LEGAL INTERPRETATION IN THE PROCESS OF MULTICULTURAL COMMUNICATION – PROFESSION OR CHALLENGE?

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Abstract: An interpreter is needed when people do not share a common language. The interpreter's aim is to facilitate successful communication over linguistic and cultural boundaries. Through interpreting, individuals are fully able to perform their duties and secure their rights in a multicultural society. A professional interpreter can also help authorities to make fair decisions even if they do not understand the client's language. An interpreter's task is to convey both linguistic and culturally bound non-linguistic messages as comprehensively as possible while the contents are left unchanged. When accepting an assignment, as well as during and after the assignment, interpreters have to function impartially in order to achieve good and confidential relations with their clients. Interpreter's impartiality means that interpreters' personal opinions or attitudes do not affect the quality of their work. If the matters discussed in an interpreted situation are against the interpreter's own morals or ethics, the interpreter does not let this show through gestures, tone of voice, or word choices. This paper aims to present the problems that an interpreter can face while doing his/her job as a legal interpreter. We will also focus on the professional, ethical and human challenges of the job and the dilemmas of the interpreters.

Keywords: Legal interpretation, simultaneous interpretation, consecutive interpretation, language skills, interpretation competence

1. A short historical overview of interpreting

1.1. Interpreting in its early forms

In Ancient Greece, the interpreter was seen not only as the linguistic mediator for regular business transactions, but (s)he was also considered semi-divine and capable of performing multiple tasks. As the Greeks were to a certain degree averse to learning "foreign languages" interpreters were constantly in demand. They could only communicate with high status Roman Senate representatives or non-classical peoples like Egyptians or Celts, with the help of interpreters. On the other hand, the Roman Empire valued languages different from their own in a unique way. The Empire was in essence bilingual, with the Latin and Greek languages enjoying almost the same status in schools. Interpreters seem to have held a prominent position in Roman society. In fact, Cicero specifically mentions his interpreter and the work done by him in both a positive and a negative light (Angelelli 2004, 8).

Moreover, interpreters have always occupied an important position in the Americas since the Spanish Conquest. When Columbus planned the voyage that would eventually land him in the Americas, he knew that interpreting would be a vital element in his communication with the

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natives, thus he decided upon taking two interpreters with him. One of these interpreters had spent time in Guinea, and the other supposedly spoke Arabic, Hebrew, and Chaldean (the language spoken by the inhabitants of the ancient kingdom of Urartu that was located in the region of Lake Van, Turkey). However, when Columbus first set foot in the Americas, he encountered over 133 tribal families who spoke over 1000 different languages, spanning the territory from southern Argentina to northern Mexico (Bastin 2001, 506). Since the Spanish authorities and the Native Americans did not understand each other's language, the intervention of interpreters was to become quite indispensable for effective communication.

Columbus found himself in an unfortunate situation; the languages spoken by his interpreters did not prove to be useful on the American continent. Realising that he needed to educate the natives in the Spanish language and culture, he felt it his duty to train interpreters. According to Bastin, this was achieved by capturing ten natives and transporting them to Spain, where they were taught the Spanish language and culture, with subsequent expeditions following the same pattern (Baker 2001, 506).

On consecutive voyages to the Americas, Columbus brought with him these previously uprooted interpreters who were now familiar with the Spanish language and culture. Consequently, between 1495 and 1518 communication between the Spaniards and the Natives became enabled by a new generation of native interpreters. At times, the interpreting work involved more than simply having to speak Spanish and a native language. It has been documented, that Hernán Cortés once took advantage of the skills of three interpreters working together. Cortés would speak in Spanish to an interpreter, who would then interpret into Mayan for the Yucatec (Mayan inhabitants of the Yucatán Peninsula) natives. Then, Malinche would interpret from Yucatec into Nahuatl for the Mexican tribes. In one account, a young Mexican boy (who understood Spanish) named Orteguita would listen to Malinche and verify that what she was saying corresponded to what Cortés had originally said (Baker 2001, 506). This incident demonstrates how the more-dominant party was concerned about accuracy, but at the same time, did not trust the interpreter. Because of Cortés' position of power Orteguita reported only to Cortés, who was able to demand accuracy and verify its plausibility.

