



# **Legal Interpreting in the Criminal System: An Exploratory Study**

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**Thesis Submitted in Fulfilment of the  
Requirements of the Award of**

**DOCTOR OF PHILOSOPHY  
DE MONTFORT UNIVERSITY**

**May 2011**

**Volume I**

# ACKNOWLEDGEMENTS

A Special thanks and sincere gratitude to the late Professor Brian Williams for his enthusiasm and acceptance of this project. He gave me a head start and full support, encouragement and advice during four years of supervision. I am truly grateful.

I would like to give a big thank to Professor Dennis Anthony for offering to be my supervisor after the death of professor Brian Williams, despite his field of research being totally different from criminal justice. He also smoothed out difficulties during writing up of the thesis. His constructive ideas were of much help.

Many thanks to Professor Robert Canton for his insights and invaluable comments on my numerous drafts. His feedback was of much help in enhancing the structure and content of the thesis.

I also wish to thank all the participants in this study, whose input made this thesis viable. Also, my thanks go to members of the National Register of Public Service Interpreters' Action Group for providing myself with current issues related to the practice of interpreting.

My sincere thanks to all. It was a privilege to have your support

# DEDICATION

This thesis is dedicated to the profession of interpreting and all professional interpreters.

# ABSTRACT

**Background:** This research study investigates the position of legal interpreting within the England and Wales' criminal justice system, as well as the status of legal interpreters. This study has been carried out with nine categories of personnel within the criminal justice system, comprising of judges, lawyers, clerks to the justices, magistrates, probation officers, police officers, prison officers, immigration officers and immigration advisory service officers, 186 number in total. **Methods:** a qualitative method of enquiry is adopted with questionnaires sent to the above categories, which formed the basis of nine questions used in semi-structured interviews with 38 members from the above categories. The categories were not equally represented, depending on access. These interviews have been considered as the major method of investigation. Participant observation is used as an informal method of enquiry for deepening contextualisation of the study. **Themes:** four main themes have emerged. They are: culture and communication, role and contradictory role of the interpreter, the position of the interpreter and context of interpreting barriers. **Findings:** the practice of interpreting is misunderstood and undervalued. The interpreter is not considered as an active participant in the legal process. The role of the interpreter is viewed in terms of a mechanical one, since interpreters are expected to interpret word for word without seeking clarifications of unclear utterance or concept. **Implications of the study:** criminal justice personnel need a deeper understanding of the practice of interpreting and the diverse role of the interpreter. The study highlights the professional status of interpreters. Proposals have been put forward for improvements to the present situation through statutory recognition and protection of title

# ABBREVIATIONS

ACPI	Association of Police and Court Interpreters
ACPO	Association of Chief Police Officers
AIT	Asylum and Immigration Tribunals
BSC	Bilingual Skills Certificate
BSL	British Sign Language
CACDP	Council for the Advancement of Communication with Deaf People
CCI	Certificate in Community Interpreting
CID	Criminal Investigation Department
CJB	Criminal Justice Board
CJS	Criminal Justice System
CPS	Crown Prosecution Service
CRB	Convention Refugee Board
CRBR	Criminal Record Bureau
DC	Detective Constable
DCA	Department of Constitutional Affairs
DCI	Detective Chief Inspector
CPD	Continuing Professional Development
DPSI	Diploma in Public Service Interpreting
ECHR	European Convention on Human Rights
EMAC	Ethnic Minorities Advisory Committee
ETAC	Equal Treatment Advisory Committee
HMCS	Her Majesty's Court Service
HOPO	Home Office Presenting Officer
IAA	Immigration Appellate Authority
IASO	Immigration Advisory Service Officers
IOL	Institute of Linguist
IQ	Intelligence Quotient
IPCC	Independent Police Complaints Commission
ITB	Interpreters and Translators Branch of GMB Union
ITI	Institute of Translation and Interpreting
JSB	Judicial Studies Board
IWG	Interpreter's Working Group
LFMS	Linguistic and Forensic Medical Services
LSC	Legal Services Commission
LSL	Languages Services Limited
MCC	Magistrates' Courts Committees
MET	Metropolitan Police Test

MP	Member of Parliament
MOJ	Ministry of Justice
NA	National Agreement
NCB	National Criminal Board
NCVQ	National Council for Vocational Qualifications
NOM	National Offenders Management
NOS	National Occupational Standards
NQF	National Qualifications Framework
NRPSI	National Register of Public Service Interpreters
OCJR	Office of Criminal Justice Reform
PACE	Police and Criminal Evidence Act
PDA	Professional Development Award
QCA	Qualifications and Curriculum Authority
RPSI	Register of Public Service Interpreters
SAIT	Scottish Association of Interpreters and Translators
SCS	Scottish Courts Service
SPSS	Statistical Package for Social Sciences
TIG	Trial Issue Group
UK	United Kingdom
US	United States
VIW	Vulnerable and Intimidated Witnesses
YJCEA	Youth Justice and Criminal Evidence Act 1999

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# Chapter One

## INTRODUCTION

### 1.1 Background Study

The world has experienced significant population movement between countries, becoming a global village as frontiers disappear. People move for different reasons such as holidays, business, undertaking a study programme, or fleeing areas of conflict. Political upheaval, seen in countries or areas around the world, triggers social movement to other parts of the globe, which are seen as safe havens.

Shackman (1984:4-5) points out that linguistic minority communities settled in the United Kingdom (UK), when the country was experiencing economic prosperity, after the Second World War and during the 1950s and 1960s. Some individuals from those immigrant communities did not speak English. Hence, whenever any non-English speaker came into contact with English speaking professionals requiring specialised vocabulary, there was a need for interpreters.

However, the expansion of the European Union, and the resulting freedom of movement between the new member states, has caused an influx of new arrivals, resulting in an increase in the scale of diversity. Thus, the number of non-English speakers has risen and the number of foreign languages spoken in the UK is now estimated to be 270.

Therefore, there has been a demand for interpreters and translators who can play a significant role in social and economic fields. It must be borne out in reality that the language industry will play a much greater and increasingly important role in British society.

In view of such diversity, modern societies have acknowledged the right of every citizen to be treated fairly, without any direct or indirect discrimination (Shute et al 2005:1). Therefore, regulations have been issued in order to attain equal treatment between citizens regardless of the language they speak. The European Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights specify that persons who are arrested must be informed about the reason for their arrest, and the charges against them, in a language they understand. Furthermore, the accused persons have the right to defend themselves and examine witnesses with the assistance of competent interpreters, free of charge (Colin & Morris 1998:152).

When immigrants and non-English speakers arrive in the UK, their lack of knowledge of the British system tends to make them vulnerable. Therefore, combined with their parlous economic position, they have doubts about their entitlement to stay and about the right to resources. In this situation, they are likely to come into contact with the law. Polack and Corsellis (1990b:1677) advise on giving non-English speakers basic information regarding the British legal system through publications. Polack and Corsellis also point out that some of the non-English speakers are illiterate even in their

own language. Hence, a short videotape, with voice-over commentary in their language, could explain the main information about their rights in the UK.

The practice of interpreting is applied in health care and local government services such as social services, education, housing and welfare services, as well as various agencies at regional level. Legal interpreting is evident in tribunals, police services, courts, the probation service, prisons, customs and excise (Corsellis 1995:61). Interpreters need to be trained and qualified in order to acquire the necessary specialised vocabulary and skill that would prepare them to practise in the said fields to the best of their ability and understanding.

## **1.2 Motivation for Undertaking the Study**

The researcher has worked as a legal interpreter for a number of years. During her practice she has experienced unfavourable treatment from some lawyers and disregard of the practice of interpreting from some courts. After undertaking a Diploma in Public Service Interpreting (DPSI) with law option, which contained several aspects of the criminal justice system (CJS), she decided to further her education and investigate the reasons behind such unfavourable attitudes towards interpreters and the practice of interpreting from legal practitioners.

Authors such as Roberts-Smith (1990:151) and Shute et al (2005:14) point out the paucity of research on legal interpreting within the CJS. This has resulted in a lack of material on the subject. Roberts-Smith (1990) gave the reasons for such anomaly as: ‘a reflection of the general lack of appreciation within the justice system and the legal

profession of the importance of language and the nature and proper use of professional interpretation’.

### **1.3 Aims and Objectives**

The study aims to investigate the position of legal interpreting within the CJS of England and Wales and to find out whether legal practitioners perceive the interpreter as a professional person and the factors behind their views. The present research explores several issues related to the practice of interpreting with nine professions operating within the legal establishment.

Police officers work with interpreters during interviews with suspects who lack workable English. Lawyers are called by the police or courts to defend an offender. The advocates work with interpreters in courts or in their firms in order to assist in the preparation of statements for clients who do not speak sufficient English. Clerks to the justices are employed in Magistrates’ Courts. They oversee the smooth running of courts including the arrangement of interpreters for non-English speaking cases. The magistrates form a bench of three persons in the courtroom with one in chair. The bench take part in less serious offence cases and come to a decision at the end of a trial. The magistrates work with interpreters during the legal process where a person does not speak active English. Probation officers operate in both Magistrates and Crown Courts. They require interpreters in pre- and post-interviews where a non-English speaker is found guilty. Judges preside in Crown Courts, High Courts and Immigration Appeal Tribunals cases. Judges require the assistance of interpreters in cases where a person speaks a foreign language and is unable to communicate in English. Interpreters are

arranged by courts. However, in the absence of an interpreter, the judge can adjourn the case until one is employed. Judges have the authority to dismiss an interpreter and ask for a replacement if s/he perceives the interpreter as inefficient. Immigration officers represent the Home Secretary and present cases on her/his behalf. They work with interpreters in cases where the appellant speaks a language other than English. Immigration Advisory Service Officers (IASOs) can appear in Immigration Appeal Tribunals to represent non-English speakers and require assistance from interpreters for ease of communication. Prison officers deal with interpreters during prison visits with a foreign national, who does not speak English.

The main concepts covered are the role of the interpreter in the legal system, the legal personnel's knowledge of the practice of interpreting, qualifications for interpreters and the reasons behind offering interpreters lower rates of remuneration than other legal personnel, despite working under increasingly difficult conditions.

Qualitative methods are mainly used in the enquiry. However, there are closed questionnaires, which are quantitative, as these responses can be counted.

## **1.4 Thesis Structure**

**Chapter One** gives the background of the study, setting the scene for the following chapters. It explains the motivation behind undertaking the study and then presents the structure of each subsequent chapter.

**Chapter Two** explores the current literature. It reviews the underpinning factors behind the present concept of interpreting by CJS users. It also reports the different CJS personnel's positions, compared to that of the interpreter, during the legal process. Subsequently, language and culture are seen as interrelated and can affect the meaning of particular dialogues during the process of interpreting. Chapter Two also compares and contrasts the position of court interpreters with that of interpreters in other professional contexts, for example health. Finally, the chapter explains the reason behind legal practitioners' perceptions of the interpreter.

**Chapter Three** consists of two parts. The first part examines many aspects of the practice of interpreting. It sheds light on the interpreting profession and the qualifications that entitle a person to work as an interpreter. It investigates the pitfalls of employing outsourcing and the use of commercial agencies for the procurement of interpreters in the CJS. The chapter explains the various codes of practice that exist within various interpreting public service providers. It also illustrates the interpreter as an intimidated category in the CJS, frequently blamed for any increase in legal costs.

The second part explores legal history from a language perspective. It reviews legislation, past and recent, in terms of English language as the language of the legal process. Consequently, it reports the situation of non-English speakers when they come into contact with the legal system.

**Chapter Four** explains the methodology for examining the data gathered for the study. The chapter also discusses the pros and cons of qualitative and quantitative approach in

order to achieve reliability of findings. It explicates the reason for the selection of the study research method and reflects on the strengths and limitations of the chosen methodology. Consequently, it proceeds to demonstrate the different methods of explanation and how they are used in the study. The method is mainly semi-structured interviews after the receipt of questionnaires. There is an explanation of the merit and demerit of questionnaires and semi-structured interviews and the means by which interviews are conducted. Documentary analysis is employed with content analysis and participant observation is considered an informal resource of investigation. The chapter reveals how access to the study participants has been obtained within ethical guidelines and the researcher's commitment to confidentiality for all participants in this research.

**Chapter Five** employs qualitative methods through interviews after ideas were generated from questionnaires. Criminal justice personnel have been assigned to categories comprising of judges, clerks to justices, magistrates, probation officers, police officers, prison officers, immigration officers and IASOs. The findings from interviews have been analysed to produce topics of debate. There are eleven diverse topics ranging from the interpreter as a professional officer and part of the CJS to code of dress for interpreters. The chapter provides useful insights into how members of these categories perceive the interpreter and the practice of interpreting at large.

**Chapter Six** discusses the findings of the study and draws forth various themes for discussion. The main themes explored are culture and communication and their effect on the explanation of words and events during an interpreted event. Another theme reflects on the context of interpreting barriers and how they influence the interpreting



process. The position of the interpreter is another key theme that sheds light on interpreters, vis-à-vis other personnel within the legal system. There is an explanation of the problems experienced by interpreters because of the contradictory roles placed on them by various service providers.

**Chapter Seven** provides some of the illuminating findings of the study. It also gives recommendations and suggestions for future research. The chapter discloses originality and contribution to knowledge in the field of interpreting within England and Wales' CJS.

## Chapter Two

# LITERATURE REVIEW

### 2.1 Introduction

The present chapter shall attempt to provide a fair picture of the perceptions held by Criminal Justice System (CJS) users in England and Wales regarding legal interpreters and their practice. Furthermore, it shall provide an insight into the difficulties that arise due to misgivings by other legal practitioners towards interpreters. The main aim of the research is to correct such faulty vision and in the subsequent chapters we shall elicit the reason behind such defective views.

The practice of legal interpreting in the UK is under scrutiny and is, as Inghilleri (2005:72) suggests: ‘in an ongoing struggle to define itself, a struggle conducted both in relation to other professions and amongst interpreters within the profession’. Inghilleri makes an exception of conference interpreting and considers it in a better position of recognition. Seleskovitch (1985:19) explains that interpreting at conferences has been recognised for several decades as a professional career and part of the international life. The reputation of conference interpreting is due mostly to the two most prestigious schools of interpretation, those of the universities of Paris and Geneva. The first is entitled a School of Interpretation <sup>1</sup> and the second has a dual title, Interpretation and

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<sup>1</sup> At present, it is called École Supérieure d’Interprètes et de Traducteurs, which offers both interpretation and translation.

Translation. Morris (1994:27-28) indicates that the term ‘interpreter’ might not carry the exact meaning of the function of the individual. She explains that the individual who performs an act of interpreting should be: ‘an individual who is capable of, and in the circumstances under review, has on the whole succeeded in orally rendering utterances made in one language (L1) into another language (L2) completely, accurately and appropriately’. Chapter Five, “Presentation of Findings”, shall provide and reflect on the opinions of several CJS users regarding issues connected with interpreting as a profession and interpreters used within the CJS.

The perception of criminal justice personnel users towards the practice of legal interpreting could differ not only from one location to another, but also from one person to another. Interpreters are used in courts, police stations, probation, prisons and hospitals etc with varying needs and attitudes. However, in a formal setting such as courts of justice, the role of the interpreter may be under suspicion. Morris (1995b:268) comments that such suspicion could be attributed to the assumption that people who claim not to be able to speak English are lying. She further explains that such suspicion could be extended to the interpreter. The interpreter’s evidence is inadmissible and is considered hearsay evidence in the common-law courtroom (Pöchhacker 2004:147). It is important to refer to Article 5 of the European Convention on Human Rights (ECHR), which says that: ‘everyone who is arrested shall be informed promptly, *in a language which he understands*, of the reasons for his arrest and of any charge against him’. [Both italic and underline in original].

Article 6 ECHR states that ‘everyone charged with a criminal offence has the right:

- To be informed promptly, *in a language which he understands and in detail*, of the nature and cause of the accusation against him.
- To *have the free assistance of an interpreter* if he cannot understand or speak the language used in the court' (National Agreement 2007:3). [Italic in original].

In the United Kingdom guidance was given to police officers in the Police and Criminal Evidence Act (PACE) stating that, '*If an arrested person does not understand English or appears to be deaf and the custody officer cannot communicate with him, he must call an interpreter as soon as practical and ask him to provide the information noted in D1.24*' (Police and Criminal Evidence Act 1984: Code C, para.3.6). [Italic in original].

As stated above, the role of the interpreter is unclear when it comes to working with professional legal practitioners as explained below. The subsequent chapters explore the reason behind such an anomaly and give suggestions regarding the best way to remedy the situation.

## **2.2 The Present Concept of Interpreting by Criminal Justice System Users**

The position of the interpreter during a judicial event was expressed by a judge during an interview with the researcher as 'has no right of audience'. Furthermore, the interpreter is considered as a modem, an instrument, a machine, a channel, a bridge and a telephone line through which interpreting passes through between two person(s), not as a person in her/his own right. Hence, the complexity of the interpreter's role has compressed to a simple, singular equivalence (Roy 2002:347; Wadensjö 1993:357 and

Pöchhacker (2004:147). In a sense, the interpreter is just repeating words and not explaining them, as would be for other CJS professionals, such as lawyers. Chapter Five reviews the opinion of legal practitioners obtained from interviews after questionnaires were received from the participants in the study.

White (1990:21&259-260) questions whether an interpreter has an identity or a voice other than as an 'alter ego', if s/he lives 'in the space between two languages'. He wonders about the possibility of an interpreter entering one world and moving into the other with confidence and speaking within each momentarily, if qualified. He means that if the interpreter has a full command of both languages, then s/he can move from one language to another and has her/his identity in each of them. Since the explanation of self and culture is not permanent, it must be explained again and again as we rearrange fragments into new orders, each of which embodies tension and disorder. Hence, the explanation of a point in life through interpretation is not permanent or absolute but temporary and incomplete, 'a momentary stay against confusion'.<sup>2</sup> He even argues that the law itself is a form of translation and hence lacks certainty similar to the assumed role of the interpreter. As Steiner (1998:49) explains: 'inside or between languages, human communication equals translation'.

Language and culture are interlinked as words convey an idea to a culture or a concept. Every culture has its own unique concepts, which have no direct translation into another language. As White (1990:23) states: 'our community is defined by our language - our

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<sup>2</sup> White (1990) adopted the quotation from Robert Frost, in complete poems of Robert Frost, 'The Figure a Poem Makes', P. v, vi (1965).

language *is* the set of shared expectations and common terms that enable us to think of ourselves as a “we”- and that language too can be transformed’. [Italic in original].

Thus, Steiner (1998:91) argues that: ‘there occurs a cumulative dialectic of differentiation: languages generate different social modes; different social modes further divide languages’. Johnson (1999:18) explains that: ‘even when skin colour, language, religion and place of upbringing are identical, there will remain differences of imagination, of class and of experience’. Hence, there are differences in cultures and forms of expression. This reflects a panorama of cultural diversity.

In the healthcare field, patients are likely to report their symptoms coloured by their culture and ways of expression (Johnson 1999:27&18). The same point is mentioned in Crawford et al (2006:18&23-25). Robinson (2002:xix) cites Chu (1998), defining culture as: ‘a shared system of meanings, values and ways of life that emerge from group experience and are transmitted from one generation to another’. Bradley and Edinberg (1990:226) draw attention to the need for nurses to understand the non-native patients in light of their cultural perceptions and expectations. They go on to state some of the areas that nurses need to understand in terms of how non-English speakers approach issues such as the role of the family, the roles of both men and women and the importance of foods and diet. Bradley and Edinberg (1990:230) also explain that Asian groups have their hierarchical social system imbedded in their traditions that distinguish between young/old, man/woman, social class or superior and subordinate.

## 2.3 The Criminal Justice Personnel

The court is affected by the behaviour of the participants and their allocated roles. When the judge enters the courtroom and people stand up in respect, this creates an atmosphere of power and authority. A judge acknowledges that they are: ‘half way to the ceiling: very terrifying, very remote, almost throned, His Majesty’ (Rock 1993:181). S/he sits on a platform higher than any one in court, which gives them distance, authority and a commanding view (Rock 1993:238). When the counsel for the defence and the prosecutor address each other as ‘my learned friend’, which Jolliffe and Rock call ‘theatre’, the regular participants consider this as normal.

On the other hand, the court looks at the interpreter and the non-English speaker as a kind of amateur (Jolliffe 1995:24). Both the defendant/witness and interpreter are viewed as non-persons (Rock 1993:179 and Pöchhacker (2004:147). The non-person is perceived as: ‘invisible and lacking in influence’ and the defendant is kept at bay. Rock states that the court is divided distinctively into professionals and non-professionals; hence no influence would be exerted from the interpreter or the non-English speakers in court, as non-professionals by the legal practitioners’ own standards (Rock 1993:179). See Chapter Five on “Presentation of Findings” and Chapter Six on “Discussion of Findings”, for a useful insight into the reasons behind legal practitioners’ thinking.

If the court is a type of theatre, then as Butler & Noakes (1992:7) observe: ‘no actor playing a part in legal proceedings can fail to influence those proceedings to some degree’. Mikkelsen (1998:4-5) describes the interpreter in such situations as ‘another member of the cast of players and the attorneys attempt to manipulate the interpreter as

part of their carefully orchestrated production'. Mikkelson cites Morris (1995a) as commenting on how lawyers take advantage of the interpreters' unclear role and status in court. Hence, the advocates use interpreters for their desired effect on the court and the outcome of the case. Although the other court players have beforehand a script of the case production and time to rehearse parts of it, the interpreter would be the only actor asked to improvise without given the case file to prepare the assignment (Deferrari 1989:127). Despite the guidance of Her Majesty's Court Service (HMCS) to legal practitioners to provide the interpreter: 'in advance of the hearing, a copy of all relevant documents to be used in court...in order that the interpreters can familiarise themselves with the key aspects of the case' (Her Majesty's Court Service 2007:15). As far as the author knows, this has never been implemented during her practice.

An interpreter can help a judge to understand a cultural/legal point and play a main role in a court trial. Inghilleri (2005:75&77&81) states that interpreters could 'bridge the gap' and act as a 'vital link' between applicants in asylum cases and the Convention Refugee Board (CRB). She goes on to give examples of how interpreters in political asylum cases are valuable in explaining cultural, linguistic and legal issues using their past experiences, with or without the help of a solicitor. Hence, their linguistic and cultural knowledge are a specialised and valuable contribution in such cases. She adds that they make strategic choices based on their experience and training in terms of when they adhere to codes of ethics or when they ignore them.

Pöchhacker (2004:148) cites Kaufert & Koolage (1984) put forward a point that interpreters are culture brokers and patients' advocates, who work towards addressing



any difficulties between patients and healthcare professionals in terms of culture dissimilarity. According to Laster & Taylor (1994) and Mikkelson (1998), cited in Pöchhacker (2004), the interpreter needs to facilitate communication between clients and professionals in any unfamiliar institutional environment. Pöchhacker refers to another author Barsky (1996), who came to a conclusion after interviewing 56 refugees in Canada, that the interpreter needs to empower the appellant by functioning as an intercultural agent. Authors such as Kondo & Tebble (1997) mentioned in Pöchhacker say: 'the ideal role of the interpreter is to serve not only as a linguistic but also as a cultural mediator'.

In the courtroom atmosphere, the interpreter could be viewed as an outsider and her/his participation might change the nature of the usual proceedings. The role of the interpreter is not certain or constant as it depends on each court's perception and experience as well as her/his own. Some would look at the interpreter as impartial, while others consider her/him to be an advocate for the defendant (Jolliffe 1995:29). The contradiction becomes evident when court staff perceives the interpreter as an 'alter ego' for the defendant ready to help her/him outside the courtroom. The interpreter's words are taken to be those of the defendant and no record of the foreign language utterance is kept (Butler & Noakes 1992:8). Morris (1994:47) cites Bates (1991) as suggesting that a complete audio and written record of the foreign language speaker should be kept for reference or subsequent appeals. To add to this confusion of identity, the interpreter is asked to speak on behalf of the defendant using the pronoun 'I', with its psychological implications, which blurs the distinction between the interpreter and

the defendant/witness and casts a shadow over the interpreter's neutrality with its effect on both the audience and the court personnel (Jolliffe 1995:55).

A judge or a barrister, who are used to having full control in the courtroom when the spoken language is English, may feel that control is lost to the interpreter when they are faced by a foreign language only understood by the interpreter and the defendant/witness (Morris 1993b:280). In this case, they might attempt to gain control by harassing the interpreter and pretending to understand what was being said. They could even exert their power by falsely accusing the interpreter of misinterpretation or non-interpretation of words. At a case in 2003, at Birmingham immigration court, a female judge made accusations against the researcher during her practice as an interpreter without any justification and wrote, without being asked, an assessment form to be sent to the interpreter's employer. The claims she made were not true, but the relevant authorities believed the judge, even in the face of a false allegation, rather than the interpreter. There is no control over a judge's power towards a vulnerable interpreter. The interpreter is usually viewed with suspicion in case reports and given the image of 'the traitor and the instrument' (Morris 1993b:280). In appeals cases where interpreters are employed, any raised points of inconsistency are usually blamed on the previous interpreter.

The interpreter is sometimes faced with a situation where a judge, lawyer or a defendant/witness makes a linguistic error either in the composition of a question or in a reply. S/he has a duty to translate literally what has been said and in doing so the defendant/witness might not understand the question posed. Equally, if the

defendant/witness's reply does not make sense or sounds evasive, s/he could be considered by court attendees to be incompetent and could be blamed for faulty interpretation, especially from monolingual judges or lawyers. In many cases lawyers, judges and jurors are not certain whether the interpreter is speaking for herself/himself or for the defendant/witness (Shlesinger1991:172 and Berk-Seligson 1990b:172-173).

Gamal (2006:56) points out how interpreters in court encounter extra-linguistic pressures manifested in speed, interrupted delivery, mental fatigue, and the variety of unfamiliar topics raised and discussed. This is compounded by a diversity of interpreting techniques/methods such as consecutive, simultaneous and sight translation. Consequently, court interpreting is a complex practice that needs specialised training that empowers interpreters to acquire the necessary skills.

There are differences between the atmosphere in court and hospital that impinge on the interpreter's performance. The court atmosphere is serious with restricted time for the interpreter to give the relevant meaning from source to target languages and vice versa. The interpreter is not expected to give an explanation of multiple meanings or cultural points during her/his interpretation. Legal practitioners are formal and address the court attendees by surnames. They also tend not to brief the interpreter or explain legal points in a language understood by the defendants/witnesses or take into consideration the different legal systems in the UK and other countries.

The hospital atmosphere is more relaxed as time allows for both informal and formal talks with patients and healthcare workers and a rapport is created by the use of the first

name. Crawford (1998) reports Elbow (1981) as explaining that nurses take the time to speak with the patients about their holidays, family life or even their preference for a certain football team. In this atmosphere, the interpreter can form a partnership with healthcare professionals and work towards assisting their clients. However, over the last 30 years, nurses' attitudes and behaviours have changed.

An opposite point of view is given by Bradley et al (1990:188). They claim that some patients feel that their concerns are trivial for a busy nurse and tend not to complain or take up the nurses' valuable time. Bradley et al explain that communication between patients and health professionals are more effective during the evening and night-time, when the atmosphere is more relaxed and less people are in the hospital.

Another feature in healthcare, which is not available in a legal setting, is home visits. Health professionals can get familiarised with their patients during their visits and gather indirect information about home safety. The nurse can direct patients to the best way to benefit from the use of their home facility and follow its implementation in subsequent visits. The nurse can also advise the patient's family members on how to care for their relative (Bradley et al 1990:218&200). Healthcare professionals can visit the patient accompanied by an interpreter for ease of communication.

Latinos have respect for physicians and even pretend to agree or understand health issues out of politeness and respect. They also expect the healthcare professionals to make the decisions for them and do not understand when the physicians ask for their opinion (Heffner 1992:257). The same case can be applicable to a legal setting, where

defendants/witnesses trust legal practitioners or do not understand legal arguments and defer taking a decision to them.

## **2.4 Language and Culture**

Sometimes the legal practitioner uses an inappropriate style of communication that is not clear in order to gain advantage over unsophisticated language users. This is achieved through the use of advanced vocabulary, complex grammatical constructions, multi-faceted questions, double negatives and indirect or vague questions (Parry 2004:2). Such language style is different from the defendant's way of thinking and understanding. This can distort communication and pose a problem for the interpreter, who has to decide whether to draw the court's attention to such a point or translate it in a way the defendant can understand. Legal practitioners use trials as a 'sporting contest of vocabulary', like a game. They perform as: 'an adversary fighting a legally supervised battle, a battle of wits' (Rock 1993:38). As Gonzalez et al (1991:18) explain by citing Philbrick (1949): 'Lawyers are students of language by profession..... They exercise their power in court by manipulating the thoughts and opinions of others, whether by making speeches or questioning witnesses. In these arts the most successful lawyers reveal (to those who appreciate their performance) a highly developed skill'.

De Jongh (1992:115) refers to Chaika (1989) when raising the point that the legal language is characterised by:

'an esoteric vocabulary; grammatical constructions that differ from ordinary usage; archaisms; terms of art, that is, technical words and phrases whose meanings are seldom disputed in the law (e.g. injunction); certain syntactic constructions that either had disappeared from ordinary English many years ago,

or used infrequently in normal discourse; redundancy; passive constructions; and numerous foreign language terms (e.g., *voir dire*, *prima facie*' (Chaika 1989).

In a study by V.R and R.P Charrow (1979), cited in De Jongh (1992:115), they came up with the view of: 'legal language as a distinct subset' (register) of English. De Jongh (1992:115) goes to quote Gonzalez (1977) who maintains that: 'procedural techniques within courtrooms are also ossified in action and language. For instance, the bailiff uses the language of eighteenth century England to "empanel a jury", to swear in witnesses, to adjourn for recess, and to inform a jury "to retire"'. In reality, the esoteric technical language of the law is beyond many native English speakers who attend court.

Legal participants sometimes put their questions in a rather ambiguous and highly subtle way, and such questions are often difficult to interpret. The author usually points out to the legal personnel that the defendant understands only direct questions and asks for a paraphrase. This request is more tolerated in English immigration courts than in High Courts. One counsel informed the researcher that some counsel in immigration courts are not members of the Bar. They might have a background in disciplines other than law and have done a one year's course to be able to appear in immigration courts. While in English Crown Courts the counsel have to be members of the Bar and they tend to project a rather superior and arrogant attitude towards people who they do not regard as professionals, including the interpreter. Examples shall be provided in subsequent chapters.

Many words have multiple meanings or they can be place names. This point is highlighted by Cambridge (2003:10) where she gives advice to the professionals or

practitioners working in criminal proceedings. She draws their attention to cultural references, the different structure in each language and unusual names. The author was accused of misinterpretation by an appellant, who knew some English, when the Arabic word '*Bassateen*' was mentioned. It was assumed it was a place name, which exists, instead of its actual meaning, in that context, of 'orchards'. Another example of confusion would be if the interpreter used the expression 'secret service' in interpretation. The defendant/witness might protest if this concept was understood as just 'the intelligence'. Also, other participants who know the foreign language might take part in interpreting events without being asked to do so. For example, in one case, the researcher translated the foreign word as the 'Chancellor of the Exchequer', whereas the barrister mentioned the expression as 'Minister of Finance'. Constraints on court time mean that there are no opportunities for the interpreter to give multiple meanings. Furthermore, the interpreter is faced with the choice of either translating or omitting recurring expressions of courtesy or flowery language that are considered, in other cultures, to be a sign of compliance. This is because this style of language is regarded by some as obsequious or facetious and s/he is conscious of how valuable court time is (Shlesinger 1991:151).

The interpreter should be given the chance to explain the word or sentence within its cultural context in order to convey the right meaning which might be different from the standard meaning (Morris 1995a:37). Morris (1994:83) refers to Barthes (1970), who coined the term 'cultural codes', where the meaning of a word or an expression required an extra connective meaning. She further cites Hatim and Mason (1990) who stress the importance of giving the meaning of any element according to its circumstances or

context. The Metropolitan Police Service (1998:48) allows the explanation of cultural issues in recognition that such explanation would aid mutual comprehension of any point. Mr Justice Brooke (1992/1993:10) draws attention to cultural issues and gives examples of the cultural differences in the way non-English speakers express themselves and behave. In fact, even an English speaker from a different ethnic group uses certain words with a different meaning to the one understood by most members of the same language group.

Confusion and misunderstanding between a defendant/witness and court could be a consequence of the differences in culture, legal systems, customs, ethics, community and family relationships, values and beliefs. Corsellis (2006:171) warns the Bench Chairman of the non-familiarity of non-English speakers of the English legal procedures and the need to give them more explanation. Steiner (1998:47) states that: 'each communicatory gesture has a private residue'. The interpreter can be the bridge between two cultures and is in a good position to translate subtle cultural elements drawn from the way the defendant/witness speaks, dresses, the relationship between her/him in community and family contexts, religion and the country or region from which s/he originated. At the same time the interpreter can facilitate the defendant's understanding of the British legal system, main social principles, values, attitudes, behaviour and what is expected from her/him (Shackman 1984:19).



## 2.5 The Interpreter

Interpreters operate as mediators between patients or family members, who are non-English or marginally English speakers, and healthcare professionals for effective reliable communication. Heffner (1992:259) asserts that medical professionals must recognise that interpreting for patients involves interpreters who have command of both languages and cultures of the patient and health personnel; hence a professional interpreter must be involved. Therefore, successful communication between healthcare professionals and non-English speakers' clients requires knowledge of culture as well as language and a mechanical translation would not be accurate. Robinson (2002:73) argues in Baker et al (1996) that the use of professional interpreters facilitates the patients' understanding of diagnosis and treatment more than when interpreters are needed and not available.

In order to reach a firm professional level in a foreign language, the person has to spend many years and undergoes a period of practice so they can acquire the subtleties and understanding of that language with its culture. An error in interpreting regarding, for example, a diagnosis, has disastrous consequences. Therefore, a medical interpreter should master two different and complex languages so that s/he can render accurate translation under pressure in stressful situations and critical circumstances. The interpreter must have the ability to communicate successfully in each language at various educational levels (Haffner 1992:258). The same professional level is expected from the legal interpreter, as well as stamina during practicing in court or a police station. The examples given above on interpreting in the healthcare context are for the purpose of comparison and contrast with legal interpretation. This is manifested in the

atmosphere and the personnel of each sector, which reflects on the workings of interpreters.

The interpreter is a bilingual person with duties towards both the court, or hospital, and the non-English speaker and acts in the capacity of a medium. The main task for the interpreter is to put the non-English speaker on the closest possible linguistic level to that of an English language speaker. This includes any comments said in 'off the record', nuances and the level of formality during a judicial event or hospital consultation. In the absence of an interpreter, the limited-English proficient individuals would not be able to utilise a lawyer to present her/his case to the court for defence or receive the right treatment in hospital. The interpreter's input in any case serves as a basis for any potential appeal. Through the interpreter, the judge and jury can judge the background of the defendant/witness in terms of her/his socioeconomic, educational and cultural position by the use of style and choice of words (González et al 1991:16-17&19&155&485).

Bilingualism is a rare skill, which the other parties to the interpretation do not attain. Therefore, there is a great need for the interpreter to be qualified up to the standard that enables her/him to perform efficiently during interpreting. Thus, factors such as the interpreter's dialect, educational level, style and non-verbal clues will shape her/his choice of expressions (De Jongh 1992:53). The position of the interpreter in the middle vis-a-vis the client and the court or healthcare professionals has power inherent in the control of scarce resources (bilingualism and biculturalism). This position of power is enhanced with the relative ambiguity of the interpreter's role. The result is that the

interpreter has a large impact on the formation of the interpreted event. Thus, the interpreter might translate selectively, or fully, the messages given to her/him. The monolingual clients will not establish the different frame of practice, except when there are obvious missing points (Anderson 1976:212 and Wadensjö 1993:367). However, the power of the interpreter disappears in the case that the client is bilingual (Anderson 1976:214).

González et al (1991:277) advance the view that the interpreter is pivotal to the form in which testimony is presented. They explain that since the interpreter acts as the language intermediary, s/he controls the witness's utterance to be heard by the judge and jury. Consequently, the interpreter who renders a true equivalent of the source language to the target language, and vice versa, would help the legal system to function properly. However, if the interpreter deviates from true interpretation by adding words or omitting words and sentences, s/he would distort the testimony. This, in turn, would affect the outcome of the case presented.

In general, the interpreters have to comply with two main rules during interpreting - accuracy and objectivity. Accuracy is manifested in the absence of errors, omissions, modifications or embellishments in rendering the speaker's words. Interpreters should not introduce topics, change topics, ask questions or give advice and adhere to confidentiality. Equally, the interpreter should maintain the speaker's style, giving the same impact on the legal practitioners and jurors, as is intended. Objectivity prevails by insuring that the interpreter has no personal interest in the outcome of the case or is biased with or against the speaker. Therefore, personal feelings or opinions should be

avoided including any form of prejudices. Thus, the interpreter should give a true interpretation of both the source and target messages as close as possible to the original message (De Jongh 1992:114 ; González 1986:5 and (Roy 2002:347).

Roy (2002:347) explains that, although the interpreter is instructed to be uninvolved with the persons interpreted for, at the same time the interpreter is expected to be flexible during her/his practice. The descriptions and standards that form the interpreters' ethical practice list what they should not do, but they do not clarify what interpreters can do. Therefore, no one knows the boundaries of the interpreter's involvement. Roy refers to Fritsch-Rudser (1988) who maintains that: 'interpreters don't have a problem with ethics; they have a problem with the role'.

In a sense, the interpreter must act as a 'faithful echo' of all the utterances between both the client and the professionals in court or the healthcare environment. The role then becomes that of a non-partisan person in the interpreted event. This would mean a faithful interpretation of all words as well as a reproduction of intonation and emotion as conveyed through tone of voice, gestural signs, the pauses, hedges, self corrections, and hesitations (De Jongh 1992:65; Anderson 1976:213 and González et al 1991:16).

There is a defective assumption that bilingual persons can operate as efficient interpreters. De Jongh (1992:63-64) points out that not just any bilingual can be an interpreter. De Jongh explains in Hamers & Blanc (1990) that interpreting is 'an activity of bilingual processing that can only be performed by bilinguals who process the two languages in such a way that the message remains intact while the code is changed'.

González et al (1991:16) assert the same opinion by referring to Sanders (1989) citing Jack Leeth of the Administrative Office of the United States Courts, who was involved with federal certification from its inception. Leeth said: 'Most people believe that if you are bilingual, you can interpret. That is about as true as saying that if you have two hands, you can automatically be a concert pianist'.

The legal personnel view an ideal interpreter as neutral and as someone who does not obstruct or prolong the proceedings (Butler & Noakes 1992:7). This means that s/he is not expected to seek clarification or offer to clarify with the court, or the defendant/witness, any unclear point. However, HMCS in 2007 has produced guidance to court staff advising them on the conditions in which the interpreter is allowed to intervene.<sup>3</sup> The legal system regards the interpreter as an intrusive element and prefers her/him to be physically invisible and vocally silent, a non-existent party in judicial proceedings (Berk-Seligson 1990a:156). The interpreter is perceived as a device that converts one language into another. No multiple meanings are acknowledged and the interpreter is not considered to be a real participant in the legal proceedings.

Some courts regard the interpreter as a necessary evil. S/he is tolerated rather than viewed as assisting justice. This negative image stems from the uncertainty of her/his role. S/he might be seen as a 'shield or barrier' behind which the defendant is protected from cross-examination by the prosecutor (Shlesinger 1991:148). Berk-Seligson (1990b:195) raises the point that an interpreter could inadvertently prevent a defendant/witness from producing an answer where there is an objectionable question

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<sup>3</sup> HMCS (2007:15-16). Also in Immigration and Asylum Tribunals (undated) P.11 and in Corsellis (2006:171).

by a lawyer requiring an answer before the judge's ruling. The presence of an extra person has an uncertain effect on the outcome of a case. Proceedings have to be slowed down if communication is not direct but through an intermediary person. Besides, the court's tradition does not consider an interpreter as part of the system (Jolliffe 1995:50).

At times, interpreters may have a pivotal role in reinforcing or challenging norms because of their capacity to identify the 'unsayable' in other languages (Inghilleri 2003:250). However, courts do not necessarily give proper status or recognition to other languages' differences or to interpreters' capacity to identify and explain these (Inghilleri 2003:252). The presence of interpreters helps lend legitimacy to court proceedings (participants are ostensibly being given their rights by being provided with an interpreter) and it is not in courts' interests to question interpreters' competence, even when there are doubts about it. Judges implicit understanding of interpreters' proper role is only communicated when an interpreter deviates from it (Inghilleri 2003:253-256).

Inghilleri (2005:73) raises the point that in interpreted events where other professions, with their established habitus, such as judges and lawyers, interact and produce a significant culture with its 'objective' structure, the interpreter is viewed with a less favourable image. Hence, the legal and political context grants them prestige, status and authority that is denied to the interpreter. On the other hand, the interpreting profession lacks a well-established position within the legal social structure. Yet, in this situation an interpreting activity habitus is likely to emerge and disrupt power relations. Other

participants would be forced to restructure their activity in order to accommodate the activity of an interpreter.

If the interpreter is seen as a barrier by the prosecution, the pressure usually exerted on an English-language speaker does not exist. This, in turn, can lead to frustration and the interpreter could be blamed and receive hostility. If a defendant/witness speaks some English, they think that there would not be any need for an interpreter. They do not acknowledge that there is a difference between the common spoken English and legal English terms, which may not be understood even by a lay English speaker (Morris 1994:41). The language difficulty was manifested in the case of *Chief Constable of Avon and Somerset Constabulary v Singh* 1988. Mr Singh was asked to provide two specimens of breath by a female police officer, but as his English was basic and he did not understand, he blew insufficiently on three attempts. The justices concluded that: ‘the defendant had not understood the warning required by s8(8) Road Traffic Act 1972’.

The outcome of any case might be seen as having been influenced by the interpreter ‘massaging evidence’ or s/he might modify the defendant’s utterance or explain the consequences of statements. A prosecutor stated that: ‘it is more difficult to catch a defendant out if the interpreter is more intelligent and can see the point behind questions’. Legal personnel have to slow down the proceedings and modify their traditional style of questioning and cross-examination in non-English speakers’ trials, and this may be resented (Butler & Noakes 1992:9).

Butler & Noaks (1992:7) state: ‘however it needs also to be recognised that the interpreter’s role is critical especially because of the pivotal position held in the channelling of communications towards and away from the defendants and witnesses’. Interpreters are in a position to make the witnesses speak or prevent them from doing so. Butler & Nokes (1992:7) admit the importance and power of such a position and that could be a reason for the lawyers attempting to minimise their influence in court proceedings. The legal practitioners do not accept that a casual attendee in court, such as the interpreter, should be given a ‘disproportionate status and importance’, which they themselves enjoy as professionals of regular attendance.

Another explanation of the undesirable attitude towards the interpreter is the ‘foreign element’ in the non-English-language speaking trials. Legal personnel reject the idea of having to deal with problems arising from their presence in the host country and having to make arrangements and payments for interpreters to take part in the proceedings (Morris 1995a:28). White (1990:31-32) proposes the theory of ‘linguistic imperialism’, which looks at language [English] as a ‘metalanguage’ by which all truths can be uttered. This idea stems from colonial experiences and practices in subjected countries.<sup>4</sup> Thus, it is assumed that what is said, for example, in Arabic, can be said in English. Steiner (1998:96).argues that this assumption does not consider the ‘inner music of meaning’, as meaning in a specific tongue could produce an opposite effect in another.

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<sup>4</sup> White (1990) referred to Daniel Defoe’s Robinson Crusoe and his account of the person he found on the island: ‘In a little time I began to speak to him and teach him to speak to me, and first, let him know his name should be FRIDAY, which was the day I saved his life. . . .I like wise taught him to say Master: and then let him know that was to be my name’ . . .Daniel Defoe, Robinson Crusoe, P.150, Everyman’s Library, 1975. (White was given that reference by Lemuel Johnson).



The blame is put on the interpreter without realising that an exact translation of a text or an utterance of another person is not possible. This idea is a result of a 'defective view of language', which is believed to be 'transparent' moving from one language into another via a 'code' into which 'messages' are 'encoded', without any distortion (White 1990:253). Court staff do not recognise the differences between languages in construction and concepts. More to the point, 'the world of knowledge' of the defendant and the interpreter are different and that gap must be bridged in the interpreting process. The legal personnel never consider themselves to be at fault, neither in their way of performance nor in their approach to the proceedings in non-English speakers' trials (Morris 1995a:31). This is part of the culture of the legal professionals. Parry (2004:14) calls for a change of culture and attitude towards language users in courts for a more tolerant and open-minded approach.

## **2.6 Conclusion**

Inghilleri (2005:72&74) argues that since the public service interpreting lacks clear definition vis-à-vis other professions, interpreters would be socially vulnerable. She explains that the rules stating who may act as interpreters are inconsistent, both within the interpreting profession and in the perception of other professions, as shall be explained in subsequent chapters. Hence, the role of the interpreter is complex. S/he is operating in a hostile environment with a lack of professional recognition and is not viewed as a contributor to the CJS. If legal practitioners threaten an interpreter, her/his role might change and becomes less efficient and accurate. S/he might bond with the defendant for security at the expense of neutrality (Jolliffe 1995:61). Inghilleri (2005:77) calls it 'trope of in-between' to distinguish between professionals

sympathetic to what interpreters try to do, and those who do not 'get it'. The mistrust of interpreters might stem from a lack of understanding and appreciation of the difficulties in their work and the reluctance to highlight their presence, or from the lawyers' shortcomings in testing the evidence in court. Justice could be affected if the interpreter is not trusted and the participants in the legal process attack her/his integrity (Jolliffe 1995:60). Therefore, training on how to work with interpreters should be given to the legal personnel.

The interpreter is not considered part of the traditional legal proceedings nor do interpreters in court have a clear code of practice. Every practitioner has to operate in a non-defined line depending on their own experiences and court attitude towards them. This leads to variations in practice and the use of their discretion in including or excluding words, or the use of methods during the interpreting process. When the court interpreter is told 'translate do not interpret', the speaker means 'repeat, do not represent' (Morris 1993b:278). The restraints of time do not allow the interpreter the chance to explain cultural meanings of an utterance. This explanation could be given during the trial, or after, when asked for comments. In Canada, The London Cultural Interpreting Service in Ontario considers the interpreter as a cultural as well as a linguistic mediator. They understand that each individual is a 'culture' and should be treated as such during the interpreting process (Colin & Morris 1996:158). Without an acknowledged code of practice and defined rules and responsibilities interpreters will continue to feel insecure and face attacks from legal personnel in the CJS (Butler & Noakes 1992:8).

Chapter Three reports the practice of interpreting in terms of qualifications and code of practice. It remarks on the anomaly of using agencies and outsourcing for the procurement of interpreters in the CJS. The chapter also explains how interpreters could be considered an intimidated category in the CJS. Furthermore, it examines legal history and the development through which English language became the language of the legal system.

## Chapter Three

# THE PRACTICE OF INTERPRETING

### 3.1 Introduction

This chapter is divided into two sections. The first looks at the profession of interpreting and reviews the available professional qualifications for legal interpreters that would entitle them to practice in the criminal justice system (CJS). It then assesses the idea of outsourcing in the CJS and how this reflects on the profession of interpreting in general. This part also evaluates the various codes of practice adopted by different interpreting organisations. There is an examination for interpreters that might be considered another intimidated category in CJS, who are blamed for any rise in the legal expenses incurred by the police or court service.

The second section examines the historical background of England and Wales' legal system within a language context. Furthermore, it appraises the diverse legislations in England and Wales, past and present that attempt to preserve the English language and at the same time accommodate non-English speakers through the provision of interpreting services.

## **3.2 Interpreting in court**

### **3.2.1 Professionalism**

Every profession has developed its position through historical processes within a given society. Consequently, each profession has its own institutions and class relations, which require certain qualifications in order to ensure their members have the ability to perform efficiently. The interpreting profession follows the principles of other professions.

### **3.2.2 The interpreting profession**

Cambridge (2004:3) identifies the interpreting professional as s/he, ‘who signs up to high standards of qualification and codes of conduct in order to protect the vulnerable end user and consequently, the professional group as a whole’. She then goes on to quote Aquinas’ definition of a profession: ‘A profession is a group of people who share a common expertise and “profess” to a code of ethics and conduct, which is in the interest of their clients, colleagues and body of knowledge and which goes beyond the self-interest of the individual practitioner’.

Interpretation is the oral translation of a word(s) or a sentence(s) from one language into another, and sign language interpreting is the transfer of meanings of word(s) into one type of sign language. Translation is the written method of transition from one language into another.

### **3.2.3 Qualifications**

#### **A Diploma in Public Service Interpreting**

The recognised specialised qualification for a practicing interpreter is the Diploma of Public Service Interpreting (DPSI). It evolved in 1983 out of the Community Interpreter Project in conjunction with the Nuffield Foundation, and is administered by the Chartered Institute of Linguists (CIOL) Educational Trust. Before the DPSI there was the Bilingual Skills Certificate (BSC) and the Certificate in Community Interpreting (CCI). However, in 1994 the syllabus was revised and the name changed to DPSI, an acknowledged professional qualification (Handbook of Diploma in Public Service Interpreting 2007:1). At present it is recognised in four options including English Law, Scottish law, Healthcare and Local Government. The DPSI examination is set under the National Occupational Standards (NOS) and accredited by the Qualifications and Curriculum Authority (QCA). It is equivalent to a first-degree level National Qualifications Framework (NQF) level 6. Successful candidates can apply to be included on the National Register of Public Service Interpreters (NRPSI) as well as the CIOL. There are several United Kingdom (UK) colleges and universities nationwide that offer DPSI courses in different languages according to the demands of certain languages and accessibility of tutors. They also act as examination centres upon an annual registration for approval. The University of Middlesex offers training courses for tutors of the DPSI (Corsellis 2006:170).

