a sideshow: 'Interview' unlikely to sway Arab masses - nor should it," [Lebanon] *Daily Star*, December 20, 2001, http://www.dailystar.com.lb/20_12_01/art24.htm.

⁶ "Bin Laden named nine hijackers on tape, not one," *CNN*, December 21, 2001, <http://www.cnn.com/2001/US/12/20/ret.bin.laden.translation/index.html>. The article states:

One more striking example of detail left out of the government translation, according to Al-Ahmed and the independent translator: Bin Laden's description of exactly what he said to others just before the radio announcement that the first of the attacks had succeeded.

They quoted him as saying he told followers, "When you hear a breaking news announcement on the radio, kneel immediately, and that means they have hit the World Trade Center."

⁷ Alan Kaye, California State University Fullerton, "Arabic," in Bernard Comrie (ed.), *The*

Translation and a bin Laden Trial: More Problems Ahead

Given the variations of spoken Arabic, it is not unexpected that there would be arguments over how bin Laden's words should be translated. These arguments are likely to increase should bin Laden be captured and brought back to the United States for trial.

Al-Sharq, a Qatar newspaper raised this issue early on: "If the United States was confident of the 'proof' contained in the tape, then the tape should have first appeared in a court of law and not on the television screen."⁸

Legal experts questioned on the subject suggested that bin Laden's defense would put every aspect of the videotape on trial, including the translation. Anne Gearan, who covers the Supreme Court for the *Associated Press* news service, notes:

To keep a jury from seeing the tape in court, a defense lawyer would try to convince a judge that the government had failed to prove the tape is for real - that the speaker really is bin Laden, that the tape was not doctored, *that the translation*

World's Major Languages (1990) at 667, 676. This translation problem is far less when dealing with written Arabic:

[M]odern standard Arabic . . . is essentially a modernised (sic) form of Classical Arabic. . . . The Holy Qur'an . . . eventually became the model for the classical language. Surprisingly enough, due principally to Islam, the classical language has changed in grammar very little since the seventh century AD.

The author Toby Lester in "What is the Koran," *Atlantic Monthly*, January 1999, <http://www.theatlantic.com/issues/99jan/koran.htm>, quotes other experts who argue that the meaning of written Arabic has changed since the seventh century:

Gerd-R. Puin speaks with disdain about the traditional willingness, on the part of Muslim and Western scholars, to accept the conventional understanding of the Koran. "The Koran claims for itself that it is 'mubeen,' or 'clear,'" he says. "But if you look at it, you will notice that every fifth sentence or so simply doesn't make sense. Many Muslims -- and Orientalists -- will tell you otherwise, of course, but the fact is that a fifth of the Koranic text is just incomprehensible.

This is what has caused the traditional anxiety regarding translation. If the Koran is not comprehensible -- if it can't even be understood in Arabic -- then it's not translatable.

⁸ "Arab Newspapers Downplay Bin Laden," *Associated Press*, December 14, 2001 http://dailynews.yahoo.com/h/ap/20011214/wl/mideast_bin_laden_tape_5.html.

is accurate. . . . If the judge were not swayed, the next step would be to try to raise doubts about the tape in the minds of jurors (emphasis added).⁹

To recall the success the O.J. Simpson defense team had in sowing reasonable doubt in the minds of a jury is to understand the practical difficulties this line of attack would cause the bin Laden's prosecutors. There will always be some translator somewhere available to argue about translation accuracy.

This sort of problem already occurs in courtrooms in which Spanish is translated. In the case of *United States v. Perez*,¹⁰ a juror debated translation accuracy in open court:

JUROR: I understand the word *La Vado* -- I thought it meant restroom. She translates it as bar.

INTERPRETER: In the first place, the jurors are not to listen to the Spanish, but to the English. I am a certified interpreter.

