JUSTICE THROUGH LANGUAGE: A CRITICAL ANALYSIS
OF THE USE OF FOREIGN AFRICAN INTERPRETERS IN
SOUTH AFRICAN COURTROOMS

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Submitted in fulfilment of the requirements for the degree of Doctor
of Philosophy in Applied Language Studies at the Nelson Mandela
Metropolitan University

November 2010

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QUALIFICATION: DOCTOR OF PHILOSOPHY

TITLE OF PROJECT: JUSTICE THROUGH LANGUAGE: A CRITICAL ANALYSIS OF THE USE OF FOREIGN AFRICAN INTERPRETERS IN SOUTH AFRICAN COURTROOMS

DECLARATION:

In accordance with Rule G4.6.3, I hereby declare that the above-mentioned thesis is my own work and that it has not previously been submitted for assessment to another university or for another qualification.

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ABSTRACT
This study represents an analysis of the use of foreign African interpreters in South African courtrooms in the context of the necessity of court interpreting as a vehicle through which accused persons can express themselves in defence of their rights, which may have been violated.

As a background to the study, due consideration is given to the history of interpreting, followed by some theoretical perspectives of interpreting, where the differences between translation and interpreting are explained. The discussion of some of the theoretical issues of interpreting also focuses on the notion of equivalence, and the divergent views of scholars regarding this notion, which range from formal equivalence (a source-language oriented approach), through dynamic equivalence (in terms of which translation/interpreting must be in agreement with the form and cultural expectations of the receptor language community) to skopos theory (functional in approach and target text oriented).

In discussing the role of the court interpreter, the role boundaries with regard to his/her professional relationship with other participants in the courtroom are highlighted. A related topic, namely that of quality in interpreting, is investigated in relation to quality control by professional associations in different countries, who act as regulatory authorities in this regard.

A review of court interpreting in South Africa and selected countries in Africa and the EU, such as Nigeria, Benin, Kenya, Zimbabwe, Namibia, Mozambique and Portugal reveals that efforts to develop court interpreting in some Africa and EU countries are either non-existent or at an incipient stage of development. While South Africa, compared to other countries in Africa, is making progress, she is far behind EU countries such as the UK, France and Spain –all of which possess accreditation systems, professional associations and registers of court interpreters.

An analysis of the data collected on foreign African court interpreters shows that, although they work in the same courtrooms as their South African counterparts on a daily basis, they are treated differently in terms of employment procedures, training, remuneration, and such like.
The study points out that some factors such as (a) the lack of adequate cross-cultural awareness and (b) of a balanced proficiency in their language pair, as well as (c) and the existence of divergent dialects in those languages may pose a challenge to foreign African court interpreters in interpreting cross-border languages and in performing sight translations. The study further reveals that foreign African court interpreters are in serious breach of the professional code of conduct, as exemplified by instances of conflict of interest and partiality in their practices.

As regards the management of court interpreters, the findings indicate a general laxity on the side of management, as a result of which there is a lack, inter alia, of an appropriate evaluation or monitoring strategy aimed at detecting such cases of conflict of interest and partiality.

**KEY WORDS:** Interpreting, translation, linguistic human rights, court interpreters, court interpreting, equivalence.
ACKNOWLEDGEMENTS
In a study of this magnitude, it is not possible to acknowledge all the people who contributed to its successful completion. My first note of gratitude goes to my promoter, Prof. Ernst Kotzé - who was steadfast and ceaseless in his support right from the day I made contact with him to indicate that I would like to do a doctoral programme at Nelson Mandela Metropolitan University (NMMU), Port Elizabeth - to the day this study was concluded. Thanks, Prof. Kotzé; your incisive comments made this study a reality.

My thanks also go to Dr Jacqui Dornbrack, University of Cape Town, who, as a lecturer in the Department of Applied Language Studies (NMMU), was exemplary in providing me with help to the utmost of her ability. In addition, I would like to acknowledge Ms Anne Knott of NMMU's Writing Centre for believing in me and the professional warmth she exuded each time we met, on the basis of our work, in the Writing Centre.

The participants in this research – the foreign African court interpreters, South African court interpreters, the Chief Interpreters, the magistrates, the prosecutors and attorneys – deserve a special accolade for their participation. To the Regional Head of the Department of Justice and Constitutional Development in Gauteng, Ms F. Dhlamini, Chief Magistrate, Mr G. Jonker and Chief Prosecutor, Johannesburg Magistrate Court, Mr Patrick Motaung, I wish to extend a word of thanks for granting me permission to speak to their subordinates.

Yes! My very special gratitude is reserved for my wife for her constant love and for taking over the domestic expenses of our family. There were many instances when the light at the end of the tunnel almost became extinguished, but she always surfaced to revive it. “I cannot thank you enough and you remind me of a saying in our language that *ikpian bọkpa mu iru vbe’to* (it is not possible for one finger to grab the louse inside the hair”).

To my sons and daughter, Ḣese, Osazogie and Uyiosa, the time has come now for quality time together - for your assignments and those occasional family outings that
we have all missed since I began this study. To my Mum, “urhuẹse, kẹ ghẹna kpa, igha ghi searchText o tuọ vbẹ’ghẹ hia”.

To my friends, Mr and Mrs Iyekeọrẹtín-Qbasogie, Dr Peter Osifo, Mrs Charity Osifo, Mr and Mrs Osagie Ọmoruyi, Mr and Mrs Monday Ọmoruyi, Pastor and Mrs Agbọnlahọ, Pastor and Mrs Ọewẹka: You were all wonderful and supportive in this journey”. The Saturday family prayers, where most of you are members, provided a spiritual base that kept me and my family going as I navigated the murky water that characterised this study.

I would like to single out Mrs Charity Osifo, who as a court interpreter provided the link to other interpreters and chief interpreters.

Many thanks must also go to NMMU, for providing the financial support for this study.

Finally, praise be to You, my God, for putting these wonderful people at my disposal to give me the support they gave. I am what I am, because You are.
DEDICATION
This thesis is dedicated to the memory of my late cousin – Omoriemwinfo Ikponmwosa.
# TABLE OF CONTENTS

Declaration .......................... ii  
Abstract ......................... iii  
Acknowledgement ................... v  
Dedication ....................... vii  

## CHAPTER ONE: Introduction and background to the study

1.1 Introduction .................. 1  
1.2 Problem statement .......... 9  
1.3 Aims of the study .......... 11  
1.4 Limitations of the study .... 12  
1.5 Organisation of the study ... 12  

## CHAPTER TWO: History of interpreting and the development of court interpreting in particular

2.1 Introduction .................. 14  
2.2 History of interpreting in Africa ...... 15  
   2.2.1 Pre-colonial era ......... 16  
   2.2.2 The Colonial era ...... 19  
   2.2.3 The Post-colonial era ... 21  
   2.2.3.1 Post-colonial professional associations 23  
2.3 The history of interpreting in the Americas ... 23  
2.4 The history of interpreting in Europe ...... 25  
   2.4.1 Antiquity until the 14th Century ... 25  
   2.4.2 The Renaissance period (between 14th and 17th centuries) 27  
   2.4.3 The period of Enlightenment up to 20th century Europe 32  
   2.4.3.1 Some references to landmark court interpreting practices in the Enlightenment – up to the 20th century 35  
2.5 The turning point in court interpreting ... 37  
2.6 The historical development of court interpreting in South Africa ... 38  
   2.6.1 The history of court interpreting in South Africa - the period of colonialism ... 39  
   2.6.1.1 The First British occupation of the Cape (1795-1803) 43  
   2.6.1.2 The Second British occupation of the Cape 45
CHAPTER THREE: Methodology

3.1 Introduction
3.2 Methods of data collection
   3.2.1 Interviewing
      3.2.1.1 Unstructured interviews
   3.2.2 Other sources of information for this study
      3.2.2.1 Observation of court proceedings
      3.2.2.2 Secondary data
3.3 Population and sampling methods used in the study
   3.3.1 Sampling methods used
      3.3.1.1 Purposive sampling
      3.3.1.2 Snowball sampling
      3.3.1.3 Chief court interpreters
      3.3.1.4 South African language interpreters
3.4 Data analysis
   3.4.1 Discourse analysis
   3.4.2 Conversational analysis (CA)
   3.4.3 Sociolinguistic analysis
   3.4.4 Simple descriptive analysis
3.5 Ethical considerations for this study
3.6 Conclusion

CHAPTER FOUR: SOME THEORETICAL PERSPECTIVES IN INTERPRETING

4.1 Introduction
4.2 Definitions of translation and interpreting
4.3 The differences between translation and interpreting
4.4 Modes of interpreting
   4.4.1 Consecutive interpreting
4.4.1.1 Forms of consecutive interpreting

4.4.1.1(a) Long consecutive interpreting

4.4.1.1(b) Short consecutive interpreting

4.4.1.2 The differences between consecutive interpreting when used in court and conference settings

4.4.1.3 Some useful skills for consecutive court interpreters

4.4.1.3 (a) Turn taking

4.4.1.3 (b) Listening

4.4.1.3 (c) Note-taking

4.4.2 Simultaneous interpreting

4.4.2.1 The use of simultaneous interpreting in the courtroom

4.4.2.2 The process of simultaneous interpreting

4.4.2.3 Required skills for simultaneous interpreters

4.4.2.3 (a) Skills of analysis

4.4.2.3 (b) Skills of anticipation

4.4.2.3 (c) Decalage

4.4.3 Sight translation

4.4.3.1 The process of sight translation

4.5 Types of interpreting

4.5.1 Community interpreting

4.5.2 Conference interpreting

4.5.3 Remote interpreting

4.6 The notion of equivalence in translation

4.6.1 Formal equivalence

4.6.1.1 Problems with formal equivalence

4.6.2 Dynamic equivalence

4.6.3 Other approaches to translation equivalence

4.6.3.1 Collocation

4.6.3.2 Idioms and fixed expressions

4.6.3.3 Grammatical equivalence

4.6.3.4 Textual equivalence

4.6.3.5 Pragmatic equivalence

4.6.4 The skopos theory

4.6.4.1 The coherence rule
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.6.4.2 Fidelity rule</td>
<td>138</td>
</tr>
<tr>
<td>4.6.4.3 Criticism of the skopos theory</td>
<td>138</td>
</tr>
<tr>
<td>4.7 The role of the court interpreter</td>
<td>144</td>
</tr>
<tr>
<td>4.8. Quality issues in interpreting</td>
<td>157</td>
</tr>
<tr>
<td>4.9 Conclusion</td>
<td>170</td>
</tr>
<tr>
<td>CHAPTER FIVE: AN OVERVIEW OF COURT INTERPRETING IN SOUTH AFRICA</td>
<td></td>
</tr>
<tr>
<td>5.1 Introduction</td>
<td>171</td>
</tr>
<tr>
<td>5.2 Employment procedures regarding court interpreters in South Africa</td>
<td>174</td>
</tr>
<tr>
<td>5.3 Selection for interview and interview process</td>
<td>177</td>
</tr>
<tr>
<td>5.4 Induction and orientation training for newly employed court</td>
<td>179</td>
</tr>
<tr>
<td>interpreters</td>
<td></td>
</tr>
<tr>
<td>5.5 The training of court interpreters in South Africa</td>
<td>181</td>
</tr>
<tr>
<td>5.5.1 Training provided by the Department of Justice and</td>
<td>181</td>
</tr>
<tr>
<td>Constitutional Development</td>
<td></td>
</tr>
<tr>
<td>5.5.2 Training available at South African universities</td>
<td>185</td>
</tr>
<tr>
<td>5.5.2.1 Nelson Mandela Metropolitan University (NMMU)</td>
<td>186</td>
</tr>
<tr>
<td>5.5.2.2 North West University, Potchefstroom Campus (NWU)</td>
<td>187</td>
</tr>
<tr>
<td>5.5.2.3 University of the Free State (UFS)</td>
<td>189</td>
</tr>
<tr>
<td>5.5.2.4 University of the Witwatersrand (WITS)</td>
<td>190</td>
</tr>
<tr>
<td>5.5.2.5 University of South Africa (UNISA)</td>
<td>192</td>
</tr>
<tr>
<td>5.5.3 Training provided by the sectoral education authority</td>
<td>197</td>
</tr>
<tr>
<td>5.6 Hierarchy in the court interpreting profession in South Africa</td>
<td>200</td>
</tr>
<tr>
<td>5.6.1 Chief inspector</td>
<td>200</td>
</tr>
<tr>
<td>5.6.2 Inspector</td>
<td>200</td>
</tr>
<tr>
<td>5.6.3 Chief interpreters</td>
<td>200</td>
</tr>
<tr>
<td>5.6.4 Senior court interpreters</td>
<td>201</td>
</tr>
<tr>
<td>5.6.5 Court interpreters</td>
<td>201</td>
</tr>
<tr>
<td>5.6.6 Foreign language court interpreters</td>
<td>202</td>
</tr>
<tr>
<td>5.7 The court interpreter and other participants in South African</td>
<td>203</td>
</tr>
<tr>
<td>courtrooms</td>
<td></td>
</tr>
<tr>
<td>5.8 Duties and responsibilities of South African court interpreters</td>
<td>209</td>
</tr>
<tr>
<td>5.9 Professionalisation, accreditation and unionisation</td>
<td>214</td>
</tr>
</tbody>
</table>
5.9.1 SATI’s code of ethics 216
5.9.2 Trade unions 217
5.10 Conclusion 217

CHAPTER SIX: COURT INTERPRETING SITUATIONS IN SELECTED COUNTRIES IN THE EUROPEAN UNION AND AFRICA

6.1 Introduction 220
6.2 Court interpreting in Namibia 222
   6.2.1 Employment requirements of court interpreters in Namibia 225
   6.2.2 The training of court interpreters in Namibia 225
   6.2.3 Hierarchy and status of court interpreters in Namibia 225
   6.2.4 Professional association of court interpreters in Namibia 226
6.3 Court interpreting in Botswana 226
   6.3.1 Employment requirements for court interpreters in Botswana 229
   6.3.2 The training of court interpreters in Botswana 229
   6.3.3 Duties of court interpreters in Botswana 229
   6.3.4 Professional association of court interpreters in Botswana 230
6.4 Court interpreting in Zimbabwe 231
6.5 Court interpreting in Mozambique 232
6.6 Court interpreting in Nigeria 236
6.7 Court interpreting in Kenya 237
6.8 Court interpreting in the Republic of Benin 238
6.9 Court interpreting in Spain 239
   6.9.1 Staff interpreters 240
   6.9.2 Freelance interpreters 242
   6.9.3 Other interpreters 243
6.10 Court interpreting in the United Kingdom 244
6.11 Court interpreting in France 247
   6.11.1 Employment of court interpreters in France 247
   6.11.2 Criteria for inclusion in the register of court interpreters in France 248
   6.11.3 Types or designations of court interpreters in France 249
   6.11.4 Working conditions and remuneration in France 249
6.11.5 Court interpreting associations and trade unions in France 250
6.11.6 Other information about court interpreting in France 250
6.12 The court interpreting situation in Portugal 250
  6.12.1 Education and training for court interpreters in Portugal 251
  6.12.2 Professional association in Portugal 252
6.13 Conclusion 253

CHAPTER SEVEN: PRESENTATION AND DISCUSSION OF DATA
7.1 Introduction 255
7.2 Training and Experience 256
  7.2.1 Prior training 256
  7.2.2 In-service training after employment 257
  7.2.3 Self-sponsored training, seminars, workshops and conferences 258
  7.2.4 Previous work experience as a court interpreter or in a related job 260
7.3 Employment conditions and support 264
7.4 Professional association 267
7.5 Interlingual and cultural issues 269
  7.5.1 Cross-border languages 269
  7.5.2 Bilingualism 273
  7.5.3 Dialect 275
  7.5.4 Biculturalism 278
  7.5.5 Code-switching 281
  7.5.6 Interpreting in first person and third person 284
  7.5.7 Use of unclear and incoherent language by accused and witness 285
7.6 Prior preparation 286
7.7 Fatigue 289
7.8 Sight translation 292
7.9 Quality issues 295
  7.9.1 Employment of foreign court interpreters 295
  7.9.2 The selection process 297
  7.9.3 The interview 297
8.6 Conclusion to the chapter 367

REFERENCES 369

LIST OF FIGURES
Figure 3.1: Diagrammatic representation of the triangulation approach used 60

Figure 5.1: Number of persons speaking home language 173

LIST OF TABLES
Table 1: Subdivision of linguistic human rights and language rights 4
Table 5.1: Home languages in South Africa 172
Table 5.2: Home languages and number of speakers 173
Table 5.3: Courses available for court interpreters at Justice College 184
Table 5.4: Adapted version of the listening process by Steinberg (1997:70) 208
Table 7.1: In-service training after employment 257
Table 7.2: Self-sponsored trainings, seminars, workshops and conferences 258
Table 7.3: Work experience as a court interpreter or in a related job 260
Table 7.4: Number of years in service as temporary interpreter 265
Table 7.5: Orthographical differences between Malawian Sena and Mozambican Sena 272
Table 7.6: English and Portuguese orthographical influence on Biblical names in Malawi and Mozambique 273
Table 7.7: Provision of information about the case in advance 287
Table 7.8: Determination of the language ability of the accused 289
Table 7.9: How the court interpreters learnt that position of court interpreter was vacant in the DOJCD 296
Table 7.10: Methods of interviewing respondents before
Table 7.11: Whether interpreters are asked if they are competent
to handle the interpreting assignment 302
Table 7.12: Rejection of interpreting assignments 302
Table 7.13: Person chiefly responsible for determining the need for
a court interpreter (magistrates’ views) 308
Table 7.14: The importance of ensuring that the role of the
interpreter is known by other court major participants 310
Table 7.15: Explanation by the court interpreter or other authority
in the court of the purpose of the court to the accused,
witnesses, etc, before the trial begins 311
Table 7.16: Court interpreter’s contact with accused or his/her
relative(s) before the court appearance or in between court
appearances 316
Table 8.1: Foreign terms and their English equivalents 365

Appendix 1: Questionnaires 401
Appendix 2: Checklist for observation of court proceedings 413
Appendix 3: Letters of introduction 415
Appendix 4: Letters of authority 420
Appendix 5: Job vacancy advertisement in the DoJCD 422
Appendix 6: Court interpreter courses at the Justice College 429
Appendix 7: Court interpreting syllabi at South African universities 434
CHAPTER ONE
INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 INTRODUCTION
The multilingual nature of South African society is formally recognised in the South African Constitution (1996). Languages such as isiXhosa, Sesotho, isiZulu, Sesotho sa Leboa (or Northern Sotho), isiNdebele, Setswana, Tshivenda, Xitsonga and siSwati – which were previously marginalised – are accorded official status in this legislation. This acknowledgement of the multilingual nature of society, according to Erasmus (1999: vii), makes it imperative that a space be provided “to permit [the] meaningful accommodation of ethnic, religious and cultural pluralism”, so that the unique cultural and linguistic identities of such groups may be retained.

One of the major differences between the new constitution and the old is the recognition of flaws with regard to the protection of the human rights of the majority of South Africans. The new constitution consequently recognises a wide spectrum of human rights that were disregarded by the previous apartheid government. One category is that of linguistic human rights. As noted by Du Plessis (1999:6), to guarantee linguistic human rights, the state of the neglected indigenous African languages, as well as the disparity in language status between Afrikaans and English, on the one hand, and these African languages on the other, as a result of the discriminatory language policy of the apartheid era, has to be addressed. In the new constitution, the needs and rights of people using languages in addition to the two dominant official languages - English and Afrikaans – are recognised (South African Constitution 1996: sections 6, 30 and 31).

The notion of linguistic human rights should be considered in the context of the emphatic nature with which other aspects of human rights are being considered in South Africa. The notion is underpinned, inter alia, by the recognised need to move away from the historical and socio-political contexts, characterised by the use of language in the past as an instrument of division. Reflecting on how history shapes the consideration of linguistic rights, Skutnabb-Kangas (2000:482) argued that there is a need to look at the situation that gives birth to the present linguistic situation, in
other words, to consider the past socio-political and economic contexts vis-à-vis the present socio-political and economic environment in the country.

It is only when the historical basis of the present linguistic rights is known that the linguistic human rights of minorities and marginalised groups will receive the desired recognition. According to Erasmus (1999: vii), “[i]f linguistic human rights are not respected, minorities and marginalised groups cannot truly participate in negotiations concerning their own fate”. Erasmus advises that in order to maintain linguistic rights in a multicultural society such as South Africa, the services of translators and interpreters should constantly be made available to facilitate any communication between the diverse and heterogeneous linguistic groups.

When linguistic human rights are not guaranteed to groups who are linguistically handicapped with regard to the use of the dominant language(s), such groups are equally deprived of a voice to articulate and demand other human rights. In other words, when linguistic human rights are not acknowledged, most other rights that have been violated will remain violated, because the person whose rights have been violated lacks the linguistic capacity to express himself/herself.

This view is affirmed by Sané (2007:1), who states that all human rights are indivisible and interdependent, and that a realisation of some categories of rights will not be possible without adequate recognition of all the others. Similarly, Eide (2007:11) maintains that human rights are universal and the universality of human rights means “that the rights are valid and applicable everywhere, in all societies and all cultures in all parts of the world … and should be enjoyed by every human being, without discrimination…”

Human rights, as they apply to language, have been viewed under two related but separate categories – language rights and linguistic human rights. In an explanation of the difference between the two categories, Skutnabb-Kangas (2000:498) further subdivided the categories into necessary rights and enrichment-oriented rights. In the context of the general consideration of human rights issues, necessary rights are linguistic human rights which are specific to the fulfilment of basic needs and requirements for the attainment of a dignified life. Necessary rights are further
subdivided into *necessary individual rights* and *necessary collective rights*. Necessary individual rights, according to Skutnabb-Kangas (2000:498), “have to do ... with the right to a language-related identity; and secondly, with access to the mother tongue(s)”.* Necessary collective rights* are the “right[s] of minorities and indigenous people to exist and reproduce themselves as distinct groups, with their own languages and cultures” (Skutnabb-Kangas 2000:498). *Enrichment-oriented rights*, on the other hand, are a subdivision of language rights and are rights that do not target basic needs, but are mainly self-seeking, in that they are aimed at enhancing personal linguistic advancement. For example, Skutnabb-Kangas argues that one has the right to learn a foreign language at school, but it is a learning activity that is aimed at enhancing one’s individual linguistic knowledge; and it does not necessarily have any bearing on the use of that language in the community. These rights are language rights, but because they are not inalienable human rights, they cannot be considered as linguistic human rights (2000:489).

Skutnabb-Kangas (2000:502) states, in a nutshell, that linguistic human rights include the guarantee that everybody has the right to:

- Identify with his/her mother tongue and have this identification respected and accepted by others;
- Learn the mother tongue fully and within the state-financed educational system;
- Use the mother tongue in official situations, including schools; and
- Become bilingual if one’s mother tongue is not an official language in the country where he/she is resident.

In Table 1 below, the subdivisions of linguistic human rights and language rights are shown:
Table 1: Subdivision of linguistic human rights and language rights

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<thead>
<tr>
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<tbody>
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<td>• Enrichment-oriented</td>
<td>Necessary rights, subdivided into:</td>
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<td>rights</td>
<td>• Necessary individual rights</td>
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<td></td>
<td>• Necessary collective rights</td>
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Linguistic human rights, in the context of court interpretation, are very important, because they provide a vehicle through which accused persons are able to express themselves in defence of their other rights that may have been violated. It is clear that, when linguistic rights are not promoted in court, other rights are likely to be violated, because it effectively means the accused person has been denied the linguistic tools to express himself/herself.

These provisions, which unquestionably constitute linguistic human rights - also before the court - are clearly inviolable and sacrosanct elements of the democratic basis of the Republic of South Africa, i.e. its Constitution. It is therefore important that such rights be honoured in respect of speakers of the indigenous official African languages and, by extension, those of immigrant communities (cf. section 9(3)), in the administration of justice).

The courtroom is considered to be a sensitive social institution, because matters that come before it sometimes mean the difference between freedom and captivity, or, in some countries, life and death, for the accused person brought before it. This fact underscores the need for maximally effective communication between participants in the courtroom, a need which is echoed by Khoon (1990:110), who advises that all communication in court should be handled cautiously, because “[a]ny misrepresentation, be it even a verbal slip, may have dire consequences, particularly in cases where the fate of a defendant hangs in the balance”. 
In the judiciary, as well as in other official South African contexts, communication took place in the past through the medium of either English or Afrikaans. It has to be remembered that these two languages were (and are) not native languages of the majority of South Africans. Furthermore, legal language is technical and specialised, or, in the words of Mikkelson (1998b), such language is a “stilted, frozen style that is impenetrable to the average reader” – and to laypersons in the court. Hence, communication through these two languages was of little help in the administration of and access to justice of the majority of South Africans. This situation was aggravated by a language policy which recognised and reinforced Afrikaans and English as the only official languages in the judiciary and other public sectors.

The new constitution, on the other hand, emphasises equal access to justice, something which has resulted in a number of initiatives being implemented by organs of the judicial system – to enable South Africans, especially the marginalised majorities, to, obtain access to justice when the need arises. Citing the Australian Government Commission of Inquiry into Poverty, in order to reinforce the argument for equal access to justice, Budlender (1986:2) emphasises that equality before the law should lead to universal access to legal assistance, and to the courts, so as to guarantee protection against injustice. He notes that the alternative means inadequate legal services, something which would hamper the legal system in its attempts to empower poor people to use the available legal instrument as a means of furthering their personal interests as they are allowed within the law.

The promotion of equal access to justice has a direct bearing on the need to bridge communication barriers between diverse language groups in the courtroom. For this reason, provision is made for court interpreters to assist many South Africans and others who appear before the courts and cannot speak or write the main languages (Afrikaans and English) used during the proceedings. This is well stipulated in the South African Constitution, which states: “Every accused person has a right to a fair trial, which includes the right to be tried in a language that the accused person understands; or, if that is not practicable, to have proceedings interpreted in that language” (South African Constitution 1996: section 35 [3(k)]).
The 1950 European Convention on Human Rights (ECHR) also supports equal access to justice. Article 5 (2) provides a sufficient legal basis for the need to provide a court interpreter to anybody who is linguistically handicapped in the courtroom. According to the convention, “[e]veryone 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”. Article 6 (3) of the same convention further adds that, “[e]very one charged with a criminal offence has the following minimum rights:

- 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 court.”

These provisions highlight the significance, also internationally, of the court interpreter in achieving this objective for those whose languages are not used in the proceedings of the court. According to Hewitt (1995:199),

“It is essential that the resulting communication barrier be removed, as far as possible, so that these persons are placed in the same position as similarly situated persons for whom there is no such barrier. As officers of the court, interpreters help assure that such persons may enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively.

The legal interpreting situation in South Africa is unique in some respects. In certain other countries, for example in the European Union (EU), interpreting is considered essential because of the immigrant community or population, but in South Africa, the situation is different. In addition to its burgeoning immigrant communities, the indigenous linguistic constituencies can lay claim to eleven official languages which can be utilised in different capacities and situations. Of the eleven official languages, nine have not yet been developed and standardised in such a way that they can be used officially across the country in all formal institutions, and in particular the judiciary, or in the courtroom in particular. This underlines the need for an optimally efficient interpreting service in these languages, as a measure to ensure that
persons whose mother tongue is neither English nor Afrikaans receive an equal opportunity to verbally participate in the courtroom proceedings.

In South Africa, further justification for the effective functioning of a court interpreting system is the fact that South African courtrooms typically reflect the multilingual nature of the society in which they function. A typical courtroom anywhere in the world includes, for instance, the submission of evidence by a variety of individuals who may be lay witnesses, police officers and, in some cases, expert witnesses. It also involves interpreters, attorneys, prosecutors and magistrates. In South Africa’s multilingual society, the possibility that these individuals mentioned will be from different linguistic and cultural backgrounds is very high. This is exemplified by the observation of Moeketsi (1999b:18), who reports on a case she refers to as a “complicated case of multiple defendants” and witnesses ranging from the policeman, the accused persons and state witnesses from different linguistic constituencies. These would all have to state their case before the magistrate, who could also be from a different linguistic background. This situation predisposes itself to a rich tapestry of interactional dynamics in the courtroom, and has a particular bearing on the practice of justice, and especially the linguistic human rights, of those South Africans who are speakers of languages other than English and Afrikaans, as well as immigrant communities living in South Africa.

In addition to the interactional dynamics in courtrooms mentioned above, one may mention the emergence of new information technologies occasioned and accelerated, at least partly, by globalisation. While the technologies can be lauded for contributing to better communication, their concomitant social consequences, such as their contribution to the ease whereby organised crimes can be committed, should also be noted. More importantly, Moeketsi and Mollema (2008:30) argue that it is a development that requires court interpreters to take further steps to deal with all changes, such as new vocabularies, cultural nuances, accents and foreign languages.

The ubiquity of nationals with foreign languages requiring assistance with interpreting in South African courts stems from South Africa’s unique economic advantages. These advantages have encouraged foreign African migrant workers
from other Southern African countries, such as Zimbabwe, Botswana, Malawi, Lesotho, Malawi, Zambia and Mozambique to look for greener pastures. These economic advantages have also provided the floodgate that has led to the unprecedented influx of immigrants from different parts of the world to South Africa following the April 1994 democratic elections that ushered in a new political dispensation.

These immigrants often experience grave socio-economic problems; and some have been involved in questionable deeds that have socio-economic consequences for the country. Nowhere are these socio-economic consequences clearer than in the criminal justice system. On a daily basis, news of the occurrence of crimes committed by foreign immigrants in South Africa is reported in the media. My observation of courtroom proceedings during this study showed that a day hardly passes without foreign immigrants who are language-handicapped being arraigned in court.

In addition, for many reasons, these growing immigrant populations of diverse backgrounds have daily encounters with government institutions, such as hospitals, schools, and other government departments – to take care of their specific needs. Many of these immigrants do not understand the two main official languages used in formal settings, such as government departments and courtrooms. This, it should be noted, has added to already complicated issues regarding linguistic and cultural rights that have been contentious issues both in the pre- and post-apartheid dispensations. Also, while the judiciary is struggling with the mammoth task of levelling the playing field in terms of the linguistic human rights of the diverse indigenous linguistic communities of South Africa, the presence of foreign immigrants in the picture has added more challenges regarding the thinking about language issues and the administration of justice.

When compared with the previous apartheid dispensation, South Africa may be said to have taken considerable strides towards achieving “parity of esteem” regarding language use in all its institutions, as section 6(4) of the post-apartheid constitution of 1996 puts it. However, recognition of the role played by language when it comes to the practice of justice is clearly lacking. For example, preliminary information
gleaned from a literature review, from interviews with practising court interpreters, and from the direct observation of court proceedings in which legal interpreters are used, revealed that:

- There is a significant lack of uniformity in the employment and practice of local and foreign-language interpreters; and
- Factors, such as cross-cultural knowledge necessary for interpreters to function in the languages used in the courtroom, are not given priority.

Some preliminary observations are that: (1) Varying levels of recognition are accorded to the profession; (2) Furthermore, responses to the need for interlingual communication are only provided on an *ad hoc* basis in cases that require properly constituted court interpreting; and (3) Consciousness of the role of the court interpreter among other principals in the court is inconsistent and limited.

As the discussion above has shown, there is an unquestionable need for a more efficient interpreting system in South Africa, something which requires an organised response to ensure the maintenance of optimum standards and reliability of outcomes. The situation calls for a uniform process of interpreting, starting with the level of employment right up to that of management. Further issues include training requirements that cut across all languages used in court. It is intended in this research to look at how these challenges may be addressed, given that whatever prevailing linguistic problems there are — and that are applicable to South African indigenous language court interpreters - the challenges are bound to become more problematic with the use of foreign African interpreters in the courtroom.

### 1.2 PROBLEM STATEMENT

The focus on foreign African court interpreters is important, because, although many studies have been undertaken by scholars across the social science disciplines to look at issues in court interpreting in South Africa, conspicuously absent from these studies and books is a study that looks thoroughly at issues of foreign court interpreters, especially foreign African court interpreters in South Africa. For example, as will be revealed later in this research, the main requirement when employing (temporary) foreign court interpreters is their ability to demonstrate some
level of bilingualism. No consideration is given to (a) their qualifications; (b) their knowledge of professional ethics in the field of court interpretation and (c) any skills training they may have undergone to work as legal interpreters, or to (d) tests for language proficiency before they were employed. Court interpreters working in South African languages, on the other hand, are tested for language proficiency before being employed. They also do receive training, albeit after having practised for a period of time (Moeketsi 1999b:132-133).

In South African court interpreting, there are no strict regulations governing the quality of court interpreting in general, and court interpreting in particular, as opposed to court interpreting in many countries abroad, such as the USA and Australia. A good example in this regard is the USA, where it is a legal requirement that a court interpreter who aspires to work in federal courts must demonstrate a prescribed level of proficiency by passing a certification examination (Mikkelson 1999a). In Australia, the requirement of passing a proficiency examination in order to work as a legal interpreter has been in place since 1978 (Mikkelson 1999a).

There are accreditation bodies, such as Australia’s National Accrediting Authority for Translators and Interpreters (NAATI) (Robinson 1994:96), the Canadian Translators’ Terminologists’ and Interpreters’ Council (CTTIC) (HIN 2007), the UK’s Institute of Translators and Interpreters (ITI), the National Association of Judiciary Interpreters and Translators (NAJIT), to mention but a few (Mikkelson 1999a).

In South Africa, the South African Translators’ Institute (SATI) has been fighting relentlessly for the acceptance of official standards for both the interpreting and translating professions. However, besides its facilitating role in curricululating academic programmes in South African universities, it has not been able to exert a regulatory stamp of authority on many aspects of legal interpreting (Blaauw 1999:289-290). The Department of Justice addressed quality issues in September 2001 in its agenda called, “The Road to Effective Justice”, which was formed primarily to ensure that guidelines were in place for “quality services based on new attitudes and new work ethos” (Moeketsi and Mollema 2008:30). Unfortunately, and as noted by Moeketsi and Mollema (2008:30), this does not apply to court
interpreting, because there were no guidelines that outlined its applicability to court interpreting.

Against the background of the situation described above, there is still a long way to go in terms of standardising court interpreting in South Africa. It is clear that there are many variables that potentially affect the quality of court interpreting. In the light of the existing situations of court interpreting in South Africa, this research, as mentioned earlier, aims to bring into the spotlight pertinent issues about court interpreting in general, and foreign African court interpreting in particular.

This study is, consequently, aimed at examining the court interpreting situation in South Africa, with particular emphasis on the challenges which the use of foreign African court interpreters brings about with regard to the linguistic human rights of foreign African immigrants who appear in South African courtrooms. The research will draw on socio-cultural issues, and look, as far as possible, at all issues that have any bearing on the practice of court interpreting. The research will also look at how these legal officers interpret and understand the role of court interpreters in the communication process in the courtroom in the context of the need to promote the linguistic human rights of the participants who are disadvantaged by the prevailing language situation in the courts.

1.3 AIMS OF THE STUDY
The following aims have been identified, and will inform the route that the research will follow and the questions to be asked in order to realise the aims:
1.2.1 To examine the current interpreting system in South Africa;
1.2.2 To establish the roles of foreign African court interpreters in the judicial system;
1.2.3 To observe how these roles are performed in the courtrooms by foreign African court interpreters;
1.2.4 To examine how other role players interpret the role and importance of foreign African court interpreters; and
1.2.5 To recommend solutions when addressing the challenges identified regarding the use of foreign African court interpreters.
1.4 LIMITATIONS OF THE STUDY
As a result of the multilingual situation in South Africa and the growing number of foreign African immigrants, courtrooms across the country are now faced with a complex and dire need for court interpreters. Owing to financial constraints and logistic considerations, this study will focus mainly on the courtroom interpreting situation in magistrate’s courts in Johannesburg (Gauteng Province). This province has been selected because it represents a melting-pot situation that requires court interpreting in different South African and immigrant languages.

Johannesburg attracts both foreign immigrants and internal immigrants because of its economic predominance over other cities in South Africa. Gauteng Province, with Johannesburg as its economic hub, contributes 33 percent of South Africa’s national economy and 10 percent of the gross domestic product (GDP) of Africa, with its mainly urban population (97% of its population were living in urban areas (Gauteng Province in 2008).

African immigrants are from many countries in Africa; and they speak a wide variety of languages. In this study, the focus will be on foreign African court interpreters interpreting languages spoken in Nigeria, Zambia, Ghana, Mozambique, Democratic Republic of Congo (DRC), Malawi, Zimbabwe, Tanzania and Somalia. When there is need to refer to or analyse a communicative encounter that has taken place in languages other than the two dominant languages (Afrikaans and English), the researcher will confine himself to those other languages in which he is competent, both in writing and reading. These languages are Èdo and Nigerian Pidgin English.

Lastly, while acknowledging that court interpreting involves both verbal and sign languages, this study will be restricted to court interpreting conducted in languages that can be verbalised and which fall within the competence of the researcher.

1.5 ORGANISATION OF THE STUDY
This study comprises eight chapters. Chapter one introduces the study and contains the aims, limitations and organisation of the study. Chapter two contains a detailed review of the relevant literature regarding the history and development of interpreting in Africa, Europe and the United States. Chapter three deals with the methodology
used in the study methods and procedures, the methodological approach, sampling techniques, data collection and methods of analysis.

In Chapter four, some theoretical perspectives of interpreting are provided, such as the meaning of the terms, and differences between, translation and interpreting, modes of court interpreting, types of interpreting, the roles of court interpreters, quality issues in court interpreting and the notion of equivalence in interpreting and translation.

Chapter five contains an overview of court interpreting in South Africa. It looks at the principles and problems of court interpreting, comprising issues such as employment of court interpreters, their working conditions, qualifications and training, professional bodies, the court interpreter’s role in court and the general position of other stakeholders in the judiciary in relation to court interpreting.

Chapter six discusses the state of court interpreting in some selected African and European Union (E.U) countries. This discussion involves issues such as employment requirements, training, accreditation, professional associations and the working conditions of court interpreters.

Chapter seven contains the presentation and analysis of the data. The discussion in this chapter embraces both the outcome of the data collection and the interpretation of the data.

In the final chapter, chapter eight, conclusions will be drawn from a discussion of the research results. Recommendations on how best to work with foreign African court interpreters to ensure the linguistic human rights of the people for whom they interpret, will be given. Recommendations also include the suggested conceptual framework that could inform on the use of both South African interpreters and foreign African court interpreters in South Africa.
CHAPTER TWO
THE HISTORY OF INTERPRETING AND THE DEVELOPMENT OF COURT INTERPRETING IN PARTICULAR

2.1 INTRODUCTION
Societies in Africa have been multilingual since time immemorial. As a result, the practice of interpreting is not foreign to this continent; interpreters have always been required, as a matter of course, to bridge the communication divide in these societies (Angeleli 2004; Moeketsi 1999a and De Jongh 1992).

In this chapter, the relevant literature on the history of interpreting will be reviewed. The review of literature in this chapter will be presented chronologically or in time-order. For example, the main focus will be on the history of interpreting in Africa, with specific reference to the history of interpreting in pre-colonial, colonial and post-colonial Africa. Following this, an overview will be given of the history of interpreting in the Americas, with a detailed review of how the Spanish conquerors dealt with particular problems in interpreting in multilingual and multicultural Latin America.

Mention will also be made of early attempts at the professionalisation of court interpreting, from as early as 1563 in Latin America.

This chapter also sketches the early history of interpreting in Europe, particularly in ancient Greece and the Roman Empire, and in the United Kingdom (UK), France, Spain, Poland, and in the erstwhile Czechoslovakia, as individual countries, among others. (Ancient Greece and the Roman Empire have been chosen because of their prominence in the history of Western civilisation; the UK, France and Spain – because of the development of languages of wider communication in those countries, and Poland and Czechoslovakia because of the availability of literature and the relevance of their interpreting history for this study.

More recently, the immense role played by interpreters in the Armistice Commissions between the German Army and the Allied and Associated Forces in the First World War will be described. What is of particular importance, is what interpreting scholars regard as a watershed moment in court interpreting, i.e. the interpreting that took
place during the Nuremberg Trials after WWII; and how the concomitant use of technology was associated with the beginning of the recognition of court interpreting as a profession.

Lastly, the history of court interpreting in South Africa will be presented, followed by a review of the literature that deals with the interpreting situation – prior to and immediately after – South Africa’s new political dispensation. An important source to trace the beginnings of documented literature on court interpreting in this country, i.e. Mayne (1957), is introduced. Other scholars’ views regarding interpreting in anticipation of the 1994 new democratic dispensation, the situation of court interpreting painted by Moeketsi (1999a) shortly after the new democratic dispensation and the use of interpreters at the Truth and Reconciliation Commission (TRC), will be discussed.

2.2 THE HISTORY OF INTERPRETING IN AFRICA

Different interpreting scholars have given different accounts of the origin of interpreting. Some, such as Angeleli (2004:8), Moeketsi (1999) and De Jongh (1992:274), believe that the existence of multilingual societies implies that interpreters have existed since time immemorial in these societies. A related view is held by Herbert (1978:5), who believes that language contact between people who did not understand each others’ languages created the need for the function of interpreting.

To this, Herbert (1978:5) maintains that, “In antiquity people met who did not know each others’ languages, but still wanted to talk together: so there must have been interpreters”. The book of Genesis in the Bible (Gen. 42:23) contains the earliest reference to interpreting in the Judeo-Christian literature, where Joseph used an interpreter to communicate with his brothers, pretending not to be able to understand them. This, according to Toury (2001:439), is a form of liaison interpreting.

Similarly, in Africa, in the light of the fact that there is a multiplicity of ethnic communities, Bandia (2001:295) declares: “[T]ranslation always has been, and still is, the order of the day”. He bases his assertion on the existence of multilingualism, which is endemic to the communities of Africa.
The history of translation, which encompasses interpreting in the sense it is discussed by Bandia, is subdivided into three eras, namely pre-colonial, colonial, and post-colonial translation.

2.2.1 Pre-colonial era

In the pre-colonial era, one of the earliest works in interpreting is the work carried out by the so-called “local linguist”. The local linguist, as pointed out by Bandia (2001:295), “is something like an official spokesperson for a village or an ethnic group, who was believed to be endowed with special talent to narrate the history and culture of his people”.

In the ancient African Kingdoms, such as Mali, Zimbabwe and Ghana, people existed who occupied the role of local linguists. Danquah (1928 in Bandia 2001:295) refers to these people as “local interpreters” because:

[N]ot only were they charged with repeating the words of their patron after him, acting as herald to make it clear to all his audience and to add to his utterances the extra authority of remoteness, but they were also expected to ‘perfect’ the speech of a chief who was not sufficiently eloquent, and to elaborate his theme for him.

In the old Benin Empire (now referred to as Edo State in modern-day Nigeria), there were many ethnolinguistic constituencies whose people were loyal to the Edo-speaking monarch called the Oba (Usuanlele 2007). In these linguistic constituencies lived people whose languages were not mutually intelligible with the languages understood by the monarch. According to Usuanlele (2007), oral history has it that there were always members of such linguistic constituencies in the inner circle of the Oba. They would serve as interpreters when he addressed his subjects in these constituencies. Another account has it that the Oba’s practice of posting his brothers to serve in those villages and towns under his control meant that his brothers were able to facilitate interpreting between him and his subjects in some of those villages that were linguistically different from the languages he understood.

Further evidence of interpreting could be deduced from the relationship the Benin Empire had with its neighbours and with the Portuguese in the 15th and 16th
centuries. The Benin Empire was also known to have embarked on aggressive territorial expansion – culminating in the founding and annexation of many towns and cities. One such city is the modern-day Lagos city, referred to as Eko by Edo-speak- ing people.

At the height of this expansionist policy by the then Oba (Oba Ewuare) in 15th Century, Lagos was established as a garrison for his troops and as an outpost to the outside world. During this period and the century that followed, history has it that the Benin Empire began under Oba Esigie (1504-1550), the exchange of ambassadors with Portugal, culminating in an unparalleled trading network with the Portuguese and that this was expanded later to other European nations (Ayomike 2008).

Although historians differ regarding the first European to visit the Benin Empire, it is clear from their accounts that the visit took place in the 15th Century (Ayomike 2008). According to Ayomike, one Ruy de Sequiera was reportedly the first European to visit the Empire in 1472 but this has been disputed by Michael Crowder, who remarks that João Alfonso d'Aveiro was the first European to arrive in the Benin Empire, in 1486.

A similar story of territorial expansion is told by Bortolot (2003). The nature of cultural, diplomatic and economic exchanges that took place between different territories with dissimilar languages, also gives credence to the inference of the occurrence of interpreting. According to Bortolot (2003),

By the seventeenth century, Benin controlled the coast from the Southern Niger Delta to at least the Eastern edge of Ijebu's territory, but it is unclear what political influence the Edo court had upon the Ijebu heartland in the interior. Owo, Benin's neighbour to the Northwest, appears to have intermittently found itself under the suzerainty of the Obas. Given the Edo origins of many aspects of Owo's courtly culture, it is clear that the diplomatic relationship between the two kingdoms was intimate, and not entirely equitable: royal Edo histories speak of Osogboye, the sixteenth-century ruler of Owo who visited the Benin court to adopt highly prestigious forms of Edo courtly culture.
Given these relationships discussed above, it is logical to infer that the relationships that existed between the Benin Empire’s representatives and the Yoruba-speaking population could only have taken place because there existed interlingual communication in the form of interpreting. This same holds true in the Empire’s trading relationship with the Portuguese. In the 19th century, an allusion was made to the deliberately shoddy work of an interpreter. This resulted in the ratification of a treaty drawn up by the British on 26 March 1892 by the Benin Empire’s King (Oba).

Oyebode (2008:7), who decries the repulsive nature of the treaty, narrates the reference to the interpreter as follows:

After another two hours of waiting, the Oba finally appeared in full regalia, accompanied by his chiefs and courtiers to receive the British agent. Galway immediately rejected the Oba’s interpreter whom he believed to be incompetent and substituted Ajayi, his own Akure interpreter, without any objection from the Benin side. The interpreter was saddled with the task of passing Galway’s remarks to the Oba through the principal chiefs.

In his analysis of the treaty, Oyebode says the treaty made the Oba the vassal of Queen Victoria and thus incapacitated the Oba’s ability to independently handle the empire’s foreign affairs. He attributes some of the blame to the interpreter who, “did not do a good job in communicating the true intent embodied in the text of the Treaty” (2008:10).

In Francophone Africa, local linguists are referred to as griots. According to the explanation given by Bandia (2001:295), griots are proficient in many local languages and their role as interpreters in the community enables them to facilitate communication between the chiefs, who usually use arcane language, and the chiefs’ subjects – the common people. Another form of interpreting that existed in the pre-colonial era was the message conveyed by drum beating. This is regarded as communication, because, according to Bandia, the drum symbolises through instruments a direct representation of the verbalised words (2001:296). Bandia further explains that “[t]he instruments simulate the tone and rhythm of actual speech”; and, as noted by him, it is of linguistic relevance because of the possibility of the message conveyed by drum beating to be interpreted into words.
2.2.2 The Colonial era

Following the pre-colonial era came the colonial era. This covers the period from the first encounter between Africans and Europeans in the fifteenth century to, according to Rosenberg (2009), the period immediately before the independence of African nations – beginning in the 1950s.

History has it that the Arabs were the first non-Africans to have an encounter with the Africans; and this was followed by the Portuguese in the 15th century (Encyclopedia Britannica 2009). As reported by Bandia (2001:296), the struggle to trade with Africans peaked with the arrival of the Portuguese; and this consequently led to an unprecedented need for interpreters and translators in the communication that ensued among the Africans, Arabs and Portuguese.

The interpreting scenario in the colonial era was buoyed by the rudimentary education the Portuguese gave to Africans upon settling down in the continent for trading purposes. In addition to this, Bandia (2001:297) remarks that the Portuguese missionaries realised very early that they could introduce the Africans to Christianity through the use of the local mother tongues. This prompted them to “develop the written forms of these mainly oral languages, which made it possible to produce catechisms, grammars and dictionaries in two, three and even four languages”.

Commenting further on this, Bandia states that these efforts and the concomitant educational institutions that were built attest to the literary movements, such as the 1880 Group, of that time. The 1880 Group are credited as being the brain behind the bilingual Portuguese/Kimbundu journal, O Echo de Angola (The Echo of Angola).

Joaquim Dias Cordeiro Da Matta was the first translator/terminologist in Angola, and he wrote a book called Philosophia popular em proverbios angolanos (Popular Philosophy in Angolan Proverbs). This is a collection of Kimbundu proverbs and riddles translated into Portuguese. Although Bandia deals with translation here, it is logical to infer that these literary initiatives could only thrive to the extent they did because of the accompanying interpreting that took place, especially in churches and in the educational institutions that were founded.
The interpreting situation in African countries took a different turn, following the Berlin Conference on Africa in 1884-1885, where Africa was divided into smaller units for the colonial benefit of different European countries – without any consideration of the proper ethnic boundaries of the countries that were carved up (Rosenberg 2009). As noted by Bandia (2001:298), the history of translation following the Berlin Conference is directly linked to the policies adopted by different colonial authorities in the territories acquired by them.

The French and Portuguese authorities pursued an uncompromising policy of assimilation of the Africans in their African territories because they regarded the Africans in their territories as French and Portuguese living outside France and Portugal. Every effort was thus made to make the Africans in these territories think like the French and the Portuguese; and language was one of the weapons used. In support of this view, Bandia (2001:298) states that the “[t]he French were mainly concerned with creating a sort of ‘France outre-mer’, which meant that the colonial subjects had to be converted to proper French by mastering the French language and culture”.

The post-Berlin Conference reduced the influence of the local linguists, or griots, in Francophone countries. In Bandia’s explanation, owing to the intensive assimilation of the Francophone countries, the use of local languages was de-emphasised and the influence of the griots took a knock in the local communities, as they were reduced to the status of mere guides of their colonial masters who were “occasionally called upon to join colonial expeditions to ‘translate’, mediate and advise the colonialists” (2001:298-299).

The interpreting situation was different in the Anglophone African countries. The British exercised a policy of indirect rule, in which vernacular education was highly encouraged. The policy of indirect rule encouraged a bilingual literary culture and this led to a profusion of literature in the vernacular languages (Bandia 2001:298). The British protestant missionaries also encouraged the use of vernacular languages. This gave rise to the production of literature in African languages. Consequently, the comparative availability of literature in African languages aided interpreting of language used in preaching sermons in churches (in this instance,
Moeketsi (2000:223) gives an account of interpreting in court during this period. She lists interpreters, such as Sol Plaatjie, Isaiah M'belle, Simon Mokuena and Jan Moloke, as men who had already made a mark as distinguished interpreters in the 19th century.

2.2.3 The Post-Colonial era

The post-colonial era in Africa began in the fifties, when many African countries started to gain political independence from their colonisers. With the removal of the remaining bastion of colonialist presence in Namibia in the early 1990s, African countries were left in the aftermath of colonialism. One effect was the lack of access to government institutions by many Africans who had not had a Western-style education which would enable them to speak the colonial languages used in these institutions.

This tradition maintains the legacy of interpreting in these countries – even after the colonial authorities had gone, especially in the religious domain. The need for interpreting was further influenced by the intense interest shown by European missionaries in learning the local languages, in order to translate their religious books into local languages, and thus advance their evangelisation objectives (Bandia 2001:299).

In the churches, interpreters were used to interpret the missionaries’ languages into African languages. The majority of these interpreters were Africans, according to Ajayi (2007:2), who took up employment as gardeners, cooks and messengers with the missionaries.

One would have expected that the departure of colonial authorities would lead to an upsurge in the recognition of African languages in formal institutions and at international meetings between Africans, but this was not and neither has it been the case since. Bandia (2001:301) writes that “instead of flourishing translation activity between African languages, as one might have expected in a post-colonial situation”, ironically, interpreting or translation moved in two principal directions. That is, translation or interpreting from African languages into European languages, and vice versa, or from one European language into another European language. This option
of interpreting seemed to be the norm, because of the sudden thrust of African countries into international affairs and international economic markets, after independence from their various colonial masters.

The foci of interpreting in most post-independence African countries were intergovernmental meetings, international organisations and public services, according to Ihenacho (1981:21), who looked at the situation in Nigeria, and Bandia (2001:301), whose focus was on Africa at large.

Regarding religion, the practice of translation, which began in the colonial period, persisted, because the European missionaries had to learn the local languages for evangelisation purposes (Bandia 2001:299). As reported by Bandia, one of the translation scholars who stood out during this time was a Nigerian bishop, Samuel Ajayi Crowther, who is credited for translating the Bible into Igbo and Yoruba (2001:299). Other notable translation scholars from this period were S.W. Koealle and J.F. Schon.

One of the consequences of colonialism was language contact between European languages and African languages. This resulted in phenomena such as bilingualism, bidialectism, diglossia and a hybrid lingua franca called pidgin English (Bandia 2001:299 and Osadolo 2006:1). Pidgin English, in all its varieties, is a lingua franca in many parts of West Africa. Bandia notes that the Bible and other Gospel materials had to be translated into it because of its popularity across ethnic and social lines.

The late 1950s and early 1960s saw an increase in the number of modern African writers with a good command of the European languages as well as their own local languages. This class of modern African writers, Bandia explains, took it upon themselves to correct many mistakes that had been made by European writers who translated African oral texts collected during the colonial period. Some of the notable writers during this time include Francophone writers, such as Birago Diop (Senegalese) and Bernard Dadié (Ivorian), while Anglophone authors are represented by the likes of Amos Tutuola (Nigerian), Chinua Achebe (Nigerian), Wole Soyinka (Nigerian), Okot p’Bitek (Ugandan), and Ngugi Wa Thiong’o (Kenyan) (Bandia 2001:299).
2.2.3.1 Post-colonial professional associations

In Africa, there is little or no recognition of translation or interpreting as a profession; and this, according to Bandia (2001:303), can be partly attributed to the lack of professional associations. Another reason put forward by Bandia for this lack of recognition is that most African governments are apprehensive of independent associations that bring intellectuals together.

However, in some countries, there are professional associations which were direct corollaries of the meeting held by African Ministers of Education in Nairobi (1976) and in 1982 by the Fédération Internationale de Traducteurs (FIT) in collaboration with UNESCO. These meetings put forward recommendations for: (a) the need to organise the translation profession and translation training; and (b) the need to address the question of terminology. The 1982 meeting saw a new impetus in the improvement of the translation profession in Africa; although Simpson (1985, in Bandia 2001:303) remarks that the situation was still far from ideal. As noted by Bandia (2001:303), some of the offshoots of the 1982 meeting were the formation of the Nigerian Association of Translators and Interpreters (NATI) and the Tanzanian Organisation of Translators, also called Chama Cha Watafsiri Tanzania (CHAWATA). This was formed in 1982, and was a member of FIT.

2.3 THE HISTORY OF INTERPRETING IN THE AMERICAS

The complex multilingual situation in Latin America, as in the case of Africa, motivates the historical assumption that interpreting had always taken place among the various linguistic groups during communicative encounters before the Spanish colonialists settled amongst them (Bastin 2001:505). As a multilingual society with history of colonialism, a review of the history of interpreting situation in the Americas will be done in this study. It is believed that its multilingual situation will have sociolinguistic consequence on the use of language in the continent. The existence of multilingualism also lies at the basis of the very early occurrence of interpreting during the Spanish Conquest of the Americas. This was essential, because neither the Spanish authorities nor the Native Americans understood each others' languages (Bastin 2001:505).
Angeleli (2004:8) and Bastin (2001:506), note that Columbus took two interpreters (Rodrigo de Jerez and Luis de Torres) with him on his voyage to the New World, thinking that their knowledge of languages such as Chaldean, Hebrew and Arabic would be of use in the Americas. Regrettably for Columbus, their language experience was obviously inadequate, since none of the languages spoken in the Americas had any relation to those the interpreters knew. They were not able to deal with the ethnolinguistic situations they encountered.

In order to solve this problem, Columbus captured 10 Native Americans prior to the homeward voyage and subsequently took them back with him to Europe to educate them in the Spanish language and culture (Bastin 2001:506). In other expeditions that followed, Columbus would, in the same manner, capture a number of natives and educate them in the Spanish language and culture in order for them to serve as interpreters. In 1499, other colonisers, such as Alonso de Ojeda, Juan de la Cosa and Amerigo Vespuccio followed in the footsteps of Columbus. As reported by Bastin (2001:506), some native Americans were likewise captured and used as interpreters.

The colonisers of Latin America were keenly concerned with the question of accuracy. A good example that illustrates this concern is Angeleli’s allusion to a coloniser called Hernán Cortés who would employ three interpreters:

Cortés would speak in Spanish to an interpreter, who would then interpret into Mayan for the Yucatec 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 (2004:9).

In this triadic process of interpreting, Orteguita, as the final speaker to Hernán Cortés, became very close to him. The close association between them may help to explain why a concept referring to interpreting accuracy was described as the Orteguita phenomenon. Simultaneously, there was, in addition, an enactment of law in 1537 making it mandatory for native interpreters to be accompanied by a Christian acquaintance who would attest to the accuracy of what had been interpreted (Angeleli 2004:10).
This law marked the beginning of the formal recognition of interpreting in Latin America; and it culminated in the attainment of professional status in 1563 by interpreters in court. Bastin explains that the law stipulated a fixed salary, based on the number of questions interpreted; it specified working days and hours, the number of interpreters to be allocated to each court, and made it mandatory for interpreters to take the oath before interpreting in court (2001:508).

Another reference to interpreting around this time was that of Roberts (1995:7). Citing the work of Delisle 1977, Roberts says that the origin of interpreting may be traced back to Canada’s earliest archaeological materials, which show that interpreting occurred in that country as early as 1535. According to Roberts, the French explorer Jacques Cartier kidnapped two Iroquois and took them to France to learn French. Eight months later, they were sent back as interpreters to facilitate communication between the Iroquois and the French people (1995:7).

About a century later, the French quest for animal products, such as furs, hides and skin created a desire to have a permanent post in North America. This further increased the need for interpreters to mediate communicative encounters between them and the Indian tribes. This time, the task of interpreting, Roberts explains, fell on two French nationals who had been assimilated into the community. They had “adopted the Indian lifestyle, and acted not only as linguistic intermediaries, but also as commercial agents, diplomats and guides” (1995:7).