The exam consists of three units and each unit contains two tasks in a practical context in order to test the student's knowledge and vocabulary in her/his chosen field. The first

is a translation from English into the foreign language and vice versa. The second is sight translation from English into the foreign language and from the foreign language into English. The third is consecutive (interpreting after the speaker stops) role-play and simultaneous/whispered (interpreting during the speaker's delivery) interpreting. Recently, the CLOL has added two extra modules, namely Interpreting in the Prison Service and Interpreting in Mental Health.<sup>5</sup>

## **B Metropolitan Police Test (MET)**

The Metropolitan Police Test (MET) is administered by Languages Services Limited (LSL), which is a commercial agency managing, among others, linguistic assessments for businesses including the Metropolitan Police, as one of the businesses that LSL manage linguistic assessments for. The MET has been specifically designed to test interpreters for Metropolitan police work and does not prepare them for other fields. However, the DPSI covers different aspects of public service, providing a broader knowledge of court interpreting as well as other legal services and options that the MET does not cover in its syllabus. The MET was not mentioned in the previous national agreements and guidelines on the use of interpreters in criminal justice system, nor in the latest agreement (National Agreement on Arrangements for the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings within the Criminal Justice System, As Revised 2007) (NA). Furthermore, the MET directory was not among the recommended lists of interpreters to be used to practice in the CJS by Lord Justice Auld (Auld 2001).

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<sup>5</sup> [www.iol.org.uk/qualifications/exams\\_dpsi.asp](http://www.iol.org.uk/qualifications/exams_dpsi.asp) [Accessed 31/05/2008].

Like the DPSI, there is an oral assessment through two-way consecutive role-play interpreting as well as simultaneous interpreting. The second task is a sight translation from English to the target language and vice versa. The written test is divided into two parts; the first is translation of a statement from the source language into English, and the second is a technical translation from English into the target language (Metropolitan Police Test 2007).

The MET does not involve a training course of any kind. The assessment is not recognised by the QCA and is not accredited as a qualification in England and Wales. LSL set, mark the papers, and grant their own awards through in-house processes without independent regulation, as stated on LSL's website.<sup>6</sup>

The MET operates disciplinary procedures, as was revealed in the case of Regina v. Huseyin Cakir on 9<sup>th</sup> July 2004 at the Inner London Crown Court. After the trial the counsel was informed that the interpreter in the case had been suspended from the MET list in March 2004 and later became permanently removed on 6 September 2004. The reasons for his suspension were referred to as 'claiming practices', which meant that the interpreter had over-claimed his expenses, and had also taken statements from witnesses without the supervision of a police officer, which is contrary to the current regulation. It alleged that Mr Duzen had misled the court by not divulging his suspension. Therefore, his suspension had an impact on the verdict, since there was an issue between the prosecution and the defence expert interpreters. Without that information, the verdict was unsafe. Mr Duzen remained as an interpreter in other criminal justice

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<sup>6</sup> [www.languageservicesltd.com/services\\_text.html](http://www.languageservicesltd.com/services_text.html) [Accessed 13/11/2007].



organisations, because the head of the Linguistic and Forensic Medical Services (LFMS) branch of the Metropolitan Police did not dispute the interpreter's linguistic skills in his report to the aforementioned court.

### **3.2.4 The National Register of Public Service Interpreters (NRPSI)**

Interpreters are required to be listed on the National Register (NR) when all the admission criteria are met. There are two categories for registration: interim and full. Full registration is acquired when the candidate gains the DPSI plus 400 hours of interpreting experience. Interpreters of rare languages are accepted with less than the required hours for more common languages. Public service users such as legal organisations, health services and local government services can purchase the register. Members must abide by a code of conduct and could be subjected to disciplinary procedures if any allegations of misconduct are reported to the CIOL. In order to obtain a copy of the register, public service organisations have to pay an annual subscription fee. The register is wholly owned by CIOL.<sup>7</sup> See further discussion on the NR in section 3.3 on "Agencies and Outsourcing".

### **3.2.5 The impostor interpreter**

To assume the identity of another person is an offence in law and comes under identity fraud. There are some reported cases of persons assuming the identity of another interpreter or claiming to be one.

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<sup>7</sup> [www.nrpsi.co.uk/about/about\\_what.htm](http://www.nrpsi.co.uk/about/about_what.htm) [Accessed 08/06/2008]

Northumbria Criminal Investigation Department (CID) investigated an impostor who posed as an interpreter in Newcastle Magistrates' court in October 2007. One of the interpreters from the National Register of Public Service Interpreters' Action Group (Action Group), discussed in the next section of this chapter, drew the attention of the Chief Constable of Northumbria and the Northumbria Professional Standards to the above incident. Furthermore, she complained about the same incident through her Member of Parliament (MP), Maria Eagle, MP Parliamentary Under-Secretary of State. The minister replied to her in February 2008 stating that, 'I understand that an investigation has been instituted by the Criminal Investigation Department of Northumbria police. I expect to be informed of the investigation's outcome in due course. All police forces have agreed to follow the guidance in the National Agreement and the Office of Criminal Justice Reform (OCJR) recently reminded Northumbria of the National Agreement and of the importance of observing it'. The Minister's statement would mean that the Association of Chief Police Officers (ACPO) would endorse the latest version of the National Agreement for the use of interpreters issued in January 2007, which ACPO was not implementing. See further discussion of the agreement in the next section of this chapter, on "Agencies and Outsourcing".

Another case was reported on 21 April 2008, in which an interpreter sent a substitute to impersonate him and take part in a trial at Canterbury Crown Court. The impersonator was not a qualified interpreter and was not on any of the recommended interpreters' lists. He was caught red-handed after taking the oath when another interpreter recognised the fraud and informed the court officials. The impostor was sent away and Judge Nash adjourned the trial. The impersonator was offering interpretation in

Bengali/Sylheti, but was not able to read or write the said language. Both the interpreter and his substitute were arrested, interviewed under caution and released on police bail. The police continued in their criminal investigations on charges of fraud and obstructing the course of justice. The chairman of the Association of Police and Court Interpreters (APCI) was informed, who in turn approached Her Majesty's Courts Service (HMCS) about the incident. The courts were instructed not to use the services of the said interpreter. This was reinforced by a letter from the Senior Presiding Judge to all other Presiding Judges informing them of the name of the person and of the incident.

A formal complaint has been lodged by several parties, such as APCI and Mr Howse from OCJR, and a disciplinary procedure has been put into motion by the NR, while the person remains suspended from his practice. That case has triggered a warning to interpreters sent by the Innovation and Support Branch in London. The letter informed interpreters that, *'Due to issues of identity fraud in recent weeks, please note that it is with immediate effect that you now have to present photographic ID upon arrival at court to attend a hearing. The ID may include your National Register of Public Service photo ID card or a valid passport'*. [Both italic and underlined in the original]. The matter was reported to Maria Eagle at the Ministry of Justice, asking her to warn other courts about this sort of possible criminal activity. The interpreter who first divulged the false identity of the impostor to the court was given assurances of his safety by the police.

### **3.3 Agencies and Outsourcing**

The issue of outsourcing/contracting out causes a lot of controversy wherever it takes place in the health sector, prison, probation and the like. The main concern is outsourcing the procurement of interpreters who work within the criminal justice system to commercial agencies. Makin (2006:1) argues that an outsourcing trend became more evident between 2003 and 2005 within police authorities and probation. In connection with this, when it was revealed in May 2005 that the management of interpreting and translating services in the East Midlands' police forces had been outsourced/contracted out to a commercial agency, it triggered waves of protests from interpreters. They raised issues regarding the protection of personal data, reductions in interpreting and travelling rates by commercial agencies, qualifications, the right of non-English speakers to justice and the right of interpreter representation by the bodies that regulate their profession. The concept of outsourcing/contracting out was a catalyst in uniting interpreters under one flag for the first time, in order to defend their practice and demand equality with other professions.

The practice of legal interpreting or taking statements requires in-depth understanding of both languages and a broad knowledge of the relevant cultures to ensure that what is said in one language is correctly interpreted in the other, ensuring that police and court time are not wasted through misunderstanding, or the worst case scenario, a miscarriage of justice through poor interpretation. Therefore, the practice requires specialist skills, linguistic competence and knowledge of English law, hence qualifications are important.

The aim of the present research is to explore the views of professional groups regarding their use of interpreters. The study also recommends the best ways in which the practice of interpreting, as a profession, could be regulated on par with other professions.

### **3.3.1 Ideology and general practice of outsourcing**

Whitfield (2006:37) explores the motives behind outsourcing/contracting out. He points out that New Labour believed that competition reduces costs. It also envisaged the private sector as more efficient, flexible and innovative at delivering services than the public sector, hence public service would inspire improvement to match the private sector. Other points ranged from providing choices for the middle class and reducing inequality in the market place. The same points are raised by (Burke 2002; Cavadino 2002 and Nellis 2006).

Nellis (2006:51&55) comments that 'contestability' implications are misread and oversimplified as well as ill defined. He goes on to remark that it is more aimed towards market testing than its outcome. Furthermore, it is about a mixed economy, which aims to systematically destroy the monopoly of the public sector.

### **3.3.2 Outsourcing in the CJS**

The trend of outsourcing/contracting out has been prevalent in differing degrees among various CJS bodies such as courts, probation, prison services and the police. However, there is a lack of attention to quality assurance in the services provided by commercial agencies. There are many consequences of contracting out services to private providers. Whitfield (2006:37) lists some of them as he remarks that resources could be diverted

into transactional costs. He proceeds to give an example of the Carter Review of legal aid in 2006, which highlighted the increase in the administration of legal aid to five per cent of the budget. However, the costs of procurement and contracting out are likely to be over five per cent.

Another impact to outsourcing/contracting out is the fragmentation of services through several contracts, some of which might fail to achieve the required standards and lack one central port of service. Burke (2005:20) drew attention to the different agendas that outsourcing/contracting out agencies pursue in the form of planning, financial cycles and priorities. The outcome of fragmentation would be the loss of public service principles and values, as well as the replacement of a public monopoly by a private one. This situation could create a lack of democratic accountability and the creation of obstacles to security and transparency (Whitfield 2006:37; Burke 2005:20 & 23). Burke (2005:25) gave the example of when the Prison Reform Trust (2005) concluded that private prisons lacked accountability; especially in the building and running of prisons and that both of these areas were lucrative and secretive. Furthermore, the law of England and Wales would not be applicable in the case of disputes with foreign owned commercial intermediaries.

### **3.3.3 Outsourcing of interpretation services in the CJS**

Although there are recommendations to use qualified interpreters from the NRPSI list or equivalent and, in the case of sign language, from the directory of the Council for the Advancement of Communication with Deaf People (CACDP), as a first port of call in

Lord Auld's Report (Auld 2001), these recommendations have been undermined by a 'whenever possible' clause in the same document.

All police authorities in the UK signed a Trial Issues Group Agreement on the Appointment of Interpreters in Criminal Proceedings in 2002, which stipulates that only interpreters registered on the NRPSI should be used in criminal proceedings. The agreement explained that interpreters listed on the NR have adequate qualifications and are vetted for criminal convictions and immigration status by undergoing Criminal Record Bureau (CRB) disclosure. The use of unqualified interpreters could lead to a serious miscarriage of justice, as well as difficulties in obtaining a conviction in court.

The reasons for using interpreters through commercial agencies could be explained by the lack of training and information on the part of listing officers/clerks to the Justices in courts. Some of them fail to update their information with the latest terms and conditions for employing interpreters. Other courts' personnel use agencies for the procurement of interpreters; as a listing officer puts it, 'we book whoever we can get hold of the fastest' and another, 'I prefer to make one phone call instead of three, four, or more'. Some courts advocate favouritism and call the same interpreters on a regular basis from their own local list. These pieces of information were reported by members of The Action Group Forum from their own experience as interpreters. There is an outsourcing/contracting out issue in the Magistrates' Courts, which is more or less absent in the Crown Courts. This is due to the fact that the 42 Magistrates' Courts Committees (MCC) was abolished and Her Majesty's Court Service came into being on 1<sup>st</sup> April 2005. Prior to this the MCCs had been independent and, in areas such as

interpreter provision, were largely able to make their own local arrangements, sometimes even agreeing exclusive contracts with agencies. However, the Crown Court had access to the NRPSI through a standard licence held by the Criminal Business Branch, Criminal Justice Delivery Unit. In 2005 such a comprehensive licence did not exist for magistrates' courts.<sup>8</sup>

Kong (2007:171) raises the point of lack of quality assurance in courts in that different courts have different procedures when employing interpreters, and in many cases some use unqualified interpreters in contravention of the National Agreement of 2007. Kong calls for the bench chair or the judge to establish whether the court is complying with the updated regulation.

Furthermore, the autonomy of police authorities allows them to set their own practice led by their chief constable. When they apply their rules to the procurement of interpreters they label it as 'recommended best practice', even if it results in employing unqualified interpreters sent by commercial agencies. They go further by ignoring any evidence of malpractice presented to them (Makin 2006:1&6). In relation to this, The Sunday Telegraph of 27 August 2006 drew attention to a loophole in the regulation of the procurement of interpreters that allowed commercial agencies to provide police forces with unqualified persons to act as interpreters. The newspaper gave an example of a retired priest sent by the police who translated for a Portuguese speaking man from Guinea Bissau in West Africa, accused of sexual offences at Norwich Crown Court. The priest was not able to communicate well with the suspect because his grasp of

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<sup>8</sup> Email by Lee Howse from Criminal Justice Delivery Unit to the Action Group's forum (20/06/2005).



Portuguese was scant. Furthermore, he refused to translate sexual words claiming that was against his beliefs (Copping 2006).

In May 2005 it came to light that in November 2004 the five East Midlands' police forces, namely Leicestershire, Derbyshire, Nottinghamshire, Northamptonshire and Lincolnshire, decided to contract out their interpretation services to a commercial agency. The interpreters found out about the contract when the agency started writing to them in May 2005, six months after the contract had been put out for tender. Hence, the East Midland police authority signed an exclusive five year renewable contract with the commercial agency, giving it the right to provide interpreters to the five police constabularies (Kong 2007:170). The forces claimed that outsourcing would result in financial and time savings for them, since the agency would submit one monthly invoice as opposed to a claim form for each instance in which an interpreter was used, and they would issue a corresponding cheque for payment to one source. The agency that had been given the contract imposed a reduction of 60% on the approved rates and paid only 40% of the police rates as well as low travel time' rates. These measures would mean that interpreters earned less than the minimum rate (Makin 2006:5). Such a major reduction in rates was unprecedented within any workforce in UK or any European Union country. In general, commercial agencies would typically use casual labour and introduce sudden streamlining measures to ensure that the target of a given profit margin was met.

The East Midland contract elicited widespread protests from interpreters who were not consulted, and led to the creation of The Action Group Forum. Members of the Action

Group exchanged information on their internet forum including academic and newspaper articles, and some acted as a watchdog reporting issues of noncompliance of service providers to the provision of qualified interpreters. Hence, the Action Group spearheaded a campaign to attempt to raise awareness of the shortcomings of outsourcing/contracting out to commercial agencies in the CJS and called for reform of the management of the NR. They looked for support from a union and hence 'Interpreters' and Translators' Branch of the GMB Union (ITB), was formed. Interpreters were able to lobby and report cases of malpractice through their members of parliament, either directly or through the ITB union.

Interpreters used the Freedom of Information Act 2000 to learn that there was a correlation between outsourcing and the use of unqualified interpreters. Kong (2007:171) comments that in Lincolnshire only one out of five interpreters sent by the private agency to police stations was qualified with DPSI full status on the NR, whilst police stations that used interpreters from the NR were able to access 100% qualified practitioners. The outcome of the above campaign led to a television programme in which a Criminal Defence Lawyer exposed the malpractice of interpreters that were sent by the commercial agency. He was alarmed that some of the agency interpreters were not able to translate the caution, which is usually at the outset of police interviews. Others were frightened and even burst into tears for not having the experience or knowledge of legal terminology. He went on to give examples of interpreters who wanted to hurry in order to catch a train and one who left the police station even before the start of the interview, and consequently the police had no choice but to release the suspect without charge (The Politics Show 2005, 27 November). Makin (2006:4)

uncovered the workings of that private agency which sent trainees after undertaking only a five day course and labelled them 'safe to practice'.

Interpreters realised how their profession has been ill-defined and quasi regulated, which left them socially vulnerable to other forces beyond their control. As Inghilleri (2005:73) explains, interpreters occupy a 'relatively weak social position' but have the potential to create and demonstrate 'new forms of legitimate social practice'. She points out that under certain conditions interpreters could occupy an equal or even greater status within the process of interpreting and create their own habitus. Inghilleri further explains that interpreters' positions, in terms of social or professional status in their original countries, could contribute to how they perceive themselves in the host country (Inghilleri 2005:76). In that sense, interpreters who became active and outspoken in the campaign to regulate the interpreting profession were highly qualified, up to PhD level in the Action Group, and one of them was a professor. They were also experienced in their previous professions prior to entering the interpreting profession.

Pressure-lobbying by interpreters through their union representation has produced the National Agreement (NA), which was issued by the Office of Criminal Justice Reform OCJR in January 2007. The document was a product of separate meetings with the OCJR in which some ITB interpreters submitted several detailed written recommendations, most of which, except the call centre, were incorporated into the NA. The agreement stipulated that 'it is essential' that qualified interpreters with DPSI or equivalent, or CACDP for sign language, should be used in the CJS. The same document dropped the 'whenever possible' clause that allowed courts and other

criminal justice bodies to use unqualified interpreters. The NA of January 2007 was an improvement from a previous Home Office circular: 'Use of Interpreters within Criminal Justice System' in July 2006, which replaced Lord Justice Auld's recommendations and agreements in his Review of the Criminal Courts of England and Wales of December 2001 (Kong 2007:170). However, the new NA did not mention who was going to police its implementation.

The same NA did not forbid outsourcing/contracting out, but placed the responsibility of the procurement of interpreters on the teams of the constabularies concerned. It affirmed that their outsourcing/contracting out requirements mention the obligation to provide fully qualified interpreters, preferably from the NRPSI. Furthermore, the agreement acknowledged that it was not always possible or timely to source interpreters from the lists specified by OCJR, and allowed other sources to be used in exceptional circumstances. In that case, certain procedures have to be followed by a senior police officer stating the reason for such a decision. However, the request for a call centre similar to that of solicitors was not granted. Interpreters envisaged the creation of one point of contact that would facilitate the procurement of interpreters and would give no reason for future outsourcing.

The policy of outsourcing/contracting out continued through other police forces such as Thames Valley police, Greater Manchester, Merseyside, Lancashire and Cumbria police authorities. In effect, the procurement of interpreters by the north-west police constabularies through a commercial agency in 2010 has propelled some qualified interpreters from the NRPSI to form the Professional Interpreters Alliance (PIA).

Members of the PIA raised funds from each other in order to challenge the north-west decision through a Judicial Review (JR) (Baksi 2011:1). Thompson (2011, March 7) reports in the Manchester News that the forces scrapped the contract with that specific agency before the JR hearing. In relation to this, the Ministry of Justice (MOJ) wrote to interpreters on 2 August 2010 regarding their intention to outsource the 'Criminal Justice System Services' Interpreters requirements' to agencies rather than book interpreters directly from the NRPSI. The contracts are to be signed in March 2011 and their implementation will start at the beginning of the new financial year in April 2011. However, when interpreters complained, MOJ sent another letter dated 30 March 2011 together with 5 documents that explained the procedure. The letter asked interpreters to respond to MOJ's proposals by 27 April 2011, to be later extended to 4 May 2011. Document no.2 explained the plan for a three tiers model that would place interpreters according to their qualifications, experience and the outcome of an independent assessment centre. Joined submission was sent on 3 May 2011 by various interpreting organisations to the Better Trials Unit of MOJ. The document opposed MOJ's proposals and gave their reasons in details. In the MOJ's opinion, this will render the regulatory NA of 2007 'obsolete' and NRPSI 'redundant'. Defence solicitors ask the MOJ not to put into jeopardy the standard of interpreters through outsourcing translation services with their cost-cutting plans (Baksi 2011: Gazette 10 March). The PIA members wrote to the MOJ through their solicitor regarding their plans to apply for JR once the decision is taken.

An example of the use of unqualified interpreters is manifested in the malpractice of an interpreter who misinterpreted Polish culture. The interpreter was born in Russia and

interpreted in Polish. She worked as a director of the Weymouth based charity, British Eastern European Support for Foreign Prisoners. The person responsible for the administration of interpreters in Dorset confirmed that the lady interpreter in this case was not registered on the NR. She interpreted for a Polish defendant who was charged at Weymouth Magistrates' court in September 2006 with four offences of groping women. Among the women he groped were a teenager aged 15 and a woman in her mid-40s. He fondled the breasts of three of them and pinched another on the bottom. The unqualified Russian interpreter claimed that groping women in Poland was acceptable. Since an interpreter should not express personal views in court, her action was counter to professional code of ethics and good practice. The case had to be adjourned so that an expert witness could assess the situation. The story appeared in the British National Party (South West) on 9 November 2006 under the headline 'Groping's okay in Poland – apparently!' The interpreter's comments for the defendant have caused public outrage and the Polish Embassy had expressed its objections and affirmed that indecent assault was against the country's law. Such erroneous comments could stir up xenophobic feelings in the country against foreigners.

One of the pitfalls of using unqualified interpreters is that it could hamper police investigations, as in the murder of Monika Horvathova in Derby. In July 2006 at St Mary Wharf police station, Derby, the commercial agency could not provide the requested number of interpreters. They sent an interpreter who was unqualified of poor performance and hence could not assist with the investigation of this serious case. The police requested a Slovak interpreter, but the agency was only able to provide a Czech speaking one. The Criminal Investigation Department (CID) had to obtain permission

from their Superintendent in order to contact an interpreter from the NR. Then they had to engage in a lengthy negotiation with their finance department to pay the interpreter, who insisted on being paid at the police rates. This incident not only delayed the murder investigation, but also could have jeopardised the case. The defence could have argued that the statements were taken in a language not spoken by the witnesses, and that could have made them inadmissible in court.

Some police stations have their own lists of interpreters and do not stipulate the need for qualifications in their choice. They also dismiss the NA as nothing more than guidelines. One example was in the Interpreting and the Translation Services at Cambridgeshire. Since courts are no longer autonomous after they came under the umbrella of the Department of Constitutional Affairs, later to be called the Ministry of Justice in 2007, most of them have implemented the NA of 2007, and hence the situation has improved. Contradiction appears when the police authorities are allowed to arrange interpreters for any charged person in custody to the court for whom there is less than 48 hours notice of the first hearing. In this case, the Interpreting and the Translation Services at Cambridge at Thorpe Wood police station in Peterborough booked a Czech interpreter. When the defendant was charged, the interpreter was asked to interpret for the same person at Peterborough Magistrates' Court on 28 March 2008. The usher refused her service after he checked and found that she was not a member of the NRPSI. It was understood that the court was in the process of logging a complaint with Cambridge Constabulary for sending an unqualified interpreter to the court.

Ironically, the same unqualified Czech interpreter from the previous case worked at Thorpe Wood Police Station during an interview. After the defendant was charged, the interpreter was asked by the police to attend at Peterborough Magistrates on 11 April 2008. The usher refused her services again and was not allowed to fill an interpreters' claim form from the court. She then filled a Cambridgeshire Constabulary interpreters' claim form. Another case of rape at Peterborough Crown Court on 8 April 2008 was adjourned when it was revealed that the interpreter used at Thorpe Wood police station and during the interview was not registered with the NRPSI. It was the same interpreter that was not allowed to interpret by the usher in Peterborough Magistrates on 17 April 2008 for not belonging to the NRPSI. The defence barrister had to book a Lithuanian interpreter from the RPSI to check the translated DVD. The qualified interpreter discovered omissions, additions and even paraphrasing in the translation. The interpreter had to be paid via legal aid.

Some criminal justice bodies argue that they had to use agency interpreters when they failed to find qualified interpreters, especially when dealing with a rare language. Buckingham (2008:11) claimed that the present shortage of interpreters was due to the increased rate of immigration, while the present system was created for the level of immigration 30 years ago. Kong (2007:171) suggested that when an interpreter for a rare language could not be found on the NR, a substitute could be sourced from academic institutions, such as the School of Oriental and African Studies or national embassies. Such institutions would have individuals of equivalent standards to be able to perform as interpreters.



Although there is competition to reduce costs, this could result in a lower quality service and, in the long run, would be more costly in rectifying the mistakes from the non-professional employee. For example, an agency sent a non-qualified interpreter to Norwich Crown court in April 3, 2006. Judge Jacobs was alarmed at the poor interpreting quality of a person who only studied Russian in school and failed an examination. He asked for a qualified Russian language interpreter to re-transcribe the tapes of the police interview to discover that the caution was given wrongly as, 'you don't have the right to say anything at all and anything you say will be used against you'. Hence, the police interview was inadmissible in court. It transpired that the Latvian speaker defendant, who understood Russian, was supplied not only with a non-qualified Russian interpreter, but also the wrong language, since the agency did not have a Latvian-speaking interpreter (Eastern and Daily News, 2006 and The Sunday Telegraph, 2006).

A barrister in Lincoln, where a commercial agency operates, was concerned at the lower standard of interpreting by persons sent by that agency. Therefore, he had to employ his own qualified interpreters at police interviews. The result was that more money was spent on interpreted cases funded by Legal Aid budget from the taxpayer (The Politics Show 2005). In another case at Burnley Crown Court, Lancashire, in 2005, *Reg v W. Khan* wasted taxpayers' money when an unqualified interpreter from an agency wrote a statement that was impossible to understand. The case had to be adjourned until a qualified interpreter could prepare another statement. The charge was sexual assault on a minor. The adjournment caused great distress to the victim.

Makin (2006:1-2&10) warns that in the present globalisation context of the movement of individuals between countries, the use of unqualified interpreters could result in a miscarriage of justice or the guilty going free. He argues that the use of unqualified interpreters could undermine the rights of foreign transient workers or any person who is a non-English speaker if s/he came into contact with the CJS. He draws attention to defendants' right to liberty, security and justice and the use of unqualified interpreters could violate their rights according to article 5 and 6 of the European Convention on Human Rights (ECHR). On 24 November 2005, the District Judge at Bradford Magistrates' Court discovered that the non-English speaker was interviewed at the police station without the assistance of an interpreter. He informed the solicitor in this case that if the case was listed for trial without the provision of an interpreter it could have amounted to a breach of the Police and Criminal Evidence Act (PACE) 1984.

Lalmy (2009:5-6) maintains that commercial agencies failed to perform efficiently by their provision of unqualified interpreters to public services. He in turn blames public services for continuing to accept the agencies' services in spite of having appalling experiences with them. Lalmy draws attention to several press headlines during the last five years, which highlighted cases of agencies' shortcomings through their provision of inadequately qualified interpreters. He observes that public services failed to take steps to remedy this situation by taking legal action against commercial agencies for breach of their contracts. He then points out that agencies do not attempt to raise the standards of their interpreters, although they have been providing interpreters over the last decade. Lalmy (2009:1&6) criticises the lack of compulsory quality assurance system control for commercial agencies and calls for one to be put in place.

The reason behind agencies' use of unqualified interpreters is due to their monetary policy of paying pittance to their interpreters. Hence, qualified professional interpreters are unlikely to accept the agencies' low rates. A survey in 2006 was conducted by The Institute of Translation and Interpreting (ITI), in which interpreters were asked whether they wished to work for commercial agencies. The results showed that a bulk of 85.7 per cent of the participants rejected working for agencies as they were not satisfied with their terms and conditions of employment. In addition, 52 per cent of interpreters did not wish to work for an agency that does not always employ qualified interpreters (Lalmy 2009:10). Therefore, agencies tend to employ mostly new migrants, who are inexperienced and unqualified and unlikely to be in a position to demand high wages, and are willing to offer their services cheaply (Lalmy 2009:6).

Lalmy (2009:5-6&16) questions public services' adoption of a failed scheme with commercial agencies, which prefers the commercial aspect of low bids from agencies at the expense of professional provision by qualified interpreters. Notwithstanding, public services continue to sign contracts with intermediate agencies, and any case of shortcomings highlighted by the media only last for a day or two and then die down without any remedial action taken against the agency in question. Lalmy draws attention to the plight of non-English speakers who need the services of interpreters, and whom the public services consider just as immigrants. He blames the decision-makers who abandon their responsibility to provide adequate interpreting services for non-English speakers.

### **3.4 Code of Practice**

Since the practice of interpreting is quasi (almost but not quite) regulated, it does not have a unified code of practice like other professions such as lawyers, physicians, teachers etc. The questionnaire and interview conducted for this study have asked different criminal justice staff their opinion about a code of conduct for interpreters. This section reflects on the different codes of practice from the six main public service organisations that hold a directory/list of interpreters. The main reason of such a review is to highlight the salient points, which criminal justice practitioners might agree on in respect to the interpreter's role and duties. See Chapter Five for a "Presentation of Findings" from the interviews conducted with the participants after ideas were developed from the questionnaires.

The NA of 2007 recommended that interpreters should register with the NRPSI and this would be the first port of call. The NRPSI "Code of Conduct" refers to 'communication across language and culture' in the process of interpreting. Therefore, the interpreter has to be aware of the culture of the first language as well as the second language and their dialect(s). The same point has been mentioned in the Asylum and Immigration Tribunal (AIT), 'Interpreter Standards', and in the Metropolitan Police's 'Code of Ethics'. The Institute of Translation and Interpreting (ITI) has also referred to cultural context in its 'Code of Professional Conduct'. The present research explores the possibility of using explanations of cultural meanings in court as part of the interpreter's role. The codes in both the NRPSI and AIT state the use of the correct technique/method during interpreting. The study questionnaire asked the legal practitioners if the interpreter would be allowed to explain the different methods/techniques of interpreting before the

commencement of each case, and this was one of the questions in the interviews conducted with the participants exploring their knowledge of the practice of legal interpreting.

All six formal codes of practice stipulate that the process of interpreting should be undertaken competently, impartially, and adhering to confidentiality at all times. The Home Office's 'Code of Conduct for UK Border Agency Registered Interpreters' goes further in alerting interpreters' to 'high profile cases' that attract media attention and cautions them against giving any information. The same code asks them to abide by the provisions of the Official Secrets Act. All the above codes demand that the interpreter remains faithful by not omitting or adding to the interpretation. Furthermore, the practice code in the NRPSI, AIT and Home Office explains the right of the interpreter to intervene in certain situations if s/he is faced with an unclear point, has missed a cultural inference, or if the defendant/witness or appellant did not understand something. One of the points stressed in all the above codes of practice is the importance of disclosing any difficulties in understanding the person interpreted for, and not giving advice or having a private discussion with her/him.

In the NRPSI's code the interpreter is required to state if s/he has interpreted for the police, and in the AIT's code the interpreter must inform the court if s/he dealt with the same case for the Home Office. The same thread is present in the Home Office code in terms of the interpreter not having worked on the same case with a legal representative, as it would be seen as a conflict of interest. All formal codes of practice instruct the interpreter to avoid situations of controversy where the person interpreted for is known

or related to her/him. In addition, any interpreter has to declare any information that might deem her/him to be unsuitable, such as having criminal record; therefore it is one of the requirements from interpreters to be on the NR. The 'Code of Practice' of the Association of Police and Court Interpreters (APCI) prevents its members from visiting a detainee without her/his legal representative, and from taking statements without the presence of a police officer. While the Metropolitan Police code insists that the interpreter must not carry out any interpreting without the presence of a police officer unless her/his help is required in private consultation between the suspect and the legal representation. Moreover, the interpreter is not allowed to accept or delegate assignments to other interpreters without the approval of the Metropolitan Language Services. The Home Office code adopts the same view. The APCI's code does not prevent their members from accepting or nominating another member to take or finish an assignment in an emergency but the interpreter is prohibited from passing the task onto a member of her/his family. Yet, at the same time the code recommends that the incoming interpreter be fully briefed before starting the assignment. The ITI code agrees with APCI in terms of passing an assignment to another member, but prohibits subcontracting work without the prior knowledge of the principal.

The ITI code insists that the interpreter should only interpret in the language in which s/he is registered within the given institute. Ironically, the stipulation on the registered language was absent from the published NRPSI code. When interpreters from the Action Group complained to the NRPSI about an interpreter who accepted assignments in a language for which s/he was not registered, they received a reply stating that, 'accepting assignments as a NRPSI registered interpreter for a language not registered is

contravening the NRPSI code of practice'. Nevertheless, the same reply indicated that, 'if an interpreter specifically states (and there is proof) to the public service client that they are not registered with the NRPSI for the language they wish the interpreter to interpret, we would be unable to take any disciplinary action'. The interpreter is required to inform the Metropolitan Police, Home Office, and APCI of the length of travelling time before accepting any of their assignments.

Interpreters in the AIT, APCI and Home Office are required to abide by a dress code during their duty in court or during assignments at the Home Office premises, which should be formal and of sober colour. The researcher asked legal practitioners, via the study questionnaire and interview, if a dress code would promote the interpreter's image. The AIT code prevents interpreters from publicising their services on any of their hearing venues and from using their position to conduct business through running an interpreter agency. The same vein is present in the Metropolitan Police and Home Office code as well as the APCI.

The APCI gives advice to their interpreters not to be involved in giving personal services to defendants or witnesses, such as transport. All the above codes prevent their members from giving any kind of legal advice, commenting on the use of a solicitor, or accepting gifts or favours from defendants or witnesses. The Home Office code of conduct asks interpreters to avoid commenting on the ethnic veracity (country of origin or social group) of an applicant. The same code recommends the best practice in interpreting by speaking slowly and clearly and spelling out any foreign name or places mentioned by the interviewing officer or interviewee. Furthermore, the interpreter

should adopt direct speech during the interview with the appellant and the Home Office officer. Also, the interpreter is required to interpret any offensive language, but at the same time it acknowledges the difficulty of literal translation for cultural reasons. Furthermore, it recognises the need for the interpreter to take breaks in case fatigue starts to interfere with her/his accuracy.

However, there are certain points that the above codes do not cover, for example, where a barrister/solicitor/judge makes a mistake. The same codes do not mention the duties of the interpreter in such situations whether to draw the legal participants' attention to the mistake or keep silent. Niska (1995:295) referred to the Norwegian jurisdiction where the interpreter is required to monitor the court proceedings and inform the judge of any misunderstandings and even to give remarks at the end of the case. Another situation was highlighted on June 2008 in the case of a defendant that was found guilty at a Crown Court and immediately drank from a bottle he had with him containing enough chemicals to kill him. According to a report by the Prisons and Probation Ombudsman, the interpreter in this case had vital information about the possibility that the defendant might harm himself, but the interpreter did not share this information with anyone. Her Majesty's Court Service has since contacted the NR and asked that they inform all interpreters that if they have reason to believe that anybody they are interpreting for in court plans to harm themselves (or others) they should, while using their experience and judgement, take steps to inform the solicitor and/or an officer of the court. As interpreters are bound by confidentiality, HMCS request from interpreters to divulge information about defendants/witnesses could provoke issues of ethics and,



under slightly different situations, interpreters could be reported for disciplinary action by various bodies or be prosecuted.

### **3.5 Problems Encountered by Interpreters Working in the Criminal Justice System**

#### **3.5.1 Vulnerable categories in the criminal justice system**

The Youth Justice and Criminal Evidence Act 1999 (YJCEA) has recognised four categories of Vulnerable and Intimidated Witnesses (VIW). These categories are, ‘children; people with learning disabilities or who are mentally disordered; people with physical disability or disorder; and people suffering from fear or distress as a result of crime (e.g. sexual offences, domestic violence) or as a result of intimidation’ (Burton et al 2006:5). There was a growing concern from the early 1970s to provide victim support for people in such categories, especially when they were required to give evidence in court (Burton et al 2006:1). After 1997 an inter-governmental working group was established, which produced the Speaking for Justice Report. Consequently, special measures were put in place in order to assist VIW (Burton et al 2006:3). The report made 78 recommendations in an attempt to rectify the situation and help VIW to have a fairer chance when giving their evidence during criminal proceedings (Burton et al 2006:4).

Among the above measures, intermediaries or communicators, comparable in their role to interpreters, were required to assist vulnerable witnesses such as young witnesses, people with intellectual or physical disabilities, as well as non-English speaking adults. Hence, interpreters could translate and explain the meanings of words and phrases used

by counsel in court. Since some counsel do not make an effort to adjust their language to suit vulnerable witnesses, they are left with a sense of being unfairly treated by the justice system (Home Office 1998:58). There has been a lack of knowledge among legal professionals regarding different kinds of communication and the needs of vulnerable witnesses and how to resolve them (Home Office 1998:57). Jurors and witnesses experience mishandling by legal practitioners in courts. This is a result of lawyers putting their questions in an aggressive manner that can leave the witnesses confused and traumatised during legal proceedings (Williams 2002:105).

### **3.5.2 The interpreter as an intimidated category in the criminal justice system**

As most interpreters work on a freelance basis, they are unlikely to receive support when faced with obstacles during their professional duties or when they request payments for assignments undertaken.

Interpreters are isolated due to the nature of their profession, therefore they could suffer from bullying from service providers in an attempt to reduce their rates or cut their hours of work, travelling time and expenses. Some interpreters do not have the courage to report cases of bullying as such action might affect the number of assignments they are offered, and those who challenge unacceptable situations could face more bullying (King 2008). For example, one interpreter from the Action Group met the Chief Superintendent of Northumbria Constabulary in 2007 to argue with him against outsourcing the provision of interpreting to a commercial agency, which was taking part in the tendering process at the time. As a result, the constabulary decided not to

outsource for that year. Shortly afterwards the interpreter received a threatening letter of legal action as a means of coercion and blackmail from the tendering commercial agency's solicitor. In the letter, the solicitor blamed the interpreter for the loss of the agency's income from a contract that never existed, and threatened to prosecute her for causation under the Law of Tort. There were other threats to interpreters from various commercial agencies in the Action Group campaigning against the use of intermediaries providing unqualified interpreters. Lalmy (2009:10) points out that such agencies send unsolicited text messages, e-mails and telephone calls asking interpreters to attend police stations or courts, or to recommend a friend or a relative to do the interpreting for them. Agencies also use people who studied a foreign language at school and non-native speakers who have some smattering knowledge of a third language.

Interpreters can face other occupational hazards such as interpreting for a person with an infectious disease, a defendant with poor hygiene, or one who steps on the interpreter's toes during a court case in the evidence box. There are other cases of male defendants giving lessons to female interpreters on how to dress as a Muslim woman. These are examples experienced by the researcher during her practice. The more serious occupational hazard is physical assault, as experienced by an interpreter in 2004 at a basement conference room at the Court of Common Pleas in Reading, PA. While she was sight translating a document, the defendant attacked her with the metal edge of his handcuffs. She was hit seven times and suffered multiple contusions to her face (Leniz 2004:3). Another severe incident was experienced by a male Estonian interpreter in 2003. It was reported that a gang held the interpreter as a hostage and demanded money

for his release. Subsequently, he was beaten up and dumped in East London (BBC News Channel, 23 June 2004).

In 2007 when attending a Home Office interpreting unit, another interpreter from the Action Group noticed that several notices were placed within the building which read, 'Interpreters are not allowed to loiter by the lifts'. Even the researcher had experienced bullying by a solicitor's firm in 2008 when they booked her for an assignment at a prison 6 hours away from where she lived. However, the firm wanted to pay only one hour's travel fee. Furthermore, the solicitor arrived at 11.30 am instead of 10.00 am and was not allowed to meet her client. When the interpreter requested payment for the number of working hours that had been agreed, the solicitor tried to reduce them to one hour as if the interpreter was to blame for the solicitor's shortcomings. They phoned the researcher and tried to bully her into submission to their offer of a flat rate payment of £100 instead of £180 she was claiming or they would pay nothing. The researcher insisted on a full payment for the agreed terms on both travelling and working hours plus expenses or she would take the case to a Small Claims' Court, and hence they paid in full.

Sometimes a qualified interpreter suffers from abuse from a person purporting to be an interpreter. On 25 October 2007, an unqualified interpreter claimed to have been booked by Newcastle Central police station for a Czech national appearing at Newcastle Magistrates' court. The charges were related to driving offences. The impostor interpreter was attempting to give legal advice to the offender and tell him what to say in court, which was not within the remit of a professional interpreter and would have

been a breach of the code of conduct. The qualified interpreter from the Action Group became suspicious and asked him if he was registered on the NRPSI. He reacted by being abusive towards the qualified interpreter, swearing at her in Czech causing her to fear for her safety. Security staff and the court manager intervened and he was escorted off the premises. It transpired that the Newcastle police booked him through a commercial agency. As his English was poor and court staff had great difficulties understanding him, the qualified interpreter was asked to interpret what he was saying to them. He even became aggressive towards the security staff and insisted they were all racist.

A number of courts cancel interpreting assignments without informing interpreters, as happened once to the researcher in 2005. When she rang the Crown Court for directions to the next day's case, they informed her of the cancellation and refused to pay a cancellation fee or the pre-booked train ticket. In this situation, an organisation such as Asylum and Immigration Tribunals AIT encourages interpreters to reduce their travelling time and expenses in order to be given more assignments. Some interpreters were forced to waive their travelling time or cut it as they use AIT payments as a primary source of income to meet family demands and mortgage instalments. One interpreter wrote in the comment book allocated in the interpreters' room, when read by the researcher, 'if interpreters do not request travelling time or expenses, would they choose them only by the pretty face?'

Another forgotten category of interpreters is for those who work with the occupying forces in Iraq helping the coalition with their specialist local knowledge. It was

estimated that around 250 Iraqi civilian interpreters were killed during the conflict, more than the total British soldiers who perished. Since there has been a tendency for the locals to consider interpreters working for the forces as collaborators, they suffered from intimidation. As a result, many of them were forced to flee Iraq to neighbouring countries, and some came to the UK seeking political asylum. The Home Office was not sympathetic to their plight, and accepted the request of a small number to be allowed to reside in the UK (Face the Facts: Iraqi Interpreters, BBC Radio 4, 20 July 2007).

### **3.5.3 Are interpreters responsible for the increase in police expenditure and rise in council tax?**

There have been a number of articles portraying interpreters in an unfavourable light implying that they together with immigrants are placing an unacceptable financial burden on the taxpayers. Some articles were written in a sensational language that would be unlikely to further race relations in UK and could incite hostility towards both interpreters and ethnic minorities.

For example, an article published on 14 September 2006 under the headline ‘Thousands Lost in Translation’ in the Bristol Evening Post reported that the police were facing mounting costs for interpreters, claiming that their services were increased to the extent that their costs had risen from £170,000 to more than £412,000 a year later. Furthermore, it went on to give an account of Avon and Somerset police expenses for interpreters that reached £222,263.76 in 2003/04 but went up to £412,284.44 in 2005/06. Moreover, the article drew attention to other costs paid to interpreters through

the court service when they appeared in court to help non-English speakers as victims or witnesses of crime. The same tone was further used in The People.co.uk, published on 24 September 2008 under the headline ‘Anything you Say Will be Taken Down, Interpreted into English and Cost the Taxpayer £20M’. The sub heading appeared as ‘Soaring Cost of Translating for Foreign Crooks’. The reporter stated that the money paid to interpreters could be spent on more police officers to patrol UK streets, and added that translation costs had increased by 500 per cent in five years. The same reporter went on to give an account of interpreting bills in the Metropolitan London, West Mercia and Cambridge police forces. The reporter ended the article by giving a quotation from the government spending watchdog, which suggested that taxpayers’ money should be directed towards employing more policemen rather than being spent on interpreters.

On 28 September 2006, the Times contributed to the same unfavourable theme with an article headed ‘Immigrants Drive up Police Bills for Use of Translators’. The report claimed that £21 million was paid to interpreters with an estimated rise of 2,000 per cent over the last five years. It added that the Metropolitan Police shared a third of the total interpreting costs that came to £8 million in 2005-06. The report also mentioned an increase of 354 per cent for Staffordshire, as well as 357 per cent for Norfolk. Furthermore, it stated that the West Midlands paid a total of £1.7 million last year for interpreters. On the same day as the Times article, the Coventry Evening Telegraph published an article, headed ‘Police Learn that Talk Can be Costly’. It mentioned that the police force had to pick up a bill worth multi million pounds for their interpreting service that had increased by 350 per cent since 2001. The reporter indicated that the

interpreting costs for both West Midlands and Warwickshire police escalated from £465,260 in 2000-01 to £2.2 million in 2005-06.

On 4 October 2006, the Evening Star published an eye-catching article on its website under the headline 'Interpreters Costs Quadruple'. It remarked that Suffolk police had to pay interpreters the sum of £175,721 between April and March 2006. It went on to say that this was an increase of 286 per cent compared to 2000/01. It gave a list of other police forces such as the Metropolitan, East Anglia, Cambridgeshire, Essex and Norfolk police forces with increased expenditures for interpreters. It also remarked that interpreters accounted for £20 million of the UK police budget. Similarly, the Cambridge Evening News published an article on 5 March 2007 entitled 'Language Barriers Mean £800,000 Bill'. The article argued that between April 2005 and March 2006 last year the force spent £715, 000 on interpreters. Then it remarked that this money could have been spent on the salaries of 35 police officers instead.

Even ministers joined in the campaign to highlight interpreters' costs. The Communities Secretary's attack appeared in the Daily Mail on 10<sup>th</sup> June 2007 under the headline 'Translation Services Must be Axed to Force Immigrants to Learn English'. This was reiterated on the same day by the Sunday Times in an article entitled 'Councils Told to Axe Translation Help for Migrants'. The minister attacked councils for their expenditures on interpreting and translation service. The story linked interpreters with the increasing budget of councils. Furthermore, there was concern that the foreign language interpreters took a share of £25 million from UK police expenditures in the last 12 months, that estimated to be £4 million more than the previous year. Interpreters



were again linked with police costs and there was a warning that their expenditure could lead to a cut in frontline crime fighting.

On 24 September 2007, the Worcester News made the headlines with 'Interpreters Tenfold Increase as Migrants Come to County'. The reporter announced that the Detective Chief Inspector (DCI) mentioned that funding interpreters had become a major issue for the Worcestershire force. The DCI went on to say that his division spent £7,800 on interpreters from the period March 1999 to March 2000, but that this had climbed to £77,000 in March 2006. He added that the increase was tenfold within six years. On 26 September 2007, the Guardian reported in its article 'On The Margins' that the Chief Constable of Cambridgeshire police force complained about the escalation of interpreting costs due to the influx of migrant workers, and called for extra funds from the government.

In areas where the police outsourced the provision of interpreters to a commercial agency such as Nottingham and Leicester, the rise in the interpreting budget was still an issue. In Nottingham, the Evening Post of 11 March 2008 wrote in an article headed 'Interpreters: Costs Rocket', explaining that Nottingham police was experiencing a big rise in interpreting expenses. It showed that the costs were £130,353.50 in 2005/06, but went up to £234,724.07 in 2007, an increase of 80 per cent. As for Leicester, the Leicester Mercury of 14 March 2008 printed an article under the headline 'Interpreters' Bill to Police Force is £1.1M' and a few days later nearly the same article appeared in the Mail on 20 March titled 'Police Pay £1.1M for Interpreters'. Both articles associated the rise in the council tax with the increasing financial pressure on the Leicestershire

Police Authority. They revealed that the interpreters' bill peaked at £494,877 in 2006/2007. They also pointed out the waiting time for an interpreter to arrive to the destination and how that would affect the policing level in the county. Leicestershire police signed a renewable contract with an intermediary in May 2005 for the procurement of interpreters aiming at saving some resources and such financial increase would not have achieved their original goal. See section 3.3 on "Agencies and Outsourcing" in this chapter.

A sensational story was printed in BBC Look East (regional news) on 11 April 2008 depicting the interpreter as a higher earner, who earns an income higher than the Cambridgeshire Chief Police Constable herself. The article was headed 'Police Count the Cost of Migrants'. The reporter asserted that one interpreter in both Latvian and Lithuanian languages picked up £150,000 last year and that money came from the taxpayers. The reporter added that Thorpe police station alone paid interpreters £500,000. The report went on to claim that the local magistrates' court spends about £1,500 a day on interpreters alone. The article sparked a wave of protests from interpreters disputing the reporter's information. Some interpreters from the Action Group complained to the BBC on the accuracy of the information in the report. They pointed out that if the reporter had consulted well known organisations representing interpreters such as the NRPSI; the APCI and ITI, the reporter would have acquired a more balanced account and realistic information about the income of a professional interpreter.

One letter from a Czech national interpreter from the Action Group disputed the reporter's account that an interpreter could interpret in both Lithuanian and Latvian languages. The interpreter argued that only in a commercial sector could an interpreter earn a higher income paid by private clients and not tax payers. Another interpreter from the Action Group wrote to Cambridgeshire constabulary requesting knowledge, according to the Freedom of Information Act 2000, about the highest fees paid to an individual interpreter during the 12 months ending 31<sup>st</sup> March 2008. The force responded on 5 December 2008 giving an account that the highest earning interpreter in the service between 01/04/2007 and 31/03/2008 was £36,632. Hence, the report on Look East above did not present a realistic situation at Cambridgeshire police.