It was in 1563 that interpreters achieved professional status. As courts were established, laws were created to regulate interpreters' wages (according to the number of questions they interpreted), as well as working conditions (amount of work per week and number of interpreters per courtroom). Interpreters were required to take an oath, stating that they would interpret without bias, neither omitting nor adding anything. The assumption at the time was that a rendition could be unbiased, and that the interpreting of the meaning of the message was independent of the interpreter himself and of how the parties constructed it. But accuracy was not the only thing expected of interpreters. "Christianity and goodness" were also considered pivotal qualities of the interpreters of that era (Baker 2001, 508).

1.2. Interpreting during World War II

More recently, during the Nuremberg trials (1945-1946), interpreters were once again brought into focus. Right after World War II, the sudden demands to train more interpreters resulted in interpreting gaining its way into academia. Universities in Europe (Belgium, Denmark, France, Germany, Italy, Spain and the UK), Asia (Taiwan, Korea, and Japan), the

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Americas (Argentina, Canada, Chile, Mexico, Uruguay, USA, and Venezuela), Africa (Tunisia and Egypt), and Oceania (Australia and New Zealand) began to offer courses, programs and degrees in interpreting. Issues in which power was at stake required educated interpreters. The education of interpreters was thus prompted by the need to ensure communication between heads of state, rather than by the communicative needs of communities of speakers who did not share the societal language. Members of the less-dominant cultures with a need to communicate in their everyday lives received low priority on the list of interpreting needs. This may explain why many university programs only offered (and still only offer) conference interpreting courses (exceptions being, for example, Vancouver City College for Community Interpreting or Charleston North Carolina for Legal Interpreting).

Since the end of the 20th and the beginning of the 21st century, interpreters have gained center stage once again. The significance of the interpreter's work has been emphasized in recent times of crisis, such as Kosovo, Macedonia, the tragedy known as 9/11, the war in Iraq, Libya and Japan's nuclear catastrophe. Each of these represents a critical scenario in which people who do not share a common language needed to communicate with each other. Without interpreters, nations and people can not keep in touch effectively. The 9/11 terrorist attack on the United States has especially served to raise awareness of the importance of professional interpreters in less-commonly taught languages. The United States Government has reacted in numerous ways to improve national security. Especially crucial are the Persian and Arabic languages. It is important to note that interpreting entered academia in order to meet a pragmatic need rather than to become an object of study. Research questions concerning the practice, its practitioners and their role - essential to an understanding of the underlying complexities of the interpreted communicative event - were overlooked in favour of the need to train practitioners to meet an immediate market demand. This explains why many of the principles governing the profession today are the result of personal experiences, anecdotes and opinions, rather than of empirical research.

1.3. The Nuremberg Trials and simultaneous interpretation (1945-1946)

A series of military tribunals were held by the victorious Allied forces of World War II. Prominent political, military and economic leaders of the defeated Nazi Germany were prosecuted. Four official languages were used: English, German, French and Russian. Interpretation and translation departments needed to be established to deal with the elaborate linguistic issues. To allay the fear that consecutive interpretation would slow down the proceedings, a completely new technique was introduced: **extempore simultaneous interpretation**. The interpreters had to listen to the source language and "orally translate" it into the target language in **real time,** that is, **simultaneously** using elementary equipment consisting of headsets and microphones. Four sections were made for each team, one for each language. Three interpreters working in each section interpreted the other three languages into the fourth, which was their mother tongue. IBM provided the equipment. Many of the interpreters were former translators, army personnel and linguists, some were experienced consecutive interpreters, while others were ordinary individuals. It was then, and still is, considered that the main qualities of top interpreters not only perfect language knowledge, but also a wide cultural and encyclopedic know-how, and a genuinely calm character.