However, Angeleli observes that the winds of professionalisation had begun to blow in the interpreting genre – particularly court interpreting – by 1563. This followed the establishment of courts and the passing of applicable laws regarding the working conditions of the interpreters. In addition, this and the previous law made in 1537 represented serious attempts to regulate the practice of court interpreters in the Americas.

2.4 THE HISTORY OF INTERPRETING IN EUROPE

2.4.1 Antiquity up until the 14th Century
The Diaspora and the effort made by the Jews to interpret religious discourses from Hebrew into Aramaic and Greek during the early part of the third century BC are
cited by Alpert (2001:269) and Toury (2001:439). The primary objective, as indicated by Toury, was “to render the Scriptures accessible to the less learned, so as to enable them to follow the service…” (2001:439). Angeleli also notes that in Ancient Greece, the interpreter’s role as linguistic mediator in business transactions was highly valued, to the extent that they were regarded as being “semi-divine and capable of performing multiple tasks” (2004:8).

It is also on record, as noted by Connolly and Bacopoulou-Halls (2001:429), that interpreting existed during Apollo’s era to accommodate foreign visitors consulting the Apollo oracle at Delphi. Furthermore, Angeleli (2004:8) notes that the multilingual nature of the Roman Empire means that there was always a need for interpreters. An example of an argument for multilingualism, and consequently the need for interpreting in the Roman Empire, is sketched by Connolly and Bacopoulou-Halls (2001:429), who noted that the Eastern part of the Roman Empire was inhabited by Greek-speaking people. And at the dawn of the fifth century, there were concerted attempts made by professors at law schools in Beirut and Constantinople to render Latin legal terminology orally into Greek.

In France, the first written document in the 9th century, reported in Salama-Carr (2001:409), was a translated version of Latin liturgical texts – the text was rendered in verbalised or interpreted form before being translated in the form of a written document. A further reference to the early occurrence of interpreting in France was made by Herbert (1978:5). He wrote that “in the beginning of the 12th century, a French lawyer advised his king to set up a school of interpreters for use in the Middle East, and more particularly in the Holy Land, during the crusades, and even criticized Pope Boniface VIII for not speaking foreign languages”. Although these events indicate an increasing interest in interpreting and translation in France, the real momentum, as noted by Salama-Carr (2001:409), was provided by the foundation of the first university in France in the 13th century.

Perhaps one could also infer that this same level of interest accounts for interpreting in Poland in the 13th century, contained in the explanation of Tabakowska (2001:524). In her explanation, she maintains that in 1285, through a decree by a synod of Polish bishops, it was mandatory for all teachers in church schools to have
a sufficient understanding of Polish in order to be able to explain Latin to students in
the Polish language. She further refers to a meeting held in Kraków in the 14th
century (1363, to be precise), where many monarchs were in attendance, and
interpreters had to be used to communicate with the monarchs during the meeting.

2.4.2 The Renaissance period (between the 14th and 17th centuries)
A review of history of interpreting provided in this section concentrates on the
Renaissance period in Poland, Belgium, Norway, Denmark, Britain, France, Spain,
and Germany. In these countries, remarkable translating and interpreting activities
took place in order to make classical works available to a wider readership.
Translation activities further increased in these countries as a result of the invention
of printing technology.

The translation of the Bible received a major boost in Denmark, Norway and Britain
during the Renaissance period, and this is pointed out in the review. The review also
provides an account of the introduction of French terms to describe translation in
France.

The need to render classical works accessible to a public readership provided a
strong stimulus to translation and interpreting during the Renaissance period. One
prominent figure of this period was Sebastian Petryc, who, according to
Tabakowska (2001:525), was “best known as a translator and commentator of
Aristotle”. This also applies to the works of Dionysius, which were translated and
interpreted into Polish by a philologist, Szymon Birkowski.

The development of printing techniques in the Renaissance period gave an
interpreting and translating services a boost; and this, as indicated by Tabakowska
(2001:524-525), resulted in the translation of books containing information about the ancient world and romance. The history of interpreting in relation to printing and translation would be incomplete without mentioning Johannes Gutenberg, who invented the printing press in 1440. As reported in this website, http://ideafinder.com/history/inventions/printpress.htm Gutenberg’s invention resulted in the mass production of books. Before the invention of printing, it is stated in the website that:

…multiple copies of a manuscript had to be made by hand, a laborious task that could take many years. Later, books were produced by and for the Church, using the process of wood engraving. This required the craftsman to cut away the background, leaving the area to be printed raised. This process applied to both text and illustrations and was extremely time-consuming. When a page was complete, often comprising a number of blocks joined together, it would be inked, and a sheet of paper was then pressed over it for an imprint. The susceptibility of wood to the elements gave such blocks a limited lifespan.

Gutenberg seized on the opportunity provided by his invention and indulged in some remarkable scholastic works, which had an impact on interpreting and translation. According to the information obtained from the website indicated above his publication in 1446 of a poem entitled “Poem of the Last Judgment”, was helped by his printing invention, and other outstanding works done by Gutenberg following his invention of the printing technique were:

- In 1454, Gutenberg printed a text containing the pardoning of sins. These were sold to Christians;
- In 1455, Gutenberg printed the Bible, which was translated from Latin into German. The Latin version (Vulgate) dates backs to 380 AD.

Within a short space of time, Gutenberg’s printing invention was so well received across Europe that, in “1499 printing had become established in more than 2 500 cities around Europe” (see website address in page above). Belgium was one of the countries which used the opportunity provided by Gutenberg’s printing invention. The invention of printing was regarded as a catalyst for the growth of translation in
Belgium, especially in the region of Antwerp, on account of its economic predominance over other regions in the country (Hermans 2001:395). The main translation activity – pointed out by Hermans – was in the form of multilingual books for the international market. One of the most prominent publishers during this period was Thomas van der Noot, who made available a number of works as translations from Dutch into French and Latin (Hermans 2001:395).

Other notable Belgian Renaissance translators, cited by Hermans, were Cornelius van Ghistele, who in the 1550s and 1560s translated the works of Ovid, Virgil, Terence and Horace into Dutch, and Dirk Volkertszoon Conhert, who translated the works of Cicero from Latin into Dutch.

Translation activities in the Nordic regions of Europe (particularly in Denmark and Norway) were mainly focused on the translation of the Bible, a corollary of Martin Luther’s rendition of the Latin text into High German (Pedersen 2001:385). Another area of translation mentioned by Pedersen was the translation of High and Low German texts into Danish.

As in Denmark and Norway, translation during the Renaissance in Britain was mainly focused on the Bible. In a bid to regulate the translation of the Bible, the Archbishop of Canterbury banned the production of Bible translations – except one produced with permission or license (Ellis and Oakley-Brown 2001:337). This, as stated by Ellis and Oakley-Brown, led to a fierce reaction amongst translators, and in defiance, they published translated versions of the Bible and circulated them illegally in Britain. One example mentioned by Ellis and Oakley-Brown was the well-known version of Tyndale. He translated the New Testament in 1525 from Greek into English.

Translation during the Renaissance in France, according to Salama-Carr (2001:409), was encouraged by King Charles V. He was a devotee of certain beloved classical works, and he encouraged scholars, such as Nicolas Oresme, to translate the Latin version of Aristotle into French. Nicolas Oresme was a notable figure in translation and interpreting circles in France; hence Larwill (1934 in Salama-Carr 2001:409) credits him as one who “produced several scientific translations. He also made interesting comments in the prefaces to his translation on such issues as the task of
The introduction of printing during this time in France renewed interest in both interpreting and the translation of classical works into French dialects for many who would not have had access to classical sources (Salama-Car 2001:410). The impetus in translation and interpreting practice during the Renaissance period took cognisance of the fact that it was this period that marked, according to Salama-Carr, the introduction of terms in French to describe the process of translation. For example, the French term *traduire* was coined for *to translate* by Robert Esperre and Étienne Dolet. They were responsible for coining the French terms *traduction* for *translation* and *traducteur* for *translator* (2001:410). Étienne Dolet is credited as the first formulator of translation theory in Western translation history. He published a book in 1540 entitled “How to translate well from one language into another”. In the book, he cites five rules for translation, namely:

- Understanding the meaning of the original text;
- Mastering both source and target languages;
- Avoiding word-for-word rendering;
- Using the speech of ordinary people;
- Employing an appropriate tone.

This book gives Étienne Dolet a prominent position among his contemporaries; and this is expressed in Salama-Carr’s (2001:410) tribute to him as a “highly symbolic figure in Western translation history”. Unfortunately, as stated by Salama-Carr (2001:410), he was largely a misunderstood scholar who was imprisoned – and made to pay the ultimate price for his writings.

In Spain, interpreting became a necessity for the advancement of the country’s colonial expansionist policy, as it became a dominant political force in Europe in the sixteenth and seventeenth centuries. This is attributed to King Carlos I, who made a conscious effort to impose Castilian (the dialect of Spanish on which modern Standard Spanish is based) on its colonies (Pym 2001:554-555). As explained by Pym, some of the measures taken by the king included the enactment of a number
of laws from 1529 to 1630 to regulate interpreting practices in its American colonies (2001:555).

The interpreters, during this time, were seen as mediating voices between Spain as a colonial power and the inhabitants of its colonies. In a reference to the work of Gargatagli (1992), who cited a text dating back to 1583, Pym writes that the interpreters were seen then as the tools “by which justice is done, the natives are governed, and the injuries done to the natives are corrected”.

In Britain, France and Spain, the kings and the Church played, to a very large extent, a regulatory role in translation and interpreting; and it was the same in Italy, where the influence of the Church was very strong. For instance, Duranti (2001:477) points out that the works of translators were strictly regulated, as they had to be approved by the Church, or risk being placed in the list known as the ‘Index of banned books’. Italy was one of the European countries where printing had flourished to such an extent that all the major towns in Italy had printing presses. This impacted positively on translation practices in Italy (Duranti 2001: 477). The positive situation occasioned by the invention of printing was not complemented by the draconic regulatory role of the Church and some translators had to find a way to circumvent the Church’s regulation. One of the ways used to get their works published and translated into Latin (a language preferred by the Roman Church) was to become clergymen, according to Duranti (2001:477).

Besides the translation of the literary genre, between 1550 and 1590, another genre that commanded a significant interest among translation scholars was travel literature. Some of the noted travel literature comprised a collection of papers by Portuguese and Spanish travellers (Wilson and Thompson 1969:334). These were translated by Giovanni Battista Ramusio in 1557 (Duranti 2001:478). Many classical works which were non-literary in nature also received attention from translators in Italy.

One of the classical works pointed out by Duranti (2001:478) was Virgil’s Aeneid. This was translated between 1563 and 1566 from Latin into Italian by a famous scholar known as Annibal Caro. Virgil’s Aeneid is regarded as the first seminal work
of translation in Italy. This was due to its extant value as one of the literary works studied at schools in Italy (Duranti 2001:478).

Latin was the dominant language in Italy for a long time, and it was commonly used by both Italians and foreign scholars. The high degree of proficiency shown by the Italian and foreign scholars may justify why it was deemed unnecessary to translate from Latin to Italian (Duranti 2001:478). This trend continued into the Enlightenment period in Italy. However, translation from Latin into other languages, such as French and Greek, increased – especially following the foundation of the Roman Academy of Letters in 1670 (Duranti 2001:479).

2.4.3 The period of Enlightenment up to 20th Century Europe

This section deals briefly with the history of interpreting from the Enlightenment period right up to the 20th century. Briefly, mention will be made of interpreting in general in Greece and Poland. This will be followed by a number of references to court interpreting practices in Britain, the use of interpreters at the Congress of Vienna in 1814-1815, the Armistice Commission and the World Health Organisation. Mention will also be made of court interpreting in Poland and Czechoslovakia.

As stated in the previous section, the Renaissance was characterised by the repressive twin authorities of the Church and the kings – where translation and interpreting were strictly regulated, and sometimes banned, if not carried out according to the dictates of the prevailing authority. This was one of the bases for the emergence of the Enlightenment in Europe, as thinkers challenged the status quo.

The Enlightenment, as a movement of philosophers or thinkers, stressed reason, logic, criticism and freedom of thought over dogma and blind faith (Wilde 2010). In the 17th century, the Church and state had total control over academic works – in such a way that “all publications, whether pamphlets or scholarly volumes, were subject to prior censorship by both Church and state” (Brians 1998). This was not taken lightly by some scholars, as they could not put up with what Brians describes as the “omnipresent censorship” and despotism of the Church, the monarch, or the State.
What followed after this was a movement known as the Enlightenment, where the Church and the state were denounced. According to Wilde (2010), the proponents of Enlightenment were openly critical of religious bodies, especially of the Catholic Church, whose priests, pope and practices were heavily criticised. The Enlightenment period witnessed a decline in the dominance of the Church, a reduction in any belief in the occult, and the development of a secular society.

The Enlightenment period led to a number of socio-political developments, which influenced translation and interpreting in Europe. For example, the Enlightenment led to the development of a national consciousness among the Greeks. This counted in their favour in the war of independence against the Turks by Greece in 1821 (Connolly and Bacopouloulou-Halls 2001:429). Having won the war, Connolly and Bacopouloulou-Halls (2001:429) state one of the steps taken by the Greeks to assert their sovereignty after the war was to resort to interpreting as a means of promoting and developing the Greek language and education in the service of the Greek state. However, the focus of interpreting was mainly intralingual in nature. This occurred in the translation of ancient works into modern texts (Connolly and Bacopouloulou-Halls 2001:430). The rational informing emphasis on intralingual translation, as explained by Connolly and Bacopouloulou-Halls (2001:430), was to ensure “the continuity of the Greek language, rather than to produce a new Greek text and to show the capacity of the modern idiom to act as a vehicle for the lofty ideas of the past”. This mindset prevails in the translation of the Koine Greek works into modern Greek.

In the Enlightenment period in Poland, the Polish relied heavily on the services of interpreters to maintain relations with neighbouring countries to the East. For instance, Tabakowska (2000:532) points out that

[...] in transactions involving Russians and Tartars … each party used their own native tongue, and formal documents were issued in the two languages. The languages adopted in dealing with the Turks depended on the experience of those interpreters who happened to be available at the time (often Polish ex-captives).

One feature of the Polish tradition of translation in the Enlightenment period was the free translation or adaptation, where the texts produced reflect that of the target
culture, or – as Tabakowska (2000:532) explains - texts produced in total independence of the original ones. Adaptation, also referred to as “beautification” by Tabakowska, was commonly used in the adaptation of poetry by several prominent Polish translators. In this vanguard of adaptation was Ignacy Krasicki, who, in 1792, translated James Macpherson’s works in French into Polish.

In addition, a translator whose work was regarded as “one of the most important theoretical works of the time” was Dmochowski, who in 1788 adapted Nicolas Boileau’s poem entitled L’Art poétique (Tabakowska (2000:527). However, adaptation as a translation practice, was frowned upon by Polish playwrights and scientists. In total disregard of the practice of adaptation by playwrights, Tabakowska (2000:527) refers to Polish playwrights who borrowed “original plots and used them as a kind of basic canvas on which local pictures could be painted”. This marks a serious attempt at discouraging the practice of adaptation. One of the measures taken, as noted by Tabakowska, was the organisation of translation contests, where the Polish translators would showcase their works based on set criteria – a set of criteria that frowned on adaptation as a practice.

The early development of European literature influenced the development of a novel genre in Poland in the early nineteenth century. This, according to Tabakowska, resulted in many outstanding works of translation in Poland (2000:527). Some of the prominent works influenced by this development, according to Tabakowska (2000:527-528), were:

- Tomasz Kajetan Wegierski’s translation in 1811 of Voltaire’s novel – (Zadig) and Montesquieu’s novel – (Lettres persanes).
- A Polish soldier novel written in French and entitled Manuscrit trouvé à Saragosse, translated into Polish and published by a Polish émigré in 1847.
- Joseph Conrad – a Pole whose works were in English, but had to be translated into Polish.
2.4.3.1 Some references to landmark court interpreting practices in the Enlightenment – up to the 20th century

A sketch of some references to landmark court interpreting practices is given in this section. This highlights some important interlingual contacts from the eighteenth to the twentieth centuries in Europe, where the growing importance of court interpreters became acknowledged. This, as a consequence, began the move for the formal recognition of court interpreting as a profession in some of the European countries, such as Poland and the erstwhile Czech Republic.

Court interpreting as a profession in the late eighteenth century in Britain was not formally recognised, but the often-cited case in 1791 between Du Barry vs Livette in an English lawsuit shows an inferred recognition of the importance of the profession by the judiciary (Morris nd:8). Quoting Lord Kenyon, Morris writes that “everything said before that interpreter was equally in confidence as if said to the attorney when no interpreter was present; he was the organ through which the prisoner conveyed information to the attorney”.

Morris (nd:8) adds that Lord Kenyon’s ruling confirmed some measure of parity in the way court interpreters and lawyers should be treated, especially in their relationship with their clients. A court case where the lack of understanding of English by an accused prompted the use of a court interpreter is contained in Grabau and Williamson’s work (1985 in Moeketsi’ 1999b:98). Here, a reference to the existence of court interpreting in the Commonwealth in 1808 is made. According to them, the first recorded use of a court interpreter was in the Commonwealth, where a Swede who did not understand the English language was given an interpreter.

A few years after the reported first recorded use of a court interpreter (in 1808 in the Commonwealth), the importance of interpreters came to the fore again at the Congress of Vienna, in 1814-1815. The Congress of Vienna in 1814-1815 (Herbert 1978:5) followed the demise of Napoleon Bonaparte (Baig 1999). It was an assembly of European powers seeking a balance of power for peace and stability to reign in the European continent (Baig 1999). This is not regarded as interpreting in the court interpreting context by Herbert (1978:5); however, its difference from court interpreting is blurred, as the congress, like a court, was purely concerned with
conflict resolution. This resulted in judgement being given in terms of territorial boundaries between the various European powers.

Morris (n.d:21) reports a case that occurred forty-nine years after the Congress of Vienna, and which shows that, although the use of court interpreters had steadily begun to gain momentum, the judiciary did not consider it a compulsory requirement for non-English-speaking accused persons. An example in this regard was a case in 1864, where eight non-English-speaking members of the crew of an English ship, called The Flowery Land, were tried for murder without interpreters (Morris n.d.:21). However, thanks to the Spanish consul, who was present, the services of his personal interpreter were made available to the accused persons.

The Polish court interpreting situation was similar to the English situation, as court interpreters were provided to non-Polish-speaking persons. However, the interpreters were not recognised formally. It is on record that the existence of court interpreting in Poland dates back to 1869, but it was only recognised formally in 1920 (Kierzkowska (1991:87). A similar wave of recognition of court interpreting in the first Czech Republic is cited by Kufnerová and Osers (2004:382). They refer to the fact that during this period, members of minority communities were allowed to plead in their mother tongue through the interpreters provided for them by the lower courts.

Prior to the First World War, as noted by Herbert (1978:5), international meetings were exclusively held in French. An example was at the Congress of Vienna, mentioned above (Herbert 1978:5). The participants in such international meetings were career diplomats for whom a high degree of proficiency in French was a must. This practice changed during the First World War of 1914 - 1918; and, as reported by Herbert (1978:5), “some of the top-most ranking negotiators from the U.S.A and the United Kingdom were not sufficiently conversant with French, which made it necessary to resort to interpreters”.

Herbert regards this period as the beginning of conference interpreting. Some of the outstanding interpreting assignments in which he (Herbert) was involved were the Armistice Commissions, where interpreters would be required to interpret for the representatives of the German Army, as well as the Allied and Associated Forces.
According to Herbert’s account, the Armistice Commission meetings would usually be held in three languages – English, German and French – and presentations in each of these languages would be interpreted into the other two during the meetings. This would normally be done by language-proficient army officers (1978:6).

Herbert also refers to an interpreting problem that occurred during the drafting of the constitution of the World Health Organisation. Among the delegates that drafted the constitution were Spanish delegates who vociferously demanded that their language should be given equal treatment with English and French. After interpreters for the Spanish delegates had been obtained, Herbert (1978:8) remarks, it was found that the form of consecutive interpreting being used was unacceptable, and this gave birth to the practice of simultaneous interpreting during international meetings. Simultaneous interpreting became the preferred mode of interpreting, especially in conferences where Spanish, Chinese, and Russians were in attendance, explains Herbert (1978:8).

2.5 THE TURNING POINT IN COURT INTERPRETING

Although Bastin (2001: 98) and Kierzkowska (1991:87), mention the formal recognition of court interpreting with reference to a number of interpreting scholars, the emphasis on court interpreting only took centre stage again with the use of interpreters during the Nuremberg trials in 1945-1946 (De Jongh 1992:2 and Moeketsi 1999b:98). The trials followed the German defeat in the Second World War at the hands of the Allied Forces, who demanded that several members of the upper echelons of the German Third Reich be tried in a military tribunal. This comprised members of Allied Powers of France, the USSR, Great Britain and the USA (Moeketsi 1999b:98).

The use of interpreters in the Nuremberg trials is regarded as a turning point. In fact, this could well be regarded as the international genesis of the court interpreting profession (De Jongh 1992, in Moeketsi 1999b:98). This was also the first time in interpreting history that equipment was used to enhance the provision of simultaneous interpreting (Mikkelson 2000:72.). Apart from the fact that the 2nd World War marked the beginning of court interpreting, it also introduced issues such as the challenges regarding the quality of court interpreting. For example, in a 1942
case reported by Morris (n.d:11), two Polish soldiers were freed on appeal – on the grounds that an *ad hoc* interpreter had been used instead of a sworn interpreter.

Both Angeleli (2004:10) and Mikkelson (1999b) describe the 2nd World War trials as consciousness-awakening events for professional interpreters, of which the outcome was the introduction of courses in the form of certificate, diploma or degree courses at universities across the globe. However, Angeleli remarks that the emphasis on the training of interpreters centred on conference interpreters. Exceptions were, for instance, the training done at the City College for Community Interpreting in Vancouver, and at Charleston North, Carolina, for legal interpreting (2004:10).

Mikkelson also notes that the shift from the exclusive training of conference interpreters takes a swift turn when “government entities began setting proficiency standards for interpreters in the courtroom”.

The interest in court interpreting, coupled with the setting of standards mentioned above, led to the development and regulation of the quality of interpreting; and in 1978, according to De Jongh (1992:7), the Court Interpreters’ Act, Public Law 95-539 was enacted in the United States. Elucidating the importance of the Act, Moeketsi (1999b:98) describes it as an acknowledgement of the importance of qualified court interpreters in the judiciary.

In terms of the Act now it is required “to protect the constitutional rights of the accused persons who do not speak the language of the court” (1999b:98). Mikkelson (1999b) points out that the legislation emphasises quality, such as making it a compulsory requirement for Spanish interpreters in the US federal courts to demonstrate their proficiency by passing a proficiency examination.

**2.6 THE HISTORICAL DEVELOPMENT OF COURT INTERPRETING IN SOUTH AFRICA**

In this section, a brief overview will be provided of the history of court interpreting in South Africa, incorporating studies that cover court interpreting, in anticipation of the
changes to the South African socio-political milieu, as well as a study conducted by Moeketsi (1999b) a few years after the advent of the new political dispensation. This will be in the form of discussing the history of South Africa in general, with a view to highlighting the possible role played by interpreters in some interlingual contacts of the different ethnic groups in South Africa. Concluding the chapter will be a review of the use of interpreting service at the Truth and Reconciliation Commission (TRC) in South Africa which started in 1996 and ended in 1999. Owing to the interest it generated in the post-1994 political dispensation, it will be reviewed as a separate section in this chapter.

It is not within the scope of this study to provide a detailed history of interpreting in South Africa, except to highlight, through literature references, some instances of interlingual contacts which could have resulted in interpreting or translation. In other words, some aspects, with a possible clue of what Kotzé (2010a) describes as ‘undivulged’ or unacknowledged interlingual contacts, made possible by interpreters or translators, will be mentioned.

Thus, the overview will be based on the period of colonialism, the Union of South Africa, the period of apartheid, and the present post-1994 political dispensation.

2.6.1 The history of court interpreting in South Africa – the period of colonialism

The first human skull discovered by R.J. Mason in September 1947 in the Cave of Hearths in Makapansgat valley, near Potgietersrus, was an indication of the existence of human beings in South Africa dating back to the Upper Pleistocene age\(^1\) (Tobias 1986:22). Similarly, according to the University of Witwatersrand’s Institute for Human Evolution, excavations carried out between 1992 and 2009 at Blombos Cave, near Still Bay in Southern Cape, showed the existence of human beings in the Middle Stone Age in South Africa.

Some objects, such as shell beads, engraved ochres, bone tools and human teeth found at the cave, were cited by Christopher Henschilwood and Cedric Poggenpoel,

\(^1\) The Upper Pleistocene age, according to Tobias (1986:22) is set at about 125 000 years ago.
who did the excavation works as archaeological evidence to support their claim of
the existence of human beings dating back to more than 70,000 years ago (see
Bredekamp’s (1986:28) work on the origin of the Southern African Khoisan
communities acknowledges the existence of archaeological findings which show the
existence of people he refers to as “groups of hunter-gatherers” who were the sole
ethnic group in Southern Africa until about 2 000 years ago. Bredekamp adds that
around the time of the birth of Christ (circa 6 BC), there were contacts between the
hunter-gatherers and groups of cattle-herders known as Khoikhoi; and through such
contacts, the Khoikhoi gave the name ‘San’ to the hunter-gatherers.

Some historians believe the San and Khoikhoi were the first inhabitants of South
Africa (Wilson and Thompson 1969:40). An argument used to support this claim,
according to Bredekamp (1986:28), is that the San people were the progenitors of
the Khoikhoi people. Based on the comparative linguistic studies done by many
scholars, Bredekamp argues that the San and the Khoikhoi have a common
ancestral heritage, because the “Tshu-Kwe languages of the San in central
Botswana still display surprising similarities to existing Khoikhoi dialects, such as
Nama and Korana”.

Following the Khoikhoi and San people, came the Bantu-speaking people, whose
exact time of arrival in South Africa lacks consensus among historians. But, as they
were members of Iron Age communities, they could have arrived in Southern Africa
in 300 AD from East and West Africa (Nigeria and Uganda) (Olivier 2006 and Venter

Historically, the exposure of indigenous South Africans to colonial languages (with
the exception of infrequent contact with Portuguese mariners from the 15th century
onwards) dates back to the 17th century. Sustained exposure started with the first
encounters between the Dutch-speaking crews of ships belonging to the Dutch East
India Company and the local Khoikhoi and San communities at the Cape of Good
Hope (Kotzé 2004:332).
The arrival of European settlers at the Cape in the 17th century, furthermore, resulted in what Kotzé (2004:331) refers to as “language-related consequences which altered the linguistic landscape of the whole continent, from Cairo to Cape Town”. One of these consequences was the possibility that they communicated with the local people (the Khoikhoi) they met, and this could be through “mimes and signs”, according to Mwepu (2005:29).

An instance of early contact of this nature between the Khoikhoi and the European settlers is noted by Wilson and Thompson (1969:40), who remark that “[i]t was these Khoikhoi herdsmen who interacted closely with the Dutch from the first settlement of the Cape in 1652, and who were of great importance to them as suppliers of meat”.

Although it is not clear exactly how communication took place during the early contacts between the Europeans and the local ethnic groups, or how frequently the interlingual contacts between them occurred, the emergence of free burghers later in the early colonial history of South Africa provides a picture of interlingual contact between the European settlers (the free burghers) and the local ethnic groups.

The free burghers were European settlers (employees of the Dutch East India Company, or DEIC), who obtained permission from the Board of Directors to establish farms in the vicinity of the Cape Peninsula, from which they would supply produce to the crews of ships anchoring in Table Bay. Wilson and Thompson (1969:194) mention that as they moved into the interior, their contacts with the local ethnic groups became more frequent, and were sometimes acrimonious in nature.

In addition to the Dutch, the settlement at the Cape also consisted of Germans, Scandinavians, French Huguenots (after 1688) and slaves from, amongst others, East Africa, Angola, and Asia (Mwepu 2005:31). One would imagine that these diverse linguistic groups could only have communicated, and in time, co-existed, with the help of individuals who could communicate interlingually. An example of these early interlingual contacts with documented proof of interpreter involvement is the case of some notable Khoisan interpreters – Autshumao and Krotoa, who were renamed by the Dutch (Jan van Riebeeck) as Harry and Eva respectively (Moeketsi 1999b:128 and Thom 1952:76).
Autshumao was a Khoikhoi tribal leader who acquired Dutch very early during the interpersonal encounters between his people and the Dutch people. This language skill counted in his favour; hence, he was used first as an interpreter by the Dutch (Mwepu 2005:29). Besides Autshumao and Krotoa, other early interpreters were Kaik Ana Ma Koukoa (renamed Claes Das), Otegno (renamed Pieter) and Doman (renamed Anthony) (Mwepu 2005:31).

Evidence of how these interpreters facilitated communication between the Dutch settlers and their community is to be found in Jan van Riebeeck’s journal, edited by Thom (1952:80). For instance, Jan van Riebeeck describes a conversation with Autshumao (“Hottentot Harry”) as follows:

Sitting at table in the afternoon, and conversing with Hottentot Harry – who speaks a little broken English, and whom we daily feed from our table in order to make him all the more favourably disposed towards us – we questioned him closely, as we have often done before, about the circumstances of the different inhabitants of this place. He gave us to understand by means of signs and broken, hybrid English that this Table Valley was annually visited by three tribes of people, similar in dress and customs (Thom 1952:80).

Jan van Riebeeck’s account of the interpreting is a testament of how important the Khoikhoi interpreters were in the Dutch people’s relationship with the local people, but, as reported in Malherbe (1990:16-18), the Dutch settlers treated them with disdain and blamed them for almost everything done by their people against the Dutch interests. An incident that occurred in June 1658 supports this assertion and, according to Malherbe, the Khoikhoi interpreters (Autshumao, Otegno and Osinghkhimma) were imprisoned when some Khoikhoi slaves fled from their Dutch masters.

It is also reported in Malherbe (1990:44) of how Krotoa was derogatorily referred to as that “naughty thing”, and insulted as a “stinking” person.

At other times, Khoikhoi interpreters were treated differently, tolerated with the realisation that they were indispensable in the service they rendered as interpreters. In the following statements, the demeaning manner in which the Khoikhoi
interpreters were regarded, is revealed, but it also shows that when the Dutch wanted their services as interpreters, they were ready to pander to their will. This is evident in the following statement of Jan van Riebeeck on 25 December 1660:

The interpreter Eva has remained behind to live in the Commander's house again, laying aside her skins and adopting once more the Indian way of dressing. She will resume her services as an interpreter. She seems to have grown tired of her own people again; in these vacillations we let her follow her own will so that we may get the better service from her (Thom 1958:308).

The nomadic nature of the Khoikhoi people caused them to come into contact and sometimes to live with other ethnic groups. This counted in their favour, in terms of their ability to speak many languages, to the extent that they were used as interlingual intermediaries between other ethnic groups.

Wilson and Thompson (1969:246) point out that the Khoikhoi people were very useful in the early contacts between the Xhosa and the Whites because of their knowledge of Xhosa. This is not surprising, as one of their contacts with other ethnic groups dates back to the early 17th century, in areas such as Mossel Bay, Kei Mouth, and the Kei and Gamtoos Rivers, according to Wilson and Thompson (1969:102-103).

2.6.1.1 The First British occupation of the Cape (1795-1803)

Prior to the arrival of the British in South Africa, the Cape was governed, as noted above, by the Dutch East India Company (1652 - 1795). This period, according to Venter (1989:21), marks the “start of what could be described as the political and constitutional development of a White, Western-oriented state in South Africa”. The Cape was governed by a council whose head was a Governor, assisted in the administration of justice by a court system known as landdrosts and heemraden (Venter 1989:25 and Walker 1947:52).

The landdrost, according to Venter (1989:25) “was a local magistrate and the heemraden wereburghers nominated to assist the landdrost in the performance of his duties”. The Roman-Dutch law was central to the administration of justice
(Venter 1989:25), and as remarked by Mwepu (2005:38), because all court proceedings took place in Dutch, interpreters were needed in cases involving other ethnic groups who did not understand Dutch. This state of affairs in the administration of justice continued during the first occupation of the Cape by the British, which began after the defeat of the Dutch East India Company in 1795 (Venter 1989:26).

There is not much in the literature regarding interpreting during this brief British occupation of the Cape. However, the statements by Wilson and Thompson (1969:246) attest to the prowess and usefulness of the Khoikhoi people as interpreters to their Dutch masters during this period:

Each of the young men of Stellenbosch who rode east in 1702 had a Khoikhoi servant with him, and it was these servants who established communication with the leaders of Khoikhoi encampments which they visited or raided. … Heupner’s trading party in 1736 had a Khoikhoi interpreter; so did Ensign Beutler in 1752; Barrow when he visited the Xhosa chief, Ngqika, in 1797.

A contact that could have necessitated the use of interpreters was that between the British officials and the local people. One of the several instances of contact written about by Campbell (1897:5) was the visit of a British official, one Mr Barrow, who went to areas around the banks of the Kariega River to meet local people in order to explain “to them that the country had passed into the hands of Britain, that it was necessary the boundary should be respected, and that they must re-cross the Fish River”.

In addition, during the brief encounter at the Cape by the British, interlingual problems were encountered by them (the British), because the official Dutch East India Company’s language, which was Dutch, still prevailed. Campbell (1897:18) provides a clear picture of the situation in his reference to a British soldier, General Dundas, who stated that one of the problems of the British authority at the Cape was that “the language in use by the people was foreign to English ears”, because “the Boers were illiterate and ignorant of the native race”.

44
2.6.1.2 The Second British occupation of the Cape

The Dutch took control of the Cape again from the British in 1803, but this was short-lived. It was followed by the second British occupation in 1806 till 1910 (Venter 1989:26). The first brief British occupation of the Cape Colony did not result in any clear-cut language policy; but sweeping changes aimed at stamping their authority in the control of the colony were made in their second occupation. Some of the changes, as explained by Mwepu (2005:39) and Campbell (1897:69-70), were the introduction of circuit courts and courts for matrimonial affairs and petty cases in the judicial system in 1811 and 1817, respectively. The circuit court was an innovation, designed to take the administration of justice to the rural areas, but this was met with language-related challenges. One of the measures used to deal with the challenges was the use of interpreters, according to Mwepu (2005:40).

The establishment of the courts of matrimonial affairs and petty cases was occasioned by the need to make it convenient for the settlers who were of different European nationalities to access justice in the areas where they were, as opposed to having to travel to towns, which in this case was Grahamstown (Campbell 1897:70). One of the major challenges that the effective running of the courts of matrimonial affairs and petty cases faced was language. Given the report by Campbell (1897:70), it shows that the language challenge was foreseen in time:

The Acting Governor did not overlook the difference of language, which might be of considerable embarrassment in cases where the British settlers were concerned; he therefore decided to appoint two additional heimraden for the Graham's Town jurisdiction, in addition to the heimraden already considered as belonging to the sub-drostdy.

Another change was the introduction of the English language as the official language. This, as reported in Campbell (1897:106), was one of several ordinances made to change existing language policy, and to bring about reform in the Cape Colony. According to Campbell, the ordinance specifically addressing language issues in the judiciary was dated 28 May 1825; and it was “for introducing the use of English language in the judicial transaction of the court of magistracy”.
The introduction of the ordinance addressing language issues marks the beginning of the departure from the Roman Dutch law system to the British system (Mwepu 2005:39). The proclamation of the Ordinance regarding the use of English in the judiciary reads as follows:

Whereas it has been deemed expedient, with a view to the prosperity of this settlement, that the language of the parent land should be more universally diffused, and that a period should now be fixed at which the English language shall be exclusively used in all judicial and official acts, proceedings and in business with the same. The long and familiar intercourse which has happily taken place between the good inhabitants of this colony and the very numerous British-born subjects who have established themselves, or have been settled here, has already facilitated a measure which is likely still more closely to unite the loyal subjects to their common Sovereign…(Government of Cape of Good Hope (1827), in Mwepu (2005:40).

In a move that signifies a further marked departure from the Dutch East India rule at the Cape, the British introduced other far-reaching changes, resulting in civil liberty to the slaves. The reforms did not sit well with the Dutch (Boers), and the first indication of this was the resignation of two burgher senators in 1826 (Walker 1947:172). As noted by Wilson and Thompson (1969:245), more protests followed thereafter, such that in 1836 there was a mass exodus of the Boers (i.e. the Great Trek) from the Cape Colony into the interior.

Commenting on this, Venter (1989:36), says the Great Trek is a reflection of the determination of the Boers to free themselves from British control, and to lay the foundation for Afrikaner nationalism. It is pointed out by Wilson and Thompson (1969:408) that, apart from the fact that the Great Trekkers were accompanied by dark-skinned people, they “recruited more servants from the inhabitants of the areas where they travelled, fought, and settled”. This is a clear indication that there were several points of interlingual contact between the Great Trekkers and the local people they met and recruited, as they trekked. It is also stands to reason that the parties (the Great Trekkers and the recruited slaves) might not have experienced any serious communication breakdowns because of the interpreting role played by the slaves in their company.
The Great Trekkers stayed in Natal briefly between 1838 and 1843, but this was characterised by fierce battles with the Zulus and the British (Wilson and Thompson 1969:334). These battles waged by the Boers, firstly with the Zulus, and also with the British, were in a bid to gain control of Natal. The wars ended in agreements – agreements which might not have escaped translation and interpreting, given the ethnic composition of the groups involved in the wars (Walker 1947:215).

Venter (1989:33) remarks that the Anglicisation policy of the British administration of the Cape Colony was further proof of the Administration’s intention to remove the use of Dutch from all government transactions. This was more manifest in the language of the judiciary, because for the British to pursue the issue of justice seriously, the questions of translation and interpreting had to be addressed. Some of the translators mentioned in this regard by Mwepu (2005:41) were J.C. Gie and A.W. Blane, who were appointed in different courts in the Cape Colony. Another translator mentioned by Campbell (1897:197) was Maurice Garcia, who was said to be a sworn translator of the Supreme Court for several years until 1861.

2.6.1.3 The Union of South Africa
Before the Union of South Africa came into being in 1910, South Africa was split into several polities controlled by the British and the Boers. There were the British Colony of Natal, the Boer Republic of the Orange Free State, and the South African Republic (the Transvaal) (Wilson and Thompson 1969:334).

The discovery of diamonds and gold in the Transvaal, which was under the control of the Afrikaners, resulted in tension between the British and the Afrikaners (Venter 1989:36). The tension escalated further – in such a manner that it was impossible for the British to disguise their intention to take control of the traditional strongholds of the Afrikaners. This culminated in the Anglo-Boer War of 1899 (Walker 1947:487). The Anglo-Boer war ended in 1902, resulting in a treaty that further led to the amalgamation of the Cape, Natal, Transvaal and Orange Free State – to form the Union of South Africa (Venter 1989:37).

At the Union, English and Dutch were recognised as official languages, while Afrikaans was regarded as a spoken variety of Dutch (Kotzé 2004:334). A few years
into the Union, Dutch was replaced by a standardised version of Afrikaans. This took place in 1925, thanks to the work of concerned scholars (Venter 1989:40 and Kotzé 2004:334). Thus the two dominant languages at the Union became English and Afrikaans, while the sociolinguistic stratification of the multilingual community with a view to the indigenous African languages, described by Kotzé (2004:334), was as follows:

The sociolinguistic stratification of the indigenous African languages followed the same pattern as in other British colonies, with English, although numerically a minority language by virtue of the size of the mother tongue community, being regarded as the language of prestige, Afrikaans in the second position, and no official status conferred on any of the other indigenous languages.

Kotzé’s description of the sociolinguistic stratification of languages at the Union gives a clear view of what the interpreting requirement in the judiciary would look like thenceforth. In other words, as the indigenous languages had no official status, it meant that the speakers of these languages had to rely on interpreters to enable them to communicate in the courtrooms.

Among the first court interpreters operating in the Union of South Africa were Isaiah Bud-M’belle and Simon Mokuena, whose joint career dates back to 1892 (Moeketsi 1999b:129-130). On the grounds of his academic qualifications, Moeketsi believes Bud-M’belle’s was academically suitable for the court interpreting position: Apart from being a teacher, he had also passed the Cape Civil Service examination with distinction, and qualified in English, Dutch, Xhosa and Sesotho. He worked as interpreter from the beginning of June 1894, in the Griqualand West High Court, and was highly rated as an interpreter in native languages, according to Moeketsi (1999b:130). His exceptional quality as an interpreter is attested to by Willan (1984 in Moeketsi 1999b:130), who said that “It was not long before it was being said he was one of the best interpreters, black or white, in the colony”.

Besides Bud-M’belle and Simon Mokuena, other court interpreters mentioned by Moeketsi were Jan Moloke and Sol Plaatje. These two gentlemen worked in the Mafeking Magistrate’s court (It should be mentioned, though, that Jan Moloke who
was relieved of his duty because of his conviction record was Sol Plaatje’s predecessor (Moeketsi 1999b:130)). Moeketsi describes Sol Plaatje’s formal education as being equivalent to Standard 3, and notes that he could read and write English, Dutch, German, Setswana, Xhosa and Sesotho. This “impressive range of linguistic accomplishment”, according to Willan (1984 in Moeketsi 1999b:130), worked in his favour and landed him the court interpreting job in 1898. Sol Plaatje’s versatile knowledge in terms of languages was regarded as a feat above his academic qualifications. This should be understood from a perspective rooted in social demand, in which there is a clear link between language and power, or, in Kotzé’s words, a “subconscious acceptance of this link between power and language” (2005).

In Sol Plaatje’s time, the dominant (and de facto official) languages were English and Dutch, with German as a foreign language. A few years later, after the unification, Dutch was replaced by Afrikaans (Kotzé 2004:334). However, the status quo remained, in terms of the interpreting scenario, even with successive apartheid laws that resulted in the creation of nominal independent states within South Africa - and, consequently, giving various indigenous languages official status of some kind in these states. This, according to Kotzé (2005), led to a practice where “ethnic communities within the so-called homelands were given the right to use the predominant language of that region as an official language in addition to both English and Afrikaans”. This, to a great extent, still characterises the language requirement in the employment of interpreters for local languages in South Africa (see chapter five).

2.6.1.4 The Republic of South Africa

Through an Act of Parliament, South Africa became a Republic in 1961, effectively confirming the status of a sovereign state on her (Venter 1989:41). The comfortable position that Afrikaans occupied from its adoption in 1925 as the official language, and the subsequent fierce Afrikaner nationalism, culminating in 1948 in a landslide victory for the National Party, showed in no uncertain terms that the use of Afrikaans was not going to take the back seat in the Republic of South Africa.
Though the National Party did not waste time in showing their disdain for British colonial authority, and in asserting their full sovereignty by removing the Union Jack as flag, and “God save the King/Queen” as national anthem (Venter 1989:41), the status of English did not suffer any significantly diminished use – either in the Union or in the new Republic. Under the Union of South Africa, the Coloureds and Blacks were disenfranchised in 1935 and 1955. This, and, as Kotzé (2004:334) explains, the ideology of apartheid, in “which separate sections of the country were designated to different black linguistic communities and other linguistic communities, gives a vivid picture of how their languages would be treated in the Republic of South Africa, (italics my emphasis).

The language situation in the Republic of South Africa was a semblance of the situation at the Union of South Africa, except that Afrikaans had gained further prominence, as more resources were committed to develop it “to the same level of functional utility as English” (Kotzé 2004:334). This means that in the Republic of South Africa, interpreting, especially court interpreting, remained an important element in South Africa’s history for many who did not understand Afrikaans and English.

This is also one area that did not attract the interest of scholars. This is clear from the dearth of literature in court interpreting until the late fifties, according to Mayne (1957:1). Voicing his feelings in this regard, Mayne states: “My task has not been entirely simple. I have worked alone and have not had at my disposal any literature dealing with Court Interpretation” (1957:1). Mayne’s book was written to fill a void that existed at that time, to help practising legal interpreters address the practical challenges they faced. This explains the didactic and prescriptive nature of the book.

An example of this is his explanation of *The Choice of the Best Word*, where he states:

> The Choice of the Best Word is the selection from your vocabulary of those words which best and concisely explain the significance of the speaker’s utterance.

> In your effort to use as few words as possible you must never run the risk of being misunderstood, for the Saving of Words is a minor consideration when
compared with the risk of Being Misunderstood or creating a wrong impression in the mind of the Listener (Mayne 1957:5).

Mayne’s study was purely a consequence of the lack of literature on court interpreting. However, subsequent scholars provided in-depth descriptions of the status quo at the time and recommended improvements, in view of the anticipated and imminent political change in South Africa. In an argument aimed at enhancing the practice of the profession, Msimang (1993:195) describes the provision of court interpreting as a form of language empowerment. He suggests, inter alia, that the provincial dominant language should be used in court proceedings, and this should be supported by an official language for record-keeping purposes. He goes further to suggest that to have “equitable empowerment”, jurists should be trained in the medium of these African languages (1993:202-203).

On the basis of a lack of adequate reference materials and infrastructure for African language practitioners, in comparison with what is available in English and Afrikaans, Trew (1994:74-75) argues that a number of changes were essential. He submitted that the quality of African language translation and interpretation materials should be made more attainable, and should reflect the prevailing “linguistic, political, and professional circumstances” of the African language practitioners.

In comparing the linguistic context and practice in international organisations, such as the United Nations and the European Community, with the situation in South Africa with its nine official languages, Trew (1994:76-7) notes that the work done by translators and interpreters in these organisations is materially supported and made possible, not only by the existence of numerous dictionaries and databases, of which they are directly aware, but also by the existence of extensive literature and standard grammars, to which, perhaps they more rarely give thought.

Conversely, “even the least technical of texts are likely to present the translators with substantial difficulties in the choices of terminology and language variety” with regard to translating and interpreting in the context of the African languages. Trew attributes this to the history of South Africa, which has not made possible the use of African
languages in technical fields, in national politics and in economic management (1994:77).

Apart from the difficult linguistic situation discussed above, Trew (1994:78) maintains that the professional conditions and social relations in the sphere of translation and interpreting are concerns worth investigating. Lack of professional status makes it difficult for an interpreter to assert himself/herself when faced with unnecessary control – or the intrusion – of superiors who are not interpreters (1994:79).

In addition to the difficult linguistic situation and poor professional conditions regarding African languages in translation and interpreting, Trew (1994:79) states that lack of adequate training affects the quality of translation and interpreting services; and this inevitably, leads to the “absence of career structures, discouraging the recruitment and retention of talent”. Some of the problems attributed to untrained interpreters, according to Trew (1994:79), are the “tendency to be quirky, the use of a reductive summary and pausing infrequently”.

As mentioned above, there are advanced infrastructural and reference materials readily available for interpreters in Afrikaans and English, as opposed to little or no training and the serious lack of any professional status for interpreters in African languages. According to Trew (1994:79), this inevitably means there are two groups with unequal levels of participation in the language infrastructure.

Among other issues relating to court interpreters prior to 1994 which have enjoyed attention, are the practices observed and discussed by Steytler (1993). As observed by Steytler (1993:50), interpreters were not impartial role players in the courtroom, and they displayed a clear bias in favour of the prosecution. In Steytler’s words, “the interpreter did not, as his function demands, stand apart from the prosecution; instead, as an integral part of the state machinery, he became susceptible to its ideology and, in turn reproduced it” (1993:54).

This amounted to partiality, and Hewitt (1995:202) admonished interpreters against it by emphasising that interpreters must guard against behaviour or conduct that would make them appear as if they are favouring any particular party in the proceedings.
Moeketsi (1999b) provides an overview of court interpreting, with the emphasis on South African languages, in which she considers, amongst others, the qualifications of interpreters and the prevailing verbal interaction in the courtroom. The literature reviewed so far has not dealt with issues affecting foreign legal interpreters in South Africa, except for a brief report in Moeketsi (1999b:17) of an immigrant accused, who was unable to speak any South African languages.

She explains the complexity involved in interpreting immigrant languages as source languages to one of the official languages in the court, and how it becomes more complex when the policeman who effected the arrest of the immigrant had to have his language (Sesotho) interpreted into the official language of the court - which in this case was Afrikaans.

Looking at the unequal power relations in the court, Moeketsi (1999b:29) writes that the plight of the accused and the plaintiff is aggravated “by their ignorance insofar as the language and procedure of the court are concerned, and also by their poverty, which makes it impossible for them to acquire legal representation”. Adding to the problem of the accused, as stated in Moeketsi (1999b:30), is the exclusive communication activity in the court, given that

[The prosecutor presents the charge in a jargon that employs unknown Latin expressions, strange technical terms, a complicated syntactic structure and complex numbering of sections and subsections that are invariably incomprehensible to the very accused for whom they are intended.]

According to Moeketsi, potential court interpreters are tested for language proficiency, which includes “translating short text into the candidate’s working language” and may also include “basic questions on the legal system” (1999b:132). Regarding training for court interpreters in the Justice Department, which is their main employer, Moeketsi (1999b:133), remarks that training only takes place after the interpreter has been in the employ of the Department for six months.

Moeketsi’s (1999b) work generally focuses on court interpreting. In the next section, the works of other scholars such as Wallmach (2002), Bock, Mazwi, Metula and Mpolweni-Zantsi (2006), Lotriet (2002), among others, which focus on the use of
interpreters at the Truth and Reconciliation Commission’s (TRC) hearings in South Africa will be discussed.

2.7 THE USE OF INTERPRETERS AT THE TRUTH AND RECONCILIATION COMMISSION IN SOUTH AFRICA FROM 1996 TO 1999.

The Truth and Reconciliation Commission (TRC) had its origin in the negotiations made by politicians to decide on how to deal with South Africa’s past and promote national unity and reconciliation. Consequently, the TRC was established by the Promotion of National Unity and Reconciliation Act No. 35 of 1994 and promulgated by Parliament on 16 December 1995 (Bock, Mazwi, Metula and Mpolweni-Zantsi 2006:1). The main brief of the TRC, according to Wallmach (2002:65), was to establish “as complete a picture as possible of the nature, causes and extent of gross violations of human rights” committed between 1 March 1960 and 10 May 1994 (Bock et al. 2006:3 and Wallmach 2002:65) through hearings from both the victims and the perpetrators of human rights violations.

The hearings were conducted in three forms, which according to Lotriet (2002:84), Bock et al. (2006:3) and Du Plessis and Wiegand (1998:25) were as follows:

1. The Human Rights Violation (HRV) hearings, where victims’ accounts of human rights violations were heard;
2. The Amnesty Hearings, which handled perpetrators’ application for amnesty;
3. Section 29 hearings, which were in-camera hearings that focussed on statements given by the perpetrators and the ensuing cross-examinations.

As indicated in the TRC’s mandate, there was a provision for the perpetrators and victims to communicate in the language of their choice; hence from the onset interpreters were made available for all the official languages in South Africa (Lotriet 1997:63). The use of interpreters at the TRC could be regarded as South Africa’s own watershed moment in the history of interpreting. For example, a comment in this regard given by Wallmach (2002:68) states that the nature of interpreting used at the TRC was the first time many South African became acquainted with the marvels of simultaneous interpreting either by seeing it through their exposure to television or as members of audience at the hearings that took place. Similarly, Bock et al. (2006:3) refer to the work of Lotriet (1998) where it was described that the nature of
interpreting used at the TRC was of “an extent and scope previously unseen in South Africa”.

Simultaneous interpreting was regarded as the appropriate mode of interpreting required at the TRC’s hearings. As explained by Wallmach (2002:68), it afforded the victims, perpetrators, members of the commission and the audience who were from different linguistic backgrounds to understand the proceedings that took place with little or no delay. Wallmach adds that consecutive interpreting on the contrary would have been time-consuming, as people at the hearings would have had to wait for the interpreter to interpret short chunks or sections of the SL speaker’s speech. Consecutive interpreting, as observed by Wallmach, would not have been the ideal interpreting mode, given the observation of Du Plessis and Wiegand (1998:28), in which they state that in most cases the testifiers’ statements were simultaneously interpreted into many languages such as from English into Afrikaans and into the dominant languages in the regions where the hearings were taking place.

In order to follow international best practice regarding the need to avoid interpreting fatigue, the interpreters were used in teams of two, so as to allow them to alternate every twenty minutes (Du Plessis and Wiegand 1998:28). However, there were many challenges faced by interpreters as identified by interpreting scholars. One of the challenges, according to Lotriet (1998:93) and Du Plessis and Wiegand (1998:29), relates to the fact many South Africans testified in their mother tongues even when it was clear that many others in the audience did not understand them. To mitigate the effect of this, interpreters were required to interpret the mother tongues used into English, not minding the fact that English was not the mother tongues of the interpreters. This, according to Bock et al. (2006:4), is a practice not encouraged by international interpreting convention.

The specific context of the HRV’s hearings presented some challenges to the interpreters. Bock et al. (2006:4) refer to hearings in which some interpreters were overcome with emotion due to the horrendous accounts of gross human rights’ abuse from some of the testifiers. An open display of emotional breakdown of this nature showed that the interpreter in question had not been able to handle his/her assignment with the professional detachment it deserved, a state of affairs which
could be attributed to inadequate and inappropriate training. It was, in fact, acknowledged by Lotriet (1998:92), who admits here that the interpreters were not properly trained due to lack of time.

To facilitate the work of the interpreters, they could have been given access to the documents relevant to the assignments they were going to handle. In the case of the TRC, the interpreters should have had access to victims’ and perpetrators’ statements. This would have enabled them to know the context of the hearing (Du Plessis and Wiegand 1998:26) and other information, such as the language backgrounds of the victims and the perpetrators, and any other information that could have assisted them in preparation for their interpreting assignments. This was not the case, given the following statement by Du Plessis and Wiegand (1998:26):

> [t]he interpreters are then supposed to receive the victim’s statement as well as any background material at least twenty four hours in advance, but this, too, seldom happens. Statements are usually handed out at the start of the day, if at all, and background material is rarely provided.

In the absence of prior knowledge of the nature of the case, the interpreters at the TRC could not anticipate the possible terminologies and dialects they would come across. This absence of prior knowledge, as stated by Bock et al. (2006:5), represents a challenge to any interpreter, and particularly to the interpreters who, in the case of the TRC, saw the testimonies they were interpreting “for the very first time”. Such a lack of information can impact negatively on the quality of interpreting, regardless of the mode of interpreting used. This, and other matters concerning the nature and quality of judicial interpreting in South African courts, will be discussed in the following chapters.

2.8 CONCLUSION

In this chapter, the history and development of interpreting has been discussed. The discussion of the history of interpreting, firstly, covered three broad periods in African history: The pre-colonial era, the colonial era and the post-colonial era. It was pointed out that interpreting has been a (language-related) phenomenon in Africa for centuries, because of the multiplicity of ethnic communities in South Africa (Bandia 2001:295).
One of the driving forces for using interpreting in the colonial era was the colonialists’ quest to trade with the Africans. As indicated in this chapter, interpreting was essential to overcome the language barrier that existed between them and the Africans. Another reason for the growth of interpreting during the colonial period was that missionaries saw the need to learn the African languages for the purpose of evangelisation.

During the post-colonial era, the traditions of religious translation that existed in the colonial era continued for a considerable time, notably for further evangelisation purposes and the translation of Christian materials into the local languages. The post-colonial era also witnessed the emergence of modern African scholars, who took it upon themselves to translate many African oral texts into European languages.

The birth of professional associations in Africa, such as NATI and CHAWA was a further feature of this era.

Latin America is another multilingual setting in which interpreting was said to have existed since time immemorial (Bastin 2001:505); and the complex multilingual context of this subcontinent will, consequently, be depicted in the next section of this chapter. It was noted that the Spanish conquerors relied on the assistance of interpreters in order to trade with the local people. Sensing the vital communicative role of the interpreter, there was an enactment of law as early as the 16th century (1537), which gave recognition to the essential role of interpreters.

Subsequently, a brief history of interpreting in Europe was presented in this chapter, covering Ancient Greece, the Holy Roman Empire, the United Kingdom, France, Poland and Czechoslovakia, among others. Cognisance is taken of the development of interpreting in general, and of court interpreting in particular, in different parts of Europe, notably the first recorded use of interpreters in the Commonwealth in a case involving Charles Norberg in 1808 (Grabau and Williamson 1985 in Moeketsi 1999b:98).
This section in the chapter referred to what is generally considered as the turning point in court interpreting; that is, the reported use of technology by interpreters in the Nuremberg Trials (1945) and how this accelerated the professionalisation of interpreting as a career.

Lastly, the history of interpreting before and after the advent of democracy in 1994 was investigated. The dearth of research literature on court interpreting in South Africa (Mayne 1957) was also discussed. This was followed by an account of what scholars wrote about interpreting in anticipation of South Africa’s new political dispensation. This was widely expected to represent a marked shift away from the apartheid era language policies. In addition, the interpreting situation highlighted in Moeketsi (1999b) a few years after 1994, was reviewed briefly in the chapter, followed by a review of the interpreting service used by the TRC in South Africa.

In the next chapter, the methodology used in this study will be explained.
CHAPTER THREE
METHODOLOGY

3.1 INTRODUCTION

In this study, a predominantly qualitative approach has been followed, together with basic descriptive statistics – in order to interpret the analysis presented. The qualitative approach, as defined by Wray, Trott, Bloomer, Reay and Butler (1998:95), entails a “description and analysis rather than, for example, the counting of features”. Furthermore, data collected in the application of the qualitative approach are usually stated in words and cannot be precisely measured or quantified in numbers (Walliman 2006:55).

The fact that this study is located within the domains of the social sciences and humanities has influenced the choice of the qualitative approach. Researchers such as Nelson, Treichler and Grossberg (1992:2) are in agreement that the qualitative approach is “interdisciplinary, transdisciplinary and sometimes counter-disciplinary”. Briefly put, this means that this approach embraces the humanities and the social sciences.

The preference for this approach is further reinforced by the fact that it is also practised in linguistics, in areas such as pragmatics, discourse and conversation analysis (Wray et al. 1998:95). This constitutes an important part of this study.

The qualitative approach is used because, within the wider context of linguistics, this approach entails some aspects of ethnography and discourse analysis, which are used to analyse textual data collected in this study. The emphasis on the use of some aspects of ethnography and discourse analysis follows the belief that culture influences the way languages are used – both in their spoken and written forms. According to Johnstone (2000:80), ethnography is the study of culture, while discourse analysis focuses on the study of language usage. From a sociolinguistic point of view, Johnstone argues that “speakers…bring previously formed expectations, beliefs, and norms to bear in interaction with others, so they necessarily embed analyses of aspects of culture”.
As indicated above, the qualitative approach was used and complemented by a quantitative approach in the form of basic descriptive statistics. Descriptive statistics is used, for example, to explain the fundamental characteristics of a collection of data; and this method is very important in summing up variables (O'Leary 2005:238). In this study, it was applied to the analysis of data distribution in the form of tables.