The Cambridgeshire Chief Police Constable was pictured in an article in the Daily Mail on 7 June 2008 under the headline 'It's NOT Racist to Tell the Truth About Immigration and Crime, says Leading Police Chief'. In the article, the chief complained about the surge in interpreting costs. She declared that translating funds were approaching £1 million, which could be spent on recruiting 20 to 30 extra police officers. The chief added that the money paid to interpreters has put constraint on the daily management of the force and organisational flexibility. She indicated that interpreters were paid more than her officers; therefore the officers were resentful to interpreters. Thus, she appointed a salaried civilian Translation Services Manager that recruited in-house officers that could handle 20 languages and hence cut costs. These bilingual support officers involved in the day-to-day work were not qualified (see "Agencies and Outsourcing" section 3.3 in this chapter. Some interpreters asked the

Cambridgeshire Police Authority and the Independent Police Complaints Commission (IPCC) to investigate Cambridgeshire Chief Police Constable's claims.

In response to Cambridgeshire Chief Police Constable's calls for an increase in funding from the government to cope with the influx of migrants, Mr Thatcher, a Parish clerk and council member at Tilbrook, wrote an article titled 'Senior Police Officers' Volvo Perk' in the Hunts Post, when he exposed the service's unnecessary expenditure. In his article of 30 April 2008, Thatcher put a spotlight on a scheme that provided 21 luxury cars for Chief Superintendents introduced by the Chief Constable herself after she came to power. Under the scheme, high-ranking officers were given luxury cars to be used during their duties as well as privately. The constabulary was responsible for all costs including maintenance, insurance and fuel for the cars. Furthermore, the cars were to be replaced every three years, losing 50 per cent of their original value. The estimated cost of the scheme was £500,000. Mr Thatcher claimed that the officers eligible for the scheme were clocking up 8,000 miles for business use plus 9,000 miles for private trips per year, whereas before the scheme they were clocking up only 1,500 per annum on business use. On the same topic, an article appeared in the Cambridge News on 8 January 2008 under the headline 'Police Clock up Huge Mileage in Luxury Cars'. The reporter gave the same information but added that Yorkshire police was abandoning a similar scheme.

Cambridge constabulary made controversial news when the appointed Translation Services Manager decided to reduce language interpreters' rates. Consequently, interpreters from the Action Group requested, under the Freedom of Information Act

2000, the rates of British sign language (BSL) interpreters. When they discovered that their counterparts' rates remained the same, they put a complaint in to the Cambridgeshire Police Authority and forwarded it to the IPCC. Their complaint was on the grounds of discrimination and unfavourable treatment of language interpreters. As a result of their protest, Cambridgeshire constabulary agreed to reverse their decision and fully apply the terms and conditions of pay applied by the Metropolitan police.

An illustrated article in the Telegraph linked foreign criminals with the increase in the demands for interpreting services. The heading of the article was prominent as it appeared as 'Cost of Police Translators for Foreign Criminals Hits £22 Million' in its issue of 30 October 2008. The reporter gave an account of the rise in interpreting costs to two thirds in the previous five years. He added that in some forces the costs were up to 400 per cent. The reporter even quoted the shadow Police Minister as calling the fees of interpreters 'unacceptable' and that these funds should have been directed towards frontline policing. The minister gave the impression that the UK was importing foreign criminals. Furthermore, the article gave figures of the funds paid to interpreters in Cumbria, Thames Valley police and Greater Manchester. This concern has been echoed by an online newspaper, 'thisisplymouth.com', on 31 October 2008. The article was published under the headline 'Interpreters Fees Hit £290,000 a Year'. Again it linked interpreters with foreign offenders. The reporter stated that police expenditure in the West Country had doubled in five years. He went on to remark that in Devon and Cornwall the police spent £123,000 on interpreters in 2003-04. However, that figure went up to £320,000 in 2006-07. The report stressed that such funds could have been spent on a more worthy front-line policing of the streets.

Other regional newspapers took part in portraying interpreters as a burden on police expenditures. The Slough & Langley Observer published an article headed 'Police Defend Soaring Translation Costs' on 4 November 2008. The article commented on the annual fees paid to interpreters by the Thames Valley police that doubled to £1.1 million in the previous five years. The same newspaper also reported that the shadow Minister for Police Reform claimed that national police interpreting costs soared from £13.5 million to £22 million between 2004 and 2008. Further, the Sheffield Telegraph published an article headed 'Police Translation Bill Doubles in Four Years' in its issue of 4 November 2008. The reporter disclosed that South Yorkshire police spent more than half million pounds a year on interpreters in the last four years. The same shadow Police Minister on the previous article was repeating his call for a cut in interpreters' fees. The report predicted that the national police interpreting bill would increase to £25 million.

The above articles depicted interpreters as part of the problem and not the solution. They could incite hatred towards immigrants and interpreters implying that they were costing the taxpayer a lot of money, therefore damage race relations. The reporters also ignored the fact that interpreters provide an invaluable service to the CJS.

Lalmy (2009:1-2) warns that the influence of negative words in such articles could create harmful mental images, which could in turn mislead people and distort the factual picture. He went on to explain that there are two negative issues in the above articles. The first is the cost of 'an immigrant in court', since the word 'court' has a negative connotation as people associate court with an offence committed. The second negative

issue is ‘cost of providing interpreters’, and portraying them as high earners paid by the tax payer.

Lalmy (2009:2) notes that non-English speakers could be witnesses or asylum seekers and not in court for criminals matters. Therefore, blame should not be put on the immigrants or the services offered by professional interpreters. Nevertheless, blame should be placed on the Government for not imposing strict regulations on the profession of interpreting, as well as on public services for not acting after reported failures and miscarriages of justice due to the use of unqualified interpreters.

The cost of interpreting could be explained in another way. The present regulation on employing qualified interpreters is a vast improvement on the situation during the last 20 years, where friends and relatives were allowed to interpret. More to the point, the reports ignored the fact that solicitors and barristers’ workloads have also been increased because of migrant workers. The hourly rate for interpreters is a small fraction of that commanded by solicitors and doctors who attend police stations.

#### **3.5.4 Summary**

The interpreter is required to have a reasonable level of education that can be demonstrated by gaining a specialised qualification. Gibbons (2003:241) outlined the educational requirements of the legal interpreter. He pointed out that the interpreter needs to have a high level of proficiency in both the languages s/he is using. In addition, each language has its regional variation; therefore the interpreter should be aware of these and possess the ability to interpret in context. Furthermore, the

interpreter should know the legal process and legal language, as well as having experience in courtroom/police conventions. All the above requirements should be within a framework of professional code of ethics. Hence, certification of the interpreter would give other people an assurance of the interpreter's competence and reliability.

Interpreters' qualifications have to be geared towards a specialised area, such as law (English or Scottish), healthcare and local government. For example, an interpreter who specialises in law cannot work in the healthcare field, and vice versa. Furthermore, a qualified interpreter is committed to professional ethics and a form of code of practice, which are a central part of being professional.

Colin and Morris (1996:23) and Morris (1993c:1059) warn that the legal system should aspire to quality interpreting, as the use of unskilled interpreters would introduce a weak link in the legal process. They point out that the unskilled interpreter would not interpret accurately. S/he might make mistakes or use a polite language that does not reflect the non-English speaker's original language, or use formal or informal language when it is not appropriate. The inefficient interpreter could introduce ambiguities to the case. Inaccurate interpreting could influence the proceedings and mislead the defendant/witness or make her/him uncooperative. Consequently, court attendees might perceive the interpreter as impeding communication in court and the legal process.

Butler and Noakes (1992:4&54-60) point out that the legal interpreter needs to acquire what he calls 'court craft', which includes familiarity with legal procedures. This would



carry in itself knowledge and familiarity with legal terminology. In order to acquire competence in both linguistic and legal fields, a formal qualification and a standard test should be established. Consequently, the professional status of legal interpreters would be enhanced. Butler and Noakes call for a more stringent procedure when employing court interpreters, as well as a provision for post-qualifying training. Thus, qualified interpreters would promote justice for non-English speakers who come into contact with the legal system.

## **3.6 Legal History**

### **3.6.1 Introduction**

The present legal system in England and Wales is communicated largely in the English language, excluding other languages with no attempt to place language interpreting as part of the legal process for non-English speakers. The language difference between the non-English speaker and the legal system carries with it cultural and ethnic issues. These differences could generate negative social attitudes, including prejudice. Hence, the non-English speaker, who is not able to understand the language of the court and is not provided with an interpreter, would be in a disadvantaged position since s/he is not able to understand the proceedings or present her/his case (Gibbons 2003:202).

However, the language of the court after the Norman invasion was French and Latin. This section will review some of the old acts attempting to restore English language into the English legal system. The recent acts will be visited before we finally reflect on the present situation of non-English speakers and entitlement to an interpreter. The purpose

of the historical overview is to shed light on the underlying factors that have contributed to the present situation regarding the right of non-English speakers to the services of the contemporary interpreter.

Pollock and Maitland (1911:87) note that, 'Language is no mere instrument which we can control at will; it controls us'. The English law changed from overtly multilingual to a resolute monoglot. This change passed through controversial periods supported by legislations, which either failed or were not possible to implement. The historical legacy of such development of multilingual matters in the law could be seen as a reflection on the present situation regarding the confusion about entitlement and provision of interpreters for non-English speakers (Morris 1995b:263).

### **3.6.2 Law and Language: Historical Perspective**

After the Norman Conquest in 1066 William the Conqueror issued a decree stating that any case in '*Curia Regis*' (king's court) should be conducted in French. William's aim was to make both England and France speak one tongue (Cohen 1929:341). However, the year 1166 was a landmark in that the 'ultimate triumph of French-speaking law terms was secure', when a decree was issued for citizens dispossessed of their freehold to seek redress in a French-speaking court (Pollock & Maitland 1911:84).

The French language was used in the higher courts and English in the lower/local courts, but pleas were entered and written in French. Court clerks were versed in both Latin and French, whereas lay citizens did not understand the language of the court and what their serjeants and other pleaders accused them of (Cohen 1929:343-346). Pollock and Maitland (1911:81&83) mention that legal transactions and legal debates were in French. French was used in the Privy Council, whereas Latin was applied to the great seal. Furthermore, officers of the court and legal judgements had French names, with the exception of writs and oaths. Under the reign of King Edward I, acts of parliament

were only written in French; therefore French was considered the official language (Cohen 1929:348).

Hence, French was the predominant language spoken by the King and his barons. Also, Queen Isabella of France sailed to England when she married Edward II and brought with her new Frenchmen to join the government. Consequently, the upper class (nobles) spoke French and their children were educated in French. Lower class citizens spoke English and their children spoke their native tongue. School children had to abandon their mother tongue in order to be instructed in French (Cohen 1929:343).

Cohen (1929:354) remarks that clerks of the court knew the three languages, French, Latin and English, but were fond of mixing French and Latin in court. Therefore, the English lawyer had to master the three languages if he aspired for success in the legal field. Pollock and Maitland (1911:82) argue that Latin was the language of legal documents, English charters and land-books. Under the reign of King Henry II and his descendants Latin became the language of voluminous official and judicial records. In practice, Latin continued to be used until 1731 when it was replaced by English.

### **3.6.3 Legislation Attempting to Restore English as the Legal Language**

Mellinkoff (1963:111) state that the first national ‘outcry against the language of the law was not that it was technical, but it was French’, as people were not able to understand pleas in court administered in French and written in Latin. The outcry took place during a period of patriotic animosity. It was a time when England celebrated

victories over the French Crécy, Poitiers and Calais. Furthermore, social change was taking place as the Black Death killed a large number of the population, estimated between 40 and 75 per cent. This contributed to the breakdown of the feudal system and gave more strength to the majority of English speaking citizens.

The trend towards the demand for the legal application of English language continued when London required English for court proceedings in 1356, since people were not able to understand pleas in court administered in French and written in Latin. The court had no arrangement to provide a legal interpreter to assist with language understanding. As a result of demands for English to be the language of the law, the Statute of Pleading (1362) was issued during the reign of King Edward III. The Pleading called for English language to be used in all pleas, since French was unknown to the majority of people in the English kingdom when answering pleas in court. It stated that people could govern themselves better and obey the law if they were able to understand the language in which the law was written. Yet, it requested pleas to be written in Latin and English to be used orally (Statute of Pleading 1362:111-112).

Pollock and Maitland (1911:85; Morris 1995b:264-265 and Mellinkoff 1963:111-112) comment that the Statute of Pleadings of 1362 was ironically drafted in French and came too late to dislodge French from the English legal system. Pollock explain that Westminster lawyers were used to thinking and writing in French. English language patriots called The Statute of Pleading of 1362 ‘The Magna Carta of the Anglo-Saxon Tongue’. And when English was eventually employed, the words that were used were

of French origin. By the end of the Middle Ages a small number of English terms appeared in the legal language.

Following this, an act was passed during the Commonwealth in 1650 aimed at translating law books and legal proceedings into English.<sup>9</sup> The act was resisted by the lawyers and after ten years, the Commonwealth legislation was repealed and French and Latin were restored into the legal system.<sup>10</sup> Morris (1995b:265-266) remarks that the main obstacle for the implementation of the act was the major task of translating huge volumes of law books, reports, records, statutes and documents. Since there was a shortage of skilled legal linguistic individuals to carry out such a labour intensive task, it was impossible to achieve such an aim. The Additional Act of 1651 regarding the Proceedings of Law in English language specified that, ‘mistranslation or variation in form by reason of translation, or part of proceedings or pleadings already begun, being in Latin and part in English, shall be no error, nor void any proceedings by reason thereof’ (Morris 1995b:266).

Mellinkoff (1963:146) and Morris (1995b:266) argue that if the 1651 Additional Act accepted mistranslation, then serious errors were bound to occur. They remark that the translation did not take into account the differences between English and Latin regarding word order. Latin uses inflected verbs, meaning that the verb is used at the end of the sentence, contrary to English sentence construction; literal translation produced ‘grammatical monstrosities of pleadings translated into English’.

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<sup>9</sup> Acts of Ordinances of the Interregnum 455 (1650) there is a reference to the act in Courts of Justice Act 1660, 12 Car II c.3, P.361.

<sup>10</sup> Mellinkoff (1963) called the 1650 Act as killed in pique, P.129.

Mellinkoff (1963:126) quotes John Jones in 1650 as protesting the use of Latin and French by lawyers, calling it 'hotch potch French and Latin'. John Jones added that lawyers using foreign languages in court would be cheating the citizens of their rights and making themselves superior. Mellinkoff quotes another protest from *St Edward's Ghost or Anti-Normanism* in 1810, objecting to the 'Norman corruption of the English language'. Mellinkoff refers to another writer, John Warr, who was strongly protesting against the unknown-ness of the law since it was in a 'strange tongue'. Then he continued his protest by pointing out the time before the Conquest, when the law was in a known tongue and a man might be his own advocate.

The Courts of Justice Act in 1731 stressed the use of the English language only in court proceedings. It gave the date of 25 March 1733 as the effective date for implementation and a fine of 50 pounds for any person who violated the Act. Furthermore, the Act acknowledged the need to correct errors due to mistranslation and misspellings after the payment of a reasonable cost (Courts of justice Act 1732:248-249).

Cries were still heard against the use of English instead of French and Latin from the legal profession. Mellinkoff (1963:135) quotes Lord Ellenborough describing the statute as one that 'tended to make attorneys illiterate'. However, law abbreviations and technical words were reinstated and law French was evident in technical words or disguised as English. Pollock and Maitland (1911:87) note that by the last half of the fifteenth century English made progress by having the written legal word in English. Also, sixteenth century technical law published books in English. Thus, after four centuries of judicial attempts, English legal language became monolingualistic,

mistrusting all foreign languages (Morris 1995b:268). Yet, the Norman Conquest has left a permanent stamp on the whole body of English law up to the present day, since 'almost all our words that have a definite legal import are in a certain sense French words' (Pollock & Maitland 1911:80).

### **3.6.4 A More Recent Legislation**

A number of acts were issued in order to regulate the legal system at large. Some of these acts are on the international arena and others are at a national level.

The Permanent Court of International Justice 1922 recommended measures aimed towards a 'peaceful co-existence' of minority language groups. It proposed equality between nationals who belong to different race, religion and linguistic minorities with other nationals in the same country. Furthermore, it advocated measures that would protect the minority languages with their customs and traditions. Nonetheless, there were no methods prescribed that would guide individuals or groups to take action against a state before an international tribunal in order to gain their rights. Therefore, international human rights law has been characterised more by a manifestation of good intention rather than by a guarantee of individual freedom (Beloff 1987:149).

The County Court Rules of 1936 in UK gives discretion to the court in requesting and paying interpreters' fees in civil cases, under order 47, Rule 34 A. This provision can be given where one of the parties in the court case is legally aided. Nevertheless, such provisions are not extended to civil jurisdictions or summary jurisdiction, since the court has no duty to appoint an interpreter where any of the parties does not speak

sufficient English to participate fully in the court proceedings (Butler & Noaks 1992:5; Colin & Morris 1996:71).

The European Convention on Human Rights, 1950, made provisions regarding minority language rights. In the area of legal process Article 5 (2) and Article 6 (3), it was stipulated that an arrested person should be informed of the reason for his arrest and the nature of the charge. It also gave the right to the assistance of an interpreter to the person who does not understand the language of the court. Article 14 declared that individuals had the right not to be discriminated against on any ground, such as language. However, the act did not mention written translations of the evidence provided or official documents during the procedure (Polack & Corsellis 1990a:1635; Butler & Noaks 1992:5).

There was no provision for linguistic rights in the Treaty of Rome 1957. However, the promulgated Directive of July 25 1977 advised on the education of migrant workers of the European Community. Article 2 recommends that the official language of the host country should be the method of tuition. However, the community makes efforts to promote the teaching of the mother tongue of its migrants, as in Article 3. This shall be done 'in accordance with their national circumstances and legal systems' (Beloff 1987:146).

National law does not give assistance for the speakers of minority languages. If they are discriminated against for the use of their mother tongue, then they have no means by which to redress the situation, and at the same time they cannot discriminate in order to



preserve their native language. Since protection is given to the English language and is required in all means of communication, they have to assimilate as soon as they can in order to be able to communicate and progress in the host system (Beloff 1987:146).

Section 17 of Administration of Justice Act of 1973 in UK advocates the provision of interpreters during criminal proceedings. It states that the court has a responsibility to appoint an interpreter where a defendant or a witness does not speak sufficient English to enable her/him to participate in the court proceedings. The court can request an interpreter, or the individuals who are taking part in the court proceedings can request the interpreting service (Butler & Noaks 1992:5).

The Race Relations Act of 1976 prohibits racial discrimination in all its forms. However, language discrimination is not covered by the act. Also, language *per se* is not considered to define a race or ethnic group. Therefore, if a person is subjected to discrimination for speaking a foreign language that is different from that spoken in a particular country, it would not be unlawful (Beloff 1987:144).

The Police and Criminal Evidence Act 1984 (PACE) in the UK arrived and was updated in 1995. Kennedy (2004:149) explained that the act was introduced to protect the public after cases of false admissions fabricated by the police. Hence, taped interviews were introduced in questioning suspects. The act governs the police code of practice and gives guidance on the investigation of crimes and the treatment of suspects. People who are detained at police stations for investigation are given three rights. These are: the right to inform a person that they are under arrest; the right for a free legal advice; and the right to consult the PACE code of practice. The code includes guidance where a

person does not speak or understand English, or who is deaf. In this case, the custody officer would make arrangement to call an interpreter to help with communication between the police and the suspect (Colin & Morris 1996:26-27).

The Human Rights Act 1998 opened the door to an awareness of rights. It regulates the relationship between each individual and the state. It has been written in a neutral/secular language that can be used to communicate with all people in the world. Rights have been given the force of the law. Thus, Human Rights can legitimise the aspirations of a society. Furthermore, it has multi-faceted applications, a respect for the individual and support for communities (Kennedy 2004:301-302).

The above acts reflect the aspiration for equality between citizens of all races and languages. However, the application to equality does not always materialise due to the misperception of the gatekeepers, who execute their will and power in order to achieve their own interests.

### **3.6.5 The Interpreter, the Non-English Speaker and the Law**

Morris (1995b:269) shed light on the situation of the legal interpreter when she attributed the mistrust of interpreters to that originating from ancient memories of the twelfth and thirteenth century common-law oral pleaders and narrators, who used to tell tales in court. Consequently, when the interpreter appears in court beside the non-English speaker in the witness box, legal participants suspect that the interpreter is going to fabricate a story or make up her/his own version of the non-English speaker's

utterance of facts. Hence, this attitude explains the reluctance of legal professionals to accept the provision of interpreters for non-English speakers.

People who do not speak the language practised in court could experience suspicion and hostility. Morris (1995b:268) ascribes judicial suspicions to a subtle variation of old modes of proof (the ordeal and *peine forte et dure*) when an individual refused to plead and his silence was seen as wilful and mute of malice, which often resulted in torture. As a result, the non-English speaker could be considered a liar. Morris remarks that the mistrust of the foreign language speaker has been used as an excuse for not arranging an interpreter. Furthermore, this mistrust could be extended to the interpreter. Morris goes further to state that attitudes towards translating could resonate from the 1651 Act that accepted mistranslation as no error. Therefore, the stance towards the quality of translation and interpretation in the legal system has been characterised by a *laissez-faire* approach coloured by the eighteenth century ruling of 1731.

The legal system perceives non-English speakers' right to an interpreter as a problem since the provision and arrangement of an interpreter is not well defined by judicial views. Therefore, the preparation for an interpreter can differ from one court to another depending on the personnel of each court and their personal experience. In such situations, a judge's discretion to authorise the use of an interpreter could complicate the court scheduling if the lawyer or court clerk did not foresee such need. Thus, monolingual cases are seen as less of a problem than non-English speaking defendants' cases (Morris 1995b:270).

Participants in the legal system are bound by language and certain procedures. If a person who comes into contact with the system does not understand the established normalities of the court tradition, including language, they may be subject to prejudice. Thus, the 'alien' language is stigmatised and consequently the 'alien' himself, who is identified as such by requesting an interpreter. In this situation, the non-English speaker feels excluded from the legal system for not being able to understand the language of the court (Morris 1995b:264&269).

Jolliffe (1995:49) remarks that even native English speakers can experience difficulty in understanding some of the specialised and arcane legal language. Gibbons (2003:162) quotes Jackson (1990), observing that, 'although the English law is communicated largely in English, most speakers of the English language are excluded from the semiotic group of the law, since they cannot understand the particular register of the language which the law uses'. Gibbons (2003:199) asserts that the legal language is different from everyday conversational language that tends to be 'contextualised, informal, non-specialist and low in power differences'. Gibbons explains that linguistic complexities are designed with the purpose of elevating the status of legal practitioners and are used as an assertion of their authority. Hence, people cannot challenge something they cannot understand.

Bresnahan (1991) observes the difficulties that a non-native foreign-born English speaker could experience in legal exchanges. Bresnahan explains that the non-native is unfamiliar with 'the full panorama of linguistic, social and cultural rules characterising ordinary exchanges in English'. For these reasons, the foreign-born defendant's

response to questions is characterised by ‘high cost, non-congruent response strategies of a low acceptability nature’, especially in the highly constrained legal context, where power and legal discourse are clearly defined. That response in turn would lead legal professionals to draw negative inferences of the non-native’s answers to questions. As a result, they appear in court as evasive, uncooperative, and non-commutative, which undermines their credibility. Bresnahan goes further to explain that even subtle differences in the non-native’s testimony can affect their credibility, such as the style of answer to questions by an odd word, turn of phrase or misunderstood tone of voice.<sup>11</sup> Consequently, the non-English speaker would be at a greater disadvantage for not understanding the language of judicial proceedings.

Some legal participants do not believe the alleged non-English speaker cannot speak English, even when her/his active and passive English is not perfect, and they insist on continuing the legal procedure in English. Hence, they are suspicious of the defendant/witness’s request for an interpreter as a means of gaining extra time and may use the interpreter as a shield during cross-examination. The understanding of language can vary from the language used in the street to the esoteric legal language. Non-English speakers could experience difficulties and embarrassment under cross-examination (Morris 1995b:273). Hence, s/he might use words or phrases which could mean one thing to her/him, but mean another to the legal practitioners and would affect an important point in the case. That understanding and the answers to questions can influence whether a person is found innocent or guilty. Morris (1995b:270&272) refers to Mr Justice Holmes, as he puts it, ‘A word is not a crystal, transparent and unchanged;

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<sup>11</sup> Bresnahan. (1991:275-228) and Gibbons (2003:201) came to the same conclusion and used the term ‘non-cognate cultures’. The same point is explained in Macy (1947:931).

it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time which it used’.

In practice, there is a disadvantage in giving evidence through an interpreter, as Robert-Smith (1990:151) argues, since it is more stressful to testify through a mediator. Therefore, it would be unfair to add another pressure on the non-English speaker by labelling her/him as a linguistic liar. Another point is given by Callejo (1968:53) that interpretation is not a satisfactory substitute for an ‘on-going, continuous awareness of what is happening’ in another language. In fact, this evidence has been accepted in countries such as Switzerland, Canada and Belgium. Furthermore, this point had been confirmed in Australia’s 1992 Law Reform Commission Report on multiculturalism and the law. The report stated that the individual who gives evidence through an interpreter would suffer from the loss of impact of evidence mediated through interpretation (Morris 1995b:274).

There has been a problem in relying on the demeanour of the non-English speaking defendant/witness giving evidence in court. Mr Justice Brooke (1993:195) drew attention to the misunderstanding of non-English speakers’ body language due to differences in cultural backgrounds. He gives an example of people who are brought up not to look at a person in authority straight in the eye. The legal personnel might perceive such behaviour as a characteristic of a person who is shifty or evasive.

Morris (1995b:273-274) highlights the misconception of a hesitant non-English speaker when answering an unexpected question by a legal practitioner. The judge or jury could

perceive the testimony of the person as incredible. The difficulty could be compounded with her/his lack of sufficient means of expression or understanding of English. The time in answering could be extended by the interpreter when s/he is explaining the meaning of a given question. Morris warns from judging a defendant/witness's demeanour when replying to a question through the mediation of an interpreter. A judge admitted experiencing difficulty in gaining insight from the demeanour of the nationality of a defendant/witness on giving a testimony in court. He found it even more difficult if the person's language was a second or third ones or through an interpreter. Therefore, he considered the tone of voice or a hesitation in the defendant/witness's delivery as not important in judging a case. He came to the conclusion that, 'to rely on demeanour is in most cases to attach importance to deviations from a norm when there is in truth no norm'. Bingham (1985:10-11) quotes another judge, Lord Justice Scrutton, declaring, 'I have never yet seen a witness who was giving evidence through an interpreter as to whom I could decide whether he was telling the truth or not'.

Beloff (1987:140) declares that, 'Language like race, like colour, like national origin, like religion, is one of the passions of our time – at once a powerful focus for the faith of minorities, and a potential source for fission in the community at large. For language issues pervade the social and political life, and in consequence the fabric of the law'.

### **3.6.6 Summary**

The process of establishing English as the legal language in England and Wales was a long one, since it took several decades. This process was supported by several legislations, past and present. There have been a number of recent acts aiming at the protection of minority language groups at both international and national levels. The International and European Human Rights Acts were some of the salient legislations.

Some authors highlight the plight of people who speak limited English, who are mistrusted and could be subject to prejudice and suspicion for gaining time by their request for an interpreter. They further point out how every day English is different from the specialised legal language, which is understood by the esoteric legal practitioners. Furthermore, the law of the host country is dissimilar to that of immigrants' home countries. To add further to the predicament of limited-English speakers is their cultural demeanour, which is misunderstood during legal procedures.

In the current climate, there is an anchored belief that only English can serve as the language of the law and the non-English speaker would be disadvantaged in terms of access to a fairer justice in a court of law. Therefore, the provision of a professional interpreting service is of paramount importance in assisting the execution of justice.

Chapter four explains the methodology used and discusses the advantage and disadvantage of qualitative and quantitative methods. It then describes the reasons for adopting qualitative methods. Qualitative methods are presented through mainly semi-structured interviews after the questionnaires were returned. Content analysis and



documentary analysis are also employed as well as participant observation as an informal method of enquiry. Chapter Four explains the merit and demerit of audio taped and manually recorded interviews. There is a section on the researcher's commitment to ethics and confidentiality.

## **Chapter Four**

# **METHODOLOGY**

### **4.1 Introduction**

The present study sets out to examine the extent to which foreign language interpreters are recognised as professionals within the Criminal Justice System of England and Wales. The limitations of their methods of operation, in terms of proceeding in non-English speaking trials that require interpreting, are highlighted by examples from case studies and participant observation in courts, tribunals and police stations during the period of the research, and is supplemented by interview conversations. Case studies were gathered during the researcher's practice and others were shared by members of the National Register of Public Service Interpreters' Action Group on their Internet forum comprised of 440 members. Participant observation is used to collect data, along with literature reviews and records of other interviews conducted. The data thus assembled looks at the degree of foreign language interpreting operating within the England and Wales' criminal justice system.

## 4.2 Theoretical framework

The process of interpreting and translation may be explained through communication theory (Snell-Hornby 1993). Ingram (1974:3) describes a communication event as passing through a chain of motions from the sender carrying a message to the receiver. If the message is in a different language, an interpreter is enlisted to act as a channel in order to facilitate such exchange. Ingram further explains that, firstly the message has to be decoded from the verbal foreign language to thought and then encoded into English sound. The listener responds after decoding the symbols of the message to comprehend the meaning and communication continues in the same manner. As Bassnett-McGuire (1991:38) succinctly puts it: ‘the communicative relationship in the process of translation (interpreting) shows that the translator (interpreter) is both receiver and emitter, the end and the beginning of two separate but linked chains of communication’. Bassnett-McGuire notes: ‘the product is the result of a complex system of decoding and encoding on the semantic, syntactic, and pragmatic levels’.

Roy (2002:351) points out that interpreters were acknowledged by the end of 70s and 80s as communicating across both languages and cultures. Roy refers to Cokely (1984) as advancing the view that interpreters must be bilingual and bicultural. That would entail interpreters understanding regional and dialectal differences in the languages they use, as well as nonverbal differences, different forms of personal address and any other cultural differences.

The concept of cultural differences is explained concisely by Bassnett-McGuire (1980) in De Jongh (1992:55) together with the complexity of transferring meaning from one

linguistic code into another. Bassnett-McGuire observes that the English language does not distinguish between different types of greetings according to the social occasion; she illustrates this concept by reference to the Italian use *pronto* for telephone greetings only. Another example is *ciao*, which is a greeting Italians apply in a moment of contact either on arrival or departure, where the interpreter has to decode the word and encode it into a language that does not use the same reference. Similarly, the word 'hello' in English, when translated into another language, has to take into consideration the kind of greeting and explain it in a phrase carrying the same thought and function.

### **4.3 General discussion on the advantage and disadvantage of qualitative and quantitative approach**

Quantitative research tends to limit itself to measure a set of questions so that comparison may be facilitated with a systematic statistical means, such as a test. Hence, the outcome would be a broad, generalised set of findings aiming to discover similarities and differences between research categories. The results are usually succinct and autonomous, confined in space. Also, the researcher does not have personal involvement with the research subjects in an attempt to be subjective (Labuschahne 2003:1&3 and Golafshani 2003:597). In the questionnaire (see Appendix 2) presented to criminal justice personnel, fourteen questions (out of twenty) were of the closed type and required a reply of yes or no; the first question asked if the person has used an interpreter and another wanted to find out whether the participant had knowledge of the practice of interpreting. These questions did not need any clarification and a simple 'yes' or 'no' was sufficient.

On the other hand, qualitative research aims at in-depth understanding of the research subject(s) and is more than a mere statistical measurement. The research participants are drawn from real-world settings where their behaviour unfolds naturally through their personal experiences and cultures. Therefore, their experiences in their environment would not be understood unless we reveal the inner worlds that shape their outer worlds; the researcher has to be personally involved with the participants, because it will assist in both gathering data and gaining insights into their thinking (Golafshani 2003:600; Wainwright 1997:14&2; Winter 2000:6 and Hollway & Jefferson 2000:4&33). In qualitative research, the researcher is considered as part of the apparatus of data collection. In fact, the analysis of data can commence during its collection. Formal analysis, however, can only take place after completing all the data, at which point the researcher has the chance to re-contact the research subjects if there is a need for further clarification(s) (Parahoo 1997:75).

Qualitative research is usually longer and more detailed than quantitative (Labuschahne 2003:1&3). In the interviews conducted after the questionnaires (see Appendix 2) were received, the researcher wished to explore more the opinion of the research subjects. Therefore, she requested explanation from the participants on their opinion of a suitable qualification for a legal interpreter; their replies revealed varied views that reflected their type of occupation. Another question attempted to elicit the reason behind some criminal justice professionals' perception that the interpreter is not part of the justice system. There were four open-ended questions in the questionnaire, one of which asked for their opinion about the requirement for an interpreter in court. Their replies varied and indicate the type of profession they are engaged in. Another question explored their

views of whether lawyers' modification of method of operation in non-English speaking trials might lead to achieving fairer trials in terms of the pace in presenting an interpreted case.

In the quantitative method, surveys and experiments are used as the main methods of measuring concepts. Therefore, they need to be precise in their definition and all questions should be planned in advance to meet the questioner's perceived aim. By contrast, qualitative research depends on the respondents as the main source to explain the phenomenon under investigation. Qualitative research maintains that only by observing the phenomenon can questions and answers be discovered (Parahoo 1997:137-138).

Some critics consider the interactive nature of qualitative research as its key weakness. They have argued that, since researchers are close to their research participants in order to gain their experiences and way of thinking, the researchers could be subjective. Hence, the researchers could choose data that suit their values and preconceived ideas (Parahoo 1997:63). The same point has been echoed in Mays and Pope (1995), cited by Parahoo (1997:62), when they called qualitative research is a mere collection of 'anecdote and personal impressions' subject to the researcher's bias. Mays and Pope further comment that, given the qualitative research is personal; it is unlikely that other researchers would come to the same conclusions.

In response to such criticism the advocates of qualitative approach maintain that they endeavour to be rigorous in their research methods. Qualitative researchers adopt a strategy of detailed sharing of the steps by which they acquired their data

(Parahoo1997:64). Mays and Pope (1995), noted in Parahoo (1997:62-63), that the researcher can create ‘an account of method and data which can stand independently so that another trained researcher could analyse the same data in the same way and come to essentially the same conclusions’. Parahoo (1997:67) noted Leininger (1992) as explaining that qualitative research has ‘come of age’ and that is manifest by the number of publications in journals and books on qualitative approach and methods.

Qualitative findings support the use of text through quotes from the research participants. This helps to explain people’s experiences and their point of view without any interference from the researchers (Parahoo 1997:357). This study has adopted this method in Chapter Five, “Presentation of Findings” when reporting interviews with the nine criminal justice categories that took part in the research.

In general, quantitative research is expected to be objective and free from bias, where the collection and analysis of data can produce nearly the same results if carried out by another researcher (Parahoo 1997:63). Yet, the researcher is denied the opportunity to be close to the research respondents, which is likely to produce a superficial understanding of the phenomena under investigation (Parahoo 1997:64). Thus, complex phenomena, such as stress or anxiety or hope, cannot be measured through simply empirical means. Furthermore, other phenomena are culture specific and time-bound, and the findings depend on the interaction between the researcher and participants (Parahoo 1997:59&237).

Myers (1988), reported in Parahoo (1997:66), explains that both qualitative and quantitative research share the same aim, which is the understanding of a phenomenon in a shared world. Delamont and Hamilton (1976), cited in Parahoo (1997:68), observe that the goal of both approaches is to advance knowledge and their deficiencies can be utilised for a successful use in the research.

#### **4.4 Research approach**

The concept of whether qualitative or quantitative methods would be suitable to a given research for the purpose of investigation into a phenomenon has fuelled a lot of debates. Each of these methods has its advantages and disadvantages as previously discussed. Some studies adopt both qualitative and quantitative approaches in their research of the same social phenomenon. However, this does not guarantee that mixed data can complement each other; there is the possibility that the findings could be contradictory, since some participants might pretend to be satisfied, but actually avoid vocalising disagreements. Human nature is complicated and research methods are imperfect (Parahoo 1997:66).

The present research has adopted qualitative methodology since it is flexible in nature, and varied in approaches and techniques. Hence, the researcher can change or omit questions depending on the situation and the type of respondents. Also, the research can be tailored according to its nature (Parahoo 1997:75). The methodology utilised in the present research is demonstrated through a combination postal questionnaires and semi-structured interviews, by which a comprehensive approach is achieved. The methods suited the research question and were feasibly applied. The main data in this



study are qualitative. However the closed questions in the survey are quantitative since these responses can be counted. The data are targeting criminal justice personnel in the widest sense, including those involved in immigration tribunals. There was a constant checking of the analysis employed against the findings, followed by refinement of theory and approach.

The methods applied were realistic to the situations studied. Participant observation has been used as an informal resource of information that would shed light on actions taken by legal participants during their practice. Participant observation is less obtrusive and invasive than interviews and, not requiring a reaction from the participant, achieves a more naturalistic setting. By contrast, in non-participant observation the subject tends to become self-conscious and liable to adapt behaviours, particularly in those situations that involve active note taking or the use of a recording device. Therefore, the result would not convey the real situation under study (Homan & Bulmer 1982:106&112). The British Sociological Association admits: ‘difficulties arise when research participants change their behaviour because they know they are being studied’.<sup>12</sup>

## **4.5 Methods**

### **4.5.1 Questionnaires versus Interviews**

Questionnaires and interviews are viewed as different in their construction and application. Although both have advantages and weaknesses, they can complement each other in a given research. The present study has used both types of information

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<sup>12</sup> British Sociological Association (March 2004) section 31, P.5 <http://www.britisoc.co.uk/index>

gathering. Questionnaires are used to drive themes for the following stage of investigation through interviews. In a sense, interviews are employed as the main platform for the presentation of findings (see Chapter Five).

Harris and Brown (2010:2) referred to Oppenheim (1992) as pointing out that questionnaires are considered a more objective method of research than interviews, since they produce general results due to the large number of data generated. However, questionnaires might be unreliable if they are affected by factors such as faulty design; errors in sampling or non-response; unreliable participants; misunderstanding of questions; errors in coding, processing and statistical analysis and faulty interpretation of results. More to the point, questionnaires might be biased to agree with the researcher's point of reference. Parahoo (1997:266&293) adds that inaccuracies might occur when participants suffer from memory loss or distortion with the passing of time. Parahoo further goes on to explain that respondents might selectively remember events if they perceive them as better as or worse than their present situation although self-reporting and interviews can somewhat overcome this anomaly through interaction with the interviewer. He even subscribes to moulding the interview with the participants in order to agree with the phenomenon under study in the research.

On the other hand, qualitative interview data can produce more in-depth insights information about the respondents' thoughts and culture that colour their actions. Barriball and While (1994:331), cited Nay-Brock and Treece & Treece (1986), note that interviews are suitable for discussing sensitive issues with people who do not like to mention them in questionnaires. Oppenheim (1992), cited in Harris and Brown (2010:1-

2), states that both questionnaires and interviews adopt different tools of coding and analysis of the data. Questionnaires, when employing closed questions, can produce quantitative data, which are numeric (and hence objective) and statistical processes are then utilised to generate results.

Bryman (2008) argues, in Harris and Brown (2010:2), that qualitative data from interviews makes use of an inductive coding that might fall under the researcher's subjective influence. In addition, it is difficult to judge if the findings suited the qualitative data. Bryman further explains that only a small number of experts are usually used for the scrutiny of the manuscripts. Nevertheless, the flexibility of semi-structured interviews provides greater benefits over the restricted statistical analysis of questionnaires. Flexibility can be manifested in designing and refining the interviewers' technique. Interviewing gives the opportunity for the researcher to measure the credibility of the participants and understand their motives (Horton; Macve and Struyven 2008:340). The use of semi-structured interviews helps the researcher to explore her/his theoretical framework within the area of the study as argued by other researchers in the field (Horton; Macve and Struyven 2008:348).

A major advantage of using questionnaires is the ability to distribute them to participants throughout wide geographical areas, which can provide ample data with minimum costs compared with travelling to interview people at potentially distant locations. Questionnaires are usually constant in their wordings and sequence so that comparison can be made between all variables. Closed questions can be analysed through different computer packages and pre-coded. The respondents have the

advantage of completing the questionnaires at a time that suits them; they even have the opportunity to check the meaning of words or factual information (Parahoo 1997:262-263).

When the questionnaires are self administered, the respondents do not feel pressure from an interviewer. The responses can be and usually are anonymous to the researcher, unless (for example) there is a pre-stated need to identify non-responders for follow-up purpose. The questionnaires can be modified after a pilot period before wider distribution, so validity and reliability can be increased. However, self-administered questionnaires do not give the researcher the opportunity to explain certain points to the participants or for the informants to ask for clarifications directly from the researcher where they are unable to understand a question, over which interviews have further advantage (Parahoo 1997:263). Hence, the interviewer has the choice of modifying some words so that they can suit the needs of the participants as Hutchinson and Skodol-Wilson (1992) explain in Barriball and While (1994:331).

Conversely, Gordon (1975) promoted in Barriball and While (1994:330) the use of the same sequence of questions and wording in interviews so that 'we can be sure that any differences in the answers are due to differences among the respondents rather than in the questions asked'. Baily (1987), reported in Barriball and While (1994:329), adds that comparison could be maintained by ensuring that the participants answer all questions (Parahoo 1997:330&329).

Crossby et al. (1989), cited in Parahoo (1997:263), points out that questionnaires take a long time to be constructed with drafts ranging from 8-12 in number before there is agreement on the final version and, even so, some questions might still remain ambiguous to the respondents. Furthermore, the researcher is not able to read the body language that might help her/him to probe the participants or observe any sign of evasiveness or reluctance. Besides, probing helps to act as a means of interaction between the respondent and the interviewer; this can generate rapport.

Parahoo (1997:263) explained that the data collected from questionnaires could be considered superficial at times and have to be taken at face value. Another point, observed by Mechanic (1989) in Parahoo (1997:264), is that the data given by the respondents are devoid from their historical, social and cultural contexts and, hence deficient. Zwart (1986) explained, in Harris and Brown (1010:2), that participants respond to questions in interviews and questionnaires differently. While face-to-face interviews might provoke memories that lead participants to give emotional replies, questionnaires permit the time for varied and less passionate responses.

In contrast to interviews, questionnaires do not help people who have difficulty in reading and understanding to give their replies. Gordon (1975) maintained, in Barriball and While (1994:329), that some people lack the confidence to write down a response and face-to-face interviews aid them to overcome this problem. Such difficulties might lead some to ask for advice from others or even get someone else to complete the questionnaire for them, resulting in potentially unreliable data (Parahoo 1997:264).

Face-to-face interview assures that respondents do not receive assistance when giving their replies (Baily, 1987), cited in (Barriball and While, 1994).

Another common problem with questionnaires is the low response rate, but interviews have the potential to overcome this problem. Sharp and Frankel (1983), reported in Parahoo (1997:264), identify 'respondent burden' as one of the reasons for the limited response in questionnaires. According to Sharp and Frankel (1983), some people consider completing questionnaires as a tax on their busy time whether at work or home. In order to counter that problem, the participants need to feel that their responses are valuable and would make a difference to the research. Furthermore, the questions should be easy to understand, well constructed by skilful researchers who use clear presentation and the questionnaire is of a reasonable length.

Ironically, some interview participants tend to respond with answers that they perceive as socially desirable in a certain context. Their actions could be executed either openly, disguised or unconsciously (Horton; Macve and Struyven 2008:347). Marginson (2008:33) suggests that the researcher could probe for details and illustrations from the participants in order to avoid the 'demand effects'. At the same time, this helps to avoid the 'researcher expectancy effects' whereby the researcher is expecting certain answers from their respondents.

Dean and Whyte (1970:119-128) warn researchers about people who would give contradictory answers - some for public consumption and others in private. They add that informants give varied statements from objective to subjective, some of which are

in-between. Their statements are coloured by their understanding and emotional reaction given a certain interview situation that may change if the situation changes. They advise that, in case the researcher detects distortion or implausibility in a participant's accounts, a comparison is made of their statements for crosschecking with other statements from similar informants. Also, the researchers can try to seek clarification from the respondents.

Other factors are identified by Dean and Whyte (1970:123) that might affect the informant's response to questions, including mood, individual peculiarities on the mention of certain words, the wording of questions and external aspects, such as the telephone ringing or noise outside the building. Consequently, there is a need to arrange an appropriate time and place for interviewing, and the researcher should take these factors into consideration.

Given the different use and application of questionnaires and semi-structured interviews, both methods should be analysed separately using tools that suit their nature. Hence, questionnaires and interviews can be applied for investigation in research not as divergent or confirmatory, but as a complement to each other (Harris & Brown 2010:11).

#### **4.5.2 Questionnaire**

The questionnaires in this study were sent to nine categories of practitioners within the criminal justice system comprising of: 16 judges; 65 lawyers; 29 Clerks to the Justices; 14 magistrates; 14 probation officers; 15 police officers; 11 prison officers; 12

immigration officers; and 10 immigration advisory service officers. 186 questionnaires in total were sent with instructions regarding the method of answering the questions. The forms were straightforward and consisted of two pages in order to encourage their completion and speedy response. It has been noted that questionnaires should be straightforward enough that the participants would be able to understand them on the basis of the attached instructions (Oppenheim, 1992). Categories in the open questions in the survey were coded and sub-coded with a number for reference according to the situation and ideas occurring during the period of research. Each question had a number that distinguished it from the others for ease of analysis. A serial number was added to each questionnaire after collection in order to identify date and location of distribution, where possible. Sixteen of the twenty questions required closed answers by means of two boxes [yes] and [no] situated on the right-hand side of the page.

A covering letter was attached to the questionnaires, which explained the idea and aim of the study. The name of the institution for which the research was being undertaken and the purpose was mentioned in a short background of the researcher. She assured the respondents confidentiality and voluntary participation. At the end of the letter she thanked them for their assistance and asked them to give their details if they were willing to be interviewed. It has been argued that the covering letter is important as a means of influencing the response rate (Sarantakos 1998). There was a stage of piloting, and modifications were made as a result of comments received from an acquaintance magistrate and some colleagues; the modifications were minor e.g. an improvement to page layout. Some researchers recommend a pilot study in order to test the research



methods (Oppenheim 1992), but in this particular case, the pilot study was limited by the difficulty of obtaining significant numbers of participants for the final research.

The questionnaires were designed with the aim of finding out legal personnel's opinions on working with legal interpreters and the practice of legal interpreting as a profession. A stamped self-addressed envelope was included for each participant so as to facilitate the return of their completed questionnaires. The researcher kept a record of the number of questionnaires sent to participants in order to check against a compiled mailing list. Confidentiality of the data was applied by keeping the records in a locked cabinet accessible only to the author. Research participants who did not disclose their identity were given a number and treated in the same confidential manner as those who supplied a name. Everyone who replied with a name was sent a letter of thanks. The researcher's letter also informed all participants that she would write again to ask if they wish to be interviewed when that phase of the study was reached.

### **4.5.3 Semi structured interviews**

Researchers such as Barriball and While (1994); Horton, Macve and struyven (2008) recommend a broad review of literature on the area under study in order to formulate a theory before attempting at the construction of interviews. They explained that reading publications would help in defining the main points to be covered. Consequently, researchers can plan their aims and strategy prior to question formation, after which a sequence of testing should proceed. Barriball and While (1994) referred to Mann (1985), call the first stage as an 'internal testing', whereby colleagues could give comments for adjustments to the text. Then a pilot stage would be utilised and judged

by experts for the suitability and validity of the interview content before the final draft is finalised and executed on participants (Barriball & While 1994:333); (Horton; Macve & Struyven 2008:340-341).

Marginson (2008:331) advises researchers to continue collecting data until a theoretical saturation is reached, defined as a point at which further data are minimal to the understanding of the phenomena under study. The author reviewed and considered publications in the field prior to writing Chapter Two, "Literature Review", and before constructing the questionnaire and interview formats.

Halcomb and Davidson (2006:38) reported Poland (1995); Welland and Mckenna (2001) as criticising some researchers who often produce a written text without explaining in detail the management of their interview data and the method of transcription. Burnard (1994) and McCormack (2000) cited in Halcomb and Davidson (2006:38), further criticise publications that only explain how to manage interviews, but forget to refer to the transcription process that would direct and guide investigators in their research, and enhance the reliability and validity of their data. (Parahoo 1997:307) stresses the need to describe in detail the means by which the researcher obtained consent and access to the participants. Furthermore, the privacy of the respondents should be stated as well as information on the venue where the interview took place and if any other person was present. The researcher in the present study has explained step by step and in detail the procedure of data collection, the method of transcription, access and place of interview(s).

#### **4.5.4 The merit and demerit of audio taped and manual recorded interviews**

The decision to conduct interviews through the means of audio or by manual recording is affected by different factors, such as the researcher perceiving that taping an interview would not be acceptable to certain categories of interviewee. Other factors could include the nature of the research, and the interviewer's preference and experience with a certain technique. Heys and Mattimoe (2008:361&371) maintain that there is no 'one best way' for collecting data in qualitative research and it depends on the context of the research undertaken. Hence, taping or transcription methods are both useful to the qualitative approach.

The audio-recorded interviews have the advantage of producing an identical record of the interview, including verbal nuances, to be replayed for reviewing certain points and for others to listen to as an audit trail of data analysis. Thus, such method would reduce the interviewer's error in capturing the data and at the same time the recording would give an insight into the performance of both the informant and the researcher's interaction. Barriball and While (1994) suggest that the use of recording means could aid in the validation and accuracy of information presented (Barriball & White.1994:332 and Dexter 1970:59).

In case the research is less defined in structure and only in a stage of exploration, a tape recorded interview for probing into relevant issues would assist the interviewer in adding or discarding questions, either during the interview stage or when it reaches the phase of analysis. Heyes and Mattimoe (2008:361-362) refer to Easterby-Smith et al (1991) as calling the tape-recorded interview 'an informant interview', whereby the

interviewee's perceptions direct the way the interview proceeds. Hence, the data generated would act as guidance, subject to refinement at a later stage.