JUROR: You're an idiot.¹¹

The Arabic Translation Problem and E.O. 13166

The debate over the completeness and accuracy of the U.S. government's translation of a videotape of Osama bin Laden's discussing the attack on New York's World Trade Center is worth considering in the context of Clinton Executive Order 13166.¹²

E.O. 13166 declared that a person's choice of language is a protected civil right. The Department of Justice regulatory guidelines interpreted E.O. 13166 to apply to any and all recipients of federal funds, "a federally assisted zoo or theater."¹³

⁹ Anne Gearan, "Lawyers: Tape Is Powerful Evidence," *Associated Press*, December 13, 2001 http://dailynews.yahoo.com/h/ap/20011213/us/bin_laden_tape_evidence_2.html.

¹⁰658 F.2d 654 [1981].

¹¹ Berk-Seligson, *The Bilingual Courtroom: Court Interpreters in the Judicial Process* (1990) at 213.

¹² Executive Order 13166 was issued on a Friday afternoon (August 11, 2000) while President Clinton was en route to the Democratic National Convention and was placed on the White House web site [archived at <http://www.englishfirst.org/13166/eo13166.html>]. E.O. 13166 was printed in the *Federal Register* of August 16, 2000 (Volume 65, Number 159) Presidential Documents at 50119.

¹³ Department of Justice, "Enforcement of Title VI of the Civil Rights Act of 1964 -- National Origin Discrimination Against Persons With Limited English Proficiency" [Policy Guidance Document]; *Federal Register*, August 16, 2000 (Volume 65, Number 159)] at 50123, 50125

Under E.O. 13166 regulations, should Osama bin Laden present himself at any American welfare office or health clinic, he would have the right to receive oral and written translations into Arabic on the spot.¹⁴

Now the U.S. government had considerable time to translate the bin Laden videotape. Yet in the wake of the translation debate, they claimed that any problems or omissions were caused by a lack of time:

[A] spokeswoman [Victoria Clarke] said the Pentagon never claimed that the translation that it released with the nearly hour-long tape was complete. She denied the four analysts used by the Pentagon were rushed, although she said that more time could have been provided.

“They did the best they could in the time we had,” Clarke said. “And I’m sure that if somebody had a week or 10 days to sit down and go through it, they could probably get more of the words and syllables.”¹⁵

[“All Recipients Must Take Reasonable Steps To Provide Meaningful Access”].

¹⁴ While this may sound far-fetched, consider the plain wording of the Department of Health and Human Services September 1, 2000, Policy Guidance Document, “Title VI Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency,” *Federal Register*, August 30, 2000 (Volume 65, Number 169) at 52762, 52763 [also available at <http://www.englishfirst.org/13166/13166hhspolicyguidance.htm>]:

In the course of its enforcement activities, OCR has found that persons who lack proficiency in English frequently are unable to obtain basic knowledge of how to access various benefits and services for which they are eligible, such as the State Children's Health Insurance Program (SCHIP), Medicare, Medicaid or Temporary Assistance to Needy Families (TANF) benefits, clinical research programs, or basic health care and social services. For example, many intake interviewers and other front line employees who interact with LEP individuals are neither bilingual nor trained in how to properly serve an LEP person. As a result, the LEP applicant all too often is either turned away, forced to wait for substantial periods of time, forced to find his/her own interpreter who often is not qualified to interpret, or forced to make repeated visits to the provider's office until an interpreter is available to assist in conducting the interview.

¹⁵“Pentagon: No Cover-Up Attempt on Bin Laden Video,” *Reuters*, December 21, 2001 , http://dailynews.yahoo.com/hx/nm/20011221/pl/attack_videotape_dc_2.html.

Yet under E.O. 13166, time is precisely what recipients of federal funds does not have when a single¹⁶ individual shows up and demands an Arabic translation of materials made available to the public in English.

In order to avoid lawsuits, recipients of federal funds are virtually required to prepare Arabic translations for important documents even if it is unlikely that a speaker of Arabic will ever visit the office.

Thus, the debate over Arabic translation conducted over the bin Laden videotape is likely to soon take place in every agency of federal state and local government in the United States.

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¹⁶“Programs that serve a few or even one LEP person are still subject to the Title VI obligation to take reasonable steps to provide meaningful opportunities for access.” Note 14 at 50124.