Data distribution, by its nature in numerical format, is reflected in this study, as mentioned above, in the form of a tabular representation of the percentages of respondents with regard to the issues covered in the questionnaire. In other words, the data were analysed and presented to reflect the degree and actual rate of occurrence of particular variants (Wimmer and Dominick 2000:234).

The combination of the qualitative and quantitative approaches often constitutes a manifestation of triangulation. Triangulation helps to “provide clarity and coherence to the investigation and description of complex phenomena”, writes Hansen (2005). To this end, no one single qualitative approach was used in the study, but rather an eclectic approach which involves ethnographics, discourse analysis and sociolinguistic analyses, in combination with basic descriptive statistics, depending on the nature of the data elicited in each individual case.

Below is a diagrammatical representation of the methods used within the triangulation approach designed for this study:

Figure 3.1: Diagrammatic representation of the triangulation approach used
The rest of this chapter will focus on the methods of data collection and the sampling methods used to select the population for this study.

### 3.2 METHODS OF DATA COLLECTION

#### 3.2.1 Interviewing

In order to collect the required data, the researcher used the method of observation, in addition to interviewing, conducted in accordance with the requirements of the NMMU’s Human Ethics Committee (See Ethics, Section 3.5 below). Interviews were used for two purposes: 1) to interview certain participants; and 2) to seek corroborative and/or explanatory clarification (post-survey interviews).

Interviews were used in most cases for follow-up purposes, to clarify previous responses given to questions asked in the questionnaires; and also when an analysis led to further issues that require examination. For example, interviews were used to elicit specific information lacking in the responses to the questionnaires.

Both structured and unstructured interviews were conducted, the former of which took the form of a questionnaire containing both closed and open-ended questions. The structured interview format was used to put a set of questions to magistrates, prosecutors, attorneys, senior interpreters, principal interpreters and chief interpreters. This was a face-to-face interview, except on one occasion where a senior interpreter was interviewed telephonically.

Face-to-face structured interviews allow social interaction between the respondents and the researcher or interviewer hence making it possible to provide additional explanation in cases where the respondent does not understand the question put to him/her (Welman, Kruger and Mitchell 2009:165). This proved to be an important consideration during the structured interviews with the respondents – the magistrates, the prosecutors, the attorneys, principal interpreters and chief interpreters. Frequently, the researcher had to explain or re-word the question, either in a simplified form, or in a form more easily comprehensible to the respondents. The responses to the structured interview unearthed pertinent issues not covered in the questionnaire; and these were dealt with in the post-survey interviews.
In the structured interview some open-ended questions were used. According to Wimmer and Dominick (2000:163), open-ended questions are used when the respondents are required to provide their own answers. Wimmer and Dominick further add that with open-ended questions, respondents are able to provide in-depth responses to the questions asked, and the researcher is able to ask further questions not covered in the questionnaire. These were used to allow the respondents to comment freely on the issues raised in the questionnaires. They were used, for instance, to invite comments and evaluations from the respondents.

Closed questions were also used in some of the structured interviews with the chief and senior interpreters. These questions were administered in a face-to-face interview, and the respondents were asked to make a selection from a range of answers provided. One of the advantages of closed questions mentioned by Wimmer and Dominick (2000:164), is that these types of questions result in “greater uniformity of response and the answers are easily quantified”. This was the main motivation behind some of the questions used in the structured interviews with the chief and senior interpreters. They were used to encourage responses in a specific format from the respondents. Unfortunately, this was not the case in most of the closed questions put to the chief and senior interpreters. Although they would provide the specific answers chosen from the range of answers provided, they would attempt to go further to explain or describe further issues, relating to the questions asked or the answers they had provided. This was because it was a face-to-face interview hence, there was an opportunity for further interaction to elicit more detail.

3.2.1.1 Unstructured interviews

Unstructured interviews were used to interview South African interpreters (interpreters interpreting South African indigenous languages). These comprised both the entry level interpreters and the senior interpreters. Though this study was not directly about South African interpreters, there were many issues that required their input by way of corroboration of information provided by other participants.

An unstructured interview is also referred to as an in-depth interview. In Welman et al. (2009:166), an unstructured interview is described as an informal interview
without a “pre-determined list of questions to work through in this situation, although the researcher needs to have a clear idea about the aspect or aspects that he or she wants to explore”. It is flexible in format and does not involve closed-format questions (Walliman 2006:92), as the interviewee is allowed to say whatever he/she wants in relation to the topic (Welman et al. 2009:166). Or, in the words of Walliman (2006:92), it “allow[s] the interview to ‘ramble’ in order to get insights into the attitudes of the interviewee”. As stated above, South African interpreters were not included in the original plan for this study, and this explained why they were interviewed by way of an unstructured interview.

Another reason was that from the pilot study done for this study, I observed that it would be difficult to obtain their participation in this study. Hence, a decision was taken to involve them by way of unstructured interviews. What transpired in this regard was that the researcher entered into a general discussion with them, and in the process, narrowed the discussion down to issues pertinent to this study. Those who were interested in taking the issues further, were informed immediately that these issues were being researched, and consent was sought from them for further in-depth information.

In the unstructured interview used in this manner, the questions were open-ended, as they were the ones deemed suitable for reluctant participants, such as the South African interpreters. With the open-ended questions, the researcher was able to maintain an informal conversational atmosphere in such a way that most of them felt that they were narrating their experiences and professional challenges to one who cared to listen.

3.2.2 Other sources of information for this study

3.2.2.1 Observation of court proceedings

The observation of courtroom proceedings was aimed at collecting primary data regarding court interpreting. This was done by observing proceedings in open sessions in courtrooms, to determine the roles of the participants, such as the interpreter, the magistrate, the prosecutor and the attorney, based on a set checklist. The observation was non-participatory, in that my role in the court was purely for the purpose of observation. I did not participate in any of the activities that took place in
the courtrooms during the observation. Observation techniques for collecting data are also regarded as field observation by researchers, such as Wray et al. (1998:111). They assert that one of the advantages of observation techniques, whether participatory or non-participatory, is that the study takes place in the "natural setting of the activity being observed and thus can provide data rich in detail and subtlety".

The focus of the observation was, firstly, to collect data regarding clarity of interpreting, maintenance of role boundaries, interpreters’ professionalism and impartiality, etc. Another reason for non-participatory observation was to observe the court activities, as carried out by the accused, magistrates, prosecutors and attorneys (in addition to the interpreters themselves), which would enable me to establish how their actions contributed to the interpreting process in the court. (See appendix ‘2’ for the checklist that was used as a guide in the non-participatory observation in open court proceedings.)

3.2.2.2 Secondary data
Throughout the research, literature was consulted as source of secondary data on an ongoing basis in order to remain abreast of established knowledge on each aspect of the analysis. Relevant articles, books and information on the Internet were consulted as sources of secondary data for the literature review and of any information pertinent to aspects covered by the research.

In chapter six, for instance, an overview, based on the literature review, is provided of current interpreting situations in selected African and European Union (EU) countries. Contacts were also made with interpreting scholars and language practitioners in some of these countries for information deemed necessary in the study. Consequently, some of the information used in this study came through e-mail messages, while some information was collected during a legal interpreting and translating conference, which I attended in Antwerp, Belgium.

3.3 POPULATION AND SAMPLING METHODS USED IN THE STUDY
In quantitative research, a “population” refers to the total group of people, objects, and events of interest that a researcher plans to study or examine (O’Leary
2005:87). It is also described by Walliman as “a collective term used to describe the total quantity of things (or cases) of the type which is the subject of your study” (2006:75-76).

Thus, a population may comprise objects, people, events or things of interest, as indicated by O’Leary (2005:58), all of which constitute what Walliman refers to as cases, while a complete list of all these cases is called “a sampling frame” (Walliman 2006:76). The focus of this study is on foreign African court interpreters in South Africa. This means that all the foreign African court interpreters (from all countries in Africa) in South Africa represent a population to be investigated in this study.

Furthermore, magistrates, prosecutors, attorneys, and managers of court interpreters (chief interpreters), who are important for court interpreting in South Africa, all represent individual and separate populations to this study. Also important as a population for this study is the court service manager. However, no data was collected from him as he referred all requests for information about court interpreters to the chief interpreters. In other words, he said he would not be able to help with any information as he was confident that the chief interpreters would provide any information required. For a complete and comprehensive study, it would have been necessary to collect data from every element of the population (or every single member of the population). Practically, this is not possible for a number of reasons.

Research study is normally planned for a given period of time and under a given budget, and this is the reason why Walliman (2006:75) states that time and budget may not allow every element in the population to be studied. It is also not practicable, because, as observed by O'Leary (2005:87), the “…study will probably involve a population that you cannot reach in its entirety; it will either be too large, or it will have elements that you simply cannot access”.

The solution to this is to base the study on some few or selected elements of the population and hope that the conclusion drawn from their responses to the questions asked are generalisable to the entire population of the study. This is referred to as sampling, or as stated by Walliman (2006:75), it is a “… process of selecting just a small group of people from a large group …”. 
For the purpose of this study, the sample selected comprised foreign African court interpreters from Nigeria, Zambia, Zimbabwe, Ghana, Mozambique, Malawi, the Democratic Republic of the Congo (DRC), Tanzania and Somalia. These individuals were all working in the Central Johannesburg, Germiston and Hilbrow magistrate’s courts in Gauteng Province. In the courts mentioned, the chief interpreters were selected and a sample of ten magistrates, ten prosecutors and ten attorneys was identified.

In addition, a total of five indigenous language interpreters (the South African interpreters referred to in par. 3.2.1.1) were selected. As mentioned, they were originally not considered as subjects in this study, but were included for the sole purpose of corroboration.

3.3.1 Sampling methods used

3.3.1.1 Purposive sampling

Purposive sampling is used by researchers in qualitative studies to select subjects with particular attributes considered to be relevant to the study (Aldridge and Levine 2001:80). This method was used to select the foreign African court interpreters who were respondents in this study.

Also, according to Wimmer and Dominick (2000:84), by means of purposive sampling, it is possible to select subjects on the basis of specific qualities and characteristics. Some of the characteristics that informed the selection of the interpreters were the age of the interpreters (not less than 21 years), in order to comply with the NMMU Human Ethics rules and regulations (see Ethical consideration under Section 3.5); years of experience, which, for instance, should not be less than two years; and regular appearances in court.

These characteristics were explained to the interpreters at the beginning of the interview, while the questionnaire they received also contained questions that specified these characteristics.

In the pilot stage of this study, the original plan was to use purposive sampling to sample at least five foreign African court interpreters from each of the countries mentioned above. This was not possible, as some interpreters stressed that their
jobs could be in jeopardy if they participated in the study. It was not possible to sample up to five interpreters from some African countries (Somali and Tanzania); and in others, the principle of sample to saturation was used. This involves a process where data are collected from samples with the specific characteristics until the point of data saturation has been reached.

Purposive sampling was also used to select attorneys from the ones observed in court proceedings. They were specifically attorneys with experience in cases that involved foreign African accused and plaintiffs; and, obviously, they were foreign African court interpreters. The reason for the inclusion of attorneys was that, since they are principal members of the verbal court process, it was considered important to question their views on foreign African court interpreters. It was specifically important to learn about the challenges they encounter in courtrooms when representing their clients, who are foreign African accused.

3.3.1.2 Snowball sampling
Snowball sampling, according to O’Leary (2005:94), is the process of identifying subjects through referrals: “Once an initial respondent is identified you ask him to identify others who meet the study criteria”. This process of referral is repeated, with each respondent being asked for further referrals, “so that the sample grows steadily in extent” (Aldridge and Levine 2001:80).

Any, or some, of the following circumstances usually warrant the use of snowball sampling:
- no sampling frame exists;
- cases are rare and geographically widely distributed;
- cases are likely to know each other;
- individuals are willing to supply information about each other (Aldridge and Levine 2001:80).

Owing to the circumstances listed above, besides purposive sampling, snowball sampling was used to select respondents in some of the countries mentioned above. This was because during the course of the study, most interpreters who volunteered
to be participants or respondents in the study withdrew. They feared that their superiors might not like their participation in the study. Some agreed to further participation, when it was further explained to them that they could participate anonymously. Thus, faced with the prospect of losing a significant number of participants, a decision was reached to ask the participants who had not withdrawn and were still keen to participate in the study to refer me to other foreign African court interpreters, who had the attributes mentioned above. In this way, purposive and snowball sampling were combined to select foreign African court interpreters as respondents.

Snowball sampling was also used to select the magistrates in the courts mentioned. Initially, it was not easy to involve the magistrates, as participants in the study, even when I produced a letter of authorisation from the Chief Magistrate, refused to speak to magistrates in the courts mentioned. After communicating with two magistrates, I took a decision to use snowball sampling in order to be able to reach other magistrates.

Through the process of referral, I was able to speak to other magistrates whose responses were used in this study. The same situation applied in the case of prosecutors, who would say that they were busy and would not have time to spend with me or to fill in the questionnaire either during office hours or after office hours. The situation regarding prosecutors was even more intractable, but through the intervention of the Chief Prosecutor, I was able to have an audience with one of the prosecutors, and through successive referrals, other prosecutors were contacted and information was obtained from them.

3.3.1.3 Chief court interpreters

Each court has a chief interpreter whose main duty is to employ interpreters and to see that interpreters are assigned to any case that requires interpreting. It was noticed during this study that in some cases, one chief interpreter’s line of authority cuts across many magistrates’ courts in close proximity. No sampling was done in the selection of the chief interpreters, which means that all the chief interpreters in the court mentioned were respondents in this study.
3.3.1.4 South African language interpreters

The sampling method used here could be referred to as “handpicked sampling”. This is defined as the “selection of a sample with a particular purpose in mind” (O’Leary 2005:94). The particular purpose in mind here was for the handpicked South African languages court interpreters to corroborate some of the information provided by other participants in the study. Most of the handpicked interpreters represented in this study were the ones I had met during the observation of proceedings in the courtrooms.

3.4 DATA ANALYSIS

Data analysis in this study was an ongoing process, involving constant revision of the preliminary deductions and conceptual developments. It was necessary to take note of important ideas that would occur in the process of data collection in order not to lose them (Bogdan and Biklen 1992:157).

Regarding data from interviews, Rubin and Rubin (1995:226 – 227), explain that data analysis starts even while the interviews are in progress. On completion of the interview, a conscious effort was made to start a detailed and fine-tuned analysis of what the interviewees had revealed.

Through this formal analysis, I was able to discover, in most cases, additional themes and concepts that shed more light on the data. These were noted and taken care of in a post-survey interview. Thus, before final data analysis begins, it is essential to put together all the material gleaned from the interviews, as well as other data from questionnaires and observation that are relevant to the subject matter (theme) and concepts.

The actual data analysis began with categorising the data and filing the information electronically. The system of categorisation entailed collecting and analysing all data in relation to the identified conceptual framework. Through this process, according to Taylor and Bogdan (1984:136), “[w]hat were initially vague ideas and hunches are refined, expanded, discarded, or fully developed during the stage”.

The data analysed in this study were from:
- Questionnaires;
- Interviews (written and oral);
- Observation of court proceedings; and
- Information gleaned from the literature sources.

Once all the data had been categorised, different analytical tools considered appropriate for the particular data were used, as discussed below.

3.4.1 Discourse analysis
Discourse analysis was used in analysing data of communicative behaviour, the ways in which interpreter-mediated speech encounters are influenced by contextual factors such as the particular communicative activities taking place and the socio-cultural factors determining the overall experience and worldview of the interpreter. This took cognisance of units of analysis which are widely used in linguistics, i.e., situations, events and acts, as suggested by Hymes (1972, cited in Saville-Troike 2003:23).

Similarly, as indicated by O'Leary (2005:262), it facilitates the interpretation of language in its “socio-historic context tied to power and knowledge”.

3.4.2 Conversational analysis (CA)
Conversation analysis is usually used in conversation that takes place in institutional settings, such as the courtroom, where the interaction is agenda-driven (Wray et al. 1998:54). Some of the data for this study were collected in the courtroom and during interpersonal interaction. This justified the use of CA.

Court interpreting is heavily influenced by factors such as power relations between the principals in the court and the ritualised setting by means of which the verbal process is organised. This makes discourse analysis a useful tool, because, as explained by Wray et al. (1998:55), CA is valuable for examining “[h]ow people alter their language behaviour according to who they are talking to and in what kind of setting”.
3.4.3 Sociolinguistic analysis
Sociolinguistic analysis focuses on the link between speakers’ dialects and their social characteristics such as social background, ethnicity, gender, etc; the relationship between standard and non-standard dialects, people’s attitudes toward dialects, accents and other elements of language, language across geographical boundaries, etc, (Wray et al. 1998:88-89).

These are some of the issues which feature prominently in this study. Some of the data collected about the court interpreters and other respondents such as the accused and witness dwelled in detail on cross-border languages, dialects and how socio-cultural milieu, among other things, affect the use of language. This is the reason an aspect of sociolinguistic analysis is included in the data analysis of this study.

3.4.4 Simple descriptive statistics
Simple descriptive analysis was used to render the data interpretable in the form of a tabular representation.

3.5 ETHICAL CONSIDERATIONS FOR THIS STUDY
This study involves human subjects; hence the principle of ethical propriety based on fairness, honesty, openness, and respect for the integrity of the individual subjects was strictly adhered to, according to the Nelson Mandela Metropolitan University’s (NMMU) Human Ethics regulations. Ethical issues in this study were accordingly addressed as follows:

- All questionnaires and written interviews were submitted to NMMU’s Human Ethics Committee for comments, suggestions and recommendations before they were used in the research.
- The subjects were given clearly communicated information about the research. Information sheets were given to the subjects, setting out the purpose of the research, the procedures, the benefits of the research to the researcher, to the subject and the field of court interpreting in general. In this document it was emphasised that the subjects may decline to participate in the study, and to also feel free to withdraw from the study at any time. The
subjects were told to feel free to ask any questions he/she feels would shed light on any issue that is not clear to him/her. It was made known to the subjects that they would be treated anonymously, and that there would be strict confidentiality regarding the information they would divulge. Finally, in the information sheets, the NMMU Human Research Ethics Committee’s contact details were stated, and the subjects were told to feel free to report any procedure that infringed on their rights or welfare.

- Sufficient time was given to the subjects to study the information sheets, and on some occasions, I had to explain in detail the information contained in the information sheets.
- Informed consent was obtained from the subjects before they participated in the study. The information sheets contained a section which the subjects had to sign, to declare their willingness to participate in the study. However, some of the respondents did not sign the consent form, as they claimed that it was pointless signing as anonymous participants.
- All efforts were made to protect the information given to me by the respondents in order to stay true to the promise I had made to the participants that the information they would give would be treated anonymously and would not be accessible by a third party before it had been used in this study. This was done by ensuring that the information was kept in such a way that no one else, except myself, had access to it, before, during and after analysis of the information. For example, it was kept in password-protected files in both my table top and laptop computers and my memory sticks.

3.6 CONCLUSION
In this chapter, the methodology used for this study has been discussed. It was pointed out that because this study is interdisciplinary, a triangulation approach, combining qualitative and quantitative approaches would be used. The quantitative aspect of the method, however, was confined to a tabular representation of the processed numerical data.
The different methods of data collection involving interviews in the form of structured and unstructured interviews were explained. In addition, other sources of information for the study were also provided.

The sampling methods used in this study were explained. These included purposive sampling and snowball sampling. Certain participants, such as chief interpreters and South African court interpreters, were, however, not sampled. It was explained that all the chief interpreters in the magistrates’ courts covered by this study were respondents in the study, while some South African court interpreters were handpicked and interviewed in order to corroborate some very important information.

The methods of data analysis used in the study were discussed, with a particular focus on discourse analysis, conversational analysis and simple descriptive analysis.

Lastly, the ethical considerations for the study were explained in this chapter. This focused on how the question of ethics would be handled in the study. In the next chapter, a discussion of some theoretical perspectives on interpreting will be given.
CHAPTER FOUR
SOME THEORETICAL PERSPECTIVES IN INTERPRETING

4.1 INTRODUCTION
In this chapter, an overview of certain theoretical perspectives of interpreting will be given. An understanding of the theories that underpin language practice applicable to interpreting is a valuable aid in evaluating particular practices and in creating awareness, generally, among both practitioners and non-specialists, of the overall practice of interpreting. This view is aptly stated by Komissarov (1985, in Gile 1995:13), who states that “It cannot be denied … that translation theory is supposed, in the final analysis, to serve as a guide to translation practice”. This, by extrapolation, means that interpreters grounded in interpreting theory will be able to relate to the theoretical concepts in their practice.

A common area of misunderstanding is the semantic difference between the terms “translation” and “interpreting”. Some scholars consider translation as a hyponym of interpreting, while others have different views. Thus, one of the aims of this chapter is to present the different views as a way of delineating the distinctions between these terms.

In order to do this, there will be a discussion of the definitions of translation and interpreting, highlighting the semantic differences. Other issues that will be addressed in this chapter are discussions of modes of interpreting and types of interpreting. This will be followed by various notional theoretical issues, such as the notion of equivalence theory in translation and interpreting; and finally, a consideration of the practical issues, such as the roles of the court interpreter and quality issues in court interpreting.

4.2 DEFINITIONS OF TRANSLATION AND INTERPRETING
Many scholars are of the unequivocal view that translation and interpreting are the same; and hence, they use the terms interchangeably. Others maintain that interpreting is a branch of translation (i.e. that the term “interpreting” is a hyponym of “translation”), while a third group are of the view that although interpreting is similar in practice to translation, it represents a field of its own.
The confusion in usage of both terms can be attributed partly to the fact that both facilitate communication between parties who would not, otherwise, have been able to speak, read and write the same languages (Moeketsi 1999b:95 and Stander 1990:10). Alternatively, this applies to hearing-impaired people, who would not otherwise have been able to use the necessary visual-gestural processes to communicate meanings.

Representing the first view, Gile (1995:2), states that interpreting and translation are basically the same – because they re-express “in one language what has been expressed in another”. Another source of confusion regarding the difference between translation and interpreting is (expressing the second view above) that many scholars see translation as a generic term that includes interpreting. As noted by Bathgate (1985, in González, Vásquez and Mikkelson 1991:295), translation “refers to the general process of converting a message from one language to another”. This view is reflected in the explanation given by Baker (2001:277) about translation studies. According to Baker, translation studies is an academic discipline that deals “with the study of translation at large, including literary and non-literary translation, various forms of oral interpreting, as well as DUBBING and SUBTITLING”.

In addition to this, Mikkelson also notes the generic sense in which translation is used by scholars, and asserts that “the term translation is also often used to denote the overall process of interlingual meaning transfer, regardless of whether it is written or oral” (2000:67). This thought is also succinctly expressed by Harris (1981, in Padilla’s and Martin’s 1992:196) article as follows:

We had better admit at the outset that translating and interpreting have much in common. When all is said and done, they are but two modes of what is essentially one operation: A process by which a spoken or written utterance takes place in one language, which is intended and presumed to convey, the same meaning as a previously existing utterance in another language.

Complementing this view, Schäffner writes that within the community of scholars, there is a generally held view that translation studies subsumes interpreting, or includes categories referring to oral modality (interpreting) and written modality
A view similar to this is given by Pöchhacker (n.d., in Schäffner 2004:5), who argues that English translation scholars are not very explicit in their writings on whether when they use the term ‘translation’, they are limiting themselves to the written mode, as opposed to other, notably German, scholars, who maintain that translation as a hyperonym is an umbrella term for translation and interpreting.

Gile’s (2004:10-31) did an extensive review of the differences between translation and interpreting without coming to a decisive conclusion whether interpreting is a sub-discipline of translation or a discipline of its own. This author’s view lends voice to the debate. To avoid terminological confusion about the terms, Pöchhacker recommends that a label such as, Translation and Interpreting Studies, should be used when considering these from an academic perspective.

Though some scholars admit interpreting and translating are different, they share the view that translation includes interpreting hence, they would recommend that a student should get a good grasp of translation in order to understand interpreting. Based on their teaching experience, Padilla and Martin argue that it is far easier for them to teach students with a translation background to become interpreters than without one (1992:195).

Thus, in the light of the lack of clarity about both terms, it is important to distinguish between them in the discussion that follows.

The definitions given by Mikkelson (2000:66) and De Jongh (1992:35) show that not all interpreting and translation scholars agree with the generic sense in which translation is viewed. The distinction between both terms is explicit in Mikkelson’s (2000:66) definition. This states that interpreting is “the transfer of an oral message from one language to another in real time” (as opposed to translating, which is the transfer of a written message from one language to another, and may take place years after the original message was written …). A related definition by De Jongh (1992:35) states that translation is the transfer of thoughts and ideas through a process of written words from source language to target language. On the other hand, she refers to interpreting as an oral process of communication “in which one
person speaks in the source language, an interpreter processes this input, and produces output in a second language; and another person (or persons) listen(s) to the interpreted target language version of the original speaker’s message”. De Jongh further adds that “[t]ranslation converts a written text into another written text, while interpretation converts an oral message into another oral message”.

4.3 THE DIFFERENCES BETWEEN TRANSLATION AND INTERPRETING

From the aforementioned definitions by Mikkelson (2000), it would be important to note the emphasis on time, as a marker, in considering the difference between these two terms. The use of “real time” by Mikkelson implies that interpreting takes place without much of a time lag, as opposed to translation, which may take place several years after the original message was written.

In comparison, interpreting is an instantaneous communication process used to facilitate communication between parties who do not understand each other. This means that as the source message is uttered by the source speaker, it is communicated immediately by the interpreter to the target audience. In the words of González et al. (1991:295), “[t]ranslators have time to reflect and craft their output, whereas interpreters must instantaneously arrive at a target language equivalent, while at the same time searching for further input”.

Referring to the work of Inglis (1984), Padilla and Martin (1992:198) point out that the interpreter using the consecutive mode is always involved in an immediate interaction with the parties for whom he is interpreting. This, for example, could mean asking for clarification, explanation and repetition. This, according to Padilla and Martin, allows the interpreter the advantage of feedback in his/her rendition of the source language (SL) message to target language audience (TL).

The difference between interpreting and translation, according to Stander (1991:13), is found in the interpreter's source, which is the language of the speaker he/she is representing, while the translator's main source is in written form. In other words, this means that the interpreter interprets from an oral source, either consecutively or simultaneously, into the TL, while the translator translates a written source as the SL into a written TL.
In the case of the interpreter, when his/her oral source speaks, he/she listens and then renders the statement into the TL orally. This can also be information on a sound recording, which he/she has to translate into written form for the target audience, according to Schäffner (2004:1). Stander remarks that it is important for the SL producer (from the viewpoint of the interpreter) to speak in an articulate manner via the interpreter to his/her audience. The interpreter, in turn, has to ensure that the right information and paralinguistic elements that the audience would otherwise not understand are rendered clearly in the TL. This, in essence, also means that the interpreter is obliged to assist the parties he represents to overcome any socio-cultural issues that come into play in their languages. This further puts pressure on him as an active player in the communication process.

Given his/her active role, González et al. (1991:303), remark that “the interpreter is both receptor and source that goes through the same process that monolingual receptors and sources undergo when generating and comprehending oral messages”. On the other hand, the written source affords the translator the opportunity to study it thoroughly before rendering it in the target language. Stander explains that, in most cases, the translator has little or no contact with the original author, but has access to dictionaries and other reference materials in order to ensure a good rendition of the TL text (1991:13). Moeketsi (1999b:95) emphasises the fact that the translation appears in written form and is durable.

In similar vein, Seleskovitch (1978:2), declares that the written text is “static, immutable and fixed in time”. Padilla and Martin (1992:196) argue along the same lines, that “[t]he written text is static, because it was reproduced in the past. The translator can consult it at his own pace, in his own time, using the resources he deems necessary”.

The translator’s written source text appears in a particular order, and this must be retained in its original form, because, according to Padilla and Martin, the text is considered “sacrosanct”. Hence, it would be considered sacrilegious to alter the order in which the original appeared (1992:201). To retain the form of the original text, Renfer (1992:173) explains that a translator has to be au fait with the content of the text, something which can only be achieved by resorting to the original sources...
of information on the subject. He goes further to state that this will involve terminology research and obtaining information about the origin of the text, such as the circumstances of the author’s life. Gordon (1985), who endorses this view, states that every speech act involves three important elements, i.e. the speaker (author), the message and the audience. In his explanation, Gordon stresses that the more knowledge we have about the original author, the exact message he has produced, as well as the original audience, the more awareness we will have of his particular act of communication. He goes further with an example:

Assuming that an act of communication is right now taking place, as you read what I wrote, there are three dimensions: myself, and what I am intending to communicate; the actual words which are on this page; and what you understand me to be saying. When these three dimensions converge, the communication has been efficient.

As indicated by Renfer above, if the circumstances of the author’s life – when the text was written – are understood, then this would also help in the understanding of the circumstances or context that informs the production of the message. For example, Gordon refers to Martin Luther King Jr.’s famous letter from Birmingham Prison. He concludes that one who knows the circumstances under which the letter was written would understand it better than one who does not know about civil rights and the history of mid-20th century America (1985).

Padilla and Martin’s view on the retention of the original order, flies in the face of many scholars of translation, because it is akin to the notion of ‘sameness’, or to a concept referred to as formal equivalence in translation. Formal equivalence or correspondence, according to Nida and Taber (2003:201), is a “quality of a translation in which the features of the form of the source text have been mechanically reproduced in the receptor language”. (This is discussed in detail in Section 4.6.1).

In interpreting, the question of retaining the original order is not important, something which is aptly stated in the advice given by Namy in Padilla and Martin’s (1992:201) article:

In consecutive interpretation, the interpreter can, to a large extent, re-organize the terms of a statement in a way that will make its message more
immediately comprehensible to his audience ... he can, and I contend, he must take as much liberty with the original as is necessary, in order to convey to his audience the meaning.

The nature of the interpreter’s work leaves him/her with no time to use dictionaries or to consult an expert, and the only recourse left for him/her, to ensure comprehension and quality, is to take “pre-emptive action before the message is actually communicated, through exhaustive preparation, both lexical and conceptual, of the subject matter concerned” (Padilla and Martin 1995:196). Renfer maintains that interpreters’ means of information, apart from their own experience, is very limited, and although they may get help from their fellow interpreters regarding terminology lists, usually they have to rely entirely on themselves because of the immediacy inherent in the nature of their job (1992:174).

Regarding the types of oral sources with which the interpreter deals, Stander (1991:14) indicates that these sources include oral speeches, discussion, negotiation, multilingual conferences, statements, presentations and explanations, except where there is need to do an oral sight translation from a written source. Adding to the complexity of the problem, these oral sources can appear in any dialect of the prevailing standard language (Padilla and Martin, 1992:197). In order for interpreters to interpret effectively, it is important to have the necessary skills that can cut across different dialects of the standard language. Such cross-dialect ability is important for effective interpreting, but Nida (1964 in Padilla and Martin 1992:197), points out that it may result in a situation where the message encoded by the interpreter will be different from that of the SL speaker. In this case, the interpreter believes that his/her version is equivalent to what the SL speaker has said, but it may turn out to be just the opposite, or not representing accurately what the SL speaker has said.

Furthermore, the translator’s written sources are catalogues, instruction leaflets, newspapers articles, journals, novels, other written materials, such as company annual reports and information recorded on a tape (Stander 1990:14 and Schäffner 2004:1). These are fixed forms of written texts, which, according to Padilla and Martin, are simply worked on by the translators at their own pace (1995:197).
The fixed form of the translator text enables him/her to take as long as he/she needs to study the text for proper comprehension. The fixed form of the translator source characterises the translator’s source text, which allows him/her “to refer back to the source text, as often as necessary, and to correct and revise the target text, using a variety of tools”, explains Schäffner (2004:1). This, Schäffner maintains, results in a final target that is perhaps born out of numerous attempts or through trial and error. In Nida (1964, in Padilla and Martin 1992:197), it is also emphasised that as written communication, it does not have an immediate effect on the translator, as he/she is not actively involved in the production of the message.

An important difference between the interpreter and the translator, according to Padilla and Martin, lies in the urgency the interpreter faces when rendering the SL message into the TL. In addition, Schäffner (2004:1), explains that this urgency also means the interpreter has only one chance to produce the target text as output, because the source text is made available to him/her only once. Consequently, she also remarks, the interpreter may discover that sometimes what appears as obscure points at the beginning of a speech in an interpreting process may suddenly become clear at the end of the speech. Then it is unfortunately too late to make any changes. This happens in interpreting because the possibility of (a) checking the comprehension of the source text; and (b) because the correction of the target text is slim, especially in the case of simultaneous interpreting (Schäffner 2004:2).

Another reason this may happen in interpreting is that in certain languages, for example Afrikaans and Dutch, the main verb very often occurs right at the end of a sentence, so that the interpreter is sometimes required to make an informed guess as to which verb would be appropriate to insert in a target language – where the verb occurs earlier (Kotzé 2010). Similarly, this becomes a complex issue for an interpreter in the case of Œdo, since this language has no standard spoken or written form. Œdo has an irregular or indeterminable verb position; and sometimes there is a blurred line regarding the difference between Œdo’s present tense and past tense. This may pose some difficulties to the interpreter, in view of the urgency he/she faces in rendering the SL into TL.
The translator’s work is not within the reach of both the author and the target audience, “in both time and space”, according to Padilla and Martin (1992:198). This, however, is not applicable to the interpreter, because he/she has contact with the party that requires his/her services, and is, consequently, able to adjust to what the audience requires (Eberstark 1982 in Stander 1990:15). In the words of Padilla and Martin, “the interpreter shares the communication context and environment with both speaker and the target-language audience” (1992:198). In an argument used in this regard, Padilla and Martin explain:

Oral communication is much more immediate than written communication, and involves many more references to the communicative context shared by the participant in the communicative act. This is undoubtedly an advantage for the interpreter, as it provides him or her with more direct, specific allusion of a message intended for a known group of listeners. For that reason, the interpreter can and should adapt the target-language version to the decodifying capacity of the listener, as we do in everyday communication (1992:198).

Commenting further on the differences between interpreting and translation, González et al. (1991:295) note that the interpreter is always present among the target audience. In addition, they cite Seleskovitch (1978), who notes that when the interpreter “participates in dialogue, his words are aimed at a listener whom he addresses directly and from whom he seeks to elicit a reaction”.

The main aim of the interpreter is to make sure his/her audience is given the required information. This is different when it comes to the translator, who will have to “consider aesthetics, stylistics, the manner in which to render quotations, and source-language style, peculiarity and grammar in translating a text …” (Stander 1990:15). The nature of translation training emphasises that translators must aim at absolute perfection in their translated text; and this, in the view of Padilla and Martin (1992:199), is the reason why the translator tends to take time to weigh up individual terms, concepts and expressions. This is in stark contrast to that which applies to the interpreter, whose work requires that he must get the message across without wasting any time doing revision. Observation made by Padilla and Martin (1992:200) shows that the source speech in an interpreting situation is less systematic, more
fragmented, redundant, and at times may even be repetitive. These speech elements, they remark, do not bother the interpreter in rendering the SL message, but rather he demands that he should grasp the main points and get them across in time.

Regarding the working conditions of the interpreter and translator, Schäffner (2004:2) maintains that the two professions require different skills to practise. For example, she argues that both the translator and the interpreter need memorising and note-taking skills, but these skills are more important to the interpreter than to the translator, who requires little or no memorising and note-taking skills to practise.

4.4 MODES OF INTERPRETING
Modes of interpreting refer to the methods used by the interpreter to render the SL message into the TL, namely consecutive interpreting, simultaneous interpreting and sight translation. These will be explained below.

4.4.1 Consecutive interpreting
Consecutive interpreting is the oldest method of interpreting. According to González et al. (1991:359) and Herbert (1978:8), it was the mode of interpreting used until the early 1940s. A summarised definition of consecutive interpreting given by Gile (2004:11-12) states that it is the mode of interpreting in which “the speaker makes a statement, which generally lasts up to a few minutes, while the interpreter takes notes; then the speakers stops and the interpreter reformulates the statement”.

In the consecutive mode of interpreting, the interpreter renders the source-language text into the target language after the source-language speaker has finished or paused. This implies that the source-language speaker must finish what he/she is saying, or pause while the interpreter listens carefully, before converting the source-language message into the target language. This, according to González et al. (1991:379), signifies that it may take between seconds to several minutes before the source language (SL) message is interpreted into the TL, and the speed with which it is interpreted into the TL depends on the SL speaker and the subject matter.
Regarding the speed, it should be noted that if the speaker speaks too fast, it may result in poor or partial comprehension of the original message by the interpreter. To mitigate this, the interpreter may use interruption as a strategy to request a repetition or a rephrase of the original message (HIN 2007:9).

Consecutive interpreting is mainly used in courtrooms to interview witnesses and accused persons in trials, in depositions, sentencing, questioning and many other legal proceedings, such as arraignments or bail hearings (De Jongh 1992:37 and González et al. 1991:379). It is also used in other communicative encounters, such as diplomatic meetings, welcoming addresses, press conferences, banquet speeches and negotiations in organisations with employees who do not understand the official language (De Jongh 1992:37). Apart from its use in the court, where it is deemed most appropriate, González et al. refer to Seleskovitch’s (1978) study, in which it is indicated that about 10 percent of interpreting in international conferences involving two languages make use of consecutive interpreting.

When a higher degree of accuracy is required, Weber (1984 in González et al. 1991:379) maintains that consecutive interpreting is the preferred mode. He also goes further to state that consecutive interpreting is used “when participants in a meeting find it useful to have additional time for reflection during interpretation”. This same sentiment is also shared by De Jongh, who says consecutive interpreting is the preferred mode in a legal setting, because of the insistence on the interpreted message being as close as possible to the original message (1992:38).

4.4.1.2 Forms of consecutive interpreting
Consecutive interpreting is carried out in two forms, namely long consecutive interpreting and short consecutive interpreting. The differences between these two forms depend on the length of time the SL speaker speaks before the interpreter takes over and renders the SL message into the target language.

4.4.1.2 (a) Long consecutive interpreting
Long consecutive interpreting is used to describe the type of interpreting in which interpreting is given at the end of the entire speech. This form of consecutive interpreting is also referred to as continuous interpretation by Gerver (1976 in
Moeketsi 1999b:111). In the definition given by HIN (2007:9), long-consecutive interpreting is used in interpreting settings “where the interpreter listens to the totality of the speaker’s comments or a significant passage, and then reconstitutes the speech with the help of notes taken while listening”.

4.4.1.2 (b) Short consecutive interpreting
This term is used by HIN (2007:9) to describe interpreting in court and most forms of community interpreting, which operate at sentence level rather than for the duration of the entire speech. Short consecutive interpreting is referred to as sequential interpreting by Mikkelson (2000:71) and HIN (2007:9); and is similar to what Gerver (1976 in Moeketsi 1999b:111-112) refers to as discontinuous-consecutive interpreting, in which “the interpreter delivers his version at breaks in the source language speaker’s output”.

Interpreting scholars use both terms (short consecutive interpreting and discontinuous-consecutive interpreting) interchangeably, as there is really no difference between them. This is the reason why Stander (1991:20) asserts that discontinuous-consecutive interpreting includes short consecutive interpreting. A look at HIN’s (2007:9) explanation of what short consecutive interpreters should do to ensure accuracy shows a similarity with the explanation given by Stander (1991:19-20) and Moeketsi (1999b:112), that the interpreter may interrupt the SL speaker for more clarity, or to request a rephrase in order to ensure accuracy. This supports the notion that both terms (discontinuous and short consecutive interpreting) are the same.

Another form of consecutive interpreting is phrase-by-phrase consecutive interpreting. This takes place when the interpreter interprets after every few words, or phrases, of the SL speaker. Although Bowen (in Stander 1990:19) treats this as a separate form of consecutive interpreting, it is similar to the earlier explanation given on consecutive interpreting, where the interpreter has to interrupt the speaker for more clarity, or to ask him/her to rephrase a portion of the sentence that was not clear.
4.4.1.3 The differences between consecutive interpreting when used in court and conference settings

In consecutive interpreting, Weber (1984 in Mikkelson 2000:71) points out that conference interpreters usually omit hedges, self-corrections and hesitations in the SL speaker’s message, when they interpret into the accused or witness’ language. According to Weber, the consequence of this is a shorter, more polished and a better-organised interpreted version. In other words, González et al. (1991:379) assert that conference interpreters who use the consecutive interpreting mode “… often condense or edit the message … and may actually make it sound more coherent, succinct, and smooth than the original”. The tendency is that the conference interpreter will rephrase the original speech, based on the speaker’s ideas, in a version he/she thinks will be suitable for the understanding of the target audience. Mikkelson argues that this makes the job of a conference interpreter employing consecutive interpreting a lot easier, because the interpreter is “free to concentrate on the speaker’s ideas without being distracted by the paralinguistic elements of the message” (2000:71).

While it may be permissible for the conference interpreter to subjectively rephrase the original speech in a version he/she thinks will be better understood, in the court setting there is a restriction on such liberty for interpreters using the consecutive interpreting mode. It is required that the interpreted version of the accused or witness’s testimony must be as faithful as possible, or what Mahmoodzadeh (1992:232) refers to as the “closest rendering” possible.

For this, González et al. (1991:379) and Mikkelson (2000:71) both indicate that court interpreters cannot employ consecutive interpreting where the SL speaker’s message is condensed or edited. This is so, because matters that come before the court for resolution could sometimes mean the difference between life and death for the accused person; hence, the importance of accuracy of verbal proceedings must be emphasised at all times.

Condensed or edited speech may be an opportunity for the opposing attorney to spot verbal slips or inconsistencies, which he/she may then use to argue against the witness. The consequences of ineffective communication by the accused cannot be
over-emphasised. This is the reason why González et al. emphasise that the interpreter has to be the true voice of the accused person or witness, by ensuring that every aspect of the SL uttered by the speaker is interpreted into the TL language, as “faithfully as is humanly possible” (1991:380).

What is expected of the interpreter in the court setting that ultimately should guide his/her message rendition is aptly illustrated in the comment of Gentile (1991, in Gentile, Ozolins and Vasilakakos 2001:101-102):

The transfer of the message must be complete; the interpreter cannot take upon himself or herself to summarise what the client says, nor to omit any element contained in the message, no matter how relevant or otherwise the interpreter feels that the element is to the situation. Accuracy also means the impact of the message must be maintained.

4.4.1.4 Some useful skills for consecutive interpreters
An interpreter using the consecutive interpreting mode has to have certain skills in order to function efficiently. Notable amongst these skills are turn-taking, listening, note-taking, prediction, and memory. These will be discussed below.

4.4.1.3. (a) Turn-taking
Quite a lot has been written about turn-taking, or interruption in discourse, used in the courtroom by scholars, such as O’Barr (1982), Berk-Seligson (1990), González (1991) and De Jongh (1992). These scholars have shown in their writings that the approach used by the interpreter in his/her employment of turn-taking or interruption in the verbal process can change the usual pattern of verbal interaction in the courtroom either positively or negatively. This may, in some instances, imply non-compliance with the accepted rules/conventions on the part of the interpreter. One of the roles he/she has to comply with is to have an unobtrusive presence in the discharge of his duties in the courtroom. This may be compromised through the wrong use of interruption.

Thus, where he/she is supposed to be unobtrusive, it may turn out that he/she becomes an actively intrusive element in the courtroom proceedings. This is why it is very important that some strategies should be followed in turn-taking or interruption.
in the verbal process, especially in the courtroom, where everything said or done is considered by the magistrate during the preparation of his/her verdict.

In the data collected by Hale (2004:203), the interpreter interrupted for the following reasons:

- To ask for clarification of a question or an answer;
- To correct a question, when it is an obvious, but unintentional mistake;
- To finish interpreting a previous interrupted utterance;
- To provide unsolicited information;
- To offer a personal opinion;
- To protest to the bench for being interrupted.

When the reason for interruption is as a result of the interpreter’s demand to the witness for more clarity, Berk-Seligson (1990:181) asserts that this may be for any of the following reasons: When the interpreter has encountered a problem in interpreting a specific word; or there is an obvious inadequacy of the witness’ response; or, not hearing what the witness has said; or the witness making comments to the interpreter on the side. In addition to these reasons, De Jongh (1992:40) and Berk-Seligson (1990:189) emphasise that the interpreter has justified grounds to interrupt when a sentence made by a speaker is too long, in order not to forget anything that has been said.

This type of freedom of interruption has its limitations, and, according to González et al. (1991:395), although it is accepted practice for the interpreter to ask the accused person or witness to repeat what he/she has said, it is important to note that the witness or the accused may not say exactly the same thing the second time around. One of the consequences of this is that part of what was said earlier may be excluded in the repetition, when such a request is made by the interpreter. Secondly, the interpreter’s demand for more clarification of what has been said may cause the witness to think that what he/she previously said was wrong (González et al. 1991:395).

Gentile et al. (2001:35) argue that the point of each interruption may be taken to represent the end of the accused person or witness’s input on the topic, when in
actual fact it reflects the interpreter’s inability to cope. This may lead to a situation where “[t]he result is often detrimental to the spontaneity of the interaction and leaves the interlocutors unhappy about the role of the interpreter” (*idem*).

The overall aim of using an interpreter for the accused person or witness in the courtroom is to give him/her a communication presence that resembles the one that would have obtained if there had been no language barrier. Unnecessary use of interruption may work against this aim, as it may result in a situation where the person interrupted may lose his/her train of thought. When this happens to an attorney, who may be at his best at that particular moment in terms of question formulation to elicit specific information, or to an accused person whose answer is being precisely rendered to meet the challenges of the moment, there would be a broken train of thought, remark González *et al.* (1991:397).

In other words, interruption may also cause the witness to lose his/her train of thought, and he/she may thus not be able to comprehensively respond to the question asked. In the words of González *et al.* (*idem*), if the witness or attorney is interrupted before he/she completes a thought, “the interpretation may be misleading, because subsequent words might alter the meaning of the message”. Secondly, González *et al.* also note that there is the possibility that the attorney will instantaneously begin a follow-up question because he/she has not realised that the accused person or witness has not yet finished answering the previous question (1991:397).

As has been documented by scholars, such as Hale (2004:204) and Berk-Seligson (1990:187-188), when the interpreter interrupts a speaker, such as the attorney, he/she alters the degree of control held over the examination by the attorney. The same applies when a witness is interrupted frequently by an interpreter. However, in Berk-Seligson’s study, it is not clear in some cases whether the interrupted parties were affected negatively or positively. What is clear in both cases is that interruption does affect the perception of the message spoken and even the credibility of the speaker. Consequently, this underscores the importance of an interpreter who can skilfully use interruption or turn-taking, in such a way, that the nature of the speech and the original intention of the speaker are preserved. This amounts, according to
O’Barr (1982:88), to the ability to ensure that the interpreter intervenes at “turn-relevant places” (points in an utterance where one might assume that the speaker has finished, and other relevant points, so that the completeness of a thought expressed by an accused person or the attorney is not compromised).

This also means an appropriate intervention in the case of a lengthy speech “based on the interpreter’s assessment of her memory capacity, the witness’s speaking style, and the impact an interruption would have on the witness’s perceived credibility”. Importantly, the interpreter should interrupt at a point where there is a break in the speech; and in such a way, that the idea and flow of the general message is not affected. Some advice is given by Gentile et al. (2001:25) regarding when it is proper for the interpreter to interrupt speech:

When the interpreter needs to interrupt, before either client has completed a segment, the following elements need to be considered: the interpreter should interrupt at the end of a ‘sense group’, i.e. at a point where a natural break would occur, because of the completion of a particular idea or point being made; after the interpretation ...

Other than the recommendation that the interpreter should interrupt at a turn-relevant place, as suggested by O’Barr (1998), or what Gentile et al. (2001) refer to as sense group above, there is no clear-cut measure or criterion in literature regarding the point or the length of segment in a particular speech before the interpreter may interrupt the speaker.

In the literature, the emphasis is generally placed on the need for the interpreter to ensure that the speaker is not interrupted unnecessarily. According to Gentile (2001:24), “the overall criterion is to allow the speakers to express themselves freely, at their own rhythm and pace”, with little or no disruption of the flow of communication (González et al. 1991:397). This may mean using some of the following methods by the interpreter to indicate to the accused person or witness, to stop or to continue speaking: hand signals, beckoning gestures and, in some extreme cases, “placing their hand near the witness’s mouth” (González et al. 1991:396).
4.4.1.3 (b) Listening

Listening, whether in consecutive or simultaneous mode, is one of the most vital skills required for effective interpreting. González et al. (1991:380) point out that listening involves more than just hearing, which is “a passive process involving an involuntary reaction of the senses and the nervous system”. Instead, they state, that it is a deliberate process engaged in by the interpreter in order to hear all that is said and render it into the TL. Listening, as opposed to simply hearing, requires that a conscious effort be made by the interpreter so as to be able to attend to the meaning in the message that is meant to be rendered into the TL. As noted by González et al., it also creates a state of mental alertness and interest. This results in the interpreter being able to receive the desired information in the SL for rendition into the TL (1991:380).

There is a parallel between what González et al. (1990:380) call attending (paying attention) to meaning, and what Bruton (1985:22) calls concentrated or critical listening. In explaining concentrated or critical listening, Bruton remarks that concentrated listening is unlike normal listening, because “the interpreter is the receptacle, not the destination of incoming auditory material”. Bruton goes further and notes that:

... the interpreter may not have, and usually will not have, the same knowledge of the subject matter as those for whom it is in theory intended, so that he must maximise understanding of the explicit part of what he bears and compensate any lack of knowledge by increased receptivity. Or, to put it another way, he must mobilise all his knowledge of the subject, as well as related subjects, in order to deliver the goods (1985:22).

In addition to this, for the interpreter to follow the speaker’s thought processes, as well as comprehending his/her message, concentrated listening is a requirement. This, as explained by De Jongh (1992:32), requires a mental effort by the listener. In direct contrast to concentrated listening, is what De Jongh refers to as selective listening; a term used to indicate a state where the message is not being listened to in its entirety by the listener, who chooses what he/she wants to hear or not to hear. Bruton’s view is similar to that of Richards (1983 in González et al. 1991:380) in the report of his research findings. Richards refers to current research on listening
comprehension; and he lists the following three related levels of discourse processing that are involved in listening comprehension:

- Propositional identification – that is, identifying units of meaning in the message;
- Interpretation of illocutionary force – determining the speaker’s intention; and
- The activation of real word knowledge – calling up the appropriate scripts or schema.

A related form, which is equally important for consideration here, is listening comprehension, put forward by Richards and Schmidt (2002:313). They state that listening comprehension focuses on individual linguistic units (phonemes, words and grammatical structures), listener’s expectations, the context, background knowledge and the topic.

There are many ways to improve concentrated listening skills. These include, according to Bruton, the following:

- The exercise of summarising and oral discourse analysis, which centres on the abstraction of the core message from the surrounding verbiage; and
- The anticipation exercise, where the interpreter is required to predict the likely trajectory of an argument from the opening statements (1985:22).

In addition to this, Richards (1985 in González et al. 1991:381) lists, amongst others, the following listening skills:

- The ability to retain significant portions of language of different lengths for short periods;
- The ability to recognise the purposes of stress and intonation in signalling the information structure of the utterances;
- The ability to deduce the meanings of words from the contexts in which they occur;
- The ability to predict the outcome from the events described;
- The ability to process speech at different rates; and
- The ability to recognise the communicative functions of utterances, according to the situations, the participants and the goals.
In a nutshell, De Jongh (1992:33) maintains that interpreters engaging in concentrated listening should -

- Make sure he/she concentrates when listening to the SL message;
- Comprehend the meaning of the SL message within the context it is uttered, and not simply the literal meaning; and
- Formulate and express the message clearly and accurately in the TL.

The listening capacity of an interpreter may be impaired when the message he/she is listening to is not his/her mother tongue. With reference to the report of González et al. (1991:381) on Dunkel’s (1985) research findings: when an interpreter listens to a message in his/her second language, he is likely to have a short memory span. This, therefore, hampers his/her processing capacity of the SL, when it is not his main language. To prevent this, González et al. advise interpreters to take extra steps, such as note taking and concentrated listening (1991:381).

4.4.1.3 (c) Note-taking

Note-taking enables the interpreter to jot down words that will aid his memory during the interpreting. This is regarded as the most commonly used memory aid by people in all walks of life (González et al. 1991:387). According to De Jongh (1992:42), note-taking is useful when jotting down important information, such as dates, numbers, proper names, lists and addresses, especially in a long, complex statement.

Note-taking, as observed by Health Interpretation Network (HIN) (2007:11), is an essential element of consecutive interpreting; it allows the interpreter to note on paper information that he/she may forget before any interpreting actually takes place. One of the drawbacks of note-taking is its interference in concentrated listening. However, it is still a subject of debate whether note-taking actually interferes with listening. González et al. (1991:386) declare that there are identified cases where this may actually be the case. Quoting Dunkel’s (1985) work, González et al. remark that “taking notes during a very rapid presentation may interfere with listening, while at slower speeds, it may enhance listening by increasing the concentration of the student”. In the court setting, Mikkelson (2000:72) alludes to an informal survey of
practising court interpreters in the USA, where it is reported that the interpreters would avoid extensive note-taking in order not to lose eye contact with the accused person or witness. According to the reported interpreters in the survey, maintaining eye contact is necessary to ensure situational control. Situational control is necessary in this instance; and it would include, amongst others, the need for the interpreter to interrupt the accused person or witness to ask for repetition, clarity or to ask the speaker to slow down when he/she is speaking too fast.

In Gile (1995:182) it is reported that more students who were asked to interpret without taking notes were better able to recall names than those who had the opportunity to use notes. Gile explains that interpreters who resort to note-taking put more effort into the process, to the extent that it reduces their total processing capacity, or weakens the work their memory would have to do (1995:182).

Given Gile’s explanation, it means that note-taking is not an appropriate instrument to enhance memory, because the effort it requires may increase the chances of the interpreting assignment not being completed.

On the other hand, one of the advantages of note-taking from research findings cited by González et al. (1991:387) is found in the work of Mikkelson (1983):

The act of taking notes (deciding what to write and how to place it on the page) appears to aid in the analysis and processing of the information; and the interpreter is more likely to remember something that s/he has acted upon him/herself.

According to De Jongh (1992:42), there is no universal note-taking system, and the system used varies from interpreter to interpreter. However, González et al. (1991:387) report that there is a unique system that has been devised, and written much on over the years by conference interpreters, such as Herbert (1968), Rozan (1956), Seleskovitch (1975), and Van Hoof (1962).

This most common method of note-taking is named after Jean François Rozan, who is said to be the first person to record and analyse note-taking used by conference interpreters (Moeketsi 1999b:113). His pioneering work (1956) on the analysis and
recording of note-taking used by conference interpreters led to what is known today as the Rozan method. The method, as explained by González et al. (1991:387), “is that the SL message is abstracted into symbolic form to make it easier to convert into the TL”.

In other words, the method entails (according to Moeketsi 1999b:113) that “the source-language message be abstracted from its linguistic and extra-linguistic context, and that some parts of it be then presented by means of a finite set of symbols in order to simplify the conversion of the entire message into the target language”. This method, in sum, means representation of the SL message into a symbolic form or shape in order to facilitate easy conversion during the process of interpreting into the TL.

The main emphasis in this method is on the core ideas in the SL message. Hence, very few words, capturing the main ideas in the original message, are written down in the notes. Commenting on this, González et al. (1991:388) write that the interpreters use “key words” that will aid their memory in remembering the concept contained in a message; and they note that the key words used “may not have been uttered in the SL message, but are representations that are meaningful to the interpreter”.

The following are the techniques used in the Rozan (1956) method to represent ideas from the SL message:

- Using indentation or verticalisation to place ideas on the page;
- Using common abbreviations, such as atty, info, etc.;
- Using abbreviations from science such as H₂O, Au, etc.;
- Using symbols, such as mathematical and scientific symbols, Greek letters, arrows, punctuation marks, lines of negation and individualised symbols; and
- Using lines, such as negation, relationship, repetition, numbers, circles, and underlining for emphasis (González et al. 1991:388).

Apart from the Rozan method explained above, De Jongh (1992:42) indicates that note-taking is also based on international cross-cultural symbols, such as:
♀ (woman), ♂ (man), ↑ (increase), ↓ (decrease), > (more), < (less).

In addition to these symbols, the following are symbols generally used in note-taking by interpreters:

- To indicate negation, forward slash ( / ),
- To indicate emphasis double or multiple underlining of words, for example guilty; and
- To indicate uncertainty or perhaps ( ~ ).

It is very important that the interpreter should avoid any ambiguity in note-taking, which, according to De Jongh (1992:43), could so easily cause confusion. In the example discussed by De Jongh, she advises interpreters to avoid using ‘C’ to refer to Cuba, when in the same discussion, other countries such as Costa Rica and Columbia are also mentioned. In other words, ‘C’ could also imply an abbreviation for Costa Rica or Columbia in the same discussion. The safest way to use abbreviations in this instance would be to use more than one letter of the word, which for example could be ‘COL” for Colombia, ‘CR’ for Costa Rica and ‘CU’ for Cuba.

The interpreter, based on the advice of González et al., should use personalised abbreviations, based on his/her experience (1991:394). For example, González et al. explain that

If ‘def’ is what the interpreter always uses to signify the defendant, those three letters are sufficient; but if he does not often use that abbreviation and fears that he might confuse it with ‘definite’ or ‘defer’ or another similar word, he has to consider using more letters of the word (e.g., ‘dfndt’).

In note-taking, it is essential, according to De Jongh, to use enough space and large sheets of paper, in order to have space to show the relationship between ideas represented by symbols (1992:43). To show relationship, indentation, lines, arrows and the position of the items on the page can be used. It is also important to write notes vertically on the pages because, as asserted by De Jongh, this allows the interpreter to convey more information than when the notes are written horizontally across the page (1992:43).
Note-taking, as earlier indicated, is particularly helpful for consecutive interpreters to jot down numbers. Numbers are particularly difficult for the interpreters to process in the language-information processing, and this resonates with Moser-Mercer’s (1985 in González et al. 1991:366) view, in which it is stated that “the processing of numbers differs from that of continuous text, in that numbers are largely unpredictable, i.e., one has to devote full attention to the incoming message, whereas continuous text allows and even requires hypothesizing on the input”.