One of the main disadvantages in adopting an audio record technique for interviews is the costs involved in contracting a person to transcribe and edit them. Furthermore, the manual approach to recording information gives the researcher the advantage of editing and recording the data directly after the interview and making them available for use (Heyes & Mattimoe 2008:370). Britten (1995), reported in Halcomb and Davidson (2006), draws attention to the time a taped interview would take and explained that one hour taped would take between 6-7 hours transcription. More to the point, transcription by a person other than the researcher, who observed verbal and nonverbal exchanges with informants in the interview, has its drawbacks, such as human error which might include misinterpretation of content. Other errors include the distortion of cultural differences and language errors.<sup>13</sup>

Dexter (1970:56-60) recommends that the interviewer writes her/his own report after each interview having used abbreviations and shorthand symbol in note taking. He advocates the use of this practice as a means of reflection that would help the researcher carry forward to the next interview. Dexter(1970:19) adds that the researcher should have the capacity to understand the interviewees' meanings and frame of reference through listening to them with her/his 'third ear'. In espousing this route, researchers can continuously adapt their strategy, plan the next question and even modify their mannerism.<sup>14</sup>

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<sup>13</sup> Halcomb and Davidson (2006:40) cited Easton et al (2000); Gilbert (1993) and MacLean et al (2004).

<sup>14</sup> Dexter (1970:146) and Buckeldee (1994) cited in Parahoo (1997:291).

As Parahoo (1997:291) succinctly elucidated: each interview in a similar study is a unique interaction between the researcher and the interviewee, and cannot be repeated. Consequently, if the same researcher conducts the same interview at a different year or a different way, the information would be dissimilar. By the same token, variations would occur if another researcher asked identical questions in the same study. Halcomb and Davidson (2006:39) point out that the richness and depth of data hinge on the research design and the method by which the questions were constructed for the advancement of knowledge on a certain phenomenon.

It is necessary to point out that some informants resist having their interviews audio taped and the researcher may have to resort to the route of manual recording. Also, a number of respondents might show signs of unease on the use of a recording device during their interviews in anticipation that their words might be traced back to them without their permission in a damaging fashion. Hence, manual recorded interviews seem to be a safer option (Heyes & Mattimoe 2008:362).

Halcomb and Davidson (2006:40) call manually recorded interviews as superior to audio-recorded ones. They argue that one advantage of this method is having the notes taken either during or after the interview. Heyes and Mattimoe (2008:369) explain that, at the outset of each interview, they outlined the aims of the study, and assured the research subjects of confidentiality and anonymity of the information they would give in order to gain their trust; then they asked the participants for permission to take notes. Also, they advise the researcher to keep an eye contact with the participants during the interview for encouragement and assurance.

Manual recording of interviews means that the researcher has to listen, think, assess, edit and write comments simultaneously. Heyes and Mattimoe (2008:368) stress the need for the researcher to be active and alert to identify key points and quotes that would enhance the validity of information. They called for a balance between asking questions and note-taking, and at the same time allowing the participants to ask for clarifications and give comments.

Noakes & Wincup (2004:127&129) point out that only keynotes could be taken during an interview so that the researcher could concentrate on developing a rapport with the interviewee and at the same time could observe non-verbal clues. They add that the use of recording equipment could prevent the participant from giving honest accounts during the interview. They argue that the transcription process would help in developing themes and reflect on the data gained.

The present researcher prepared nine questions for the interview of subjects who were employed by the criminal justice system. The questions were based on the information obtained from the questionnaires (see Appendix 3). The questions were aimed at clarification of certain points from their responses in the questionnaire, such as the code of practice for interpreters and their knowledge on the different methods/techniques of interpreting. Since the research was well defined in structure and the researcher was clear about the questions to be asked during the interview, a manual recording of interviews was implemented. It needs to be emphasised that the researcher did not use a recording device, but used a traditional method of taking notes as administered by criminal justice professionals such as judges in courts. In this connection, one of the

judges was concerned that his name and quotes taken from the conversation might be used without his permission; the researcher assured him of confidentiality and the anonymity of any information he would give. The recording of the interview was taken in short or long hand then rewritten immediately after the interview, on the way home on the train in a quiet corner.

It is envisaged that the use of direct quotations would help in understanding how interviewees perceive the issues under discussion during the interview (Horton; Macve & Struyven 2008:349). The researcher used quotes from all the nine categories of persons who took part in the present research. These quotes were utilised to support the findings in Chapter Five. The researcher did not mention names of the participants except the name of the job category.

#### **4.5.5 Content analysis**

Content analysis is used in qualitative research for the purpose of developing themes from interviews and documents reviewed. A rigorous and methodical approach to content analysis should be applied during the period of research. Such approach would yield cultural meanings and insights into the thinking of the participants (Noakes & Wincup 2004).

In order to consolidate the themes obtained, Halcomb and Davidson (2006:41) recommend that the preliminary content analysis be reviewed by other researchers, who were not involved in the data collection, through means of re-examination of audiotapes and field notes. They point out that this style would validate the progress of themes

emerging from the available data. In this context, the researcher examined the content of questionnaires and interviews in order to identify common and different patterns in the legal process towards non-English speakers, and the perception of criminal justice practitioners of legal interpreters (see Chapter Five on “Presentation of Findings” & Chapter Six on “Discussion of the Findings”).

#### **4.5.6 Participant Observation**

Since the researcher is a skilled and professional interpreter, participant observation was a natural and readily achievable method of enquiry. Participant observation as a method of research appeared to the author as a realistic option, where events took place in a naturalistic setting such as courts, tribunals and police stations. In a sense, personal experiences and motives could be observed and understood. It also revealed what people did rather than what they said selectively. Sometimes persons take action without being aware of what Holdaway (1982:2) calls, ‘occupational culture’. Goffman (1961:7) highlights the use of participant observation in understanding the behaviour of a social group, when he pointed out that one should ‘submit oneself in the company of members to the daily round of petty contingencies to which they are subject’. The same meaning was echoed in Whyte (1955:xvi) when he stressed, ‘the individual must be put back into his social setting and observed in his daily activities. In order to understand the spectacular event, it is necessary to see it in relation to the everyday pattern of life’.

Another reason for the adoption of this method was the access constraints imposed on researchers by a powerful organisation such as those within the criminal justice system as recognised by Holdaway (1983:5). Moreover, the participants under observation were



in full control of the situation and set their own rules without any limitations from the researcher, in contrast to other methods such as questionnaires and interviews, meaning that the participants did not modify their behaviour in the presence of the researcher. By contrast, Parker (1974:219) interfered with the activity of the subjects under observation when he stopped a car radio theft by a gang member and called it 'bad participant observation', as his action hindered the group's normal behaviour. In Whyte's research the gang leader did not act on his natural instinct, because he was conscious of Whyte's opinion of him (Whyte 1955:301).

There was no limit set on the period of observation, with the duration of the study extending over several years. Consequently, the findings would be more realistic and cover most aspects related to the study with depth and detail. The researcher was fully committed and, being self-financed, had no constraints from a funding body. She did not lack the skills of the participants under investigation and was able to communicate with them on their level and within their rules. She was also aware of not 'going native' and could separate herself from the role of the participant to the observer. By achieving that separation, the researcher was able to be objective in her decision to include or exclude certain actions under observation and kept the research question in mind. Unlike Holdaway (1982), she worked with different individuals in different locations as a free-lance interpreter. In contrast, Holdaway was working in the same police station with the same persons and found himself slipping unconsciously into 'going native' (Holdaway 1983:10&12-13). He even admitted that, on a burglary incident, he contemplated catching the offenders and punishing them. Holdaway went on to recognise that he was 'completely native displaying all the attitude of normal

policemanship' (Holdaway 1983:12-13). Another researcher, Whyte (1955:317) became so involved with the gang he was observing that he perceived himself as one of them. He got carried along with some of their activities and even became a secretary of the Italian community club in Cornerville. Parker (1974:219) indulged in his role to the extent of receiving stolen goods, but, he believed his involvement was necessary in order to gain the trust of the gang. He admitted later, 'I had things to lose by being caught'. He also mixed with the boys to the degree of going with them to court when they were in trouble and even standing bail or visiting them whilst in custody (Parker 1974:216). Parker was accepted by the gang to a great degree and admitted, 'I was very nearly one of the boys. I felt a genuine sense of belonging' (Parker 1974:220). In light of the 'going native' problem, the researcher notes that she is a professional member of the groups being studied and observed for the advancement of knowledge through research and thus aware of the need for enhanced professionalism, which she endeavoured to maintain at all times.

The author did not misrepresent her identity during the research period. Warwick (1982:46) cited Humpherys (1975) who defended his role when he was undercover as a watchqueen, since he was doing his job faithfully. The writer was faithful in her role as both an interpreter and researcher. She was not a voyeur, but in an established profession. If a person assumes the identity of another, s/he might miss some of the subtle significant actions of the observed. The researcher has never deceived or lied to any person in order to gain access to information, but went through the appropriate channels (see section 4.7 on "Access" in the present chapter ). Denzin & Erikson (1982:145) argue that the data gathered from a disguised role are faulty as the observer

lacks the skills to measure his disruptive effect on the setting as well as the subjects under observation.

Bulmer (1982:222-223) referred to Caudill (1958) who discovered, in his study of the psychiatric hospital as a small society, that he did not gain a wide range of data when he masqueraded as a patient in a psychiatric hospital. However, he was more satisfied with the information he acquired through open methods. Bulmer (1982) quoted Margaret Mead (1961) who voiced the same point; she advocated the importance of understanding the non-verbal language, which could give false clues to those who take up someone's identity<sup>15</sup>.

The author did not consider herself a spy on her colleagues, but as working on promoting the profession they are all members of. Colleagues were aware of her research as discussions took place in the interpreters' room at Asylum and Immigration Tribunals (AIT) courts about different aspects of the research. Other ethical questions caused stress to the writer and put her in a situation of doubt whether to interfere in a court case when a barrister made a mistake in her submission, a mistake that might change the outcome of a case. Although the interpreter drew the barrister's attention quietly to the mistake, in this case the barrister dismissed it when the adjudicator inquired. Court rules do not permit the interpreter to interrupt the proceedings. The question arises: Is it ethical to interrupt proceedings in order to correct a mistake in spite of the rigid rules? This is one of the points the current study wishes to raise, given that there is a lack of a code of practice that can guide an interpreter in case of a shortcoming

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<sup>15</sup>Bulmer (1982:223) the quotation obtained from Mead, M. (1961) *The Human Study of Human Beings*. In *Science*, Vol. 133, no. 3447, 20 January 1961.

from a barrister during proceedings. An interpreter is required only to translate word for word and not to go beyond the assumed mechanical role. In this connection, Whyte (1955:317) puts it, 'I also had to learn that the field worker cannot afford to think only of learning to live with others in the field. He has to continue living with himself'.

## **4.6 Recording of Data**

The data were recorded after events in the interpreters' room if working for AIT assignments or on the train on the way home in a quiet area. Recording of the data did not raise any suspicions as the other interpreters were accustomed to seeing the researcher reading and writing in a corner during periods of waiting in the interpreters' room until called to court. The author did not have the problem Holdaway (1982) had of the fear of being found out by his superiors. Besides, there is no hierarchy among interpreters, since all work on a free-lance basis and are paid at the same rate. As a self-employed interpreter, the researcher was able to attend conferences and gain ideas from peer researchers. The researcher had no constraints from a regular employer since she worked with various organisations and had the chance to accept or decline an interpreting assignment. There was manual recording only of the events, but not the names of the participants for ethical considerations.

## **4.7 Access**

The field study has been arduous and continued over a span of four years. There was great difficulty in obtaining access to certain categories employed within the criminal justice system, such as magistrates, prison officers, clerk to the justices and Immigration Advisory Service officers.

The author has been in a position to observe and record events at first-hand in her job as an interpreter during the whole period of the study in a holistic approach. In this way, she has been able to identify issues and problems in the practice of legal interpreting and these are examined in relation to their context. Furthermore, she has been able to listen to other interpreters' experiences. The researcher was not working undercover, as she has been one of the interpreters' team, some of whom knew to some extent that she was a student in the criminal justice system. However, others thought that she was training to be a solicitor, although if she were asked she would deny that assumption. They were not aware that some of their experiences were being used as case studies or examples in the present study. Bulmer (1982) calls this approach 'continuing insider research'.<sup>16</sup>The author did not reveal names of interpreters or those of defendants/witnesses/appellants in her case studies.

From one of her supervisors, the researcher had a contact name in the Crown Prosecution Service, who offered to help by distributing some of the questionnaires to colleagues and arranging interviews with people who were willing to take part. The response from this approach had proven to be higher than the other approaches. Thus, the researcher tried to obtain the opportunity to give more questionnaires to other legal practitioners, but was refused, being reminded that, 'people are busy with their practice, not other people's research' and no further help was forthcoming from that source. Among the other contacts she approached was a law professor, who advised her to write to the local Law Society as he was not able to directly help. A letter was accordingly

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<sup>16</sup> Bulmer, M. (1982:233) He referred to studies that adopted similar method such as Holdaway, S. (1983) **Inside the British Police**; Becker, H. (1963) *The Culture of a Deviant Group: the dance Musician*. In **Outsiders**, Glencoe: Free Press and Polsky, N. (1967) **Hustlers, Beats and Others**. Chicago: Aldine.

sent to The Law Society asking for assistance in this study; however no reply was received.

Other sources approached by the author included Clerks in Magistrates' Courts and Crown Courts. She wrote to courts she had worked for and other court addresses, as well as going to every new assignment in court or police station armed with copies of the questionnaire to be forwarded to the clerk of the court or given to any lawyer, Home Office representative or police officer who seemed approachable. The court clerk in Mansfield Magistrates' Court had forwarded the researcher's questionnaires to the Principal Legal Adviser who took the initiative by copying and distributing several copies to her colleagues and later persuading some lawyers to take part in interviews. Again the response rate was high through that route. Another helpful court was Nottingham Magistrates, where the Deputy Clerk to the Magistrates asked the author, through a trainee legal adviser, to send more copies to be given to both Legal Advisers and Magistrates advocating taking part in the questionnaire. This source was also fruitful.

The researcher wrote to probation officers she had worked for asking for their assistance, but, again, there was no correspondence from them. A request was then made to the Chief Probation Officer by her supervisor as a result of which only one officer responded. However, when that probation officer met the researcher for interview, he recognised her from attendances at the local Magistrates' Court, so he helped by suggesting other probation officers complete the questionnaire and, by doing so, a snowball effect was achieved. That method was most fruitful in obtaining more

participants to be included in the research, but at the same time limited by the numbers of one local group's contact. Further attempts were made to get more officers to take part through the medium of an English language teacher for people on probation, but that source was not rewarding. Also, a university staff member who held joint appointments as a probation officer was asked to help; he was able to complete one questionnaire and an interview, but neither introduced other probation officers to the researcher nor asked any to complete the questionnaire. Then, the author was given two names of probation officers working in prisons and known to her supervisor, who were able to complete the questionnaire, but still further numbers of respondents were needed. In order to find more probation officers to take part, her supervisor suggested placing an advertisement in the Trade Union and Professional Association for Family Court and Probation Staff magazine; the first advertisement did not produce results, but the second one was successful and several officers responded.

In an attempt to encourage participation from immigration officers, the author sought assistance from the Home Office in the local airport, where she had interpreted, but this did not obtain a reply. However, when she went to the airport for an interpreting assignment, she was able to persuade two officers to complete the questionnaire and to be interviewed. Also, she was able to gain the trust of another ten officers to take part in the research when she met them in AIT courts. There was a resistance from that category to participate in fear that their replies could be used for political purposes. In this context, the researcher assured Home Office officers that the study has no political aims.

Next, the researcher approached The Regional Adjudicator of Immigration Appellate Authority (IAA) at Bennett House; Hanley (now renamed Asylum and Immigration Tribunal upon the advice of an IAA adjudicator she worked with who is the husband of a friend. The researcher received a reply informing her that the request had been forwarded to the Department for Constitutional Affairs (DCA), now part of the Ministry of Justice, for consideration before permission could be granted. A reply came after a long wait, due to a late response from the Lord Chancellor's office. The Regional Adjudicator informed the researcher that approval was granted for the judiciary to take part in assisting with the questionnaire. He also asked her to contact him at a later date in order to discuss the matter. An appointment was made and the senior judge was very helpful by not only taking part, but also asking the other salaried judges to assist the author in her study. The researcher approached another three Regional Adjudicators, who showed a reserved response. Another source was available in the researcher's university departmental building as one of the employees had a husband who worked as a judge, when the author contacted him through his wife, he was helpful by completing the questionnaire and interview, and also provided her with other participants to approach.

Clerks to the Justices were reluctant to take part in the research. Although the researcher handed several questionnaires in different courts each time she went for an assignment, the clerks gave the questionnaires to other lawyers and did not make an effort to complete themselves. The clerks that responded were, ironically, from distant courts and not the researcher's immediate area. The author approached a member of the Department of Constitutional Affairs, now part of the Ministry of Justice, who was in



contact with interpreters through their Internet Forum, who advised her to contact the secretary of clerks to the justices in London, giving his email. The researcher wrote to the secretary mentioning the name of the official who advised her to contact him, explaining the nature of the research and attaching the questionnaire and cover letter. When there was no response, another email was sent. Eventually, the secretary of clerks to the justices replied with consent to send, by email, the researcher's questionnaire to his members. That method produced another snowball effect and more replies were received.

A sergeant in the Criminal Investigation Department (CID) was contacted by the researcher as she had worked with his team for a period of over one month in a major case and asked for his participation in the research, to which he consented. However, the response was limited. Then, she adopted a strategy of approaching police officers herself during every police assignment, which was more successful. The university has a research section on police issues and a colleague, who used to be a policeman, was helpful in obtaining more police officers to complete the questionnaire. The researcher notes that she could have received more responses to the questionnaires, if the local police did not negotiate a renewable five years' contract with a commercial agency to provide interpreters for police assignments as of May 2005; prior to that, the police used to directly approach qualified interpreters on the National Register (see section 3.3 on "Agencies and Outsourcing" in Chapter Three).

Letters were sent to 25 offices of Immigration Advisory Service around the country asking for their participation in the research, enclosing four questionnaires with their

covering letters, but only one completed questionnaire was returned. However, an immigration advisory officer had recognised the researcher as a colleague from a previous college course and offered to help when he worked with her in an AIT court. It took several reminders until she received nine responses as the officer himself had difficulty persuading other colleagues to take part. This category provided the least number of completed questionnaires and no officer was available to be interviewed.

There was no direct access to prison officers with view to taking part in the study, even though the researcher wrote to prisons she had worked for, again explaining the purpose of the research and her wish that that category be included. Moreover, she contacted the editor of The Professional Trades Union for Prison & Secure Psychiatric Workers asking for assistance in placing a short note requesting volunteers to participate in the research, sadly, there was no result from that approach. However, one of the author's colleagues had a husband employed by the prison service and was able to persuade some of his colleagues to complete the questionnaire and to be interviewed. That category comprised a smaller number than the other groups.

The Magistrates were given questionnaires through the court ushers and some of them were willing to complete and give copies to other colleagues. Additionally, a magistrate, belonging to the researcher's local Literary and Philosophical Society assisted by returning a completed questionnaire and persuaded other magistrates' participation in the study.

## **4.8 Ethics, confidentiality**

The researcher has carefully considered the question of ethics. Hence the author sought ethical approval from the university and was granted approval by the Ethics Committee. Fletcher (1967:74-75) points out that ethics is decided according to contextuality and in light of the situation under observation. The researcher takes decisions supported by 'principles generally valid', but at the same time is ready to modify, suspend or even violate any principle or 'general rule' if the situation requires that action. That does not mean ethics are not applied; it only rejects rigid and legalistic rules in pursuit of the truth of a specific situation. The author has never attempted in her research to give any misleading information to the participants under observation or to use a false identity. Their confidentiality was protected by not recording the name of any participant; instead a number was assigned to each individual. As Israel (2004:719&724) points out: social scientists do not attempt to harm participants in their research and so preserve their privacy.

Bulmer (1982:10) states that the main aim for sociology should be the search for the truth. Although conventional participant observation prescribes co-operation between researchers and participants with openness in one's actions, that idea is difficult to achieve in light of the fact that modern society is viewed as a conflict model, in which individuals compete with each other. Social life is full of conflicting interests, values, feelings and actions. In this context, it is very difficult, if not impossible, to obtain consent from every member of society. However, the researcher was able to achieve good results by overt means of investigation. The present study is attempting to reveal

how the legal system views interpreters from the researcher's outgrowth of personal experiences as both an interpreter and an observer.

#### **4.9 Limitations and bias**

There have been limitations regarding insufficient piloting of the questionnaire due to the difficulty in obtaining enough access to participants in many of the identified categories. This limitation is apparent in question number eight in the questionnaire, since some informants did not understand what was meant by 'lawyers' method of operation'. A thorough piloting of the questionnaire could have given the researcher the opportunity to change the wording of this question. Moreover, the context of the questionnaire was reviewed by the researcher's supervisors and only a limited number of staff was involved; it would have been more enriching to the questionnaire to have received comments from experts in the same field. Regrettably, the research subjects were not re-contacted by the author in order to get a feedback on issues that emerged from their replies in the survey.

The study did not adopt discussion group method. It has been envisaged that legal practitioners would not have the time to come together in one place in order to participate in the discussion of issues arising from their replies to the questionnaire. The researcher has attempted to compensate for this limitation by interviewing some of the participants who completed the questionnaire and gave their name as willing to be contacted at a followed up stage.

Parahoo (1997:366) identifies bias as the main threat to reliability and validity of data acquired in a given research. He lists sources of bias as emerging from researchers' prejudices, values and beliefs as well their research and communication skills (or lack thereof). The research subjects could play a part by giving misleading responses attributed to their own motivation and social class association. The phenomenon under observation might not reveal itself to the researcher at the time of the study. An illustration of this is: where researchers have planned to observe aggression among patients, the research subjects might change their behaviour by being conscious that they were under observation. Furthermore, the environment of the research could produce different results depending on place of the respondents, whether they were questioned at home or another location, and over a period of time.

The use of faulty methods of data collection is another factor that creates bias. Parahoo (1997:366) explains that questionnaires might include ambiguous or leading questions and interviews might be invalid or yield unreliable information. He points at how data could be distorted when patients from a control group exchange information with another experimental group on the same ward.

Bias can be manifested in omissions, which is a selective choice of data. Parahoo (1997:366-367) observes that omissions are deliberate or unintentional. He goes on to explain that deliberate omissions are a mere deception of the reader. Then he notes that omissions could be evident in the sampling methods as well as the description of exchanges in control groups. Parahoo criticises researchers who do not give a full account of their method of data collection and sampling techniques.

Some researchers get immersed in their studies and fall into the habit of using jargon and specialised terminologies in their research in the assumption that the reader would understand them. Also, if they do not give sufficient information about the research, the reader might misunderstand the overall purpose of the study. Such ambiguities should, therefore, be avoided by a clear explanation of the research and clarification of abbreviations or unfamiliar terms. There is a tendency for some researchers to exaggerate their findings and that can be avoided through reviews from other academics and peer groups (Parahoo 1997:367). Furthermore, Parahoo, (1997:292) advises researchers to go back to their respondents for the validation of the replies they obtained from interviews and questionnaires, which could eliminate the researcher's prejudices or misunderstanding.

A largely qualitative approach was needed due to the complexity of the interpreting process as described by the communication theory. However, a short largely quantitative initial survey helped frame the interviews that followed in terms of the selection of questions. The interviews explored further many issues related to the practice of legal interpreting and the views of legal practitioners towards interpreters themselves in terms of whether they perceive them as part of the criminal justice system as professional persons in their own right.

Chapter Five presents the qualitative results through semi-structured interviews of nine specific job categories within criminal justice system. These categories comprise: judges, lawyers, clerks to the justices, magistrates, probation officers, police officers, prison officers, immigration officers and immigration advisory service officers.

## **Chapter Five**

### **PRESENTATION OF FINDINGS**

#### **5.1 Introduction**

Chapter Five attempts to explore the different opinions of nine categories of personnel within the criminal justice system (CJS) regarding different issues related to legal interpreters and the practice of legal interpreting. This has been done by employing a questionnaire which generated points of discussion that are explored further through interviews in the present chapter. The researcher chooses categories she works with as an interpreter and hence has some access to, at different levels. The categories chosen are judges, probation officers, solicitors and barristers, police officers, clerks to the justices, magistrates, immigration officers, immigration advisory service officers (IASOs) and prison officers.

The main questions in interviews are within the arena of the use and knowledge of the interpreting profession. The issue of training for legal practitioners is covered. Culture and its significance in non-English speakers' trials are explored. Related subjects are given attention such as code of practice, qualification, attire, administration and accommodation for interpreters working in the CJS.

## **5.2 Categories response rates**

The completion rate of the questionnaires varied from one category to another depending on access, which is discussed in Chapter Four. The total number of judges who completed the questionnaire is sixteen out of eighteen. The completion rate is around 90% due to personal contacts. The number of judges who agreed to be interviewed for the research is ten. Most of them worked for Asylum and Immigration Tribunals (AIT); only two were Crown Court judges. However, some of the AIT judges were Crown Court judges before joining AIT.

The number of solicitors and barristers that took part in the questionnaire was 32 out of 65 and ten agreed to be interviewed. The reason for that large number, the largest among all categories, is explained in the “Access” section 4.7 of Chapter Four. Therefore, completion rate is above expectation.

Clerks to the justices participated in the study with six out of 29 members for the questionnaires and five of these were interviewed. The large response from that category is due to help from a member of the Department of Constitutional Affairs (DCA), later entitled Ministry of Justice, which produced a snowball effect through an internet response. Those clerks who sent their completed questionnaires were from different areas of the United Kingdom (UK).

The magistrates that were accessible to complete the questionnaire came to fourteen persons out of 28, after some efforts. The completion rate is around 50% and only three



magistrates were available to be interviewed. The responses were confined to the East Midlands area of UK.

Probation officers that contributed their opinions in the survey reached fourteen persons out of 46, after extensive efforts. The completion rate is around 30%. Three probation officers agreed to be interviewed. The number of persons in this category is limited to the East Midlands area of UK.

The participant police officers in the study were limited to fifteen out of 38 due to inaccessibility of local police work in the East Midlands area. This is as a result of outsourcing to a commercial agency (see section 3.3 on “Agencies and Outsourcing” in Chapter Three and section 4.7 on “Access” in Chapter Four). The completion rate was around 40%. Access was established with three police officers for the purpose of the interview.

Prison officers that completed the questionnaires, via an intermediary, were eleven out of 100. The completion rate was around 11%. Two volunteers were available to be interviewed for the present research.

Immigration officers are another category that partook in the study, with a smaller number of officers (see section 4.7 on “Access” in Chapter Four). The completion rate was 30%. However the researcher was able to gather twelve officers out of 40 to take part in the questionnaire. The number of immigration officers that consented to be interviewed was two.

Among the categories, the IASOs represent the lowest number of individuals in the study, only ten out of 120, and their members were the most difficult group to gain access to. The completion rate was around 8%. There were no available volunteers for interviews.

### **5.3 Topics of discussion**

There are several topics that were generated out of interviews with the nine categories that are employed within the CJS and have worked with interpreters. Only one category, the immigration advisory service, was not interviewed, due to the unavailability of their members. Their questionnaires are used for their views in the present chapter.

#### **5.3.1 The interpreter as a professional officer and part of the criminal justice system**

Although the terms ‘professional’ and ‘part of the CJS’ are different issues, they are used together in this section. The main point is to refer to the interpreter as a professional person within the legal system.

The views varied from one profession to another. As an example, judges recognised the interpreter as a professional person and part of the CJS. One judge explained that some practitioners do not recognise the interpreter as part of the legal system, since they are not accustomed to interpreters, especially older people. She went on to observe that, until recently, interpreters were rarely used in criminal courts and her colleagues were ignorant of training on the use of interpreters. Another judge asserts that foreign language cases are marginal and unusual in other courts such as Crown Court. A further

point of view from another judge claims that ‘interpreters are somebody in court to help an individual and not appreciated as helping the court as well. They look at them as having conflict of interest. They do not see the broader picture. They see the interpreter in court as for convenience’. He puts the blame on people not being able to see the multi-faceted nature of the CJS.

One judge raised the issue of multi-occupation of an interpreter when he emphasised that, ‘the interpreter is not part of the legal system, but engaged in other matters such as teaching. They are considered as ad hoc specialists to help in specific cases. They are not a common component in the system. They came for the occasional case’. Another judge went on to expound that, ‘only people who are participant in the decision making are considered part of the criminal justice system’. He gave the example of civil personnel, who are policy makers as part of the CJS. He went to assert that ‘interpreters have a vital role in the whole administration of justice. They are available in a variety of situations in order to make people understand each other’. Then he gave example of interpreters who practise in other situations such as health and claim applications. He further confirmed that ‘interpreters are similar to the officers of the court, but not in ‘the same way’. Then he remarked, ‘do we call the court cleaner as part of the criminal justice system?’

On the opposite view, another judge declared that he sees the interpreter as part of the legal system. The judge noted that the jury rely on the person to be truthful and honest. He recommended adequate training and satisfactory assurances of the role of the interpreter and saw the interpreter as an unbiased individual for the benefit of the court

and defendant/witness/appellant. An AIT judge recommended that when people are first appointed, they should take an induction course. In the course, people would learn about the practice of interpreting and how interpreters are key players in legal proceedings. One judge, acting in the capacity of a director of the Judicial Studies Board (JSB), envisaged that it would be possible for his organisation to make information packs available to users such as professional organisations, the CJS, the Department of Constitutional Affairs (DCA) later named the Ministry of Justice and the JSB.

Most of the advocates recognised interpreters as professional individuals with only three rejecting the idea. One explained that 'it depends upon the individual interpreter'. However, there was a resistance to the acceptance of interpreters as part of the CJS. They also admitted their ignorance about the practice of interpreting.

One legal practitioner indicated that interpreters have no identity and that they are not part of a cohesive body. She elaborated that she would have no idea which organisation, if any, to approach if she needs an interpreter. Another prevailing opinion that some advocates have put forward is that interpreters are perceived as more of a tool, a facilitator, a conduit, just a voice of the client. Hence, the legal practitioners perceive interpreters as only required to translate word for word and not give their opinion. They further noted that interpreters do not give legal advice and are not responsible for the progress of a case. One legal practitioner put another point forward. He argued that interpreters are not part of the legal system because they are 'independent'. He added that they have a duty to the court and the client. If they were part of the system, then

they would be biased and people would not have faith in them. By contrast, three legal practitioners considered interpreters as part of the CJS. They went on to explain that such erroneous perception of interpreters emanates from the non-knowledge of the role of interpreters and their function within the CJS. One advocate stated that there are misinterpretations in some non-English speakers' cases and interpreters are needed to correct them or the case would collapse. She considered them as a linchpin in non-English speaking cases.

Legal practitioners proposed the best way to make people aware that interpreters are part of the CJS would be by public awareness. They observed that the public might not be aware that they are entitled to an interpreter and that they may request the same interpreter, if they are happy with her/his service. Furthermore, leaflets could be distributed explaining the role of the interpreter to all CJS parties. Then they commented that if the person is not provided with an interpreter that speaks her/his native language, that would be a breach of article six of the Human Rights Act. One advocate called for the government to recognise and raise interpreters' profile. One barrister advocated appropriate training for the judiciary, since it is its role to introduce the interpreter and explain her/his role. He reiterated that higher courts should recognise the role of the interpreter. Another legal practitioner called for the National Register to make an effort by being more visible through information, leaflets and posters. She informed the researcher that they try to provide information to facilitate communication for hard of hearing and the blind through Braille. One legal practitioner drew attention to the fact that interpreters come in cycles when there is a problem in a country or region. He added that if the court would employ someone with a more used foreign

language, it might ease the problem and drew attention to the need for an interpreter and hence would be recognised by the legal system as a court officer, but that person could not be in two places if s/he is needed in another court.

The clerks to the justices were unanimous in accepting the interpreter as a professional officer, although one clerk replied with 'yes sometimes' and another affirmed her acceptance by 'absolutely'. When the clerks were asked whether the interpreter could be considered as part of the CJS, they agreed. Among the clerks who gave an affirmative reply, one person regretted that such a status would be conferred to interpreters by answering 'yes unfortunately'.

Hence, the clerks gave different reasons for people not considering the interpreter as part of the legal system. One clerk thought that people consider the interpreter as a new phenomenon, since s/he is not involved in each case. He added that the interpreting profession has no central administration or direction. Another view put forward is that the interpreter is an integral part of the system. Therefore, it would not be a fair trial in non-English speaking cases without the provision of an interpreter. One clerk remarked that the interpreter is entirely independent and if the defendant thought that s/he is part of the court personnel, the accused might not tell the interpreter anything. Another clerk acknowledged that some of the legal practitioners are 'prejudiced, bigoted, uncaring and do not care for the human rights of people'. The same clerk pointed out that the interpreter is an independent person; therefore there was no need to change the existing situation.

Conversely, one clerk suggested a change could develop through advertising in criminal justice agencies. She added that the interpreter could have a voice with the local Criminal Justice Board, which each county has, and if the chief executive is aware of the interpreter as part of the system, then s/he could make others aware of the interpreter's professional position. She explained that the Law Society could promote the interpreter as part of the system to the Bar Council. A second clerk proposed training as well as a centrally controlled professional accredited body to advance the interpreting profession. By this account, another clerk argued that a change could start from the grass roots' level with lawyers. He said that, although interpreters are outside the CJS, they are an important element of it. He observed that People could not get a fair trial if interpreters are not involved in non-English speaking trials. He further pointed out that Criminal Justice Board arranges cuts. Central government keeps the stream pure. Article six of the Human Rights Act states that every defendant is entitled to an interpreter if s/he does not understand the language of the country whose jurisdiction they are under. We have to make sure that our obligations under Human Rights are not hindered. Central government promotes interpreting practice through the administration of the National Register. Funding bodies understand that the interpreter is self employed and market forces operate on them by enforcing rates or obtaining their services through commercial agencies (for further discussion on "Agencies and Outsourcing" see section 3.3 in Chapter Three).

The majority of magistrates recognised the interpreter as a professional person: Only one refused the idea. One magistrate thought that people do not consider the interpreter as part of the CJS because they do not have legal qualifications, whereas another

admitted that such perception was due to ignorance and a lack of awareness and training. The third magistrate stated that, 'interpreters are not part of criminal justice system, but necessary agents for the benefit of the person interpreted for and the interest of the justice'. She considered interpreters are only conduits rather than part of the principal actors. In this connection, one magistrate advocated the best way to rectify such perception would be through training organised through the local bench Training and Development Committee, while another suggested it could be through informing legal personnel of the formal qualification of interpreters and the need to use efficient practitioners.

A probation officer suggested that some people do not perceive the interpreter as part of the CJS. When they see one or two interpreters a week, they regard them as just visitors. He added that they do not consider the interpreter as translating the subtleties of a language, but just translating word for word. Another officer declared that interpreters are bought by agencies. He said, 'we buy them as a resource more than people we call on, like we do with catering'.

On the context of correcting the existing faulty image of interpreters, one probation officer could not give an opinion and another suggested that the image could be changed if they use the same interpreter consistently in pre- and post-court sessions. The third officer proposed training and refresher courses. He admitted that barristers are sometimes arrogant, as they appear to assume everybody should speak English. He suggested looking at other court participants as having an equal part to play in court rather than looking at a practising interpreter as someone who gets in the way.



Police officers were undivided in recognising the interpreter as a professional person, with only one person rejecting the idea. And most of the respondents viewed the interpreter as part of the CJS, with only one officer having an opposite opinion.

One constable thought the reason that some people do not consider the interpreter as part of the legal system is due to ignorance of the interpreters' role, as they come and go and, in some areas of UK, there is no need for interpreters. He proceeded to explain that the situation is now changing due to the influx of people from Eastern Europe. The constable added that interpreters are needed in towns like Leicester, Birmingham, Manchester, Liverpool and London, because of their diverse composition. Therefore, in these cities, interpreters are part of the system. In other counties, like Cornwall, Durham, and Cumbria, where they have few minorities and would not use interpreters on regular basis, they are not. Another officer declared that from the police officers' point of view, they deal with interpreters during an interview, which serves their purpose and would be the end of the interpreter's role for them. In the same vein, another officer pointed out that interpreters are regarded only as communication facilitators for interviewed persons and nothing else.

There was a growing tendency among prison officers to accept interpreters as part of the CJS. One officer suggested that people exclude the interpreter as part of the CJS, because they lack the understanding of their profession. Another officer explained that legal practitioners view interpreters in terms of the length of their study, as they consider it shorter than their own. She went further to state that the recognised legal practitioners who work in the CJS have better qualifications than interpreters. She added

that they could have several degrees, such as a first degree and a Master in law. Therefore, the hierarchy in CJS places the interpreter at the bottom of the list of officers working within the system and looks at them as having a lower job in terms of prestige hence, they do not have the same status as solicitors and barristers.

In this connection, a prison officer expressed his wish for the government to make stringent regulation about who can be an interpreter in CJS and only then the interpreter would be accepted as part of the system. The other officer was more pessimistic and commented that even if you tell the legal practitioners about the length of the interpreters' study, they will still look at the interpreter as having an inferior job than theirs. She argued that the solution could be that the interpreter and legal practitioners involved in a case should work together, having regular contact.

Although the bulk of immigration officers acknowledged the interpreter as a professional person, they dismissed accepting them as part of the CJS. Those who accepted interpreters as part of the legal system called them 'vital'. Some immigration officers attributed the lack of understanding of the role of the interpreter, as well as the lack of experience on working with interpreters as the main reason behind people's exclusion of the interpreter as part of the CJS. Immigration officers perceived that the best way to correct such an image would be through training of legal practitioners by the interpreters' organisation, or it could be rectified via the judge in court during a case. Furthermore, they saw that the interpreters' organisation would be most suited to provide such service.

IASO appeared to recognise the interpreter as a professional person. Nevertheless, most of the officers did not consider the interpreter as part of the CJS.

### **5.3.2 Ambiguous words and cultural issues behind a word or an event**

Ambiguous and cultural words could be different concepts. Yet, a cultural word could produce an ambiguous meaning, which would need further explanation from the interpreter. Hence, the present section is giving the opinion of personnel employed within the CJS regarding both ambiguous and cultural meaning in words.

The concept of the role of the interpreter in explaining multiple or ambiguous words was advocated by the judges with some reservations. One commented, 'Keep it simple, if there is more than one meaning, then the interpreter can explain'. Another envisaged that this would be necessary only 'if the judge or counsel thinks it is necessary in the interests of justice'. One judge gave a positive reply to the interpreter explanation of multiple meanings and went on to elaborate, 'yes with care, I have recognised such problems in French *'arrêté'*, which was interpreted as 'arrested'. Then I asked if the appellant meant 'stopped' and it was the right meaning. I will have no idea if I do not speak the language'.

There was a dichotomy about whether the interpreter is allowed to explain any cultural issues behind a word or an event. Although some judges agreed, others disputed the idea on the grounds that, 'this is not the interpreter's role. The interpreter has no right of audience'. Niska (1995) reviewed other courts' practices when it comes to interpreters' right of audience and this is discussed further in Chapter Six. Other

comments were appertaining to the concept of evidence. One responded, ‘yes, to the explanation of cultural significance, but the interpreter must proceed with care and not to take the role of an expert witness to cross-examination’. Another reiterated the same idea by saying, ‘this will depend on the context. They cannot give evidence in a case if the person is an interpreter’. However, ‘explanation make, of all such matters and things as shall be required of me’<sup>17</sup> is part of the interpreter’s oath that could include ambiguous or words of cultural significance. Another point had been put forward that sometimes a foreign word has no equivalent in English.

The legal practitioners were in full agreement in accepting that the interpreter should explain ambiguous foreign words that might relate to culture. One lawyer stated that, ‘without the cultural understanding you cannot get a true understanding of what is being communicated’. Another advocate drew attention to the fact that sometimes there is no direct equivalent in the English language to the foreign word or phrase and interpreters have to give a long answer in order to explain. Then he went on to warn that the interpreter should be aware of the borderline between evidence and explanation. Also, two advocates proposed that the interpreter should clarify any cultural issues only if the person interpreted for, or the judge, asked her/him to explain them. Another practitioner put forward a proposal for the court to employ two interpreters, one to interpret only and the other to explain meanings and who could be considered as an expert witness. He added that if that proposal is feasible, then there should be a different qualification for interpreters who explain ambiguous and cultural words and another for those who only interpret.

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<sup>17</sup> South Tyneside College (2000-2001) Study Guide for Diploma in Public Service Interpreting.

There was consent among clerks to the justices to the need for interpreters to explain multiple meanings of words in court. One clerk went on to remark that, 'I would expect an interpreter to voice any queries in this respect'. Nevertheless, two clerks were more cautious in their replies, one of them thought such explanation would be allowed only if appropriate to the proceedings, whilst the other suggested that each case should be judged on its own individual circumstances.

When the clerks were asked whether cultural issues emanating from an interpreted word or an event could be explained to the court, they agreed. One clerk emphasised that, 'there should be a full explanation of the context where appropriate'. Another officer believed that this issue could be considered only on individual situation. A small number of clerks did not consider cultural explanation should be allowed in court. However, there was an indication by the majority of clerks to the need for cultural explanation to be part of the interpreter's role.

The magistrates supported the explanation of multiple meanings of words in court and admitted the need for it. One magistrate required the interpreter to ask leave of the bench to explain ambiguities, whilst the other two expected the interpreter to be under duty to clarify ambiguous words. Among the comments that accompanied the affirmative replies to that question, one stated that, 'it is important that the speaker's words are used appropriately. Any ambiguity needs to be resolved'. Another reply agreed on the explanation of multiple meanings on condition that such explanation is relevant to the case under trial. One magistrate suggested that the interpreter should clarify with the judge such points prior to them going to the jury. However, one answer

discounted the notion of multiple meaning and went on to explain that the specific meaning of technical words relating to the case should be given.

The magistrates also supported the notion that cultural issues during the trial of non-English speaking defendant/witness should be explained to the bench. Furthermore, they considered cultural explanation as part of the interpreter's role. Only one person did not agree and raised the issue that explanation of cultural points should be given by an expert witness and not by the interpreter.

In this context, one probation officer admitted that there should be enough time for the interpreter to explain the concept behind words in order to aid the full understanding of all issues in court. He drew attention to the fact that some words could give opposite meanings to the assumed ones, or various meanings. Another officer recommended that if the interpreter has similar knowledge of the defendant's culture, s/he could assist in providing full explanation of the defendant's account in the court. One officer found that explanation of the significant cultural issues were helpful in understanding his client.

Police officers had reservations on interpreters' explanations of foreign words that might carry a cultural meaning. Although they recognised that culture has its own language and that not all words can be literally translated, they remarked that the interpreters' explanation would become second-hand and that might lead interpreters to give their own views. Another officer welcomed interpreters' explanations of foreign ambiguous words, providing they explain them first to the interviewer and not have a

private conversation with the suspect. However, most of the officers thought the explanation of multiple meaning of words would be part of the interpreter's role. Yet, one person suggested it should be allowed on condition that the interpreter would be in a position to have such information. Only one person rejected the idea.

Prison officers were unanimous in espousing an explanation of multiple meanings of words, in any non-English speakers' trials, that could help in the proceedings. One prison officer, who was born in France, stated that some words could be similar but have different meanings, and that could be confusing. Therefore, multi-meaning words need to be clarified to the court. The officers recommended also that interpreters explain any cultural significant meaning of events or words to the court. Hence, prison officers believed that cultural explanation of issues would be one of the interpreters' duties.

Immigration officers were asked about multiple meanings of words and whether the interpreter could explain them in court. All the officers advocated such explanation and one person added, 'if potentially significant'. They also recommended that any significant cultural word, or an event, be declared to the court. Only one person refused the idea. In this connection, not all the officers admitted that cultural explanation would be part of the interpreter's role. Hence, immigration officers espoused the main requirements from the interpreter in court would be complete honesty and correct interpretation at all times and, in case of any difficulty in the interpretation, it would be brought to the attention of the court. They also argued for clear, concise and accurate translation together with a professional attitude, patience, detachment from emotional issues and understanding of the language and procedures.

IASOs advocated that the interpreter should explain any significant cultural meanings generated during an interpreted case, as well as multiple meanings of words in court. Yet, most officers dismissed that cultural explanation should be part of the interpreter's role.

### **5.3.3 Qualifications for interpreters**

The case of qualifications was put to the judges. Only one judge was able to mention the professional qualification for an interpreter to practice in court, which is Diploma of Public Service Interpreting (DPSI). One stated the Institute of Linguists qualification without knowing the name of the qualification. Some judges suggested a recognised university qualification that encompasses elements of language, skill of interpreting, cultural understanding, the court system and legal language that would produce professional competence. One judge proposed, 'if national of the country, they should have a qualification of at least a Diploma level in English. But if they are British and the language is not their mother tongue, they should have a degree level in the language being interpreted'. Another judge drew attention to the lack of professional interpreting courses for rare languages. He explained that some languages are only spoken and not written. Therefore, it would not be possible to design a course or find a teacher to teach them. Kong (2007) suggested an alternative source for finding a rare language interpreter of a reasonable standard that would rectify such a situation. (See "Agencies and Outsourcing" section 3.3 in Chapter Three).

The researcher asked the advocates about their opinion of a professional qualification for a legal interpreter. One practitioner stated that interpreters do not need qualifications



as long as they are fluent in both their foreign and English language. However, an advocate went on to add that interpreters who have a degree of intelligence could acquire a certificate by a recognised body. She thought experience through working, for example, in asylum cases would be more important because it would teach interpreters the terminology. But a certificate would give interpreters knowledge of the workings of various other courts. In general, the advocates appeared to lack knowledge about the type of professional qualification for interpreters. One practitioner had an idea about training only, whereas others suggested a formal qualification in both foreign and English language and a language assessment course that would introduce them to legal procedure and their role in it. Only one person knew that the required qualification for legal interpreters is DPSI. He explained that he was planning to start an agency to provide interpreters to courts, police stations and probation.

Most of the clerks to the justices agreed that the interpreter should be registered with the National Register of Public Service Interpreters (NRPSI), a member of the Chartered Institute of Linguists (CIOL) or similar, or Council for the Advancement of Communication with Deaf People (CACDP). Only one clerk knew that the required qualification is DPSI. However, the majority of clerks admitted of having no knowledge of any qualification for a legal interpreter. Another clerk commented that, 'some interpreters have academic qualifications and some reached an approved standard of a registered body, while some have experience either in a main language or an obscure dialect'. Most of the clerks thought a fluency in a language and knowledge of legal procedure and the appropriate vocabulary would be the main requirement in a legal interpreter. They thought that in such cases qualification would not be necessary. A

small number of clerks admitted using interpreters from commercial agencies (see section 3.3 on “Agencies and Outsourcing” in Chapter Three).

The clerks envisaged the interpreter require a qualification that involves speaking and writing the interpreted language and that would suffice. Two clerks accepted the National Register qualification or the Institute of Linguistics professional qualification. The remaining two worked together in the same large court; one of them stated his knowledge of DPSI qualification only. He further pointed out that he and his colleague are involved with City College at Birmingham on training interpreters. When the researcher conducted an interview with his mentioned colleague, he was more detailed in his answer. He gave a reply to the question with a question. He said, ‘you might ask, what the examination should be?’ He went on to explain that a legal interpreting qualification ‘must have practical assessment as well as the written content’. He explained that the legal element should be combined with the practical one in the court’s setting, as there is in practice a peculiar element not available in the written training material. Then he pointed out that they run a steering group that ‘achieved notoriety’ by writing letters to the Lord Chancellor about non-compliance to issues related to interpreting. He further pointed out that they formed a sub-committee for the last twelve years to deal with that issue. Furthermore, they have been running experiential learning courses for interpreters on four Saturdays; each session has been allocated to a different element in court such as bail, trial, verdict and summons.

The magistrates recommended a qualification that promotes performance skills. They supported a command of both the foreign and English language, as well as knowledge

of court procedure and legal terminology. It was important for them that the interpreter should have a clear voice and allegiance to the court and the person interpreted for. One magistrate thought that the interpreter should be a native speaker and a member of the National Register. Another complained that interpreters slow down the court procedure. She also rejected the need for defendants/witnesses who speak some English to have access to an interpreter.

When probation officers were asked about interpreters' qualifications the respondents were not sure. Their replies concentrated on skills rather than qualifications. Some assumed the interpreter's qualification would be in the language interpreted for, together with an understanding of the criminal justice system and the ability to be objective. One officer admitted that the probation service rely on social services' agency for the procurement of interpreters. He added that he had no knowledge if their interpreters were qualified or the criteria to be accepted on the agency's panel. Another officer explained that he used to be responsible for securing training for interpreters within the probation service several years ago, however, he understood that a professional qualification is now required.

One probation officer suggested a qualification as high as possible in the court legal language, technical words and specialist knowledge of law, legal settings and speed of interpreting. He affirmed that knowledge of these elements could affect the outcome of a case. Another officer proposed a qualification up to the standard of a National Vocational Qualification level that combines both linguistic and legal elements.

Police officers explained that they had ‘no idea’, ‘don’t know’ or ‘unknown’ of any qualification for interpreters. Others thought a recognised educational qualification would be needed such as a degree or a qualification that would give understanding of the UK legal system and legal terminology as well as speaking two languages. Another reply recommended that the interpreter should have good communication skills and the ability to correctly and accurately pass on information.