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2. The branches of professional interpreting according to manner

An interpreter must be able to translate in both directions on the spot, without using dictionaries or other materials. They must have extraordinary listening abilities, especially for simultaneous interpreting. They must have the intellectual capacity to instantly transform idioms, colloquialisms and other culturally-specific references into similar statements that the target audience will understand.

There are several types of interpreting:

Simultaneous interpretation: Simultaneous interpretation involves working in a team (at least two people in a booth) at a conference or a large meeting. The interpreter sits in a booth using headphones and a microphone and immediately converts what is being said, so listeners hear the interpretation through an earpiece while the speaker is still speaking.

Consecutive interpretation: Consecutive interpretation is more common in smaller meetings and discussions. The interpreter takes notes while listening to a speech, then relates his/ her interpretation during pauses. This is commonly used when there are just two languages at work; the consecutive interpreter would interpret in both directions. Unlike translation and simultaneous interpretation, consecutive interpretation is commonly done into the interpreter's A and B languages.

Liaison interpretation: Liaison interpretation is a type of two-way interpreting where the interpreter translates every few sentences while the speaker pauses. This is common in telephone interpreting as well as in legal and health situations. The interpreter supports people who are not fluent in the language being used, to ensure their understanding.

Sign language interpretation: Sign language interpreters convert spoken statements into sign language and vice versa. Interpreting from one sign language to another is a new area.

Whispered interpretation: This kind of interpreting requires the interpreter to sit or stand next to a small target-language audience (or just one person) and whisper the rendered source-language, generally using simultaneous interpretation.

Herbert sees the job of a professional interpreter as follows: a professional interpreter mediates between two or more parties, helps understanding and agreement – if the parties agree. The good interpreter is a passive recipient, has a good long and short term memory, is quick witted and can be relied on to keep information confidential.

A professional interpreter is a person with a tertiary education, who interprets professional conferences, presentations or bilingual (political, economic, professional, etc.) conferences. In these interpretational situations people who speak different languages and who come from different cultures, (but who have mostly similar qualification, social status, and are usually well informed) are facing each other and (except in extreme cases), seek to cooperate with each other in order to succeed in communication. This naturally makes the interpreters' job easier, but despite this, there may be need for cultural mediation if the interlocutors are part of different cultures, and follow different communicational / behavioral patterns and conventions.

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3. Branches of interpreting according to context

3.1 Conference Interpreting

The job of the conference interpreter is to convert what has been said in a certain foreign language to their maternal language ("B"-"A", "C"-"A"), or from their maternal language to their active foreign language as well ("A"-"B", "A"-"C"). Participants who require conference interpreting are public figures, who orally represent different communities, organizations, professions or institutions. The two main kinds of conference interpreting are the so-called "large section" consecutive interpretation (the interpreting of longer, 5-6 minute intellectual units with the help of note-taking) and simultaneous interpretation (from an interpreters' cabin, with interpreting equipment). Conference interpreters have to master the following:

- meaning and message-centric mediation
- the use of proper interpreting strategies
- large section consecutive interpretation methods (including taking notes)
- simultaneous interpretation techniques

Conference interpreting requires diverse general / specialist knowledge and awareness of public life topics. The interpreter must know and use appropriate language in speaking situations that go beyond situations known and familiar to the average person: namely when public figures face public figures. In the interpreting situation, it is vital that the interpreter be authentic and have a mature and self-confident personality, so that he/she can handle problematic situations appropriately. Experience shows that in general, mature people, or people with a couple of years' work experience meet these expectations (Láng 2002, 51–53).

3.2 Legal interpreting

Legal or court interpreting occurs in courts of justice, administrative tribunals, and wherever a legal proceeding is held (i. e., a police station for an interrogation, a conference room for a deposition, or the locale for taking a sworn statement). Legal interpreting can be the consecutive interpretation of a witnesses' testimony, for example, or the simultaneous interpretation of entire proceedings by electronic means - for one person or all of those attending.