Note-taking can be done in any language other than the SL or TL, because what is important to the interpreter, is the content rather than the words in the SL. However, De Jongh (1992:42) states that it is indeed necessary to jot down some words of the SL, if they carry some special meaning that is language-specific to the SL.

Some scholars have questioned the appropriateness and applicability of Rozan’s method. For example, Moeketsi argues that depending on a memorised set of symbols may not work, because “some speeches may go beyond the scope of the finite Rozan’s symbols and then leave the interpreter confused about how to take notes of such overlapping information; or, the interpreter may forget the symbols used for a particular meaning” (1999b:113).

To take care of the deficiencies of the method, Moeketsi advises that interpreters should use a personalised note-taking system based on their own experience and, one which would make sense to them under the prevailing circumstances. Its applicability to the court setting is also questioned by González et al., who contend that the court interpreters must make sure they insert the non-verbal elements, such as pauses, self-corrections and hedges in the interpreted version of the TL, as opposed to conference interpreters, who may deliberately eliminate such elements from the TL (1991:392).

Given the need to reflect accuracy in interpreting in the court setting, González et al. (1991:392) stated that shorthand has been proposed by many scholars as a measure to address the verbatim requirements of court interpreting. However, as pointed out by De Jongh (1992:44), there are challenges in using shorthand, hence it should be avoided or used with caution because shorthand notes are taken in the
source language and must be decoded instantly during interpreting; hence, there is a possibility of slowing down the process of interpreting.

Commenting further, De Jongh stresses that “words as such are unimportant for interpreters, since in order to retain all the information contained in the original utterances, the interpreter must concentrate on meaning alone”. The word-orientation typical of shorthand would also mean that the interpreter has to take down everything the SL speaker has said word for word, which means he would have to sight translate the shorthand notes. This, according to González et al. (1991:393), is “even more daunting a prospect than sight translating a plain typewritten text”.

A further consideration is that note-taking will result in less attention being paid to the message. As pointed out by Osasebor (2008:2), it involves considerable mental effort on the part of the interpreter to determine the core ideas of the message and to take these down in the notes. Thus, note-taking will have an adverse effect on one of the vital skills of consecutive interpreting, namely listening. The interpreter would not have the capacity required to get involved mentally in an almost simultaneous effort of concentrated listening and taking notes. A similar view is expressed by González et al. (1991:393). They argue that the interpreter may easily become absorbed in note-taking at the expense of attending to the message in the SL.

Note-taking will, lastly, result in less attention being paid to the non-verbal cues inherent in speech. Non-verbal cues are very important in understanding the entirety of the message being uttered or in being able to judge the speaker and the message in its own particular context. In the process of taking notes, Osasebor (2008:2) and González et al. (1991:393) remark, the interpreters do not always look at the SL language speaker; hence they will miss many of the valuable non-verbal cues supplied by the SL speaker.

4.4.2 Simultaneous interpreting
As the term implies, simultaneous interpreting is a mode in which the interpreter speaks nearly in tandem with the source-language speaker. Simultaneous interpreting, according to the definition of De Jongh (1992:45), “demands that the
speaker speaks almost contemporaneously with the primary speaker whose words are being interpreted”. Gile (2004:11) defines simultaneous interpreting as a mode in which the interpreter has to reformulate the source message “as it unfolds, generally with a lag of a few seconds at most”.

In an elaborate explanation of the process involved in simultaneous interpreting, Petite (2005:27) emphasises that the interpreter has to “perform ‘online’ and ‘on the spot’”. She goes further to explain that “[s]imultaneous interpreters receive an input, need to listen, understand and process it, but also have to produce an output simultaneously, or with only a short time-lag, while still processing further input”.

Some scholars (Mikkelson 2007, Du Plessis 1997, González et al. 1991) question the use of the word ‘simultaneous’ to describe this mode of interpreting. For example, Mikkelson (2000:73) refers to Gaiba (1998), who argues that the word simultaneous is misleading in this context, because interpreting really does not take place at the same time as the SL speaker is speaking. This reflects in the definitions and the discussion of simultaneous interpreting by scholars who indicate their dissatisfaction with the misleading way the term is used.

For example, the definition given by Gaiba (1998 in Mikkelson 2000:73) states that it is the transfer of information “into the second language, as soon as interpreters understand a ‘unit’ of meaning”. To Gaiba, the word ‘simultaneous’ is misleading because interpreters have to comprehend “a minimum of information before they can translate into the target language”. This implies that there is a time-lag between the original speech and the interpreted version. This same view is shared by González et al. (1991:360), who argue that although the interpreter may be interpreting into the TL, at practically the same time as the SL language speaker, it is not enough to regard the process as simultaneous interpreting, because the interpreter is “lagging behind at least one unit of thought, as he interprets; he is hearing one idea while stating another”.

In support of this argument are the ways other scholars have defined simultaneous interpreting. In HIN (2007:13), the phrase “nearly instantaneous delivery” is used; while for Du Plessis (1997:2), the interpreting process and the source language
utterance take place “virtually simultaneously”. Both views, in HIN (2007) and Du Plessis (1997), support the argument of Gaiba and González et al. This view questions the use of the word simultaneous.

De Jongh (1992:46) points out that the interpreter lags some few seconds behind the speaker before rendering the interpreted version of the SL. This time lag is referred to as “decalage” or “Maximum Start-up Distance”, according to Du Plessis (1997:2). This is explained in detail below.

There are conflicting versions of the origin of simultaneous interpreting. Many interpreting scholars, such as Seleskisvitch (1978), De Jongh (1992), González et al. (1991) and Mikkelson credit the Nuremberg Trials held after World War II (1945-46), as the occasion where the practice of simultaneous interpreting started. This was because of the availability of electronic equipment.

However, Stander (1991:22) has a different view, as shown in her reference to Mounin (1967) who states that simultaneous interpreting dates back to its use in 1927 at the International Labour Conference in Geneva. Further evidence contesting the link of the origin of simultaneous interpreting to the Nuremberg Trials is provided by Stander’s allusion to the work of Cartellier (1993). Cartellier maintains that another form of simultaneous interpreting known as whispered simultaneous interpreting was already in existence, as far back as the 1919 Paris Peace Talks. Whispered simultaneous interpreting, as defined by HIN (2007:13), is the interpreting that takes place when the interpreter sits next to a person (or persons) who do not understand the language being used and whispers simultaneously in their ears the speech of the SL speaker in the target language.

This form of simultaneous interpreting is also known as chuchotage or dockside interpreting, according to Alan (n.d.). Whispered simultaneous interpreting is the preferred mode in the court setting, because it is cheaper than simultaneous interpreting, as used in conferences (Gaiba 1998, in Mikkelson 2000:73). However, in the United States, as Mikkelson reports, interpreters are now using wireless equipment to interpret with remarkable success from SL into TL.
The use of wireless equipment such as earphones has helped to make the interpreted version clearly heard. This, Mikkelson emphasises, cannot be compared to the situation that obtains in conference interpreting, where simultaneous interpreters operate from a sound-proof cubicle (2000:73). There is also regular use of simultaneous interpreting with specialised equipment in the Los Angeles court, according to the report of Grusky (1988 in González et al. 1991:163). This, in her view, “saves valuable court time” because the moment counsel is done with questioning, the witness’s answer can follow immediately.

Grusky recommends simultaneous interpreting, as opposed to other modes of interpreting, because “[i]t is more accurate than relying on the interpreter retaining long passages of oftentimes disjointed information”.

4.4.2.1 The use of simultaneous interpreting in the courtroom

The conservation of meaning, protection of records and the impact on the administrative justice system should be the factors to consider in deciding the appropriate mode of interpreting in the courtroom setting (González et al.: 1991:163). Simultaneous interpreting, in particular, is not the ideal mode in this regard, because it does not have the legally acceptable quality of being faithful to the source message. The reason for this is given by Cartellier (in Moeketsi 2000:232), who declares that in simultaneous interpreting there is a “loss of quality of the target language message because of the need for rapid reproduction of the subject matter”. In the United States, where the jury plays a prominent role in the administration of justice, González et al. (1991:360) report that simultaneous interpreting is used during jury selection, in arguments before the jury by the opposing attorneys and in jury instructions.

Other instances given by González et al. (1991:360), where simultaneous interpreting is used in the courtroom, include motions and objections by the attorney, rulings given by the court on motions and objections and side-bar conferences between the attorneys and the magistrates.

In addition to these instances, Mikkelson (2000:73) also notes that interpreters combine simultaneous and consecutive interpreting when interpreting witness
testimony. The interpreters, according to Mikkelson, resort to both modes when they interpret questions simultaneously for the witness alone to hear; and they resort to consecutive interpreting in a loud voice for all the people in the courtroom to hear.

4.4.2.2 The process of simultaneous interpreting

Simultaneous interpreting is a most demanding information processing assignment because of the need to instantaneously render the message from the source language into the target language. Consenting to this view, De Jongh (1992:45) points out that the simultaneous interpreter “is simultaneously playing two roles in the field of language communication that otherwise are always practiced separately: speech and comprehension”.

In support of this, Gerver (1976, in González et al. 1991:361) surmises that the complexity of the work of simultaneous interpreters does not only involve listening and speaking simultaneously for long periods of time; it also involves a transformation of the source message, while simultaneously rendering the interpreted version in the target language.

This is also regarded as a complex assignment, because, from the perspective of a cognitive psychologist, Gerver further notes that it is a type of human information processing. It involves the simultaneous “perception, storage, retrieval, transformation, and transmission of verbal information” on the part of the interpreters.

The process of simultaneous interpreting can be described (as noted by Moeketsi 1999b:114) in the following steps:

1. The interpreter listens carefully as the speaker starts his utterance in the source language.
2. He/she then breaks the input and starts to process the first chunk.
3. Having comprehended the message in the first chunk, he/she expresses or renders its semantic and syntactic equivalents into the target language – as accurately as possible.
4. He/she does this while the source language speaker speaks and while he/she listens to and processes the second chunk – and all the successive chunks must be processed in the same manner.

A similar explanation of the simultaneous interpreting process is given by De Jongh: Interpreters hear the next source language unit or segment of speech while uttering the preceding one in the target language. They hear their own message, while at the same time listening to the meaning of the words being spoken by the source language speaker; and they retain this meaning to deliver immediately after completing the previous utterances in the target language (1992:47).

There are different ways of chunking that can be used by interpreters, as suggested by Goldman-Eisler (1972 in De Jongh 1992:47). They are namely identity (this means the interpreter encodes “the chunk of speech between pauses, as they occur in the source language”); fission (the interpreter starts “to encode before the source language has ended”); fusion (the interpreter “strings two or more input chunks together and then encodes them”).

In conclusion, Goldman-Eisler remarks on the subject of chunking by the interpreter that whether simultaneous interpreters use input chunks or end up imposing their own, it should be noted that segmentation seems to be a role of the language being interpreted.

Illustrating the process of simultaneous interpreting, González et al. maintain that the speaker of the source language does not wait for the interpreter, but moves on instantly to the next message he/she wishes to express. To buttress this, they also refer to Moser (1978), who cites research showing that interpreters using the simultaneous mode are involved in listening and speaking up to 60 to 70 percent of the time.

Given the complex nature of simultaneous interpreting, it is important to note that simultaneous interpreters are made to work in an environment which mitigates some of the problems they may face as simultaneous interpreters. For example, Jones
(1998 in Mikkelson 2000:73) advises that interpreters should be in close proximity to the SL speaker, or be in a position to see and hear the source language clearly, so that they can give an accurate interpreted version of the source message.

In an emphatic tone, Moeketsi (1999b:118) has this to say about the position of the interpreter in relation to his/her audience: “The distance between the interpreter and the source speaker, as well as that between the interpreter and the audience, may have a negative effect on the quality of the simultaneously interpreted version”. However, the type of negative effect is not indicated by Moeketsi. She simply regards it as imperative that interpreters occupy a position in the courtroom where they can see the person they are interpreting for, and receive the non-verbal cues accompanying his/her speech.

As alluded to above, non-verbal cues are very important in speech, because they may add some particular shade of meaning to the words used. Jones (1998) also recommends that the source-language speaker should speak at a rate the interpreter can easily follow, since speech delivered at a faster rate will pose problems for the interpreter in following and comprehending the SL speaker.

In addition to this, research findings, as noted by Vidal (1997 in Mikkelson 2000:73-74), show that even the most experienced interpreter can start making errors after 20 or 30 minutes of simultaneous interpreting due to fatigue. To prevent this, it is advisable that in any court proceedings that will last longer than 20 or 30 minutes, provision should be made for interpreters to work in pairs, so that they can relieve each other regularly.

4.4.2.3 Required skills for simultaneous interpreters
Simultaneous interpreting is a complex human information processing task; hence it is important that simultaneous interpreters should possess specific skills to cope with the complex processes involved. These skills are discussed below.

4.4.2.3 (a) Skills of analysis
This refers to the ability of the interpreter to analyse in the source language a given segment that has units of meaning which the interpreter can simultaneously interpret
into the target language. Units of meaning, according to González et al, “are abstract ideas into which the interpreter reduces the SL message” (1991:364). Doubtless, the interpreter will have to do some analysis of the source language before deciding on the meaning of the utterance to be interpreted into target language.

Gile (1995:162) reports that studies are not conclusive on the extent to which the analysis of the meaning of the source language message must go before the interpretation is given. Some of the identified strategies put forward in Gerver (1976 in González et al. 1991:364) are that “source-language pauses might delineate units of meaning for the interpreter, and thus assist with the segmentation of the almost continuous stream of the source-language input”.

4.4.2.3 (b) Skills of anticipation
This is also referred to as prediction by some researchers. It is a strategy used frequently by interpreters, “whereby the interpreter applies her knowledge of the subject matter, patterns of usage in the source language, speaker’s style and the context of the speech to predict what the speaker will say without having to wait for a key element such as the verb” (Mikkelson 2000:75). González et al. (1991:364) refer to this as syntactic anticipation; and according to them, anticipation or prediction, from the interpreting perspective, means the interpreter’s ability to understand the targeted meaning of a message before all the syntactic elements that comprise it are uttered.

González et al. (1991:364) describe anticipation or prediction as the interpreter’s ability to ‘guesstimate’, or make ‘informed speculations’ about what the speaker intends to utter because he is conversant with the socio-cultural milieu that influences the way the source-language speaker perceives and uses language. What counts here is the interpreter’s comprehensive knowledge of the source language, in which all aspects of the understanding and usage of language could be considered. For example, one’s understanding and mastery of a particular language will enable him/her to have a complete grasp of collocative words that usually follow a particular word or phrase. This places the interpreter in a better position to predict a word(s) that collocate(s) with other words or phrases. In Moeketsi (1999b:117), it is stressed that the interpreter will know “that some words are
normally used with certain other words; he can therefore anticipate those other unspoken words”.

Simultaneous interpreting is a complex interpreting practice that requires a number of strategies to achieve the overall communication purpose it is intended to serve. Anticipation or prediction is one of such strategies, which, according to González et al., increases the interpreter’s ability to process information during interpreting (1991:364). Another function of prediction, according to De Jongh (1992:49), is its use by interpreters to “compensate for the quick speed at which the process of analysis-expression is to be carried out”; and this requires a comprehensive knowledge of the subject matter by the interpreter.

There are two types of prediction identified by Lederer (1978 in González et al. 1991:365), namely:

1. Language Prediction: This is based on “the interpreter’s knowledge of the syntax and the style of the SL and the TL, including word affinities”.
2. Sense Expectation: This is based on “the interpreter’s familiarity with the speaker and the speaker’s objectives, as well as the general situational context”.

The sense expectation type of prediction, explain González et al., is very much based on the interpreter’s broad understanding and comprehensive knowledge of the subject matter, or, to put it differently, in their own words,

If the interpreter is well read and has a broad general knowledge – usually the kind of knowledge base engendered by formal education – the interpreter’s prediction of the outcome of sentences and larger pieces of discourse will be more reliable; and simultaneous interpretation will be smoother, more efficient, and more accurate.

Regarding language prediction, the interpreter is able to analyse the message and make an informed inference about its outcome, because, as noted by González et al. (1991:363), he/she has a comprehensive grasp of the source language speaker’s pattern of discourse, the language being used and the subject matter of the argument. This, however, goes with a caveat, because, given the interpreter’s obligation to provide a legal equivalent in the target language, he/she has to
preserve all the linguistic elements of the source language with special care when providing a rendition in the target language.

4.4.2.3 (c) Decalage

Decalage is a term that describes the interpreter’s time lag behind the source speaker in order to collect enough information to assist him/her to interpret into the TL (González et al. (1991:366). Or, as Gaiba (1998 in Mikkelson 2000:72-73) puts it, decalage is “[t]he lag between the original and the interpreted version ...” Simply put, decalage is the difference between the time the source language message is uttered and the time the interpreter renders the source-language message into the target language. This is regarded as a strategy used by the simultaneous interpreter, because it enables him/her to collect the required amount of information from the SL message before expressing it in the TL.

Decalage is considered a strategy by some interpreting scholars, a conscious attempt used by the interpreter to collect adequate information, or to start interpreting after he/she has made sense of the message. This is a debatable assumption, since there are a number of arguments that could be advanced to disprove this assumption. For instance, the notion of ear-voice-span (EVS), which De Jongh (1992:47) describes as “the time between a moment a message unit reaches the ear and the moment it is reproduced in the target language”, implies that decalage, in fact, is not a strategy, but a physical reality which occurs beyond the control of the interpreter. In other words, no matter how experienced the interpreter is, there is bound to be a time lag between the words uttered in the source language and the interpreted version. Even if the interpreter is to interpret word by word, the split second it takes to do the interpreting challenges the assertion that decalage is a strategy used by the interpreter. This view also supports the argument discussed above about scholars who question the use of the term simultaneous to describe the mode of interpreting under discussion. On the other hand, one may agree that it is a strategy the interpreter employs beyond the normal time lag over which he does not have any control, by trying to reduce the time span or lag under given circumstances, in order to formulate an appropriate corresponding message into the TL.
Time lag or decalage is also influenced by a number of factors categorised by Wilss (1978). These are quoted in González et al. (1991:366) as objective factors (the type of the SL text and the equivalence relation between the SL and the TL) and subjective factors (the interpreter’s knowledge and familiarity with the situation and speaker, fatigue, and simple individual preference).

Furthermore, it is also noted by Wilss (1978) that prediction or syntactic anticipation plays a huge role in influencing decalage. An instance cited in this regard is based on German-English simultaneous interpreting. He asserts that given the German syntax, the interpreter “must postpone the interpreting act”, or, in other words, “lag behind the interpreter”, until he or she hears the verb, which is normally at the end of a sentence in German. An example cited earlier in Section 4.3, page 78, which was provided by Kotzé (2010) and the subsequent explanation of the applicable situation in Edo, will suffice in this regard.

Commenting on this type of syntax-induced decalage, González et al. remark that there is enormous pressure on the interpreter’s memory, which could well cause part of the message to decay before the interpreter can express the equivalent target message (1991:366). Moeketsi (1999b:115) also points out that a factor that determines decalage is the nature of SL. She points out that the more technical or difficult the speech, the more the interpreter will lag behind the SL speaker and as his/her ability to analyse the message will diminish, and the ultimate formulation of the corresponding message in SL will be slowed down.

4.4.3 Sight translation

Sight translation means the oral rendition of written source material in the TL. To put it simply, it is “the oral translation of a written document” (González et al. 1991:401). Gile (2004:11) refers to sight translation as an intermediate type between translation and interpreting, “where the source text is written and the target text is spoken”. Scholars such as Moeketsi (1999b:118) prefer the term sight interpreting. In other words, to Moeketsi, there is no difference between sight translation and sight interpreting. Lambert’s (2004) article in this regard highlights the difference between the terms.
According to Lambert, “[s]ight translation involves transposition of a message written in one language into a message delivered orally in another language”. She remarks that sight translation involves both oral and visual forms of information processing; hence, it can be regarded as a written translation and an oral interpretation. In contrast to Moeketsi (1999b:118), Lambert describes sight interpreting as “simultaneous interpretation with text”. She explains:

In this case, candidates are given five to ten minutes to prepare the written version of the message. Then, candidates are asked to deliver a sight interpretation of the text, as it is being read to them through headphones. Candidates are urged to follow what the speaker is saying, given that the speaker may depart from the original text from time to time, and not to simply read from the passage as though it were a sight-translation exercise.

Lambert’s description of sight interpreting is, as can be gathered, in the context of how it is being taught to students of interpreting at her university. It would be interesting to know how she would apply it to the courtroom situation.

In court, sight translation is necessary when there is an accused person, a plaintiff or witness who does not speak and read the official language used in the court. It may also happen that the document to be sight-translated is written in the accused’s or witness’ language; and other principals in the court may need to understand the content of the document for the sake of the effective delivery of justice.

As declared by De Jongh (1991:37), “sight translation is used when foreign language documents are introduced as evidence without an English translation”. There is the possibility that the interpreters may not have the necessary prior knowledge of the document to be sight translated in court; hence Mikkelson (2000:77) cautions against using it for lengthy documents and technical reports. Consequently, she recommends that the services of a professional translator should be sought. Interpreters would also experience difficulties with sight translation when documents to be translated are written by an accused or a witness or an author who has a low level of education. This is explained as follows by Mikkelson:

Often writers of such documents are not well-versed in the rules of grammar and punctuation in their native language – indeed, they may be putting in
written form a language that does not even have an official orthography, as in the case of indigenous languages that have never been written down – and the interpreter may have difficulty deciphering the handwriting and understanding the intended meaning of the document (2000:77).

Sight translation is not different from other modes of interpreting, in terms of the requirement for the interpreter to make sure, for example, that the target language version reflects the SL register. This, explain González et al. (1991:401), means that the interpreter has to make sure the TL version truly reflects the intricate and the erudite nature, or otherwise, of the original text.

Reading comprehension is an important skill the interpreter has to have in order to practise sight translation without problems in court. The importance of reading comprehension is underscored by González et al., who emphasise that “the interpreter must be adept at grasping the meaning of written texts, even those that are drafted in a complex, turgid style” (1991:402). Effective reading comprehension comes with practice, and, as suggested by González et al., interpreters have to make sure they read extensively and intensively a variety of materials, such as journals, newspapers and relevant literature in the languages in which they work in the court context.

Prediction is equally an important strategy in sight-translation, as it is in other modes of interpreting. Justifying it as an important strategy in sight-translation, González et al. maintain that its application in the process of sight-translation ensures that “interpreters are able to predict the outcome of an incomplete message because of their knowledge of the SL syntax and style, as well as other sociolinguistic factors in the SL culture” (1991:403). The importance of prediction as a skill in sight-translation is also found in the emphasis placed on it in the United States, where it is required that aspiring interpreters should be tested in the Federal Court Interpreter Certificate Examination on their ability to predict (González et al. 1991:403). According to González (1986 in González et al. 1991:403), this includes a section in the examination which tests the aspiring interpreters’ ability to “recognize words or phrases which best complete the meaning of a partial sentence, with reference to both logic and style”.

110
4.4.3.1 The process of sight translation
The following steps discussed by González et al. (1991:408) are taken by interpreters who sight-translate written documents into the TL.

1. The interpreter scans the document to establish the subject matter, context, style and country of origin, and to determine the general meaning of the text.
2. The interpreter will start translating sentence-by-sentence, by concentrating on one unit of meaning at a time.
3. As the interpreter begins translating the unit of meaning identified, his eyes are also scanning the next unit, examining its meaning in preparation for translating it.

4.5 TYPES OF INTERPRETING
In interpreting literature, the discussion of the various types of interpreting is categorised on the basis of the setting and the focus of the subject being interpreted. This, in the main, has produced two distinct types of interpreting, namely community interpreting and conference interpreting. These two types of interpreting will be discussed below. The discussion of community interpreting will focus on the different reasons why community interpreting is considered as a superordinate (general term) that includes other types of interpreting.

This will be followed by a discussion of remote interpreting, which, although regarded as a type of community interpreting, will be discussed because of its uniqueness in setting and because it is a product of contemporary communication technologies.

4.5.1 Community interpreting
Community interpreting, as discussed by many scholars, such as Dubslaff and Martinsen (2003), Phelan (2001:1) and Mikkelson (2000), is regarded as a generic term in which other genres of interpreting are subsumed. In HIN (2007:9) and Mikkelson and Solow (2002), community interpreting is used to describe the type of interpreting which enables residents of a community to gain access to public services when they do not speak the main language of the community.

Community interpreting, according to HIN (2007:8), is bidirectional in that each language being interpreted functions as both a source and a target language. The
bidirectionality of community interpreting means, according to Wadensjö (1998:49), “the same interpreter works in the two languages in question”.

Certain authors acknowledge that distinguishing or classifying different interpreting forms is contentious (Gentile 1995:110). However, this does not stop interpreting scholars in different countries from re-classifying community interpreting, and giving it a term they consider more generic and one that better befits the classification. For example, Mikkelson and Solow (2002) remark that it is also known as liaison interpreting in Australia, cultural interpreting in Canada, contact interpreting in Scandinavia, or public service interpreting in the U.K. Other terms used to describe community interpreting, according to HIN, are dialogue interpreting, institutional interpreting and ad hoc interpreting. However, in most countries, the term community interpreting is preferred.

The term ‘community interpreter’ was first used by the Institute of Linguistics in London to refer to interpreting done in the courts, police stations and other social services (Benmamam 1995:179). As reported by Erasmus (1999:50), this same institute has repudiated the term community interpreting and now refers to the term as public service interpreting, as indicated earlier.

The scope of community interpreting is imprecise, and Roberts (1995:8) argues that this is the reason why it is also described with other terms, such as public service interpreting, cultural interpreting, dialogue interpreting, ad hoc interpreting, liaison interpreting, escort interpreting, medical interpreting, legal interpreting, et cetera. According to Roberts, the concepts mentioned above are not exactly synonymous, but they are used to describe interpreting done in all settings other than the interpreting done in a conference setting (1995:8).

A scholar who sees community interpreting as an extensive scope of practice is Gentile (1995:111). This fact influences his description of community interpreting, which, according to him, covers interpreting done in health, social work and services, education, law, correctional services and police. Community interpreting, dialogue interpreting, cultural interpreting, public service interpreting, legal interpreting and medical interpreting are described by Roberts (1995:8-9) as “community-oriented ad
"hoc interpreting" because they are forms of interpreting done to help immigrants who do not understand the dominant or official language.

Interpreting done in this regard enables immigrants to gain access to services, such as legal, health, municipal, education and other social services. The definition of community interpreting given by Mikkelson and Solow (2002) distinguishes it from other forms of interpreting, such as conference interpreting and escort interpreting; and they write that it is an interpreting form that represents a service to the residents of the community in which interpreting is provided. They go further to state that it is an interpreting form that ensures access to public services; hence it is generally done in an institutional setting.

Community interpreting uses the consecutive mode of interpreting, or, in Wadensjö's words, "it is carried out consecutively upon the original speakers’ talk, sequence by sequence (1998:49). Physical health care, mental health, educational, social service and legal interpreting are generally considered as sub-categories of community interpreting, and the term community interpreting is used as an umbrella concept, according to Wadensjö (1997:49).

In the United Kingdom, there is no marked difference between legal interpreting and community interpreting. In other words, a legal interpreter is referred to as a community interpreter (Roberts 1995:9, and Benmaman 1995:180). In countries such as Sweden and Canada, legal interpreting done in a court setting requires a formal training and accreditation process, whereas legal interpreting done in other settings is simply referred to as community interpreting and does not require an accreditation process (Benmaman 1995:180). This is, however, not the case in the United States. The passage of the Federal Court Interpreters Act in 1978 may be seen as the genesis of a concerted interest in legal interpreting across many states in the U.S. The terms legal interpreting, court interpreting or judiciary interpreting are used interchangeably here; and interpreters in the legal setting, as mentioned above, have to write an examination to be accepted as certified interpreters (Benmaman 1995:180-181).
One scholar who disagrees with the use of *community interpreting* as an umbrella term for many other interpreting genres is Gentile (1997, in Erasmus 1999:50). He argues that the term is ambiguous, confusing and too all-embracing, because, for instance, all forms of interpreting are, in any case, carried out within the community. In Mikkelson and Solow (2002) it is pointed out that Gentile (1997) prefers the term *liaison interpreting* to *community interpreting*, because its description of the process is better.

This argument has also influenced the Unit for Language Facilitation and Empowerment in South Africa to opt for the term *liaison interpreting* as an appropriate generic term instead of *community interpreting* (Erasmus 1999:50). Liaison interpreting is defined by Gentile *et al.* (2001:17) as a “genre of interpreting, where the interpreting is performed in two language directions by the same person”. According to them, it is used in a situation where participants in communication do not share the same language; hence the requirement for an interpreter to bridge the communication gap.

### 4.5.2 Conference interpreting

While some scholars such as Gentile *et al.* (2001:17) and Erasmus (1999:50) believe that the difference between conference interpreting and other forms of interpreting such as liaison interpreting is vague, the researcher is of the view that there exist some marked or notable characteristics of conference interpreting that warrant its discussion below as a stand-alone type of interpreting.

Although Herbert (1978:6) traces the existence of this form of interpreting to as early as 1917, it is generally believed by scholars such as Gentile *et al.* (2001:7) that conference interpreting started in earnest during the First World War, following the ratification of the Armistice by the representatives of the German Army and the Allied and Associated Forces. According to Gentile *et al.* (2001:8), conference interpreting received further recognition after World War II, during the Nuremberg Trials, where new technology made simultaneous interpreting possible. Gentile *et al.* also explain that the use of this technology made it possible for the interpreters to work from sound-proof booths and then to relay the interpreted messages with the aid of earphones to the listeners in the courtroom.
This marks the continuous ascent of conference interpreting in international meetings, and, following its positive recognition, the International Association of Conference Interpreters (AIIC) was formed. This association, as stated by Gentile et al., has since served “as a professional organisation, industrial body, and to some extent, a closed shop in the post-war decades, ensuring high standards and good remuneration for its members” (2001:8).

Conference interpreting is defined by González et al. (1991:26) as “language services performed in order to facilitate communication among speakers of various languages attending a meeting or conference”. To ensure quality, González et al. remark, conference interpreters work in teams, usually from booths, where their interpretation is broadcast to conference participants wearing headphones (1991:26). Quality is also ensured in this type of interpreting, because, as Niska (1991:95) reports, most conference participants have had some experience of communicating through an interpreter using the appropriate strategy. The need to ensure quality informs why the text is made available to interpreters in advance, as this enables them to study it and compile the necessary terminologies in good time.

In conference interpreting, the interpreter is usually physically separated from the conference participants. This is one of the factors considered by Niska (1991:95) in describing it as impersonal in its setting.

Conference interpreting can be rendered either in consecutive or simultaneous interpreting mode, but with the advent of appropriate communication technology, the simultaneous mode is gaining increasing use over consecutive interpreting (Herbert 1978:8). In the description given by HIN (2007:10), conference interpreting is regarded as a one-directional language transfer to the audience, or, in Niska’s words, “The interpreter only interprets into one language, and the communication is often addressed from one speaker to an audience” (1991:95).

Conference interpreting is usually regarded as interpreting in conferences where there are international conference participants with different language backgrounds. This view does not prevail entirely in the South African language situation; hence Lotriet (1997:63) points out that conference proceedings are usually interpreted into
indigenous languages, but not as commonly as they are interpreted into international languages.

4.5.3 Remote interpreting
This is also known as telephone interpreting, or, according Mikkelson (n.d.), over-the-phone interpreting. It is an interpreting service provided via telephone and video-conferencing (Mikkelson 2000:80). One remarkable feature of this type of interpreting is that neither the interpreter nor the parties using the interpreting service are in the same place physically (Mikkelson 2000:80).

Remote interpreting is an offshoot of the improvement in communication technology, and, as Mikkelson indicates, it has become an attractive alternative for “the court administrator who wants to save travel costs, gain access to qualified interpreters in rare languages, and enhance security (especially in the case of criminal defendants who are in custody)”. In South Africa, this type of interpreting (now defunct) was given the thumbs-up by the cabinet in July 1995, because, as Du Plessis (1997:4) explains, it was regarded as a practical solution to problems occasioned by multilingualism in South Africa.

Following this, there was a one-stop shop for telephone interpreting in South Africa. This service was called the Telephone Interpreting Service of South Africa (TISSA). As stated by the Department of Arts and Culture, it was meant to provide a professional interpreting service between government and the general public in all the official languages of South Africa. In countries such as Australia and the United States, improved access to telephone and video-conference interpreting is provided, and this, as observed by Ozolins (1998 in Mikkelson 2000:80), is primarily due to the diversity of languages in these countries. Another reason cited by them for the remarkable progress made in this genre of interpreting is that, with the availability of remote interpreting, the distance between where the interpreter is available and the authority requiring the service of the interpreter becomes less of a concern, or of no concern at all.

Remote interpreting is used in the consecutive mode across different fields, such as medical services, social services, business and legal matters (Mikkelson 1999c).
This is set to change to simultaneous interpreting, however, because of the rapid advance of communication technology, reports Mikkelson (1999c).

Remote interpreting has some disadvantages. Firstly, paralinguistic elements are not covered in remote interpreting. For example, as explained by Seleskovitch (1968) and Jones (1998) in Mikkelson (2000:80), it is important that the interpreter should have full view of the person(s) for whom he/she is interpreting, as this will enable him/her to have control of both the linguistic and paralinguistic elements of the source message. Unfortunately, this is not possible with remote interpreting, because the interpreter and the parties requiring his/her service are not in the same physical location.

This, Mikkelson points out, will also affect the ability of the interpreter to exert the necessary situational control in the management of turn-taking. Secondly, it is also argued that it may not be a suitable type of interpreting in the courtroom setting because, “given the complexity of the court and the high stakes involved, due process cannot be fully guaranteed, unless the interpreter is allowed to work under optimum conditions” (Vidal 1998, in Mikkelson 2000:80).

4. 6. THE NOTION OF EQUIVALENCE IN TRANSLATION
The notion of equivalence is discussed in this section in the context of translation, but the issues discussed are all pertinent to interpreting. Importantly, it is discussed here because it will place into perspective other issues which are relevant to translation as well as interpreting issues earlier discussed in this study.

The appropriate level of equivalence between the target text (TT) and the corresponding source text (ST) has been a contentious subject among translation scholars ever since Cicero’s time, but this debate gathered momentum with the first reported use of the term ‘equivalence’, or words of similar origin, in the 1950s, according to Pym (2009). The notion of equivalence in translation is defined by Kenny (2001:77) as “the relationship between a source text (ST) and a target text (TT) that allows the TT to be considered as a translation of the ST in the first place”. Similarly, Cuéllar (2002:60) defines the notion of equivalence as a “relation that holds between a source language (SL) text and a Target Language (TL) text”.

117
It is generally believed, according to Kenny, that equivalence as a concept in translation signifies “a relationship between texts in two different languages rather than between the languages themselves” (2001:78). This type of relationship, or link at text level between ST and TT, is what Cuéllar recommends for the evaluation of a good translation (2002:63). It underscores how the notion of equivalence is regarded in translation, as it suggests that the central urge of any translator or interpreter must be to render, as far as possible, TT equivalence of the ST. This view is shared by House (1997, in Cuéllar 2002:63), who states that “the notion of equivalence is the conceptual basis of translation”.

From the foregoing it becomes clear that what constitutes an ideal TL equivalence of the SL has been a bone of contention, mired in controversy. This informs Catford’s (1965:25) declaration, for instance, that the main problem of translation practice is how to find TL equivalents. He devotes a chapter in his seminal book to the exploration of the different conditions under which translation equivalence may be achieved. It is also the reason why other scholars or researchers have investigated different ways to consider the notion of equivalence, albeit some controversially.

For example, Fawcett (1997:53), refers to Koller’s (1979) frame of reference list, drawn up as an ideal reference point for the achievement of equivalence in translation. As shown below, he labels it as an impossible task:

1. Denotational meaning: the object or concept referred to (hence also called referential meaning);
2. Connotational meaning, which Koller considers to be determined by nine factors:
   - Language level (elevated, poetic, formal, normal, formal, familiar, colloquial, slang, vulgar)
   - Sociolect (the ‘jargon’ of different social groups, such as soldiers, students, etc.)
   - Dialect (the language of a particular region)
   - Medium (the written versus the spoken language)
   - Style (old-fashioned, trendy, euphemistic, etc.)
   - Frequency (common versus rare words)
   - Domain (normal, scientific, technical)
• Value (positive versus negative)
• Emotional tone (neutral, cold, warm, etc.)

3. Textual norms (the kind of language typical of such things as legal texts or instructions for use, etc.)
4. Pragmatic meaning (readers’ expectations)
5. Linguistic form (rhyme, rhythm, metaphor, etc.)

Fawcett does not agree with Koller’s frame of reference list, and labels it as a “shopping list”, which is not a true test instrument for accurate equivalence, because:

…getting two translators to match it and to come up with exactly the same solution … is clearly such an impossible task that the concept seems dubious, especially when presented as a quasi-mathematical notion, as it sometimes has been (1997:53).

Although the notion of equivalence is controversial, Pym (2009) maintains it reflects a time-honoured concern for accuracy amongst professional translators and academics, dating back to the 1950s – a period marking the proliferation of many academic programmes, with structural linguistics as the foundation theory for the training of professional translators. The theoretical notion of equivalence has since been researched extensively by scholars, and their findings have shown diverse theoretical views on its relevance.

Following the comparison Snell-Hornby (1986 in Cuéllar 2002:71) makes of the meaning of equivalence in English and German, she states that it is a case of “non-equivalence” or “no parallel in meaning”. She argues that the concept of equivalence means that the lexemes’ equivalent or equivalence exist nowadays in English, above all, as strictly delimited specialized terms, but at the same time, they oscillate in the fuzziness of common language; that is, quantitatively relative in the sense of ‘similar significance’ or ‘virtually the same thing’.

Snell-Hornby’s view of the notion of equivalence in terms of her cross-language reference of the meaning of the word equivalence seems to take a formal approach
to a definition of equivalence, or that it is always possible to translate linguistic units or lexical items in different languages and have “virtually the same meaning.

House (1977) disagrees with Snell-Hornby’s argument and says her contention that equivalence means “virtually the same thing” is wrong as she has found out entries for ‘equivalence’ and ‘equivalent’ having meanings different from those that Snell-Hornby would have her readers to believe. Cuéllar (2002:72) labels Snell-Hornby’s argument as totally unconvincing and supports House’s argument that ‘equivalence’ in translation studies does not mean ‘identity’ or ‘virtually the same thing’. Cuéllar maintains that though this is the meaning that has traditionally been attributed to the concept in the so-called exact sciences, it does not require that this very same meaning should be upheld when using the notion of equivalence in translation theory. According to Cuéllar:

“In this case, equivalence has to do more with ‘having the same use or function as something else’. To think of equivalence in terms of complete ‘identity’ (e.g. as in Mathematics) would be linguistically rather naïve, to say the least, because languages are by definition different and complex linguistic systems; and moreover, translation takes place not even between languages, but from text embedded in complex communicative situations.

Graves (1965, in Thomas 1998:168) takes the same position as that of Cuéllar, and declares that there is no such thing as identical equivalence between languages, and advises that the problem of equivalence is best addressed on the understanding “that translation is done by means of a near equivalent rather than [an] exact equivalent”. In response to these divergent views, scholars such as Kenny (2000:77) remark that the notion of equivalence is a controversial concept on which researchers have had to differ radically.

The controversial nature of the discussion of equivalence in translation is captured in Nababan’s (2008) reference to the work of Hervey et al. (1995). Firstly, Hervey et al., point out that before one could objectively evaluate textual effect, one has to resort to a fairly detailed and precise theory of psychological effect, a theory which is capable “of giving an account of the aesthetic sensations that are often paramount in response to a text”. Secondly, Nababan (2008) maintains that translators could
interpret the ST subjectively; hence it is realistic to say that the production of a TT with an objective effect on the target readers may not be possible. Thirdly, Hervey et al. (1995:14) also point out that it is quite impossible for translators to ascertain the response of the original readers.

An example to illustrate this is provided by Miao (2000: 202), who states:

If an original was written centuries ago and the language of the original is difficult to comprehend for modern readers, then a simplified translation may well have greater impact on its readers than the original had on the readers in the source culture. No translator would hinder the reader's comprehension by using absolute expression in order to achieve an equivalent effect.

In a nutshell, the notion of equivalence is a theoretical construct used to represent the discourse of the extent to which, or the need for, the TL text to capture the meaning embodied in the SL text. In addition, the discourse of the notion of equivalence indicates a concern among translators and scholars for the need to be faithful to the message expressed in the SL. Many translation scholars endorse this view. For instance, in Kenny (2001:79) it is reported that Newmark (1994) describes translation equivalence as “a common-sense term for describing the ideal relationship that a reader would expect to exist between an original and its translation” (2001:79). Kenny also refers to Pym (1995), who echoes the same view, when he describes translation equivalence as a socially established belief that a TT should have some form of equivalence corresponding to its ST (2001:79).

There is, however, no debate regarding a common view among researchers and translation scholars that a translation should reflect as faithfully as possible the message of the ST. To what degree this should happen, or is indeed possible, is a different matter. There is also disagreement regarding the linguistic element(s) in the SL (for example, syntax or morphology), which should be reflected in the ST. This disagreement also applies to the influence of culture and pragmatic factors on the translation.

In the light of these points of disagreement, researchers have come up with different theoretical concepts when addressing the problem of equivalence. Two of the concepts or approaches are formal equivalence and dynamic equivalence, as
discussed by Nida (1964). The notion of equivalence on two spectra – formal and dynamic equivalence – in order to distinguish different ways it can be looked at, is attributed to Nida (1964:159). It represents a move away from the age-old terms, such as ‘free’, ‘literal’, and ‘faithful’ (Munday 2008:42).

4.6.1 Formal equivalence

Formal equivalence is regarded as strict adherence to the form of the original language of the SL, according to Gordon (1985). The primary focus of formal equivalence is the message, in both its form and content, and it demands that there should be a match, as faithfully as possible, between the different elements in the SL and those of the TL. Nida, the originator of the term, says formal equivalence or correspondence is the “quality of a translation in which the features of the form of the source text have been mechanically reproduced in the receptor language” (Nida and Taber 2003:201), while Ellis (2009) sees it as an “essentially literal’ procedure”, which “translates as closely as possible, the original words and phrases with precise equivalents in English”. The meaning of the term is elucidated in the following descriptive definition given by Nida (2004:156):

Formal equivalence focuses attention on the message itself, in both form and content. In such a translation one is concerned with such correspondences as poetry to poetry, sentence to sentence, and concept to concept. Viewed from this formal orientation, one is concerned that the message in the receptor language should match, as closely as possible, the different elements in the source language. This means, for example, that the message in the receptor culture is constantly compared with the message in the source culture – to determine standards of accuracy and correctness.

What is clear in the afore-mentioned definitions of formal equivalence is that it is source-oriented hence Nida (2004:161) states that formal equivalence reproduces several formal elements, such as grammatical units, consistency in word usage and meanings, in terms of the source context. In order to reproduce the grammatical units, Nida points out that the translator needs to ensure that the following is done:

- Translating nouns by nouns, verbs by verbs;
• Keeping all phrases and sentences intact (meaning there will be no split and readjusting of the units);
• And maintaining all formal indicators, such as marks of punctuation, paragraph breaks and poetic indentations.

Some of the ways in which formal equivalence is said to represent a strict or rigid adherence to the form of the original, according to Ellis (2009) and Gordon (1985), can be seen in the way the translated texts go as far as retaining even ambiguous terms and phrases of the SL in the TL. This is one of the reasons why formal equivalence is said to be problematic, because, as indicated by Koller (2000, in Cuéllar 2002:75), its relationship with the ST is absolute, and, given its word-for-word nature, there is a strong possibility of it being illegible and incomprehensible. This parallels what Nida describes as the reproduction of consistency in word usage in formal equivalence, which may result in incomprehensible sentences (2004:161).

In his explanation, he says a formal equivalent translation, which is mostly aimed at the so-called concordance of terminology or the rendering of a specific “term in the SL document by the corresponding term in the receptor document” is a principle which “may be pushed to an absurd extent, with the result being relatively meaningless strings of words”.

The maintenance of rigid adherence to the form of the original is not an entirely bad practice of translation. For example, Nida (2004:161) points out that a certain degree of concordance of terminology is necessary, as “a reader of Plato’s Dialogues in English may prefer rigid consistency in the rendering of key terms … so that he may have some comprehension of the way in which Plato used certain word symbols to develop a philosophical system”. Thomas (1988) has a similar view, because he believes it allows the translator to “maintain as far as possible the same ambiguity that exists in the source language”.

However, this would produce a very complex TT. For example, John 3:16 would have to be translated from Greek into English as follows: “This way for loved the God the world so that the son the only he gave so that all those believing in him would not
perish but have life eternal” (God’s Words 1995). This translation is certainly awkward in English and needs attention in terms of its grammar and syntax. In other words, to produce a clearly comprehensible version in English, the translator has to make the necessary adjustments in the sentence’s syntax and grammar, which would vary from one language to another (God’s Word 1995).

In the New King James Version (1982:432), where syntactic and grammatical structures of the Greek ST are adjusted in the English TT, the translation goes as follows: “For God so loved the world that He gave His only begotten Son, that whoever believe in Him should not perish but have everlasting life”. Another example of a formal equivalence approach, used by Ọdia (1997:36), who translates the following Edo sentence into English: Emwin na do vba ighe ẹvbo ru, ọre a ru (It is what you have come to meet people doing, you do). The sentence in brackets is a literal translation into English of the sentence in Edo “Emwin na do vba ighe ẹvbo ru, ọre a ru”.

The sentence does not make any sense, because the translated version maintains the syntax and word order of the SL in the TL. In addition to the ungrammatical form of the English, it would not make any sense to an English speaker, whose cultural background is quite different from that of an Edo-speaking person. The nearest possible translation which an English speaker would understand is, ‘When you are in Rome, behave like the Romans’. Thus, in order not to have a TT that is difficult and incomprehensible, adjustments have to be made where necessary when rendering the SL into the TL.

4.6.1.1 Problems with formal equivalence

The main shortcoming of formal equivalence is acknowledged by its originator, Eugene Nida, who refers to it as an ‘old focus’ used by translators “to reproduce stylistic specialties, e.g., rhythms, rhymes, plays on words, chiasmus, parallelisms, and unusual grammatical structures” (Nida and Taber 2003:1).

Some of the shortcomings identified by Nida are contained in his explanation of the “Principles governing a translation oriented toward formal equivalence” (2004:161). In it, he admits that it is impossible to reproduce some formal elements of the source
message, as they do not have equivalents in the TL. For instance, he says “puns, chiasmic orders of words, instances of assonance, or acrostic features of line-initial sounds” will completely “defy equivalent rendering” (2004:162).

It is argued in God’s Word (1995) that in some formal equivalence-based translations, which are done literally, the meaning in English may not correspond to the meaning in the SL, as idioms or figures of speech in the SL may mean entirely different things in English. A literal translation of this nature can result in a TT with a wrong meaning, or one that is incomprehensible to English readers.

In this instance, Nida and Taber (2003:2) emphasise that the translator’s major concern should be the elimination of expressions “which are likely to be misunderstood”. As an illustrative example of how an idiom in one language may not yield the same sense of meaning in another, they refer to a Semitic idiom: “[H]eap coals of fire on his head”, as in Romans 12:20. They argue that readers who are not used to Semitic idioms would not understand that it “means to make a person ashamed of his behaviour”; and it does not, in any way mean, “torturing people to death” (2003:2).

Another example that supports this is an Edo idiom. When an Edo-speaking person refers to a rape, he/she would use an Edo idiom, Ọgbe vbi ọgud. A literal translation of this in English would give: ‘[H]e has killed a small timber’. This version would be incomprehensible to an English target audience, who are not familiar with Edo idioms and Edo-speaking people’s worldview.

Formal equivalence is a traditional approach which, in the view of Thomas (1988:59), is an approach in which the translator of the text tries to assist the reader to identify with people in the source-language context as completely as “possible, teaching him the customs, manners of thought, and means of expression of the earlier times”.

To Nida and Taber (2003:1), this view is unfortunately not the answer to the problems of translation and it represents an opposing view to their new aim of translation; this is a translation which “has shifted from the form of the message to the response of the receptor”. This, in other words, is a translation which is dynamic.
and aims “to relate the text to the receptor and his modes of behaviour relevant within the context of his own culture” (Thomas 1988:59).

### 4.6.2 Dynamic equivalence

One of the shortcomings identified by Nida and Taber is that “…formal correspondence distorts the grammatical and stylistic patterns of the receptor language, and hence distorts the message, so as to cause the receptor to misunderstand or to labour unduly hard” (2003:201). Following this shortcoming, Nida comes up with a “new focus” he refers to as dynamic equivalence (Nida and Taber 2003:1). As the originator of the concept, Thomas (1988:151) refers to Nida as ‘the father of dynamic equivalence’.

Dynamic equivalence or functional equivalence, as it is referred to nowadays, is defined by Nida (2003:200) as:

> …the quality of a translation in which the message of the original text has been so transported into the receptor language that the RESPONSE of the RECEPTOR is essentially like that of the original receptor. Frequently, the form of the original text is changed; but as long as the change follows the rules of back transformation in the source language, of contextual consistency in the transfer, and of transformation in the receptor language, the message is preserved and the translation is faithful.

Nida describes his new focus as dynamic because it is concerned “with the dynamic relationship between the receptor and the message; this should be substantially the same as that which existed between the original receptors and the message” (2004:156). In other words, it is dynamic because it is based on the principle of equivalent effect expounded by Rieu and Phillips (1954), according to Nida. In addition to the focus of equivalent effect, Nida stresses that the dynamic equivalence approach in translation must conform to the receptor’s language within his/her cultural expectations, and must have as its aim naturalness of expression.

A very simple way to understand dynamic equivalence translation is its portrayal as “the closest natural equivalent to the source-language message, according to Nida
This would entail three essential considerations, given as follows by Nida:

1. Equivalence, which is aimed at the SL message
2. Naturalness, which is aimed at the receptor language

In a reductionist form of the meaning of dynamic equivalence, Graham (2003) explains that in translation, there are two things to consider, and they include:

- The form of words, and
- The force of meaning.

He goes on to emphasise that translation is not completed by simply “substituting word-for-word equivalence” because “this will not produce the force (or the dynamic) of meaning”. What needs to be done by the translator in this case, according to Graham (2003), is to make sure there is a modification of the form of the words, in order to achieve a similar force of meaning. In a nutshell and in Graham’s words, “[T]he jargon for the same force of meaning is dynamic equivalence”.

The main concern of translators in dynamic equivalence is not the maintenance of elements such as word order, grammar, and syntax in the SL, as they believe this may lead to ambiguity in the TL. In other words, dynamic equivalence, as explained in God’s Word (1995), ensures that “the meaning of the translation to a native speaker of the target language is the same as the meaning of the source text”.

The end product of translations, i.e. the text in the TL, Leonardi (2000) maintains, must have the same effect on the different target audience it is meant to address. Nida’s conceptualisation of dynamic equivalence shifts the emphasis from the nature of the message to the response of the target audience or receptor; and this is the reason dynamic equivalence is considered a reader-focused concept.

Important, according to Yuan and Wan-jun (2007), is the dynamic relationship between the receptor and the message. This must significantly be the same as the one which exists between the original target audience (receptor) and the message.
Yuan and Wan-jun (2007) add that it is a requirement in dynamic equivalence that
the expression be completely natural; and it is not important that the reader “should
understand the culture patterns of the source-language context in order to
comprehend the message”. This places the entire emphasis on the message of the
text, which must be quite clear to the target audience.

Although there are some languages with similar syntax, the similarity is not sufficient
to reproduce forms which are normal and free of confusion. This is one of the major
reasons why the use of dynamic equivalence, as against formal equivalence is
Greek and English sentences in the Bible. He notes that:

Greek tends to have long sentences, whose various clauses are arranged in a
logically hierarchical fashion. That is, there will be a number of dependent
clauses connected to an independent clause. This type of sentence structure,
perfectly normal in Greek, is called hypotactic (clauses are arranged logically
under one another). English, by contrast, is not so comfortable with long
sentences, and does not provide any easy way of indicating which clauses
are independent of others. Our sentence structure is called paratactic
(clauses are arranged logically alongside of one another).

As similarly observed by Ingo (1992:51), “Different use of clauses and embeddings”,
or syntactic differences in languages, such as the one illustrated in the example
given by Gordon (1985), is one of the reasons translation scholars prefer dynamic
equivalence. He stresses that the solution to this comes out differently in different
languages, because “different languages prefer different solutions”. Again in Gordon
(1985), this is expressed as follows:

If we attempt to reproduce, in English, the sentences of the same length as
the Greek original, our audience will not be able to follow our translation.
Ephesians 1:3-14, for instance, is one sentence in Greek, with well-defined
subordinate clauses. If we attempt to reproduce a sentence of this length in
English, the result will be so awkward that few, if any, English readers would
be able to follow it. Consequently, translators must break the longer Greek
sentence into shorter English sentences.
The same applies in relation to Edo and English sentences. In the Edo sentence below, the English version of the translation is confusing and awkward because the grammatical form is retained. In Òro (2003:31), the grammatical form of the following Edo sentence is retained in the English version – a version which is awkward and confusing. For example, *Esọhẹ gie ogie emwin ekhue*, is translated into English by many interpreters as ‘Esọhẹ laughs the laugh concerning shame’. There is problem in the translation, because the grammatical form of the ST is retained by literally rendering the word-to-word composition of the ST in the TT.

A dynamic version of the ST that looks at how it is best rendered for the understanding of the target audience, which in this case are English-speaking people, would be: ‘Esọhẹ laughs foolish laugh’, according to Òro (2003:31).

One of the advantages of dynamic equivalence is that it enables the translator to directly emphasise where it matters in translation. Put differently, with the dynamic equivalence approach, the main focus of the translator is the overall end-product of the translation, as opposed to reflecting technical matters in the source language emphasised by formal equivalence (God’s Word: 1995). God’s Word (1995) explains further that such an approach would ensure that a translation product is free from bad grammar or style, and instead would produce meaningful texts that are meaningful in the TL.

However, dynamic equivalence has also been criticised for its flaws. Translators who favour the use of dynamic equivalence are not constrained by the grammatical form of the original language. This has been identified as a factor that may give them free rein to go beyond the limits of an accurate translation, while making an effort to be natural in the native language (Gordon 1985). Gordon’s view is open to criticism, since what counts as an accurate translation in one context may differ in another.

It is also important to note that translators using the dynamic equivalence approach are constrained by the grammatical form of the original, as they try to render the SL grammatical form in the SL within the pertinent sociopragmatic context of the target receptor. Nord’s (1993) work, as quoted by Hönig (1997:12), resonates with this
view, indicating that “there is no absolute freedom for the translator because his/her choice is limited by what is accepted in any given society as a translation”.

The efficacy of dynamic equivalence is questioned by Ellis (2009), especially as it pertains to the translation of the Bible. He believes “It gives to the translators the role that rightly belongs to the preacher, commentator and Christian reader”. This, Ellis explains, reduces the values attached to sacred words in the Bible, as the word order, syntax, and idiom would be altered, in this instance, in the translation.

Ellis concludes that the translator who is influenced by the dynamic equivalence theory has taken on the role of a commentator. According to Ellis (2009), the dynamic equivalence translator would prefer some biblical text such as “he shall be my son’ (2 Sam. 7:14) to be translated in a politically correct version as “you shall be my sons and daughters”.

In Yuan and Wan-jun (2007:75), it is stated that translation in the dynamic equivalence approach must match “the receptor language and culture, in order to make the translated message intelligible and natural to the target language receptors, who are accustomed to the source language and culture”. Regarding the cultural adjustment necessary in dynamic equivalence translations, they remark that many scholars do not share Nida’s view. They oppose his notion that an idiom in the SL can be replaced with an approximately equivalent idiom in the TL because

…some scholars assume that the replacement of one idiom by another prevents the target language reader from knowing the source culture and keep the new expression of the source language from being introduced into the target language (Yuan and Wan-jun 2007:75).

4.6.3 Other approaches to translation equivalence
Apart from Nida’s contribution in the form of formal equivalence and dynamic equivalence, other scholars have also made seminal contributions to translation theories. However, for the purpose of this study, the discussion will mainly be limited to Baker’s (1992) contribution and similar views of other scholars.
One of the ways the notion of equivalence has been considered is with reference to the levels on which it operates. Using a text-linguistic approach, Baker (1992), in her book, explains that when translating from SL to TL, equivalence can appear at word level and above word level.

In considering whether there is a one-to-one relationship between words and meaning, Baker explains it is possible that elements of meanings which are stated in numerous orthographic words in one language could be stated by one orthographic word in another. An example in English fitting the example given by Baker (1992:11) is *war prisoner*, written as one word in Edo: *oghunmwun*. Another example is the sentence *it is cheap* in English, which is rendered as one word in Japanese, namely *yasui*. Based on these examples, and similar situations in other languages, Baker concludes “there is no one-to-one correspondence between orthographic words and elements of meaning within or across languages” (Baker 1992:11).

At word level, Baker remarks, there is non-equivalence because the TL has no direct equivalent for a word used in the SL (1992:20). There is non-equivalence at word level because many factors, such as, among others, the SL expression of a concept unknown in the target culture, the SL expression of a concept not lexicalised in the TL, an SL word being semantically complex, differences in expressive meaning, differences in form, etc. (Baker 1992:21-26).

At above-word level, Baker considers what happens when translating a combination of words under the applicable restrictions and rules (Baker 1992:46). To consider equivalence at above-word level, Baker concentrates on the types of lexical patterning, such as collocation, idioms and fixed expressions.

### 4.6.3.1 Collocation

Collocation refers to the “tendency for words to co-occur regularly in a given language” (Baker 1992:47). Different factors account for the way words collocate. For example, Baker writes that some words collocate due to propositional meanings, as in *cheque* being more likely to collocate with *bank*. There is also a tendency for some words to collocate in any acceptable grammatical combination, such as *achieving aims, aims having been achieved, achievable aims and the achievement*
of aims. These combinations are acceptable in English, according to Baker (1992:48).