Ironically, one constable stated that, ‘interpreters do not need a legal qualification, but only a qualification based on information, clarity and processing of information given’. Another officer believed interpreters need a high or advanced level qualification in colloquial conversation in the language they are interpreting, whereas the third officer called for a qualification from a nationally recognised body.

Most prison officers envisaged that the interpreter needs to speak and understand a foreign language to at least A level or a degree level. However, one officer said the interpreters’ qualification was unknown to her and only one person knew the qualification should be DPSI. The latter officer was the husband of an interpreter. He declared that the interpreter should only be registered with the NRPSI specialised in law. The second prison officer thought the interpreter needed to have a degree in law with a speciality in language.

In a related issue, prison officers suggested that the interpreter would be required to have an excellent and accurate skill in two languages, as well as produce a correct translation word for word. Therefore, one person thought that the interpreter should

possess a high intelligence quotient (IQ), whereas, the other officer suggested the interpreter has the duty not only to translate, but also to explain relevant cultural verbalism.

Immigration officers showed little knowledge on the required qualification for the interpreter to be permitted to practice in court. One answered by ‘I do not know’, while the other thought a command of the English language up to GCE level or above, together with a qualification in the interpreter’s own language, would be required. Some officers envisaged a formal qualification in the English language and the foreign language that could demonstrate fluency in both languages, as well as knowledge of the societal norms of the country that speaks that specific language.

In general, IASOs had no idea about interpreters’ qualification by stating ‘unknown’ in their replies, while others assumed a Diploma and foreign language qualification would be the requirement. However, other IASOs saw relevant skills as the needed qualification for legal work in court.

#### **5.3.4 Training legal practitioners**

Almost all the judges accepted the notion of being trained on the use of interpreters. One judge pointed out that the question was too wide, but agreed it would be beneficial for some judges to take training. Another judge reiterated, ‘legal practitioners should know the use of interpreters in court’ and an AIT judge said that they do already apply the practice in her jurisdiction.

One AIT judge proposed a module on working with interpreters for legal practitioners. Then the advocates can learn by role-play, observation and conversation on what interpreters do. Legal practitioners have to take fourteen Continuing Professional Development (CPD) training courses and interpreting could be one of them. Also, experienced interpreters could take part by talking to the judiciary and explaining the difficulty in the interpreting process. Through mock trials the advocates could understand the burden put on the interpreter in court procedure and dealing with a vulnerable defendant/witness/appellant. Another judge suggested the Law Society, Bar Council and Professional Boards are the only bodies concerned with training solicitors and barristers.

The advocates were split in opinion as some supported the concept of training on working with interpreters, while others resisted the idea. Those who agreed thought that such training should be a compulsory element in the qualification process. However, legal practitioners who opposed training argued that they should understand their role and that of the interpreter, and this would be sufficient to work with interpreters. One advocate added that they have no difficulty or problems regarding understanding how to work with interpreters, thus training is not necessary. Another legal practitioner called for guidance from the Bar Council and Law Society, which could produce practice guidance after asking questions from interpreters. Therefore, training would not be needed. One advocate thought they need only to speak slowly and then 'everything is going to be clear'. In this context, the author asked them about the authority they perceive would be suitable in providing such training. One legal practitioner proposed that an independent body such as the Institute of Linguists, Bar Society and the Bar

Council could give training. Another advocate envisaged on-the-job training, around five hours, in which the advocates need to know ‘how to control an interpreter’ and work with them. Other ideas ranged from role-play, mock trials, one-day training in the firm they join, workshops or a training course provided by the Law Society. However, some legal practitioners proposed training to be given by highly qualified interpreters, who have degrees in languages and degrees in interpreting. Hence, the proposed trainers would know the most appropriate way of working with the advocates, because they know what would make their job easier.

The clerks to the justices were unanimous that training should be provided in order for the advocates to understand the constraints under which an interpreter works and what to look for with regard to instructing an interpreter. The clerks admitted to the existence of an element of ignorance among legal practitioners, due to their unfamiliarity with the system. They pointed out that the advocates should also learn how to identify signs of an interpreter not doing her/his job properly. Furthermore, legal practitioners should learn to speak directly to the defendant and not to the interpreter. During their training, they should be taught that it is not possible to translate from one language to another equally, which might lead the interpreter to take longer time for interpreting. Therefore, training for the advocates should be part of their professional apprenticeship. A number of clerks suggested that training could be provided by legally responsible practitioners from the Bar Council, Law Society, a national body or a professional interpreting body, with literature containing the main elements of the interpreting practice. One clerk argued that it does not matter which body is providing such training as long as it would

be interested in that area. He explained that he tried to deliver training in his Magistrates Court; however, the legal profession did not see the need.

Some magistrates thought legal practitioners lacked training on the use of interpreters, while others did not perceive such shortcomings. One magistrate declared that she was not in a position to answer that question.

Probation officers were in agreement on the need for lawyers to receive training on how to work with legal interpreters. One officer said, 'legal practitioners, as in any other field, need training'. The officers suggested that the Law Society, Bar Council or universities could provide such training. Other officers suggested interpreters themselves, who are in education or have knowledge in law, can take part in training the advocates. Thus, interpreters could explain to the legal participants that some people are not familiar with the English legal system. Also, interpreters could undertake role-play, where everybody speaks a foreign language, such as French, for example, so that legal practitioners could experience the difficulty of interpreting into another language. The respondents proposed training to be part of advocates' induction when they work in a firm. Hence, the legal practitioners could be given an idea of the different languages in the specific area they are going to work in.

Police officers suggested that training and guidelines in custody suites could help in delineating the interpreter as part of the CJS. Another officer commented that, 'as an operational police officer the interpreter is the end of my worry'. One police officer elaborated more on that point and envisaged that when the Criminal Justice Strategic



Plan 2004-2008 considers interpreters as stakeholders within the system, and when Crown Prosecution Service (CPS), police, immigration and courts are to have one body and interpreters are to be under that body, then interpreters would be recognised by all legal practitioners.

One constable argued that training is needed, as in his opinion interpreters are an important part of the legal process. He went on to explain further that through training legal practitioners would understand the different methods of interpreting and the limitations imposed on the interpreter and not to expect a foreign word to convey the same meaning in English. Another officer had a different view as she argued that there would be no need for training, since interpreters differ in the way they work, as some want a break during an interview at the police station and others want to work without one, but the result is the same as the translation or interpretation would be done at the end. One officer advocated training could be given by Skills for Justice, which has an overarching responsibility, and working with interpreters should be part of their training.

Prison officers supported the need for lawyers to receive training. One officer called for legal practitioners to understand the correct standard of interpreters that they should look for during their practice. Also, they should challenge and check that the interpreter has the right qualification, so that their clients receive the correct translation. Whereas the other officer espoused training that would make the advocates understand the techniques and rules of interpreting. Furthermore, legal practitioners should understand the best way to work with interpreters. As for the judge, s/he needs to pace the questions

in a way that gives enough time to the interpreter and the person under trial and find a way to work together. Both officers believed that training should start with law degree courses at university, followed by Criminal Justice Board (CJB).

Immigration officers thought that there was a need for legal practitioners to receive training on how to work with interpreters. They perceived the professional interpreting organisations as the best source to provide such training. IASOs shared the same view.

### **5.3.5 Meeting the defendant before a case**

Most judges rejected the concept of meeting a defendant prior to the start of a case and some expounded their reasons. One cautioned that, 'it would be wrong for a court interpreter to meet the appellant outside the courtroom. Our normal practice here is to establish that there is an understanding in court'. Another elaborated her point by explaining that meeting an appellant before a trial was 'not feasible before the day itself. However, if the parties in the trial are present before 10 clock in the morning, it could be done, but they never are. It is different in criminal courts. I expect it could be done; good idea'. Some argued that such a meeting should only take place in court in the presence of a judge.

By contrast, the advocates agreed with a large majority on the interpreter meeting the defendant before entering to the courtroom. Yet, some gave conditions such as the meeting should take place in the presence of a solicitor provided the case is not discussed. One legal practitioner drew attention to the limitation on the court's time for adding another function to it.

Clerks to the justices advanced the view that it would not be necessary for an interpreter to meet a defendant/witness prior to the case presented in court. One clerk went further to explain that if a case was called and the interpreter was faced with some difficulties, s/he could draw the court's attention to them and it would be the duty of the court to find a replacement.

The magistrates supported the interpreter meeting the defendant/witness before the commencement of a court case in order to determine if they understand each other and solve any existing issues. Similarly, probation officers shared the same view with the magistrates arguing that the meeting would determine the suitability of communication between both parties. Only one officer was against the idea, arguing that the limited cash budgets would not allow it.

Furthermore, police officers accepted the principle of a meeting between the interpreter and the suspect in order to establish if they share the same language and dialect. Prison officers saw the meeting as beneficial in ironing out any difficulties between both parties in terms of dialect or gender preference.

Nevertheless, immigration officers argued that a meeting between an appellant/witness should take place in court only. Another officer remarked that the court should establish suitability of gender beforehand. He added that, 'if client meets the interpreter before the court starts, it could influence the interview'.

Although most of IASOs recommended a meeting in order to establish suitability/differences between the interpreter and the appellant, others did not see the need for such meeting. One IASO warned that if the interpreter meets the appellant before the commencement of a case that would result in the interpreter abusing her/his position. He went on to suggest that any meetings between the two parties should be in court where time would be sufficient to clear any differences.

### **5.3.6 Code of practice for interpreters**

Some judges pointed out that they have a code of practice under AIT jurisdiction. One judge suggested a code agreed between those who provide training and those who are responsible for court or tribunals. He added that code of practice should be universal and clearly includes the duties of the interpreter and the judge if misinterpretation occurred. The interpreter should bear in mind that her/his duty is to the court and to assist the judge as much as possible. The interpreter should be impartial; integrity is the cornerstone of the profession.

Legal practitioners could not agree on a code of practice that the interpreter could adhere to. One advocate proposed the Bar Council and Law Society's code or one similar to that of the solicitors, while other advocates wanted interpreters to follow their professional organisation's code, such as the National Register. One legal practitioner called for a unified code of practice based on the interpreter's oath taken in court. In general, they wanted the interpreter to understand that their first duty is to the court, therefore they should be impartial, formal in court, dress in a certain way, independent, honest and truthful with their clients. One advocate required interpreters to make sure

at the outset of trials that they could understand their client by having a conversation with her/him to ascertain that there was no dialect problem. She wanted interpreters also to make the client aware that they are independent and explain their role during trials. (For further explanation of code of conduct see section 3.4 in Chapter Three).

Clerks to the justices pointed out the existence of a code of conduct in both the NRPSI and the CACDP. One clerk called for a unified code and another declared, 'National Register code of practice applies the minimum. It can go further in certain elements, but the National Register has a grip over that for commercial purposes. I would not say more'.

One magistrate proposed a code of conduct related to the interpreters' professional association or a legal body that should tackle the DCA, later named Ministry of Justice, to cover any gaps in the code of practice, as well as the Magistrates Association to lobby other organisation. Another magistrate assumed a centrally produced code is in practice and, in case of the absence of one, the Home Office should be involved in creating a code.

The probation officers agreed that a code of practice for an interpreter should include confidentiality, honesty, treating the client with respect and dignity and punctuality in pre- and post-session briefings. Other issues that should be taken into consideration are accurate interpretations of what is said and the need to avoid imposing their own knowledge or explanation. Also, interpreters are required to disclose any interest if they have any relation with the person they are interpreting for. And one officer added that

the interpreter should be aware of the clothes she/he wears for cultural purposes and not wear something that might offend the defendant.

Police officers supported code of practice for the Police and Criminal Evidence Act 1984 (PACE) and thought it relates to the whole of the criminal practice, whereas all prison officers agreed to the need of a code of practice adopted by interpreters that would work as a guiding template during their practice. One prison officer believed that the interpreter should have a code similar to that of doctors and lawyers. He added that interpreters must be impartial and not act for a friend. The other officer listed a number of qualities as a code of practice such as confidentiality, trustworthy, language skills, negotiating skills and conversation skills.

Immigration officers believed that a code could guide interpreters in court. One officer thought a total independence would be the best code. IASOs promoted the same opinion.

### **5.3.7 Modification of legal practitioners' method of operation**

Judges rejected the concept of modification of legal practitioners' method of operation in non-English speaking cases regarding the pace of delivery in order to give time for accurate interpreting. An AIT judge echoed, 'I have no experience of other courts and if ours works properly it will be O.K'. She went further to explain that Home Office officers often have literal cross examination on statements during a case as though they are the actual words of the appellant and not a version interpreted by the solicitor's

translator. She meant that the statement of the appellant in her/his mother tongue is the original, whereas when it comes to translation it is someone else's words.

A Crown Court judge identified such modification as, 'speed not too fast, simple questions, no multiple questions, speak up and the advocate faced away from defendant and interpreter'. Another Crown Court judge espoused controlling the pace of asking questions, controlling tonality of voice when speaking to the interpreter and treating the interpreter with respect in every case.

Legal practitioners resisted change to their method of practice. Some identified modification to their method of operation in non-English speaking trials as speaking slower, only asking one question at a time, pausing frequently to allow the interpreter to translate smaller chunks of information, better word order in sentences and avoidance of using legal jargon and pomposity where appropriate. One advocate argued that solicitors already modify their speech to take account of interpreters, while another called for guidance to be given to legal practitioners on how to pace questions.

Clerks to the justices stated that the court should control the proceedings. One clerk advocated the need for legal practitioners to modify the way they speak in interpreted trials in order to assist the communication process. He added that such modification would be through short sentences, no multi questions in one sentence, use of proper English with the avoidance of legal jargon, slower speech and pauses to enable the interpreter to keep up with the proceedings, giving direct questions to the defendant/witness and not the interpreter and an awareness of the difficulty of the interpreting process. Another clerk stated that some lawyers have intuitive appreciation

of the need of the interpreter and the foreign language speaker in court, whereas others are impatient or have unrealistic expectations. Some clerks put forward a different point. They argued that the advocates should be able to conduct all trials in the same manner regardless of any limitation provided by the court. Therefore, they must be free to pursue their professional and client obligations irrespective of language. However, in case there was a problem with a word or a phrase, it should be highlighted and explained. Hence, the process should not be worded to make it easier for the interpreter.

The majority of magistrates agreed to the concept of modification of practice by legal practitioners in non-English speaking trials. One magistrate argued that, 'lawyers generally forget the golden rule to slow down. They pay lip service to the needs of interpreters and fail to appreciate the difficulties inherent in the role. Lawyers need to know that failure to modify their approach can lead to injustice and has done so in the past'. Another magistrate called for the avoidance of jargon, simplified sentences and to allow more time for interpretation/explanation, but another advocated the early involvement with skilled interpreters and an ability to use closed questions and short sentences. Conversely, one magistrate remarked that a modification already exists where lawyers allow time for translation to take place and use less jargon to enable easier interpretation.

In this context, one probation officer did not think special measures should be made when non-English speaking defendants are in court. Another officer noticed from his experience in court that barristers and judges speak too fast and do not allow enough pauses for the interpreter to give faithful translation. He further added that legal



practitioners use antiquated English jargon, which makes it difficult for the interpreter to keep up with them and translate at the same time. An officer gave account of solicitors and barristers who do not make adequate preparation of their cases and ignore rapidly changing legislation and do not even try to make an effort to ensure that their black minority clients participate fully in the legal process. Another probation officer pointed out that not all foreign words could be interpreted exactly into English and vice versa. He also advised that cultural differences should be mentioned if they have any relevance in the interpreted case.

Many police officers did not know if lawyers would agree to change their delivery in court when interpreted cases are taking place. One officer replied stating that, 'a lawyer would never change his method of operation, since his aim is to win the case for his client'. Another responded with a recommendation for more exact guidelines on conduct and procedures.

One prison officer, in order to give an opinion, asked about the current advocates' method of operation in interpreted trials. While another officer saw the best adaptation to non-English speakers' trials could be by avoiding ambiguous questions. One of them understood that the adaptation would be from the part of the interpreter and not the legal practitioners.

Immigration officers were undecided in their replies. As on one hand, one officer thought it would be through the understanding of the role of the interpreter on what s/he is expected to perform or not to perform. While on the other, an officer wanted the legal

practitioners to ask the interpreter to check her/his understanding of the appellant/witness before the commencement of each case.

This question has proved to be difficult to answer by most categories in the present research. It is envisaged that the term ‘modification of legal practitioners’ method of operation’ was not clear. This point was one of the limitations in the current study and explained further in a section 4.9 titled ‘Limitations and Bias’ in Chapter Four.

### **5.3.8 Method of interpreting**

Judges had diverse opinions on the interpreter’s explanation of the different methods of interpreting, as some agreed and others rejected the thought. Those who refused the idea gave their reasons. One explained that, ‘I do not ask an accountant of his method of work, so the interpreter, as a professional person, knows her/his method of interpretation’. Others argued that there would be no need for explanation of the interpreting methods in their concerned jurisdiction or such explanation would be allowed if the judge requires it.

Only one judge knew the different methods/techniques of interpreting. Another judge admitted, ‘I had no training, out of ignorance’. Judges, who agreed for the interpreter to explain the different methods to the court at the outset, raised points of controversy. One judge highlighted a point of conflict when he explained that, ‘if the different techniques are explained, you would open the door to several arguments, some of which could be aimed against the interpreter’. Another welcomed the idea as, ‘it would be wise of the court to be aware of them and the system could strive for uniformity. Legal participants should be informed of what is available and the difficulties in the process of

interpreting and the judge is alerted to how such methods/techniques are employed by the interpreter. Also, the court should be conscious to the plight of the defendant/witness/appellant'. He added that such explanation might help the defendant/witness/appellant to understand what is going on. Another judge argued that the interpreter, as a professional person, is trusted to use the appropriate technique/method; therefore, there is no need for her/him to provide explanation to the court about the method employed.

When judges were asked about how the explanation of methods would be done, if the interpreter was allowed to proceed with them. The most common replies expressed a preference for the explanation to be after taking the oath. Others advocated that both the judge and interpreter take part in the explanation, especially on the role of the interpreter. One judge drew attention to the time factor taken by the explanation, at the expense of the court's time.

Legal practitioners proposed that such explanation could be beneficial for the court officials, but one person thought there was no need and the interpreter's use of a code of practice would suffice. Some replies advocated the interpreter to give a short statement at the beginning of each entry to the witness box, after taking the oath or by invitation from the legal adviser/chairperson. Some respondents advised the interpreter to instruct legal practitioners on their method of delivery before interpreted cases and explain the interpreter's choice of words, or style, as some advocates associated interpreting methods with style. One legal practitioner pointed out that judges and magistrates should be trained on how an interpreter works, then they could be told what method(s)

are used in the practice of interpreting. An advocate drew attention to the different types of sign language. Another legal practitioner argued that many hearings are very brief and it would cause delay when explaining the different methods. The others did not think the interpreter would be expected to give such explanation unless there was a problem.

There was a division in opinion among clerks to the justices when it came to the issue of the interpreter explaining the method of interpreting to the court before the commencement of a case, as some agreed and others took the opposite view. One clerk felt that the court should explain the role of the interpreter and another cast a doubt on the benefit of the explanation of interpreting methods on the application of justice. He elaborated that if the interpreter were given the chance to explain her/his role, then the proceedings would be prolonged. He pointed out that the interpreter is a professional person and should be trusted to do her/his job efficiently. Only one clerk did not know what was meant by the method of interpreting, assuming that the interpreting practice should be word for word. Some clerks espoused a shared oral explanation at the beginning of a case by both the interpreter and the solicitor acting for the defendant/witness. Other clerks recommended that the interpreter could mention briefly to the court the possible methods in the interpreting practice. This explanation could help the bench to understand how things could be done differently and the pace of interpreting.

One clerk admitted that interpreted cases are different from normal cases. Therefore, certain issues exist such as unit of understanding, direction of speech, use of archaic language and excessively formal language. All the mentioned elements would not assist the interpreter. Also, if they speak in 3<sup>rd</sup> person and not 1<sup>st</sup> person, that would affect the quality of interpreting. He further advised breaks to be given to the interpreter and not to ask her/him to do jobs for the defendant/witness.

On the method/technique of interpreting, any issues should be raised with the clerks of the court so that they can be reported to the bench in order to make them aware of any special needs and how they intend to operate. One clerk expressed his trust in the way a professional interpreter wishes to give such explanation. Another clerk grasped the essence of the question and suggested any explanation should be ‘during the swearing in and introduction process, thus the interpreter should explain the difference between consecutive and simultaneous interpretation’.

The magistrates agreed by a majority that the interpreter should explain the methods of interpreting. They noted that the best time for the interpreter to give such explanation would be at the start of a case and after taking the oath. One magistrate expressed her wish for the interpreter to translate from English into the other language without a ‘spin’. Another person remarked that the interpreter could explain to the court the easiest way for her/him to work. Another magistrate suggested that the explanation of the methods of interpreting would help the court and would allow any issues to be resolved with the legal advisor prior to the start of a case.

Probation officers observed that the explanation of interpreting methods could contribute to the court's understanding of the delivery of justice. This also could help the judge and other court participants to understand the process of interpreting. One officer explained that he watched a case where the interpreter was not able to keep up with the barrister. He added that the judge could enforce a suitable method on the barrister if he knows about the use of each method.

A probation officer pointed out that by allowing the interpreter to perform such explanation, s/he would experience pressure from legal practitioners to get on with the case and could be intimidated. Another idea promoted time to be allocated to the interpreter for a short explanation to the court before the start of any non-English speaking case. One officer preferred a shared explanation at the outset of a trial by both the interpreter and the solicitor. Only one probation officer raised the point that body language should be taken into consideration either for its cultural significance in non-English speaking defendants or for a disabled person, such as a deaf person, with her/his specific facial expressions. One officer thought there would be no need for an explanation if the interpreter translates word for word.

Almost all police officers, except one, endorsed the idea of the interpreter explaining her/his method of interpreting in court before each case. Yet, they had difficulty giving examples on how it would be done. A few respondents believed that such explanation could be done when all of the legal team are introduced at the start of a case or when invited by the judge/bench. In general, the constables had no knowledge of the interpreting methods. And believed that interpreters should explain how they are

working and what is expected from them. Similarly, interpreters should disclose any relationship between themselves and the person interpreted for.

Prison officers supported the interpreter in her/his attempt to explain to the court the working methods in the interpreting practice. Only one officer was aware of the different methods/techniques of interpreting. This officer knew this information from his wife who works as an interpreter. Both prison officers thought that the court could benefit from an explanation of the interpreting techniques at the start of trials and the court in turn should know how to treat the interpreter.

The prison officers were asked to give examples on the best way to explain such different methods. One officer recommended an oral presentation before the commencement of a trial. Another thought a short presentation using PowerPoint would be adequate, or by the distribution of a handout to the court attendees, or by writing to all concerned before the court case.

Immigration officers mostly accepted the idea of the interpreting methods to be explained before each case. One officer suggested that the interpreter could explain the different methods of interpreting in the initial discussion before the evidence is heard; whereas the other proposed that such explanation could be given to the appellant/witness under instruction from the judge, or a statement of intent by the interpreter would suffice.

IASOs proposed that the interpreter should explain to the court the practising methods in interpreted trials so that court attendees would be aware of them. The officers suggested a judge would guide the explanation when s/he gives an account of the role of the interpreter. One officer noted that the explanation should include a clarification of the dialect as well, whereas another proposed an identifiable method or code. Another reply expressed the desire to give such explanation when meeting with advocates, court staff and witnesses.

### **5.3.9 Administration in court for training and recruitment of interpreters**

Judges acknowledged that an administration allocated for the welfare of interpreters is a good idea. However, some pointed out to the impossibility of creating one in every court. Some legal practitioners envisaged that the costs would not justify the need for interpreters in larger numbers. One advocate thought courts could provide training but not by creating a separate administration for interpreters.

Clerks to the justices raised points of concern. One officer explained that the proposed idea might affect the independence of interpreters. Another drew attention to the assumption that the procurement of interpreters is a purchased service and that courts want an end product, not the development. Some clerks put the responsibility of the interpreters' administration on the NRPSI and two officers claimed to have such administration in their court.

Although magistrates accepted the idea, they argued that assistance for interpreters should be given by their registering body. Another suggested colleges could give



support to interpreters and courts could provide some practical role-play for colleges. Another view from one probation officer called the idea of an administration for the recruitment and training of interpreters in court as appertaining to diversity and justice, while other probation officers suggested that the recruitment of interpreters could be administered by an independent organisation. One officer did not want more administration to be given to courts. The other categories supported the concept, but at the same time, thought the burden of interpreters' administration could be put on interpreting organisations and not the court service.

### **5.3.10 Accommodation for interpreters in court**

The interpreter comes to court to perform in an official assignment, in order to aid in the understanding between the non-English speaker and the legal officials during legal proceedings. Therefore, the interpreter needs to be detached from the defendant/witnesses by accommodation so that court attendees do not assume that the interpreter is only a relative or a friend of the person who would appear in court. When judges were asked about accommodation for interpreters in the vicinity of court, all AIT judges accepted the argument for an interpreters' room in the court buildings. At the same time they explained the difficulty of having such a room in criminal courts because of the lack of space. Legal practitioners in turn rejected the notion. Some argued that the volume of cases where interpreters are needed do not warrant having a room for them, considering the limited available accommodation in court. One advocate suggested that interpreters could use the advocates' room, whereas another accepted the idea, as it would be useful for them to use the internet or check words in dictionaries.

The case of accommodation for interpreters in the court's premises was hardly recommended by the clerks. One clerk acknowledged such need, whereas the others did not recommend it. Two clerks explained that some courts exist in old buildings that are not prepared for such need. Another argued that there were insufficient demands for interpreters to justify allocating a dedicated room for them. One clerk claimed that they did not have a room in his court for defence lawyers and that interpreters could use interview rooms between cases.

Most of the magistrates rejected the idea and only a small number were in support. The magistrates who agreed explained that a room could be available, but not necessarily dedicated to interpreters, and that they could share with others. With regard to probation officers, the replies varied. Those who agreed explained the obstacles in providing a room for interpreters, such as the limited resources in courts, the need for investment and the insufficient number of interpreters to justify that action. One officer pointed out that probation staff do not always have a room and they try to grab a room when they can, while another officer explained that the local police have lost their room at the local crown court. The constables echoed the same point when they were interviewed. Most members of the other categories recognised the need for accommodation for interpreters within the precinct of courts.

### **5.3.11 Code of dress for interpreters**

In order for interpreters to promote a professional appearance, they need to dress in a formal fashion. This would aid in promoting them as official personnel of the court service. The researcher asked the different categories if the interpreter would need a

code of dress. Almost all judges assented to a code of dress for interpreters. Some explained their reasons as, 'you need to tell interpreter from appellant in AIT. I know in criminal cases it is more obvious'. Another replied, 'all that is required is a smart dress for all court officials, whether it is court clerk or solicitor present'.

All judges preferred the interpreter to dress professionally, business like, in order to be part of the court's scene for the dignity of the court. They recommended the attire could be a tie, shirt and jacket for a man and a smart skirt or trousers with a blouse for a woman. The clothing should be neutral and preferably a dark colour. They do not want a uniform for the interpreter, but at the same time, s/he should convey the appearance of a professional person or they might be perceived as a friend of the defendant/witness/appellant. One judge had, in one of his cases, a badly dressed interpreter that looked like a 'shepherd'. He first thought the person was the appellant until he started interpreting. The Asylum and Immigration Tribunal has a code of dress.

Legal practitioners did not see a need for a code of dress to be applied to interpreters. One lawyer explained that, 'most look smart whether they are in their own costume of a sari or in a suit'; whereas another thought a code of dress could be applied but did not see it as necessary. The majority of advocates supported smart dark professional clothing similar to that of the solicitors as a respect for the court. They argued that cultural attire would be acceptable as long as it takes account of a conservative appearance. Another opinion observed that the type of dress achieves distance from the defendant/witness but at the same time it could make her/him comfortable. One lawyer thought that there is too much code of dress in court and he did not support a uniform for the interpreter. He added that a uniform has an effect on the jury.

One clerk to the justices explained that, ‘dress codes are notoriously difficult to police. Interpreters are professionals and should know how to dress’. Some clerks raised the case of traditional/cultural costumes that some interpreters would like to adopt, whereas others asserted that professional interpreters in their courts are always dressed appropriately. All clerks agreed that there was no written dress code for interpreters and considered the possibility of setting a standard and the choice of a person who would decide on what is appropriate. However, they argued that the interpreter could look professional in an attire of sober colour without indicating association to a particular body. One clerk went on to argue that dress code is not a practical issue and explained that some judges and courts find that matter of some importance and set their own standard.

When magistrates were interviewed, one person supported a professional code and another noted that interpreters who worked in her court were expected to be smart and always arrive appropriately dressed. The magistrates accepted a formal business-like dress that would not exclude national attire. One magistrate suggested guidelines for interpreters similar to the one they have for magistrates, in that they were told to wear smart dress because they are representing the Queen.

In general, probation officers consented that the interpreter should dress smartly and not too casually. They argued that the interpreter should give the impression of a professional person doing a serious job. Hence, they thought that in achieving such professional appearance, there was no need for the interpreter to adopt western attire but that their clothes could reflect their culture. One officer assumed a uniform might be

imposed on the interpreter as the government has been rumoured to threaten to impose it on probation officers. Another officer thought formal attire would be expected in court only but not when a court report was being prepared in their office through an interpreter. By this account, one probation officer could not identify an interpreter who was not smartly dressed in his presence.

Although the majority of police officers supported a code of dress for interpreters, some discounted the need for such a code. One constable gave his reason for a refusal for such code as, 'a person's choice of clothes should not affect their ability to do a job, nor should it be judged as such'.

Prison officers noted that the interpreter should appear in smart casual clothes during her/his legal interpreting performance. One officer explained that the interpreter should dress similar to judges and people who work in CJS so that they do not feel excluded. Moreover, they should wear badges which would show their level of qualification and experience. The second officer called for professional serious attire for interpreters that would be respectable, but at the same time modest, in order to avoid drawing attention to themselves.

The question about a code of dress produced an agreement among immigration officers, who expected the interpreter to dress in a business-like appearance with a suit for both men and women. Similarly, IASOs supported a dress code for interpreters that would assist in promoting their image in the legal environment and one officer asked for 'a smart casual appearance'.

## 5.4 Conclusion

The nine criminal justice categories have generated different themes from their participation in the study. Their views have provided useful insights into their perception of the legal interpreter and the practice of legal interpreting in general. Some of their views were shared among most of the criminal justice categories, while others were different.

By this account, various groups consider interpreters as professional individuals and part of the CJS, whereas others acknowledge interpreters as professionals, but exclude them as part of the legal scene. Some categories do not accept interpreters as professionals or part of the legal setting. Hence, each group gives their reasons behind their views as well as other people's opinion. It needs to be emphasised that the understanding of the term 'professional' could be different to a police or prison officer from that of a judge. It is likely that a judge would consider a person with legal or scientific qualification as more professional than a person who lacks such criterion. That would explain the rationale behind judges and legal practitioner's non-acceptance of any modifications to their method of practice. However, other categories, such as magistrates, recognised the need for adjustment to advocates' method of delivery in the non-English speaking cases.

Some groups acknowledge the need for interpreters to explain ambiguous words but opposed any clarification of cultural words. They argued that cultural description is only reserved for expert witness. Other personnel accepted both issues as part of the interpreter's duty.

In general, there was ignorance about interpreters' qualification among the participants. In a sense, they identified skills as the main requirement from a practicing legal interpreter. With regards to the notion of code of practice for interpreters, different replies were produced from the different categories. For example, judges advocated a universal code that would include the duties of interpreters, advocates and judges. The advocates, in turn, proposed the Bar Council and Law Society Code or a professional interpreting code. Clerks to the justices supported NRPSI and CACDP code and the police called for their professional PACE code to be extended to the interpreter.

There was resistance to training from the advocates who assumed that by speaking slowly all issues related to working with interpreters would be cleared up. One legal practitioner required training of five hours, where they learn how to control interpreters when working with them in an interpreted event. This attitude reflects the perception of advocates towards interpreters, considering them out of control and in need of being restrained by legal practitioners. In contrast, other groups, such as judges, prison officers, immigration officers and clerks to the justices recognise the need for training on working with interpreters.

Legal personnel, such as judges, clerks to the justices and immigration officers did not trust the interpreter with meeting the defendant/witnesses before a case appearing in the courtroom. While other participants, like magistrates, probation and police officers, suggest an earlier meeting between the interpreter and the person subject to legal proceedings could help in solving any issues of communication. Whilst some raised the

limitation on court's time and budget for such a meeting, others put stipulated conditions, if the meeting were to be allowed.

With regard to the explanation of interpreting methods, judges did not see the need for such action. One judge pointed out that if the interpreter mentions her/his methods of practice, other court participants might use it to undermine her/his performance. However, some participants consider such explanation as beneficial to both the court and defendant/witness. The advocates and clerk to the justices pointed out that, if the interpreter adheres to her/his code of practice, and then there would be no need for such explanation. Others drew attention to the limitation on the court's time to be consumed by interpreters' delivery of techniques. A probation officer gave an account of how an interpreter was not able to keep up with a barrister and suggested that, if the court knew the method of interpreting, the judge could instruct the barrister to slow down.

Some members in the present research categories expressed the impracticality of creating administration in every court for the welfare of interpreters by providing them with training and offering recruitment. Other members pointed out that the costs of creating such administration do not justify the limited number of interpreters who appear in court. One court clerk observed that the court perceives interpreters as a purchased service only. A probation officer, who associated the interpreter with the catering service, echoed the same point, whereas another probation officer called administration for interpreters in court as related to diversity and justice. One view drew attention to the point that if the interpreting profession is administered by the court, the interpreter would cease to be independent.



Although some legal participants consent to the desire for accommodation in order to serve the needs of interpreters, they expressed the difficulty in allocating such accommodation in old buildings, which were not designed for that purpose. Others thought the number of interpreters working in court was too limited to justify a room for them. In relation to another issue, all categories in the legal system supported a business-like attire for interpreters. They remarked that a dress with sober colour, preferably dark, for both men and women would help the interpreter to feel part of the court scene and would demonstrate respect for the court. At the same time, the participants did not exclude cultural costume as long as it adopts a conservative appearance.

Chapter Six discusses the major themes that emerged from the study interviews, supported by the current literature. These main themes are culture and communication, interpreting barriers, the position of the interpreter and role and contradictory role.

## **Chapter six**

# **DISCUSSION OF THE FINDINGS**

### **6.1 Introduction**

The aim of the present study is to establish the opinion of criminal justice practitioners in England and Wales towards working with interpreters and how they perceive the practice of legal interpreting as a profession. Qualitative methods are utilised through mainly semi structured interviews after the receipt of completed questionnaires. Content analysis is employed and participant observation is used as an informal method of enquiry.

Chapter Five has yielded findings drawn from interviews with nine categories working within the CJS. The prime purpose is to give a wider view of the main issues that impinge on the practice of legal interpreting. The present chapter discusses the elicited four main themes and findings with interpretation from the researcher's experience as an interpreter and her colleagues' practice. It also draws on the findings of other researchers that might support or disagree on the main points. The study makes an original contribution to how the practice of legal interpreting is understood and used within the CJS in England and Wales. Chapter Seven expands in the overview conclusion of the originality and contribution to knowledge in the field of criminal justice. It also proposes a more stringent regulation for the profession of interpreting.

## **6.2 The main findings**

The research has identified four major themes as we saw in Chapter Five, “Presentation of Findings”. The first is culture and communication, which explains how both elements are interrelated. As Gonzalez et al (1991:240) observe, cultural words embody deep meanings in language beyond their semantic value. The second is context of interpreting barriers. This can be manifested in failure to communicate due to differences in languages with their different social reality and sentence construction. The third is the position of the interpreter within the CJS vis-a-vis other criminal justice personnel. The fourth is role and contradictory role of the interpreter, since different criminal justice service providers perceive interpreters’ role differently. More to the point, interpreters themselves recognise their role differently according to their experience in the legal system and background education abroad and in the UK (Inghilleri 2005 and Jolliffe 1995).

## **6.3 Culture and communication**

Culture and communication are intermixed. Werner and Campbell (1970:398) point out that anthropological linguistics states that people who speak different languages live in different worlds. Thus, language itself works as a means by which people form their perceptions of the world around them. Hence, each person is a circle of experiences, as well as different values, and through language we could engage or overlap with others. White (1990:35) explains that words and sentences could have alternate meanings when they appear against a cultural background and he calls this ‘a world of private meaning’.

Findings from the present research indicate how the participants differed in their opinion on cultural meanings emanating from a word or event and whether the interpreter should explain them during her/his activity in a judicial event. Most categories accepted, with caution, the role of the interpreter in clarifying any meaning imbued with culture. One solicitor noted that cultural understanding is an indication of the actual meaning. While one judge required the interpreter to wait for the judge or the barrister to indicate if a cultural point needed explaining, it would be difficult for monolingual judges and barristers to arrive at that opinion.

Hence, Alexieva (1997:221) refers to Kondo and Tebble's (1997) explanation that interpreters communicate, not only across cultures, but also across languages. Therefore, they could be considered intercultural communicators. Thus, since language is an integral part of culture, the interpreter needs to master two languages, with their corresponding cultures, and consequently they are both bilingual and bicultural (Snell-Hornby 1988:42). Morris (1993b:284) remarks that the dilemma of the court interpreter lies in whether s/he is allowed to draw the court's attention to cultural points or uses her/his discretion in explaining them. Some judges explained that if the interpreter is allowed to take part in cultural explanation that would turn her/him into a cultural expert. By contrast, Niska (195:295) described interpreters in Norwegian courts as required to monitor the proceedings during an interpreted judicial event. Then they are required to relay to the judge any misunderstanding or misconceptions that would have taken place during a trial of a non-Norwegian speaker, due to cultural differences. Therefore, Niska (195:294) calls for interpreters to be allowed to work in their own right as 'experts on human interaction and intercultural communication'.

An advocate drew attention to the fact that some foreign words do not have equivalent in the English language. Although he supported the interpreter in explaining them, he went on to warn the practicing interpreters not to cross the line from explanation to evidence. Jolliffe (1995:30) recognises the difficulty in finding equivalent words in the target language and how interpreters have to use other words in order to convey the intended meaning as accurately as possible. Since some words or sentences may require a longer translation into the target language, interpreters may be perceived as giving advice. At the same time, some legal personnel view that action as giving discretion and power to the interpreter beyond her/his neutral role.

Shlesinger (1991:149) argues that interlingual interpreting encompasses intercultural mediation at the same time. She goes on to state that when an interpreter is faced with a culture-bound text, s/he has to decide either to explain, to use foreign words or to use a near equivalent term. Nevertheless, the decision making for the interpreter in court is more restrained by the formal proceedings as well as the pressure of the time limit permitted to her/him. Temple & Edwards (2002:5) put forward the same idea when they cite Simon (1996) as noting that interpreters are constantly evaluating and making decisions on cultural meanings in a word or an event during the process of interpreting.

Bassnett (1991:13) quotes Spir (1956), maintaining that 'language is a guide to social reality'. Spir adds that 'human beings are at the mercy of the language that has become the medium of expression for their society'. Subsequently, Spir asserts that people's experience is the outcome of 'language habits of the community, and each separate structure represents a separate reality'. Then Bassnett (1991:14) goes on to cite Lotman

and Uspensky (1978) claiming that ‘no language can exist unless it is steeped in the context of culture; and no culture can exist which does not have at its centre, the structure of natural language’. Therefore, language could be considered the heart within the body of culture. Hence, the interaction between both language and culture produce life-energy (see section 2.4 on “Language and Culture” Chapter Two).

Mr Justice Brooke (1992:194-195) warns of the misunderstanding of non-English speakers in court that stems from ignorance about cultural matters, either in the manner of her/his expression or behaviour. He explains how misunderstandings can occur even when a defendant/witness speaks English, but belongs to a different cultural background. Brooke gives an example of a black solicitor magistrate, who needed to expound to her white colleagues the utterance of black defendants/witnesses, since they use words in a slightly different way from the white UK citizens. Bradley and Edinberg (1990:230) cite Armstrong (1986) as observing that some Asian groups, such as Japanese, Korean and Chinese, tend to avoid looking directly into the eyes of people in authority. Such behaviour could be misinterpreted as being uninterested in what the professional was communicating to them.

In the same vein, Werner and Campbell (1970:417) give examples of culturally specific gestures from different communities, such as New Guinea, Bulgaria and Tibet, and how the assent gesture is expressed differently with different parts of the body. Corsellis (1995:34) points out the non-verbal signals given during the process of interpreting and how they vary from one culture to another. She advises that such expressions should be explained to both the non-English speaker, about English gestures, and to English

speakers about the non-English speakers' body language. Johnson (1999:22) refers to a study by Rashid and Jagger (1992) that explained how Asian clients do not favour advice by telephone. Other writers proposed that Asian people prefer personal visits, which give them the chance to use their body language, as they find difficulty in verbal communication. Crawford et al (2006:133) raise the obscurity of healthcare jargon and variations in expression, which are different from the everyday speaking language, and how non-English speakers are likely to misunderstand them.

Rea (2004:581) acknowledges the interpreter as 'a bridge between two cultures'. Werner and Campbell (1970:408) go further to consider the interpreter as 'Linguistic-cultural expert and colleague in every sense of the word'. People who know nothing, or little, about the non-English speaker's culture might consider the interpreter as a cultural expert. However, the interpreter might lack the full paradigm of such culture that would be enjoyed by a person with a specialised expertise.

Corsellis (1995:3) draws attention to the changing nature of language and culture. This change could take place according to circumstances and when people mix with other groups, however they may choose to maintain their cultural identity. Corsellis also refers to persons who speak two or more languages and their cultural conventions. Such individuals could interchange between cultures when, for example, speaking for public purposes or speaking for personal consumption.

Bradley and Edinberg (1990:226 &230) observe the influence of culture on communication between nurses and patients as they view each other differently. Some

cultural groups have fear and suspicion of nurses as powerful individuals that are unlikely to sympathise with them. Therefore, a number of patients might give an affirmative reply to a question from medical members without understanding the meaning of what they say as a way of pleasing them. On the other hand, nurses might look at their clients as powerless and different from them, since some speak another language and are unable to communicate with them. In this situation, nurses depend on interpreters to elicit the patients' needs and feelings. The same circumstances can be applied during legal consultation with a limited-English proficient individual from a different cultural background. Heffner (1992:259) warns about the use of untrained people to interpret for clients, such as family members, patients, friends and even cleaning staff. She explains that untrained and inexperienced members of the public would not interpret effectively, especially in situations of stress, when explaining illnesses. Heffner quotes Poma (1987) as declaring that 'the language of childhood remains the language used during times of intimacy and stress'. Moreover, stress – and often, sensitive subject matter – are usual in criminal proceedings as well.

Bradley and Edinberg (1990:229) explain how older Vietnamese, who grew up as Buddhists, believed that their pain and suffering were justified, since they blamed themselves for not being able to be righteous. Their beliefs are part of their faith in Buddhism, with its four central elements of truth, which includes life is suffering. Hence, they might not explain their discomfort and remain silent. Another cultural problem with older Vietnamese is their tendency to discuss problems only with close friends, or members of their family, and are unlikely to communicate sensitive issues directly with strange health professionals.



In a similar issue, Jonson (1999:25) reports Thomas and Rose (1991) observing that African-Caribbean individuals, due to the way they are brought up, are less likely to express pain. Jonson goes on to refer to Calvillo and Flaskerud (1993), who observed the findings from American research, which discovered how medical staff may evaluate patients' pain differently depending on the ethnic origin of their patients. Haffner (1992:255) refers to patients' medical treatment expectations, which are imbued with their cultural experience in their home countries and could add further to the problem of communication between client and medical staff in the host country. In a judicial event, the non-English speakers might expect the legal practitioners to act in the same manner as in her/his home country and within the same legal rules.

In fact, confusion and misunderstanding can occur as a result of ignorance about cultural differences and the type of customs in each country/community. These differences generate different ethics, family relations, values and beliefs. Therefore, the interpreter can assist on making understood the non-English speakers' cultural values to the court. There are different ways to understand the culture of the non-English speakers, for example, through dress, dialect, discourse patterns, religion or their type of family life. At the same time, the interpreter can aid in explaining to the non-English speaker some of the British habits, customs and legal system (Shackman 1984:19).

Jonson (1999:21) points at the failure to follow recommendations in research reports that called for the utilisation of minority ethnic personnel, especially in therapy and community work. Jonson (1999:25) cites Imtiaz and Johnson (1993) that identify the shortcomings of a complaint system that would allow minority clients to provide

feedback that could help in meeting their needs. He advocates the use of a bilingual service that could address sensitivity to local cultures.

In practice, the interpreter is not a cultural expert, but rather assumes a quasi role as an expert. However, the interpreter, as pointed out by a probation officer, if knowledgeable of the defendant's culture, would be able to explain deeper cultural meanings and contribute to a more enriched interpretation. In a sense, it would be difficult for the interpreter to gain cultural knowledge of every country that speaks her/his language. For example, the interpreter would find it difficult to know all habits and customs in a wide area, such as the Middle East, which extends from Africa to Asia. However, the interpreter can explain the wider cultural and religious context of a word or a phrase. The researcher was at times able to explain ambiguous utterances of cultural significance if she perceived a judge to be friendly and would allow her to give such explanation. On one occasion in 2008 at Nottingham, an appellant quoted a religious man as informing a person that, 'if he bends his neck, he (the religious man) shall straighten it for him'. She interpreted the words literally, but went on to explain to the bewildered judge that the appellant meant that the religious man would put a person on the right path if s/he strayed away from it. She did not know the background of that religious man, but understood the meaning behind such cultural utterances. Nevertheless, a cultural expert would be able to explain and shed more light on the religious man's philosophy from information s/he gained through reading about him.

Many people would think that the interpreter's role is a linguistic one and that cultural information should be provided only when this is necessary to facilitate linguistic

interpretation. Local/cultural information and consideration can assist in explaining cultural issues during a judicial event. For example, in 2009 at Birmingham, a barrister in an immigration court failed to find out from his Sudanese client the type of accommodation he had inhabited in his country. The judge and Home Office officer could not believe that the appellant did not see the person who killed his stepfather in their dwelling. The interpreter could not explain to the court that the appellant's type of dwelling consisted of detached rooms surrounded by a fence sometimes made from corn stakes. Hence, the interpreter, if allowed, could have aided in explaining such cultural traditional dwellings to the court for a better understanding of the appellant's situation.

In another case in 2009 at Manchester, a female appellant claimed to have been flogged in her native country. The judge asked her if she had marks on her body and she gave a negative reply. Since the judge was approachable, the interpreter asked the judge for permission to explain the reason for the absence of marks on the appellant's body as it might take him ten questions in order to establish the reason from her. When the interpreter was allowed, he explained to the judge that there are two types of flogging, one is severe and the other is compassionate. The severe flogging is with the full span of the arm, while the compassionate is with an arm restricted by a Koran under the armpit. The interpreter added that a judge in his sentence would decide the type of flogging. Hence, the British judge said, 'that is interesting; it explains why she had no marks on her body'. In this incident, the interpreter helped in understanding a cultural point that would have been difficult for a European judge to comprehend.

If culture does indeed form such a frame of reference for language, then there is a risk of misunderstanding in non-English speaking cases, unless the interpreter is allowed to explain such a frame of reference in context. Yet the findings of this study demonstrate that the participants have significant misgivings about explaining meanings within their cultural reference. However, some participants expressed the need for the interpreter to explain such issues, since s/he would be the best person to understand them. Others saw that cultural issues are reserved only for cultural experts. There are differences in interpreting in a courtroom environment with its strict rules and time limit and the more informal healthcare context, where patients are given more time to express themselves, albeit through an interpreter.

#### **6.4 Context of interpreting barriers**

The interpreter can face barriers during her/his practice. Some of the problems are exemplified in the way courts operate by not slowing down the proceedings in order to allow the interpreter enough time to relay to the defendant/witness the words of the court in another language (González et al 1991:179). A probation officer observed an interpreter during a legal case struggling to keep up with the barrister, who was speaking too fast. Moreover, the legal practitioners do not understand or appreciate the length of time the interpreting process takes; therefore they tend to rush proceedings (Overing 1987:52). One probation officer admitted that some solicitors are arrogant, expecting everyone to speak English and have no regard for defendants/witnesses who speak other languages. The same point was mentioned by a clerk to the justices when he said legal participants, who do not satisfy the language needs of non-English speakers, have no consideration for the human rights of people.

As advocated by one clerk to the justices, it is important to consider context in translation, as it might carry a more significant meaning or experience to a group of people than literal translation, which may not produce the same effective meaning. The Home office code of practice has recognised that literal translation could not be accomplished due to cultural factors, but this is still misunderstood by legal practitioners. According to De Jongh (1992:59), the transfer from one source language to a target language is not automatic, since 'language is a metaphor for cultural and personal experience'. De Jongh mentions Perkins (1988) subscribing to the idea that words in one language do not carry parallel words in another language, which are due to their differences in past history and experiences imbued with culture. Therefore, cultural and personal assumptions and experiences in each language can be similar or remarkably different, which contribute to barriers during interpreting. Gonzalez et al (1991:246) advise interpreters to inform the judge in case there was a difficulty in producing an equivalent word from the source to the target language.

Wadensjö (1993:356) illuminates the idea that a copy of a word or a sentence is not equal to the original. She explains that the style and number of lexical items vary in each language as well as means of emphasis. Therefore, there are alternatives to meanings during interpretation and translation course, which aspire to be adequate to the original. Wadensjö goes to cite Bakhtin (1986) as stating that 'it is the nature of language that an utterance is always open for further interpretation'. Hence, Johnson (1999:26) refers to Ebdon et al (1988) claiming that the process of interpreting for non-English speakers can lead to a loss of up to 50% of content and hamper full rapport.