The right to a competent interpreter for anyone who does not understand the language of the court (especially for the accused in a criminal trial) is usually considered a fundamental rule of justice. Therefore, this right is often guaranteed in national constitutions, declarations of rights, fundamental laws establishing the justice system or by precedents set by the highest courts (Einesman 1999, 26)[1].

[1] For example: **European Convention on Human Rights** and the principles laid down in the Council of Europe's Framework **Convention** for the Protection of National Minorities and in line with best practice in EU Member States, **Directive2010/64/EU** of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings.

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The right to a fair trial is guaranteed by the Romanian Constitution in art. 21(3).

As for the language in which the trial is conducted, the Constitution provides, in art. 128, Use of mother tongue and interpreter in court: "(1) The legal procedure shall be conducted in Romanian. (2) Romanian citizens belonging to national minorities shall have the right to use their mother tongue before the courts of law, under the terms of the organic law. (3) The ways of exercising the right stipulated in paragraph (2), including the use of interpreters or translations, shall be stipulated so as not to prevent proper administration of justice and not to involve additional expenses for those interested. (4) Foreign citizens and stateless persons who do not understand or do not speak the Romanian language shall be entitled to be informed of all the documents and materials in the file, to speak in court and draw conclusions, by means of an interpreter; in criminal trials, this right is ensured free of charge".

3.3 Public Sector Interpreting

Public sector interpreting, also known as community interpreting, is the type of interpreting occurring in fields such as legal, health and local government, social, housing, environmental health, education and welfare services. In community interpreting, factors exist which determine and affect language and communication production, such as a speech's emotional content, hostile or polarized social surroundings, its created stress, the power relationships among participants, and the interpreter's degree of responsibility — in many cases more than extreme; in some cases, the life of the other person may depend upon the interpreter's work.

Community interpreting has been defined in a variety of ways, ranging from the kind of interpreting that takes place informally in neighborhoods and community agencies, and which is performed by amateurs or ad hoc interpreters (Gonzalez – Roseann et al.), to a more formal occupation involving practitioners with some training in medical, legal, or social service interpreting (Roberts, 1994).

Community interpreting enables people who are not fluent speakers of the official language(s) of the country to communicate with the providers of public services so as to facilitate full and equal access to legal, health, education, government and social services (Carr – Roberts et al., 1995). Thus, community interpreting is distinguished from other types of interpreting, such as conference or escort interpreting, in that the services are provided to the residents of the community in which the interpreting takes place, not to conference delegates, diplomats, or professionals traveling abroad to conduct business.

Community interpreters primarily serve to ensure access to public services, and are therefore likely to work in institutional settings; they are more apt to translate dialogue-like interactions than speeches; they routinely interpret from and into both or all of their working languages; the presence of the community interpreter is much more noticeable in the communication process than is that of the conference interpreter; a great many languages, many of them minority languages that are not the language of government in any country, are used in the interpretation process at the community level (e.g. Roma languages and dialects), unlike the limited number of languages of international diplomacy and commerce handled by conference and escort interpreters; community interpreters are often viewed as advocates or "cultural brokers" who go beyond the traditional neutral role of the interpreter.

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Community interpreters work in a wide variety of settings such as public agencies, legal institutions, healthcare, or domains including business and industry, education and social services.

4. Competences of Community and Judicial Interpreters

Competence is a cluster of related abilities, knowledge and skills that enable a person to act effectively in a job or situation. They indicate a sufficiency of knowledge and skill that enables someone to act in a wide variety of situations.

For the purpose of this study we intermingled the model for competences and skills elaborated by Gile and Pym and found that community and judicial interpreters must possess the following competences and skills:

Interpreting competence comprises the ability to interpret a message from one language to the other in the adequate mode. It includes the ability to assess and comprehend the original message and render it in the target language without omissions, additions or distortions. It also includes the knowledge/awareness of the interpreter's own role in the interpreting encounter.