Collocation or the co-occurrence of words happens in all languages, but the pattern of collocation in one language is never the same as it is in another, as it would not convey the same meaning because restrictions and rules are not the same across languages. An applicable example used by Baker (1992:48) is the English verb *deliver* which collocates with many nouns, but in the case of Arabic, each of these nouns collocates with different verbs. The dictionary equivalent of the word *deliver* in Arabic is *yusallim*. When this is looked at on how *yusallim* collocates with other words, denoting the process of childbirth, Baker says it is different from how the English equivalent – *deliver* – collocates with other words.

In relation to childbirth, the Arabic worldview focuses on the woman, while the English focuses on the baby; and this determines how *deliver* in English or *yusallim* in Arabic collocates with other words. Thus, in English, there will be a collocation *deliver a baby*, but in the Arabic expression the collocation will be *yuwallidu imra’atan* which literally means *deliver a woman* or *assist a woman* in childbirth (Baker 1992:48-49). Following these different interlingual collocational patterns, Baker remarks that

> ... differences in collocational patterning among languages are not just a question of using, say, a different verb with a given noun; they can involve totally different ways of portraying an event. Patterns of collocation reflect the preference of specific language communities for certain modes of expression and certain linguistic configurations; they rarely reflect any inherent order in the world around us (1992:49).

### 4.6.3.2 Idioms and fixed expressions

Idioms are also combinations of words considered by Baker in her discussion of above-word-level equivalence. Baker (1992: 65) argues that idioms represent the source of problems in translation because many translators would fail to recognise them as idiomatic expressions. For example, Baker points out that the following idioms could be misleading to some translators: One such idiom is *Go out with* (have a romantic or sexual relationship with one). An idiom such as this has both a literal
and an idiomatic meaning. The problem in translation arises because some writers and speakers play on both the literal and idiomatic meanings; and a translator who is not familiar with the idiom may interpret it only in terms of its literal meaning (Baker 1992:66).

Some idioms are easily recognisable because they violate truth conditions and are ill-formed expressions since they violate the grammatical rules of the language. These idioms, according to Baker, include the following: Expressions that violate truth conditions: *it is raining cats and dogs; a storm in a tea cup* and *throw caution to the winds*. Some examples of ill-formed expressions are: *blow someone to kingdom come; put paid to; the powers that be* and *by and large* (1992:65-66).

On the other hand, Baker (1992:66) states that some idioms are transparent “because they offer a reasonably literal interpretation and their idiomatic meanings are not necessarily signalled in the surrounding text”.

Fixed expressions, as the name suggests, are constant expressions used by writers and speakers in similar communicative actions, events or situations. Examples given by Baker include: *having said that*, *Ladies and Gentlemen, as a matter of fact*, and *practise what you preach*. Fixed expressions are unlike idioms because, as Baker explains, they have transparent meanings and their meaning can easily be inferred from the meanings of the words which make up the expressions (1992:64). For instance, it is easy to deduce the meaning of a fixed expression such as *a matter of fact* from the words which constitute the expression.

Idioms and fixed expressions are problematic in translation because in the observation of Baker (1992:63), they either do not have any flexible collocational patterning or transparency in meaning. Baker also describes them as, “frozen patterns of language which allow little or no variation in form and, in the case of idioms, often carry meanings which cannot be deduced from their individual components” (1992:63).
In addition to this, there are many difficulties that have been identified by Baker in translating idioms and fixed expressions. Some of these will be explained briefly below.

1. An idiom or fixed expression may not have an equivalent in the TL. This usually happens because languages express meaning differently. In one language, a given meaning may be expressed with a single word, in another the same meaning may be expressed with a fixed expression or idiom. This goes to suggest that it may not be possible to find an equivalent idiom or fixed expression in the target language.

2. It is possible that an idiom or fixed expression may have a similar equivalent expression in the TL, but be different in the context of use, and thus may have a different connotation. For example in English, Baker says, *to skate on thin ice* means to act unwisely, but a similar expression in Serbian, *navuci nekoga na tanak led* means to pull someone on thin ice. Though similar in meaning, Baker asserts that the Serbian expression implies “forcing someone into a dangerous position”.

3. The convention governing the use of idioms in written discourse may have a bearing on the contexts in which they can be used. For example, their frequency of use may not be the same in the SL as it is in the TL. According to Baker, it is common to see idioms in promotional materials and advertisements, but they do not apply in Arabic and Chinese written texts. Arabic written texts are associated with a high degree of formality, and as a result, the use of idioms is avoided in Arabic written texts.

4.6.3.3 Grammatical equivalence

This refers to the differences between grammatical categories that exist in different languages (Baker 1992:85). This is so, because, as noted by Baker (1992:86), the existence of differences in the grammatical structures in the SL and TL usually result from changes in the details constituting the message during the translation process. In an attempt to deal with these changes, the translator has to resort to altering the form of the SL when rendering the equivalent in the TL (Nababan 2008), or add or “omit information in the TT because of the lack of particular grammatical devices in the TL” (Leonardi 2000).

Some of the grammatical structural changes focused on are changes in form, which could be obligatory, due to structural differences between languages, such as
different use of clauses and embeddings, rearrangement of semantic components (Ingo (1992:51), word classes and word order, or grammatical structures, such as cohesive devices (e.g. however and nevertheless) (Nababan 2008). Some of the grammatical categories which may cause problems in achieving equivalence in translation, according to Baker, are number, gender, person, tense, aspect and voice (1992:87-102).

4.6.3.4 Textual equivalence
Textual equivalence is looked at by Kenny (2001:77) in reference to the definition given by Baker (1992). He asserts that textual equivalence refers to the “similarity in ST and TT information flow and in the cohesive roles ST and TT devices play in their respective texts”. This is very important in translation, as it helps in the analysis of the ST in a manner that the translator is able to produce a cohesive and coherent text for the target audience in a specific situation.

4.6.3.5 Pragmatic equivalence
This takes into consideration the form of a linguistic message, as it is motivated by the context in which the language is used. Or, as stated in Baker (1992:217), pragmatic equivalence is “concerned with the way utterances are used in communicative situations and the way we interpret them in context”. This is the reason why in translation, it is important to take into consideration the influence of cultural and linguistic elements in which the ST and TT take form (Ingo 1992:54).

In the light of this consideration, Ingo maintains that “Texts are composed at a certain point of time, for a certain purpose, and for a certain audience living in a certain cultural and geographical environment, with a certain standard of education”. Given these elements influencing the production of text, it is thus incumbent on the translator when expressing the author’s text in a different culture, that this be done in a way that allows comprehension by the TT reader.

4.6.4 The skopos theory
The *skopos* theory as an approach to translation was formulated by Reiss in the 1970s; and it was further explained in more detail by Hans Vermeer in Germany in the late 1980s (Schäffner 2001:235). The theory is a decisive shift away from the
prevailing linguistic and formal translation theories to an approach that is functionally and socio-culturally oriented in concept (Schäffner 2001:235).

The word *skopos* is a Greek word, which, according to Hönig (1997: 9), “stands for the purpose of translation…” and according to Vermeer (2004:227), it “is a technical term for the aim and purpose of translation”. The purpose of translation or *skopos* must be known before translation begins, hence the theory is said to have a prospective approach to translation, as opposed to the retrospective approach followed in other theories that emphasise the source text (Schäffner 2001:235).

In a simple explanation of what *skopos* theory is, Nord (2001:124) says it simply means “the end justifies the means”. And, according to Jing and Su-zhen (2008:34), “It tries to liberate the translation from the confinement of the source text”. In this approach, the target text or target audience is very important; and, as emphasised in Pym (2009), it is imperative that the translator should consult with his/her client on what the purpose of the translator will be, in order to translate accordingly.

Contrary to other theories, such as formal equivalence, which focuses on the source text, the *skopos* theory is functional in approach, and is influenced by the “prospective function or *skopos* of the target text, as determined by the initiator's (i.e. the client’s) need” (Schäffner 2001:236). In a further elucidation of the *skopos* theory approach, Hönig (1997:9) refers to the German word *Informationsangebot* used by Vermeer, which means the offer of information. And, it

...means that the source text should no longer be seen as the 'sacred original', and the purpose (*skopos*) of the translation can no longer be deduced from the source text, but depends on the expectations and needs of the target readers. In order to translate successfully, the translator has to get acquainted with the specific situation of the recipients of his/her translation in the target culture.

Referring to the word *Informationsangebot*, or information offered, Schäffner remarks that the information offered by translation is secondary, or the information it offers is about some aspects of the “source-text-in-situation” based on the purpose or *skopos* of the target text, as identified by the initiator (2001:236). It is also important to note
that the selection of the information from the source text and the identification of the *skopos* do not happen without careful consideration; rather, they are influenced by the target text audience (Schäffner 2001:236).

Generally, in the *skopos* theory, the target text is given primacy, or, as Pym (2009) puts it, the *skopos* is based on the principle of ‘dethroning’ the source text. This seems not to be the case when the status of the source text and the target text in translation are being comparably analysed. For example, in the following explanation given by Schäffner based on the *skopos* theory, it is stated that the “translation is the product of a functionally appropriate target text based on an existing source text, and the relationship between the two texts is specified according to the *skopos* of the translation”. What is apparent here is that for a target text to be produced, the translator has to work on a source text influenced by the set *skopos* of the translation.

It is generally claimed that there is a dethronement of ST, or it is given a kind of minuscule function in *skopos* theory. However, it is essential to point out that the ST plays a cardinal role in translation, irrespective of the approach used. In all types of translation, it is both the point of entry that is important, as well as and the point of departure in the production of any target text. Put differently, whatever *skopos* is specified, and as markedly different as it is in relation to the source text, the truth remains that the source text remains the reference point in any consideration of the purpose of the target text.

The dethronement of the source text, as asserted by Pym (2009), simply means that “[t]he same text can … be translated in different ways, to suit different purposes”. This is also endorsed by Schäffner (2001:237), who cites the remark of Vermeer (1989), and notes that “no source text has only one correct or preferable translation …, and that, consequently, every translation commission should explicitly or implicitly contain a statement of *skopos*”. There are two notable rules which apply in the *skopos* theory. These are referred to as the *coherence rule* and the *fidelity rule*. 
4.6.4.1 The coherence rule
This rule means that the target text must be understandable to receivers in their target language culture, based on the communicative context for which the target texts will be put to use (Jing Su-zhen 2008:34). In the explanation given by Schäffner (2001:236), it is stated that the “coherence rule stipulates that the target text must be sufficiently coherent to allow the intended users to comprehend it, given their assumed background knowledge and situational circumstances”. In Schäffner’s explanation, the end product of translation must not only be satisfactorily coherent for the understanding of the target audience, but it must also be based on a number of pertinent factors.

4.6.4.2 The fidelity rule
Of concern here is intertextual coherence, which accentuates the relationship between the source text and target text. It demands that “there must be an intertextual coherence between the source text and the target text, which is similar to the fidelity to the source texts” (Jing and Su-zhen 2008:34). However, Jing and Su-zhen maintain that the extent and nature of the fidelity is influenced by the aim of the target texts, as well as the translator’s understanding of the source texts.

4.6.4.3 Criticism of the skopos theory
An analysis of the reaction to the skopos theory reveals that it has not been received without reservations by other researchers or scholars. One of the critical remarks about Vermeer’s skopos is the sheer disregard for the importance of the ST in translation (Hönig 1997:10). In a study done by Snell-Hornby (1990, in Schäffner 2001:238), she argues that the skopos approach to translation is not applicable to literary translation, because “the situation and function of literary texts are more complex than those of non-literary, and style is a highly important factor”.

In addition to Snell-Hornby’s argument, Hönig (1997:10) believes that the skopos theory falls short of being able to meet the “tradition of literary translation in Western cultures, where a literary text remains embedded in the source culture”. Skopos theory, as enunciated by Reiss and Vermeer, has also been questioned for its suitability for translation. To Schäffner (2001:237), the theory deals more with adaptation than with translation. However, this view is countered by proponents of
the theory, such as Reiss (1990), cited in Schäffner (2001:237-238), who contends that under a wide consideration of translation, the strategies, such as paraphrasing, reformulation and textual explication that are used for adaptation, will usually form an integral part of translation.

Although it is known that in terms of the skopos theory, translation may lead to the fulfilment of the intended purpose accurately, Chesterman (1994, in Schäffner 2001:237) says this is, however, inadequate regarding other important linguistic elements, such as lexical, syntactic or stylistic decisions. Consequently, some of the inherent characteristics of functionalism, such as oversimplification, will result in an “emphasis on the message at the expense of the richness of meaning, and to the detriment of the authority of the source-language text” (Newmark 1991, in Schäffner 2001:237).

On a positive note, it is argued by Schäffner (2001:238) that skopos theory represents a clear move away from source-text production to a more challenging production of the target text. She hails it as an innovation in translation theory, with a focus that has turned towards functional translation, where the translation is carried out by experts, based on sound decisions and ethical responsibility. She also remarks that with skopos theory, the translator has a leeway approach to translation under a specified skopos or purpose.

As stated in Vermeer (2004:235), skopos theory applies to both translation and interpreting. The sensitivity with which legal issues, especially in the domain of verbal discourse in the courtroom, are handled, may help explain why many translation scholars have historically favoured an approach which emphasises the principle of fidelity (literal translation). This is, essentially, a reconstruction of the form and nature of the source text in the target language.

The debate about literal translation, as opposed to free or meaning-based translation, as pointed out by Robinson (1991:68) and mentioned above (par. 4.6, has been dominating translation studies since Cicero’s time. The emphasis then was on religious texts, and, because the Holy Scriptures were considered sacred texts, scholars were sceptical of the recommendation of “free” translation. Many scholars
have historically taken a similar approach with regard to legal discourse or texts. Legal texts, to them, are sensitive texts and should be treated as such by “preservation of the letter rather than on the effective rendering in the target language” (Garzone 2000:4).

To Snell-Hornby, it is pointless settling for the literal situation, as “… language is not merely a static inventory of items and rules, but a multifaceted and structured complex” phenomenon (1988:49).

Literal (or word-for-word) translation can only ensure the manifestation of an interlingual rendering of the source language in the target language, leaving out any pragmatic aspects, which are also necessary for communication, especially in multicultural courtrooms, such as the ones in South Africa. This is where the functionalist approach to translation becomes relevant and, by extension, the skopos theory in legal discourse.

The essence of functionalist and skopos theory is captured in the following statement by Garzone (2000: 1-2), who remarked that a fundamental change has taken place in translation theory, and in its wake, come approaches which centre

…on communicative and pragmatic factors. [G]rowing emphasis is now placed on translation as a communicative and intercultural action, leaving behind all approaches focusing exclusively on linguistic aspects. The translator is no longer considered a passive mediator, but rather an intercultural operator, whose choices are increasingly recipient-oriented, being based not only on strictly linguistic criteria, but also on extra-linguistic considerations, first and foremost the function of the translated text in the target culture.

This, thus, reinforces the call to produce texts “on the basis of communicative factors of reception in each situation” (Šarcevic n.d: 3), and also a translation strategy in which the same text can be translated in different ways, taking into consideration the communicative purpose, for different receivers. As in skopos theory, the functional approach involves a translation of text that caters for the cultural expectations of the target receivers (Nord 1992:39).
Skopos theory is seen as a general theory that applies to all text types and contexts, including legal translations. The generality of the skopos theory in terms of its applicability (Fluck 1985:136), and in particular to legal texts, has been refuted by Madsen (1997 in Garzone 2000:2) and other scholars, because, as reported by Garzone (2000:2), it has a target-centred functional approach which may not be acceptable for legal translation.

The theory's rejection of the source text or its support for the “dethronement” of the source text, as claimed by Pym (2009), has also not won the hearts and minds of scholars who believe that a source text is a ‘sacred text’, or at least a sensitive text.

Legal texts are treated as sensitive texts, especially in court interpreting, where strict care is taken to ensure that justice is fairly dispensed. This is one of the reasons why translation experts have been lukewarm in receiving functionalist-based translation, as they consider it too general in nature to be able to address the sensitivity required in legal translation. Besides this, Gemar (1995, cited in Garzone 2000:3) points out that jurists and other experts in the field of law believe that legal texts have a distinctive quality which a general translation approach, such as functional equivalence or skopos will not be able to address.

The best approach befitting interpreting or translation of this nature, according to Garzone (2000:2), would be an approach that is tailor-made to address its uniqueness.

Some of the identified distinctive qualities mentioned in Garzone, are that legal texts are characteristically ritualistic and archaic, and are subject “to very strict stylistic conventions in terms of register and diction, as well as highly codified genre structures” (2000:3). Added to this, Gotti (1991, reported in Garzone 2000:3), claims that, unlike other types of texts, in legal texts there are constraints which include the macro-structure of texts, paragraphs, sentences and phrases, unusual or inflexible collocation of words, and specialised use of cohesive devices for anaphora and cataphora. Texts of this nature, Hatim and Mason (1997:190) maintain, are sometimes referred to as ‘routines’ and are translatable, according to Garzone
only by resorting to parallel routines or texts in the target language (italics my own emphasis).

These distinctive qualities, as described, are complexities of a kind, and if Garzone’s recommendation of resorting to parallel texts is anything to go by, it raises some questions here. One of which is the following: What if the TL’s nature is such that it does not allow parallel routines or texts, or the TL does not have any corresponding parallel routines as legal texts? Many unofficial languages are usually not the languages in which the laws or the statutes of the country are written, and they have not been standardised to such an extent that appropriate corresponding terms are available for translation.

This, again, calls for the functional or dynamic approach, because, in the absence of corresponding parallel texts in the target language, the translator should be dynamic enough to consider using another translating approach so that it is appropriate to the target language. Based on the functionalist approach, the interpreter in this case should strive to retain the concept and the content of the SL in the TL.

González et al. (1991:17) share a similar view, but they remark that in the context of the courtroom environment

…the interpreter must mediate between these two extremes: the verbatim requirement of the legal record and the need to convey a meaningful message in the TL [target language]. These requirements — to account for every word of the SL [source language] message without compromising the syntactic and semantic structure of the TL — are seemingly mutually exclusive. However, the dichotomy is resolved by focusing on conceptual units that must be conserved, not word-by-word, but concept-by-concept. To be true to the global SL message, paralinguistic elements, such as hesitations, false starts, hedges, and repetitions must be conserved in a verbatim style and inserted in the corresponding points of the TL message.

Another way the notion of equivalence has been conceptualised in the legal discourse is the insistence on legal equivalence. In Garzone’s (2000:5) work, where Beaupré (1989) and Herbots (1987) are reported, the notion of legal equivalence
represents a change in focus and a move towards a more flexible way in the consideration of criteria of equivalence in legal translation. It basically looks at the translated texts that express the intended meaning with intended legal effects (Šarcevic n.d.:4), or, as stated by Sager (1993, in Garzone 2000:5), the principle of legal equivalence is fundamentally about the production of a legal text which seeks “to achieve identity of meaning between the original and the translation”, that is, the “identity of propositional content, as well as identity of legal effects”.

From a legal point view, Šarcevic (n.d.:4) says “all authentic language versions of a particular language instrument are regarded as constituting a single instrument”; hence the translator should ensure that the text maintains the harmony of the single instrument in terms of its meaning, legal effect and intent. According to Šarcevic, this, in a sense, means that an authenticated translation is considered successful if it is applicable and interpretable in practice. Put differently, perfect communication is said to occur “when all the parallel texts of a legal instrument are interpreted and applied by the courts in accordance with the uniform intent of the single instrument” (Šarcevic n.d.:5).

In the translated text, the intent of the person or body, such as the legislator, lawyer, judge or contracting parties, which produced the source ST must be reflected (Garzone 2000:5). Garzone (2000:5) emphasises that the essence of a translated text is one that has authentic status and also one that retains, according to Šarcevic (n.d.:5), “the unity of the single instrument”, an instrument that must be considered for its meaning, its intents and legal effects.

Thus, the quest to have an authentic translation gave birth to a change in perspective, which has resulted in meaning-based legal equivalence. This, according to Garzone, signals the end of the emphasis on slavishly translated text, which is subordinate to its original (Garzone 2000:5).

Legal equivalence, as described, is synonymous with the concept of functional equivalence (Garzone 2000:5), and it indicates an acceptance among legal translation scholars that functional equivalence, or related concepts, such as Koller’s (1992) pragmatic equivalence, and Newmark’s (1983) communicative translation,
have a role to play in any consideration of the notion of equivalence. The consideration of legal equivalence by scholars will be meaningless if it does not result in a change of approach about translation and interpreting by the people (translators and interpreters) who are supposed to be the ultimate beneficiaries. As shown in the discussion of notion of equivalence which encapsulates legal equivalence, interpreters who are mindful of the notion of equivalence carry out their role in the court successfully, especially in knowing that there are many factors that influence the way meanings are constructed from the SL into the TL. In the next section, the role of court interpreter will be discussed. It will be shown that the way some scholars and users of interpreting services view the interpreters, in terms of how they should render the SL into the TL, influences how they (interpreters) are described.

4.7 THE ROLE OF COURT INTERPRETER

The primary role of the court interpreter is to facilitate verbal communication between two or more parties. This can only be done by rendering the source text message in the target language as faithfully as possible. Through professional codes of ethics, the interpreter’s roles are articulated in many countries, something which is done under the aegis of a professional association. In South Africa, the South African Translators’ Institute’s (SATI) professional Code of Ethics emphasises the necessity for accuracy and impartiality.

As discussed below, it is a contentious matter as to what the ideal roles of an interpreter are, and even when these roles are known, many factors have been identified which hinder or prevent the interpreter from having the necessary commitment to them.

One of the contentions regarding the role of a court interpreter is exemplified in the way he/she is qualified by metaphors, such as ‘language mediator’ or ‘language conduit’. This helps to explain why many scholars believe court interpreters must provide a literal rendition of the source language text in the target language. For example, Grabau and Gibbons (1996:241) explain that the appropriate responsibility of the interpreter “is to place the non-English-speaker, as closely as is linguistically possible, in the same situation as the speaker in a legal setting”.

144
In order to do this, Grabau and Gibbons argue that an interpreter does not have the freedom to make any improvement, omission, edition, addition of meaning or contextualise the word or words that have been spoken (1996:242). At the extreme of abiding by the regulation, Mikkelson (1996) pointed out that it is expected of the interpreters to express every aspect of meaning of the message in the source language, even if it means that they must use a similar tone and register characteristic of the original message, which may even be offensive, inappropriate or unintelligible.

In the same vein, Grabau and Gibbons maintain that for the sake of accuracy, the interpreter should not effect any simplification of questions or statements that have been put to the individual for whom he/she is interpreting, even when it is obvious that the individual cannot comprehend the original speaker's language (1996:283). Added to this, Hewitt (1995:200) writes that interpreting from the source language to the target language is best achieved when all the communicative elements in the source language are rendered in the target language.

This, in other words, means that the interpreter is obliged by regulation to abide by the prescribed verbatim requirement, whether it makes sense or not. The argument that has been put forward to justify this stance is that the interpreter's job demands that he/she places the witness or the accused person who does not understand the official language being used in the court on an equal footing with those or other participants who do understand the language, according to Mikkelson (1996) and González et al. (1991:155).

Following this, Mikkelson (1996) remarks that it is not the business of the interpreter whether the accused person or witness understands the court proceedings or not; rather it is his/her business to make sure that the verbatim equivalent of the source message is rendered in the target message. This has been identified as a source of confusion for interpreters regarding their ability to perform their job. This is because it is incumbent on the interpreter to follow the word-for-word or verbatim requirement to interpret from SL into TL. In the view of many scholars, for many reasons, this is not possible.
First and foremost, this argument should also take cognisance of what González et al. (1991:272) write in this regard:

... the court interpreter ... has a duty to conserve not only the precise meaning of the SL message, but also the exact register, style and tone. Thus, the interpreter faces a formidable task, first in deciphering the meaning of sometimes obscure, convoluted, or deliberately vague language; and secondly, in conveying that message in exactly the same manner as it was spoken.

Going by the argument of Hale (2004:8), there are those who see the role of the interpreter purely out of a sense of social justice, and thus expect the interpreter to help the disadvantaged language-handicapped persons to be successful in their case. This thinking may also be the interpreter’s frame of mind regarding his/her role; hence, Conomos (1993) and Barsky (1996) report in Hale (2004:8) that the interpreter would feel justified if he/she were to deviate from the source language utterance to explain and embellish the accused person or witness’s response.

The verbatim requirement of the role of the interpreter that has often been used to justify the statement, “to place the non-English-speaker as closely as is linguistically possible in the same position as an English-speaking witness” has almost become a cliché, according to Hale (2004:10). In her argument, she notes that verbatim translation by the interpreter is impossible, because the interaction in which he/she is involved is triadic, rather than dyadic. Justifying her argument further, she alludes to Wadensjö (1992), who comments that if the interpreter is seen as a mediator or middle man, it should be noted that “in general, ... a third party who is present in a negotiation will always exert some influence on the process”.

Taking this argument further, Hale cites a study she co-authored with Luzardo in 1997. Here, she discovered that the majority of non-English speakers in Australia are not aware of the conventional role of the interpreters, and thus expect assistance from them beyond their prescribed roles as interpreters. They point out that this view is strengthened by the fact that the accused persons or witnesses believe that they deserve to be assisted by virtue of their being of the same nationality or ethnic group as the interpreters.
This perfectly describes the situation in South Africa regarding some foreign African court interpreters. It will be shown later, in more detail in this study, i.e. in chapter seven, that quite a significant percentage of them admit in the data collected about their role in the courtroom that they exceed their prescribed verbatim requirement to assist the accused persons or witnesses because of their low level of understanding of language usage in the adversarial courtroom setting. They admit they would do this when, in their judgement, they think the accused persons have a fair chance of winning the case, as they are in all fairness supposed not to be arraigned before the court in the first instance.

In addition to this, they argue that the verbatim requirement becomes meaningless the moment they also start feeling that the state-paid attorneys, the prosecutors and the magistrates do not care to take into consideration an obvious unique language situation of the accused person. To them, the reason for this perceived callousness on the part of these principals (magistrates, prosecutors and attorneys) in the court may be because the accused person is a foreigner.

Many of the interpreters admit that their natural response would rather be to help their compatriots than to observe a verbatim requirement which could easily be flouted without being noticed by anyone.

There are some drawbacks in interpreting literally, and Hale argues that it “leads almost inevitably to inaccurate interpretation and ungrammatical utterances” (2004:12). On the other hand, Hale explains, if the interpreter thinks his/her role is to mitigate the effects of the language barrier on the part of the accused person or witness, a more accurate and impartial rendition would be the consequence of his work. And this, in a nutshell, would mean that the interpreter would make an effort to interpret pragmatically.

There are many other issues regarding the interpreter’s contribution to the semantic content of the message, or the lack thereof. Neubert (1997:19) looks at the role of the interpreters from another perspective; and he states that interpreters are not expected to contribute to the semantic content of the text; they are expected to transfer, and this, in essence, makes them outsiders to the communication process.
This view is negated in an earlier study by Berk-Seligson (1990:140), whose research reveals that interpreters, in most cases, influence the semantic content through the interpreters’ insertion or lack thereof of polite address forms in the interpreted English. Berk-Seligson remarks that interpreters’ use of polite forms or the lack thereof, as opposed to what they have heard from the witness, usually occurs when the interpreters are interpreting the defendant’s responses to judges’ questions during arraignments, changes of plea and sentencing (1990:140).

According to Berk-Seligson (1990:140),

The desire to make the defendant more deferential and polite before the examining judge may simply be due to the interpreter’s own need to be polite as she speaks to the judge; for ultimately, it is she, in lieu of the defendant, who is transmitting the English message to the judge.

Equally noticed as interpreters’ deviation from the semantic content of the source is the way the interpreters interpret any hesitation and particle\(^2\) forms. Berk-Seligson (1990:140) attributes this to three reasons. Firstly, the interpreters may deviate from the source language particles and hesitation forms, because there is no correspondence of such particles and hesitation forms in the target language. Secondly, they may omit the particles and hesitation forms because they think these are unimportant. Thirdly, they insert hesitations and particle forms into the interpreted version on their own “since the hesitation forms are a side effect of the great mental concentration and strain that interpreters experience when they are in the process of interpreting”.

Berk-Seligson, in her observation of interpreting practices, concludes that interpreters are not mindful of the “pragmatic aspects of language”, and this makes their interpreted version of the source language distorted in meaning. In her explanation

...an interpreter can make the tone of a witness’s testimony or an attorney’s question more harsh and antagonistic than it was when it was originally

\(^2\) A particle, in this sense, is a lexeme which has no exact meaning in the sentence where it appears. It is usually used in spoken language and it indicates some programmatic characteristic on the part of the speaker. For example, it could indicate the speaker’s mannerism of speaking such as ‘you know’, ‘I mean’, ‘well’, etc.
uttered. Or, conversely, she can make its effect softer, more cooperative, and less challenging than the original.

Arguing in similar fashion, Hale and Gibbons (1999: 208) contend that the calculated use of language by an attorney to persuade, attack and counter-attack, and the essence of language style contained in witness testimony for the assessment of credibility, are characterised by the nature of the language in the courtroom, even though this is often ignored by most interpreters.

Viewing interpreting from another angle, Neubert (1997:9) argues that interpreters are active participants in the communication process, because the source-language speaker cannot “be linguistically co-present in the communication”, due to a lack of “direct interference” in the communication process. Using consecutive interpreting as an example, Neubert argues further that the source-language speaker cannot take the same communicative place as the interpreters, because the interpreters render the source language text in the target language by rephrasing the source text as if they were the true senders of it (1997:9).

The description of the court interpreter with the metaphors ‘language conduit’, ‘language mediator’, or, as Hale and Gibbons (1999:207) put it, ‘robotic device’, shows the extent to which the legal fraternity take a dim view of the complexity of court interpreting. With these metaphors, court interpreting is portrayed as a simple exercise where a bilingual matches words in the source language with equivalent words in the target language (Hale & Gibbons 1999:207). This view is rooted in an attitude that shows a lack of understanding “of the challenge and expertise involved in interpreting, and a serious lack of consideration for what is needed to perform a proper job” (Hale & Gibbons 1999:207).

The lack of understanding of the professional responsibility of the court interpreter often results in a situation in the courtroom where a judge or magistrate will become impatient when the interpreter requests further clarification of the meaning of words, or to consult a dictionary in order to find the meaning of the words (Hale & Gibbons 1999:207).
An interpreter functions as someone who animates the speech of others, according to Wadensjö (1998:93). When an interpreter’s role is seen in this manner, Wadensjö observes that “an interpreter would subsequently speak only in the restricted sense of an ‘animator’ of someone else’s speech”. To Wadensjö, it is not always right to see the function of the interpreters only from this perspective, because interpreters sometimes have to give a new version of the statements mentioned to them; and this, in a sense, means they have to recapitulate, meaning that “they relate to their following utterance as ‘author’ and ‘animator’” (1998:93).

Interpreters also play the role of ‘responders’, because they “relate to ongoing utterances as ultimate addressees” (Wadensjö 1998:93). In her explanation, Wadensjö states that this happens when interpreters have to deal with matters that need clarification, and they would “relate to the immediately preceding utterance, as would a direct addressee” (1998:93).

In addition to the above roles of the interpreter, equally worthy of mention regarding the communicative act involving interpreters, is the fact that their roles give them a double identity. They are both addressee and sender, because the source-language speaker is addressing them, and they will, in turn, process the information contained in the source language and render or send it to the target source (Neubert 1997:8). From a psycholinguistic point of view, Neubert (1997:8) refers to this role as doublage and he explains this as follows:

In their capacity as primary users of a source text, they process information in ways similar to the way normal (monolingual) source-language speakers might. But in their mediating work, they must become secondary, surrogate senders, reprocessing for transfer any information that they have already successfully processed during the primary comprehension phase.

The interpreter has an exceptional advantage, or power, regarding language, and this has also been a factor in the consideration of his/her role in the courtroom (Edwards 1995:63). The interpreter’s bilingualism is his/her source of power over the language abilities of both parties, and this places him/her in the direct firing line of some attorneys who would seek to undermine him/her. As observed by Laster and Taylor (1994, in Hale 2004:12), realising the unique power the interpreters have
regarding language, many attorneys have deliberately sought means to control and place limitations on their execution of their role, as evidenced in their subscription to the view that the interpreters are ‘neutral machines’ or ‘conduits’. Edwards (1995:63) sees no reason that warrants concern regarding the interpreter’s “power over language”, in the light of the interpreters’ code of ethics.

The interpreters’ code of ethics as “the unseen basis of our courtroom behaviour” would regulate the exercise of such power by the interpreter (Edwards 1995:63). As in other professions, the interpreter subscribes to the philosophical principle that if one is involved in the provision of a service which may affect negatively or positively the welfare of the people he/she represents, there must be some prescribed ethical practices to observe. One of the ethical practices is the principle of confidentiality. Confidentiality, as explained by Gentile et al. (2001:58), means that it is one of the cardinal roles of the interpreter not to divulge information about individuals or situations he/she encounters in the course of practising his/her profession, unless there is a legal basis for doing so.

The nature of the job of the interpreter is such that he/she becomes privy to information which is non-linguistic in nature. Gentile et al. (2001:59) maintain that this information must be treated as confidential, as professional ethics demands of him/her. Gentile et al. comment that in the case of the interpreter, the call to maintain ethical propriety in this instance is underpinned by the fact that, as a third party in a communicative encounter, he/she comes across information meant for the concern of other professional(s) in the encounter. In their words, “The interpreter must maintain confidentiality about information that is the legitimate possession of the other professionals and is the accidental or incidental possession of the interpreter” (2001:59).

The interpreter must treat the information he/she has obtained during the course of interpreting as information for him/herself only, and also as information which is needed in the understanding of the case; and where the need arises, in the preparation of the terminology, concludes Edwards (1995:64).
Following this in the consideration of ethical principles, and regarding the role of the interpreter, is impartiality. In the professional discharge of his/her duties, the interpreter is obliged, like other professionals, to be impartial, and this means he/she must do his/her work to the best of his/her ability, regardless of the gender, race, ethnicity and socio-economic status of his/her clients (Gentile et al. 2001:58). Driven by the need to be impartial, scholars such as Edwards (1995:64) and Gentile et al. (2001:58) stress that the interpreter must ensure that the service he/she provides must never be influenced by his/her personal ideological and political beliefs and personal likes and dislikes.

For example, Gentile et al. (2001:59-60) indicate that though Arabic is spoken by different nationalities in many countries, the similarity in their language does not mean the same similarity in terms of their political and ideological leanings could be expected, not to mention social status. Gentile et al. continue with the following illustrative example:

> It is not unusual for Arabic ... interpreters to be asked by their clients where they come from, the subtext being: ‘Are you from my cultural group or another?’ Clients may perceive this as important, and in some rare cases – for example, where a victim of political persecution encounters an interpreter from the cultural group that perpetrated that persecution – it must be treated as an issue, regardless of the politics or the professionalism of that individual interpreter (2001:60).

As concluded by Edwards, it is the role of the interpreter, for the sake of impartiality, not to take sides, not to form a judgement and not to reach a conclusion on a case (1995:65).

There are other measures used to avoid partiality by the interpreter and these, according to Edwards (1995:66), mean the interpreter has to keep out of the case. To keep out of the case, Edwards advises the interpreter to ensure that he/she has no prior personal association or contact with any case under his/her brief, nor should he/she have any interest in the outcome. This applies in particular when the interpreter would have any financial interest in the outcome of the case.
It is incumbent on the interpreter, as his/her professional responsibility demands, to own up to his/her mistakes during the course of interpreting. In order to do this, Edwards advises the interpreter to correct a mistake as soon as it happens; and it should be corrected in such a way that it is noted as an interpreting error and not that of the accused person or witness (1995:69). Mistakes detected later, after the interpreting has taken place, must not be neglected; rather, the interpreter must look for an appropriate time to correct such a mistake. The best time recommended in this instance by Edwards (1995:69-70) is during a recess or break; and she recommends that the interpreter should

... wait for a break, approach counsel for both sides, explain the error, and ask how they wish to correct it. Sometimes they prefer to re-ask the question, and this time the interpretation of the answer will be correct. ...If there is no break when the jury is not present, the interpreter may ask to approach the bench and explain it to the court and counsel. If both counsels have left, approach the judge or ask to speak to him in chambers.

Another factor discussed by Gentile et al. (2001:33) that affects the interpreter’s role is what they refer to as status differential. They argue that when there is a marked difference between the educational background of the interpreter and the accused person, a great deal of effort is required to bring about meaningful communication. This will be emphasised in the data to be discussed in chapter seven, later in this study.

Most of the interpreters reveal that they have a problem in their interpreting role when, although they are interpreting for an accused or witness who speaks the same language as they do, but because of little or no education (in the Western sense of education), it becomes very difficult for them to explain some legal concepts to them, especially when the interpreting is taking place in a dialect of the main language, and when they have to sight translate some specialised documents to such persons or witnesses with little or no education.

Stander (1990:4) conducted an investigation into the state of court interpreting in South Africa, with the emphasis on the current training provided at the time. In discussing the role of the court interpreter, Stander (1990:88-89) states that the role
of the casual or ad hoc court interpreter is to interpret cases where the accused or plaintiff does not understand the official languages of the court. On the other hand, the permanent interpreters in the Department of Justice perform a number of duties, which include both administrative and linguistic functions such as:

…checking the names and order of the accused appearing in court, to call out the names which the court members may be unable to pronounce, inform of the correct date of remanded cases, write up the Court Record Book and file those cases which have been completed, fulfil the task of the Court Orderly in his or her absence, including calling people up, receiving and paying fines.

These extra roles being assigned to the interpreter to perform by the authority of the court are not limited to South Africa. A similar situation existed in the United States in the past, according to González et al. (1991:156). In the same vein, interpreters in Malaysia are used for other roles besides their interpreting job.

These roles, according to Ibrahim and Bell (2003:213), extend far beyond interpreting, as they are roles that are clerical in nature, and some are even roles that are supposed to be performed exclusively by legally qualified professionals. González et al. condemn this practice, and conclude that if these roles are thrust upon the interpreters, the situation amounts to admitting that they are qualified to handle legal services beyond their basic job as interpreters.

There are situations that are beyond the capability of the interpreter, because they are mentally demanding, or simply confusing. The situations are problems described as role overload by Stander (1990:35). They are situations described by Gentile et al. (2001:29) as “[e]xpectations of the role of the interpreter within the environments which are at times inimical to the very existence of interpreting and are the first and perhaps main source of stress”. Examples by Stander are taken from the work of Brislin 1976. They occur when proceedings take too long to finish, without a break, resulting in fatigue and mental strain, and when the interpreter is unable to manage the speed in which the source speaker speaks.

Similarly, Gentile et al. (2001:29) state that the clients’ expectations may be in direct conflict with what the interpreter knows to be his professional role. They cite an
example when clients rely on the interpreter to be advocate, guide and shield against the formal institution in which the communication is taking place.

In order for the court interpreters to function within their role boundaries, the magistrate has a role to play. As the manager of the proceedings in the court, the onus is on the judge or the magistrate to ensure a fair dispensation of justice to the parties in dispute. One of the ways to ensure this is the effective use of interpreting services in court. A fair dispensation of justice to parties in dispute requires the magistrate to be sensitive to the role of the court interpreter in protecting the rights of linguistic minorities (Grabau & Gibbons 1996:234). This also underlines the importance of a legal education with an appropriate curriculum, in which attorneys and legal personnel are trained to provide an effective interpreting service to the different parties requiring it, conclude Grabau and Gibbons (1996:234).

Some of the roles of the judge or magistrate in ensuring appropriate interpreting, according to Hewitt (1995:128), are to ensure that the interpreter can communicate effectively with the persons the interpreting service is meant for, and to be abreast of the interpreters’ code of professional responsibility. In addition, the judge or magistrate must ensure that the interpreter takes the same oath other interpreters take during the court proceedings.

The magistrate’s ability to fulfil the roles above is important, but he/she must be able to move beyond the thinking that court interpreting can be done by any individual who is bilingual. This, in other words, suggests that bilingualism does not necessarily make a good interpreter. An ideal interpreter, as explained by Grabau and Gibbons (1996:259), must have an adequate level of cross-cultural knowledge, “including the ability to manipulate dialect and geographic variation, different educational levels and registers, specialized vocabulary, and a wide range of untranslatable words and expressions”.

As De Jongh (1992:54:) puts it, languages are dynamic and in a constant state of flux, and the interpreters and the translators must not only remain abreast of these changes, they must also be conversant with the cultures in which these languages are spoken. Other attributes the interpreter must have include an adequate
knowledge of the legal process and the systems of both the source and target languages. This should be complemented by interpersonal skills that will enable him/her to work successfully with other principals (judges, attorneys, defendants, plaintiffs and witnesses) in the court (Grabau & Gibbons 1996:259).

In Hewitt (1995:40-41), knowledge of the standard grammar, and of the grammatical conventions needed during formal and informal modes of oral communication of both the source and target languages are considered important skills for interpreters. These attributes are important for interpreters to practice successfully, but it is equally important that the judge or magistrate take note of them in determining the fitness of an interpreter for cases before them.

Many officials, including judges, prosecutors and attorneys, do not understand the role of the interpreters; and this result in them expecting of interpreters to carry out functions that are not their responsibility (Mikkelson 1996). According to Mikkelson (1996),

...a clerical officer may ask the interpreter to help fill out and distribute paperwork; a bailiff may expect the interpreter to escort the defendant to the probation department; or worse yet, a judge or attorney may ask an interpreter to go out in the hallway to explain the defendant's rights and obtain a signature on a change of plea document. All of these duties go beyond the scope of the court interpreter's practice.

Sometimes, interpreters themselves feel constrained in their bid to be helpful when communication breaks down in the court. This usually occurs when interpreters want to indicate to the attorney or prosecutor that the accused or witness does not understand the question, or there is a need to give an explanation of an issue relating to the culture of the accused person or witness (Mikkelson 1996). Mikkelson (1996) warns that ethically, this type of intervention is not allowed, because it turns the interpreter into a witness (Mikkelson 1996). The magistrate should find a way to handle the challenge so that the perceived communication by the interpreter is not allowed to affect the discharge of his/her responsibilities.
In concluding her book, Stander (1990:126-127) gives recommendations which emphasise the teaching of the principles of law, of interpreting skills and language-related matters, general communicating abilities and professionalism, as these will lead to the improvement of the general state of legal interpreting, and consequently to the interpreter being able to perform his/her role, mindful of all the limitations.

4.8 QUALITY ISSUES IN INTERPRETING

Quality interpreting should ensure that the interpreter is readily available in court, meet a well-defined need, use or purpose, comply with statutory requirements and standards, and satisfy the client’s expectations (Moeketsi & Mollema 2008:30). It is not easy for interpreters to meet these conditions without being placed under some form of established authority. As in many other professions, this is usually in the form of accreditation bodies or associations, which ensure that specific guidelines are followed in order to ensure quality.

In other countries, there are accreditation bodies, such as Australia’s National Accreditation Authority for Translators and Interpreters (NAATI) (Robinson 1994:96), the Canadian Translators’ and Interpreters’ Council (CTIC), the United Kingdom’s Institute of Translators and Interpreters (ITI), the National Association of Judiciary Interpreters and Translators (NAJIT) in New York, to mention but a few (Mikkelson 1999). These bodies’ main functions are, according to Mikkelson (1999), to oversee certification requirements for court interpreters and to ensure quality services from interpreters.

NAATI has five accreditation levels for interpreters in Australia. Level 1 is the lowest, and is regarded as the basic level; it requires basic language knowledge and skills. Level 5 is regarded as the senior advanced level, and interpreters at this level have native-like proficiency in both English and other languages within their interpreting competency (Robinson 1994:97). Court interpreting requires level 4. This is considered as an advanced professional level, according to Robinson (1994:97), and an interpreter’s language proficiency required at this level is virtually that of a native speaker.
Accreditation is a way of ensuring quality in interpreting, but there is concern on how feasible it is to have comparable “accreditation standards across the large number of languages” (Gentile 1995:115).

Another way to ensure quality is the need for the professionalisation of the practice of interpreting. Mikkelson (1996) discusses the professionalisation of interpreting, using two theories: the ‘trait theory’ and the ‘theory of control’. Using trait theory, an occupation, as explained by Mikkelson (1996), can be a profession when it has the following elements: adherence to a code of ethics, a body of theoretical knowledge and skills, registration of members in a professional body, and loyalty to colleagues or members.

Theory of control is based on the view that the more influence the practitioners of an occupation have over their work and the social environment in which they practise their craft, the more professionalised their occupation will be regarded (Mikkelson 1996). The legal profession is used as an example in this regard by Mikkelson (1996). She states that,

…the legal profession defines not only the curriculum of law schools and the content of bar exams, but also the standards for training and testing in related occupations (paralegals, court reporters, court clerks). As a result, these related occupations have comparatively little autonomy, and are less likely to attain the degree of professionalization that lawyers and judges enjoy.

In a nutshell, for the sake of quality interpreting, it is important that there should be a recognised quality control authority in the form of a professional association, to which all court interpreters must belong, or a body set up with clear guidelines to ensure quality court interpreting practices. It is important to add here that the question of quality will ring hollow if the accused persons are not made aware of their right to quality interpreting from the court interpreters. They must also have the right to raise an objection to any aspect of interpreting that misrepresents what they have said. It is important for many accused persons, who are too poor to hire attorneys or advocates to assist them, to ensure that they are represented by qualified court interpreters.
Central to the consideration of quality interpreting is the question of quality assurance. Quality assurance is defined by Gryna (2001 in Osasebor 2004:5) as “the activity of providing evidence to establish confidence that quality requirements will be met”. A similar definition by ISO 8402-1994 states that quality assurance covers all planned and methodical activities employed within the quality structure – to provide sufficient confidence that an organisation will meet the stated requirements for quality (Osasebor 2004:6).

Quality assurance is used interchangeably with quality control, and in a sense both concepts are the same. The definition given by Gryna (2001 in Osasebor 2004:6) explicitly shows the difference between these terms; he states that “control refers to the process employed to consistently meet standards”, and that it involves “actual performance, comparing it with some standards, and then taking action if the observed performance is significantly different from the standard”.

Osasebor (2004:7) using Doherty’s (1994) definition, states that quality control is the process of collecting all the necessary information required to correct any errors. Doherty’s definition means that in the context of court interpreting, this may involve collecting information from the users of court interpreting services, such as attorneys, prosecutors, magistrates or judges, plaintiffs, accused persons, and even the family of the accused persons. Research done at tertiary institutions and research institutes may also make the necessary information readily available to improve the state of court interpreting.

Kalina’s (2005:769) extensive discussion of quality assurance in interpreting emphasises this view, stating that she believes that quality assurance in interpreting has to be approached from a number of perspectives, such as those of the interpreter, the employer, the clients, and the assessor at formal examination sessions, the researcher, the user of the service interpreter, and finally that of the individual interpreter.

According to Kalina (2005:769), quality assurance in interpreting has changed focus from its earlier considerations, which were based on tests on bilingual persons “for skills such as mental concentration, fluency, composure, alertness and clear
enunciation” – to an emphasis on the recommendation of what quality service of interpreters should be like by professional associations such as “Les Associations Internationales des Interprètes de Conférence” (AIIC). The rationale for this, as explained by Kalina (2005:769), is that a professional association such as AIIC, has “its own admission committee and defined membership criteria which were intended to serve as guidelines for the schools that train … interpreters”.

Quality assurance at recruitment level in the European Union (EU), as explained by Kalina (2005:769), is based on an entrance examination given to potential interpreters to ascertain their simultaneous and consecutive interpreting ability and general knowledge of the EU. Other countries have similar practices, such as interpreting impromptu speeches and sight translation, but Kalina (2005:769) questions the effectiveness of these methods, because of their lack of uniformity in the assessment criteria, “the artificial character of the situation” and the “subjective character of their assessment”.

To allay any fears raised by Kalina regarding assessment criteria, the assessment instruments used must result always in consistent specific outcomes in a similar assessment situation. In addition, generally assessment criteria are said to be effective if the principles of assessment are upheld. These include ensuring that the assessment instrument is fair, reliable, valid and practical.

In stark contrast to the quality assurance methods discussed above, Kalina (2005:770) explains the shift to scientific research and real-life situations in considering the approaches used to assess quality assurance. Different views on what scholars consider as scientific and research-based approaches are explained, using firstly, for example, Pöchhacker’s (1994, in Kalina 2005:770) definition which looks at quality assurance in interpreting within “the framework of a hypertext situation”. ‘Hypertext’, in this instance, refers to the setting in which interpreting takes place.

Secondly, in assessing other scholars’ views about quality assurance, Kalina (2005: 777) remarks that there is a general convergence in the agreement that the issue of quality means different things to different people, but points out that basic
requirements for optimum quality assurance must be in accordance with what Moser-Mercer (1996:44) has stated:

…an interpreter provides a complete and accurate rendition of the original that does not distort the original message and tries to capture any and all extralinguistic information that the speaker might have provided, subject to constraints imposed by certain external conditions.

Moser-Mercer’s view implies that the appointment of court interpreters should not only be based on academic qualifications, but also on sound demonstrable knowledge of the plaintiff’s or accused person’s culture in order to be well-equipped to deal with the “extralinguistic information” mentioned by Moser-Mercer.

Concerned with the lack of quality interpreting in Canada, Healthcare Interpretation Network 2007 (HIN 2007) has drawn up what it refers to as the National Standard Guide for Community Interpreting Services. Although its focus is on the generality of community interpreting, which includes court interpreting, the guide bears some specific semblance to court interpreting, because it is, like other categories of community interpreting, rendered in consecutive mode.

In Canada, HIN (2007) lists the legal setting as one of the sectors in which community interpreting takes place. To address the issues of quality in community interpreting, HIN (2007), like Kalina (2005), looks at interpreting from various approaches. These include the interpreter’s skills and competencies, responsibilities of clients, responsibilities of interpreting service providers, roles and responsibilities of interpreters, settings and standards of practice and ethical principles.

The three competencies community interpreters should have, according to HIN (2007:14-15), are interpreting competence, linguistic competence and research and technical competence. Interpreting competence, as explained by HIN (2007:14), means the community interpreter’s ability to interpret with the applicable mode from the source language to the target language, free of omission, distortions and additions. With regard to linguistic competence, HIN (2007:14) states that the community interpreter should have language skills. These include a thorough
understanding of his/her working language, the applicable registers pertinent to the domain under discussion, and relevant terminology.

Research competence means the ability to acquire the additional specialised linguistic knowledge needed to interpret some specialised cases. This also includes the interpreter's ability to use research tools to enhance his/her interpreting ability (HIN 2007:15). HIN's view of quality interpreting reinforces their view of the court interpreter, who must be able to interpret everything said, including the extra-linguistic information. According to HIN, this will be addressed well by an interpreter whose court interpreting competence includes research skills, such as the “ability to efficiently acquire the additional linguistic and specialized knowledge necessary to interpret in specialized cases”.

In a recent study by Biel (2008), competence in interpreting is based on two categories, which she refers to as translation competence and translator competence. She explains that translation competence means the interpreter’s ability to interpret to the required standards; while translator’s competence means the interpreter’s ability to function efficiently as a professional. She remarks that both competences are developed concurrently, but much emphasis is placed on translation competence. Translation competence involves “basic legal skills, such as thorough knowledge of legal terminology, legal reasoning and TL and SL legal systems, the ability to solve legal problems, analyze legal texts and foresee text construal, drafting skills, basic knowledge of comparative law and methods” (Šarčević 1997, in Biel 2008).

On the other hand, Biel (2008) points out that for the interpreter to have translator competence, he/she basically needs technical, team-working, business and organizational skills. In Biel’s argument, both competences are important for quality interpreting, but her emphasis on translation competence may result in an interpreting competence in the legal aspect of interpreting without the necessary match in the language aspect.

The question of quality interpreting requires a complementary competence in both the language and the legal aspects.
Following the line above, HIN (2007) believes that the question of quality in community interpreting does not rest with the interpreter alone; but, it is rather the client requiring the service of the interpreter who has the responsibility of ensuring that he/she gets quality interpreting.

HIN (2007:16) states that the clients have the following responsibilities:

- To always respect the standard of practical and ethical principles regulating community interpreting;
- To provide detailed information about the interpreting assignment he/she is giving to the interpreter;
- To avoid the use of slang, jargon and complex sentences;
- To speak clearly;
- To never ask the interpreter for his/her opinion.

The next consideration in terms of quality in community interpreting, according to HIN (2007:17), is its focus on the “responsibilities of interpreting service providers”. Interpreting service providers, says HIN (2007:17), are the organisations that contract out interpreters to individuals or other organisations that require the service of community interpreters. HIN (2007:17) emphasises that, with a view to quality interpreting, service providers should ensure that all interpreters they hired out are qualified.

Furthermore, the interpreter’s qualifications must be disclosed to the client, and the service provider should make sure that the interpreter has the ability to perform the specified task. Finally, there should be a briefing session with the client about how to work effectively with interpreters.

Other vital responsibilities of interpreting service providers discussed by HIN (2007:17) include their responsibilities towards the interpreter. It states that the interpreting service providers should ensure that the interpreter is given detailed information about any assignment that he/she is given. It lists the detailed information required as follows:

- Provision of available glossaries;
• Requesting of documents and any other materials from the client that will enable the interpreter to have the necessary background and foreground information that will assist him/her in preparing for the task; the service provider should also promote a proper working environment and pay within an agreed timeframe, and, as is required of the service provider in relation to the client, a briefing session with the interpreter should be scheduled as well.

Apart from the interpreting competencies discussed above, HIN (2007:18) elaborates on the roles and responsibilities of interpreters in ensuring quality interpreting. It writes that while the cardinal role of the interpreter is to facilitate communication between the two parties who do not understand each others’ languages, the interpreter must make sure he/she only accepts interpreting work he/she has the ability to perform.

Added to this, it also states that it would help the cause of ensuring quality interpreting if the interpreter maintains a professional appearance at all times and observes protocol and established procedures regarding the discharge of his/her duties as an interpreter. This is what Biel (2008) refers to as translator competence.

Standards of practice and ethical principles, as discussed by HIN (2007:20), constitute another important consideration in quality community interpreting. HIN (2007:20) states that a standard of practice provides a yardstick against which to measure the conduct and performance of interpreters, while ethical principles focus on what the interpreters should do in the course of performing their duties. HIN adds that the ethical principles in this regard should be seen as principles that emphasise “the ‘shoulds’ of an interpreter’s performance when ethical and other considerations impact on an interpreter’s ability to adhere to the standards of practice”.

HIN goes further to suggest that for consistent practice to be maintained, it is important that the standards of practice and ethical principles be adhered to at all times (2007:20).

Common to the literature on quality interpreting and quality assurance generally is the convergence around the thought that objective measurement of quality is not possible. Verhoef (2007:8) maintains that lack of objective measurement in quality
interpreting is due to factors such as the absence of measurable standards, “and the peril of subjectivity and personal taste”.

Generally, interpreters and interpreters’ trainers believe they can measure the quality of other interpreters’ practice or trainee interpreters on the ground of accumulated years of experience, but according to Kalina (2005), judgement of this nature is subjective and cannot be applied in accordance with any objective, measurable standards.

A study of quality assurance in educational interpreting by Verhoef (2007:9) lends credence to the view, shared by Kalina (2005) and HIN (2007), that quality assurance in interpreting should be considered from an approach where all stakeholders involved in interpreting should be brought into the picture. Verhoef (2007:9) writes that interpreting should not only be accessed by focusing on the interpreter’s mode of delivery, but “also to enable communication of the quality management processes to other stakeholders in such a manner as to gain their buy-in and trust in the process”. Morley (2003:48) echoes the same view and writes that “[q]uality assurance depends heavily on the responsibilization of every organizational member”.

This can also be viewed from the concept of total quality. Citing Goetsch and Davis (2003), Osasebor (2004:9) suggests that total quality should be viewed from the customer’s perspective. In giving what is acceptable to the customer, Osasebor (2004:10) believes quality should be measurable, but he stops short of telling his readers how the measurement should be done.

In order to ensure total quality, they suggest that employees should be empowered to do their work in the appropriate way, and the process of doing the work should be continually improved. They should always strive to improve on what has already been done or achieved. Another definition given by Goetsch and David (2003) quoted by Osasebor (2004:11) states that total quality “…consists of continuous improvement activities involving everyone in the organisation - managers and workers - in a totally integrated effort towards improving performance at every level”.
Total quality, as discussed above, can be sustained in an organisation that has a positive quality culture. Quality culture, according to Gryna (2001 in Osasebor 2004:11), “is the pattern of human habits, beliefs, values and behaviour concerning quality”. This pattern can also have a negative character; hence it is important that strategies be in place to encourage the workers to identify with the quality model of the organisation (Gryna 2001in Osasebor 2004:11).

Factors for attaining a positive quality culture are the …provision of goals and measurements, evidence of upper-management leadership, self-development and empowerment, participation, and recognition and rewards …a sense of urgency and initiative on quality throughout all levels of the organization (Gryna 2001 in Osasebor 2004:12).

Although Verhoef (2007:9) suggests an all-embracing approach in considering quality assurance in the educational interpreting setting (at North West University, South Africa), the measures she lists to address quality issues in educational interpreting actually focus on the interpreting process and interpreting output. For example, one of the measures is “[l]ongitudinal qualitative data on the perception of end-users, as regards the use of simultaneous interpreting for classroom purposes.” Other measures are “[l]ongitudinal quantitative data on the performance of end-users in comparison with students who do not make use of interpreting services”, and “[a]pproximately 320 hours of recording that are continuously made of a representative number of interpreters and lecturers, so as to determine the quality of interpreting, as well as the quality of so-called technical interpreters, as opposed to linguistic interpreters”.

The first noted study to address issues of quality in interpreting, as reported by Kahane (2000), was undertaken by Bühler in 1986. Kahane (2000) writes that Bühler isolates variables that impact on the quality of interpreting, and that these variables are graded in the order of the degree of influence they exert on quality interpreting. Kahane (2000) remarks that the method used by Bühler includes a list of 16 criteria based on interpreters’ and users’ assessment in the order of the degree of influence they have on quality interpreting.
The criteria are based on interpreting the outcomes or expectations. This means that the emphasis of Bühler’s study only deals with expected outcomes of interpreting, without taking into consideration an all-embracing approach that locates issues of quality as the primary concern of both organisational and implementational structures which should apply until the interpreter is out in ‘the field’ to interpret.