Ebden et al advocate the use of qualified and experienced interpreters who can eliminate such loss.

Werner & Cambell (1970:402-407) and Temple & Edwards (2002:2-3) explain that there are many possible translations to every sentence and that translation will change with the culture change of the target language. The worlds of different speakers are different in the way of thinking; therefore it is not possible to produce the exact translation. Hence, adjustments are required during the process of translation from source to target language. White (1990:20) clarifies that vocabularies, styles and tones differ in discourse systems, hence instead of merging them, it would be better to integrate and position them in balance with each other, by taking into consideration their different methods of expression.

Temple (1997:609) remarks that the meaning of words depends on the situation in which they were produced. One probation officer drew attention to how some words can give opposite or different meanings, which can be confusing. Thus, one word can give different meanings when produced against a legal context or healthcare context, for example, the word 'instrument' in a legal context can mean 'a means by which something is achieved', whereas in a medical context it can mean 'any implement for surgery'. Consequently, 'reproducibility is then an occasioned accomplishment'. Temple explains that when we move between languages the 'reference point' does not stay the same. She adds that it is more important to communicate meaning than to translate word for word and lose the actual meaning, which might carry an experience that excludes others. Morris (1995a:28) draws attention to the fallacy of assuming the

interpreted words as equal to the original words of the foreign language speaker. Morris advocates interpreting the speaker's intention rather than just the speaker's words, in order to attain accuracy in the interpreting process. In this context, an immigration judge blamed the Home Office officers for taking every word of the solicitor's interpreter as that of the appellant in their cross examination.

Eco (2003:56) states that translation should produce 'the same effect' in the mind of the reader that it was intended in the original verbatim rather than just literal 'equivalence'. He calls for 'functional equivalence'. Steiner (1998:49) supports Dante's 'motions of spirit' that could give an analogue to the target language from the original language in the translation production. Steiner elaborates that failure to achieve such effect will lead to misunderstanding and consequently mistranslation.

On the same line, Snell-Hornby (1988:16) calls 'a shaky basis' the notion of the symmetry between languages that assumes equivalence between them can be achieved when converting from one language into another. Snell-Hornby (1988:20) refers to Kade (1968) who puts forward the view of 'potential equivalents' that translators/interpreters choose to select 'optimal equivalent' when converting from one language into another, taking into consideration their different linguistic and cultural settings. The same point is in Mason (2006:30). Hence, Snell-Hornby (1988:22) calls such assumed equivalence as just a vague approximation, which can produce a decorative translation.

Rea (2004:581) points out that if a language is written in a western vocabulary with a western culture, it cannot be switched into another language that might not contain similar words and concepts. The same idea is argued by Overing (1987:76&79). As she puts it, 'To seek for "exact" translation and "exact" definition is not only wrongheadedness, but also leads to muddled analyses and muddled arguments'. She refers to an 'alien' structure of thinking that is set on an 'alien' set of principles about the world that cannot conform in translation into another framework of thinking. Hence, knowledge and experience are of a more paramount importance in understanding issues about the world than a mere word translation.

Jolliffe (1995:30) recognises the difficulty in finding equivalent words in the target language and how interpreters have to use other words in order to convey the intended meaning as accurately as possible. Since some words or sentences may require a longer translation into the target language, interpreters may be perceived as giving advice. At the same time, some legal personnel view that action as giving discretion and power to the interpreter beyond her/his neutral role. In this study, some participants complained about the time taken in interpreted cases and their dissatisfaction with the use of foreign languages they do not understand. They also exhibited lack of understanding on the process of interpreting.

White (1990:243) gives an example from Canada, when legislation has been written in English then translated into French. They discovered that a French lawyer was not able to comprehend the draft well. A French judge, 'adjutor Rivardi', explained that the way an English legal practitioner develops her/his idea is different from a French lawyer. A



Polish interpreter on the Action Group remarked at the difficulty of translating the expression 'released on bail' for an interpreter based in Poland, or one without a British Diploma in Public Service Interpreting (DPSI). She clarified that in Poland it would mean 'released on the bail bond', because a definition of 'bail' in all English dictionaries published in Poland says that: 'Bail is when you are released from custody because of a bond or promise made either by you or by another person (a surety) to guarantee that you will appear in court for your trial'.

Roy (2002) mentions Condon and Fathi's (1975) observation of the difficulty in paraphrasing the meaning within the same language that has the same value; and pointed out the complexity of communicating the same concept in another language with its different system of values and probably another tone of voice. Gonzalez et al (1991:312) explain that sometimes there is no similar concept in the foreign language to that in English. The immigrant community had to borrow the English words to express their thoughts and the interpreter have to retain them during the process of interpreting. These issues can present a problem for the interpreter, who not only gets confused with the defendants/witnesses' mixing of languages, but also their unclear pronunciation of the foreign words.

Gonzalez et al (1991:248) draw attention to the difficulty of switching between languages, especially with the use of place names, addresses and persons' names and how the court place them in a longer flow of words without a pause for the interpreter to deduce. Gonzalez et al explain that all this is compounded with an indistinctive foreign accent pronunciation, which produce a problem in communication. Hence,

interpreters would have to request clarification from the court. Another difficulty is the paucity of terms in the target language that meet language terms that describe subtleties created by culture groups. González et al (1991: 308) give the example of how kinship terms in a language such as Spanish do not exist in the English language and the interpreter would have difficulty in expressing the precise nature of a relationship.

Gibbons (2003:246-247) draws attention to the ignorance of legal practitioners of the complexity of the interpreting process and hence they place unrealistic demands on the interpreter. Berk-Seligson (1990b:198) argues that legal interpreters are considered an intrusive element in court proceedings as well as consumers of the court's time, since the conversion from one language into another can often be lengthy. The practicing interpreter is not aided in advance with information about the judicial event like other court participants, which makes her/his job more difficult.

The time factor in interpreting was mentioned in Shlesinger (1991:151). She pointed out that some defendants/witnesses from a different culture use superfluities that contain recurring expressions of courtesy as a sign of compliance. In that case, the interpreter would be faced with a conflict between accuracy or to omit mentioning them as they would consume the court's time and would be viewed as obsequious or facetious. Morris (1995a:28) describes how legal practitioners transfer their frustration to the interpreter when they have communicative difficulties with a non-English speaker. Since the interpreting process uses part of the court's time, their frustration will be increased. At times, the judge is caught in a heated argument with a defence counsel,

forgetting about the presence of the interpreter, and not realising that it would be difficult for her/him to keep up with the interpretation (Morris 1995a:40-41).

The interpreter is not usually given enough breaks or refreshments in long cases, given that s/he speaks twice as much as the other participants in court. Gibbons (2003:246) calls for giving the interpreter a break after each hour of practice. He notes that conference interpreters are usually given a break after 20 minutes of practice. Home Office code of practice recognises the need for breaks during an interpreted interview, in order to avoid interpreters' fatigue and consequently a reduction in the accuracy level of interpreting. Deferrari (1989:125) asks legal participants to identify that there is a limit to interpreters' ability to concentrate, which decreases in long periods of practice at the expense of quality.

The practicing interpreter needs to be on the alert in case of misunderstanding between the defendant/witness and the court and vice versa. The misunderstanding might be due to differences in the legal system and cultural background between both sides. These differences would disappear with persons who speak the same language and who are from the same background (Colin & Morris 1996:23). Deferrari (1989:126) identifies another barrier during interpreting as the problem of not knowing all the words during the process, even if the interpreter is fluent in her/his mother tongue. Deferrari attributes this difficulty to colloquialism, localism words as well as barbarisms, mispronunciation of expressions and the use of words in different contexts. De Jongh (1992:54) adds the point of nuances of culture as another barrier.

In this connection, there is the case of Arabic words that give different meanings, particularly when used in a slang context, in different parts of the Middle East, which extends from Africa to Asia. As example, the word ‘naseh’, as a noun form, means ‘fat’ in an area of the Middle East, whereas in other areas it means ‘clever’. The verb form ‘nasaha’ means ‘to advise’. Another word, ‘jehal’, means ‘ignorant’ but indicates ‘a child’ when spoken in the Gulf States’ region. The court rules forbid the interpreter from seeking clarification from the defendant/witness, or from the court, when an utterance was difficult to hear or understand due to speaking indistinctly, too fast, very softly or overlapping speech (Morris 1995a:33).

In practice, some lawyers may challenge the interpreter if they are bilingual or if the interpreter’s translation is different from that produced in a translated document. A barrister challenged the researcher, who was working in the capacity of the court interpreter, in an immigration case in 2004 at Birmingham. It was regarding the interpretation of a word that was different from that of the solicitor’s translator. However, in his submissions, he used the court interpreter’s word as he realised it was more accurate. In fact, courts do not warn interpreters in advance about a highly specialised terminology used by an expert witness in a judicial event so that they can make preparations and arm themselves with dictionaries and glossaries (Colin & Morris 1996:84). A high court judge informed the researcher that he always asks if a case contains any specialised vocabulary so that he can prepare accordingly.

When a judge or a barrister makes a linguistic or factual error in framing a question or a statement, the interpreter is required to interpret the error without any correction. By the

same token, if a defendant/witness diverts out of context in her/his reply, the interpreter has to relay her/his answer. Hence, the interpreter may be perceived as incompetent or evasive. A poorly worded reply from a defendant/witness may risk the monolingual judge or barrister to assume that a faulty interpretation took place (Berk-Seligson 1990b:172).

González et al (1991:246) point out that people speak varieties of language rather than a language or languages. González et al quote Labov (1972) as confirming that there are no 'single variety' speakers. Therefore, interpreters have to move between different levels of language and reflect these variations. As an example, some lawyers use professional sophisticated language with technical jargon and highly subtle ambiguous questions that may be difficult to identify or convey into the target language. The same practice is applied in healthcare, when medical staff use medical terms that are not familiar to the patients, especially when their first language is not English. The interpreter then moves to the street slang or makes sense of utterance from a deranged person, almost with the same breath (Deferrari (1989:124). Haffner (1992:258) draws attention to a barrier in communication when an answer from a patient is not well understood by the healthcare professional, as a result of not being able to give it in a similar specialised language. Therefore the professional should not take the patient's answer as a base for a medical decision.

Johnson (1999:20) reports Bowler (1993) as warning about the stereotype patients who belong to an ethnic minority group, since some healthcare professionals perceive them as difficult to communicate with, which can be an obstacle to communication. Johnson

advises healthcare service personnel to have a more positive perception of minority cultural groups, which can lead to mutual interest and further co-operation between patient and healthcare staff. Johnson (1999:22) cites Baxter (1993) as giving example of barriers to communication by health personnel, when they fail to provide patients with information about the availability of female practitioners in services such as maternity and gynaecology.

The acoustics in courts are not geared towards giving clear hearing for the interpreter. When microphones are not used, and the dock is at some distance from the lawyers and judge, it would be difficult for the interpreter to hear the proceedings well and to interpret fully, especially behind a security screen, which can add additional stress during the interpreter's practice. Furthermore, the positioning of the interpreter in court does not always give a good view of all persons that need interpreting for. This is made worse by the absence of proper illumination, since non-verbal expressions can aid in understanding the person during interpretation (Corsellis 1995:30). Gibbons (2003:246) notes that some courts place the interpreter in the dock with the defendant, which might be frightening or dangerous for the practitioner. Also, sometimes the interpreter has to stand on her/his feet for long hours if a chair is not provided.

De Jongh (1992:114) highlights the importance of the use of qualified interpreters who would ease barriers to communication in non-English speaking judicial activity in the host country. He explains that inaccurate interpretation can affect the decision-making and the innocent could be punished and the guilty could go free. In this context, a failure in communication is illustrated in the landmark case of *R v Iqbal Begum* (1991)

and Criminal Appeal Reports (1996), which demonstrated how wrongful conviction through misinterpretation could occur. Begum was accused of killing her husband after years of domestic abuse. An interpreter who had no interpreting qualification or training, an accountant by profession, was engaged for the trial. Furthermore, the defendant and interpreter spoke different dialects. Consequently, Begum sat silent during her trial, as she did not understand either the interpreter or the court language. However, the court personnel did not realise this. Furthermore, the interpreter assigned to her did not know the difference between murder and manslaughter. Begum was eventually committed for murdering her husband instead of manslaughter and received a life sentence. After a few years the misinterpretation was discovered and she was released from prison on appeal in 1985. She later took her own life when her family rejected her for bringing shame to them.<sup>18</sup> The Begum case can fall under complex interpretation contexts, since this case is an example of the cultural complexities that interpreters may have to deal with and explain to those involved in the court process.

This case was the spearhead for the creation of the Trial Issues Group (TIG) 2002 that produced an agreement between parts of the CJS based on Lord Justice Auld's recommendations on the use of interpreters in the CJS in 2001. TIG has since been renamed Interpreters' Working Group (IWG).

Jolliffe (1995:62) points out that the unqualified interpreter could hinder communication and act as a partisan, shielding the defendant/witness and possibly obstructing the court proceedings. Thus, such an interpreter might not be impartial and,

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<sup>18</sup> Source: [http://www.nrpsi.co.uk/pdf/PSI\\_booklet.pdf](http://www.nrpsi.co.uk/pdf/PSI_booklet.pdf) [Accessed 5/11/2009].

since the court would not understand the foreign language, the accuracy of interpreting would not be established. The unqualified interpreter might act in a capacity of an adviser and instruct the defendants/witnesses on how to answer questions or formulate their answers and questions. Jolliffe (1995:5) cites a solicitor, Jane Coker, referring to a case in an immigration tribunal where a Turkish interpreter told a refugee Kurd 'you cannot claim asylum here; you have got to go back'.

Some courts and police stations use a friend or a relative of the defendant/witness as an interpreter. This may pose a problem as the friend/relative might filter out any unfavourable replies from her/his interpretation or change the responses to questions. The court might not be aware of such abuse due to the linguistic barrier, since only the friend/relative and the respondent would know the foreign language. Furthermore, the friend/relative would have no code of practice and the accuracy of her/his interpretation would be by 'trial and error'. Such unqualified partisan interpreters might feel vulnerable and open to 'bullying' by lawyers and uncertain about their status in court (Jolliffe 1995:44& 61). The unqualified interpreter would not be governed by a rule of conduct and might not recognise the importance of confidentiality, revealing personal and private matters of defendants/witnesses to other sources, or blackmailing them (Shackman 1984:12). Furthermore, the non-experienced new interpreters could find themselves dealing with a very serious, complicated and, sometimes, traumatic case on their first job.

Haffner (1992:257) talks about her experience as an interpreter in healthcare and the use of children as interpreters for their parents, not only of sensitive issues, but also events



that would be considered traumatic for a child. She maintains that children would not have acquired a higher level of language expression; therefore the content of their interpretation would not be accurate. Consequently, that would affect any information a medical professional would like to convey to the patient and, at the same time, can be hurtful to the child and family. Heffner gives an example of a seven year old girl that was requested to explain to her mother, during an ultrasound examination, that the baby was dead. The girl told Heffner that she was not able to explain everything to her mother and asked for assistance. Heffner gives another example of a nine year old boy who was used as an interpreter and looked frightened; although the physician refused her services as an interpreter, preferring the boy, the boy pleaded with her to stay with him, as he was not sure of the accuracy of his interpretation.

Another problem associated with the use of a member of the family is explained by Haffner (1992:256). She met a woman who was embarrassed to reveal her symptoms in front of her son. Therefore, the patient chose to invent other symptoms from those given on her first visit to the hospital, in order to justify her visits to the physicians and in aspiration of meeting a healthcare interpreter. Similar trauma and embarrassment could arise in criminal cases where sensitive and painful matters are also likely to be discussed.

The use of a friend or a relative might be justified in exceptional cases where communication has failed to be established between the qualified interpreter and defendant/witness for various reasons. However, safeguards should be taken in such exceptional circumstances by the judge. Since family members are not impartial further

questioning of the defendant/witness for clarifications may be required. For example, there was a case of a pregnant deaf appellant woman, in 2004 at Birmingham, who had two interpreters, language and sign. Since the appellant had no sign language education, the sign language interpreter failed to communicate with her. The appellant's husband informed the researcher, who was the language interpreter, that even he was unable to understand his wife and that her mother was the only person who was capable of communicating with his spouse. Eventually, communication was established with the appellant through her mother, who repeated the same question to her daughter several times. In another case, in 2006 at a Sheffield tribunal, the witness was an old man, unable to understand the significance of questions put to him by both the judge and barrister. His relatives, who were in attendance, were able to assist the court as they were used to his method of communication.

In summary, barriers to communication can be extensive, especially when converting from one language into another. In the present study, legal practitioners appeared to lack the understanding of the nature of the practice of interpreting and hence did not recognise the needs of interpreters to produce a faithful record from the source to the target language. The court environment is not geared towards assisting interpreters by providing them with either the technological facilities or suitable seating positions that are afforded other court personnel. Sometimes legal practitioners forget about the presence of the interpreter and project their voice towards the judge while giving their back to the interpreter, making it difficult to hear with the absence of microphones.

Various participants in the present study recognised that culture produces specific words and expressions and hence not all words can be translated into English. This is compounded by the different levels of language, from specialised legal or healthcare language to the street language, and how the interpreter has to move between them with the same breath. The interpreter is not provided with any information, like other legal personnel, prior to any interpreted case in court. Therefore, as Seleskovitch (1978) cited in Roy (2002:348) explains, difficulties in communication are affected by background knowledge, familiarity with the speaker, the topic and the aim of the message for delivery.

## **6.5 The position of the interpreter**

The position of the interpreter has not received attention from studies in the criminal justice system. There have been discrepancies between professionally qualified interpreters and those who purport to be interpreters, having attended a short course, designed by a commercial agency, that claimed the trainees would to be ‘safe to practice’. Inghilleri (2005:73&83) is asking whether we consider interpreting as a profession or semi-profession. Then she points out that the process of interpreting itself is likely to generate a professional status for the practitioner. Such a process encapsulates ‘cultural and symbolic capital’ that supports the building up of a profession. This study breaks new ground in promoting interpreting as a profession in its own right.

Macy (1947:928&930&945) asserts that the interpreter is a professional officer of the court. She goes on to explain that the interpreter holds an independent trust towards the

parties, the defendant/witness on one side and the court and jury on the other side. This would appear to be a professional role and would impact on judicial events. Although the interpreter is a witness appointed by the court, the parties that benefit from the interpreter's service have no right to request one. Macy continues to clarify that the interpreter is a witness in the sense that in the absence of statute her/his translation cannot be used as evidence of testimony or as a principal witness in a follow up trial, unless the interpreter is out of jurisdiction, sick, dead, insane, unable to testify or summoned to appear in court. Hence, the translation given is considered a testimony of the interpreter, but not as a principal witness (Macy 1947:927-928).

De Jongh (1992:119) argues in Benmaman (1988) that court interpreting has a resemblance to other professional occupations. De Jongh goes on to quote Benmaman, explaining that the interpreting profession satisfy the criterion of 'cognitive base of empirical, scientific and theoretical knowledge'. This is manifested in a significant body of scholarship allocated for theoretical analysis of translation and interpretation process and production.

The findings in the present research demonstrated a reluctance from some criminal justice participants in accepting interpreters as professional personnel within the CJS. Some judges point out that interpreters are perceived as helping an individual and not the court at the same time. Hence, people consider interpreters as having a conflict of interest and are used only for convenience. Judges observe that foreign language cases are unusual in Crown Courts. A probation officer draws attention to the fact that since people see one or two interpreters a week, they consider them as visitors, while a clerk

to the justices called interpreters ‘a new phenomenon’. An interesting point is made by a clerk to the justices: ‘the interpreting profession has no central administration or direction’. This point is emphasised by an advocate when she declared that interpreters have no identity and lack being part of a cohesive body. She added that she would have no idea how to resource an interpreter if the need arose for one. She went on to criticise the National Register for not promoting the profession of interpreting through leaflets and posts in courts. One judge noted that interpreters occupy other jobs such as teaching, which could affect their position as court professionals. A prison officer maintained that people exclude interpreters as part of the CJS because they lack understanding of their profession.

Niska (1995:294) wrote an article that gives the impression that her ‘insider’ knowledge of the practice of interpreting might be due to her being an interpreter herself. Much of the material in her article was from an article that was written by Falck and translated from Finnish. Niska argues that interpreting is a true profession as are other professions employed by the court. She calls for interpreters to be allowed to work on their own right as ‘experts on human interaction and intercultural communication’ (Niska 1995:314). She quotes an Italian interpreter who complained that counsel do not work with interpreters as counsel have legal qualifications and believe they are above interpreters. The interpreter commented that knowledge of language is not enough for the lawyers to consider interpreters as equal to them and would only be appreciated by persons with language understanding (Niska 1995:298).

In this connection, one clerk admitted that legal practitioners are prejudiced against interpreters. Furthermore, a prison officer informed the researcher that the hierarchy in the CJS position interpreters at the bottom and consider them of lower status than persons with legal qualifications, such as solicitors and barristers. González et al (1991:23) quotes Sanders (1989) who pointed out that the interpreter is often relegated to a lower clerical status, with low pay and no time to prepare. González et al (1991:159) calls the status of court interpreter as ‘controversial’ (see section 3.2.1 on “Professionalism” in Chapter Three). Inghilleri (2003:261) goes further in quoting Simeoni (1998) as comparing the interpreter to a maidservant witnessing conflicts between powerful masters but unable to influence the outcomes and rarely intervening herself/himself. This attitude can explain the reason behind one clerk to the justice’s regret at having to accept the interpreter as part of the CJS. Another probation officer admitted that he did not consider the interpreter as a professional person, although he knew it was the wrong perception.

By contrast, the Swedish dialogue interpreters have acquired a professional status with association to trade unions and state sanction. Furthermore, their practice is regulated by an official code of conduct (Wadensjö 1993:355). In the United States, the Court Interpreters Act of 1978, with its subsequent amendments, has stipulated the use of qualified interpreters in order to safeguard accurate and true interpretation. This act has contributed to the professionalisation of the practice of interpreting and drew the attention of educators to the expertise level required for court interpreting (De Jongh 1992:119).

In effect, legal professionals understand a profession from their own terms and perception. This is exemplified by asking certain professionals, such as scientists and physicians, to state their qualifications in a judicial case, while others, such as interpreters, are never required to do so. When some interpreters from the Action Group try to mention their qualifications and association with professional bodies, they are either stopped or ignored and their attempts are considered a waste of court's time.

The legal practitioners' attitude is an indication of a total ignorance about the position of a professional interpreter and a lack of value for her/his input in an interpreted trial. One prison officer declared that legal practitioners consider the interpreting profession as inferior in status to their profession, even when interpreters are qualified and possess several university degrees. She proposed that the only solution to improve the status of interpreters is to have them involved in cases, working alongside legal practitioners.

Butler and Noakes (1992:7) suggest that any person taking part in legal proceedings must have an impact on the presented case. They mean that when an interpreter is involved in a case, her/his interpreting would clarify the facts in a case and would result in the defendant's conviction or acquittal. Some interpreters complain on the lack of any consideration or concern on the part of the court officials. Interpreters from the Action Group mentioned that some staff are unhelpful, rude and have a disregard for interpreters in certain courts, adding more stress to the court interpreter. They explain that on occasions they were refused a copy of their claim forms for court assignments or were asked to pay for the copy. When they protest, they risk not being called again by the same court.

Qualified interpreters consider themselves as part of the CJS and holding a professional post. Hence, they continue to protest at the non-compliance of courts and police constabularies to the latest recommendations of the National Agreement (NA) of 2007. That agreement stipulates the use of qualified interpreters within the CJS. In fact, interpreters took part in formulating the NA with recommendations and meetings with the Office of Criminal Justice Reform (OCJR), which issued the document.

Morris (1995a:40-41) remarks on how an interpreter, who holds a form of qualification, can influence her/his professional evaluation when faced with an objection from a judge or a legal practitioner. She refers to the case of *Gradidge v Grace Bros Pty Ltd* (1988) (for a full account of the case see Robert-Smith (1990)). The litigant was deaf and a government panel sign language interpreter was appointed in order to facilitate communication between him and the court. Since the interpreter did not follow the judge's instruction to stop interpreting while he was having a discussion with the prosecuting barrister, at a certain phase of the proceedings, the judge referred the interpreter to be dealt with according to the code of practice that govern her activities. That would mean that if she had not followed the code of conduct set up by her professional interpreting organisation, she would fall under their disciplinary procedures. However, it was found by the Court of Appeal that the interpreter was performing her duties in putting the language handicapped person (deaf) in the same position as a non-deaf person. Morris comments that the professionally certified interpreter in that case assisted in improving the status of interpreters and helped in understanding their activities in court. Morris points out that the objection to the interpreter was not only on the grounds of the acoustic element of interpreting, but it



was on an activity (sign) that was beyond the understanding and control of the legal practitioners.

Most practitioners within the CJS have either no knowledge of the practice and use of interpreting or a misunderstanding of it, as we saw in Chapter Five “Presentation of Findings”. Some associated the practice with an activity from a foreign unqualified person. In effect, the majority of judges who worked for the Asylum and Immigration Tribunal (AIT) were aware of the use and practice of interpreting, since they receive an initial training from their organisation. Other judges had a limited comprehension of the actual practice. By contrast, some lawyers had no conception of the practice and disregard the practising interpreter. On some occasions, as witnessed by the researcher, when lawyers encounter undue pressure from a judge, they project it onto the interpreter. When a judge criticised a barrister for her shortcoming in preparing her case at Derby Crown Court in 2005, she shouted at the interpreter outside the courtroom during a break. She told the author that she did not request her service and the interpreter was only requested by the court. In general, clerks to the justices seemed more knowledgeable about the use and practice of interpreting than the other categories, since they have the responsibility of making arrangements for the use of interpreters and processing their claim forms. Immigration officers claim to know about the use and practice of interpreting from working with interpreters on court cases.

Many police officers admitted their ignorance about the practice of interpreting, according to their replies in the questionnaire and the follow up interviews. However, they expressed their wish to know more about the process. Often, police officers leave

the interpreter alone with the suspect, which is against the guidelines provided by their organisation. Some suspects could be dangerous or offensive towards the interpreter or they might ask personal questions. One suspect warned the researcher of the prospect of going to hell for being left alone with him in a police room. This study investigates the issues mainly from the experience of an interpreter within the different categories of the CJS. Hence, it sheds light on the use and practice of legal interpreting in most sectors of CJS that has not been covered by previous research. Other studies have been more limited in scope. For example, Jolliffe (1995) researched interpreters who work only in the Magistrates' Court and constructed the findings from a magistrate's point of view. Inghilleri (2005) looked mainly at interpreting within the immigration tribunal's context.

Gibbons (2003:232) argues that if a person comes into contact with the legal system and has no knowledge of the language of the law, it would be rational for her/him to seek help from a legal representative through a qualified interpreter. He warns that if such help was not granted, the outcome would be poor communication between the non-English speaker and her/his legal advisor, which would impede the disclosure of all relevant facts about her/his case. At the same time, the non-English speaker would be denied her/his right to adequately communicate and participate in the legal process. The outcome might result in injustice being suffered by the non-English speaker. The European Convention on Human Rights of 1950 in Article 5 and 6 stipulate the provision of an interpreter in case a person comes into contact with the law in a foreign country (see section 3.6.4 on "A More Recent Legislation" in Chapter Three). In this

context, The European Convention on Human Rights was incorporated into UK law by the Human Rights Act 1998.

There are case studies that demonstrate the non-compliance with the European Convention on Human Rights of 1950. One of the cases was *Cuscani v United Kingdom* in 2002, where the applicant complained to the European Court of Human Rights on the grounds of not receiving a fair hearing pursuant to art 6 (1) and 6 (3) (e) of the convention by UK failure to provide him with an interpreter. The court blamed the UK judge for not satisfying the need of the applicant's language assistance from an interpreter. It also ruled that, 'the applicant had suffered non-pecuniary loss and would be awarded €2,200, calculated on an equitable basis, by way of just satisfaction'.

Macy (1947:936) asserts the right of a foreigner to understand the proceedings in court and not to guess the meaning of questions given to her/him, or the court to guess what she/he was saying. She refers to the case of *Hickey v Chicago City R. Co* (1909) when the witness was not able to understand the prosecution counsel and the counsel, court and jury did not understand him. Macy argues that in the case where a competent interpreter was not available, then the case should be adjourned and put back to a later date, as in the case of *Menella v Metropolitan Street R.Co* (1904) (Macy 1947:938).

It needs to be emphasised that failure to provide an interpreter to a non-English speaker could result in the conviction of the innocent or acquittal of the guilty. Wrong conviction might persuade the defendant to take her/his case to a civil court for substantial damages (Robert-Smith 1990:152). Callejo (1968:52-53) illuminates the

case of Rodriguez, who was not provided with an adequate interpreting facility and was convicted for the murder of Mrs Mildred Hosmer. As a recent arrival from Puerto Rico, he knew little English and thought he was being questioned about his relationship with a young girl, which he admitted. The police assumed he was admitting to the murder of Mrs Hosmer. Rodriguez was convicted and sentenced to imprisonment for 18-20 years. After three years of imprisonment, the actual killer confessed and Rodriguez was released. The state legislature voted to award him compensation of \$12,500 in 1958.

Another case from Canada demonstrated how the use of unqualified and incompetent interpreters could open the door for legal action against the authority that appointed them. In an article under 'Courts: The cost of bad interpreters', the Ontario Attorney-General was served with a \$35 million lawsuit alleging that incompetent government appointed court interpreters have led to miscarriages of justice and even wrongful convictions. It was reported that Mr Avtar Sidhu, a Punjabi speaking Mississauga person, was charged with several counts of assault causing bodily harm. His first trial was declared a mistrial as an incompetent interpreter used the word 'Henh' to indicate lack of understanding 27 times in a 36-page transcript.

Mr Sidu was convicted in a second trial with different interpreters and sentenced to six years imprisonment. After two years, Mr Anthony Moustacalis, who had represented Mr Sidu, appealed against the sentence after a detailed review of interpreters' invoices. Mr Justice Casey Hill of the Ontario Superior Court granted the appeal stating, 'it is statistically inevitable that there exist as-yet undiscovered miscarriages of justice'. In the review that followed, Judge Hill discovered that the courthouse had been using

unqualified interpreters who failed the provincial accreditation test and some of them were unable to read the language they were interpreting. One Hindi-speaking woman was used at the Brampton courthouse as a Punjabi-speaking interpreter. However, the interpreter's co-ordinator who appointed her told Judge Hill that the interpreter considered weekend bail court to be 'a game'.

Judge Hill concluded that the situation presented 'a critical threat to justice'. He went to point out that gross mistakes in translation could be easily identified but 'subtle deficiencies, words and inaccurate interpretations, even few in number passing under the radar screen, risk wrongful conviction'. The next step in the appeal is to certify the lawsuit. Consequently, it would prove that Mr Sidhu was not a unique case and there exists a 'class' of potential victims.<sup>19</sup>

In fact, there is no right to an interpreter in common law doctrine and an interpreter is usually provided at the discretion of the magistrate/judge or an officer of the court. Wigmore, on evidence, states that, 'whenever the witness's natural and adequate mode of expression is not intelligible to the tribunal, interpreting is necessary. When the need exists is to be determined by the trial court' (Gibbons 2003:238). Gibbons explains that Wigmore's statement is known as 'judicial discretion'. The same discretion applies to police officers. Furthermore, the prison system does not grant the right to an interpreter for foreign inmates in most countries.

Therefore, the right to an interpreter diverges from one jurisdiction to another, all over

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<sup>19</sup> Source. <http://tinyurl.com/48wv4h> [Accessed 6/04/2008].

the common law world, prevailing in all sectors such as courts, prison and the police. The United Kingdom adopts the common law doctrine and applies the no right to an interpreter unless the judge decides the need for the service. Gibbons criticises the problem of leaving the decision to the judge, who might be monolingual, with no understanding of the problems associated with the second language (Gibbons 2003:238-239). One judge explained to the researcher that older judges are not used to interpreters and appeared not to wish the allocation of part of the court's time to them.

Since the use and practice of interpreting is applied differently in different courts, it suffers from lack of consistency and continuity. There is no guarantee that the same interpreter will be retained for the whole proceeding. Therefore, at times the court appoints a different interpreter for each day of the same case. Each interpreter would not be briefed on the proceedings of the previous day (Butler & Noaks 1992:66). The good practice guide for court staff who work within Her Majesty's Court Service (HMCS) recommends giving the court interpreter a copy of all relevant documents in advance of a hearing. Such information will help the interpreter to prepare the assignment, especially in complex cases or when the vocabulary is of a specialist nature. It also asks the court clerk to give a pre-hearing briefing about the case in order to make the interpreter familiar with the main aspects of the case. In this context, the quality of interpreting will improve (Her Majesty's Court Service 2007:15). Hence, one interpreter commented on the Action Group on 29 January 2010, stating that she was contacted by the Witness Care Unit, on behalf of the Crown Prosecution Service (CPS), to interpret in a Crown Court case. When she asked for preparation material, she was told that it is CPS policy not to disclose information about the case to the interpreter because it could

influence her/his impartiality. They insisted that if the interpreter knew what the case was about, the defence could argue that the interpreter might put leading questions into another language and therefore influence the witness. This would consequently harm the prosecution's case. The researcher asked the present research participants of their opinion on the interpreter meeting defendants/witnesses before a case appearing in court. However, most of them refused the idea, especially judges and clerks to the justices, as we saw in Chapter Five "Presentation of Findings".

In Australia, the Federal Evidence Act requires the judge to justify the non-use of an interpreter in second language speakers' trials. This is a departure from the exercise of asking the witness to demonstrate her/his non-active English and hence the need for an interpreter. Still the same law does not grant the right to an interpreter (Gibbons 2003:238). However, the right to an interpreter has been granted in the United States (US) under the Court Interpreter Act, which was enacted in October 1978 under Public Law 95-539. Thus, the law made the interpreter an 'official entity in US district courts'. The Court Interpreter Act directs courts to employ a qualified or certified interpreter in all criminal and civil cases lodged by federal government in federal courts (Berk-Seligson 1990b:160). Benmaman (1999), cited in Gibbons (2003:239), explains the existence of different legal situations in the United States legal systems, however the right to an interpreter is maintained under the constitution and certification of interpreters is compulsory in sixteen states. In light of the above discussion, the standing of the interpreter, and access to services of interpretation in court proceedings, appears to be more established in Australia and the US than in England.

There is a growing tendency for court personnel to treat non-English speakers' cases, requiring the service of interpreters, as similar to monolingual proceedings. The legal practitioners do not view an input from the court interpreter as having any impact on the progression of a presented case. Berk-Seligson (1990b:156-157) suggests that such assumption is untrue and that the involvement of a court interpreter in non-English speaking trials would change the normal flow of the legal process. Interpreters could unconsciously take control from judges/attorneys in presenting testimony. This would be manifested in making the non-English-speakers utter evidence before the legal practitioners or preventing them from speaking when they are ready to proceed. Nevertheless, the courts are likely to see the impact of the interpreter and hence are sometimes reluctant to involve them in judicial events. The courts often regard interpreters as expensive and inconvenient by potentially slowing down the proceedings. Most participants in the current research complained of how interpreters slow down court proceedings, for example, one magistrate rejected the use of interpreters even if the defendant has inactive use of the English language (see Chapter Five "Presentation of Findings").

Since foreign language is used in the interpreters' mechanisms, the court officials might not be able to detect their method of control during interpreting. When witnesses/defendants become confused or do not understand a question, interpreters might ask permission from the judge to explain to the court the reason behind their confusion. Furthermore, interpreters might ask for clarification of a certain point from an attorney or a judge (Berk-Seligson 1990b:173 & 190).



Berk-Seligson (1990b:198) notes other ways through which the interpreter could be perceived as intrusive to the legal proceedings. She explains that the introduction of the interpreter to the jury by the judge is one element of intrusion, as well as the common practice by judges and attorneys of addressing the interpreter, rather than the defendant/witness, when asking questions from them. This usually happens when the examiner does not receive an appropriate answer to a repeated question from the witness/defendant. The judge/attorney might lapse into addressing the interpreter instead (Berk-Seligson 1990b:168). She goes on to explain that attorneys and judges at times might not be certain whether the interpreter is speaking for the defendant/witness or for herself/himself. Also, jurors could fall into the same trap, since they have less experience than the legal personnel in the use of interpreters (Berk-Seligson 1990b:173).

In practice, the process of interpreting often slows down the legal proceedings, potentially taking twice as long as monolingual cases. Consequently, this might lead to adjournments, which add significantly to costs. Indeed, legal practitioners view the interpreter as an intrusive element that disturbs the flow of a judicial event in the courtroom. Hence, court participants might feel frustrated and vent their frustration on the court interpreter and the non-English speaker. Also, the evidence given might be enhanced through the interpreter and the defendant/witness might be viewed in a more positive light than if questioned directly (Butler & Noaks 1992:9). The introduction of interpreting activity to a case often results in the non-English speaker being viewed as an institutional nuisance.

In this context, Roberts-Smith (1990:151) observes that legal participants do not favour the use of interpreters, as they believe interpreters impede cross-examination when they convert from one language to another. Thus, during the interpreting activity, the defendant/witness would have more time to think of a 'safe' answer. The same point is echoed by Gibbons (2003:251), citing Cooke (1995), who pointed out that the interpreter might provide a shield to the defendant/witness from hostile questions. Such action could be through delaying the pace of questioning or through formulating the questions in a more civil manner. Therefore, the prosecution counsel would fail to catch out the defendant/witness, as in monolingual trials, since communication has to pass through the interpreter (Gibbons 2003:251). Gamal (2006:54) comments that the South Wales Commission, in Australia, acknowledged that 'the notion of advantage, derived from the use of an interpreter, arises out of a fundamental misunderstanding of the nature of interpreting'. The Commission adds that 'there is no evidence that any advantage is actually secured' (see section 2.5 on "The Interpreter" in Chapter Two).

Morris (1995a:28) highlights the negative attitude of legal personnel towards the use and practice of interpreting, since the practice is used by a foreign non-English speaker. Hence, non-English speaking cases have additional problems arising from the presence of foreign individuals in the host country. Then the court has to make arrangements to pay the interpreter, who is often a foreigner herself/himself in their view (see section 2.3 on the "Criminal Justice Personnel" in Chapter Two).

The concept of control is observed by Morris (1993b:280) when she argues that legal practitioners feel that control has shifted away from them, to the interpreter, in non

English-speaking trials. In that situation they might try to regain control by harassing interpreters who use languages they do not understand. She remarks that legal participants label non-English speakers as 'voluble' foreign witnesses. Morris goes further in mentioning the image of the interpreter in case reports as a 'traitor' and the 'instrument'. It should be borne in mind when reading a translated piece that interpreters' first loyalty lies with the truth (see Chapter Two "Literature Review").

Control is mentioned again in Anderson (1976) by Cronin (2002:392). Speaking of the interpreter, he states that: 'his position in the middle has the advantage of power inherent in all positions which control scarce resources'. This situation makes the interpreter desired for her/his service but dreaded for the possibility of misleading the legal participants either as a native speaker of a language they do not comprehend, or as a non-native interpreter, going native, and sympathising with the defendant/witness. Haffner (1992:257) comments on the frustration created by the loss of control from healthcare professionals to the interpreter, combined with the inevitably slower communication with the patient.

Hatton & Webb (1993:137&141-142) recognise the powerful position of the interpreter in situations that appeared devoid of power. But in reality, healthcare professionals are not certain whether the interpreter is delivering the same information they want her/him to utter or giving a different message. In this situation, the interpreter could distance the client from the nurse or the healthcare professionals.

To take a positive view, the nurse and interpreter could co-operate together as colleagues. This is achieved through working together over a period of time during which they become allies and have discussed cases before and after meeting the patient. One nurse called such a relationship a ‘dance’, where they help each other. The interpreter could ‘jump in’ during a conversation when using her/his expertise, adopting a surrogate provider position. Then the interpreter could ‘jump back’ to give control back to the nurse. Thus, the interpreter and the nurse could exchange control in a manner of teamwork (Hatton & Webb 1993:142-142). The position of the court interpreter is different from the healthcare officials, since legal practitioners do not accept the interpreter as colleagues equal to them. A prison officer explained how the advocates look at the interpreter as having an inferior job to theirs, because most interpreters do not have legal qualifications, as we saw in Chapter Five “Presentation of Findings”.

Consequently, such collaborative situations allowed the interpreter not only to communicate between the patient and the nurse, but also to ‘catch the mood’. Therefore, experienced interpreters have a ‘feel for their people’. They sense when important information needs to be disseminated to healthcare professionals about their clients. In turn, nurses recognise that the interpreter is valuable as a culture broker, revealing the client’s world as a ‘culture connector’, which is beyond her/his linguistic skill (Hatton & Webb 1993:143&145).

De Jongh (1992).claims that good interpreters could be considered language experts. In this context, Gonzalez et al (1991:159) observe that the interpreter is in a position of

being the only ‘officer of the court’ that provides an ‘expert’ service in a legal event, namely the interpretation of a source language to a target language. González et al call such service a rare juxtaposition in the legal process. However, since there is a broad lack of awareness about the interpreting profession, service providers resort to employing untrained bilinguals as interpreters in courts. By this account, society must recognise and reward interpreters according to their qualifications and training. For this reason, the element of prestige, respect and authority is generated through the recognition of laypersons of the professional status of a person that possess a high level of education in her/his discipline (De Jongh 1992:118&120). Benmaman (1988), cited in De Jongh (1992:120), comments that a professional culture is emerging from the discipline of court interpreting. That professional culture is apparent in the values, behavioural norms and shared symbols of a group in their workplace and society at large.

## **6.6 Role and contradictory role**

There have been debates on the nature of the role of the legal interpreter. Some advocated the conduit type and others saw that the role could be extended to an active participant in the court proceedings. The responses from the research participants reflected that dilemma. Some advocated word for word exercise during the interpreting process, while others believed that the role could include explanation of any potentially misleading ambiguities such as words of cultural significance. These ambiguities can arise simply because there is often no exact linguistic correspondence between different languages – a mistaken assumption of the conduit model, as we saw in Chapter Five “Presentation of Findings”.

Hermann (1956) commented, in Pöchhaker & Shlesinger (2002:339), that interpreters are all-round intermediaries that operate in a number of variegated and diffuse functions, as well as their traditional translation duties. Pöchhaker & Shlesinger (2002:339) cite Feldweg (1996) as maintaining that the emergence of the profession of international conference interpreting, in the early twentieth century, helped to narrow the boundaries of the role of conference interpreters in the communication process. However, interpreters' roles beyond, or rather below, conference interpreters, remained uncertain, since they do not enjoy the same higher status and regulation of conference interpreters.

González et al (1991) reported in Pöchhaker & Shlesinger (2002:340) that, in the 1980's and 1990's, interpreters working in a spoken community setting, especially court interpreters, were able to create codes of conduct and standards of practice. Nevertheless, Pöchhaker (1999) cited in Pöchhaker & Shlesinger (2002:340) observe that the role of the community interpreter remained open to challenges by the diversity of sociocultural and institutional constraints inherent in any national environment.

There has been a broader picture of changing perception to the role of the interpreter. Roy (2002:352) explains that since interpreters have the capacity to use different linguistic strategies and conversational control mechanisms, they are: 'an active, third participant with potential to influence both the direction and the outcome of the event, and that the event itself is intercultural and interpersonal rather than simply mechanical and technical'. Cronin (2002:391) points out that interpreters are those that 'cross linguistic and cultural boundaries; depending on the identity of the interpreter and the

nature of the context'. Cronin adds that interpreters cross also boundaries of gender, class, nationality, or ethnicity and the main situation of the interpreter is that of dialogue.

There is a need to understand the role of the interpreter, as it would help in comprehending the interaction between people of different statuses and backgrounds that speak a language within a community. Such understanding could assist in situations of doctor-patient interaction and help in finding solutions in disputes between different levels of parties in the community. Each party could use technical or non-technical vocabulary and have a different understanding of the terms. Therefore, the services of an intermediary could aid in effective communication in such situations. Furthermore, the role of the interpreter is crucial in social process, especially when two out of three may be monolingual. The interpreter, as a bilingual person, can facilitate understanding between all parties (Anderson 1976:210).

In adopting the communication theory, the interpreter operates as a receptor on hearing the source language. Then another process takes place: the analysis of meaning or decoding of the source language. Consequently, the interpreter reconstructs the source language to a target language, based on her/his knowledge of that second language, as well as personal experience. In that process, the interpreter rejects, consciously or unconsciously, any irrelevant meaning that is not suitable for the construction of the target language. In order to switch into the target language, the interpreter divides the message into sections that Kelly (1979) calls 'segmentation'. The main aim of the

interpreter is to produce the correct meaning regardless of the number of words in the source language (González et al 1991:304).

The following step is to formulate the target language version into a source language during interpreting. In this process, it is important not only to maintain the accuracy of the source language content, but also to produce the most accurate sentence structure of the target language as possible. During this process, the interpreter may receive further information from the receptor and then make the necessary adaptation to the proposed interpreted version. The final juncture is to formulate a target language version and check it against the source language account for accuracy before uttering it to the listener in the interpreted occasion. If the interpretation is incorrect, the interpreter will make the necessary adaptation (González et al 1991:305).

The complexity of this process is not appreciated by legal practitioners who regard the interpreters as an 'electronic transformer', who translates literally word for word. Gibbons (2003:247) cites Wells (1991), quoting a former Australian Supreme Court judge, stressing: 'It cannot be overemphasised that an interpreter should interpret every single word that the witness utters, exactly as it is said, whether it makes sense or whether it is obviously nonsense; whether the witness has plainly not heard or whether, if he has heard, he has not understood. The interpreter should look upon himself as an electronic transformer; whatever is fed into him is to be fed again, duly transformed'.

Gibbons (2003:248) explains that the interpreter's function as an 'electronic transformer' would mean a simple word matching exercise that could be performed by



any person who speaks two languages. He highlights the erroneous misunderstanding of the complexity in the interpreting process and, at the same time, that legal practitioners do not appreciate the challenge facing the interpreter during her/his practice. Hence, it should be borne in mind that languages have different structures in word order. Therefore, a question or a sentence in English is different from that in Arabic, for example, so the interpreter is not only converting words into another language, but also restructuring sentences in the right order of the other language.

The extreme conduit view of the interpreter is explained in Witter-Merithew (1986), cited in Roy (2002:350), who pointed out that: ‘interpreters denied responsibility for unsuccessful interpreted events and clients began to perceive interpreters as cold and self serving’. The result is unsuccessful interpreted events and negative views of the interpreter. Therefore, interpreters began to search for a less radical description of their role.

The findings of this research demonstrate that some participants preferred the literal interpretation of all verbatim for both the defendant/witness and legal practitioners. They argued that the defendant/witness should be put on equal footing with the English-speaker in understanding all the judicial events in the courtroom. However, at the same time, they recognised that words have different meanings. Some lawyers require the interpreter to translate colloquial words and legal terms in court to a language understood by the non-English speaker and vice versa. The fact is that English speakers often do not have a full understanding of what the lawyers are saying in Court – this is part of the power and mystique of the courtroom. Discussion of interpretation makes it

impossible to avoid considering this and exposing this use (perhaps misuse) of power. One advocate remarked that the interpreter is no more than a tool, a conduit, through which the voice of the client can be heard and has no role in the progress of a case, as we saw in Chapter Five “Presentation of Findings”.

In effect, Gibbons (2003:248) goes further to point out that the interpreter is expected to render an accurate version from the source language into the target language. However, the interpreter is denied the conditions to achieve such a task. Gibbons remarks that some judges do not allow the interpreter to take notes or ask for clarifications of meanings of words, or to consult a dictionary. In fact, the interpreter’s oath instructs the interpreter to ‘true explanation make, of all such matters and things’.<sup>20</sup> But, usually, the interpreter is not allowed to voice such explanation, since s/he has no right of audience, as expressed by a High Court judge. Furthermore, some counsel ask a second question without waiting for the interpreter to finish interpreting the first question. One judge in the research advocated training legal practitioners on the role of the interpreter through an induction course when they are first appointed in a firm. During the course, they would have an idea of the practice of interpreting and recognise that the interpreter occupies a key role in the legal process. Another point expressed by an advocate is that information could be provided to the public on the role of the interpreter through leaflets (see Chapter Two “Literature Review” and Chapter Five “Presentation of Findings”).

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<sup>20</sup> South Tyneside College (2000-2001) study guide for Diploma in Public Service Interpreting.

Berk-Seligson (1990b:163) describes how bilingual lawyers could challenge issues of interpreter accuracy in the use of words. In that situation, the interpreter could turn into a witness and be asked to testify the accuracy of her/his translation (and not what the bilingual lawyer suggested). This would draw court users' attention to the idea that the interpreter is not 'a computer like translating machine' that can be turned on and off. Berk-Seligson remarks that the interpreter is a person that has developed certain skills at various levels and could be held responsible for the accuracy of her/his interpreted production. Her/his veracity cannot be taken for granted. Furthermore, interpreters have been asked, in disputed translation, to act as witness to testify to the accuracy of another interpreter's translations. In this context, the researcher was asked to check the accuracy of a translation of a death certificate, made by a solicitor's interpreter in an immigration case. She found that her/his translator had missed a whole section of the death certificate, consisting of three lines, which gave the cause of death of the appellant's brother.

Some courts expect the interpreter to act as an 'alter ego' for the defendant/witness. Thus, they anticipate the interpreter will support the defendant/witness outside the courtroom. Therefore, it is unrealistic for some courts to expect the interpreter to chaperone the witness outside the courtroom during waiting time or adjournments. Such expectation would make it difficult for the interpreter to maintain a professional relationship and blurs the boundaries between the interpreter and the defendant/witness (Jolliffe 1995:43). The Association of Police and Court Interpreters' code of practice advise interpreters to steer clear of this situation. Hence, some defendants/witnesses may exert pressure on the interpreter by asking her/his opinion on the judge or the

barrister. Also, at the end of the case, they may hijack the interpreter for her/his verdict on the presented case, as experienced by the researcher.