Interpreting skills mean that the interpreter shall have active listening skills and strive to improve them through self-training, they must have good memory retention skills, they should be able to take notes during the interpretation assignment to ensure accuracy of the information given, and they must be able to mentally transpose and verbalize into the target language

Linguistic competence includes the ability to comprehend the source language and apply this knowledge to render the message as accurately as possible in the target language.

Language skills mean that the interpreter shall have an in depth knowledge and understanding of his/her working languages and the required range of language registers. Have knowledge of subject areas and relevant terminology.

Research and technical competence includes the ability to efficiently acquire the additional linguistic and specialized knowledge necessary to interpret in specialized cases. Research competence also requires experience in the use of research tools and the ability to develop suitable strategies for the efficient use of the information sources available.

There are some interpersonal skills that community/judicial interpreters must possess: the Interpreter shall have strong communication skills, they must be polite, respectful and tactful, and they must be able to relate well to people, they shall have good judgment (Pym 2003, Gile 2004).

5. Practical issues interpreters may face – problem handling strategies

There are cases when the interpreter, against his own better judgment, must change from a passive to an active member of the communicative situation (e.g. in some cases the interpreter must explain the situation to the receiver). Such situations test the interpreter's spontaneity, creativity, responsiveness and open-mindedness. It may be noted that in some cases an interpreter must have the ability to improvise. Additional knowledge is also useful for the interpreters - giving them the skill to handle unexpected situations.

It is essential that the interpreter have the documentation related to the case in order to possess the background knowledge necessary for a successful interpretation. Interpreters must be

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familiar with their clients' rights and necessities. Internet sources and databases may be useful as well.

A glossary should always be written with the most important and frequent terms of the domain (social system, healthcare, legal system, institutions, education – depending on the case we are intervening in).

When interpreting, the so called culture specific terms have to be taken into consideration. These are cultural-linguistic aspects that vary from language to language. One cannot translate these, eventually equivalents can be found in the source language.

It often occurs that the source-language speaker has an accent that is difficult to understand and this makes the interpretation difficult, if not impossible. The more dialects are known by the interpreter, the better.

The constantly high level of stress can be extremely harmful: while the lower level of stress triggers alertness and has a stimulating effect on the memory, the higher level can cause exhaustion. Simultaneous interpretation is especially exhausting for the interpreter: during a sequence of 30 minutes - depending on the speaker's tempo - one interprets 100-130 words/minute, 3 to 4 thousand words in total, without having any ulterior means of correction (Láng, 2002, 103).

6. Conclusions

Translators and interpreters encounter a variety of ethical issues in the course of their work. Working as an interpreter, the ethical responsibilities overlap with duty. The job of the interpreter requires respect for the clients' rights to privacy and confidentiality. Interpreters must not undertake work beyond their competence or accreditation levels and they must take responsibility for the work of people under their supervision. At the same time interpreters must guard against misuse of inside information for personal gain. They must maintain professional detachment, impartiality and objectivity.

"The community interpreter has a very different role and responsibilities from a commercial or conference interpreter. She is responsible for enabling professional and client, with very different backgrounds and perceptions and in an unequal relationship of power and knowledge, to communicate to their mutual satisfaction." (Shackman, 1984)

When compared to conference interpreting, the range of languages needed by the community interpreter is enormous, and the language level may be quite different from that of a diplomatic conference. The clients of community or legal interpreters are worried, afraid and sometimes illiterate (they may be immigrants, victims or accused people). Thus it is not only the clients but their interpreters that find themselves in strange surroundings (courtrooms, prisons, police departments, hospitals, and prosecutor's office). Add to these difficulties the fact that the professionals -- the doctors, nurses, police officers, social workers etc. are always in a hurry and sometimes are hostile, too. We may thus conclude that community interpreters must have empathy, language and cultural knowledge – and interpreting know-how, too.

Legal and community interpreting is not only a profession it is rather a vocation that involves the professional skills and abilities needed to face the provocation of the job.

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