Kahane (2000) shares the same view regarding the objective assessment of interpreting quality. According to him, the material he has reviewed in quality interpreting is all about interpreting outcomes and the criteria for the attainment of the expected outcome. He stresses that “unless these criteria are compared to the results of a real interpretation, it is not possible to determine the extent to which fulfilling the criteria may serve to predict real quality”.

Kahane (2000) emphasises that to address quality interpreting involves a plethora of methodological issues. One of the questions raised by Kahane (2000) is the question of how it is possible to assess quality in an objective manner, given that interpreters work in varying working conditions. The second concern questions how it is possible to use the evaluation surveys normally used by researchers to obtain an objective assessment of quality. Kahane (2000) comments that “…evaluation surveys afford a general idea of the quality ‘perceived’, but the factors influencing that perception remain obscure”.

Referring to the varying working conditions stated above, it is important to note that the nature of the content of the interpreting assignment can present different challenges to the interpreters. Bock et al. (2006:4), referring to interpreters who worked in South Africa’s Truth and Reconciliation Commission (TRC), state that language competence, and a host of other issues, presented challenges to the interpreters. They go further to write that the TRC interpreting process took place in a context where testimonies on gross human rights violations were just too much for listeners, including the interpreters, to contain their emotions. Bock et al. (2006:4) write that the “testimonies were heavily laden emotionally, and interpreters sometimes had difficulty maintaining a professional detachment”.

167
This questions the neutrality of the interpreters in the TRC interpreting process, a situation that must be avoided in court interpreting, in order not to imperil the due legal process. The TRC interpreting process provides a good example of how solutions to the question of quality can be elusive. The reason is that if one is asked how the situation described by Block et al. (cited in Oosthuizen and Southwood 2006:4) could be mitigated, one of the likely answers could be that efforts should be made to employ interpreters able to demonstrate a professional sense of neutrality. In South Africa’s context how this will be possible still needs to be studied – given that it is among the population group which suffered directly and indirectly as a result of the gross violation of human rights perpetrated under apartheid.

There is universal agreement that designing methodology to study quality interpreting is fraught with difficulties. Kalina (2005:768) states that “[r]esearchers have not been able to agree on a universal, generally accepted quality model applicable to conference interpreting, or any type of interpreting at all for that matter”. Kahane (2000) contends that the methodological difficulties stem from the fact that “circumstances vary from one conference or speech to the next”.

Other researchers argue that assessment criteria should be classified systematically with respect to the prevailing situation. For example, the interpreting circumstances of the TRC described above lend support to this view. It was a special interpreting situation manageable only by tailor-made criteria to ensure quality. Osasebor (2007) maintains that the issues of quality are context-bound. He goes further to state that a quality model using available parameters in South Africa would not have much bearing on situations in Nigeria, because of the daily logistical nightmare affecting all sectors of economic activities in Nigeria. In his words, “[H]ow do you think a quality assurance model in South Africa will apply to a quality assurance model in Nigeria, when in Nigeria, basic social infrastructures are still many years away from being realised?”

Osasebor’s view touches on an area not considered as problematic by scholars in many developed countries, as scholars in these countries do not have the problem of basic social infrastructures to contend with. The situation is different in many countries in Africa. For example, in Nigeria there is an erratic supply of electricity;
and until recently, many Nigerians did not have access to telephones. In addition, the intra-city and inter-city road networks and conditions are in a decrepit state. In Nigeria, situations like this provide extenuating circumstances to explain why there is consistent compromise in the quality of services rendered by government departments to the public.

Basing their judgement on available research on quality assessment in interpreting, Chiaro and Nocella (2004:279) note that researchers do not agree on the angle to take on quality issues in research. Of concern here is the question: From whose standpoint should the success of an interpretation be based? The interpreter, or the user of the interpreter?

However, Chiaro and Nocella are of the view that the clients cannot provide a good evaluation of interpreting service (2004:281). They argue that interpreting is a special service; hence people who use the service cannot adequately evaluate it, because they know very little about it (Chiaro & Nocella 2004:281). They support their point further with the following example:

A participant in a conference may well be satisfied with an interpretation, but may not necessarily know how valid it is in terms of fidelity. Thus, with no terms of comparison, the average delegate is not the best to judge. Such respondents can indeed make judgements on features such as intelligibility of discourse, speed of delivery and voice quality, but these features are only a small part of the interpreting process (Chiaro & Nocella 2004:281-282).

Responding to the different views on the subjective perceptions of quality in simultaneous interpreting, Pöchhacker (1994:234) questions why various studies which have addressed subjective perceptions of quality in simultaneous interpreting do not state on which judgement criteria objective quality in simultaneous interpreting should be based. While there seems to be consensus on the lack of objectivity in quality measurement of interpreting, Pöchhacker (1994:234) suggests that the drive to have objectively measured simultaneous interpreting should start looking at how best “to go about defining and analyzing the text produced by the interpreters as an ‘objective’, that is, a physical reality”.

169
Rejecting the view that quality in interpreting should be sought entirely by means of a linguistic approach, Pöchhacker (1994:236) argues that it should be looked at within the systemic notion of the overall conference setup, and as a socio-psychological collection of the people in the communication process.

4.9 CONCLUSION
This chapter has dealt with some theoretical perspectives concerning both translation and interpreting. Different views regarding the definitions of interpreting and translation, as well as the differences between translation and interpreting have been discussed and evaluated. The explanation of the differences between translation and interpreting show a myriad of contrasting arguments given by various scholars regarding the view that (a) translation should be considered a superordinate (general term) of interpreting; or that (b) interpreting should be regarded as a separate field in its own right.

In addition to this, there was an in-depth look at the modes of interpreting, the processes involved in using the different modes, and the various types of interpreting. Regarding the types of interpreting, community interpreting was discussed as an umbrella term that encompasses all the other types of interpreting, such as dialogue interpreting, escort interpreting, legal interpreting, medical interpreting, etc.

The different views expressed by scholars for or against the use of community interpreting as an umbrella term were investigated in depth.

Another issue covered in the chapter is the controversial notion of equivalence in translation. An in-depth discussion was conducted regarding how different scholars view equivalence in translation. In addition, a discussion of the different concepts of translation, such as formal equivalence, dynamic equivalence, and the skopos theory were presented. Following this, there was a discussion on the roles of the court interpreter, as well as quality issues in court-interpreting. In the next chapter, a general overview of court interpreting in South Africa will be provided.
CHAPTER FIVE
AN OVERVIEW OF COURT INTERPRETING IN SOUTH AFRICA

5.1 INTRODUCTION
Since the advent of democracy in South Africa, there has been a renewed interest among different sectors of the society regarding language, especially on how language can enhance access to justice for those South Africans who do not understand the de facto official languages of the judiciary. This call is being made in the light of the acknowledged fact that the language(s) and procedures of the judicial system remain out of reach for those who are either, on account of illiteracy, unable to understand the legal system, or do not understand the two main languages used in the legal domain.

Supporting this assertion are Moeketsi and Wallmach (2005:2), who state that the majority of criminal cases in the magistrates’ courts require interpreting, especially in the multilingual Gauteng Province.

South Africa, like many countries in Africa, is a multilingual country with between 24 to 30 languages spoken by its inhabitants. Eleven of these languages are official languages, with two (English and Afrikaans) still retaining their old status as the languages used most commonly – and formally – in the courts, for official purposes. According to Mesthrie (2002:13), 14.4 percent of South Africans speak Afrikaans, while 8.6 percent speak English (see more information about the percentages of mother-tongue speakers in Table 5.1).

According to the statistics provided by Statistics South Africa (2007:12), white South Africans, who are mainly English and Afrikaans, account for 9.1 percent of the total population in South Africa. As indicated by Mesthrie (2002:13), this shows that although they (English and Afrikaners) are in the minority, their languages are used by other population groups in South Africa. Information provided by Mesthrie and Statistics South Africa also effectively demonstrates that the languages of the majority of the population are not used in the courts. Or, as Moeketsi and Wallmach put it, the languages of the majority of the population are minoritised because these
languages “suffer from functional difficulties, not because of any lack of numbers, but rather as a result of historical and socio-economic conditions, such as colonialism” (2005:2).

The following table shows the statistics regarding home languages in South Africa in 1996, in numbers of speakers and percentages of the total.

Table 5.1 Home languages in South Africa

<table>
<thead>
<tr>
<th>Languages</th>
<th>Population of speakers</th>
<th>Percentage of speakers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ndebele</td>
<td>586 961</td>
<td>1.5</td>
</tr>
<tr>
<td>Swati</td>
<td>1 013 193</td>
<td>2.5</td>
</tr>
<tr>
<td>Xhosa</td>
<td>7 196 118</td>
<td>17.9</td>
</tr>
<tr>
<td>Zulu</td>
<td>9 200 144</td>
<td>22.9</td>
</tr>
<tr>
<td>Northern Sotho</td>
<td>3 695 846</td>
<td>9.2</td>
</tr>
<tr>
<td>Southern Sotho</td>
<td>3 104 197</td>
<td>7.7</td>
</tr>
<tr>
<td>Tswana</td>
<td>3 301 774</td>
<td>8.2</td>
</tr>
<tr>
<td>Tsonga</td>
<td>1 756 105</td>
<td>4.4</td>
</tr>
<tr>
<td>Venda</td>
<td>876 409</td>
<td>2.2</td>
</tr>
<tr>
<td>Afrikaans</td>
<td>5 811 547</td>
<td>14.4</td>
</tr>
<tr>
<td>English</td>
<td>3 457 467</td>
<td>8.6</td>
</tr>
<tr>
<td>Others</td>
<td>228 275</td>
<td>0.6</td>
</tr>
<tr>
<td>Unspecified</td>
<td>355 538</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>40 583 573</td>
<td></td>
</tr>
</tbody>
</table>

Table 5.1, Source: Mesthrie (2002:13)
Recent figures published by Statistics South Africa show similar results:

![Graph showing home languages and number of speakers.](http://www.statssa.gov.za/census2001/digiatlas/index.html)

**Figure 5.1**, Source: [http://www.statssa.gov.za/census2001/digiatlas/index.html](http://www.statssa.gov.za/census2001/digiatlas/index.html)

**Table 5.2** Home languages and number of speakers

<table>
<thead>
<tr>
<th>Home Languages</th>
<th>Number of Speakers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afrikaans</td>
<td>5 983 426</td>
</tr>
<tr>
<td>English</td>
<td>3 673 203</td>
</tr>
<tr>
<td>IsiNdebele</td>
<td>711 821</td>
</tr>
<tr>
<td>IsiXhosa</td>
<td>7 907 153</td>
</tr>
<tr>
<td>IsiZulu</td>
<td>10 677 305</td>
</tr>
<tr>
<td>Sepedi</td>
<td>4 208 980</td>
</tr>
<tr>
<td>Sesotho</td>
<td>3 555 186</td>
</tr>
<tr>
<td>Setswana</td>
<td>3 677 016</td>
</tr>
<tr>
<td>SiSwati</td>
<td>1 194 430</td>
</tr>
<tr>
<td>Tshivenda</td>
<td>1 021 757</td>
</tr>
<tr>
<td>Xitsonga</td>
<td>1 992 207</td>
</tr>
<tr>
<td>Other</td>
<td>217 293</td>
</tr>
</tbody>
</table>

Given the statistics presented in Table 5.1, Afrikaans- and English-speaking South Africans of all colours constitute 22.20 percent of the population, while mother-tongue speakers of other indigenous languages form 77.80 percent of the population. The statistics from Table 5.1 and 5.2 above also show why it is not surprising that interpreting has hitherto been a *sine qua non* regarding the role of languages in the administration of justice in the judicial system of South Africa.

What is surprising is that the statistics in Tables 5.1 and 5.2, coupled with the government’s call for the promotion of linguistic rights as expressed in the Constitution, have not translated into a focus in the judicial setting where court interpreters are professionally equipped to complement the work of other principals in the dispensation of justice in the courts.

Studies by Stander (1990), Inggs (1998) and Moeketsi (1999b), confirmed by data in chapter seven, point to the fact that in South Africa there is little awareness in the judiciary and among the public of the importance of court interpreters; hence little or no heed is paid to quality of court interpreting. This is in direct contrast to the situation in USA, where there is a high degree of awareness of the need for quality court interpreting. This occasions a background check on the competency of the interpreter in areas such as experience, qualifications, and in many others (Berk-Seligson, in Lotriet 1997:3).

It is against this background that this study undertakes an in-depth discussion of court interpreting in South Africa, with specific focus on employment procedures, working conditions, educational profiles, available training for court interpreters, the existing hierarchy in the profession of court interpreting, accreditation, professionalisation, trade unions and court interpreting regulatory bodies, as well as the general court interpreting practices in South Africa.

### 5.2 EMPLOYMENT PROCEDURES REGARDING COURT INTERPRETERS IN SOUTH AFRICA

In the past, employment of court interpreters in the Department of Justice and Constitutional Development (DoJCD) usually took the form of internal vacancy advertisements in the particular court in which the services of an interpreter or
interpreters were required (Moeketsi 1999b:131). Following many initiatives introduced in the DoJCD, especially initiatives regarding the operation of the courts and making the courts accessible to the general public, this has changed (see DoJCD Annual Report 2000).

One of the initiatives was Re Aga Boswa. As explained in the DoJCD’s annual financial report (2004-2005), one of the central briefs of Re Aga Boswa is “the improvement of court interpreter services and the implementation of effective disciplinary measures to rid the interpretation services of unprofessional and unbecoming conduct, which tend to compromise the efficiency of the courts”.

This has led to changes in many aspects of interpreting services in the court. Nowadays, advertisements for prospective interpreters can be found in mass media, such as newspapers, and on the Internet (i.e. the DoJCD website). For foreign court interpreters, there are no formal advertisements, as the news is passed on to other interpreters to help look for an interpreter in a particular language.

The basic educational requirements still remain Grade 12 (formerly standard 10), knowledge of Afrikaans and English and two South African local languages. These must be from different language families; for example, at least one from the Sotho group of languages and another from the Nguni group of languages. Besides Grade 12 as an educational requirement, it is emphasised that the possession of a tertiary degree and computer literacy will be added advantages.

In addition to Grade 12, the possession of a tertiary qualification in Legal Interpreting and Translation is emphasised for the post of a principal interpreter and other higher positions in court interpreting. These requirements are different for foreign interpreters. As data in the analysis chapter reveal, many of the foreign interpreters have qualifications above a grade 12 certificate. Unfortunately, apart from the fact that quite a significant number of them did not have interpreting experience prior to being employed in South Africa, their diplomas and degrees are usually not linguistic or language-related ones that would count in their favour as interpreters.
The requirement of language abilities in two different South African language families usually applies in the case of interpreters in multi-ethnic urban areas, as in the Gauteng provincial cities, which by nature are cosmopolitan. The reason is that genealogical/typological similarities among languages in the same family form a strong basis for mutual intelligibility hence the insistence on proficiency in both Nguni and Sotho languages to ensure that the widest possible spectrum of languages is covered. According to Moeketsi (1999b:125):

The similarities among the members of one language family are so significant that speakers of one language within a particular language family can to a great extent, understand, speak, read and write the other languages in that family, with the result that many speakers easily become multilingual, and many more tend to mix the member languages into one corrupt Sotho or Nguni, and this is a general tendency in urban areas.

Another language requirement for interpreters in some areas is the knowledge of languages such as Tsonga and Venda. These languages do not belong to one of the larger families and do not share the morphological, phonological and lexical features with the larger families. Lastly, interpreters are also employed on the basis of their knowledge of Afrikaans and/or English.

The language requirements differ from province to province. For example, in the Eastern Cape, one of the language requirements is for the prospective applicant to be able to speak IsiXhosa and the two *de facto* official languages (Afrikaans and English). Interpreters from other language groups are used in an *ad hoc* manner. This, according to the explanation of the chief interpreters interviewed for this study, usually involves a telephone call to other chief interpreters in a province where the language is predominantly used to send an available interpreter for the language in question.

A recent advertisement (April 2009) in the DoJCD attests to this. In the advertisement for a principal court interpreter in the Vredendal and Somerset West magistrate’s offices, Xhosa, English and Afrikaans were specified as language requirements. In advertisements for interpreters in magistrates’ courts in Limpopo (Seshego, Dzanani, and Mokopane), on the other hand, the language requirements
were English, Afrikaans, Northern Sotho, Tsonga and Venda, and in addition to this, fluency in Shona, Zulu and Swazi were indicated as additional advantages.

Besides English and Afrikaans, the *de facto* official languages of the court, Northern Sotho, Tsonga and Venda are important requirements in these magistrates’ courts because they are the main languages of the local population. The Limpopo province shares a border with Zimbabwe in the northern part of South Africa, and with towns and cities in the vicinity of the border. These are the first points of contact for Zimbabweans entering South Africa. Recently, the influx of Zimbabweans into South Africa following the political and economic meltdown in their country made proficiency in Shona imperative for the employment of interpreters in the Limpopo province.

Although Zulu and Swazi are not major languages in the Limpopo province, their inclusion in the advert as an advantage also means that there is a frequent need for court interpreters in both these languages as well.

**5.3 SELECTION FOR INTERVIEW AND INTERVIEW PROCESS**

The selection process of potential employees is a most important aspect of the appointment of interpreters. This is something which is underscored by Nel, Van Dyk, Haasbroek, Schultz, Sono and Werner (2005:232). They state that “[f]inding and hiring the best person for a job is a complex process of data-gathering and decision-making that does not occur through a flash of insight”.

In the advertisements for court interpreters in Appendix ‘5’, some of the duties listed for principal interpreters in the DoJCD give an indication of their roles. According to the responses by chief court interpreters interviewed for this study, they are mainly tasked to select the best candidates from the pool of applicants before them for both written and oral interviews. They state in their explanation that a panel of experienced interpreters, usually comprising senior interpreters and chief interpreters, is set up to shortlist the names of candidates for interviews.

This is open to criticism, as it is very important that both the selection and the interviews are undertaken by an expert in human resource management, or under
the watchful eyes of a specialist in human resource management. If the selection is done by a selection specialist, according to Nel et al. (2005:232), this person could precisely predict which of the applicants would be “capable, productive, and loyal employees”. The net effect would be a saving, in contrast to the huge cost to the organisation if an incompetent candidate is appointed.

It is stated in the adverts in Appendix ‘5’ that “applicants will be subjected to a language test”. This emphasises the importance of language proficiency as an employment criterion, where applicants are expected to provide demonstrable proof in the written test. The written part of the interview includes, according to Moeketsi (1999b:133), and corroborated by the chief interpreters interviewed for this study, a translation of short texts into the candidate’s working languages. The written interview provides an opportunity to assess the writing and translation skills of the candidate interpreter.

Another crucial aspect of the written interview consists of basic questions about the South African legal system. In addition to the written test, it is also a requirement for the candidate interpreter to take an oral interview administered by the principal court interpreter, supported by at least one experienced interpreter, who is usually of senior interpreter’s rank. The oral interview format involves questions being put to the candidate interpreter in various languages. The essence of the oral interview is to evaluate the candidate interpreter on a number of skills and abilities, including oral presentation in the language being tested and knowledge about legal matters in the courts.

In Stander’s view, this oral interview does not go far enough to assess interpreting, as real “oral translation is not assessed here, but the tests are believed to be acceptable for the purpose of the Department of Justice”.

This has been the system of interviews for candidate interpreters dating back to the 19th century (August 1898), when Sol Plaatje was employed by means of the same written interview format (Moeketsi 1999b:132). It still remains so, even in the face of several innovations which have been introduced in court interpreting. As regards foreign court interpreters, especially foreign African interpreters interviewed
for this study, it emerged that the majority of them were employed without any formal interviews. The only requirement was the ability to speak English, in addition to proficiency in the language from which they would be required to interpret into English.

5.4 INDUCTION AND ORIENTATION TRAINING FOR NEWLY EMPLOYED COURT INTERPRETERS

There is general agreement among organisational psychologists and human resource management specialists that induction and orientation training of new employees should be done in a manner that will ensure the seamless placement of employees, as far as is possible, in their positions within the organisation. As noted by Nel et al., “[s]tarting a new job is considered to be one of the most stressful life experiences, and a proper induction process that is sensitive to the anxieties, uncertainties, and needs of a new employee is of the utmost importance” (2005:251).

As in many other organisations, it is necessary that this process of induction and orientation be addressed in a professional manner. The importance of this induction process is emphasised in the DoJCD.

Having been appointed after the oral and written interviews, the newly employed interpreter is required to undergo an orientation training in the first two or three days in his/her new post. This orientation training, as explained in detail by Stander (1990:100-101) and Moeketsi (1999b:132-133), has not changed. The present study confirms the information provided in this regard by Stander and Moeketsi. According to Moeketsi, the new interpreter is helped to familiarise himself/herself with the court system by the principal court interpreter; and this usually takes place in the form of a verbal introduction to important aspects of the workings of the court. These include the following:

- The different role players in the court;
- The functions and address forms of the different role players;
- The different kinds of crimes heard by the different courts;
- The phases of trials.
In addition, the observation of Stander (1990:97) is still a reality today in terms of the orientation of a new interpreter. According to Stander, interpreters, upon assuming duty, should be provided with a set of notes in which are to be found an explanation of their duties, the principles of court interpreting in South Africa and some vital legal concepts and Latin terms with which they need to familiarise themselves for successful interpreting.

In response to a question put to one of the chief interpreters in this regard, Mr J.M. Moletsane, who is based in the Germiston Magistrate’s Court, says: “I tell them about the glossary, give them a copy of the glossary, for example, [on] shoplifting, and tell them to learn words that are commonly used in the discussion of shoplifting. I also do this for cases that are common in court, such as housebreaking, assault, armed robbery, etc”.

The new interpreter is then taken to the courtroom to watch the legal process and the performance of experienced interpreters. While in the courtroom, the principal court interpreter takes the opportunity to explain other relevant issues about the court to the new interpreter. Questions from the new interpreter are encouraged and answered, where possible. Stander (1990:101) observes in this regard: “The senior interpreter is there to monitor the performance of the new recruit, to iron out any major problems the interpreter may experience initially, and to ensure that no misinterpretation takes place”.

Having undergone these few days of orientation, the new interpreter is graduated into partial practice as a trainee interpreter. At this level, he/she is under the supervision of an interpreting principal, who is mandated to train him/her, while being given less important tasks, such as bail applications and postponements. Moletsane refers to what he does at this stage as a ‘buddy system’. A new interpreter is attached to an old interpreter to learn the ropes in terms of court etiquette, court procedures, and the basics he/she needs to know before being left alone to start interpreting cases. These early cases are, according to him, “mainly postponement and petty cases”.
The new interpreter is left at this level for two to three weeks, and will be allowed to work unsupervised in a particular courtroom, based on the performance report from his/her principal. Upon a satisfactory report from his/her principal, the new interpreter is left to work without supervision for six months or more, before he/she is sent to Justice College, Pretoria, to train as a court interpreter. This, as explained above, does not apply in cases of foreign interpreters.

The reason given in this regard by one Mr Khoza, who is based in the Johannesburg Magistrate’s Court, is because of a lack of manpower to train foreign language interpreters. Moletsane adds that “[s]ometimes the need for foreign interpreters comes suddenly and you have to make one available in the court at the expense of quality”.

5.5 THE TRAINING OF COURT INTERPRETERS IN SOUTH AFRICA

In this section, an overview of the training programmes available to court interpreters, both practising interpreters and aspiring court interpreters, will be provided. This will cover training provided by the DoJCD, universities, and sectoral education and training authorities.

5.5.1 Training provided by the Department of Justice and Constitutional Development

The training of members of staff of the DoJCD is carried out in terms of an in-service training model. In the case of interpreters, the training unit of the DoJCD – Justice College – is chiefly responsible for the task. The training provided by the Department focuses on various areas of specialisation that enhance the practising capabilities of the interpreter. This training is either based on the in-service model or done by means of external trainers.

The court interpreters’ training at Justice College is overseen by the chief inspector of court interpreters; and sometimes this is done with other experienced interpreters, such as those at principal interpreter level.

Formal court interpreting training takes place quarter by quarter in different provinces at different times. This means that during each quarter of the year, training takes
place in a different province. However, as there are nine provinces in South Africa, this is only possible by pairing some smaller provinces with other provinces for the quarterly training. (See DoJCD course schedule for interpreters, Appendix 6.)

There are various types of training organised by Justice College for court interpreters, and these range, from a beginner’s course to a management course for court interpreters. Where possible, the beginner interpreters are trained once or twice a year, according to the chief interpreters. However, some practising South African court interpreters who were interviewed said it is on rare occasions that would one see a beginner interpreter who has been sent to training more than once in his/her entire career. Some said they had worked for more than 10 years, but had only attended training once, while others claim they have not attended any training besides induction and orientation.

This claim was corroborated by many principal interpreters and chief interpreters interviewed for this study. It is also one of the reasons given by Blaauw (1997:89) for the establishment of a certificate programme in court interpreting by the then Potchefstroom University (for Christian Higher Education).

The training at Justice College takes a period of five weeks to complete. It comprises theory and practical training, which involve three weeks classroom theory and two weeks of practical court interpreting in district courts, usually the courts in which they had been working before the start of the training. The course content for the beginner’s course includes a theoretical part, which deals with fundamental aspects of criminal law, criminal procedure, including the criminal trial from the plea to the sentencing stage, the interpretation of legal concepts into any of the indigenous languages, and appearing in court (See DoJCD interpreters’ course in Appendix 6).

Referring to the practical aspects of the training, Moeketsi (1999b:134) indicates that interpreters do the practical aspect of the training in real court situations by putting into practical application the theory they have learnt in the classroom setting.

The successful completion of the training is followed by deployment of the interpreters to where their services can be put to optimal use. This usually means
that the interpreters are retained in the magistrate’s courts from which they departed for the training. In some cases, the interpreters are deployed to other courts. Deployment of this nature is influenced by language factors, such as the requirement that the interpreters should have sufficient knowledge of the standard and non-standard forms of the main language they will be working on.

This fits an example given in this regard by Moeketsi (1999b:134), who states that:

… an interpreter, whose mother tongue is Xhosa, and who is from a predominantly Xhosa-speaking region, may not be deployed to a Sepedi area, nor may an interpreter who grew up in a rural area be suitable for deployment to a court in an urban area, because he may not be conversant with the regional and social dialects of his own language, as used in that unfamiliar environment.

As stated above, besides the beginner’s training course, there are other in-service training courses available for court interpreters run by Justice College. The courses and their course contents, as indicated in Appendix 6, are indicated in the table below:
Table 5.3 Courses available for court interpreters at Justice College

<table>
<thead>
<tr>
<th>Courses</th>
<th>Course Contents</th>
</tr>
</thead>
</table>
| 1. Advanced Interpreter Course (Incorporating sexual offences) | a. The forensic science laboratory:  
  - Chemistry section  
  - Ballistic section  
  - Biology section  
  - DNA evidence  
  The chain of evidence  
  c. Evidence pertaining to the medical examination of a victim  
  d. HIV awareness  
  e. Stress management  
  f. Intermediaries  
  g. The role of the interpreter in matters pertaining to sexual offences  
  h. Social context training |
| 2. Management Training for Principal Court Interpreters | a. Management theory  
  b. Leadership skills  
  c. Operational planning and control  
  d. Project management and meetings  
  e. Appropriate conduct expected from employees  
  f. Performance management  
  g. The Public Finance Management Act  
  h. Departmental financial instructions  
  i. Recruitment and selection  
  j. Employee assistance programme |

Table 5.3: Source- See Appendix 6

Other forms of training take place based on the initiative of the chief interpreter of a particular region. This is usually in the form of training which the chief interpreter provides to his/her subordinates in the magistrate’s courts under his authority. For example, Moletsane said he had, at times, used outsiders from the Voice Clinic to train interpreters in what he calls ‘voice performance’ in terms of vocalisation, pitch, pace, inflection and projection. He also discussed a form of training he calls ‘concept-based training’, presented to interpreters.
This involves the introduction of concepts based on the alphabet every three months. He would, for example, design learning materials beginning with A (e.g. *ammunition*) and distribute them to all interpreters to study. The learning materials would contain terms in one language (usually in English or Afrikaans) and their equivalents in indigenous languages.

During the next three months, he would do the same, continuing with B (e.g. *biodiversity*), and so forth, until the full alphabet had been covered.

### 5.5.2 Training available at South African universities

Generally, the interpreter training programmes at Justice College, Pretoria, are considered to be inadequate, something which has been acknowledged as long ago as the beginning of 1997. This resulted in a decision being taken to develop a recognised training programme acceptable to all stakeholders. This decision was taken during a meeting, where the DoJCD, Justice College, court interpreters’ unions and universities were present (Inggs 1998), Blaauw (1998), and Moeketsi and Wallmach (2005:3).

Moeketsi and Wallmach (2005:1) remark that the court interpreters themselves think the training is inadequate; hence they refer to it as “*spaza training*, meaning insignificant and superficial training”. According to Inggs, in response, a training programme was developed in such a way that the interpreter could follow it, while remaining employed as interpreters in the DoJCD.

In Inggs’s (1998) explanation, it was hoped that the course would offer the court interpreters the opportunity to obtain a professional qualification, increase the status of the court interpreting profession and ensure quality interpreting in the courts.

Also, in response to this development, many universities, with the notable exception of the University of South Africa (UNISA), enrolled court interpreters for a diploma programme in court interpreting in 1998. In the following year (1999), UNISA responded to the call by enrolling students for a Bachelor of Arts degree with specialisation in Court Interpreting (Moeketsi and Wallmach 2005:3-4). These programmes were designed for practising court interpreters; and they were intended
to meet their need for continuous professional development; and they were also aimed at equipping them with the required theoretical knowledge and practical expertise.

These programmes as discussed in this study offer opportunity for further studies for court interpreters. They also offer opportunity for court interpreting authority to get interpreters trained in order to make them more suitably qualified for their job. The discussion of the programme begins with the University of Port Elizabeth’s (now known as Nelson Mandela Metropolitan University, or NMMU) Diploma in Legal Interpreting. Although the Diploma in Legal Interpreting at NMMU is now defunct, it was one of the responses by academic institutions to address the training needs of court interpreters, hence its inclusion for discussion in this section. The discussion here is based on the information gleaned from the University’s 2003 prospectus of undergraduate programmes.

5.5.2.1 Nelson Mandela Metropolitan University (NMMU)
The introduction of an undergraduate Diploma in Legal Interpreting at the NMMU (UPE at the time), and at other universities, reflected the thinking of academics who believed that interpreting was fundamentally a vocational subject (Moeketsi and Wallmach 2005:3). As a vocational subject, they maintained that it required the learning of specific skills taught at community or vocational colleges and not a degree-level programme at university. The Diploma in Legal Interpreting at NMMU is now defunct but it

The Diploma in Legal Interpreting was offered at NMMU on both a full-time and a part-time basis. The full-time programme extended over a period of at least three years, while the maximum for part-time study was six years. The structure of the diploma programme allowed the students to exit the programme at the end of the first year with a Certificate in Legal Interpreting, after having successfully completed the prescribed modules.

Students could also exit the programme with an Advanced Certificate in Legal Interpreting at the end of the second academic year, after having passed the prescribed modules.
The interpreting course focused on the three main languages of the Eastern Cape Province, namely Afrikaans, English and IsiXhosa. Students were introduced to the course in these languages through the following modules:

- Afrikaans for Legal Interpreters
- English for Legal Interpreters
- Xhosa for Legal Interpreters

Besides these modules, other modules offered in the programme were:

- Translation and Interpreting for Legal Interpreters
- Introduction to Law
- Law relating to Criminal Trials
- Criminal Law
- Civil Procedure
- Labour Law, Alternative Dispute Resolution and Disciplinary Hearings
- Professional Ethics

This programme is not offered at the university any more due to poor intake of students. It was based on a tailor-made interpreting curriculum that addressed some court interpreting professional issues, such as ethical issues and different domains of Law practice. Its lack of modules dealing with socio-cultural issues across languages was a shortcoming, because bi-cultural knowledge is of paramount importance in legal interpreting practice, as “no two languages are ever sufficiently similar to be considered as representing the same social reality” (De Jongh 1992:59).

Further information about the NMMU’s Diploma in Legal Interpreting is available in Appendix 7.

5.5.2.2 North West University, Potchefstroom Campus (NWU)
The discussion of court interpreting training programmes of NWU is based on the information found on an Internet website http://isg.urv.es/tti/sa2000.doc. On this website, tertiary institutions such as the University of the Free State (UFS), North West University, Potchefstroom Campus (NWU), the University of the Witwatersrand
(WITS), and others offering interpreting and translation courses are listed. This is
followed by a description of their interpreting and translation curricula.

North West University (NWU) Potchefstroom Campus, (formerly Potchefstroom
University for Christian Higher Education), offers a similar diploma in legal
interpreting as that of NMMU. However, the curriculum of NWU’s programme in legal
interpreting appears to be more detailed and comprehensive. Though not explicitly
stated in NMMU’s programme, one would assume that through the study, its courses
entitled “Translation and Interpreting for Legal Interpreters”, students would be
exposed to courses such as interpreting, the role of the interpreters, translation
methods and procedures, note-taking, sight translation and sight interpreting, etc.

On the contrary, these courses are explicitly indicated in NWU’s curriculum. This
signifies that as courses on their own, more attention will be given to the necessary
theoretical depth students need to cover, in contrast to the NMMU, where they might
be treated as subsumed topics of courses.

Other courses worthy of note at NWU are the ethics of court interpreting, termbanks,
language practice and professionalization, memory and listening skills, as well as
note-taking. In these courses, the specific skills needed for effective practice by court
interpreters are taught.

These courses provide the student interpreters with a grounding in theoretical issues
relating to the applicable interpreting mode in courtrooms. Students also receive a
grounding in translation theory, which would expose them to different notions of
equivalence, as defined by different scholars. This would enable them to know how
intratextual, intertextual and pragmatic constraints affect interpreting from the SL into
the TL.

Unlike NMMU’s programme, NWU’s programme does not have Law courses such as
Labour Law, Civil Procedure, Criminal Law, etc (See Appendix 7 for more courses
offered in Diploma in Legal Interpreting at NWU.).
5.5.2.3 University of the Free State (UFS)

The discussion of court interpreting training programmes of UFS is based on the information taken from an Internet website [http://isg.urv.es/tti/sa2000.doc](http://isg.urv.es/tti/sa2000.doc). (See first paragraph of Subsection of 5.5.2.2 above.)

The University of the Free State (UFS) offers many interpreting and translating programmes at different academic levels. For the purpose of this study, one of the programmes will be reviewed because of its relevance to the subject of this study. At undergraduate level, UFS has a Bachelor of Arts Language Practice and Legal Interpreting programme. This programme is remarkable for its emphasis on translation theory, legal interpreting theory, translation practice, legal interpreting practice in the first, second and third year of the programme.

The programme also emphasises language skills such as basic sentence structure in the local language, which the students have to combine with the two *de facto* official languages of the court. This is continued in the second and third year in the form of advanced language usage in English and Sesotho. In the now-defunct Diploma in Legal Interpreting at NMMU, similar focus was given to languages (Afrikaans, English and Xhosa), as exemplified in the courses offered, such as Afrikaans for Legal Interpreters, English for Legal Interpreters, and IsiXhosa for Legal Interpreters.

Several aspects of linguistics are also taught at UFS’s programme, extending from the first to the third year. Linguistic aspects such as the nature of, and the systematic aspects of language, syntax, semantics, pragmatics, sociolinguistics, philosophy of language, human and machine language processing, terminology and lexicography are taught.

Not explicitly stated as in NWU’s, the programme’s focus on translation theory and legal interpreting theory extending from the first year to the third year indicates that the necessary theoretical courses, as listed in NWU’s programme, will be covered. Complementing these courses are their practical components such as translation practice and legal interpreting practices, offered as first, second and third-year courses.
They emphasise the importance of practical experience in legal interpreting, as also demonstrated in the explanation in the NMMU’s curriculum. Here, the course translation and interpreting for Legal Interpreting is examined both in written and practical format at the end of each semester. Similarly, NWU’s courses, such as translation theory and practice, note-taking, translation methods and procedures give an indication of the practical components of the programme.

Unlike the NWU diploma in interpreting programme, some pertinent aspects of Law are taught in the UFS’s programme to familiarise the students with legal concepts and issues they might encounter in their practice. However, the courses in Law are regarded as non-focused disciplines, from which students are encouraged to select some in order to earn 28 credits, in addition to the credits they would earn in their focused disciplines.

The Law programmes recommended in this case are:

- Criminal Law
- Public Law
- Criminal Procedure
- Labour Law

More information regarding the UFS’ Bachelor of Arts Language Practice, Legal Interpreting Programme is available in Appendix 7.

5.5.2.4 University of the Witwatersrand (WITS)
The University of the Witwatersrand (WITS) offers an undergraduate University Diploma in Interpreting and Translation (Legal Option). Like NMMU’s and NWU’s, the undergraduate diploma programme at WITS is a three-year programme with a specific number of skills considered necessary for the practice of court interpreting.

In the first year of the programme, students are taught theoretical issues such as the general principles of translation, which include methodology, translation strategies, text analysis, paraphrase and reformulation. Apart from theoretical components, the WITS’ programme offers languages like NMMU’s and UFS’ programmes. Courses on offer from the first to the third year in the programme are Language Enhancement
I, II, III; Interpreting practice I, II, III and Introduction to Law I, II, III. These courses comprise a combination of theoretical and practical components.

For example, in Language Enhancement I, the focus is on English and one or two other languages, with the specific focus on:

…the enhancement of linguistic and related skills in the students’ first, second and third languages. The courses include both oral and written skills, with the focus on improving comprehension and communication skills in each language; expressive skills for interpreting; report-writing; public speaking and voice projection; enunciation and pronunciation (Meintjes 2001:38).

The emphasis is different in Language Enhancement II, as the teaching focus is on register and level of formality; report writing, oral and written communication, problems of non-equivalence and terminological development. The emphasis changes slightly in Language Enhancement III, where more emphasis is placed on register and language varieties. This is followed by the practical translation of different types of text, as well as advanced writing and oral skills.

The Language Enhancement I, II and III courses offered at WITS’ diploma in interpreting and translation programme compare closely with the Language and Linguistics skills courses in the UFS Bachelor of Arts in Language Practice and Legal Interpreting. As in the WITS’ programme, UFS’ programme also focuses on terminological development, register, oral written and sociolinguistics, such as language varieties, among others.

In Interpreting Practice I, students are provided with an introduction to consecutive interpreting, listening skills, memory skills, gist exercises, non-verbal skills and body language, as well as the professional ethics of interpreting and translation. This emphasis continues in Interpreting Practice II, but at a deeper level, as it involves analytical skills and the ethics of legal interpreting. Students are introduced to simultaneous interpreting and sight translation in Interpreting Practice III. Further details on consecutive interpreting are provided in Interpreting Practice III.
WITS' Interpreting Practice I, II and III courses appear to be an encapsulation of UFS' translation theory and practice, legal interpreting theory and practice, NMMU'S translation and interpreting for legal interpreters and NWU's courses. These courses involve the fundamental theoretical and practical components mentioned. Its only exception is its focus on interpreting as opposed to others universities, where the emphasis is on both interpreting and translation.

In introduction to Law I, students are introduced to South African law, in which history of law, sources of law, structure of court and court systems, constitutional and human rights, among other things, are taught. The emphasis on law in Law II shifts to aspects of criminal law, aspects of procedural laws, aspects of civil procedure and aspects of evidence. In the third year (Law III), the focus is on aspects of private law, such as the law of delict, family law, labour law and commercial law.

The focus on Law courses is deeper in the WITS' programme than in the UFS' programme because in the UFS, Law courses such as Family Law, Private Law, South African Law, which encapsulates history of law, South African court systems, and suchlike, are not indicated in its curriculum.

More legal interpreting skills and theoretical issues pertaining to language policy and socio-cultural issues in language are taught in the third year. This involves skills in legal and specialised translation practices, terminology management and the development and introduction to sociolinguistics, language policy and planning.

See more information about the Diploma in Interpreting and Translation at WITS in Appendix 7.

5.5.2.5 University of South Africa (UNISA)

UNISA, unlike NWU and NMMU and WITS, opted for a degree, namely a Bachelor of Arts (B.A) with specialisation in court interpreting. The motivation for this choice is a belief that the courtroom interpreting situation in South Africa demands the fusion of practical linguistic and interpreting skills, based on a sound theoretical knowledge obtained in a degree programme, where interpreters are able to reconcile theory and praxis (Moeketsi and Wallmach 2005:4).
The B.A degree with specialisation in court interpreting is run as a distance degree programme. This makes it a favourable option for both practising court interpreters and aspiring interpreters, as it does not demand their physical presence in class. The programme is a three-year degree programme, but students are allowed to take it over a longer period.

The BA, with specialisation in Court Interpreting, contains a number of core modules, as listed in Moeketsi and Wallmach (2005:6), namely Principles of Interpreting I, II, III; Court Interpreting I, II, III; and Court Practice. Non-core modules listed are Multilingualism (the role of language in South Africa), Translation and Editing Techniques, Translation and Editing Practice. Some of these modules are discussed below.

The discussion of the UNISA Bachelor of Arts degree, with specialisation in court interpreting, appears to be more detailed here in comparison with other programmes, because of the availability of literature written by scholars directly involved in the programme. They (Moeketsi and Wallmach 2005) provide insight with regard to the purposes and focuses of some of the modules, and they have been quoted in detail in this study.

A. Principles of interpreting modules
This subject, according to Moeketsi and Wallmach (2005:7), comprises Principles of Interpreting I, II and III, and contain sub-modules, which are meant to specifically equip students with enhanced interpreting skills in a number of different settings. The Principles of Interpreting modules, in the explanation of Moeketsi and Wallmach (2005:7) discuss how there has been a shift “away from an idealised equivalence-based model of interpreting”. The focus here is to oblige the students to learn a functional approach to interpreting.

They maintain that “interpreting does not simply involve transferring a message from one language to another - the situation within which interpreting takes place must also be taken into account, since it may have a strong influence on how one should interpret” (idem 2005:7). As explained by Moeketsi and Wallmach, the Principles of Interpreting modules provide an opportunity for students to engage with theoretical
issues such as factors that weigh heavily on interpreting scenarios in rendering the SL into the TL.

In Principles of Interpreting I, the students are introduced to interpreting as a profession that involves professional acts of communication, the theoretical foundation, as well as practical consecutive interpreting skills (idem 2005:8).

In Principles of Interpreting II, students are exposed to various types of liaison interpreting which include court interpreting, health interpreting, and business interpreting. In addition to this, students are drawn to the debate surrounding the rendering of SL into TL word-for-word (idem 2005:9). The emphasis here, as explained by Moeketsi and Wallmach, is to point out that the form (the words) of an utterance in source message may not automatically correspond to the meaning of the utterance in the target message. They state that the module focuses on “implied meaning and how dialogue and conversation work” (idem 2005:9).

Practical consecutive interpreting skills and note-taking skills for short and long consecutive interpreting in a variety of interpreting contexts are also the focus in one of the sub-modules in Principles of Interpreting II.

The sub-modules in Principles of Interpreting III introduce simultaneous interpreting as a mode. The central focus of the modules is a discussion of why simultaneous interpreting seems difficult in comparison with consecutive interpreting, especially with regard to five particular factors which could make some specific simultaneous interpreting tasks difficult.

These are listed as:

- Text complexity
- Lack of familiarity with the material
- Non-contextualised information, such as names and numbers
- Linguistic or syntactic dissimilarities between the source and target languages, and external factors such as background noise, etc. (idem 2005:11).
Other theoretical issues of simultaneous interpreting are discussed in detail here. For example, it is pointed out that there is a discussion of how the interpreter predicts and processes discourse in terms of how memory works, and how the limitations of short-term memory can be overcome by the use of the technique of chunking to organise information (idem 2005:11).

The Principles of Interpreting I, II and III, as discussed, provide both theoretical and practical grounding to students as topics, such as simultaneous interpreting, consecutive interpreting and note-taking skills. These are discussed in their theoretical and practical formats. Students are also exposed to different contexts, which could affect translation and interpreting. The Principles of Interpreting I, II and III modules reflect the focus of translation and interpreting theories mentioned in the now-defunct NMMU’s programme, WITS’ general principles of translation, Interpreting Practice I, II and III, UFS’ translation theory and practice, legal interpreting theory and practice and NWU’s courses, such as interpreting modes and types, translation theory and practice, sight translation and interpreting, and suchlike.

As a specialisation programme on court interpreting, the Principles of Interpreting I, II and III modules seem to be more detailed and practically oriented, and present a sufficient explication of contextual bases in which the work of court interpreting can be considered.

**B. Court Interpreting modules**

The sub-modules in Court Interpreting I, II and III focus specifically on interpreting in the legal setting, and as in NMMU’s programme, an alternative dispute-resolution setting (idem 2005:14).

In Court Interpreting I, students are introduced to court interpreting in South Africa and the context of its practice. This module dwells on the diverse and multilingual nature of the South African population. Students are taught about the languages of South Africa and why some languages are the *de facto* official languages of the court.
The aim of this module is to expose the court interpreters to the view that they are professional service providers “who deal directly with citizens and immigrants of varying social, economic and linguistic status in the courts of law”, and that their ability to assess the accused person’s level of education and economic status would assist them “to anticipate whether the people who end up in courts of law would be able to participate effectively in their trials, with or without the assistance of the court interpreter, and/or legal representation” (idem 2005:14).

The focus here is on how socio-cultural and economic perspectives affect language use. Other universities’ programmes reviewed, such as NMMU’s focus on Afrikaans, English and Xhosa, and part of WITS’ Language Enhancement I, II, and III, UFS’ focus on Sociolinguistics and discourse in Sesotho, English, Zulu and Afrikaans also deal with language issues as they apply in the context of court interpreting.

In the second part of the module, there is a discussion of the South African courtroom structure. The emphasis in this second part of the module is that students should comprehend the accusatorial procedure of justice used by South African courts, as well as the physical layout of the courtroom (idem 2005:14). In addition to this, the learning outcome of the second part of the module means that “students should be able to identify all the role-players and to distinguish between their different roles” (idem 2005:14).

This module bears a close resemblance to WITS’ programme (Law I), in which students are similarly introduced to South Africa’s courtroom structure and court systems.

In Court Interpreting II, students are exposed to the specialised language used during expert evidence in such areas as forensic science, of scientists whose investigations may be used in court as expert evidence, and various other types of expert evidence in different domains (idem 2005:15).

Other programmes reviewed so far have no focus on quality interpreting, but UNISA’s programme does have such a focus. In UNISA’s programme, there is a sub-module, Court Interpreting III, which focuses on quality court interpreting...
services. One of the central themes of this sub-module, according to Moeketsi and Wallmach, is the notion referred to as *Perfect Interpreting Process* (PIP).

In an article co-authored by Moeketsi and Mollema (2008:31), PIP is described as “a system that provides practical methods to ensure that quality interpreting services consistently meet the needs of customers and achieve continuous improvement in every aspect of service”. Other focuses of Court Interpreting III are:

- Cross-cultural communication
- Discussion of international perspectives
- Aspects of human language technologies (HLT), such as how HLT helps in the checking of spelling, grammar and style, the summarizing of texts, automatic translation, information retrieval and information extraction (*idem* 2005:15-16).

More information about UNISA’s curriculum on court interpreting is provided in Appendix 7.

### 5.5.3 TRAINING PROVIDED BY THE SECTORAL EDUCATION AUTHORITY

In addition to the Diploma in Legal Interpreting and Translation started at some universities in 1998 and the Bachelor of Arts with specialisation in Court Interpreting started at UNISA in 1999, the interpreter can also gain a recognised qualification through access to Sector Education and Training Authorities (SETAs).

In 1998, the government passed the Skills Development Act to facilitate and promote skills development in the private and public sectors (Skill Development Act 1998). The main purposes of the Act are to improve South Africa’s competitiveness and productivity, and to act as a tool to address the education imbalances of the past (Open Society Foundation 2005:47). Consequently, twenty-five sectors were identified, among which is the justice sector, which falls under the Police, Private Security, Legal, Correctional Services and Justice Sector Education and Training Authority (POSLEC SETA).
The POSLEC SETA was established in 2000, with the mandate to provide training and skills development to public and private institutions or organisations in its sector (See www.poslecseta.org.za). Training by the POSLEC SETA is accredited in terms of the South African Qualifications Authority (SAQA) Act. This has changed to a more streamlined sector for court interpreting, now known as Safety and Security Sector Education and Training Authority (SAS SETA, see http://www.courses.co.za/seta/sas-seta-safety-and-security-seta). The SAS SETA-initiated training has resulted in the court interpretation learnership and other learnerships for different administrative functions of the court.

The decision to resort to the Department of Labour type of sectoral education programmes by the DoJCD is informed by the need to ensure that training and certification provided by the Justice College, Pretoria, is recognised outside the DoJCD. According to the head of the Justice College, Ms Ngeva, one of the problems the college has had to contend with has been its lack of recognition by other related educational providers. In addition, Jiyane (2007) refers to Mr J. March, Director of Judicial Training: Justice College, who indicated that the Justice College has had to use SAS SETA, because it has facilitators who are trained assessors, moderators and verifiers specifically for outcomes-based education and also, because this is the only way learners are able to obtain recognised qualifications by Education and training Quality Assurance (ETQA).

As in other occupational-focused training programmes, Ms Ngeva maintains the sectoral programme is preferred, because it claims to provide an internationally organised task and occupation-oriented programme for Justice College to train interpreters.

The SAQA registered qualification for court interpreters is referred to as the National Diploma: Legal Interpreting. This qualification will be discussed here, based on information gleaned from http://regq.saqa.org.za/showqualification.php?id=50023. The qualification falls within the discipline of Communication Studies and Language, and is rated within the National Qualifications Framework (NQF) at level 5. It has a minimum of 240 credits consisting of core, elective and fundamental modules.
The fundamental modules, which constitute 51 credits of the course, are compulsory, and the same applies to the core modules which constitute a total of 163 credits. The elective modules are not compulsory, but learners must attain a minimum of 26 credits in elective modules, in addition to the fundamental and core modules, in order to qualify.

The qualification is specifically designed to make:

…learners to become professionals employed in the lower courts and tribunals alongside their legal colleagues and, as such, to facilitate access to information, mutual participation and protection of human rights, whilst improving their own earning ability.

The National Diploma: Legal Interpreting, is comprehensive in its course contents and court interpreters with the diploma will be able to perform additional roles, such as interpreting in Council for Conciliation, Mediation and Arbitration cases, disciplinary hearings and telephone interpreting.

Among specific capabilities the qualified learner with the diploma will be capable of carrying out are:

- Applying written and oral communication strategies in a legal interpreting context.
- Applying interpreting skills within a legal interpreting environment.
- Demonstrate knowledge and understanding of law to solve interpreting problems within the South African legal context.
- Demonstrate relationship-building skills within a legal environment.
- Exercise ethical conduct, values and professionalism in a legal interpreting context.
- Apply basic knowledge and skills to effectively manage a business within a legal interpreting environment.

The National Diploma: Legal Interpreting is based on the outcomes-based education model where the learners are assessed against specific outcomes. Learners are awarded the Diploma when they have demonstrated that all the unit standards
outcomes in the qualification have been attained. The qualification is also recommended for vertical progression to Bachelor of Arts, Court Interpreting, or horizontal progression in any of the following related interpreting domains:

- National Diploma: Corrections Science, NQF Level 5.
- National Diploma: Liaison Interpreting, NQF Level 5.
- National Diploma: Paralegal Practice, NQF Level 5.

5.6 HIERARCHY IN THE COURT INTERPRETING PROFESSION IN SOUTH AFRICA

The court interpreting profession in South Africa, within the DoJCD, is structured as follows, from the highest to the lowest position in the hierarchy (Sources: Interviews with principal court interpreters).

5.6.1 Chief Inspector: The Chief Inspector has overall responsibility for all court interpreters in South Africa. He/she has the final authority in the training, management, employment and all other matters concerning court interpreters.

5.6.2 Inspector: Interpreters at this level are usually recruited by virtue of their experience as principal interpreters. Inspectors go from office to office across the province in which they serve, carrying out inspections of their subordinates, offering training at Justice College and performing administrative functions in their area of jurisdiction.

5.6.3 Chief interpreters: This position requires ten to twelve years of working experience. Principal interpreters are also known as chief interpreters. They are in charge of larger court buildings with multiple courtrooms, in cities such as Johannesburg, Cape Town, Durban, Bloemfontein, East London, Port Elizabeth, etc. Their duties include the following:

- Control and supervise court interpreters;
- Interpret in special cases when necessary;
- Train and develop court interpreters;
- Monitor attendance registers to ensure punctuality;
Attend to administrative matters pertaining to interpreters;
Ensure that subordinates perform their duties in compliance with their performance agreements;
Allocate interpreters to courts;
Execute duties assigned by area court managers;
Arrange for foreign language interpreters.

5.6.4 Senior Court Interpreters: This requires a minimum of three years’ experience. Senior interpreters are mainly found in high courts. Besides interpreting in the courtrooms, they also perform some administrative functions. Their duties include the following:

- Perform administrative functions, such as attending to personnel administration;
- Interpret in criminal courts, civil courts, labour courts, quasi-judicial proceedings;
- Interpret during consultations;
- Translate legal documents and exhibits;
- Record cases in criminal record books;
- Keep court records up to date;
- Perform any other duties he/she may be assigned to in terms of the rationalisation of functions by the office.

5.6.5 Court interpreters: Here, one finds beginner interpreters who work in both regional and district magistrates’ courts. At this level, there are also court interpreters who have worked for several years. Some have attended Justice College (Pretoria), while others have not. The duties of court interpreters at this level are:

- Interpret in criminal courts, civil courts, labour courts, and quasi-judicial proceedings;
- Interpret during consultations;
- Translate legal documents and exhibits;
- Record cases in criminal books;
- Draw case records at the request of the magistrate and prosecutor;
- Make arrangements for foreign interpreters in consultation with the prosecution;
• Perform any other duty he/she may be assigned to in terms of the rationalisation of functions by the office.

5.6.6 Foreign language court interpreters: At the bottom rung of the ladder are foreign language court interpreters. They are commonly referred to as temporary or casual interpreters. This category of interpreters can be found at district, regional magistrates’ courts and high courts. They are temporary or casual employees of the DoJCD, though some claim they have been working for more than ten years. In comparison with other categories of interpreters above, their major duties include the following:

• Interpret in criminal courts, civil courts, labour courts, and quasi-judicial proceedings;
• Translate legal documents and exhibits;
• Interpret during consultations.

The duties allocated to foreign African court interpreters are virtually the same as their South African counterparts at court interpreters’ level. The only differences are that foreign African court interpreters are not used for administrative duties, such as drawing up case records and other miscellaneous administrative duties. However, duties such as making arrangement for foreign court interpreters, which is supposed to be done by court interpreters, may also be done by foreign African court interpreters.

During my observation of courtroom proceedings, there were instances when the prosecution authority had to request for foreign African court interpreters through another foreign African court interpreter. This happens when the interpreter assigned to a case is absent, or when it becomes apparent that a new foreign African court interpreter is required for a particular case in the court.

The foreign African court interpreters do some administrative duties, such as helping the chief interpreters to fill in the appropriate forms indicating the number of cases interpreted, and in the courtroom where the interpreting took place.
5.7 THE COURT INTERPRETER AND OTHER PARTICIPANTS IN SOUTH AFRICAN COURTROOMS

As in other countries, the discourse participants in South African courtrooms are the magistrates, the prosecutors, the attorneys, the court interpreters, the witness(es) and the accused person(s). In South Africa, the Magistrates’ Court Act stipulates that the magistrate should seek the assistance of one or two assessors during trials to ensure proper determination of sentence and this sometimes increases the number of discourse participants in the courtroom. Assessors are required, according to the Act, to help the magistrate in dealing with challenges posed by culture, especially with regard to African communities whose cultures are different from most of the discourse protagonists in the courtrooms. As can be seen in chapter seven, assessors are used only rarely. Many of the magistrates who responded to questions in this regard said they do not use assessors, or have used them only on very rare occasions.

Dominating the verbal discourse in the courtrooms are usually the prosecutors and the defence attorneys who, in the process of examination or cross-examination, do their utmost to convince the magistrates of their side of the story. Between the prosecutor and the attorneys, one finds the interpreter or interpreters who render consecutively what has been said by these persons (prosecutors and attorneys) into either English or Afrikaans for the magistrate to consider.

It is quite common in South African courtrooms to see the magistrate interrupting the discourse to seek clarification, or putting probing questions to other participants. Sometimes, the accused chooses to represent him/herself because of the lack of financial means to engage a private attorney. It also occurs that state attorneys are seen as state employees, and hence not to be trusted, or as being “in cahoots” with the judicial system in attempting to get them behind bars. Out of concern, and in order to satisfy themselves that appropriate questions are asked, some magistrates do unconsciously play the role of an attorney for those accused persons who choose to represent themselves. Some magistrates also use this opportunity to rein in on the prosecuting teams who would want to use the opportunity to pillory the deposition of accused persons who are not represented by defence attorneys.
In South African courtrooms, the interpreter is a major participant. In terms of the hierarchy, the interpreters occupy a middle position between the magistrate and the prosecutor on the one hand, and the accused and the witness on the other. In Steytler (1993:51), it is similarly stated that the interpreters are subordinate to the magistrate and the prosecutor, but are above or superordinate to the accused, “and their approach towards witnesses was dependent on who was in the witness box”.

The charge sheet has hitherto been (and is still being) presented in either English or Afrikaans, even though these are not the only official languages, and are not the languages understood by the majority of the accused persons in the courtrooms. This means an ever-increasing demand for interpreting services, not only for South Africans, but for the increasing population of foreign accused persons in the courtrooms. Characteristically, an average South African interpreter can speak more than four local languages, especially ones in urban areas such as Johannesburg.

This has been of considerable assistance, given the unique linguistic situation as it applies to court interpreting, where oftentimes more than one language is involved besides the language used in drawing up the charge sheet.

The complex linguistic situation also sometimes results in relay interpreting, as one interpreter has to interpret into a language which will be interpreted by a different interpreter into the target language that is understood by the magistrate and the prosecutor. This occurs in instances where there are various witnesses from different linguistic communities who do not understand each others’ languages. The complex linguistic situation in the courtroom is aggravated by the unprecedented number of accused persons who are foreigners. Justice demands that they should be provided with an interpreter if they do not understand the official language being used in the court, but it has also happened that the court has had to get two or more interpreters, when there are accused from different countries who do not understand each other.