There is another role of the interpreter as a cultural broker. The London Cultural Interpretation Service in Ontario, Canada, considers the interpreter as a 'cultural as well as a linguistic mediator'. It perceived the cultural interpreter as helping the service provider to understand their clients more effectively within their culture and also helping to prevent any misunderstanding stemming from cultural differences (Colin & Morris 1996:158-159). The same point is echoed by Shackman (1984:108) who indicates that the interpreter has the responsibility to explain any cultural beliefs and habits to both parties present during an interpreted assignment. She elaborates further by envisaging that the explanation should include feelings and non-verbal behaviour as well as an explanation of the reason behind a specific question. Joliffe (1995:37) sees the interpreter as, 'a quasi agent between the client and would perceive himself as having a very specialised expertise'. Butler & Noaks (1992:8) question whether the interpreter should be allowed to relay deeper cultural meanings in the courtroom, which might be at some length. Hence, if allowed, it would change the mode of the legal interpreter's practice (see Chapter Two "Literature Review" and Chapter Five "Presentation of Findings" for further discussion on culture and the participants' opinions).

In relation to cultural issues, The Metropolitan police's code of ethics states: 'interpreters will assist both parties to the interpretation in the understanding of the cultural background of the language of the detainee or witness, especially where such

cultural considerations impact upon mutual comprehension (Metropolitan Police Service 1998:48).

Eco (2003:11&179) raises the point that a single word can express more than two meanings or concepts. He gave an example of the Italian word 'nipote', which could mean both grandson and nephew. However, a person of Italian culture would understand if the speaking person meant the son of a son or daughter or the son of a brother or sister. The same point is mentioned in White (1990:34) when he states that words have different uses depending on the context they occur in, whether it is socially, emotionally or culturally. Therefore, words have simultaneous meanings in several dimensions. For example, some Sudanese refer to traffic lights as 'cars' stand'; a big file used in welding as 'rocket' and a rounded padlock as 'drum'. These examples highlight how misunderstandings can occur and that alternative meanings should be clarified with both the person interpreted for and the court concerned, as we saw in section 6.3 on "Culture and communication" and section 6.4 on "Context of interpreting barriers" in the present chapter. Thus, the practice of word for word interpreting would not give the exact correct meaning and would mislead the court or the healthcare practitioners.

Morris (1993b:282) highlights the dilemma of the court interpreter who has to interpret a single meaning of a word, without even enquiring from the defendant/witness the exact meaning of her/his utterance, and in the absence of an overall context. She explains that the legal system is deficient in adopting 'a single univocal meaning' and cannot accept the idea that words have different meanings. She comments that when a

lawyer asks the court interpreter ‘translate, don’t interpret’ he means ‘repeat, don’t represent’ (Morris 1993b:278). Morris (1995a:32) explains that an interpreter seeking clarification of an ambiguous question given by a lawyer would restrict the examiner’s freedom and uses the court time allocated to legal practitioners. She goes on to point out that some lawyers put forward a badly phrased question to the defendant/witness that may be difficult to relay into the target language or may be misunderstood without an additional explanation, from a cultural or legal background, that is understood by the non-English speaker. This point was raised by some participants in the study, especially a Crown Court judge, who recommended shorter sentences and one question at a time by legal practitioners during an interpreted judicial event.

More to the point, Morris (1995a:32) draws attention to the shortcomings of some lawyers and the inherent ambiguities in the legal language. Therefore, such ambiguities have to be resolved when interpreting into a language understood by the non-English speaker and within her/his different legal system as we saw in Chapter Two “Literature Review” and Chapter Five “Presentation of Findings”. Consequently, Jolliffe (1995:107) acknowledged the importance of seeking the interpreters’ opinion, as it would help in understanding the problems associated with their role and the process of interpreting.

Niska (1995:303) cites Roy (1993) as drawing attention to interpreters as managers of conversation, which gives them an invisible power. Lawyers want to ‘manage the conversation’ and this is part of the reason why they are often uncomfortable with interpreters. Interpreters, for example, can stop one or both speakers, allowing another

speaker to proceed. In overlapping speeches, they can interpret one speaker, then the other, from memory or ask for a repetition of the utterance. Therefore, interpreters' role is not that of an inactive conduit, but 'managers of the intercultural event of interpreting'.

Berk-Seligson (1990b:156) states that the court interpreter plays a more active verbal role than recognised by the legal system. In practice, the interpreter exerts an invisible linguistic control during her/his interpreting activity, which is only conferred to legal practitioners. Morris (1995a:32) and Mikkelsen (1998) draw attention to the misunderstanding of the role of the court interpreter and how difficulties inherent in the interpreting process are used against the interpreter. They point at the 'tactical manoeuvres' applied by lawyers in exploiting interpreters by taking advantage of the deficiency in the status and role of the court interpreter. Joliffe (1995:51) admits that lawyers often attempt to influence interpreters and frequently aim to minimise the importance of their role on the basis that interpreters may be given a 'disproportionate status and importance' usually reserved for professional legal participants. Joliffe warns that, 'without clear guidelines or a code of practice, there may continue to be confusion and uncertainty in understanding the role' (of the interpreter) (Joliffe 1995:47).

An example of the confused role of the interpreter is noted in a case that took place at Manchester Immigration Court. An interpreter was asked to confirm if an appellant was speaking the Reer Hamar dialect of Somalia, which could establish whether she belonged to a minority clan, and then the appeal could succeed. However, the interpreter refused to confirm or deny, arguing that to establish a dialect was not part of the

interpreter's role. The counsel for the appellant asked the judge to intervene and require the interpreter to respond to his request. However, the immigration judge turned down the counsel's request. The counsel for the appellant appealed against the Immigration Judge for upholding the Court Interpreter's refusal. Furthermore, the judge did not accept the evidence given by an interpreter employed by the appellant's solicitors, arguing that the interpreter was not an independent witness. The appeal against the Immigration Judge was rejected and the court stated that: 'an interpreter's function is to comprehend and communicate, not to assess or analyse. It is simply wrong to say that the abilities of an interpreter necessarily import an ability to distinguish accurately between different dialects and to be able to attribute dialects to different sources'. The court pointed out that an interpreter would be able to distinguish between different languages more than between dialects and only evidence from an expert linguist, who speaks a particular language or dialect, would be accepted.<sup>21</sup> The researcher argues that dialects often change if a person departs from her/his birth country and lives in another county(ies) for a number of years. Therefore, the interpreter, or even a linguistic expert, might not establish the source of a certain dialect easily.

González et al (1991:488&491) warn interpreters from stepping out of their role as interpreters into the role of cultural experts. They add that, if interpreters have to adopt the role of cultural experts, they must undertake every measure of precaution in doing so. They explain that since the interpreter has the linguistic knowledge, s/he might know something is amiss during the interchanges of an event and could help in clarifying a point. Nevertheless, the interpreter must have suitable cultural and educational

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<sup>21</sup> UKAIT 00029, 5 October 2007, Manchester.



experience to justify giving cultural explanation of issues. Some of the common cultural knowledge could be information on holidays and kinship terms.

De Jongh (1992:114) asserts the need for accuracy in any interpreting activity. Accuracy is important, since interpreters play a key role in the administration of justice. De Jongh points out that the court interpreter has a unique and different role from that of the conference interpreter. The court interpreter switches all the time between two languages back and forth, whereas conference interpreters work one way from one language into another. De Jongh (1992:114-115) adds that the type of people the court interpreter faces are variegated, then proceeds to give a quotation from Nancy Festinger (1985) that reflects the challenging and demanding role of the legal interpreter, which requires stamina, in order to be able to manage in diverse situations.

.....we perform mental gymnastics, jumping from an attorney's constitutional argument in a motion to suppress, to a drug addict's slurred explanation, to a witness's deliberately elusive answer, to the socio-psychological jargon of a probation report, to the small print of a statute, to a judge's syntactically convoluted charge to the jury – often, all in the space of a few hours. We repeat patent nonsense, veiled (or not-so-veiled) bullying, impassioned pleas, righteous indignation, stern admonishments, nit-picking questions, ironic remarks, barbed answers, tearful confessions, and through it all we must pay unflagging attention, betray no sign of annoyance or incredulity, all the while maintaining composure, impartiality and linguistic fidelity. (Nancy Festinger 1985)

The interpreter needs to maintain the role of a non-partisan person during her/his duties in every interpreting assignment. The mediator's role requires the interpreter to orient herself/himself towards the individual interpreted for with loyalty to both the source and target languages. This action has to be carried out with personal detachment from the content of the utterance (Anderson 1976:213). Simmel (1964), cited in Anderson (1976:213), advances the view that there are different types of non-partisan persons.

There is the type that works towards the equal interest of both parties. In this situation, the interpreter might attempt to manipulate the interaction between parties in a direction where both sides believe that they have achieved their maximized gains. The other type is the non-partisan interpreter who acts with a total personal detachment from the situation. Therefore, the non-partisan interpreter can either operate as a fair but covert manipulator of the means of communication or become passive in the interaction between persons during the interpreting process.

An important point raised by Pöchhacker (2004:152) is how professional status can affect the interpreter's role as an active participant during the interpreted event. Pöchhacker cites Harris (1990), identifying that when some interpreters use the speaker's first-person in an indirect speech, it can distinguish the professional from that of 'natural' or non-professional interpreter. Pöchhacker goes on to refer to Knapp-Potthoff & Knapp (1986) who point out that interpreters who lack professional qualifications and training tend to use reported speeches, which indicate their uncertain position as having the authority to speak as mediators.

Another point Alexieva (1997:226) sheds light on is the factors that can affect the interplay between the interpreter vis-à-vis the client(s) interpreted for during mediation sessions. These factors consist of the social status of the interpreter including the level of education, age and gender, depending on the cultures, which can produce either equilibrium or tension. In the case that the imbalance is wider between the primary participants (speaker and addressee) as well as the chairperson (organiser or moderator) and the interpreter, the higher the generated tension. This could impinge on the role of

the interpreter, since the interpreter may exceed her/his role and interfere with the primary participants' claim to power, especially when the interpreter has a specialised knowledge in a certain field and is familiar with the culture and norms of behaviour in the communicative situation. This is more evident when representatives of high-context cultures are involved.

Anderson (1976: 210-211) mentions that Lambert (1955) and his associates suggested that linguistic behaviour of bilinguals is influenced by the order through which they learned their languages, the degree of dominance of their respective languages, as well as the extent to which language systems merge. All these factors can influence the bilinguals' characteristics and have implications on their role as interpreters. In effect, the greater the linguistic dominance of a certain language, the more it is expected of the interpreter to identify with individuals who speak the dominant language, rather than with those who speak the 'other' language.

Concerning the uncertainty of the role of the legal interpreter, Berk-Seligson (1990b) remarks that judges in the US explain the role of the interpreter to the court and ask the jurors if they have any objection on the use of interpreting during a trial. However, UK judges hardly introduce the interpreter to the court, except in Asylum and Immigration tribunals (AIT). In general, the judge usually asks the interpreter of her/his name and the language used, but never ascertain if the interpreter is qualified to practice in court. In this situation, the court attendees are not certain of the exact role of the interpreter. As Polack & Corsellis (1990a:1636) put it: 'there is no guarantee of a proper understanding of the role of an interpreter in court or police investigations'. Lalmy

(2009:8) puts the blame on public services for their lack of understanding of the role of interpreters. He argues that some public officials such as police officers, lawyers and judges do not know how to understand and handle situations with interpreters.

Anderson (1976:211) refers to Ekvall (1960) when observing a number of situations where the role of the interpreter had to be worked out on an ad hoc basis. Anderson explains: 'the interpreter's role is always partially undefined - that is, the role prescriptions are objectively inadequate. The interpreter's position is also characterised by role overload. Not only is it seldom entirely clear what he is to do, he is also frequently expected to do more than is objectively possible'.

In a sense, the court interpreter's role is loosely defined and often poorly understood, not only by criminal justice practitioners, but also by interpreters themselves. Butler and Noaks (1992:4&7) draw attention to the factors behind the perception of interpreters' role in different courts. They note that such perception depends on the court's experience in interpreted trials, their familiarity with the interpreters and their understanding of the status of the interpreter. Therefore, some courts regard interpreters only as language conduits, while others consider them as 'intellectual mediator'. On the other hand, interpreters are influenced by their experience in court assignments, their training and qualifications and experience in other settings.

There have been studies on the role of the interpreter by authors such as Mikkelsen (1998) who wrote regarding the redefinition of the role of the court interpreter in the US court system. Butler & Noaks (1992) described the different roles of the interpreter and

pointed out that the role is complex and difficult to define. Corsellis (1995) wrote on interpreting from her experience as a magistrate within the UK legal system. Morris (1994, 1993, 1995) wrote articles on the conflict inherent in the role of the interpreter from the point of view of a practicing interpreter. The present study looks at the role of the interpreter in a holistic manner and from various angles as perceived by nine occupations within England and Wales' CJS.

## **6.7 Conclusion**

Legal practitioners have exhibited limited knowledge of the practice of interpreting and the best method of working with interpreters, as was shown in the above themes. There is a tendency to misunderstand the role of the interpreter and associate it with an alter ego of the defendant/witness, which blurs the professional boundaries between both sides. Jolliffe (1995:48) points out that there are variations in attitude from different courts towards their understanding of the role of interpreters. He explains that some courts expect the interpreter to translate word for word, whereas others allow the interpreter to translate and explain meanings of words of a cultural nature, which might not be understood by the court during the judicial event. He calls for more understanding of the role of the interpreter and the adoption of a standard approach towards their role. More to the point, interpreters themselves vary in their method of operation in view of the absence of a unified code of practice.

Morris (1995:32) considers the role of the interpreter as complex. She indicates that the interpreter should take an 'interactional stance' which would involve taking account of the 'speaker intention' and 'listener understanding'. By taking this stance, they would

be able to ‘identify misunderstandings’, ‘elucidate context’, ‘investigate intention’ and ‘clarify meanings explicitly’. However, the law does not grant such remit to the interpreter. Morris suggests that if the law acknowledges the importance of the role of the interpreter, then that would undermine the foundation of the legal procedure. The legal procedure is undermined when key parties to procedure are not sufficiently supported by interpreters.

In fact, language carries culture, which cannot be interpreted word for word into another language that does not correspond with the same societal norms of the original language, or as White (1990:243) states: ‘languages of common genius and intellectual process of both people are identical’. Eco (2003:82) states that: ‘translation is always a shift, not between two languages, but between two cultures – or two encyclopaedias. A translator must take into account rules that are not strictly linguistic, but broadly cultural’. Hence, the interpreter might attempt to translate a cultural word or an event with several words. In this situation, legal practitioners view the interpreter with suspicion for consuming the court’s time with lengthy translation. Gibbons (2003:246) points out that since interpreters are conscious of the court’s time and the expectation from the legal personnel to give ‘a speedy delivery’, they are forced at times to omit or not to explain subtle meanings of words, or use the first version that occurs to them.

Morris (1995a:30) calls the idea that what is said in one language can be switched into another language literally, without loss of meaning, substance or form, a ‘fiction’. She refers to White (1990) who calls such assumption ‘a defective view of language’. Morris goes on to explain that some people perceive languages as transparent and that

the interpreter is only a conduit through which the switch takes place. In this context, legal professionals understand the conduit model of the interpreter, but that this model is rejected by most researchers and scholars in this area and, in fact, represents a serious misunderstanding of language. Jolliffe (1995:39) cites The Report of the Comptroller General of the US in 1977, on the use of Interpreters for Language-Disabled Persons Involved in Federal State and Local Judicial Proceedings, as: 'strict, verbatim translation as impractical and on occasion can actually bar true understanding'. Yet, legal professionals expect the interpreter to perform this unrealistic task during the process of interpreting.

More to the point, the interpreter is not usually allowed to ask for clarifications when an advocate produces an ambiguous phrase, or speaks too rapidly without a pause, or asks multiple questions using legal jargon. This is compounded with interpreters' lack of familiarity with the person and subject matter they are asked to interpret. The result of this situation is the creation of barriers to communication. Interpreters are not supposed to interrupt or comment on the advocates' performances for fear of giving a negative impression of the judicial process. Yet the interpreter is expected to transfer such ambiguity to the foreign language. Morris (1995a:31) criticises the law for not acknowledging the inherent difficulties of intralingual (interpreting within the same language) interpreting and at the same time expect interlingual (interpreting to a different language) interpreting to proceed without difficulties. She remarks that the law sets rules for interlingual interpreting and another for intralingual forms. Such difficult process has been projected on the interpreter without any attempt at rectifying the situation.

González et al (1991:159) argue that the status of the court interpreter in the legal system is still controversial. In practice, professional interpreters are language experts. However, since there is a broad lack of awareness about the interpreting profession, service providers resort to employing untrained bilinguals as interpreters in courts and other disciplines, such as healthcare. By this account, society must recognise and reward interpreters according to their qualifications and training.

In a sense, Morris (1993a:36) requests that the authorities should value the services offered by interpreters through improving their working conditions. This could be manifested in paying interpreters professional fees and seeking qualified interpreters, who would provide ‘high-calibre language services’ in courts. Morris warns that failure to do so could result in miscarriages of justice.

Benmaman (1988), cited in De Jongh (1992:120), observes that a professional culture is emerging from the discipline of court interpreting. That professional culture is apparent in the values, behavioural norms and shared symbols of a group in their workplace and society at large. Many of the interpreters’ problems stem from the failure of legal personnel to recognise their value and their contribution to the legal process. If this was properly recognised, then much else (e.g. proper fees, working conditions) would follow.

Chapter Seven presents the overview conclusion and recommendations for an improvement to the present understanding of the profession and practice of legal interpreting. The chapter also gives recommendations for future research. Furthermore,



Chapter Seven reveals how the present study contributes to knowledge in the field of criminal justice in England and Wales.

## **Chapter Seven**

# **CONCLUSION**

### **7.1 Overview conclusion and Recommendations**

The literature review and findings from the study show that the practice of interpreting is poorly understood and undervalued. The findings were elicited from questionnaires and interviews with nine categories within the criminal justice system (CJS) in England and Wales comprising judges, lawyers, clerks to the justices, magistrates, probation officers, police officers, prison officers, immigration officers, and immigration advisory service officers. The literature review and findings were compatible, as shall be explained later. The profession of legal interpreting within the CJS struggles to achieve a professional status. It occupies a marginal trajectory within the system in comparison with the other CJS professions such as judges, lawyers and clerks to the justices. Inghilleri (2005:76) refers to the profession as inhabiting a ‘zone of uncertainty’ trying to define itself.

De Pedro Ricoy (2010:115) explains that the profession of public service interpreting suffers from lack of recognition. She attributes this situation to the inconsistency in the levels of interpreter training. These do not always conform to quality assurance mechanisms or apply monitoring of interpreters’ performance. She goes on to call for stricter criteria by public service interpreting providers regarding the quality of

interpreters. She recommends that interpreters undergo intensive training and stringent assessment procedures. She advocates empirical research that addresses any gaps between supply and demand in the interpreting service. One of the areas that needs to be looked at in order for the profession of interpreting to become viable is incentives (financial or otherwise). Equally, it is desirable to punish any public service provider that deviates from providing quality interpreters by revoking their contracts.

Another writer such as Lalmy (2009:15) observes that the present system does not encourage interpreters to acquire better qualifications due to the lack of motivations. This can be achieved through higher remuneration to qualified interpreters in order for them to gain a Diploma in Public Service Interpreting (DPSI) as a minimum requirement for the profession of interpreting or even undertake further qualifications. Lalmy (2009:1&12) adds that this situation is compounded by the lack of coherence in policies by subsequent Governments towards rectifying any breaches in the interpreting service sector. In fact, governments over two decades failed in providing professional advisory services or adequate training for interpreters, even though reviews, inspection and research exposed deficiencies in the provision of translation and interpretation services.

According to Gamal (2006:54) the profession of legal interpreting has a brief history, during which it has made limited progress. He blames the judiciary's ambivalent attitude towards courtroom interpreters. This attitude is coupled with the law's reluctance in accepting the efficient linguistic capacity of the interpreter in rendering the accurate source message into the target message and vice versa.

Authors, like Deferrari (1989:123), call the court or judiciary interpreter a relatively new profession, while Pöchhacker (2004:1) names the discipline of interpreting studies as young, needing to reach maturity. González et al (1991:20) argue that since the interpreter as a professional person is a new status, there is a dearth of academic research and professional literature. Cronin (2002:387) comments that, in spite of the existence of a background of historical antiquity and geographical spread, interpreting studies remains a minority discipline in translation studies. This is in marked contrast with the activity of interpreting that has been in the world for thousands of years.

Roy (2002:345) explains that interpreting studies are usually subsumed under translation. Whilst Pöchhacker and Shlesinger's (2002:ix&1-4) explanation for such anomaly is that interpreting studies is still a field thought of as a mere 'offshoot', an emerging field of study that is hard to find research material for. They further observe that: 'interpreting can be defined broadly as interlingual, intercultural oral or signed mediation, enabling communication between individuals or groups who do not share, or do not choose to use, the same language(s)'. More to the point, interpreting studies researchers have been looking at paradigms from other disciplines such as psychology, linguistics and neuro-psychology.

Pöchhacker and Shlesinger (2002:5-6) point out that materials for spoken language interpreting in community settings only began to appear in the mid 1980s, however, independently of each other and mostly in court interpreting. The materials heralded an emerging field of practice and played a role in forming a profession (and considering the authors' recommendations as a vision for the next generation of practitioners).

The study of interpreting, as a discipline of scientific inquiry, was pioneered by Wadensjö's (1992) PhD thesis on 'interpreting in immigration hearings and medical encounters'. Earlier studies remained largely unknown, such as LL.B thesis by Teo (1983/84) on 'the role of court interpreters'. Although theses are not widely available, they helped to promote the development of interpreting studies. By the early 1990's, key research in the field of interpreting began to be published by a small number of authors, among them Berk-Seligson (1990) on court interpreting and Wadensjö (1992) on community interpreting (Pöchhacker and Shlesinger.2002:6-8).

As late as mid 1990, interpreting studies were described as 'a (sub) discipline in the making within a discipline in the making' (Shlesinger 1995:9). Research on interpreting was usually communicated in conferences on translation, or Translation Studies, or in the framework of congress in applied linguistics, especially in the International Association of Applied Linguistics. Eventually, in 1994, an International Conference on Interpretation was convened in Turku, Finland. This conference aimed at projecting a spectrum of interpreting study, albeit non-conference interpreting was limited (Pöchhacker and Shlesinger 2002:8).

The first Critical Link Conference in June 1995 was held in Geneva Park, Canada. This conference could be considered a counterpart to the Turku conference in promoting research into community interpreting. Over the years, other subsequent Critical Link conferences took place at different venues. Conferences are one method of dispersing research on interpreting studies. Other ways include bulletins and newsletters (Pöchhacker and Shlesinger 2002:8-9).

In general, interpreters are mistrusted and viewed with suspicion and the profession itself is inadequately regulated. The practice of legal interpreting in the CJS suffers from a lack of statutory regulation and this has led to the intrusion of commercial agencies and the use of people without proper qualifications. Commercial agencies offer their services for the procurement of interpreters to courts, police stations, probation and prisons or any other sector that requires interpreters. Notwithstanding that, commercial agencies tend to employ less qualified interpreters, as they pay a fraction of the standard fees paid by public service providers.

In this context, the provision of telephone interpreting is mainly given to commercial agencies. Hence, agencies tend to use interpreters from the United States or Australia for night calls in the United Kingdom (UK), in order to avoid paying the higher night call costs. This practice causes problems as those interpreters appear not to be acquainted with the law/rights and entitlements within the UK. Furthermore, they cannot attend to UK courts to be questioned about their interpreting input or as a prosecution witness. The outcome may result in cases of miscarriages of justice or the accused being set free without punishment. This information came to light from the Freedom of Information Act 2000 by members from the National Register of Public Service Interpreters' Action Group Forum (see section 3.3 on "Agencies and Outsourcing", Chapter Three). Furthermore, commercial agencies tend to disregard security checks on their interpreters. This is in contrast with the policies followed by the recommended interpreting providing bodies such as the Chartered Institute of Linguist (CIOL), the National Register of Public Service interpreters (NRPSI), the Association of Police and Court Interpreters (APCI), the Institute of Translation and

Interpreting (ITI) and the Council for the Advancement of Communication with Deaf People (CACDP).

Morris (1993b:281) states that courts employ interpreters reluctantly and only when considered absolutely necessary. The interpreter is viewed in terms of a mechanical role as a machine that converts one language into another. Legal practitioners do not allow the interpreter to explain the deeper meanings that reside in cultural issues when they occur in words or events. The advocates also blame the interpreter for taking twice as long in interpreted cases. Thus, they consider interpreters as impeding their method of operation, especially when they intervene during a case for clarification of a word or a term. Furthermore, the interpreter is considered a shield that protects the defendant/witness from the advocates' cross-examination.

In this connection, the interpreter should be allowed to explain deeper meanings that are embodied in cultural words or events. As we saw in Chapter Six "Discussion of the Findings", interpretation is never a matter of exchanging one word for its exact equivalent. Unless these deeper meanings are conveyed, there is inevitably a risk of misunderstanding. This could take place at the end of the proceedings. Niska (1995:295) reports that Norwegian law requires interpreters to notify judges if they perceive any misunderstanding. This example could be applied in UK courts and would benefit both the defendant/witness and legal personnel to have a better understanding of the case of the non-English speakers. Gonz lez et al (1991:240) observe that the understanding of defendants/witnesses' culturally influenced response is invaluable for a judge or jury in making a judgement on their actions. Gonz lez et al further report

that Figliulo (1984) recommends that attorneys consider any attitudinal or cultural differences that may hinder communication and seek the interpreter's assistance in overcoming them.

In fact, courts do not treat interpreters as officers of the court or offer facilities that are given to other court users. More to the point, interpreters are not paid fees that reflect their level of qualifications and experience. Therefore, adequate remuneration of interpreters should be introduced. Auld (2001:paragraph159) suggests that this could be implemented through establishing a unified national scale of pay. De Pedro Ricoy (2010:112) points out that the payment of professional rates together with fair working conditions would not only attract adequately qualified and skilled interpreters to undertake work in the CJS, but also it would help to retain highly experienced interpreters. She also calls for a better recognition of the interpreter as a professional person.

Most courts do not acknowledge the difficulty in the interpreting process or comprehend fully the role of interpreters. Some legal practitioners resist receiving training on how to work with interpreters or to modify their method of practice to accommodate the interpreting process. Accordingly, training should be provided to members of public service organisations regarding the best way to work with interpreters. A module on the workings of interpreters should be given to personnel who intend to work within the CJS which could be part of their qualifying degree, as



argued in Chapter Six “Discussion of the Findings” (Gibbons 2003:225). The module should highlight the working conditions of interpreters and their method of interpreting.

González et al (1991:15) reports that Alex Gaynes, a defence attorney in the US, advocates the study of translation in courts to any person aspiring to practice as a lawyer, since court interpreting has its pitfalls. The law schools can inform the prospective lawyers of the cultural and linguistic aspects that are associated with the non-English speakers and the best way to work with court interpreters. The European Parliament proposes, through its Committee of Civil Liberties, Justice and Home Affairs, that ‘Member states must ensure that training is offered to judges, prosecutors, lawyers, police and relevant court personnel in order for them to be able to assess the suspect’s linguistic needs, ensure his ability to understand the proceedings, and assess the quality of interpretation and translation.’<sup>22</sup>

Wadensjö (2006:34) reports that the National Centre for Community Languages at Monash University, Australia, has been running courses for professionals in the areas of law, medicine, social work, librarianship and business since the late 1980’s. Moreover, in Hanover, Germany, there is a large scale of coordination in community interpreting services in the Niedersachsen region since 1991. These activities include, the organisation and running of workshops, conferences and seminars. They also support

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<sup>22</sup> <http://www.europarl.europa.eu/sides/getDoc.do?language=en&type=IM-PRESS&reference=20100406IPR72182> (08-04-2010) [Accessed 17/04/2011]

partnership with large medical institutions. Their aim is to instruct the participants on the best way to work with community interpreters.

Courthouses do not have an administration that would facilitate training and recruitment of interpreters, nor do they provide a proper environment that would assist the interpreter during the interpreting process. Hence, the acoustics in courts should be improved in order to assist interpreters during their performance. Many courtrooms are not provided with good auditory facilities where the interpreter is positioned, especially in the dock where glass screens act as a barrier to sound and vision (Auld 2001: paragraph 162).

Interpreters should have representation on the Court User Group. That group aims at the promotion of better understanding and co-ordination of the administration of the CJS (Colin & Morris 1996:167). Lalmy (2009:18) calls for a body that would represent the profession of interpreting with public service providers. This body can work towards the protection of its members' interests and contribute to all policy making for the profession. The organisation can also put forward recommendations for better working conditions and pay. Members can elect its members and take part as stakeholders in the promotion of the aims and objectives of their professional body.

When a case requires their service, interpreters should be provided with papers relevant to the case beforehand, so that they can familiarise themselves with the main aspects of the case. This would help interpreters to perform their task more efficiently, especially

if the case is of a complex nature or contains technical terminology, as was argued in Chapter Six “Discussion of the Findings” (Auld 2001: paragraph 161).

Gamal (2006:55-65) calls it ‘unrealistic’ that the interpreter is expected to perform her/his duties efficiently in court without having an idea of the topic, terminology or chronology of the case. Gamal refers to Morris (1995) who points out that, at the same time, the interpreter is not expected to ask for clarification of unclear points. Gamal advocates that the court interpreter be briefed about the case beforehand, with the relevant documents and topics, as is the situation with conference interpreters. Gonzalez et al (1991:175) raise the point that competent attorneys do not appear in court without reviewing their clients’ cases. Therefore, the interpreter should be given the chance to have information on the nature of the case, reports or interviews with officials and given the time to research obscure terminology. This could be done through the provision of copies prior to the day of the trial. The result would be better and more accurate interpreting. Hence, the creation of an administration with duties towards providing information to interpreters would facilitate the supply of papers relevant to the case in which the interpreters’ services are required. This administration could offer continuing training sessions that would include current legislation, which would open up a channel of communication between interpreters and the court.

Writers such as Gamal (2006:55) and Gonzalez et al (1991:179) advocate a short conference with the interpreter and the non-English speaking defendant/witness, prior to the commencement of a trial, in the presence of an attorney. During the meeting, the

attorney would ascertain if both sides understand each other in terms of language and dialect of the specific region of the defendant/witness in question. This would avoid cancellation of proceedings in court when a problem of communication became apparent.

Furthermore, interpreters are not provided with accommodation to work from or use during adjournments like other legal participants. Interpreters, as officers of the court, should have access to a staff common room, even if shared, and new court buildings should have a room allocated to interpreters (Auld 2001: paragraph 159).

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Although there are some regulations regarding the use of qualified interpreters within the CJS in England and Wales, they are not followed by all sectors, due to their optional nature. The latest regulation is the National Agreement on Arrangements for the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings within the Criminal Justice System, as revised in 2007. For that reason, the profession of legal interpreting should be regulated through the introduction of legislation in the form of an Act of Parliament that would give interpreters a professional status. The regulation would curtail the intrusion of commercial agencies in the CJS through the procurement of interpreters. The act also would protect the public from dishonest individuals who deliberately mislead people by calling themselves something they are not.

It needs to be emphasised that the title ‘interpreter’ should be protected like other professions. It should be illegal for unqualified and untrained individuals to act as interpreters and translators. This would prevent the abuse of using unqualified individuals as interpreters or translators. Lalmy (2009:13) states that the term interpreter is abused by people who assume that a person who speaks two languages can be used as an interpreter. He asserts that the profession of an interpreter is similar to any other profession in terms of the different levels of skills, qualifications, experience and training in a specialised field.

The legal interpreting profession is fragmented with different registering bodies and various codes of practice; each body has its own list of interpreters. Among these bodies are the CIOL; NRPSI; ITI; APCI and CACDP. This state of affairs has produced different policies towards the practice of interpreting as well as different levels of skilled and qualified interpreters.

In practice, the recommended public service providers, with overlapping memberships or registration, should amalgamate under one body. Lord Auld states that such fragmentation is a waste of resources (Auld 2001: paragraph 158 and Lalmy 2009:13). The researcher recommends that a unified legal interpreting body should be funded and administered by the Ministry of Justice, as in Holland, or the Legal Aid Council. In this context, The European Parliament, through its Committee of Civil Liberties, Justice and Home Affairs, recommends that Member states: ‘put in place a system of training, qualifications and accreditation of translators and interpreters for legal work. It further requests the establishment of a national register of independent translators and

interpreters and makes it available on a cross-border basis, to lawyers and relevant authorities'.<sup>23</sup> Document no. 5 in MOJ's letter of 30 March 2011 informed: 'Articles 5 and 6 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) give the right to interpretation for those who are arrested and who face criminal court proceedings. In addition, in October 2010 the European Union adopted a Directive intended to ensure that rights enshrined in the ECHR are implemented consistently across all 27 Member States. The Directive must be implemented by Autumn 2013'.

The government should provide funding to further education institutions and universities that offer courses for the Diploma in Public Service Interpreting (DPSI) in all languages (Auld 2001: paragraph 159 and Schweda-Nicholson 1986 in De Jongh 1992:121). De Pedro Ricoy (2010:104) points out that the costs of adequate vocational training material, examination fees and membership of professional interpreting bodies could discourage poor background potential interpreters from embarking on a qualification course. Therefore, grants and scholarships and training opportunities should be available.

Lalmy (2008:14-15) and De Pedro Ricoy (2010:107) add that further education in interpreting studies could be offered not only in DPSI, but also at a higher secondary level in the form of a post graduate degree covering translation and interpreting, which would equip interpreters with most tools of the trade. In addition, seminars could be

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<sup>23</sup>. <http://www.europarl.europa.eu/sides/getDoc.do?language=en&type=IM-PRESS&reference=20100406IPR72182> (08-04-2010) [Accessed 17/04/2011]

provided for interpreters working towards gaining a Professional Development Award (PDA). Both Lalmy (2008:14) and De Pedro Ricoy (2010:112) call for interpreters to undertake a Continuing Professional Development (CPD) programme in order to further their knowledge and skill in the field of interpreting. Wadensjö (2006:34) identifies some countries that offer professional training to community interpreters at a national level such as the Nordic countries, Australia, New Zealand and the Canadian Northwest territories. However, in most countries public support for community interpreting training programmes fluctuate depending on the political climate that decides the level of funding available for training programmes and the rate of pay for interpreters.

González et al (1991:176-177) assert that interpreting in court is more demanding than in a conference situation. Court interpreters mostly work alone, not in pairs, as conference interpreters do. Interpreters that work in the legal sector are faced with many new concepts and spontaneous testimony without knowledge of the subject matter. De Pedro Ricoy (2010:111) comments that since interpreters mostly work as freelancers after spending money and time in gaining a qualification, that entitles them to work in a highly-specialised and demanding job. Their profession deserves recognition, as other professions, as well as a reasonable rate of pay. Public service interpreting entails interpreters being called out at any time of the day or night to deal with emergencies of a stressful nature, whether it be in medical or police work.

It would be useful if each linguistic group formed 'language forums', where they could exchange up to date information about the profession and agree on the translation of

legal terminology. This would prevent disagreement amongst interpreters on how to translate a word or term in court.

A national publicly funded call centre should be established to find and provide qualified, trained and vetted interpreters to work within the CJS and process payments. Similar schemes have been in operation for some time, such as the one used for duty solicitors set up by the Legal Services Commission (LSC). At present, the Home Office, Metropolitan police and Asylum and Immigration Tribunal (AIT) operate call centres successfully, where they employ interpreters on their register and do not resort to using commercial agency interpreters, apart from in exceptional cases. The ACPI started running a call centre as a pilot project on 2nd April 2008. It was supported by a full marketing and awareness programme with Court Liaison Officers from the Association making contact with decision makers at all levels within the courts. The main target was to cover courts within the M25 area and to operate between 08:00 and 18:00 hours, Monday to Friday. However, calls were received beyond that area from police constabularies and law firms, as well as courts. Therefore, the ACPI came to a decision to continue the project indefinitely, which has been financed from members' subscriptions (APCI's news letter April 2009). Butler and Noakes (1992:59) supported a single central list, but envisaged that some viewed regional call centres could be responsible for recruitment and training. Therefore, a national call centre would be more desirable than several regional call centres. It is envisaged that the national call centre would run 24 hours, 7 days a week, similar to the duty solicitor's scheme.



Since languages are of a dynamic nature and in a process of continuous change, interpreters are advised to keep abreast of their languages, including changes in dialects and culture (De Jongh 1992:54). This can be done by reading newspapers and taking trips to the countries that speak their working languages and through forums proposed above.

Many of the above recommendations are based on the findings of the present study in Chapter Five “Presentation of Findings” and Chapter Six “Discussion of the Findings”. If implemented, these recommendations would improve the perception and application of legal interpreting among participants in the legal establishment. Some of the present recommendations concurred with Lord Auld’s recommendations, issued in 2001, but not implemented.

Future studies could consider the planning and designing of training courses on the use of interpreters for personnel working in the CJS. Each course would be tailored according to the needs of each profession within the legal system, which is not the remit of the present study.

Interpreters are usually self-employed, therefore they do not enjoy the benefits afforded other employees such as statutory protection of employment rights, annual holidays, pension or sick pay. Their income is insecure and their rates vary according to the service provider’s rate. This has remained static for many years and their cancellation payments are low. Therefore, in most cases, interpreters do not know when and where

they would be called for an assignment or how long it would take. Jolliffe (1995:18) points out that many interpreters feel isolated and complain of lack of understanding of their profession, as well as the non-recognition of their status or role during legal procedures. On the other hand, interpreters enjoy an independent status and are free to accept or decline any assignment or go for holiday at the time of their choice. They also have varied and challenging assignments to tackle at different venues. Deferrari (1989:123) refers to an interpreter expressing her/his satisfaction in providing an interpreting service that facilitates communication in cases where the defendant/witness speaks a language different from the legal proceedings. The interpreter finds gratification from witnessing the court deciding on various matters ranging from civil to criminal and family cases.

Inghilleri (2005:83) calls on interpreters to have 'a collective sense of themselves'. De Jongh (1992:120) explains in Benmaman (1988) that there is an emerging professional culture in the field of court interpreting. This is manifested in shared values, behavioural norms and shared symbols of their profession in the workplace and beyond. De Jongh quotes Benmaman as saying: 'It is an attitude towards work which views it as an end in itself, performed with affinity primarily for personal satisfaction and not monetary gains, and requiring total personal involvement'. Benmaman wishes the field of interpreting 'to rise within the professional hierarchy. It can do so by strengthening those attributes which have already emerged in a number of dimensions'. Professional culture can be developed through forums such as 'The National Register of Public Service Interpreters' Action Group' (Action Group) and the Professional Interpreters' Alliance (PIA). These forums arrange meetings with their members to discuss current

issues that affect the profession such as the Judicial Review to the Greater Manchester Police and their intention to outsource the provision of interpreters through a commercial agency. They also review any proposals by the Ministry of Justice (MOJ) regarding changes to the profession of interpreting.

As Gibbons (2003:225) points out, the work done by interpreters and translators is vital for the maintenance and achievement of justice for the non-English speakers. It needs to be emphasised that it is a violation of natural justice and basic rights for people to be tried without having a complete linguistic understanding of the legal proceedings. Therefore, there is a need to employ the highest standard interpreters who are qualified, skilled and experienced to work within the CJS. Hence, interpreters should be considered as co-workers employed with legal practitioners for the pursuit of justice in the non-English speaking cases.

## **7.2 Originality and contribution to knowledge of the thesis**

The current research is making a significant contribution towards understanding the views held by legal practitioners towards the practice of legal interpreting for the non-English speakers and the factors behind their perception.

The present study has undertaken empirical research from a practising interpreter's point of view, looking at how the legal professionals perceive legal interpreters and their role in legal settings. Recommendations for training legal personnel have been put

forward. Legal practitioners should realise that interpreters present a critical link between them and the non-English speakers during legal proceedings. The area of the present study has not been researched by previous authors.

In fact, in reference to the present situation, previous studies are now outdated. Measures have since come into effect through the Trial Issues Group (TIG) agreement on the appointment of interpreters in criminal proceedings. This was first drafted in 1997, then revised in 2002 and later renamed the Interpreters' Working Agreement (IWG). The agreement has put forward recommendations that, by the start of 2002, the selection of interpreters working for the CJS should be chosen from the NRPSI or the CACDP directories.

Furthermore, Lord Justice Auld made recommendations in 2001 on the use of interpreters by police and courts, followed by a Home Office Circular in 2006. All the above recommendations stipulated that every court and police station, when employing an interpreter, should select a person from one of the above directories.

The latest regulation, named National Agreement (NA), was published by the Office of Criminal Justice Reform (OCJR) late in January 2007. The clause 'whenever possible', which appeared in previous regulations, was dropped from this document. This clause presented a loophole through which commercial agencies could present themselves into the legal system for the procurement of interpreters. The agreement gave clearer stipulation that all CJS sectors employ only registered interpreters. The National Agreement states, 'It is essential that interpreters used in criminal proceedings should be

competent to meet (ECHR) obligations. To that end, **the standard requirement is that every interpreter/LSP working in courts and police stations should be registered** with one of the recommended registers, ie the National Register of Public Service Interpreters at full or interim status (with Law Option) for non English Spoken languages, and, as full members, **CACDP** for communicating with D/deaf people' (National Agreement 2007:4). [Bold in original]

In connection with this, formal interpreting qualifications were not available at the time of the above studies taking place. Hence, the image of interpreters was further distorted and misunderstood, more than at present, and they were not looked on as professionals in their own right, providing a valuable service in the legal system.

The European Charter for Regional or Minority Languages was ratified by the United Kingdom on 27 March, 2001. However, the Charter distinguishes between old minorities and new minorities and is aimed at indigenous minority languages of Europe. Although the UK accepted its obligations under the Charter for Welsh, Irish Gaelic, Scottish Gaelic, Ulster and Cornish, it did not pay attention to the new minorities' languages and did not legislate for domestic statutory provision of languages for the recent immigrants into the country. The author calls for the situation to be rectified and equal legislation to be passed for non-indigenous minority languages. The researcher also calls for a Court Interpreters Act/Legal Interpreters Act in the United Kingdom to be equal to the one applied in the United States. The United States' Court Interpreter Act was enacted in October 1978 under Public Law 95-539, which made the interpreter an official entity in US district courts. The act directs courts to employ qualified or

certified interpreters in all criminal and civil cases lodged by federal government in federal courts (Berk-Seligson 1990b:160). The above would be tailored to local legislation and traditions.

There is no previous study that considers interpreters as intimidated workers in the CJS and their situations in stressful cases. Usually, interpreters are the forgotten and unseen officers in the legal system. They have no information in advance of any case and nor are they told of what to expect from the evidence given at a police station or in court. The study has revealed that CJS personnel lack basic knowledge of the profession of interpreting or the best way to work with interpreters. They treat the non-English speaking cases as similar to that of English speaking ones. Since the non-English speaking cases are mediated through an interpreter, legal practitioners should allow time for the interpreter to convert the source language into the target one. More to the point, there is no appreciation or understanding of issues, such as variation in culture and different legal systems of non-natives, which need to be explained by the interpreter or the legal advisor. There is a distorted assumption that any bilingual can be utilised as an interpreter, however this is not the case. Interpreters need to be qualified and trained for a number of years and specialised in a specific field with its precise terminology. Qualifications and training, like any other profession, are crucial for the interpreter to gain a professional standard that entitles her/him to work in court or any other public service sector. The interpreter, as an officer of the court, plays a valuable role in court procedures for the application of justice for non-English speakers. Interpreting studies should be studied at universities on par with other disciplines and joined degrees with legal schools should be offered. Modules should be tailored for training legal

practitioners on the best way to work with interpreters, as partners working together for the achievement of justice in the legal sector. This study is making a great stride towards the development of interpreting studies for future researchers and academia.

## REFERENCES

- Alexieva, B. (1997) *Typology of Interpreter-mediated Events*. In: Pöchhacker, F. and Shlesinger, M. (2002) **The Interpreting Studies Reader**. London and New York, Routledge, PP.218-233.
- Allen, C. (2006) *Thousands Lost in Translation: Police Spend £412,000 on Interpreters*. In: **Bristol Evening Post**. 14 September 2006, P.5.
- Anderson, R.B.W. (1976) *Perspectives on the Role of Interpreter*. In: Pöchhacker, F. and Shlesinger, M. (2002) **The Interpreting Studies Reader**. London and New York, Routledge, PP.208-217.
- Association of Police and Court Interpreters' News Letter, December 2005.
- Asylum and Immigration Tribunal, *When should interpreters performance check be completed?* Interpreters Support 15 June 2009 (notes sent to judges).
- Auld, Lord Justice (2001) **Review of the Criminal Courts of England and Wales 2001. The Trial Procedures and Evidence** in: Chapter 11, PP.1-8.
- Barkham, P. (2007) *On the Margins*. In: **The Guardian**. 26 September 2007, P.4.
- Barriball, K.L. and White, A. (1994) *Collecting Data Using a Semi-structured Interview: A Discussion paper*. In: **Journal of Advanced Nursing**. Vo. 19, PP.328-335.
- BBC News channel (2004) *Court 'tardis' for Interpreters: A Dr who-style tardis was built in an Old Bailey courtroom after six men, later found guilty of almost beating a man to death, intimidated interpreters*. In **BBC News Channel**. 23 June 2004 Available from:  
<http://news.bbc.co.uk/1/hi/England/London/3834609.stm>. [Accessed 26/04/2009].
- BBC Radio 4 (2007) *Face the Facts: Iraqi Interpreters*. Transcript of Transmission. In: **BBC Radio 4**. 20 July 2007. Available from:  
[http://www.bbc.co.uk/radio4/facethefacts/transcript\\_20070720.shtml](http://www.bbc.co.uk/radio4/facethefacts/transcript_20070720.shtml). [Accessed 13/09/2007].
- BBC News (2009) *Refugees 'failed by translators'*. In **BBC News**. 20 February 2009, Available from:  
[http://news.bbc.co.uk/1/hi/uk\\_politics/3505507.stm](http://news.bbc.co.uk/1/hi/uk_politics/3505507.stm). [Accessed 26/04/2009].
- BBC News Cambridgeshire (2010) *Interpreters Help to Fight Crime in Cambridgeshire*. In: **BBC News Cambridgeshire**. 26 July 2010. Available from:  
<http://www.bbc.co.uk/news/uk-england-cambridgeshire-10766449>  
[Accessed 02/08/2010].



BBC News Bradford (2010) *New Interpreters Save Yorkshire Police Force*. In: **BBC News Bradford**. 18 October 2010. Available from: [http://news.bbc.co.uk/local/bradford/hi/people\\_and\\_places/newsid\\_9102000/9102458](http://news.bbc.co.uk/local/bradford/hi/people_and_places/newsid_9102000/9102458) [Accessed 19/10/2010].

Bradley, J.C. and Edinberg, M.A. (1990) **Communication in the Nursing Context**. Third Edition, Norwalk, Connecticut/San Mateo, California, Appleton and Lange.

Dean, J.P. and Whyte, W.F. (1970) "*How Do You Know if the Informant is Telling the Truth?*" In: Dexter, L. (1970) **Elite and Specialized Interviewing**. Evanston, Northwestern University Press, PP.119-131.

Deferrai, M. (1989) *Judiciary Interpretation: Theory and practice*. In: Hammond, D.L. (ed) (1989) **Coming of Age: Proceedings of the 30<sup>th</sup> Annual Conference**. PP.123-127.

Dexter, L.A. (1970) **Elite and Specialized Interviewing**. Evanston, Northwestern University Press.

Baksi, C. (2011) *Row Erupts Over Police Interpreters*. In: **Law Society Gazette**. 03 February 2011. Available from: <http://www.lawgazette.co.uk/news/row-erupts-over-police-interpreters> [Accessed 04/02/2011].

Baksi, C. (2011) *Defence Solicitors Warn MOJ Over Interpreter Outsourcing*. In: **Law Society Gazette**. 10 March 2011. Available from: <http://www.lawgazette.co.uk/news/defence-solicitors-warn-moj-over-interpreter-outsourcing> . [Accessed 10/03/2011].

Bassnett-McGuire, S. (1991) **Translation Studies**. Revised edition, London and New York, Routledge.

Beloff, M., QC (1987) *Minority Languages and the Law*. In: **Legal Problems**. 40, PP.139-157.

Berk-Seligson, S. (1990a) **The Bilingual Courtroom: Court Interpreters in the Judicial Process**. Chicago, University of Chicago Press.

Berk-Seligson, S. (1990b) *Bilingual Court Proceedings: The Role of the Court Interpreter*. In: Levi, J.N. and Walker, A.G. (1990) (eds) **Language in the Judicial Process**. London and New York, Plenum Press, PP.155-201.

Bingham, Sir Thomas (1985) *The judge as juror: the Judicial Determination of Factual Issues*. In: **Current Legal Problems**. PP.1-27.

Black, M. (2010) *Suspended Sentence for Bradford Translator who committed 'a serious breach of trust'*. In: **Telegraph and Argus**. 27 September 2010. Available from:

[http://www.thetelegraphandargus.co.uk/news/8264989\\_Interpreter\\_was\\_an\\_illegal\\_immigrant](http://www.thetelegraphandargus.co.uk/news/8264989_Interpreter_was_an_illegal_immigrant). [Accessed 27/09/2010].

Blatchford, C. (2008) *Courts: The Cost of Bad Interpreters*. In: Ontario Justice Lost in Translation, Lawsuit to Allege. 14 April 04 2008.

Available from: <http://tinyurl.com/48wv4h> . [Accessed 18/04/2008].

Booth, R.; Wachman, R. and Vasagar, J. (2010) *Austerity Drive will Hand Billions to Private Sector*. In: **The Guardian**. 16 July 2010. Available from:

<http://www.guardian.co.uk/politics/2010/jul/16/austerity-drive-billions-private-sector/print>. [Accessed 18/07/2010].

Breaking News (2009) *Illegal Immigrant Hired as Translator in Garda Criminal Probe*. In: **Breaking News**. 29 April 2009. Available from:

<http://www.breakingnews.ie/print/eyauidqlqlcw/>. [Accessed 07/05/2009]

Bresnahan, M.I. (1991) *When a Response is not an Answer: Understanding Conflict in Nonnative Level Testimony*. In: **Multilingua**. Vo.10, part (3) PP.275-293.

British National Party (South West) (2006) *Groping's Okay in Poland – Apparently!* 9 November 2006. In: **British National Party** (South West). Available from:

[http://www.bnp.org.uk/reg\\_showarticle.php?contentID=1395](http://www.bnp.org.uk/reg_showarticle.php?contentID=1395). [Accessed 10/11/2006].

British Sociological Association, **Statement of Ethical Practice**. March 2002, section 31, P.5, Available from: <http://www.britisoc.co.uk/index>. [Accessed 02/04/2002].

Britton, P. (2009) *Terror Cops Fooled by Fake Translator*. In: **Manchester Evening post**. 28 August 2008. Available from:

[http://menmedia.co.uk/manchestereveningnews/news/s/1134133\\_terror\\_cops\\_foiled\\_by\\_fake\\_translator](http://menmedia.co.uk/manchestereveningnews/news/s/1134133_terror_cops_foiled_by_fake_translator). [Accessed 28/08/2009].

Brooke, Mr Justice (1992/1993) *Ethnic Minorities: Seven Points to Remember*. In: **The Magistrate**. Vol.48, part (10), December 1992/January 1993, PP. 194-195.

Brown, R. (2008) *Police Clock up Huge Mileage in Luxury Cars*. In **Cambridge News**. 8 January 2008. Available from:

[http://www.cambridge-news.co.uk/cn\\_news\\_cambridge/displayarticle.asp?id=246743](http://www.cambridge-news.co.uk/cn_news_cambridge/displayarticle.asp?id=246743). [Accessed 19/04/2009].

Brown, M. (2009) *Immigrants Run up £25M Police Bill for Translators*. In: **Daily Express**. 21 November 2009. Available from:

<http://www.express.co.uk/posts/view/141537/Immigrants-run-up-25m-police-bill-for-translators>. [Accessed 22/11/2009].

Brown, R. (2010) *Police Face Soaring Cost of 'essential' Translators*. In: **Cambridge News**. 22/09/2010. Available from: <http://www.cambridge-news.co.uk/cambridge/police-face-soaring-cost-of-essential-translators.htm>. [Accessed 28/09/2010].

Bryman, A. and Cramer, D. (2001) **Quantitative Data Analysis with SPSS Release 10 for Windows: A Guide for Social Scientists**. London, Routledge.

Buckingham, G. (2008) **The Association of Police and Court Interpreters**. Paper presented at the Ninth International Forum on Interpreting and Translation at Court and for the Public Authorities, University of Tamere 29 May-01 June 2008.

Bulmer, M. (1982) *The Merits and Demerits of Covert participant Observation*. In: Bulmer, M. (1982) **Social Research Ethics**. London and Basingstoke, The Macmillan Press LTD, PP. 217-251.

Bunyan, N. (2009) *Red Faces as Bogus Interpreter Manages to Infiltrate Counter-terrorism Unit*. In: **Telegraph**. 28 August 2009. Available from: <http://www.telegraph.co.uk/news/uknews/6104226/Red-faces-as-bogus-interpreter-m..> [Accessed 31/08/2009].

Burke, L. (2005) *Contestability, Partnerships and the Mixed Economy*. Chapter 2 in: **From Probation to the National offender Management Service: Issues of Contestability, Culture and Community Involvement**. Monograph 6, PP.17-26.

Burton, M et al (2006) *Findings: An Evaluation of the Use of Special Measures for Vulnerable and Intimidated Witnesses*. **Home office Report**, No. 270.

Burton, M et al (2006) *Are Special Measures for Vulnerable and Intimidated Witnesses Working? Evidence from the Criminal Justice Agencies*. **Home Office Report** 01/06.

Butler, I. and Noaks, L. (1992) **Silence in Court? A Study of Interpreting in the Courts of England and Wales**. University of Wales College of Cardiff, Commissioned by the Nuffield Interpreter project and funded by the Nuffield Foundation, July 1992, PP.1-22.

Bynorth, J. (2008) *Justice System Compromised by Unqualified Interpreters*. In: **Sunday Herald**. 24 May 2008. Available from: [http://www.sundayherald.com/search/display.var.2295799.o.justice\\_system\\_compromised\\_by\\_unqualified\\_interpreters.php](http://www.sundayherald.com/search/display.var.2295799.o.justice_system_compromised_by_unqualified_interpreters.php). [Accessed 24/05/2008].

Bynorth, J. (2008) *Inquiry into Trial's Use of Unqualified Interpreter*. In: **Sunday Herald**. 16 November 2008. Available from: [http://www.sundayherald.com/search/display.var.2468270.o.inquiry\\_into\\_trials\\_use\\_of\\_unqualified\\_interpreter.php](http://www.sundayherald.com/search/display.var.2468270.o.inquiry_into_trials_use_of_unqualified_interpreter.php). [Accessed 18/11/2008].

- Cacciottolo, M. (2007) *Lost without Translation*. In: **BBC News Channel**. 11 December 2007. Available from: <http://news.bbc.co.uk/1/hi/uk/7138299.stm>. [Accessed 12/12/2007].
- Callejo, R. A. (1968) *The Case for Spanish Speaking*, In: **Trial**. (Oct/Nov) 1968, PP.52-53.
- Camayd-Freixas, E. (2008) *Statement To The Profession*. In: **The National Association of Judiciary Interpreters and Translators**. Vol. XVII, No. (3), Fall 2008, PP.5-8.
- Cambridge, J. (2003) *Briefing Your Interpreter for Court*. In: **Criminal Practitioners Newsletter**. No. 53, PP.10-11.
- Cambridge, J. (2004) '*Profession*' is a Cultural Concept: Training New Arrivals. In: **Professionalisation of Interpreting in the Community**. International Conference Critical Link 4, May 20-23, 2004, Stockholm, Sweden, PP.1-7.
- Campbell, A. (2010) *£2.2m West Midlands Police Bill for Interpreters*. In: **Express and Star**. 23 October 2010. Available from: <http://www.expressandstar.com/news/2010/10/23/2-2m-west-midlands-police-bill-for-interpreters/#ixzz13BPBAr3k> . [Accessed 23/10/2010].
- Cavadino, M and Dignan, J (2002) *Prison Privatization: Panacea or Pandora's Box?* In: **The Penal System: An Introduction**. Third edition, Sage Publications. PP.250-284.
- Chadderton, S. (2011) *Lancashire Police Interpreter Contract is Scrapped*. In: **ITIA Bulletin**. (4 April 2011), PP.3-4.
- Chandler, D. and Colin, J. (1992) *Training for Court Interpreters: A Local Initiative*. In: **The Magistrate**. May 1992, P.66.
- Chesters, R. (1997) *Good Interpreters*. In: **Magistrate**. (1997) Vol. 53, Part (6), P.156.
- Chidzoy, S. (2008) *Police Count the Cost of Migrants*. In: **BBC Look East** (Regional News). 11 April 2008. Available from: <http://news.bbc.co.uk/1/hi/england/cambridgeshire/7343905.stm>. [Accessed 15/04/2008].
- Cohen, H. (1929) **A History of the English Bar and Attornatus to 1450**. London, Sweet and Maxwell Limited.
- Colin, J. and Morris, R. (1996) **Interpreters and the Legal Process**. Winchester, Waterside Press.
- Community Interpreting News (2010) *Oldhamers Urged to Become Community Interpreters*. In: **Manchester Evening News**. 31 August 2010. Available from: [http://menmedia.co.uk/manchestereveningnews/news/s/1315574\\_oldhamers\\_urged\\_to\\_become\\_community\\_interpreters](http://menmedia.co.uk/manchestereveningnews/news/s/1315574_oldhamers_urged_to_become_community_interpreters). [Accessed 02/09/2010].

Conley, J.M. and O'Barr, W.M. (1990), **Rules versus Relationship: The Ethnography of Legal Discourse**. University of Chicago Press.

Copping, J. (2006) *Unqualified Interpreters' Cause Chaos in Court*. In: **Sunday Telegraph**. 27 August 2006. Available from:  
<http://www.telegraph.co.uk/news/main.jhtml?xml=news/2006/08/27nimmi12>.  
[Accessed 29/08/2006].

Corsellis, A. (1995) **Non-English Speakers and the English Legal System: A Handbook to Good Practice for those Working in the Legal System Across Language and Culture**. Cropwood occasional paper No.20, University of Cambridge Institute of Criminology.

Corsellis, A. (2006) *Interpreters*. In **Magistrate**. June 2006, PP.170-171.

Courts of Justice Act 1731, George II, c. 26. In Pickering, D. (1765) **The Statutes at Large from the Second to 9<sup>th</sup> Year of King George II**. Anno quarto George II Vol.16.

Crawford, P.; Brown, B. and Nolan, P. (1998) **Communicating Care: The Language of Nursing**. Cheltenham, Nelson Thornes (Publishers) Ltd.

Crawford, P.; Brown, B. and Bonham, P. (2006) **Communication in Clinical Settings**. Cheltenham, Nelson Thornes Ltd.

Cronin, M. (2002) *The Empire Talks Back: Orality, Heteronomy and the Cultural Turn in Interpreting Studies*. In: Pöchhacker, F. and Shlesinger, M. (2002) **The Interpreting Studies Reader**. London and New York, Routledge, PP.386-397.

Crook, A. *NHS Cash Lost in Translation*. In: **Manchester Evening News**. 01 October 2008. Available from:  
[http://menmedia.co.uk/manchestereveningnews/news/s/1070112\\_nhs\\_cash\\_lost\\_in\\_translation](http://menmedia.co.uk/manchestereveningnews/news/s/1070112_nhs_cash_lost_in_translation). [Accessed 12/01/2011].

Cross, G. (1998) *When Words Mean Everything*. In: **The Lawyer**. April (1998) Vol.12, Part (17), P. 24.

Daily Mail (2007) *Translation Services Must be Axed to Force Immigrants to Learn English*. In: **Daily Mail**. 16 June 2007. Available from:  
<http://www.dailymail.co.uk/news/article-461122/Translation-services-axed-force-immigrants-learn-English.html>. [Accessed 18/06/2007].

De Jongh, E.M. (1992) **An Introduction to Court Interpreting: Theory and Practice**. London, New York, Lanham, University Press of America.

Denzin, N.K. and Erikson, K. (1982) *On the Ethics of Disguised observation: An Exchange Between Norman Denzin and Kai Erikson*. In: Bulmer, M. (1982) **Social Research Ethics**. London and Basingstoke, The Macmillan Press LTD, PP. 142-151.

De Pedro Rico, R. (2010) *Training Public Service Interpreters in the UK: A Fine Balancing Act*. In: **Journal of Specialised Translation**. Issue (14), July 2010, PP.100-120.

Dovoda, L.(1989) *A Translator Looks at English Law*. In: **Statute Law Review** (1989), Vol.10, Part (1), PP.69-78.

Doyle, J. (2011) *Migrant Crime Wave Revealed: Foreign Arrests have Almost Doubled in Just THREE Years*. In: **Daily Mail**. 5 April 2011, Available from: <http://www.dailymail.co.uk/news/article-1373210/Foreign-arrests-double-just-THREEyears>. [Accessed 07/04/2011].

Easton, M. (2006) *Cost in Translation*. In: **BBC News Channel**. 12 December 2006. Available from <http://news.bbc.uk/1/hi/uk/6172805.stm> . [Accessed 24/07/2010].

Eco, U. (2003) **Mouse or Rat? Translation as Negotiation**. London, Weidenfeld and Nicolson.

European Parliament (2010) *Stronger Language Rights for EU Citizens in Criminal Trials*. Committee: Civil Liberties, Justice and Home Affairs, 08 April 2010, Available from: <http://www.europarl.europa.eu/sides/getDoc.do?language=en&type=IM-PRESS&reference=20100406IPR72182>. [Accessed 17/04/2011].

Evening Post (2008) *Interpreters Costs Rocket*. In: **Evening Post**. 11 March 2008, P.6.

Evening Post (2010) *West Yorkshire Police Bid to Slash £2m Interpreter Bill*. In: **Evening Post**. 22 January 2010, Available from: <http://www.yorkshireeveningpost.co.uk/news/West-Yorkshire-Police-bid-to.6005138.jp> [Accessed 05/08/2010].

Foreign Exchange Translations (2009) *Man grew Pot Must Serve as Translator*. 25 January 2009. In: **Foreign Exchange Translations**. Available from: <http://blog.fxtrans.com/2009/01/man-man-who-grew-pot-must-serve-as.html>. [Accessed 30/01/2009].

Gamal, M. (2006) *Court Interpreting*. In: Baker, M. (ed) (2006) **Routledge Encyclopaedia of Translation Studies**. Oxon and New York, Routledge, PP.53-56.

Gavaghan, J. (2006) *Anything You Say Will be Taken Down, Interpreted into English and Cost the taxpayer £20 M*. In: **The People**. 14 September 2006. Available from: <http://www.peoplenews@mgn.co.uk>. [Accessed 24/09/2006].

Gibbons, J. (2003) **Forensic Linguistics: An Introduction to Language in the Justice System**. Oxford, Blackwell Publishing.

Goffman, E. (1961) **Asylums**. Middlesex, Harmondsworth, England, Penguins Books Ltd.

Golafshani, N. (2003) *Understanding Reliability and Validity in Qualitative Research*. In: **The Qualitative Report**. Vol.8, No. (4), December 2003, PP.597-606.

González, R. D.; Vásquez, V. F. and Mikkelsom, H. (1991) **Fundamentals of Court Interpretation: Theory, Policy, and practice**. Durham, North Carolina US, Carolina, Academic press.

Goodrich, P. (1987) **Legal Discourse: Studies in Linguistics, Rhetoric and Legal Analysis**. London, Macmillan Press.

Gradidge v Grace Bros Pty Ltd (1988) 93 FLR 414 In: Robert-Smith, L. (1990) *Working with Interpreters in Court: Some Legal Issues*. In: **Legal Service Bulletin**. Vol.15 No. (4), August 1990.

Guest, G.; Bunce, A. and Johnson, L. (2006) *How Many Interviews Are Enough? An Experiment with Data Saturation and Variability*. In: **Field Methods**. Vol. 18, No. (1), February 2006, PP.59-82.

Haffner, L. (1992) *Translation is not enough: Interpreting in a Medical Setting: Cross Cultural Medicine*. In: **The Western Journal of Medicine**. Vol. 157, issue (3) September 1992, PP.255-259.

Halcomb, E.J. and Davidson, R.M. (2006) *Is Verbatim Transcription of Interviews Data Always Necessary?* In: **Applied Nursing Research**. Vol. 19, PP.38-42.

Halder, P (1991) *The evidencer's Eye: Representations of Truth in the Laws of Evidence*. In: **Law and Critique** (1991) Vol.II, No. (2), PP.171-189.

Harris, R. and Brown, G.T.L. (2010) *Mixing Interviews and Questionnaire Methods: Practical Problems in Aligning Data*. In: **Practical Assessment Research and Evaluation**. Vol. 15, No (1), January 2010, PP. 1-19.

Handbook of Diploma in Public Service Interpreting, updated 2007.

Hatim, B. and Mason, I. (1990) **Discourse and the Translator**. London and New York, Longman.

Hatton, D.C. and Webb, T. (1993) *Information Transmission in Bilingual, Bicultural Contexts: A Field Study of Community Health Nurses and Interpreters*. In: **Journal of Community Health Nursing**. Vol.10 issue (3), PP.137-147.

Hayes, T. and Mattimoe, R. (2008) *To Tape or Not to Tape: Reflections on Methods of Data Collection*. In: Humphrey, C. and Lee, B. (eds) (2008) **The Real Life Guide to Accounting Research: Behind the Scenes View of Using Qualitative Research Methods**. Oxford, Elsevier Ltd, PP. 359-372.



Heard, C. (2010) *Standardising Defence Rights Across Europe will build Trust: Directive will Entitle Anyone Facing Charges in an EU Country to Prompt Access to an Interpreter* In: **The Guardian**. 25 June 2010. Available from: <http://www.guardian.co.uk/law/2010/jun/25/standardising-defence-rights-across-europe>. [Accessed 29/06/2010].

Her Majesty's Courts Service (HMCS) (2007) **Interpreters and Language Service professionals in the Criminal Courts**. A Good Practice Guide for Court Staff, February 2007.

Holdaway, S. (1983) **Inside the British Police**. Basil Blackwell Publisher Limited.

Homan, R. and Bulmer, M. (1982) *On the Merits of Covert Methods: a Dialogue*. In: Bulmer, M., (1982) **Social Research Ethics**. London and Basingstoke, The Macmillan Press LTD, PP. 105-121.

Home Department (2008) *Immigration: Interpreters. Written answers and Statements*. 28 April 2008. Available from: <http://www.theyworkforyou.com/wrans/?id=2008-04-28a.198519.h&s=interpreters#g198519.ro> [Accessed 30/03/2008].

Home Office Circular No. (17/2006) *The Use of Interpreters within the Criminal Justice System*. PP.1-6.

Home Office (1998) **Speaking for Justice**. Report of the Interdepartmental Working Group on the Treatment of Vulnerable or Intimidated Witnesses in the Criminal Justice System, June 1998.

Home Office (2002) Practice Guidance. **Provision of Therapy for Vulnerable or Intimidated Adult Witnesses Prior to a Criminal Trial**. Implementing the speaking up for Justice Report.

Horton, J.; Macve, R. and Struyven, G. (2008) *Qualitative Research: Experiences in Using Semi-structured Interviews*. In: Humphrey, C. and Lee, B. (eds) (2008) **The Real Life Guide to Accounting Research: Behind the Scenes View of Using Qualitative Research Methods**. Oxford, Elsevier Ltd, PP. 339-350.

Howie, M. (2009) *Courts to Hire Interpreters in £6m Bid to Safeguard Justice*. In: **Scotland News**. 14 May 2009. Available from: <http://news.scotsman.com/scotland/courts-to-hire-interpreters-in.5265049.jp>. [Accessed 14/06/2010].

Immigration and Asylum Tribunals (undated) *Terms & Conditions for Individuals Providing Face-to-Face Interpretation Services*.

Inghilleri, M. (2003) *Habitus, Field and Discourse: Interpreting as a Socially Situated Activity*. In: **Target**. Vol. 15 part (2) 2003, pp.243-268.



- Inghilleri, M. (2005) *Mediating Zones of Uncertainty: Interpreter Agency, the Interpreting habitus and Political Asylum Adjudication*. In: **The Translator**. Vol. 11, No. (1) 2005, pp.69-85.
- Ingram, R. (1974) 'A Communication Model of the Interpreting Process'. In: **Journal of the Rehabilitation of the Deaf**. No. 7, PP.3-9.
- Israel, M. (2004) *Strictly Confidential? Integrity and the Disclosure of Criminological and Socio-Legal Research*. In: **The British Journal of Criminology**. Vol. 44, No. (5), September 2004, PP.715-740.
- Jefferson, T. and Walker, M. (1992) *Ethnic Minorities in the Criminal Justice System*. In: **Criminal Law Review** (1992) pp.83-95.
- Johnson, M. (1999) *Communication in Healthcare: A Review of Some of the Key Issue*. In: **Nursing Times Research**. January/February, Vol.4, No. (1), PP.18-30.
- Johnston, J. (2008) *It's NOT Racist to tell the Truth about Immigration and Crime, Says Leading Police Chief*. In: **Daily Mail**. 7 June 2008.  
Available from: <http://www.dailymail.co.uk/news/article-1024782/Its-NOT-racist-tell-truth-immigration-crime-says-leading-police-chief.html>. [Accessed 08/06/2008].
- Jolliffe, P.R.H. (1995) **The Use of Interpreters in the Magistrates' Courts**. M.A. Dissertation, Leeds University, Faculty of Law, May 1995.
- Kennedy, H. (2004) **Just Law: Changing Face of Justice and Why it Matters to us All**. London, Chatto and Windus.
- King, C. (2008) *Beating the Bully*. In **The Linguist Bulletin**. 16 April 2008. Available from: NUPIT\_memebers\_forumAprilNews\_6\_beating the bully. [Accessed 18/4/2008].
- Kong, L. (2007) *A Question of Interpretation*. In: **Magistrate**. June 2007, PP.170-171.
- Labuschagne, A. (2003) *Qualitative Research – Airy Fairy or Fundamental?* In: **The Qualitative Report**. Vol. 8, No. (1), March 2003, PP.1-4.
- Lally, C. (2009) *Interpreters for Gardai are not Vetted Abroad*. In: **The IrishTimes**. 30 April 2009. Available from: <http://www.irishtimes.com/newspaper/ireland/2009/0430/1224245683458.html>. [Accessed 07/05/2009].
- Lalmy, B. (2009) *Interpreting Issues in Scotland*. Available from: <http://lalmy.blogspot.com> [Accessed 25/07/2010] PP.1-21.
- Landale, J. (2011) *Plans to Outsource Public Services 'scaled back'*. In: **BBC News Politics**. 3 May 2011. Available from: <http://www.bbc.uk/news/uk-politics-13273932?print=true> . [Accessed 03/05/2011].

- Laster, K. and Taylor V. (1994) **Interpreters and the Legal System**, Sydney, Federation Press.
- Lawrence, C. (2008) *Police Defend Soaring Translation Costs: Thames Valley Police have Defended the Soaring Costs Caused by an Increase Need for Interpreters*. In: **Slough and Langley Observer**. 4 November 2008. Available from: <http://www.sloughobserver.co.uk/printstory.php?s=1&i=6390>. [Accessed 05/11/2008].
- Leniz, M. (2004) *Assault on Interpreter*. In: **The Association of Judiciary Interpreters and Translators**. Vol. xiii, No. (2), Spring/Summer 2004, P.3.
- Levi, J. N and Walker, A. G. (1990) **Language in the Judicial Process**. London and New York, Plenum Press.
- Levy, A. (2006) *'Polish Borat' Claims Groping Women is Normal in Eastern Europe*. In: **The Daily mail**. 8 November 2008. Available from [http://www.dailymail.co.uk/pages/live/article/news/news.html?in\\_article\\_id](http://www.dailymail.co.uk/pages/live/article/news/news.html?in_article_id). [Accessed 10/11/2006].
- Little, T. (2010) *Defending the Profession*. In: **Newsli**. issue 73, July 2010. Available from: <http://www.asil.org.uk>. [Accessed 27/06/2010] PP. 6-11.
- Luccarelli, L. (2010) *Do you know how much you work? Not Just the Number of Days you Bill, but How Much of Your Time is actually dedicated to all Things related to Work? Let's look into it*. In: **Association Internationale des Interprètes de Conférence**. Available from: <http://www.aiic.net/community/print/default.cfm/page3467> [Accessed 09/07/2010].
- Macy, J.E. (1947) *Annotation - Use of Interpreter in Trial*. In: **American Law Reports**. 172, PP. 923-952.
- Mail Serving the Great city of Leicester (2008) *Police Pay 1.1 M. for Interpreters*. In: **Mail**. 20 March 2008, P.1.
- Makin, G. (2006) **Interpreting Within the British Criminal Justice System: Police, Courts and the Probation Service**. Paper given in the International Federation of Translators (FIT) conference, Winterthur, Switzerland, 2-5 November 2006.
- Makin, G. (2007) *Language Barriers Mean £800.000 Bill*. In: **Cambridge Evening News**. 5 March 2007. Available from: <http://www.interpreters-branch.org.uk/forum/index.php?showtopic=24>. [Accessed 21/03/2007].
- Makin, G. (2009) *Moirra Murder Case 'Hampered by Shortage of Translators'*. In: **Sundayherald**. 17 January 2009. Available from: <http://www.sundayherald.com/misc/print.php?artid=2482572>. [Accessed 22/1/2009].

Marginson, D.E.W. (2008) *The Case Study, The Interview and the Issues: A Personal Reflection*. In: Humphrey, C. and Lee, B. (eds) (2008) **The Real Life Guide to Accounting Research: Behind the Scenes View of Using Qualitative Research Methods**, Oxford, Elsevier Ltd, PP. 325-337.

Mason, I. (2006) *Communicative/Functional Approaches*. In: Baker, M (ed) (2006) **Routledge Encyclopaedia of Translation Studies**. Oxon and New York, Routledge, PP.29-33.

McLaughlin, M. (2009) *Battle of Words Threatens Chaos in the Courts*. In: **Scotland on Sunday**. 1 November 2009. Available from: <http://www.scotlandonsunday.scotsman.com/latestnews/Battle...of.5784353.jp>. [Accessed 01/11/2009].

Mellinkoff, D. (1963) **The Language of the Law**. Boston and Toronto, Little Brown and Company.

Merrick, J. (2007) *Translation Services 'must be axed to force immigrants to learn English'*. In: **DailyMail**. 10 November 2007. Available from: [http://www.dailymail.co.uk/pages/live/articles/news.html?in\\_article\\_id=461122](http://www.dailymail.co.uk/pages/live/articles/news.html?in_article_id=461122). [Accessed 11/06/2007].

Metropolitan Police Service, **Guidelines for Interpreters** (1998).

Metropolitan Police Test, Candidate Briefing Sheet. In **Language Services Limited**. August 2007.

Mikkelson, H. (1998) **Towards a Redefinition of the Role of the Court Interpreter**. PP.1-16. Available from: <http://www.acebo.com/papers/rolintrp.htm> [Accessed 26/4/04].

Modood, T. and Berthoud, R. (1997) **Ethnic Minorities in Britain-Diversity and Disadvantage**. London, Policy Studies Institute.

Moerman, E. et al (1993) **Court Interpreting: A Survey of Needs, Services and Problems in Criminal Proceedings**, ms.

Morgan, D. (1982) *The Life of a Court Interpreter*. In: **Graya**. 86, pp.51-52.

Morris, M. (ed) (1995) **Translation and the Law**. Amsterdam and Philadelphia, American Translators Association Series, Vol. VIII, John Benjamins Publishing Company.

Morris, R. (1993a) *Justice for non-English Speakers, Interpreters and the Legal Profession*. AIC Legal Seminar for Interpreters - Luxembourg 11-13 January 1993, In: **Language International**. Vol.5 part (3), PP.35-36.

Morris, R. (1993b) *The Interlingual Interpreter-Cypher or Intelligent Participant?* In: **International Journal for the Semiotics of Law**. Vol.VI, No. (18), PP.271-291.

Morris, R. (1993c) *Justice for non-English Speakers*. In: **New Law Journal**. July 23 1993, PP. 1059-1060.

Morris, R. (1994) **Images of the Interpreter: A Study of Language-Switching in the Legal process**. Unpublished PhD thesis, Department of Law, Lancaster University.

Morris, R. (1995a) *The Moral Dilemmas of Court Interpreting*. In: **The Translator**. Vol.1, No. (1) 1995, PP.25-46.

Morris, R. (1995b) *Pragmatism, Precept and passion: The Attitudes of English-Language Legal Systems to Non-English Speakers*. In: Marshall, M. (1995) **Translation and the Law**. Vol.155, PP.263-279.

Moss, S. (2010) *Interpreter Scheme Lands Euro Award*. In: **Basingstoke Gazette**. 16 August 2010. Available from: [http://www.basingstokegazette.co.uk/news/8333510.Interpreter\\_scheme\\_lands\\_Euro\\_award](http://www.basingstokegazette.co.uk/news/8333510.Interpreter_scheme_lands_Euro_award). [Accessed 06/09/2010].

National Agreement on Arrangements for the Use of Interpreters, Translators and Language Service Professionals in Investigations and Proceedings Within the Criminal Justice System, As Revised 2007, PP. 1-33.

Nellis, M. (2006) *NOMS, Contestability and the Process of Technocorrectional Innovation*. In: Hough, M. et al. (eds) (2006) **Reshaping Probation and Prisons**. Bristol, The policy Press, University of Bristol. PP. 49-68.

New Jersey Supreme Court Task Force on Interpreter and Translation Services (1985) **Equal Access to the Courts for Linguistic Minorities: Final Report**.

Nida, E. (1969) *Science of Translation*. In: **Language**. Vol. 45, No. (3) (Sep.1969), PP. 483-498), Published by Linguistic Society of America.

Niska, H. (1995) *Just Interpreting: Role Conflicts and Discourse Types in Court Interpreting*. In: Morris, M (ed) (1995) **Translation and the Law**. John Benjamins, PP. 293-316.

Noakes, L. & Wincup, E. (2004) **Criminal Research**. Sage Publications.

Nugent, H. and Sandy, M. (2006) *Immigration Drive up Public Bills for Use of Translators*. In: **The Times**. 28 September 2006. Available from: <http://www.timesonline.co.uk/tol/news/uk/crime/article652481.ece>. [Accessed 02/10/2006].

- Oakeshott, I. (2007) *Councils Told to Axe Translation Help for Migrants*. In: **Sunday Times**. 10 June 2007. Available from: <http://www.thesundaytimes.co.uk/sto/public/sitesearch.do?Querystring=councils+told+to+axe+translation+help+for+migrants&sectionId=743&p=sto&pf=a>. [Accessed 12/06/2007].
- O'Barr, W. M (1982) **Linguistic Evidence: Language Power and Strategy in the Courtroom**. London, Paris & New York, Academic Press.
- O'Brien, C. (2010) *No Quality Controls Laid Down for Courts and Garda Translators*. In: **Irish Times**. 7 June 2010. Available from: <http://www.irishtimes/newspaper/ireland/2010/0607/1224272004732.html>. [Accessed 08/06/2010].
- Oppenheim, A.N. (1992) **Questionnaire Design, Interviewing and Attitude Measurement**. London, Pinter.
- Overing, J. (1987) *Translation as a Creative Process: The Power of the Name*. In: Holy, L. (ed) (1987) **Comparative Anthropology**. Oxford, Basil Blackwell, PP.70-87.
- Parahoo, K. (1997) **Nursing Research: Principles, Process and Issues**. London, MacMillan Press LTD.
- Pallant, J. (2001) **SPSS Survival Manual: Step by Step Guide to Data Analysis Using SPSS for Windows**. Buckingham, Open University.
- Parker, H.J. (1974) **View from the Boys**. London, David & Charles, Newton Abbot.
- Parry, G. (2004) *The Languages of Evidence*. In: **Criminal Law Review**. December 2004, PP.1015-1033.
- Patel, C. (2006) *Assessing Linguistic Ability of Foreign Defendants*. In: **Magistrate**. June 2006, PP.172-173.
- Patterson, K. (2011) *Court Interpreters Demanding pay Hike: Freelancers Vow to Stop Taking Work Until They Get \$10/hour Increase*. In: Ottawa Citizen, 2 March 2011. Available from: <http://www.ottawacitizen.com/business/Court+interpreters+demanding+hike/4369477> [Accessed 02/03/2011].
- Pickering, D. (1763) The Statutes at Large from the Thirty-ninth Year of Queen Elizabeth to the Twelfth year of King Charles II. **Courts of Justice Act 1660**. Vol.7, Anno Duodecimo Caroli II, Cap.3.
- Pickering, D. (1765) The Statutes at Large from the Second to Ninth Year of King George II. **Courts of Justice Act 1731**. Vol. 16 Anno Quarto George II, Cap 26.
- Pinker, S. 1994, **The Language Instinct**, Penguin Books.

- Pöchhacker, F. and Shlesinger, M. (2002) **The Interpreting Studies Reader**. London and New York, Routledge.
- Pöchhacker, F. and Shlesinger, M. (2002) **Introducing Interpreting Studies**. London and New York, Routledge.
- Polack, K. and Corsellis A.(1990a) *Non-English Speakers and the Criminal Justice System* (part I) In: **New Law Journal**. 23 November 1990, PP.1634-1636.
- Polack, K. and Corsellis A.(1990b) *Non-English Speakers and the Criminal Justice System*. (part II). In: **New Law Journal**. 30 November 1990, PP.1676-1677.
- Pollock, sir F. and Maitland, F.W. (1911) **The History of English Law Before the Time of Edward I**. Vol. one, Cambridge, Cambridge University Press.
- Police and Criminal Evidence Act 1984: Code C, para.3.6.
- Porter, A. (2008) *Cost of Police Translators for Foreign Criminals Hits 22 million*. In: **Telegraph**, 30 October 2008. Available from: <http://www.telegraph.co.uk/news/3280262/Cost-of-police-translators-for-foreign-criminals-hits-22-million.html>. [Accessed 31/10/2008].
- Private Eye (2011) *Lost for Words*. In: **Private Eye**. Issue 1285, 1 April, P.28.
- Punch, M. (1986) **The Politics and Ethics of Fieldwork**. Sage Publications.
- Pycroft, A. (2005) *A New Chance for Rehabilitation: Multi-agency provision and Potential under NOMS*. In: Winstone, J. and Pakes, F. (2005) **Community Justice: Issues for Probation and Criminal Justice**. Devon, Willan publishing. PP.130-141.
- Rayner, J. (2009) *Criminal Defence Lawyers Call for all the Police to Provide Interpreters*. In: **Law Society Gazette**. 8 January 2009. Available from: <http://www.lawgazette.co.uk/print/48854>. [Accessed 06/02/2009].
- Rea, A. (2004) *Now you're Talking my Language*. In: **Psychologist**. Vol.17, No. (10), PP. 180-182.
- Roberts, C. Et al (1992) **Language Discrimination: A Study of Communication in Multi-Ethnic Workplaces**. London and New York, Longman.
- Roberts-Smith, L.W. (1989) *Communication Breakdown*. In: **Law Society Journal**. Part 27, (7), PP.70-74.
- Roberts-Smith, L.W. (1990) *Working with Interpreters in Court: Some Legal Issues*. In: **Legal Service Bulletin**. Vol. 15, No. (4), August 1990, PP.151-154.
- Robinson, D. (1991) **The Translator's Turn**. Baltimore and London, John Hopkins University Press.

- Robinson, M. (2008) *'Interpreters' Bill to Police Force is £1.1 M.* In: **Leicester Mercury**, 17 March 2008. Available from: <http://thisisleicestershire.co.uk/displayNode.jsp?nodeId=132935&command=di>. [Accessed 17/03/2008].
- Robinson, M. (2002) **Communication and Health in a Multi-Ethnic Society**. Bristol, The Policy Press.
- Rock, P. (1993) **The Social World of an English Crown Court**, Oxford, Clarendon Press.
- Rossington, B. (2009) *Cost of Interpreters*. In **Liverpool Echo**. 5 June 2009. P.2.
- Roy, C.B. (1993) *The problem with Definitions, Descriptions, and the Role Metaphors of Interpreters*. In: Pöchhacker, F. and Shlesinger, M. (2002) **The Interpreting Studies Reader**. London and New York, Routledge, PP.344-353.
- Ruffhead, O. (1763) The Statutes at Large from Magna Charta to the End of the Reign of King Henry VI. **Statute of Pleading 1362**. Vol.2 Anno Tricesimo Sexto Edward III, Cap 15.
- Ruffley, D. (2008) *Costs for Immigration and Met Police*. 28 April 2008. Available from: <http://www.theyworkforyou.com/wrans/?id=2008-04-28a.198519.h&s=interpreters#g198519.ro>. [Accessed 29/04/2008].
- Ryan, G. and Bernard, H.R. (2003) *Techniques to Identify Themes*. In: **Field Methods**. Vol. 15, No (1), February 2003, PP.85-109.
- Sandy, M. (2006) *Police Learn that Talk Can be Costly*. In: **Coventry Evening Telegraph**. 28 September 2006. Available from: [http://www.coventryeveningtelegraph.co.uk/articles/mi\\_7969/is\\_2006\\_sep\\_28/ai\\_n34391139/tag=content;coll](http://www.coventryeveningtelegraph.co.uk/articles/mi_7969/is_2006_sep_28/ai_n34391139/tag=content;coll). [Accessed 30/09/2006].
- Santin, V. (2008) *T & I Labour Market in France*. Department of Linguistics, Macquarie University, Sydney, Australia, January 2008, PP.1-7. Available from: <http://www.ling.mq.edu.au> [Accessed 16/04/2008].
- Sarantakos, S. (1998) **Social Research**, second edition, Macmillan Press.
- Sarcevic, S. (1997) **New Approaches to Legal Translation**. Kluwer Law International, The Hague.
- Schäffner, C. (2006) *Action (Theory of 'translational Action')* In: Baker, M (ed) (2006) **Routledge Encyclopaedia of Translation Studies**. Oxon and New York, Routledge, PP.3-5.



- Seleskovitch, D. (1985) *Interpretation au Interpretariat?* In: **META**. Vol. 30, Part (1), PP. 19-24.
- Seligson, S. (1990) *Bilingual Court Proceedings: The Role of Court Interpreter*. In: Levi, J.N. and Walker, A.G. (1990) **Language in the Judicial Process**. London and New York, Plenum Press, PP.155-201.
- Shackman, J. (1984) **The Right to be Understood: A Handbook on Working with, Employing and Training Community Interpreters**. National Extension College.
- Sheffield Telegraph (2008) *Police Translation Bill Doubles in Four Years*. 5 November 2008, Available from <http://sheffieldtelegraph.co.uk/news2/4657489>. [Accessed 05/11/2008].
- Sheilds, L. and Twycross, A. (2003) *The Differences between Quantitative and Qualitative Research*. In: **Paediatric Nursing**. Vol.15 No. (9), P.24.
- Shlesinger, M. (1991) *Interpreter Latitude vs Due Process. Simultaneous and Consecutive Interpretation in Multilingual Trials*. In: Tirkkonen-Condit, S. (ed) (1991) **Empirical Research in Translation and Intercultural Studies**. Tubingen: Gunter Narr, PP.147-155.
- Shute, S. et al (2005) **A Fair Hearing? Ethnic Minorities in the Criminal Courts**. Devon, Willan Publishing.
- Simeoni, D. (1998) *The Pivotal Status of the Translator's Habitus*. In: **Target**. Vol. 10, issue (1), PP. 1-39.
- Smith, R. (2009) *NHS Pays £116 an Hour for Temps but Agency Takes Half*. In: **Telegraph**. 4 January 2009. Available from: <http://telegraph.co.uk/health/healthnews/4075743/NHS>. [Accessed 04/01/2009].
- Snell-Hornby, M. (1988) **Translation Studies: An Integrated Approach**. Amsterdam/Philadelphia, John Benjamins Publishing Company.
- Snowdon, G. (2010) *The Interpreter: Lost in Translation*. In: **The Guardian**. 10 April 2010. Available from: <http://www.guardian.co.uk/money/2010/apr/10/an-interpreter>. [Accessed 12/04/2010].
- Spending Challenge (2010) *How the Idea Could be Implemented?* In: Translation/Interpreting, 09 July 2010. Available from: <http://spendingchallenge.hm-treasury.gov.uk/how-can-we-rethink-public-services-to-deliver-more-for-less/translation-interpreting> . [Accessed 11/07/2010].
- South Tyneside College's Study Guide for Diploma in Public Service Interpreting, 2000-2001.



- Stanley, A. (1990) *Political Asylum Interviews: The Role of Clerks and Interpreters*. In: **Immigration and Nationality Law and Practice**. July 1990, PP.91-93.
- Statute of Pleading, (1362) *Pleas shall be Pleaded in English Tongue and Inrolled in Latin*, King Edward III Stat.I, c.15, In: Ruffhead, O. (1763) **The Statutes at large from Magna Charta to the End of the reign of King Henry VI**. Vo.2, Anno tricesimo sexto Edward III.
- Steiner, G. (1998) **After Babel**. Oxford, Oxford University Press.
- Suffolk Evening Star (2006) *Interpreter Costs Quadruple*. 4 October 2006. In: **Suffolk Evening Star** Available from: <http://www.suffolk.police.uk>. [Accessed 08/10/2006].
- Summers, C. (2005) *Lost in translation*. In: **BBC News**. 10 November 2005, Available from: <http://news.bbc.co.uk/1/hi/uk/4420396.stm> . [Accessed 26/04/2009].
- Summers, C. (2005) *Interpreter Shortage Poses Threat*. In: **BBC News**. 10 November 2005, Available from: <http://news.bbc.co.uk/1/hi/uk/4416984.stm>. [Accessed 26/04/2009].
- Sunday Express (2010) *UK Cost of translators for "foreign criminals" is £34m*. In: **Sunday Express**. 21 March 2010. Available from: <http://www.express.co.uk/posts/view/164207/cost-of-translators-for-foreign-criminals-is-34m>. [Accessed 19/06/2010].
- Temple, B. (1997) *Watch your Tongue: Issues in Translation and Cross-Cultural Research*. In: **Sociology**. Vol.31, No. (3), PP.607-618.
- Temple, B. (1998) *A Fair Trial? Judging Quality in Qualitative Research*. In: **International Journal of Social Research Methodology**. Vol. 1, No. (3), PP.205-215.
- Temple, B. and Edwards, R. (2002) *Interpreters/Translators and Cross-language Research: Reflexivity and Border Crossings*. In: **International Journal of Qualitative Methods**. Part I, issue (2), PP.1-22.
- Thatcher, L. (2008) *Senior Police Officers' Volvo Perk*. In: **Hunts Post**. 30 April 2008. (Lionel Thatcher is a Parish clerk and Council member at Tilbrook). Available from: [http://www.huntspost.co.uk/home/senior\\_police\\_officers\\_volvo\\_perk\\_1\\_414589](http://www.huntspost.co.uk/home/senior_police_officers_volvo_perk_1_414589). [Accessed 16/06/2008].
- The Courier (2010) *Doubts over Courtroom Interpreters*. 27 February 2010. In: **The Courier**. Available from: <http://www.thecourier.co.uk/output/2010/02/27/newsstory14618528to.asp>. [Accessed 02/03/2010].

The Irish Times (2010) *Lost in Translation*. In: **The Irish Times**. 07 June 2010. Available from: <http://www.isishtimes.com/newspaper/ireland/2010/0607/1224272004772.html>. [Accessed 09/09/2010].

The News (2011) *police Urged to Cut £700.000 Bill for Interpreters*. In Portsmouth .co.uk, 26 January 2011. Available from: [http://www.portsmouth.co.uk/news/local/east-hampshire/police\\_urged\\_to\\_cut\\_700\\_000\\_bill\\_for\\_interpreters](http://www.portsmouth.co.uk/news/local/east-hampshire/police_urged_to_cut_700_000_bill_for_interpreters). [Accessed 31/01/2011].

The Politics Show East Midlands, 27 November 2005. Transcribed by a member of The National Register of Public Service Interpreters' Action Group.

The Sofia Echo (2010) *EU Courts Must offer Interpreting and Translation During Proceedings*. 07 October 2010. Available from: [http://www.sofiaecho.com/2010/10/07/972773\\_eu-courts-must-offer-interpreting-and-translation-during-proceedings](http://www.sofiaecho.com/2010/10/07/972773_eu-courts-must-offer-interpreting-and-translation-during-proceedings). [Accessed 08/10/2010].

This is Plymouth (2008) *Police Interpreters Fees Hit £290.000 a year*. 31 October 2008. In: **This is Plymouth**. Available from: <http://www.thisisplaymouth.co.uk/news/article-441334>. [Accessed 05/11/2008].

Thompson, D. (2011) *Police Rip up Contract with Interpreter Agency after Claims it was Hampering Investigations*. In: **Manchester Evening News**. 7 March 2011. Available from: [http://menmedia.co.uk/manchestereveningnews/news/s/1410082\\_police\\_rip\\_up\\_contract\\_with\\_interpreter\\_agency\\_after\\_claims\\_it\\_was\\_hampering\\_investigations](http://menmedia.co.uk/manchestereveningnews/news/s/1410082_police_rip_up_contract_with_interpreter_agency_after_claims_it_was_hampering_investigations). [Accessed 08/03/2011].

Trial Issues Group (2002) **Revised Agreement on the Arrangements for the Attendance of Interpreters in Investigations and Proceedings Within the Criminal justice System**, PP. 1-9.

Tsang, L. (1998) *Wise Words in any language*. In: **The Lawyer** (1998), Vol.12, Part (19). Available from: <http://www.thelawyer.com/wise-words-in-any-language/89427.article>. [Accessed 10/02/2010].

UKAIT 00029, 5 October 2007, Manchester.

Wachman, R. *Private Health Firms Scent Big Opportunity in NHS Outsourcing Plans*. In: **The Guardian**. 16 July 2010. Available from: <http://www.guardian.co.uk/politics/2010/jul/16/nhs-outsourcing-private-health-firms/print>. [Accessed 18/07/2010].

Wadensjö, C. (1993) *The Double Role of a Dialogue Interpreter*. In: Pöchhacker, F. and Shlesinger, M. (2002) **The Interpreting Studies Reader**. London and New York, Routledge, PP.350-370.

- Wadensjö, C. (2006) *Community Interpreting*. In: Baker, M (ed) (2006) **Routledge Encyclopaedia of Translation Studies**. Oxon and New York, Routledge, PP.33-37.
- Walker, A. G. (1986) *The Verbatim Record: The Myth and the Reality*. In: Fisher, S and Todd, A.D. (eds) (1986) **Discourse and Institutional Authority: Medicine, Education and the Law**. Norwood, N.J., Ablex, pp.205-222.
- Walker, A.G. (1990), *Language at work in the Law – The Customs, Conventions and Appellate Consequences of Court Reporting*. In: Levi, J.N. and Walker A. G. (eds) (1990) **Language in the Judicial Process**. London and New York, Plenum Press, PP.203-244.
- Wainwright, D. (1997) *Can Sociological Research Be Qualitative, Critical and Valid?* In: **The Qualitative Report**. Vol.3, No. (2), July 1997, PP.1-16.
- Warwick, D.P. (1982) *Tearoom Trade: Means and Ends in Social Research*. In: Bulmer, M. (1982) **Social Research Ethics**. London and Basingstoke, The Macmillan Press LTD, PP. 38-58.
- Werner, O and Campbell, D.T. (1970) *Translating, Working Through Interpreters, and the Problem of Decentering*. In: Naroll, R and Cohen, R (eds) (1975) **A Handbook of Method in Cultural Anthropology**. Garden City, N.Y., Natural History Press, PP.398-419.
- Westminster Hall Debates (2009) *Police Interpreters*. 11 March 2009. Available from: [http://westminster\\_hall\\_debates\(theyworkforyou.com\).pdf](http://westminster_hall_debates(theyworkforyou.com).pdf). [Accessed 12/03/2009].
- White, J.B. (1986) *Doctrine in a Vacuum: Reflections on What a Law School Ought (And Ought Not) To Be*. In: **Journal of Legal Education**. Vol.36, PP.155-166.
- White, J.B. (1990) **Justice as Translation: An Essay in Cultural and Legal Criticism**. Chicago, The University of Chicago Press.
- Whitfield, D. (2006) *Market-based Justice?* In: **The Centre for Crime and Justice Studies**. No 65, Autumn 2006, PP.36-37.
- Whyte, W. F. (1955), **Street Corner Society: The Social Structure of an Italian Slum**. London, University of Chicago Press.
- Williams, B. (2002) *Counselling in Legal Settings: Provision for Jury Member: Vulnerable Witnesses and Victims of Crime*. In: Jenkins, P. (ed) (2002) **Legal Issues in Counselling and Psychotherapy**. London, Sage, PP.105-122.
- Winter, G. (2000) *A Comparative Discussion of the Notion of 'validity' in Qualitative and Quantitative Research*. In: **The Qualitative Report**. Vol.4, No. (3 & 4), March 2000, PP.1-12.

Work and Pension Department (2008) *Departmental Translation Services: Written Answers and Statements*. 20 May 2008. Available from: <http://www.theyworkforyou.com/wrans/?id=2008-05-20a.205174.h&s=translators#g205174.ro>. [Accessed 22/05/2008].

Wright, C. (2010) *NHS 'failing those who don't speak English'*. In: **BBC News Health**. 03 September 2010. Available from: <http://www.bbc.co.uk/news/health-10951417>. [Accessed 05/09/2010].

Yates, K. (2007) *Interpreters Ten Fold Increase as Migrants Come to County*. In: **Worcester News**. 14 September 2007. Available from: [http://www.worcesternews.co.uk/news/1708589.Interpreters\\_ten\\_fold\\_increase\\_as\\_migrants\\_come\\_to\\_county/](http://www.worcesternews.co.uk/news/1708589.Interpreters_ten_fold_increase_as_migrants_come_to_county/). [Accessed 16/09/2007].

Yorkshire Post (2010) *Bradford Interpreter Let Illegal Immigrant Take his Place*. In: **Yorkshire Post**, 09 July 2010. Available from: <http://www.yorkshirepost.co.uk/news/Bradford-interpreter-let-illrgal-immigrant.6411689.jp>. [Accessed 11/07/2010].

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# **APPENDIX 1**

Covering letter to research subjects

## **APPENDIX 2**

Questionnaire

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Interview schedule



## **APPENDIX 4**

Lord Justice Auld Recommendations on the Use of Interpreters in Criminal Justice,  
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