Unlike many countries with high standards of practice, South African interpreters are often required to interpret for several hours without a recess or break, the only breaks being for tea and lunch. It is reported in Vidal (1997) that the frequency of errors may increase significantly after 30 minutes of interpreting. This, according to
Vidal (1997), is because of fatigue or burnout if interpreting continues without any break. In Vidal’s (1997) words:

…accuracy and coherence … begins to deteriorate after approximately 30 minutes of sustained simultaneous interpreting, and […] the only way to ensure a faithful rendition of legal proceedings is to provide interpreters with adequate relief at approximately half-hour intervals.

In addition, interpreting accuracy and the generally fair dispensation of justice may suffer due to the role-induced attitude of the interpreter. In the verbal duel that takes place in the court, the interpreter plays a cardinal role, a role which may be helpful or harmful to the stated purpose of justice. It has been shown in studies conducted by Berk-Seligson (1989:80) and Hale and Gibbons (1999:208) that interpreters at times disregard these important elements in their rendition of SL into TL. As reported by Hale and Gibbons, the interpreters are able to influence the proceedings in a number of ways. For example, they report that the interpreters could alter or omit the coercion in a hostile cross-examination, and, in so doing, neutralise the effect the cross-examining attorney wishes to portray. Remarking on this, Hale and Gibbons write: “Construction of questions with the desired level of coercion during examination is a highly developed skill among barristers, and one that plays an important role in the adversarial legal system”. They conclude that when major changes take place in this type of construction in the interpreted version, the intention of the barrister is rendered weak, and this also affects any judgment based on such constructions.

In this study, the data collected from the foreign African court interpreters show that the interpreter could also influence the outcome of the case. Some of the interpreters admit that they sometimes do not interpret exactly what the accused has said when they feel that the prosecutor is being unnecessarily biased against the accused, or that it is a winnable case, but it is being rigged otherwise, because of the attorney’s (usually state-paid) lack of commitment to help the accused.

Another reason cited in this instance is that the accused is labelled as an illegal alien, even when he/she is not, and the prosecuting team use the assumed illegal alien status as a rallying cry against the accused. This attitude (and resulting action)
on the part of the interpreter amounts to ethno-solidarity with the accused, a solidarity which on all counts is an unethical or flagrant abuse of his/her position as interpreter.

In other words, and against all ethical principles, the interpreters have used their unique access of their understanding of both the SL and TL to give an unfair advantage to the accused based on their ethnic solidarity.

This has been reported before. As far back as 2005, Dr Kim Wallmach of UNISA referred to a case involving an interpreter from Niger or Nigeria (written as Niger[ia] in the article) who was jailed for several years for deliberately misinterpreting in favour of his clients in court (WASLI Newsletter Update 2006). A similar observation was made by Steytler (1993:51), who concludes that, “Not only was the interpreter translating, he was giving his interpretation of the value of the evidence as well”.

Gaining increasing frequency, as regards language use in the courtrooms, is a scenario where proceedings in the courtroom are conducted exclusively in an African or indigenous language. Though this is still a rare practice in the courtroom, some magistrates interviewed for this study alluded to the fact that they sometimes would request that the proceedings should be conducted in local languages, as the accused, the defendants, the witnesses and the magistrate were all from the same language group.

Moeketsi (1999b) reports a similar situation in her article, where she states that some African attorneys would “insist on conducting direct and cross examinations in the indigenous language ... rendering the English and Afrikaans-speaking magistrates linguistically at a loss”. Recently, on 15 May 2009, it was reported on SAFM radio at 07:15 that a Western Cape judge acceded to a request from a lawyer to conduct the cross-examination in his home language.

A further important point to be mentioned on the situations in courtrooms, is that the participants are constantly faced with external noise from non-major participants in the courtroom. These are members of the public who come into court and enter the public gallery while the court is in session. Noise, according to Steinberg (2006:66),
is “any stimulus that interferes with the communication of a message so that the meaning is not clearly understood”.

In the courtroom, persistent distracting physical sounds, which can be classified as external noise, can even be brought about by the opening and closing of the entrance door, as people enter and leave, during the court session. This is a problem in the courtrooms observed in this study, and the enormity of the problem is shown in the following discussion.

In any communicative encounter, listening is involved, and this has to be effective, in other words it must be “active listening”. In the courtroom situation, active listening is very important, because, as stated by DeVito (1994:88), “it enables the listener to check on his/her understanding of what the speaker said and, more importantly, what the speaker meant”. In court interpreting the interpreter can stop the accused to ask a question in order to clarify an aspect of what he/she has said. The interpreter is able to seek more clarification because he/she is engaged in active listening, which “facilitates meaningful dialogue of mutual understanding”.

Active listening is one way of listening effectively, but this may not be realised in the context of this study. In the courtrooms observed in this study, there were constant external barriers to active listening, which included, among others, door slamming and distraction caused by people coming in and out of the courtroom while the court was in session. In the adaptation of the listening process depicted in Figure 5.2 below, Steinberg (1997:70) points out that external noise can be a barrier in any of the steps in the listening process.
An explanation of the listening process given by Steinberg (1997:71) is as follows:

1. Sensing and attending: Sensing explains the physical aspect of listening, that is, sound vibrations must reach the hearing part of the brain before the listening process can be completed. After this, the sounds the brain has identified will be attended to.

2. Understanding and interpreting: The next stage is to understand and interpret the meaning of the message (“interpret”, as used here, refers to the way in which someone makes sense of what another person has said or done or “the way in which someone explains or understands an event, information or someone’s actions” (Longman Dictionary of Contemporary English 2003:841). Understanding in the listening process means the assignment of intended meaning to the content of the message, while interpreting means the ability to determine the emotional meaning a speaker ascribes to the message.

3. Remembering: This is the process of storing the meanings of the message received in order to be able to recall it later.

4. Responding: This is the last stage and means the process of responding to the message heard. This is important, as it indicates the completion of the listening process by way of providing feedback to one’s interlocutor.

The listening process takes place in any instance of communication, especially in interpersonal communication, where the interpreters are involved in a courtroom. It takes place in sequence, as shown in Table 5.4, but speakers are generally unaware of this (Steinberg 1997:70). A speaker can only listen effectively – in the sequence
explained in the listening process – when there are no distractions such as the ones mentioned already in this study. The same applies when one looks at the accused as the sender of a message and the interpreter as the receiver of the message. On the other hand, because communication is a two-way process, both the accused and the interpreter can be a sender and a receiver in any communicative encounter.

For example, when the interpreter seeks clarification about what the accused person has said, the interpreter then becomes the sender of a message, while the accused person becomes the receiver of that message.

In any of these communicative encounters, whether as sender or receiver, the interpreter can be distracted by physical or external noise arising from the slamming of doors or people moving in and out while the court is in session. This can also affect the communication between the interpreter and the prosecutor, the attorney and the accused.

5.8 DUTIES AND RESPONSIBILITIES OF SOUTH AFRICAN COURT INTERPRETERS

In the post-1994 political dispensation, the South African government is faced with the challenge of making the judiciary accessible to the erstwhile marginalised groups in South Africa. Some of the challenges relate to the manner in which the interpreters discharge their responsibilities in the courtrooms in terms of conforming to the imperative to be impartial, accurate and confidential.

The interpreter's daily discharge of his/her duties in the courtroom starts with an enquiry he/she makes to determine the preferred language of the accused person(s). Ideally, this should be done beforehand by the prosecuting authority and not by the interpreter. Moeketsi (1999b) believes that the interpreter who does this in the courtroom has either crossed the professional line or is motivated to ensure the smooth running of the courtroom process. However, most court interpreters feel different, according to the responses to a question put to them in this regard. In the words of one of them:

… finding out about the language the accused speaks was going to be done anyway, and I think as interpreter, or as an employee of the court whose sole
business is about the use of language, I should be in a position to find out from the accused the language he/she speaks or to what extent he or she speaks his/her language. This is how it should be and I should be given enough time to do this before the case starts. However, this is not done by most of us, and nobody cares … except some few minutes’ chance encounter where we have to interact with the accused already in the dock.

Following the determination of the preferred language of the accused person, which, as revealed in the allusion to the interpreter’s statement above, is not a priority of the court authority, is the question of the legal representation for the accused. As indicated earlier (see Section 5.7), most of the accused persons are not comfortable with state-paid lawyers, but the issue here is that the court interpreters have a habit of adding more content to what the magistrates have said in their interpreted version to the accused. In an example taken from Moeketsi (1999b:144), the interpreter interpreted the magistrate’s question "Do you have a lawyer?" as, "Do you have a legal representative? This court allows you to seek your own lawyer. If you do not have money, you can use the lawyers paid for by the state." The court has the duty to inform the accused person that the state could give him/her an attorney; however, most accused persons are apprehensive of being represented by a state-paid attorney.

Moeketsi’s observation is still a reality regarding the way the interpreters interpret this type of question. My observation in the court shows that some interpreters would go to extra lengths to debunk the fear some accused persons have of state-paid attorneys from the Legal Aid Board. The court interpreters are supposed to interpret the magistrate’s question as it is, but judging from the example above, one would like to agree with Moeketsi (1999a) that they are “motivated by the smooth running of the court” in the sense that they believe that the magistrates are supposed to assure the accused persons of the integrity of the state-paid attorney.

As this is not usually done by the magistrates, they thus take it upon themselves to perform this role.
The next step is the sight translation of the charge sheet. Interpreters are left with no choice other than to sight translate the charge sheet, because it is always read in a hurried manner by the prosecutors. The observation done of court proceedings in this study confirmed that this is the usual practice, and even if the court interpreters would want to interpret the reading of the charge sheet consecutively, as they do generally in other court interpreting encounters, this would not be possible, because the prosecutors habitually read the charge sheet in a hurried manner.

Moeketsi (1999b:30) notes that the charge sheets often contain Latin, French, and uncommon legal terms in English, complex syntactic structures, numbered sections and subsections, and unknown technical terms “that are invariably incomprehensible to the very accused for whom [they are] intended”. This is contradictory to the Criminal Procedure Act 84 (1), which is firm in stating that a charge sheet should be written in plain and simple language, so that the accused person would understand the charge(s) brought against him/her. The procedure which is normally followed, is that the interpreter collects the charge sheet from the prosecutor and reads it out in the accused person’s language. Most of the interpreters questioned about this practice said that they were able to sight translate the charge sheet, because these are written in a fixed format.

The only visible difference is the nature of the charges, concomitant with the applicable section(s) of the act under which the accused person is charged. They noted, however, that it would not be possible to sight translate the charge into the language of the accused, reading out all the references to sections and subsections of the act that is being referred to by the prosecutor. Nevertheless, they would make sure the necessary elements of the charge were mentioned.

In this study, no attempt was made to check whether sight translations done in this manner were satisfactory enough to ensure that the accused person understands both the charge itself and the reason the State was charging him/her. However, a similar study done by Steytler (1993:44) does shed some light on this question. Steytler comments that, “[t]hey related only the legal aspects of the charge, without using the precise and sometimes incomprehensible language, of the charge sheet. They, thus, conveyed to the accused only what was intelligible to him”. Steytler calls
this a “reductionist process”, which at times has led to an incorrect translation of the charge sheet and, in extreme cases, a lengthy charge sheet is simplified and reduced to a few words, followed by the question “Do you find yourself guilty or not?” (1993:44-45).

Sometimes it is difficult for an interpreter who has been following the trend of the case to interpret only what is said by the magistrate or other discourse participants in the court, without taking extra steps to explain to the accused why he/she thinks a certain decision has been taken by the magistrate. For example, an accused person’s case was postponed again after several prior postponements on account of the non-appearance of a key witness. The accused person thought the case would go to the trial stage, as the key witness and other witnesses were in the court. However, this did not happen, and, since his facial response and body language suggested that he was peeved, the interpreter took it upon herself to explain to him the reasons she thought the case did not proceed to the trial stage.

Although this function was definitely outside the scope of her duties as an interpreter, she stood in to fill a void she felt the magistrate had left and should have done himself. Her action seemed to portray her disagreement with the magistrate, who postponed the case without caring to explain why he did so; unlike in the case of previous hearings, when the accused had been informed that the case was being postponed because the key witness was not available in court.

Oftentimes, the impartiality of the court interpreters is under suspicion, judged by the manner in which they discharge their duties. A case in point is an observation made in this study: During the process of examination by the prosecutor, it became obvious from the accused person’s response that he was lying, and all evidence pointed to the fact that he was guilty of the offence, as charged. As the examination was in progress, with occasional interruptions from the magistrate for clarity, because he felt the accused was unprecedently incriminating himself in his response to the questions asked, the interpreters would smile and say something like “hayi”, which in this case indicated they did not believe what the accused was saying. This resembles a scenario in which the interpreter is described by Steytler (1993:50) as a prosecutor. For Steytler, this truly amounts to crossing the
professional line, as he/she could be accused of taking sides with the prosecutor against the accused. Commenting on what his study reveals, he says the interpreters “commented negatively”, subtly or openly, on the issue of the accused’s credibility (1993:50). In the example given by Steytler (1993:50-51), he narrated the following:

When the prosecutor asked a good question …. the interpreter would smile, turn to the accused, intensify the atmosphere by moving closer and then pounce the question on the accused. When the accused attempted to answer, he would, with great mimicry, hold his hand to his ear, then smile broadly, bemused by the stupidity of the answer, and translate it in a belittling fashion.

The principle of impartiality is being violated here by the interpreters; because, as part of the judicial system whose singular interest is to ensure the fair dispensation of justice, they are expected to remain neutral and objective at all times. It is comparable to another scenario, where certain interpreters resorted to summary interpreting, when they were required to make sure everything said by the accused was being reflected as accurately as possible. Interpreters are supposed to be accurate, especially in a legal setting, where the need for justice overrides any other concern.

Accuracy in court interpreting is axiomatic, which is why many scholars suggest that the target message should be a verbatim one, or a close-to-verbatim reproduction of the source message (Hewitt 1995:200). Although this is a contentious matter for a number of reasons identified by scholars with a functionalist approach to interpreting, in this case the interpreter should at least try to “account for every word and every other element of meaning in the source-language message”, maintains Mikkelson (1996). This is the only way to ensure that whatever communication problem the accused person has, the interpreter is able to place him/her “in the same position as similarly situated persons for whom there is no such barrier” (Mikkelsson 1996).

Interpreters are able to behave at will, unnoticed and without rebuke, because the language in which their wayward behaviour is expressed is not understood by the magistrate. The interpreter is thus able to manipulate situations, often uncensured, at the expense of justice to the accused. Put differently, Steytler (1993) remarks that
this takes place in the court because the interpreter enjoys significant autonomy in terms of being able to converse in more languages than any other persons in the court. According to Steytler:

The very nature of the interpreter’s position with sole access to two different language worlds created autonomy. With regard to the accuracy of his translations he fell outside the immediate control of the court personnel, who were not conversant in the African languages used in court.

This situation constitutes a flagrant breach of the principles of accuracy, impartiality and other ethical issues in court interpreting. As this study focuses on foreign African court interpreters, the data supporting this assertion will be discussed in detail in chapter seven.

5.9 PROFESSIONALISATION, ACCREDITATION AND UNIONISATION
Accreditation of members of any profession is one way of assuring the public wanting to use professionals that they are capable of doing the work. This also applies to the interpreting profession, but in South Africa interpreters are generally not held in high esteem, hence there is a lack of any official recognition of their work (Blaauw 1999:288-299) in the form of a regulatory body or an official accreditation body.

The only accrediting body for interpreting in South Africa is the South African Translators’ Institute (SATI). SATI is a professional association that serves the interests of translation, interpreting and related language professionals, according to its website http://www.translators.org.za. SATI, as stated in Blaauw (1999:289), …promotes and protects the interests of the profession through initiatives relating to the co-ordination and planning of formal (tertiary) language practitioner training, arranging workshops in translation, interpreting, editing and terminology activities, and arranging seminars and conferences, such as the FIT forum.

SATI has a large footprint in the interpreting landscape in South Africa, as it is the only body that has made a significant contribution to the interpreting profession in South Africa. Although much of what it has done in interpreting is largely for the
benefit of conference interpreters (who constitute the majority of interpreter members), in terms of its accreditation process and code of ethics, it stands to reason that the profession of court interpreting would likewise benefit from its efforts. This is the reason for a brief review of the work done by SATI in this study.

SATI accredits interpreters in various categories, and it has also helped in providing a much-needed voice for interpreting to be recognised as a profession. For this reason, SATI has been accrediting interpreters on a voluntary basis since the late 1990s. Currently, SATI can only accredit conference interpreters using the simultaneous mode in both spoken and sign language.

The accreditation process takes the form of an examination, and this involves the testing of interpreting skills. As indicated on its website, the examination is assessed by an accredited interpreter, and it involves recordings made at testing sessions. The assessment is based on set criteria, and a candidate must score eighty percent on each one of the set criteria to pass. An interesting decision taken about the accreditation is not to use academic qualifications as a point of departure. The reason for this is given on its website, which states that:

Owing to the historical disadvantages suffered by some South Africans under apartheid, it was decided that SATI accreditation would not be based on formal or academic qualifications, but only on proof of competence in practice. This ensures a level playing field for all candidates.

In addition, the importance of prior learning (RPL) or experience is recognised. Some interpreters in the erstwhile political dispensation of South Africa did not have appropriate academic qualifications, but had acquired significant experience to be accredited like those who had certificates.

Accreditation is done in the following genres of interpreting, translation and related fields:

- Translation
- Simultaneous (conference) interpreting
- Language editing
Terminology

Corporate accreditation (for language agencies and language offices)

Candidates are issued with a certificate indicating that they have successfully passed the examination and are henceforth deemed to be accredited interpreters. They are thus allowed to use the appropriate abbreviations behind their name to indicate their accredited status.

Another significant contribution of SATI to the interpreting profession is its code of ethics. Its code of ethics is on a par with other related professional and regulatory bodies in the world, such as, among others, the National Accrediting Authority for Translators and Interpreters (NAATI), Australia, and the National Association of Judiciary Interpreters and Translators (NAJIT), in the U.S.A.

5.9.1 SATI’s code of ethics

SATI has a prescribed Code of Ethics aimed at the promotion of standards in the work of its members (Blaauw 1999:290). SATI’s Code of Ethics, as quoted on its website (http://www.translators.org.za), reads as follows:

All members of the Institute shall undertake:
1. To endeavour constantly to achieve the highest possible quality in respect of accuracy of rendering, terminological correctness, language and style;
2. To accept full responsibility for their translations and to bring unresolved problems to the attention of their clients/employers;
3. To accept no work that is beyond them (with regard to deadlines and knowledge of source language, target language and subject), except with the knowledge of their clients/employers, and to keep to agreed deadlines and forms of delivery;
4. Constantly to pursue self-improvement in order to improve the quality of their work;
5. To share their professional knowledge with other members, but to maintain a relationship of trust with their clients/employers and to treat all information that comes to their attention in the course of their work as confidential;
6. Not to accept any work that, in their opinion, is intended for unlawful or dishonest purposes, or is contrary to the public interest;
7. To be guided in negotiating remuneration by the principle of equitability, and in particular to refrain from charging excessive rates;
8. To respect all rights of the author and the client/employer, and specifically copyright;
9. Always to uphold the highest ethical and moral standards in their dealings with their clients/employers and in the practice of their occupation as translator;
10. To take part in the activities of the Institute and always to conduct themselves in such a way that their conduct and the quality of their work will be to the credit of the Institute and translation as an occupation.

Un fortunately, SATI is unpopular among court interpreters working both in South African local and in foreign African languages. Many of them have not heard of SATI, and those who claim to be aware of it, are not interested, as it would mean nothing to their status as court interpreters in the DoJCD.

5.9.2 Trade unions
Responses from participants in this study have revealed that there is no specific interpreting trade union that sees to the welfare and professionalisation of court interpreters as members. Among local language interpreters, there are some who are members of NEHAWU (National Education, Health and Allied Workers’ Union). NEHAWU is a trade union for many categories of workers, and its chief roles are better working conditions, wage negotiations and protecting employees in line with the applicable labour laws.

Only a few mentioned their knowledge of the existence of SACIOAWU (South African Court Interpreting Officers and Allied Workers’ Union), but, with the exception of the Chief Interpreter in Germiston Magistrate’s Court, said they were not members of the union. All the foreign African language court interpreters interviewed for this study claimed that they did not belong to any trade union, because as temporary or casual interpreters, they were not considered to be employees of the DoJCD.

5.10 CONCLUSION
In this chapter, the general court interpreting landscape in South Africa has been discussed. It was pointed out that because most of the accused do not understand
the two *de facto* official languages used in court, the services of an interpreter amount to a daily requirement for many cases to be heard in South African courts.

The employment procedures for interpreters were discussed, and one point emphasised here was the fact that, while advertisements for the job of court interpreter used to be an internal advertisement in the past, following several changes in the DoJCD, this has changed, and advertisements for the position of court interpreter are now both internal and external, except for foreign interpreters. It was also pointed out that Grade 12, and a knowledge of Afrikaans, English and other African languages are the general requirements for employment as a court interpreter.

Regarding the selection and interview process, it was showed in this chapter that a lack of professionalism is still in evidence, as those charged with the process are not human resource or organisational psychology experts. Subsequently, the induction and orientation of newly employed interpreters were discussed. Here, it was indicated that the newly employed court interpreters are introduced upon assumption to duty to the different role-players in the court and their functions and address forms, the different types of crimes heard by different courts, and the phases of trials.

An overview of the training programmes available to court interpreters in South Africa was given in this chapter. This aspect of the chapter covered the training provided to court interpreters by the DoJCD, universities, sectoral education and training authorities.

The different positions within the hierarchy, or chain of command, in the DoJCD for court interpreters, were discussed as part of the structure of the court interpreting profession in South Africa, inter alia, with reference to the minimum experience required to serve in the various positions. In addition to this, a detailed discussion of the roles of court interpreters and other participants in the courtroom was provided. It was noted that the court interpreter plays a vital role as participant in the discourse that takes place in the courtroom.
It was pointed out that interpreters do not always interpret the SL into the TL appropriately, or as Steytler (1993:44-45) puts it, they use “reductionist processes” which may not convey the actual meaning of the SL in the TL.

Lastly, the questions of professionalisation, accreditation and unionisation of court interpreters were addressed. It was noted that court interpreting as a profession is not held in high regard in South Africa hence the lack of formal recognition of any official regulatory body in government circles. Mention was made of SATI, a privately organised accrediting and regulatory body, as the only body functioning in this regard. An important function, i.e. the provision of a code of ethics for its members, was noted and listed.

Finally, it was indicated in this chapter that there is no known strong professional trade union for court interpreters, except for the general trade unions, such as NEHAWU and SACIOAWU.

In the next chapter, the court interpreting situation in selected countries in the European Union and Africa will be discussed.
CHAPTER SIX
COURT INTERPRETING SITUATIONS IN SELECTED COUNTRIES IN THE EUROPEAN UNION AND AFRICA

6.1 INTRODUCTION
The sociolinguistic situation in African countries is characterised by the impact of colonialism on indigenous languages. Since the end of colonialism, many countries in Africa have adopted their colonial masters’ languages for commercial and administrative functions, and reduced their own to languages used at the community level. This has effectively meant that for people to access services in the commercial and administrative sectors (where the European languages are used), they have to have a Western education, following the Western definition of the concept.

This is still a problem in Africa, since a significant percentage of the population remains illiterate or not sufficiently literate to be in perfect command of these languages for them to operate efficiently, especially in sensitive areas such as the legal sector. For example, in a study done by UNESCO Institute for Statistics (UIS) in 2002, the projection of the illiteracy rate based on the population aged 15 years and over in Africa was 40.2 percent in 2000, 35.2 percent in 2005 and 30.8 percent in 2010.

As far as literacy is concerned, referring to a UIS study in 2007, the present literacy rate in Nigeria is 55 percent, and in Zimbabwe it is 85 percent, according to Huebler (2008). Although UIS studies in 2002 and 2007 show that significant percentages of Africans are literate, they may not be sufficiently literate to have a good command of the official languages used in court, especially given the definition of literacy provided by UNESCO, cited by Huebler (2008). This states that literacy is the “ability to read and write, with understanding a short simple sentence about one’s everyday life”.

In the European Union (henceforth EU), there is free movement of its citizens from one part to another. The borders between member states are not policed or controlled, and citizens of one member state are allowed to settle in another with little or no restrictions. In addition to the EU’s internal migration dynamics, immigrant
populations from different parts of the world are also on the increase, which in some cases results in long-term or permanent residence in any of the EU countries. The obvious consequence of this is a mixture of multilingual and multicultural populations, speaking a variety of African, Asian and European languages.

In a society as diverse as this, the service of interpreters or translators will be required in both private and institutional encounters to bridge the communication gap for those who do not speak the prevailing or dominant language of the area.

The European Convention on Human Rights (ECHR), Art 5, paragraph 2 of 1950, states 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”. This provides a sufficient legal basis for the protection of the linguistic rights of accused persons, and has been a rallying point on the basis of which many interested parties such as academics and human rights practitioners have called for improvement of legal interpreting and translating services.

Many countries have heeded this call, to the extent that in the UK, for example, there are stringent criteria laid down for registration as a certified public-service interpreter. The call has also resulted in a number of initiatives in the legal interpreting sector, notably among which are the Grotius Projects 1998, 2001 and 2005, which seek to harmonise the practice of legal interpreting, based on an acceptable best-practice model.

Unfortunately, huge differences still exist in the manner in which EU member states regard the legal interpreting sector. One of the problems mentioned in this regard by Hertog and Bosch (2001) is the lack of adequate numbers of trained language interpreters and translators, “who meet, if at all, very different quality standards”. They also cite the lack of a “compatible national register, as well as a lack of interdisciplinary guidelines for best practices in the legal services …” (Hertog and Bosch 2001).

All these problems further underscore the need to have an organised interpreting structure in the EU. It is a need that reflects the reality of not only the multilingual and
multicultural societies in Europe, but also across all the multilingual societies in Africa.

In this chapter, a review will be given of the current interpreting situation in some selected countries in Africa and the EU. Countries which have borders with South Africa are selected for review in this chapter, because most of the court interpreters who participated in this study are from these countries. Secondly, the review will offer an opportunity for a comparative study of the court interpreting situation in these countries. Some of the dominant languages (English, Spanish, French and Portuguese) in Europe happen to have the same status in Africa, due to the legacy of colonisation.

These languages are also regarded as world languages, because they are widely spoken across the globe. This is another reason for the selection of the countries in which these languages are used as first languages in this chapter, since they are also used as official languages in the African countries concerned.

This chapter will also provide a review of professional associations for court interpreters. It is very necessary to have professional associations, especially in a sensitive profession such as court interpreting. Professional associations control their members through professional ethics and conduct, and any of its members who do not adhere to these are sanctioned and in some cases de-registered.

6.2 COURT INTERPRETING IN NAMIBIA

Namibia is a multilingual country. Apart from English, which is its official language, a wide array of languages such as Afrikaans, Otjiherero, Oshiwambo, Nama/Damara, Oshidonga, Rukwangali, Rugciriku, Silozi and Setswana, as well as different San varieties, are spoken in different communities in Namibia, according to Cluver (1993:261). Scholars differ regarding the total number of languages in Namibia, but in Tötemeyer (2009), it is stated that the total number of languages amounts to 30. Of these 30 languages, 14 have a standardised orthography, while 16 are merely oral languages with no orthography, according to Tötemeyer (2009).
Before its independence from South Africa, the language policy in Namibia, as in many countries in Africa, can best be described as language hegemony and imperialism, according to Kruger, Wallmach and Boers (1998:vii). The local languages were dominated by European languages. For example, two colonisers’ languages were made official languages, while another was declared a de facto official language, used in different contexts or sectors.

These languages were closely associated with its successive colonisers (Cluver 1993:261). Cluver points out that German was partly used as official language, as a medium of instruction, and widely used in the commercial and agricultural sectors. On the other hand, Afrikaans was actively used administratively and in the educational sector, while English was used nominally both in administration and education (Tötemeyer 2009). The active role played by Afrikaans reflected its connection with the apartheid regime in South Africa, under whose administration Namibia fell after the Second World War until independence in 1991.

Following its independence from South Africa, Namibia declared English to be its official language, but recognised the linguistic rights of different language communities in its constitution (See 3 [1] of Namibian Constitution); and its agreement to a number of international instruments, such as the International Covenant on Economic, Social and Cultural Rights.

Its adoption of English as official language was questioned by many scholars, who noted that it did not make good language planning sense, given the fact that after independence in 1991, English was spoken by only about 7.0 percent of the population and was the mother tongue of only 1.9 percent of the population (Tötemeyer 2009). In Cluver’s view, English was adopted because it was the language used by the liberation organisation, South West African People Organisation (SWAPO), and for the benefit of many Namibians who were in exile and had their education in English (1993: 261). This seems to be the easy route many multilingual African countries have taken with respect to their historical relationship with English. In addition, it is also based on the argument that English assumed a neutral position and would thus promote unity, as well as the fact that it has wide universal usage in science and technology.
As pointed out by Tötemeyer (2009), the main reason given by the Namibian authorities for the decision to adopt English was that English is widely used across the globe more than any other language, and for Namibia, being a multilingual country, it would be difficult to choose one language over any other as the official language.

Kruger et al. (1998: vii), who looked at this scenario on a continent-wide basis, concluded that it

... has resulted in numerous linguistic disadvantages for those Africans who do not speak the languages of Africa’s former colonial powers. These people are disadvantaged in terms of their communication with official agencies, the administration of justice, education, job opportunities, etc.

In addition to the fact that Namibia is inherently multilingual, its lack of manpower has forced it to depend on foreign labour across different sectors. Some of these foreign workers do not understand English and they work in public sectors where they have frequent communicative encounters with ordinary Namibians on a daily basis. For example, Menges (2009) reports that the Cuban doctors need the assistance of translators and interpreters in order to write down their observations of rape cases for court purposes.

Linguistic human rights can conveniently be ignored or given less attention in many human encounters, but not in the legal context, as the cost could be extremely serious to those affected. This is because the only way justice can be done towards the defendants is when they are able to state their own side of the story, and when this is not properly communicated to the magistrate or judge, there may be a miscarriage of justice.

This highlights the importance of court interpreting in multilingual societies, and especially in a society such as Namibia, whose citizens have suffered hegemonic and imperialistic language policies from different colonial powers.
6.2.1 Employment requirements of court interpreters in Namibia

Interpreters in Namibia are employed on a permanent basis by the department of Justice. Once a mandated territory of South Africa, the Namibian judicial system inherited the apartheid system in its administration of justice, something which also reflected on the employment and general outlook of its court interpreting practice. The basic employment requirements for court interpreters are Namibian’s senior school certificate, which is the equivalent of a South African Matriculation or Grade 12 certificate, and a demonstrated proficiency in English, and in addition, one or two languages in the region in which the interpreter’s services are required.

The employment procedure and orientation follows the style used in South Africa’s DoJCD. In Namibia, the Ministry of Justice employs two categories of interpreters. These include part-time interpreters, who are used mainly in courtrooms as interpreters, and permanently employed interpreters, who are also used for clerical duties and paper work relating to court interpreting in the Ministry of Justice (Maletsky 2009:3).

6.2.2 The training of court interpreters in Namibia

No form of training is given to court interpreters, except the basic orientation training to familiarise them with the court procedures and systems. However, like all employees of the Namibian Department of Justice, they are given in-service training in the Justice Training Centre, located within the Faculty of Law at the University of Namibia. These conditions do not, however, apply to foreign court interpreters. Foreign court interpreters are sought or used on an ad hoc basis, and are thus not employed in the Ministry of Justice. One of the reasons for this, according to an attorney who practises as a lawyer in Namibia, is that cases involving foreign immigrants are not as common there as in other countries in the region, such as South Africa and Botswana.

6.2.3 Hierarchy and status of court interpreters in Namibia

In South Africa, the profession of court interpreting is structured, according to a particular hierarchy, ranging from the entry-level court interpreter to senior interpreters to inspector of interpreters. This is not the case in Namibia. Court interpreters are held in low regard, and are rated even lower than legal clerks. This
came to light in a report on a strike action which appeared in a newspaper, *The Namibian*, on 17 October 2009. One of the sticking points was the demand by the full-time court interpreters that their position should be on a par with that of the legal clerks in the Ministry of Justice. Their insistence that they should be ranked at the same level as that of legal clerks stems from the argument that they spend 90 percent of their time doing clerical work.

### 6.2.4 Professional association of court interpreters in Namibia

There is no professional association for court interpreters in Namibia. As mentioned above, court interpreters are still fighting to be ranked fairly in the Namibian Department of Justice. This indicates the absence of any professional association which would have been in a position to sensitise the relevant stakeholders in regard to the unique and important nature of court interpreting. Court interpreters belong to the Namibian Public Service Union, of which all other public servants in other various sectors are also members.

This is not a professional association, but rather an association that is more interested in the welfare of its members in areas such as wage bargaining and other non-professional issues. As indicated in the introduction (Section 6.1), it is very important for court interpreters to belong to a professional association. In addition, a professional association would be able to project the need for the services of their members, as well as the need to be treated professionally. This is underscored by Herbulot (1998:3), who maintains that a professional association ensures that the professional status of interpreters is not undermined. When this is clearly articulated, “it will take on reality in the eyes of others, instead of being considered merely as something anyone can do”.

### 6.3 COURT INTERPRETING IN BOTSWANA

Botswana, like many other countries in the SADC, is a multilingual country, although this is not officially acknowledged. Officially, Botswana is portrayed as a non-ethnic, state-oriented society; hence the citizenry are called *Batswana*, or Tswana people, when in actual fact the word *Batswana* refers to ethnic ‘Tswana’ people, Tswana being a derivative from one of the languages spoken in Botswana i.e., Setswana (Durham n.d.).
Besides Setswana (the autochthonous name for the language), which is the dominant language that is generally spoken across the country, there are other languages, such as Kalanga, Sekgalagadi, English (OMD South Africa 2010:7), and Mbukushu, the Sarwa or Khoi-San language, the Yei, Koba, Ndebele, Subiya and Herero (Van Binsbergen 1994). Although the speakers of these languages have their own distinct ethno-linguistic identities, their ethnolinguistic vitality is far less than that of the Setswana-speaking people, and their speakers generally speak Setswana.

The prominence of Setswana as a language in Botswana may be attributed to its adoption as national language following Botswana’s independence from Britain in 1964. This has rendered it a language commonly used alongside English, which is the official language. While English is therefore used as the language of government, Setswana as the national language is spoken by 90 percent of the population (Durham n.d.).

Botswana’s official endorsement as monolingual country is akin to what Lodhi (1993:82) refers to as an endoglossic country. An endoglossic country, according to Lodhi (1993:82), is known as such when its national/official language is used “as a primary language (mother-tongue) by a large section of the population, and this language is thus referred to as [the] indigenous language”. Nyati-Ramahobo (2000) does not agree with the label of Botswana as endoglossic or monolingual country, as she points out that there are other languages in Botswana and that other linguistic groups use Setswana willy-nilly because of the country’s official assimilationist agenda.

In support of Nyati-Ramahobo’s view is the fact, for instance, that in northeastern Botswana, there are Kalanga-speaking people with a distinct ethno-linguistic identity. The study conducted by Van Binsbergen (1994) also points to the fact that the Kalangans are said to comprise about 120 000 speakers, or 13 percent of the population, the largest non-Setswana-speaking group in the country.

The reality of the language situation in Botswana is that it is both endoglossic and exoglossic. Its endoglossic status is due to its reported use of a policy of assimilation, in order to make sure other ethnic groups use Setswana as their mother
tongue. It is also exoglossic, because its official language (English) has been imported from abroad, and, although government policy is aimed at ensuring the general usage of English, it is not the dominant language as regards usage in the country as a whole (Lodhi 1993:82).

Despite the fact that Kalanga-speaking people have a distinct ethno-linguistic identity, Van Binsbergen (1994) remarks that to date no formal education is offered in this language and neither is it used in the media. English is used in court, since it is the official language, and also as it is prescribed by the provisions of section 8 of the rules of the High Court (chapter 4:01). These are all compelling challenges in terms of bridging the communication barrier in the court. In addition, the swelling immigrant population in Botswana presents some challenges, necessitating an answer to solve the language problem in different official sectors, especially the judicial sector, where the need for fairness is paramount in its dealings with the public.

Botswana experienced an acute shortage of manpower following its independence from Britain, and consequently it “adopted an open approach to migration policy, making it possible for unrestricted entry of immigrants in Botswana” (Lesetedi and Modie-Moroka 2007:7). The result of this has been an influx of immigrants, both legal and illegal. In the estimate provided by Lesetedi and Modie-Moroka’s (2007:7), Botswana has up 200,000 immigrants from Zimbabwe alone.

Their study points out that there are also alarming immigrant populations from other countries, such as Nigeria, Ghana, the SADC countries, China, Liberia, etc. Given that Botswana's population is just over a million, it is safe to conclude that Botswana is overwhelmed with immigrant populations, and that the consequences of this will be felt in its criminal justice system. One of the effects on the criminal justice system, as confirmed by practising attorneys and interpreters, is that there are frequent cases involving foreign nationals who do not understand the official language of the court.
6.3.1 Employment requirements for court interpreters in Botswana

In Botswana, interpreters are permanent employees of the Justice Ministry. This does not apply to foreign language court interpreters, who are employed on an ad hoc basis for a particular case. Once the case is finished, their association with the Justice Ministry is ended. The basic employment requirement for an interpreter in Botswana is at least a degree in the Humanities and proficiency in English and Setswana. Proficiency in other languages is considered an advantage.

In the case of a foreign accused or plaintiff who does not understand the official language, the police are tasked with finding someone who speaks the same language as the accused or plaintiff to work on an ad hoc basis to interpret from the SL into the TL and vice versa. The basic requirement, which is hastily determined, is whether the interpreter understands English. No effort is made to ascertain whether he/she is sufficiently proficient in the language of the accused.

6.3.2 The training of court interpreters in Botswana

The induction and orientation of candidate interpreters in training is undertaken by a senior interpreter who explains some court procedures and roles of the interpreters to the trainee. The trainee is also assigned to a senior court interpreter for mentoring and to watch him/her for a few days before being left alone to interpret.

As the interpreter works, he/she receives occasional in-service training, but this is not specifically related to court interpreting, and is rather intended for civil servants of the same rank or level in the justice department. The only legal interpreting training available to court interpreters is presented outside the borders of the country, at the University of the Free State (UFS), South Africa. According to practising court interpreters, very few court interpreters have attended this training in the past, as it has not been offered on a regular basis, and presently no interpreter has been sent for training at the UFS over the last three years.

6.3.3 Duties of court interpreters in Botswana

An interpreter is assigned to a particular court to perform duties as such, and could sometimes be deployed to another court on a temporary basis. This could take the form of a deployment from the magistrate’s court to the High Court, or vice versa.
Apart from interpreting, they also do clerical and translation duties, especially the translation of confession statements.

Despite the adversarial justice system, one court interpreter is used for both the accused or the defence and the prosecuting party. Apart from the fact that this is not an internationally acceptable practice, it should also be noted that the overall quality of court interpreting is thereby undermined as well. In Botswana, most of the attorneys are Setswana-speaking. Consequently, the justice system seems to be less concerned about the quality of interpreting, as it believes that the prosecuting attorney or the defence attorney would be able to correct any misinterpretation contrary to their favour (Moseki 2009, personal interview). For example, Morewagae (2009) cites Khana, who, as an experienced interpreter, believes that, "Most lawyers here are Batswana, hence they are able to help and direct the interpreters where they felt interpreters were misrepresenting what they were saying".

This is a wrong and potentially dangerous assumption, because it is a well-known fact that the ability to speak a language cannot be equated with sufficient proficiency and skills to interpret in court. Interpreting skills are required in order to be able to interpret certain nuances, and to know the acceptable limits regarding when verbatim or word-for-word interpreting is possible in the context of accurate interpreting.

6.3.4 Professional associations of court interpreters in Botswana

Court interpreting in Botswana can be compared with the unfavourable circumstances in Namibia, and it is even worse off than in South Africa, who can boast of a privately organised regulatory body, such as SATI, of which none exists in Botswana. There is no professional association tasked with running the affairs of court interpreting, and the only organisation to which court interpreters may belong is the general public service trade union, of which all other civil servants are also members. This shows that the significance of a professional association, as stated in the introduction (Section 6.1), does not apply to the court interpreting situation in Botswana.
6.4 COURT INTERPRETING IN ZIMBABWE

Zimbabwe is a multilingual country, with English as its official language, and Shona and Ndebele are the dominant African languages in their respective geographic areas. Besides Shona and Ndebele, Hachipola (1996 in Viriri 2003) states there are sixteen African languages. According to Ethnologue (2009), these are: Dombe, Kalanga, Kunda, Lozi, Manyika, Nambya, Fanagalo, Ndau, Nsenga, Nyanja, Tonga, Tsoa, Tsonga, Tswana and Venda. Shona is widely spoken across the country by 75 percent, and Ndebele by 16.5 percent of the population (Viriri 2003). This is possibly the reason why a scholar, such as Lodhi (1993:83), lists Zimbabwe among the countries with one predominant African language. Although Zimbabwe is said to have the highest literacy rate in the SADC, some Zimbabweans are illiterate and cannot communicate in English.

Many do not have the level of proficiency in English required in a sensitive communication setting such as the courtroom. Like other countries in SADC, before its economic meltdown, it had its own fair share of immigrants from SADC and other African countries. As has been variously stated in this study, when there is this type of mixture in the population, one of the sectors that is particularly vulnerable to instances of abuse is the judicial sector. As we have seen, any misinterpretation or mistranslation in court could lead to a miscarriage of justice.

In order to ensure fairness, interpreters are provided for Shona and Ndebele in court, but the individuals used are not qualified court interpreters. The employment requirement is simply bilingualism, which equates to the ability to speak Shona and English, or Ndebele and English.

In the Zimbabwean judicial system, they are not regarded as professionals, but rather as general workers on the same level as clerical officers in the public service. Chimhundu (1992:38) attests to this and states that, “[i]n Zimbabwe, interpreting and translation is not regarded as a profession or a discipline for which one can study at a higher institution and then qualify to practise professionally.”

Some of the reasons advanced for the absence of a properly developed translation and interpreting (T & I) profession by the Zimbabwe Linguistics Society (2004) are:
(a) Lack of training for professional interpreters and translators and (b) the continued use of a language of wider communication such as English. It is therefore not surprising that there is nothing like a professional association of interpreters in Zimbabwe. Interpreters in Zimbabwe belong to the general public servant trade union (as in Namibia), as is clear from the reported industrial action by the “Zimbabwe Herald” of 3 October 2009. This does not augur well for the quality of interpreting in Zimbabwe. As mentioned in the introduction (Section 6.1), in the absence of a recognised professional association, the question of a code of professional ethics and conduct may not be handled appropriately. Moreover, a code of ethics “provides a general definition of the aims of a profession” (Driesen 2003:110).

In a nutshell, in the absence of any professional association, which generally ensures that there is a professional code of ethics to which members must adhere or face sanction, it means that the following court interpreting problems identified by Driesen (2003:110) are bound to occur in Zimbabwe:

- A lack of general moral principles to which members must adhere in order to check possible excesses of power over other members of the profession and clients;
- A lack of codes of best practice. This ensures an optimum working arrangement that would enable a court interpreter to give his/her best professionally. This is usually drafted by the interpreters themselves, but in co-operation with their employers.

6.5 COURT INTERPRETING IN MOZAMBIQUE
Mozambique, like most countries in the SADC, is multilingual. It is not quite clear, however, exactly how many languages are spoken in Mozambique. Besides its official language, Portuguese, Núcleo de Estudo de Línguas Moçambicanas (NELIMO) (1989) cited in Gardelii (2001:7) lists 20 indigenous languages spoken in that country. The languages listed by NELIMO are:

Kiswahihili, Kimwani, Shimakonde, Ciyao, Emákhuwa, Ekoti, Elomwè, Echuwabo, Cinyanja, Cinsenga, Ciyungwè, Cisena, Cishona, Xitshona, Xitshwa, Xichangana, Xironga, Citonga, Cicopi, Isiswati, and Isizulu.
Ethnologue (1996), cited in Gardelii (2001:7), differs regarding the number of indigenous languages. According to Ethnologue, the indigenous languages are 32, and are:

- Kimwani
- Kiswahihili
- Kimakwe
- Shimakonde
- Ciyao
- Ekoti
- Echuwabo
- Cisena
- Cicopi
- Cishona
- Makhuwa-Maca
- Makhuwa-Makhuwana
- Makhuwa-Metto
- Makhuwa-Shirima
- Emarendje
- Esakaji
- Elomwè
- Cingoni
- Cinyanja
- Mazaro
- Cinyungwè
- Cipodzo
- Cisenga
- Cikunda
- Cindau
- Cimayinka
- Gitonga
- Xichangana
- Xironga
- Xitshwa
- Isiswati
- and Isizulu.

The most recent edition of Ethnologue (2009) adds ten more African languages to the number given in its 1996 edition, which brings the total number of African languages to 42.

One of the points of disagreement among scholars is that most of the languages listed are dialects – or dialects are listed as separate languages (Gardelii 2001:7), as evidenced in the lists provided by Ethnologue above. The Makhuwa group of languages (Makhuwa-Maca, Makhuwa-Makhuwana, Makhuwa-Metto, Makhuwa-Shirima) is what Lopes (1999:87) and Nelimo (1989 in Gardelii 2001:6) refer to as Emákhuwa, because the languages in the group are closely related, and as such could be classified as dialects of one language – Emákhuwa.

Most of the languages or dialects are closely related, and are mutually intelligible or are varieties of major languages hence, Lopes (1999:87) categorises the languages under four major or dominant languages in Mozambique, namely:

- Emákhuwa
- Nyanja-Sena
- Shona
- Tsonga

As indicated earlier, Mozambique’s official language is Portuguese, so that Angola and Mozambique are the only Lusophone countries in the SADC. Besides Portuguese, the language of its erstwhile coloniser (Portugal), no other language is used predominantly in official domains (Lodhi 1993:84).
Mozambique is a signatory to several international legal instruments on human rights and fair trials. Notable among these legal instruments are the African Charter on Human and People’s Rights, and the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (Open Society Initiative [henceforth OSI] 2006:104). In addition to these, official statistics cited in OSI (2006:111) show that only 40 percent of Mozambicans understand Portuguese, and this percentage is reduced to 25 in the rural areas.

This particular statistic is, however, questioned by Ms Nharadzo Machucha Ernesto, a practising foreign African court interpreter in Johannesburg, who states that:

Statistically, I won’t be able to give you any figure in percentage about how many Mozambicans understand Portuguese, but I am very sure the statistics quoted by OSI are bogus. If the statistics mean just the ability to speak Portuguese, fine, but if it includes the ability or the language proficiency desired in the intricate communicating setting in courtrooms, I disagree completely with OSI. Years of internal unrest which started with the fight to liberate Mozambique from Portugal, and then the fight between two major political parties wreaked untold havoc, until the war ended barely a decade ago. In the light of this, many Mozambicans did not have the benefit of education that would have given them the language proficiency level in Portuguese required in the courtroom setting.

Irrespective of the statistics in Article 10 of the 2004 Mozambican Constitution, Portuguese is still its official language. This means Portuguese is the language used in courts. Nevertheless, the languages or dialects listed above, the cited statistics cited by OSI on the percentage of Mozambicans who understand Portuguese – though questioned by Ernesto (see above) – and the international legal instruments it has signed are all sufficient reasons that warrant the need for court interpreters for accused persons or plaintiffs who are linguistically handicapped or prejudiced in Mozambican courtrooms.

In this context, Article 98 of the Criminal Procedure Code of Mozambique states explicitly that courts should appoint an interpreter for non-Portuguese-speaking accused persons appearing before the court (OSI 2006:111).
Despite these constitutional provisions and the international legal instruments, not much is happening as regards court interpreting or interpreting in general in Mozambique. Firstly, Langa (1992:45) remarks that even development projects meant for rural areas are being conceived and planned in Portuguese. She adds: “The mass media translators and the people responsible for education/instruction of the populations working for development projects in Maputo are mostly people who have had no training in communication and translation….” (Langa 1992:48).

In the study conducted by OSI, it is revealed that when there is a need for court interpreting in the courts, interpreters are provided as required, but the ability of the interpreters used is a cause for concern (OSI 2006:111). OSI singles out the district courts as locales where the incompetence of court interpreters is easily noticed. For example, OSI states that in district courts interpreters “are usually simply drafted in on the day, as ad hoc staff” (2006:111). OSI adds that in most cases in district courts, many judges or magistrates who speak the local language would interpret to the accused or plaintiffs themselves.

Ms Ernesto also shares this view, but adds that this applies to all levels of the courts in Mozambique. She continues that interpreters are employed on an ad hoc basis after having demonstrated that they are bilingual, but says that bilingualism just serves as a precondition and is no guarantee that one is a competent interpreter. Translation and interpreting scholars are in agreement on this point. The competencies required of legal interpreting and translation indicated in Martinsen and Rasmussen (2003:78) are:

… thorough knowledge of two languages involved in communication to be interpreted or translated. In addition, they must be able to deal with specialized, legal language and terminology of the legal services, as well as with the colloquial language and slang of some witnesses and defendants and the technical language of expert witnesses, etc., all without changing the register or compromising the intended meaning.

The situation of court interpreting in Mozambique is not much different from that in Zimbabwe, where there is no professional association, let alone a code of
professional ethics and conduct (see Section 6.1), which are usually products of such associations.

In summary, Ernesto lists the following problems as seriously impairing court interpreting in Mozambique:

- No register is kept of court interpreters;
- No training is currently available to court interpreters;
- Court interpreters are poorly paid.

Regarding remuneration, OSI (2006:111) identifies this in its study as the main constraint facing court interpreting in Mozambique. This applies both to the court’s inability to hire qualified interpreters permanently and to the poor payment of those hired temporarily.

**6.6 COURT INTERPRETING IN NIGERIA**

Nigeria is a prime example of a multilingual country in Africa, a country where, according to Ethnologue (2009), 527 languages are spoken. The official language is English and languages such as Igbo, Yoruba and Hausa are officially acknowledged as national languages, because the ethnic groups that speak these languages constitute a majority. Except for English and its informal variety, Pidgin English, no other language is widely used across the country. All other languages, including the officially acknowledged Yoruba, Igbo and Yoruba, are ethnically or territorially bound in usage.

Nigeria has thirty-six states and each of these states has a dominant language used alongside English and Pidgin English in interpersonal encounters. English is used strictly for official matters, and this means that Nigerians who do not understand English are obliged to rely on the service of court interpreters if they are accused persons or witnesses in the court, except in customary courts.

Unlike South Africa, the Nigerian Ministry of Justice does not have a court interpreting system. When there is a need for a court interpreter, any available person around the court will be used. I have personally witnessed several cases in
Nigeria where relatives or friends of the accused persons were asked to interpret for them.

Although an attempt was made as far back as 1982 to regulate and formalise the interpreting and translation profession through the formation of the Nigerian Association of Translators and Interpreters (NATI), this has not yielded any meaningful improvement, owing to successive military governments which have ruled by decree. During the rule of a military-led government, civil society was disrupted and it was impossible for professional associations to carry out their mandates to their members.

In fact, many went into oblivion. With the new stable democratic dispensation (in 2010), many professional associations are back in operation, while some, including NATI, are battling to survive. Apart from language and linguistics programmes offered at many universities in the country, there is no training institution or academic programme for court interpreters.

6.7 COURT INTERPRETING IN KENYA

Kenya’s official languages are English and Kiswahili. Besides these official languages, it has sixty-seven indigenous languages, according to Ethnologue (2009). Some of the indigenous languages are, among others, Luo, Gikuyu, Masaai, Nubi, Somali, Turkana, etc.

According to Kenneth Odhiambe, a doctoral candidate in the field of legal interpreting in Kenya who supplied the information alluded to here, the post of court interpreter does not exist in the Kenyan Ministry of Justice. Court interpreters are recruited from among court clerks who speak the language of the accused or of the witnesses. This is usually on a temporary basis, for the duration of the case. The temporary redeployment of the court clerks as court interpreters is impromptu in nature, and they receive no training, either before they begin work as court interpreters or when they are already employed in this capacity. There is no specific training institution for court interpreters.
Any court clerk who understands the official languages and his/her mother tongue can be selected as court interpreter, and the academic requirement for employment as court clerk in Kenya is in the form of four certificates.

There are frequent cases involving foreign African immigrants and other foreigners requesting the assistance of court interpreters in Kenya. This has increased, as a corollary of the presence of the ever-increasing numbers of Somali refugees in Kenya. Court interpreters for foreigners are employed on a temporary basis only, but not from the ranks of the court clerks (who normally do not understand the relevant foreign language). They work only for as long as the case lasts. There is no regulatory body or professional association for court interpreters in Kenya to take care of professional ethics or the required conduct referred to in Section 6.1.

6.8 COURT INTERPRETING IN THE REPUBLIC OF BENIN

The official language of the Republic of Benin is French, and in addition to French, it has many indigenous languages (53 languages), such as Yoruba, Aja, Ede Nago, Fulfulde Borgu, Hausa, Kabiye, Yom, etc, according to Ethnologue (2009).

According to an academic, Prof Simplice Agossavi, from the Republic of Benin, who supplied the information used here, court interpreters are used, as in the cases discussed hitherto (see 6.2.1 and 6.3.1), on an ad hoc basis, and the basic requirement for selection as a court interpreter is simply bilingualism, i.e. the ability to speak the official language and the language required for the particular interpreting assignment. There is no training of any kind for court interpreters, and individuals recruited for such a position usually have other employment at the time. No specific training institution for court interpreters exists, except for courses in languages at some of the universities, for example, Université d’Abomey-Calavi, Cotonou, in the Republic of Benin.

Cases involving foreign immigrants are not very common in Benin, but when there is a need for court interpreters for foreigners, the same process of recruiting them on an ad hoc basis for Benin citizens is followed.
There is no regulatory body for court interpreting, but there is a professional association which may act to some extent as a regulatory body and promote professional activities among its members, as well as ethical practices and conduct, as stipulated in Section 6.1.

CURRENT INTERPRETING SITUATIONS IN SOME SELECTED EU COUNTRIES

6. 9 COURT INTERPRETING IN SPAIN

Spanish is widely spoken in Spain, although it is a multilingual country, with other languages such as Galician, Catalan and Basque spoken in various parts of the country (Gerhard 1992:283). It is one of the southern countries in Europe that has witnessed an exceptional flood of immigrants from Africa, Eastern European countries and Asia. In Madrid alone, the immigrant population is said to be 13 percent (Valero–Garcés n.d.: 2) of the total population. This means that apart from addressing the welfare challenges of these immigrants, their diverse language backgrounds have to be addressed when they access socio-legal institutions in order not to be found wanting in terms of Spain’s compliance with the European Convention on Human Rights of 1950.

The Spanish Constitution makes provision for free legal interpretation services for those appearing in the court who do not understand the official language. According to Jimeno-Bulnes (2009:6), the Spanish Organic Law on the Judiciary or Ley organica del poder judicial (LOPJ), Art.231.5, declares: “In oral proceedings, the Judge or Court may authorise any person knowing that language as an interpreter, having previously been sworn in or taken an oath”. Jimeno-Bulnes (2009:7) also refers to the Spanish Criminal Procedure, Art. 520.2e, of September 1882, which states that the accused has the “right to be freely assisted by an interpreter, when it is a question of a foreigner who does not understand or speak the Castilian language”.

The formal recognition of sworn interpreting services dates back to the period of enlightenment (1841), with the official designation of an interpreter as intérprete jurado (Miguélez 1999). Not much has been done to improve matters since then, because the observation of Miguélez shows that the whole situation is riddled with
mismanagement, and substandard procedures still characterise the accreditation process of the different existing levels of interpreters. It is even worse in regard to the provision of interpreting services for immigrant communities.

As stated in Valero-Garcés (n.d.: 2-3), it is a generally acknowledged fact that interpreting tailored to address communication challenges faced by the immigrant communities has received little or no attention. This is supported by Miguélez (1999) who states that interpreting needs for immigrant communities are addressed by way of an *ad hoc* arrangement, and sometimes an interpreting service is not even provided.

Real efforts are being made for the provision of interpreting services in Spain, but they appear to be for internal needs only, and perhaps for a few languages of other EU countries. To this end, three categories of interpreters in Spanish courtrooms have been identified:

- Staff interpreters;
- Freelance interpreters;
- *Ad hoc* interpreters such as those who are used on the basis of being bilingual practitioners in other types of interpreting, or fresh interpreting graduates without any experience.

### 6.9.1 Staff interpreters

Staff interpreters, as explained by Miguélez (1999), are employees of the Ministry of Justice and are employed because they have passed a qualifying examination for the position. They are accorded low status in the organogram of the ministry. According to Miguélez, this stems from a general misunderstanding of the skills and abilities necessary to perform their duties (Miguélez 1999).

Staff interpreters are recruited through a competitive examination administered by the Ministry of Justice. The examination, according to Hertog and Bosch (2001), comprises a written set of two translation papers and a general knowledge paper on aspects of Spanish law. This examination does not involve an oral test, except in
cities such as Madrid, where there is an examination for sworn interpreters consisting of written translations and an oral test (Hertog and Bosch 2001).

The requirement of an oral examination for legal interpreters does not appear to be in wide use, or else it has been terminated in certain cities. In this regard, Miguélez (1999) remarks that:

It is quite telling that no interpreting is required of candidates for a position as court interpreter. As a matter of fact, no oral exam of any type is required for these positions, even though the lion’s share of the work done by a translator/interpreter is oral language mediation in courtrooms or at other stages of the legal process.

In the explanation given by Miguélez (1999) of the composition of the examination, she mentions that two texts are presented to candidates in the examination to translate from language A to B and vice versa. A pass mark of 50 percent guarantees the candidates a place in the second stage of the examination and this, as noted by Miguélez (1999), comprises a test about the Spanish court system, the laws and regulations applicable to workers’ rights and labour laws, the Spanish King, and the legislative and executive arms of the government.

Citing a job advertisement for court interpreters, Miguélez (1999) notes that there is never any mention of important issues such as roles of court interpreters, ethics and the conduct of the professional court interpreter as areas that are to be examined.

The main requirement, besides the possession of a Spanish high school diploma for employment as a staff interpreter, is a pass mark in the written examination the candidates will be asked to write. Employment criteria such as work experience, relevant training or higher academic training, are not necessary for employment as a staff interpreter. However, an employment criterion such as a post-high-school diploma will be taken into consideration when the candidates are ranked (Miguélez 1999).

In the Ministry of Justice, where they are employed, the staff interpreters are classified on the same professional rung as Group C employees, where autopsy
assistants, maintenance personnel, technicians, clerks, etc., are found (Miguélez 1999).

The staff interpreters’ responsibilities in the Ministry, as enumerated by Miguélez (1999), include the following:

- Provision of interpreting services in the courtroom and other legal venues;
- Translation of legal documents; and
- Arranging freelance interpreting when the staff interpreters do not have the competence to interpret or translate the language involved, or if there are not enough staff interpreters for the interpreting or translating services required.

6.9.2 Freelance interpreters

The second category of interpreters in Spain is that of freelance interpreters. According to Miguélez (1999), they are those accredited as intérpretes jurados, and are sworn interpreters who are called on when the staff interpreters are not available. They are paid hourly and their wages are far better than those of staff interpreters, when compared on an hourly basis.

The use of freelance interpreters has been a feature of the Spanish court interpreting history, and their work and status have been regulated through a series of laws or Royal Orders dating back to 1841, according to Miguélez (1999). Notable among the among the laws or Royal orders made to regulate the working situation of freelance interpreters is the one expressed in Real Decreto 79/1996 of 26 January 1996; and following this law, Miguélez (1999) remarks that:

For the first time, the oral work of interpreters was recognized as having legal effect or carácter oficial, a status that prior to this decree was reserved for the translation of written documents into Spanish, in spite of the fact that the official title has always been intérprete and not traductor jurado.

The Spanish Ministry of Foreign Affairs (MFA) is charged with the control of intérpretes jurados or freelance interpreters. It is responsible for their accreditation and examination, although they are not employees of the ministry or public employees (Miguélez 1999). Just as there has been a series of modifications
regarding the practice of *intérprete jurado*, there have also been several changes in
the regulations regarding the examination they have to write in order to be allowed to
practise. These modifications have fallen short of establishing an examination
format, because, as observed by Miguélez (1999), the examination “does not in any
way test a candidate’s ability to translate a legal document into the language of
certification or to interpret in any of the three modes”. Miguélez emphasises that the
examination “lacks basic standards of validity and reliability”, and is thus not capable
of guaranteeing the quality required of competent legal interpreters and translators.
The examination is also questioned by Pym (2001) on the basis that it has no link
with the coveted Spain’s translator-training institute.

It is reported in Miguélez (1999) that *intérpretes jurados* see themselves as quite
distinct from other interpreters, and they consider themselves better suited to handle
the job of legal translation and interpretation than staff interpreters. Unfortunately for
them, this is not the way the other stakeholders in the legal sphere see them,
because in the remark of Miguélez (1999), there is a “general lack of understanding
of the role of the legal or sworn interpreter, not only by society in general, but by
important sectors of the judicial system”.

### 6.9.3 Other interpreters

Besides the staff interpreters and *intérpretes jurados*, there are other interpreters,
such as graduates fresh from universities, bilingual individuals, and other interpreters
(conference interpreters, etc.). Among these interpreters are university graduates
with a specialisation in interpreting and translating. Miguélez (1999) points out that
this may result in an improvement in legal translation and interpreting, because the
graduates have degrees which are directly tailored in their curricular content for
interpreting and translating.

A deficiency in the ability of the categories of interpreters discussed is that they are
generally of no use in interpreting many languages outside the EU countries. This
effectively leaves the interpreting of African languages and other languages outside
the EU at the mercy of *ad hoc* interpreters, who are recruited simply because they
“speak” Spanish and the language of the accused. Another requirement considered
in the employment of these *ad hoc* interpreters is confirmation or proof that they
have been living in Spain for a reasonable period of time (Valero-Garcés and Sales-Salvador 2007).

Except for the fact that these individuals do not have any specific training in translation and interpreting (T&I), Valero-Garcés and Sales-Salvador maintain that their previous study shows some of these individuals have wide experience in interpreting, as quite a number of them have worked as volunteer interpreters in NGOs, and occasionally for the government. The study done earlier by Hertog and Bosch (2001), also documents a similar observation, stating that many large cities in Spain have registers of interpreters who are called upon on an *ad hoc* basis to interpret for immigrants with language problems.

The educational background of these individuals is a cause for concern, as it is stated in Valero-Garcés and Sales-Salvador (2007) that some hold university degrees, although not in languages or related fields, and in fact, in terms of ability to write standard Spanish, some of them are quite illiterate.

6.10 COURT INTERPRETING IN THE UNITED KINGDOM

The Police and Criminal Evidence Act 1984 and the ECHR (see Par. 6.1), Art 5, inform interpreting practice in the U.K., and are quite specific about the handling of arrested persons and informing them of their rights (Hertog and Bosch 2001). The information detailing with the rights of the accused is presented to him/her in a written document, which is available in many languages. However, if such a document is not available in the language of the accused, it is stated that he/she will be given an interpreter (Hertog and Bosch 2001).

Until 1981, interpreting in the UK was characterised by poor interpreting and translation services. In order to ensure the fundamental human rights of the accused in the context of the 1950’s EU ECHR, an initiative which resulted in the formation of the Institute of Linguists (IOL) was launched in 1981 (Hertog and Bosch 2001). This was a positive step forward in shaping the interpreting and translation landscape in the UK, as the IOL was able to secure funding between 1991-1996 from the Nuffield Foundation to develop a national model for interpreting and translating services (Hertog and Bosch 2001).
The IOL’s website (http://www.iol.org.uk), testifies to its pervasive national footprint in the provision of legal interpreting in the UK. It administers the National Register of Public Service Interpreters (NRPSI), where a list of public service interpreters is kept.

With a formalised and organised interpreting and translation structure in place in the UK, a further initiative in 1977 emerged. This resulted in what was referred to as the National Agreement. The agreement includes the criminal justice systems of England and Wales, and according to Hertog and Bosch (2001), the agreement expressly states that arrangements should be made for interpreters to attend investigations and proceedings. The main goal of the national agreement is to bring about uniform standard procedures of interpreting in Wales and England.

In Hertog and Bosch’s (2001) words, the agreement is aimed at the “Provision of a standardised procedure for arranging interpreters for investigations into alleged offences and for defendants and witnesses appearing in criminal proceedings in England and Wales [...]”.

The summarised principles of the national agreement, as stated in Hertog and Bosch (2001), are as follows:

- The police, or any other investigating body, must ensure interpreters are available for suspects or persons being charged.
- The onus rests on the court to provide interpreters for the accused persons who requires one in court.
- The witnesses must also be given interpreters in court, and it is the responsibility “of the prosecution and defence to arrange interpreters for their own witnesses in court”.
- Efforts must be made to check the level of experience the interpreter has in terms of police and court procedures before they are engaged.
- Interpreters used for suspects at police stations should not be used when their cases proceed to court. In other words, different interpreters must represent them in court. An exception to this, according to Hertog and Bosch (2001), is that “an interpreter used by the defence when taking instructions
may be used by the court to interpret for the defendant in the courtroom at
the discretion of the judge or magistrate”.

- Every court interpreter working in courts and police stations should be
  selected from the National Register of Public Service Interpreters (NRPSI) or
  the Council for the Advancement of Communication with Deaf People
  (CACDP) National Directory of Sign Language interpreters.

- Where the interpreter required is not available in the National Register or
  CACDP Directory, the interpreter may be sought elsewhere, but care must be
  taken to ensure that the interpreter meets the required standards in terms of
  their academic qualifications and work experience.

The use of the national register plays a major role in ensuring quality and uniform
standards in the practice of interpreting in the UK. On the NRPSI website, it is
pointed out that individuals whose names are on the national register have passed
selection criteria in terms of qualifications, experience and an agreement to abide by
a code of conduct.

Some of the reasons put forward for the establishment of the National Register in
order to ensure quality interpreting on the NRPSI’s website are:

- The legal and good practice requirements that the public services should
  provide equal and effective services to each individual, irrespective of
  language and culture. Reliable communication, where a language is not fully
  shared, is a basic pre-requisite for that to happen.

- The risk, to both public services and their clients, of employing unqualified
  interpreters and of asking family members, fellow patients, co-defendants and
  children to act as interpreters.

- The need for quality assurance systems. Public service contexts demand
  reliable, safe service provisions. People who need interpreters are, by
  definition, unable to assess the interpreter’s competence for themselves. It is
  essential that interpreters have prior training and that objective assessment of
  their skills and commitment to professional codes have been made in a
  rigorous way.
There is also a nationally recognised qualification for practice as a public service interpreter. It is called the Diploma in Public Service Interpreting (DPSI), and it is the only qualification recognised for public service interpreting in the UK, according to Ostarhild (2001). On the IOL website the DPSI is regarded as a first degree, at NQF level 6.

6.11 COURT INTERPRETING IN FRANCE
Information about court interpreting used in this review is provided courtesy of Monique Rouzet Lelièvre, who is a sworn translator and interpreter in France. She is also one of the leading lights in the drive to regulate the profession, as exemplified by her membership of the Union Nationale des Experts Traducteurs et Interprètes Près des Cours d'Appel (UNETICA), an association that caters for translators and interpreters in France.

6.11.1 Employment of court interpreters in France
In France, court interpreters are self-employed, i.e. freelancers. A register is kept of all court interpreters by courts of appeal, and it is from this register that interpreters are called on whenever their services are needed, either in the courts or police stations. Different courts of appeal have lists of sworn court interpreters and translators. In addition to the courts of appeal lists, France's Court of Cassation (Supreme Court) has its own list of interpreters and translators. According to Lelièvre (2009), in France, there are 35 courts of appeal - meaning there are also 35 lists plus the national list of the Court of Cassation.

Before 2003, other judicial authorities (administrative courts, police officers and other lower courts) in France employed their interpreters and translators from the lists kept by courts of appeals. This has since changed, as other lower courts are now allowed to have their own lists. In terms of the Immigration Act of 2003, Public Prosecutors of each high court were specifically given the opportunity to create a list of sworn interpreters and translators for the sole purpose of dealing with violations of the law by illegal immigrants.

Interpreters of the high court are registered with the public prosecutor for a renewable period of one year. Administrative courts have followed suit and are also
keeping lists of interpreters. The motivation for different judicial bodies to keep separate lists of translators and interpreters is that “it is sometimes difficult to find an interpreter in a specific language or at a specific time”. Hence courts and even police officers also have their own private lists of individuals who are not judicial experts or sworn-in interpreters (Lelièvre 2009).

6.11.2 Criteria for inclusion in the register of court interpreters in France

In the registers kept by Courts of Appeal, court interpreters are included in the register, based on the recommendation of any corporate entity or individuals vouching for the character and interpreting ability of an applicant. For other categories of courts, different criteria are applied. Some of the criteria used are based on the proven or demonstrated experience of the court interpreters. In some courts, the decision to list the aspiring court interpreters on the registers rests entirely with the presiding judges of the courts.

In all types of courts, very often the decision is influenced merely by the bilingual ability of the candidate interpreter. Furthermore, interpreters are only allowed to register in the area of jurisdiction in which they reside. This has been a problem in terms of interpreting quality, because not all interpreters entered in the registers are qualified interpreters. Secondly, the decision to add court interpreters to the register is made by judges who are often ignorant of the appropriate qualifications required to be a court interpreter.

The law stipulating that court translators can only be kept on a register in the area of jurisdiction in which they reside was changed in July 2007. It is now possible for translators only (interpreters not included) who live in Paris to apply to be included in the registers of sworn translators of the Courts of Appeal of Montpellier or Aix-en-Provence in Southern France. This is due to a decision taken at European level. It was ruled that the requirement that a translator had to be domiciled within the jurisdiction of a court of appeal to be enlisted as a judicial expert, was contrary to the rule of free circulation and installation within the EU.
6.11.3 Types or designations of court interpreters in France

There are two types of court interpreters in France: sworn court interpreters and translators, and ordinary interpreters and translators. The sworn court interpreters are regarded as judicial experts. To qualify as a sworn court interpreter and translator, or as a judicial expert, an individual must apply on or before March 1 every year to the Public Prosecutor of the High Court in the area of jurisdiction in which he/she has his/her business or where he/she resides. Judicial experts are designated for an initial probation period of two years.

At the end of the initial period of two years, they must apply again and if accepted, their designation as judicial experts will be extended for five years. In order to retain the designation, a new application must be made every five years (in the case of the Court of Cassation, every seven years) and the expert must provide the Court with evidence of continuous professional development (CPD), or that he/she has constantly been updating his knowledge, not only of the language, but also of court procedures and legal systems.

Most of the CPD takes the form of training sessions that are organized by national organisations, such as the Société Française des Traducteurs (SFT), the Union Nationale des Experts Traducteurs Interprètes Prés des Cours d’Appel (UNETICA) and local associations of experts throughout France, sometimes in co-operation with the universities.

6.11.4 Working conditions and remuneration in France

Most of the assignments that require translation are usually sent to sworn translators who receive them by mail or e-mail, and this is done in most cases without any prior notice. They (the translators) are expected to translate in both directions between French and the source/target language. A similar situation prevails when it is an interpreting assignment, and interpreters are called without prior notification. They are not informed about the nature of the offence. In France, as stated by Lelièvre (2009), “most police officers and judges are not trained to work with interpreters, and it is sometimes difficult to explain to them what our job is all about. Most often, there is only one interpreter to interpret all day long in both directions”.

249
6.11.5 Court interpreting associations and trade unions in France
UNETICA (mentioned above) is the sole national association of court interpreters and sworn translators in France. In addition to the national association, there are several regional associations such as the Chambre Régionale des Experts Traducteurs Assermentés d’Alsace (CRETA), the Société Française des Traducteurs (SFT), etc. There is also a trade union, the Société Française des Traducteurs for court interpreters and sworn translators. With these professional associations, the question of members’ continuous professional development and ethical conduct (see 6.1) will be adequately addressed.

6.11.6 Other information about court interpreting in France
There is no nationally recognised qualification for court interpreting, since there is no institution with a specific academic programme for court interpreters.

Court interpreting takes place in several languages in France (up to fifty different languages, including French sign language (Lelièvre 2009). In addition to French, the languages most commonly used in court are Arabic, Turkish, English, Spanish, Romanian, Chinese, Russian, and Portuguese, sign language and a large number of African dialects and languages. For other languages, outside interpreters and translators are used and sworn in each time they work.

6.12 THE COURT INTERPRETING SITUATION IN PORTUGAL
According to the Portuguese Code of Criminal Procedure, Article 92, No. 1, the use of Portuguese is obligatory in judicial proceedings. This is the reason the services of interpreters or translators are provided where necessary in criminal proceedings at state expense to defendants or plaintiffs whose mother tongue is not Portuguese (Brunke 2009a).

Apart from this mandatory provision of court interpreters or translators by the State, Brunke (2009a) states that the situation relating to court interpreting in Portugal is a far cry from what would be regarded as normal. She describes the situation as not satisfactory to “absolutely guarantee the right to liberty and security and the right to a fair trial of the EU Convention for the protection of Human Rights and Fundamental Freedoms”. She points out that the selection procedure is flawed, as
Translators/interpreters are chosen by court clerks, who don’t apply any criteria whatsoever, deciding on the basis of their personal relationship with the translator/interpreter.

This may open the court interpreting procedure to abuse, and may result in the selection of incompetent translators/interpreters in Portuguese courts, and consequently put at risk the citizens’ right to use their mother tongue in court. Brunke (2009a) furthermore asserts that the current court interpreting situation is bound to be problematic, as there is no provision for specific training for court interpreters in Portugal. In the absence of such training, a lack of professionalism should be expected, as standards cannot be evaluated on the basis of any relevant qualifications. Brunke (2009a) cites her personal experience, where a lawyer was used as a court interpreter and, despite the obvious shortcomings in the interpretation, the “situation did not arouse the judge’s suspicion”. She condemns the situation and says: “Now, I am worried about this situation of apparent lack of professionalism and worried about the possibility that this might happen in situations where the citizen’s freedom might be in danger”.

The essence of the provision of court interpreters or translators, one would think, is to ensure that the defendants’ (even the plaintiffs’) right to a fair trial be maintained. In Portugal, this applies only in criminal proceedings, as indicated in Brunke’s (2009a) study. This means that the defendants and plaintiffs in civil cases have to use interpreters and translators at their own expense.

6.12.1 Education and training for court interpreters in Portugal
There are several translation courses for aspiring translators in Portugal. However, the same cannot be said about interpreting courses, especially interpreting courses for court interpreters. Brunke (2009a) points out that, due to a lack of sufficient interpreting courses for aspiring interpreters, providing for the needs of those who want to pursue a career as interpreters is quite problematic.

The education and training available to prospective court interpreters in Portugal are not able to address the needs on the ground. For instance, Brunke (2009a) indicates in her article that the interpreting courses available are vague in nature, except for
one offered at a private university, Instituto Superior de Linguas e Administração (ISLA), which offers a post-graduate degree programme focusing on legal and economic translation. This means that there is no interpreting course specifically designed for court interpreters in Portugal.

At one state university, the University of Lisbon, an interpreting course is offered, but it is for conference interpreting - the European Master’s in Conference Interpreting (EMCI). Another challenge in this regard is that the interpretation courses available, besides the one at the University of Lisbon, are offered full-time, except at the Instituto Superior de Contabilidade e Administração do Porto (ISCAP). The non-availability of part-time courses for interpreters is cited as an important cause of the lack of professional court interpreters in the country. In this regard, Brunke (2009a) believes that in most cases people who would want to pursue a career in court interpreting have a full-time job, and it is not possible for them to stop working to attend a full-time interpreting course at institutions.

Given that communication in the courtroom is far more complex than is generally assumed, a course where professional skills are taught is necessary to ensure that professional competence is acquired by court interpreters. This is one of the reasons Brunke (2009a) recommends that court interpreters should compulsorily undergo a professional course, as it would keep them abreast in areas such as “specialized and legal terminology, formal and informal registers, dialect and jargon, varieties in language, and nuances of meaning”.

6.12.2 Professional associations in Portugal

As can be deduced from the Portuguese Code of Criminal Procedure, Article 92, No. 1, although provision is made for court interpreting in the Portuguese judicial system, court interpreters are not officially recognised as professionals, according to Brunke (2009b). It is no wonder then that no professional association of court interpreters exists in Portugal. Thus, there is no professional association that exerts any form of control on their members in terms of professional ethics and court conduct (see Section 6.1).
Brunke (2009b) identifies the lack of a professional association and recognition as the reason why the court interpreters’ clients are not willing to pay a fair fee, even though they render a specialised service. This is also the reason, according to Brunke (2009b), that “any written translation for the court can be made by any person, who can have it certified by a notary or a lawyer”. The situation is in such a precarious state that undue competition among court interpreters is rife. For example, Brunke (2009a) notes that many court interpreters charge ridiculously low fees for their services in order to remain competitive.

The immediate exit route from this situation is for the Portuguese Ministry of Justice to create an association of professional legal translators and interpreters which would represent the court interpreters and translators in their dealings with the general public and the government, as suggested by Brunke (2009a).

Apart from the problem of the lack of a professional association and recognition, similar challenges which require attention, as identified by Brunke (2009a), are:

- The lack of a register of certified interpreters and translators;
- The lack of a central database for legal terminology in the major languages (Portuguese, German and English) in Europe;
- The lack of any procedural education;
- Difficulties in finding court interpreters for language combinations, such as Portuguese/German, Portuguese/Persian and Portuguese/Mandarin and other Chinese languages.

6.13 CONCLUSION

An overview of the various court interpreting situations in selected African and EU countries has been presented in this chapter. The overview focused on the current court interpreting situations in the countries discussed, with particular reference to their training methods, working conditions and quality issues, such as accreditation and the keeping of a register of court interpreters.

The overview has revealed that the development of court interpreting in the countries selected in Africa leaves much to be desired. While South Africa can boast of
different training programmes for court interpreters in its tertiary institutions and the training unit in the DoJCD, the situations in countries such as Nigeria, the Republic of Benin, Mozambique and Zimbabwe are quite the opposite. The same applies to some EU countries. France, Spain and the UK have accreditation and training systems for court interpreters, but the review in this study illustrated a different picture in Portugal, where court interpreting is still far from being at even a rudimentary level.

In the next chapter, an analysis conducted for this study will be presented and discussed.
CHAPTER SEVEN
PRESENTATION AND DISCUSSION OF DATA

7.1 INTRODUCTION
In the previous chapter, the court interpreting situation in selected EU and African countries was discussed. In this chapter, the analysis is taken further, in that the data which were collected through the questionnaire and interviews will be presented and discussed. In addition, the data recorded during the observation of court proceedings will also be analysed, where necessary, to complement the other data.

One aspect of the data presentation that will feature prominently in this chapter is the constant reference to post-survey interviews with the respondents of this study. This became necessary during the processing of data when it became clear that some of the responses to the questions did not accord with what I had observed in the court proceedings and occasional interviews with some of the foreign African court interpreters. From the responses to the questionnaire, it became obvious that the respondents gave answers which did not reflect their actual practice, and also did not reflect the real issues about foreign African court interpreting. This may partly be due to a lack of understanding of the questions, or the options available as answers in the questionnaire did not match the answers they would have liked to give.

In order to rectify the effect of this, a post-survey interview was used in respect of some of those questions for which I needed more clarification; the results of the post-survey interviews will then be used to complement the presentation of the data in this chapter.

Different types of questionnaires were given to five different types of respondents, i.e. the foreign African court interpreters, the chief interpreters and some senior interpreters, and in addition, the prosecutors, the attorneys and the magistrates. The main emphasis in the discussion will be on the data collected from the foreign African court interpreters, while those obtained from other respondents will be discussed by way of comparison.
An important point regarding this chapter is that in obtaining the data presented here, no distinction was made between court proceedings relating to bail applications and those relating to the main trials. In either of the two categories of proceedings, court interpreters were involved for the same purpose; hence, a distinction was not made in my observation of court-room proceedings.

In compliance with the ethical consideration for this study, the respondents would be reported anonymously, except in few cases where the respondents gave permission for their names to be mentioned (see chapter three, Section 3.5).

### 7.2 TRAINING AND EXPERIENCE

#### 7.2.1 Prior training

Prior training in the context of this study refers to previous relevant training the court interpreters may have had before being employed as such. Where such training had not taken place, the study seeks to find out whether the DoJCD does provide training to foreign African court interpreters in order to prepare them for the job they are employed to do.

In response to this section of the question, 100 percent (N=30) of the respondents said they were not trained for the job by the DoJCD, and had not been be trained elsewhere before they began to work as court interpreters. However, this only applies specifically to training in court interpreting, as 23 percent (N=7) of the respondents claimed that they had studied some of the languages in which they are interpreting at tertiary institutions. In the post-survey interview conducted with such respondents, it emerged that all of them regarded the official languages of their countries, which are used as media of instruction, as languages studied at school. However, in the cases investigated, these languages were only used as media of instruction, and had not been taken as subjects; hence they could not be regarded as languages that they had studied as such. Nevertheless, 13 percent (N=4) of these respondents had actually studied the language up to tertiary level; for example, one of the respondents had a Bachelor’s degree in English, while another had diplomas in both French and in a local language.
7.2.2 In-service training after employment

Relating to prior training and past experience, a question was asked about any in-service training the respondent had undergone. As shown in the table below, I wanted to know whether the respondents had been given in-service training in the form of short courses, seminars or workshops, or whether they had received funding, in the form of a grant, to undergo long-term training at tertiary institutions relating to court interpreting.

<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondents (N=30)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, I have had in-service training</td>
<td>4</td>
<td>13%</td>
</tr>
<tr>
<td>No in-service training by DoJCCD</td>
<td>26</td>
<td>87%</td>
</tr>
</tbody>
</table>

Table 7.1: In-service training after employment

Firstly, as indicated above, 87 percent (N=26) of the respondents claimed that they had not received any form of in-service training by the DoJCD since they had started working as court interpreters, while thirteen percent had in fact received such training. The post-survey interview done with most of the respondents who claimed they had had in-service training provided by the DoJCD, revealed that such training referred to the occasional meetings called by their chief interpreters or senior interpreters.

For example, the meeting called by a chief interpreter for the discussion of the terminologies used in different domains was regarded as in-service training by some of the court interpreters. This, according to some of them who responded, is a form of training, and was the only training they had received since they had started working as court interpreters.
7.2.3 Self-sponsored training, seminars, workshops and conferences

As far as training is concerned, a question was asked to find out whether the respondents had undergone any form of continuous professional development (CPD), such as self-sponsored seminars, workshops and conferences. As Table 7.2 below indicates, 33 percent (N=10) of the respondents said they had indeed undergone such training, while 67 percent (N=20) of the responses replied in the negative. Some of these claims of self-sponsored CPD were not related to court interpreting, however. A post-survey done to ascertain the forms of CPD they claimed to have had, showed that of the 33 percent (N=10) of the respondents who said they had put themselves through CPD, 80 percent (N=8) had actually received some training in the form of seminars, conferences or short courses. However, these were either church-organised seminars or conferences dealing with theological matters, or short courses on commercial subjects, such as business management, computer usage and marketing.

The remaining 20 percent (N=2) of the respondents were studying Law through distance learning.

<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondents (N=30)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>10</td>
<td>33%</td>
</tr>
<tr>
<td>No</td>
<td>20</td>
<td>67%</td>
</tr>
</tbody>
</table>

Table 7.2: Self-sponsored trainings, seminars, workshops and conferences

The study of Law could be considered as CPD, as it would provide the court interpreters with the opportunity to know more about legal terms, court procedures, the constitution and the roles and functions of other principals, such as the magistrates, attorneys, and prosecutors. A similar assertion made by Corsellis and Ostarhild (2001) emphasises that in order for interpreters to do their jobs properly, it is important that court interpreters should have adequate knowledge of the appropriate legal system; and this should focus on its structures, procedures, processes and personnel.
The importance of CPD for court interpreters is emphasised by Ostarhild (2001):

It defines and formalises some specific activities, which all professionals are engaged in, namely to keep abreast of new developments in their particular area of work, or be at the forefront of such developments through innovation and research. In this way, CPD helps to safeguard the standards required by any profession and thereby contributes to the standing of the individual practitioner, the status of the profession as a whole, and the confidence employers and clients have in such professionals.

However, the view of the chief interpreter at the Germiston Magistrate’s Court differs as regards CPD for foreign African court interpreters. While admitting that foreign African court interpreters are not sent to Justice College like their South African counterparts, who interpret indigenous languages, he explained that training was given to foreign African court interpreters or foreign interpreters at court level. He cited himself as an example. He would always make sure the interpreters in his court had learnt the terminology and concepts of a particular field of legal application every year.

An answer to the question of whether this practice should be regarded as sufficient to meet the CPD needs of court interpreters may be found in Ostarhild’s (1998) list of CPD activities, namely:

- Consulting sources of information and comments on current practice and research, including professional journals, the specialist press, other publications, other media, videos, libraries, the internet;
- Attending courses, conferences, seminars, workshops, lectures, meetings, and interpreters and translators practice sessions to improve or upgrade the skills base, knowledge of legal systems, terminology and procedures;
- Producing and presenting papers, lectures and workshop material for courses, conferences and other events;
- Researching and producing papers, articles, chapters and books for publication;
- Organising and chairing conferences, meetings and other relevant events;
• Improving management and administrative skills that may be helpful for legal interpreters and translators;
• Updating technology, including relevant data banks, translators’ software packages, machine translation, simultaneous interpreting equipment (if required);
• Upgrading skills and knowledge through further study; and
• Improving the skills and knowledge base in other ways.

In addition, the variables with which court interpreters deal on a daily basis are languages, individuals, and the work environment. These variables are in constant flux or are evolving, hence court interpreters must commit themselves to life-long learning in order to remain abreast of changes taking place. Life-long learning will enhance the continued competence of court interpreters, especially with regard to the need to be exposed to the different emerging views about interpreting practices. Judging from the data already presented, this is not considered as important by the foreign African court interpreters and their employers.

7.2.4 Previous work experience as a court interpreter or in a related job

The data in Table 7.3 below show that 53 percent (N=16) of the interpreters indicated that they had had past experience as court interpreters or interpreters elsewhere, before they began working in their present job as court interpreters, while 47 percent (N=14) had had no such experience. In the post-survey interview, it became clear that some of the claims of experience were in fact spurious.

<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondents (N=30)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>With work experience</td>
<td>16</td>
<td>53%</td>
</tr>
<tr>
<td>Without experience</td>
<td>14</td>
<td>47%</td>
</tr>
</tbody>
</table>

Table 7.3: Work experience as a court interpreter or in a related job

Firstly, some of the court interpreters insisted they had had experience as court interpreters or interpreters, even when told that what they regarded as experience
could not be regarded as relevant. For example, some regarded interpreting at a family gathering, which involved people who did not understand the dominant language of conversation, as being experience. Others said that they had, on some occasions, interpreted during their church’s evangelism and other outreach programmes.

Of the 16 respondents (53% [N=16]) who claimed to have had past experience as court interpreters, I was able to reach 10 respondents for a post-survey interview. Of these, not one had had any authentic court interpreting experience before they began their work as interpreters. Two of them described their related job experience as having been constantly involved in interpreting in their churches for more than one year, on average. Three respondents had worked as interpreters, but not as court interpreters. They claimed to have worked as interpreters for Non-Government Organisations (NGOs) and journalists or media practitioners, who were undertaking rural development activities. But they pointed out that it had been done on a short-term work contract for the period the activities lasted.

Among the remaining five respondents, some claimed that they had had interpreting experience ranging from refugee interpreting to healthcare interpreting, from interpreting done in family gatherings to interpreting done in church evangelism and outreaches, as indicated above. Those who claimed experience as refugee interpreters maintained that they still occasionally worked in the Department of Home Affairs’ refugee receiving centres.

Working as a court interpreter requires a specialised interdisciplinary knowledge, that is, knowledge in different subjects, or areas such as knowledge grounded in interlingual competence, cross-cultural competence, contemporary social issues, law, forensic science, information and computer technology, etc. This is important, because the legal system itself is built on an interdisciplinary system of knowledge, and issues encountered in the courtroom often require interdisciplinary competence to handle them.

In any country’s legal system, there are judges, lawyers, police officers, prison personnel and court interpreters, each of these with the sole purpose of ensuring
that justice is dispensed through a fair process. The dispensation of justice takes place according to a legal process, which requires each party in the process to know each other’s role in order for accurate communication to take place. The contribution of the court interpreter in this regard is not a mean feat. It requires more than just the ability to speak more than one language; rather, it requires other specialised skills which can only be acquired through training, prior experience and experience on the job.

From the discussion above in regard to training, it is clear that court interpreters are not adequately trained for the job they are doing. Not only is there a patent lack of prior interpreting experience, but the DoJCD has a lot of spade work to do to ensure that the right calibre of court interpreting personnel are employed. Experience matters in any work situation, and this can be gained either through previous work in the same job or through on-the-job experience. In the case of court interpreting, however, in cases where there is no previous experience, it should be countered by solid training in court interpreting before an aspiring court interpreter is allowed to practise.

For example, a solid training will expose an aspiring court interpreter to the ethical standards required to uphold the integrity of the court interpreting profession. Specialised training is also essential in order for the aspiring court interpreters to have the skills that will enable them to achieve the necessary interlingual and cross-cultural equivalence in interpreting. This is important in any consideration of the notion of equivalence, which has been a contentious issue among practising interpreters and interpreting scholars.

In all the views suggested on the subject of equivalence, the general idea is that the content and intention behind what is said in the SL should be reflected in the TL. Besides, some English words do not have direct equivalents in the African languages, and the same applies to the task of finding equivalents of certain African words in English. Sometimes, in order to interpret some English words in an African language, the interpreter has to resort to circumlocution. For instance, the term *human right* does not have any direct equivalent in the Edo language. While the
concept of a basic right is applicable in all societies in terms of fairness and equality, the idea is better expressed in the English worldview than in the Edo worldview.

In order to interpret human right into Edo, the interpreter may have to resort to a sentence-long construction or circumlocution or a phrase such as, ọtìn n’ọkhọke ọmwan (‘Power that is appropriate for one’). A direct equivalent of human right from English into Edo will read as evbin nọma ọghe emwanagbọn. The phrase ọtìn n’ọkhọke ọmwan is usually the preferred equivalent in interpreting or translation, but in most cases, the interpreter has to go further after rendering it into Edo by giving examples of different types of human rights by way of ensuring that the accused person understands the meaning of “human right”.

On 6 August 2009, I observed some cases in Johannesburg Magistrate Court (Court 5) where the interpreter left the term as it is, as an intrasentential switch, and would then confirm from the accused whether he/she understands the meaning of the expression in the context in which it was being used.

This may not be a problem for an experienced interpreter, who may have equivalent words or terms, or a particular way in which he/she interprets human right in his/her repertoire for which he does not have to struggle to find an equivalent. In other words, interpreters are likely to encounter problems in finding equivalents of new words or terms, but for interpreters with experience, this should not be a problem.

It is clear from the data above regarding prior training, in-service training and self-sponsored training, that the only training the court interpreters could claim, is the lingual aspect of training, which an insignificant percentage of the respondents claimed to have had up to the tertiary level of education. A small percentage of respondents also claimed to be studying (or to have studied) law. Apart from the fact that the percentage of the respondents that could be credited with these forms of training is significantly low, in the context of court interpreting, the amount of training is not enough to equip the court interpreter with the requisite skills for quality interpreting in the court.
For example, court interpreters need training in the different modes of interpreting, especially in simultaneous, consecutive and sight interpreting, all of which are commonly used in court interpreting.

7.3 EMPLOYMENT CONDITIONS AND SUPPORT

In South Africa, court interpreters are employed as permanent employees in the DoJCD. They, like other employees in the Department, receive benefits such as housing subsidies, medical aid subsidies, a 13th cheque, paid sick leave, maternity leave, work progression or promotion through a designated hierarchy, etc. These benefits, however, apply only to South Africans interpreting in indigenous languages, and not to foreign African court interpreters.

Foreign African court interpreters are employed on a temporary basis, and do not receive any benefits over and above their remuneration for interpreting in the Department. The data in Table 7.4 below indicate that for 60 percent (N=18) of the foreign African court interpreters, the minimum number of years they had worked is six. In addition, in my experience, not a day passes without cases involving foreign immigrants. Most of the interpreters who participated in this study were always in courtrooms in Gauteng, interpreting, or were outside the province for interpreting assignments elsewhere.

In support of this, 70 percent (N=7) of the magistrates who were respondents in this study said that they dealt with cases involving foreign African immigrants whose languages require interpreting on a daily basis. The same applies to 80 percent (N=8) of the prosecutors who were respondents in this study.
<table>
<thead>
<tr>
<th>Number of years in service as temporary interpreters</th>
<th>Number of respondents (N=30)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 2 years</td>
<td>5</td>
<td>17%</td>
</tr>
<tr>
<td>2 – 5 years</td>
<td>7</td>
<td>23%</td>
</tr>
<tr>
<td>6 – 10 years</td>
<td>12</td>
<td>40%</td>
</tr>
<tr>
<td>11 – 15 years</td>
<td>5</td>
<td>17%</td>
</tr>
<tr>
<td>16 – 20 years</td>
<td>1</td>
<td>3%</td>
</tr>
</tbody>
</table>

Table 7.4: Number of years in service as temporary interpreters

Most of the foreign African interpreters admitted that their interpreting job in the DoJCD was their main source of income. They consequently deplored the fact that the Justice Department had not deemed it necessary to appoint them on a permanent basis, notwithstanding the fact they had been employed as temporary court interpreters for several years – the lowest period of employment being six years for 60 percent (N=18) of the respondents, according to the data in Table 7.4.

The lack of security, such as an old age pension, medical aid and other benefits enjoyed by permanent employees of the Department (DoJCD), has evidently had a deleterious effect on the desired commitment to their job. Some 70 percent (N=21) cited the fact that they have to invest their time in other jobs because of the uncertainties of their court interpreting job; and about 25 percent (N=8) would want to move to other jobs, (even if it paid less) as long as, “we are sure we are really working, and not (having to deal with) the interpreting job with the ‘perpetual tag’ of casual interpreter”, said one of the respondents.

They also cite this fact as a reason for their unwillingness to upgrade their knowledge in court interpreting, because they do not see the need to spend their money to upgrade, when it is obvious that this would give them no recognition in the DoJCD.

In the EU, Morgan (2005:31) reports that the profession of court interpreting suffers from a lack of status; but this is worse in South Africa, and far worse for foreign
African court interpreters who have been working for more than five years without any social benefits, such as those applicable to their South African counterparts in the DoJCD. In this study, one of the reasons 70 percent (N=21) of the court interpreters gave for their absenteeism from work is the non-payment of their remuneration in time, while in some cases, they are owed their remuneration for several months.

Interpreting requires specialised skills, and it is a demanding intellectual exercise. Court interpreting is necessary in a multilingual courtroom for a fair trial and the requisite skills needed in the profession should not be compromised. This is the reason every effort must be made to ensure that court interpreters work under favourable working conditions in order to attract and retain the best in the profession. Under poor working conditions, employee morale usually tends to be low; consequently, their sense of commitment or desire to go beyond their job description will be detrimentally affected.

The importance of employees “going the extra mile” in organisations has long been recognised by organisational psychologists, such as Organ (1997:95) and Dipaola and Tschannen-Moran (2001:425). They argue that organisations in which employees do not willingly perform extra duties usually suffer from low productivity. The willingness of employees to engage in extra duties, in addition to their stated job requirement, is referred to as organisational citizenship behaviour (OCB). OCB is defined as the willingness of employees to go beyond the formal responsibilities of their positions, performing non-mandatory tasks with no expectation of recognition or any compensation (Dipaola and Tschannen-Moran (2001:424-425).

OCB is an acknowledged, essential element of effective organisations, and it is found in an organisation where there are sound employees’ social benefits and supports, and where the employees perceive their treatment on the part of management as being fair (Cardona, Lawrence, and Bentler 2004:220-221). Given the data presented here, the perception of fairness is obviously very low among the foreign African court interpreters, as they feel that they are treated as being inferior to their South African counterparts.
7.4 PROFESSIONAL ASSOCIATION
A professional association projects the status of the profession, and it sees to the CPD needs of its members through publications, research, seminars and conferences. It is the job of a professional association to promote strict adherence to a set professional code of ethics and conduct among its members, and any member who violates this will be sanctioned or disciplined, as prescribed by the rules of the association. A professional association helps to sell the profession it represents to its various stakeholders.

The data collected in this regard provide an overwhelming ‘No’ as response to the question of whether the respondents in this study belong to any professional association. The only professional association for interpreters in South Africa is the South African Translators’ Institute (SATI). It was alarming that 100 percent (N=30) of the respondents said they did not belong to any professional association. From post-survey interviews with some of the respondents, it became clear that they could not distinguish between professional associations and trade unions. Most of them responded to the question as though I were asking them whether they belonged to trade unions.

They said because they were only temporary court interpreters (though 60 percent [N=18] of them had been in this temporary position for more than six years), the trade union would not accept their applications for membership. Many of them had not heard of SATI; while those who heard, had learnt of it incidentally, such as via a researcher (like myself) or from other researchers years ago. SATI, on its part, has not been able to do much for court interpreting, as it currently does not have the capability to accredit court interpreters (see SATI accreditation in http://www.sati.org.za).

In addition, SATI is not officially recognised, and the chief interpreters who responded to this study said they had heard of SATI, but they did not consider its role important for court interpreting. When the question of accreditation was discussed with the interpreters, the South African court interpreters were not warm to the idea, because they were of the belief that their years of experience served as a guarantee of their ability to do the job. This appears to be the general thinking of
unqualified interpreters, even in the EU. In the report given by Van der Vlis (2003:161) about the experience in the Netherlands, it is stated that:

…interpreters who had been providing interpreting services in criminal cases or asylum procedures for a number of years, saw the compulsory testing as evidence of a lack of confidence in their work. In view of their considerable experience and service records …they were of the opinion that they should be granted exemption from the tests.

It is not clear what the thinking of foreign African court interpreters would be if they were employed permanently in the DoJCD. However, they were generally pleased with the idea, as they thought that it would give them more recognition and possibly provide them with more freelance interpreting jobs in addition to their court interpreting job. One of the problems of court interpreting, as can be deduced from the data collected for this study, is the general lack of understanding of the role of the court interpreter, the difficulty of interpreting and the required skills for court interpreting.

Though most of the participants in the courtrooms are bilingual (some are trilingual), they do not understand the enormity of the linguistic challenges that interpreters face. For example, from the responses provided by 67 percent (N=7) of the magistrates, 70 percent (N=7) of the lawyers and 65 percent (N=7) of the prosecutors, there is a perception among them that interpreting is a mechanical and robotic process, as most of them believe that it is possible for an interpreter to provide word-for-word interpreting as a matter of course. This is not possible in many cases, because different languages are influenced by the worldviews of their speakers, and this has an effect on interpreting. As indicated earlier, some words in African languages do not have any direct equivalents in English, and vice versa.

One of the roles of a professional association is to create a general awareness about the profession it represents, as well as an awareness of the practices of the profession among the general public. In the case of court interpreting in South Africa, a professional association such as SATI would be in a better position to educate other stakeholders to understand the actual process of interpreting. This has, in fact, already started taking place in the US. As pointed out by Nicholson (2005:46),
through the efforts of a professional association, judges and attorneys are being educated about the roles and challenges of court interpreting.

### 7.5 INTERLINGUAL AND CULTURAL ISSUES

#### 7.5.1 Cross-border languages

One phenomenon that was conspicuous in the data collected was the question of cross-border languages. Although this was not one of the issues covered in the questionnaire, it stood out as a matter that could not be ignored in this analysis. Cross-border languages are languages spoken across the borders of two neighbouring countries. In some cases, the two countries may not even share a border, such as in Hausa, which is spoken in both Nigeria and Ghana. Other cross-border languages where the countries speaking them share borders are Kanuri, spoken in Nigeria, Niger and Chad, as well as Pidgin English, spoken in Nigeria and Cameroon.

In Southern Africa, Barnes and Funnel (2005:42) refer to the Chichewa or Chinyanja people who live in Zambia, Mozambique and Malawi, the Chikunda people who live in three Southern Africa countries, namely Mozambique, Zambia, and Zimbabwe, and the Sena people living in Mozambique and Malawi. Cross-border languages are a corollary of the colonial boundaries resulting from the Berlin Conference in 1884-5. This is referred to in colonial history as the ‘scramble for Africa’, where colonial powers divided Africa up among themselves (Elugbe 1998). Referring to the “scramble for Africa”, Barnes and Funnel (2005:41) remarked that:

> ...boundaries were created by geographical markers, such as mountains or rivers, with the result that many ethnic groups who were living on these mountains or along these rivers were divided, and now live in two, and sometimes even three or more different countries.

Most of the interpreters who were respondents in this study interpret in cross-border languages, such as Tswana, Ndebele, Chisena, Yao, Chichewa, Chikunda and Chisena. Two of these languages, Chikunda and Chisena, aroused my interest during the investigation. Some court interpreters from Zimbabwe, Malawi and Zambia reported that on several occasions, they had interpreted in Chikunda, which also applies to interpreters from Mozambique and Malawi with respect to Chisena. In
other words, Chisena-speaking Mozambican interpreters are allowed to interpret for
Chisena-speaking Malawians, and this also applies in the case of Chikunda in the
three countries mentioned.

The data show that 52 percent (N=16) of the respondents interpret in languages
which have a cross-border distribution. For instance, Barnes and Funnel (2005:41)
note that:

The Sena people on the Malawi side of the border are living in an anglophone
country and are influenced by the English and the very dominant Chichewa
language, while the Senas on the Mozambique side are in lusophone territory
and are influenced by the Portuguese.

These different sociolinguistic situations have a marked influence on the written
varieties of Sena in the two countries in which it is spoken. As both countries have
different official languages, Elugbe (1998) and Barnes and Funnel (2005:41)
maintain that there should be different written varieties in both countries.

In addition to this, and of greater importance in the case of court interpreting, there is
the possibility of the scenario of a shared language, but not a shared culture
(Corsellis 2005:131) between the interpreter and the accused or witness he/she is
representing in the courtroom. Corsellis provides an interesting analysis of a
communication process to explain how a shared language, but not a shared culture,
may cause a problem in interpreting. The analysis goes as follows:

- The speaker thinks of the message he wishes to communicate
- He reads what are known as the ‘indicators’ of the listener: age, social and
  educational background, context, and so on
- He then ‘encodes’ the message, selects such elements as words, tone of
  voice, stress, grammar
- The listener ‘decodes’ the message
- There is a monitoring/feedback process to ensure mutual understanding, that
  may include a nod, another question or a statement in reply.
In response to the analysis of the communication process above, Corsellis (2005:130) asks, “How does the speaker read the indicators of someone with whom he does not share a culture?” This communication process or scenario referred to by Corsellis is very pertinent when considering the interaction between a cross-border language interpreter and the accused or witness he/she represents in the court. For instance, one may also ask the same question when a Chisena-speaking interpreter from a lusophone country (Mozambique) interprets for a Chisena-speaking accused from an anglophone country (Malawi).

In view of the fact that Malawi Sena is influenced by socio-cultural factors which have to do with it being anglophone, while Sena spoken in Mozambique reflects the fact that it is a lusophone country, in the interpreting situation, Corsellis remarks that “It can be difficult to do so with any reliability and the subsequent encoding and decoding are therefore equally ineffective as a consequence”.

This describes the cross-border interpreting reality in court as evidenced in the data collected in this study. In the communication triad taking place between the interpreter, the accused and the magistrate, there is a dyadic difference because of different cultural conventions between the interpreter and the accused. This dyadic difference in the communication between the accused and the interpreter may influence the interpreter to give the wrong feedback from the accused to the prosecutor or attorney or magistrate. This may lead to a ripple effect of misinformation based on the feedback, and the consequence may be a miscarriage of justice.

In a nutshell, in a situation where the interpreter and the accused do not share the same culture or cultural conventions, the possibility of mutual comprehension is low (Corsellis 2005:130).

Apart from interpreting, which in most cases is done in consecutive mode in South African courtrooms, interpreters are always called upon to sight translate. At the beginning of the trial, the prosecutor will read the charge(s) and ask the accused if he/she is guilty or not guilty as charged. The charge is passed to the interpreter who would sight translate the charge sheet into the accused’s mother tongue. On other
occasions, interpreters are called upon to sight translate various other documents in the mother tongue of the accused or witness.

Sight translation done in a cross-border language situation may not yield the desired outcome if the interpreter and the accused/witness are from different countries. One potential problem area is that of different orthographies used for the Malawian and Mozambican varieties, something of which the interpreter might not be aware. Most of their words may be phonetically similar, but could be spelled differently, and this may present a problem for the interpreter. For example, Barnes and Funnel's (2005:50) work on the orthographical differences between Malawian Sena and Mozambican Sena highlights the following words in Table 7.5 with the same pronunciation, but with different spelling:

<table>
<thead>
<tr>
<th>Malawi</th>
<th>Mozambique</th>
<th>English</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kuchita</td>
<td>Kucita</td>
<td>To do</td>
</tr>
<tr>
<td>Kuchemera</td>
<td>Kucemera</td>
<td>To call</td>
</tr>
<tr>
<td>Kutchitha</td>
<td>Kuchita</td>
<td>To descend</td>
</tr>
</tbody>
</table>

Table 7.5: Orthographical differences between Malawian Sena and Mozambican Sena

The differences in the spelling of these words can be attributed to the fact that the Malawian spelling of the words follows the English and Chichewa orthography, respectively. In addition to English, Chichewa is the dominant language in Malawi, while the Mozambican spelling follows the Portuguese orthography.

Another example is the orthographical differences regarding Biblical names, many of which are also used as given names among citizens of African countries. In this regard, Barnes and Funnel (2005:52) point out that the differences in the way in which Biblical names are spelt is an indication of the influence of the erstwhile colonial languages in both countries. Some of the Biblical names referred to by Barnes and Funnel are listed in the Table 7.6 below.
Table 7.6: English and Portuguese orthographical influence on Biblical names in Malawi and Mozambique

As shown in the table above, Barnes and Funnel (2005:52) point out that Malawian Sena Biblical names reflect the English equivalents, while Mozambican Sena Biblical names reflect the Portuguese equivalents.

Constant reading is one of the ways to obtain information and to update one's knowledge; and this is also required of court interpreters who interpret cross-border languages. They need to be well-informed about the socio-cultural milieux of the countries in which the cross-border language is spoken. This will be necessary, for example, for a Malawian court interpreter who interprets for an accused or a witness from Mozambique. The Malawian court interpreter simply understands, and to some extent, writes the Mozambican's variety of Sena, but he needs to be well-informed of the socio-cultural milieu (which may be in constant flux) affecting the use of Sena in Mozambique.

Most of the information available about Mozambique is in Portuguese and the Malawian interpreters interviewed in this regard admitted they cannot read and write Portuguese. This also applies conversely to Mozambican court interpreters who interpret for Sena-speaking Malawians.

7.5.2 Bilingualism
As indicated in Section 7.1, past experience is not taken into consideration in the employment of court interpreters, nor is any effort made to train them after they have been employed. The data in this study are illustrative of the fact that the only requirement for the employment of foreign African court interpreters is bilingualism.
Ideally, this should mean, according to Richards and Schmidt (2002:51), a balanced bilingual, or “a person who speaks, reads or understands two languages equally”.

This is a general assumption about a person who is regarded as bilingual, and it may explain why no effort is made to check the interpreter’s proficiency in both languages that he/she claims to understand or speak. Bilingualism considered in this fashion is problematic, because, as noted by Richards and Schmidt (2002:51), a bilingual in most cases “has a better knowledge of one language than another”. Some interesting examples given by Richards and Schmidt in this regard are:

- The person may be able to read and write in one language but not in the other
- Use each language in different types of situations or domains, e.g. one language at home and another at work
- Use one language for talking about school life and the other for talking about personal feelings

This reflects the bilingual nature of most of the interpreters who were respondents in this study. Most of them (80% [N=24]) said they interpret from English to more than one language. Some of them, or 60 percent (N=18) of them, said they did not study the languages or the dialects in which they interpret in court, but understand the languages, because they once lived in the speech community in which the languages are spoken. While 53 percent (N=20) claimed they studied their mother tongues at school, when the levels or the extent to which they had studied the languages were considered, only 17 percent (N=5) had studied the language up to primary school level; 47 percent (N=14) had studied it up to secondary school; and 23 percent (N=7) up to tertiary level.

This study shows that 80 percent (N=24) of the respondents interpret from English into two or more languages, while 60 percent (N=18) interpret in other languages besides their mother tongues. Those who interpret languages which are not their mother tongues reported that they once lived in the communities in which these languages are spoken; hence, one can conclude that this is insufficient to achieve the “balanced” bilingualism necessary, among other things, for quality interpreting.
The notion of balanced bilingualism is not enough to guarantee accurate and quality interpreting. Bilingualism should be complemented by a “relevant linguistic and cultural background and acquired forensic knowledge”. This is the only way an interpreter will be professional enough to “be able to contribute to a fair trial” in order to realise the noble objectives of the profession (Driesen 2003:113).

Besides bilingualism, Hewitt and Lee (1996) maintain that cognitive abilities are essential to practise as an interpreter. They add that in order for an interpreter “to correctly render rote-facts (like numbers and names), the interpreter must pay close attention to detail, while listening, and then conserve the detail for a later recall with an excellent short-term memory”. For Schweda-Nicholson (1989:712), other elements which play a vital role in the improvement of interpreters’ skills, in addition to bilingualism, are “personality, flexibility of mind, the ability to think on one’s feet and to analyse quickly, broad general knowledge, a fair level of education and cultural awareness,” et cetera.

### 7.5.3 Dialect

One of the daily difficulties court interpreters encounter is the ability to interpret new words, terms or concepts they have never heard before. For example, an interpreter in the Johannesburg Magistrate’s Court who wishes to remain anonymous states that: “Oftentimes, the accused used words which at times may be familiar, at times strange, and these accused are the ones using their dialects or mixing their dialect with the standard language I interpret”. Many of the respondents said that this is a recurring experience in their practice as court interpreters; and I witnessed it in some of my observations of court proceedings.

On three occasions, one of the interpreters pointed out that the so-called new words referred to by the quoted interpreter above are new because they are words from a dialect of which he does not have complete mastery. Although 93 percent (N=28) claimed that they understood the dialects of their languages, in my post-survey interview with 67 percent (N=20) of the respondents regarding the claim made by an interpreter about strange words, I discovered that this was a familiar problem to interpreters whose languages have dialect(s).
A dialect is “a speech variety within a language” (De Jongh 1992:67). De Jongh explains further: “When a language is spoken by a large number of people who live in an extensive area where groups have often been isolated from one another, as in the case of Spanish and English, there will be dialectal diversity due to the geographical spread of the language”. This perfectly explains the dialect situation in Nigeria with regard to Yoruba and Igbo – two languages commonly interpreted for accused persons or witnesses in South African courtrooms. These two languages (Yoruba and Igbo) have dominant varieties, or standard dialects, and it is assumed that all Yoruba-speaking and Igbo-speaking persons understand them. Igbo is spoken in five states, while Yoruba is spoken in seven states in Nigeria. In addition to the standard dialects of the two languages, there are other dialects specific to each state and in some states there are even more than one dialect.

The data collected on dialects in this study indicate that 100 percent (N=30) of respondents’ working languages have dialects, and that 93 percent (N=28) said they understood the dialects of their languages, while 7 percent (N=2) said they did not.

In the light of the fact that these different dialects or varieties have common standard dialects, one would expect that there would be dialect levelling, which would consequently render the impact of dialects negligible in any communicative encounter. From my experience, apart from the fact that there are Igbo-speaking and Yoruba-speaking persons who do not understand the standard dialects of their languages, they are also influenced by their own dialects in the manner they use the standard dialects.

The local dialects or varieties in these different states have an overwhelming influence on the way standard Igbo is spoken in each of those states. For example, in my observation in the courtroom, I witnessed two scenarios where the court interpreters had difficulties in understanding or even knowing the meaning of the words used by the accused. It was not a case of unknown vocabularies; according to the court interpreter, the words were familiar, but it was difficult to find the appropriate equivalents. The words used by the accused in this particular instance and which caused a problem to the court interpreter were *Ka kunu me*, (‘How are you people?’).
The court interpreter had to request the accused to repeat the sentence in the Nigerian Lingua Franca – Pidgin English – before she was able to render the sentence into the target language. During the lunch break, we had to consult another Igbo-speaking interpreter telephonically, who confirmed the meaning, as stated in Pidgin English by the accused. The person whom we consulted told us the words were specific to an Igbo spoken in Asaba, Delta State, Nigeria. The sentence *Ka kunu me* in Asaba Igbo’s dialect, called *Enuani*, will be rendered as *Ele otu unu mere* in the general or standard dialect.

The scenario discussed regarding the Igbo standard dialect and its various dialects applies similarly to Yoruba. One of the interpreters told me he was shocked that an accused who came from the same Nigerian state spoke a Yoruba dialect which he could not interpret easily, and he had to request the accused to use the standard dialect. He maintained that even when the accused was using the standard Yoruba dialect, he noticed that he was code-mixing between the standard and the regional dialect. The scenario depicted here is very interesting, because the court interpreter was surprised that both of them (the accused and interpreter) were from the same state, but the accused was speaking a dialect of whose existence he was unaware.

A further point of interest is the assumption of dialect levelling between the standard Yoruba spoken by the court interpreter and the accused’s dialect – given that both Standard Yoruba and the dialect are used interchangeably in the same state – proved to be unfounded, since the interpreter claimed he struggled to understand the dialect of the accused.

Problems caused by an inability to understand dialects of the standard form of a language may be aggravated when it is a dialect of a cross-border language and the interpreter is not from the same side of the border where the dialect is spoken. In the case of the Igbo and Yoruba dialects mentioned above, the Yoruba and Igbo interpreters may not have had any socio-cultural challenges to contend with because the dialects are from closely related speech communities within the same country.
This may not be the case for an interpreter who interprets for an accused across the border, whose dialect may have some “foreign” socio-cultural characteristics with which the interpreter has to contend.

In addition to the difficulties court interpreters experience with dialects, the difficulty of finding equivalents for certain English words in various African immigrant languages and vice versa is a problem of a different kind. The interpreters reported that the lack of equivalents often forced them to resort to sentence-long descriptions, explanations or circumlocutions in the TL. For example, the word ọzọba in Ẹdo does not have any English equivalent, and is translated in an Ẹdo-English dictionary by Agheyisi (1986:124) as ‘a sticky and unanticipated problem’. In court, this word was simply interpreted as ‘problem’ in English by the interpreter, thereby reducing the semantic effect of the word, and/or not conveying the intention behind the spoken word as used by the SL speaker in the TL.

7.5.4 Biculturalism

Biculturalism refers to the “ability to interpret experiences in the manner appropriate to both cultures involved” (De Jongh 1992:59). This requires significant cross-cultural awareness. The data in this study reveal some important facts about the respondents in this regard. For example, most of the respondents are involved in cross-border language interpreting; their languages have dialects; and most of the languages in which they interpret are not their mother tongues, but the languages learnt in the speech communities in which they once lived.

This calls into question their level of cross-cultural awareness or experience appropriate for biculturalism in interpreting.

A good interpretation means “a deep familiarity with the languages involved (bilingualism) and their respective cultures (biculturalism)”, according to De Jongh (1992:59). Cultural awareness is one of the vital requirements for a competent interpreter, besides bilingualism, and this requires a balanced perspective of both the SL and TL cultures. The opposite of this, according to De Jongh (1992:59), could be regarded as being ethnocentric or constitute monocultural interpreting. This takes place in total disregard of the cultural contexts of the languages involved.
The influence of culture on language cannot be overemphasised, and interpreting which takes place in order to reduce language barriers between two individuals or groups must be seen from this perspective. The influence is summed up by Wiersinga (2003:47), who states that “[t]he ability to interpret language codes and the ability to accomplish translation is partly a question of culture. Knowing how to render meaning within the prevailing cultural patterns is the ultimate way of bestowing real meaning at all levels”.

To some scholars, knowledge of the culture of the working languages of the interpreter is a non-negotiable skill. Katschinka (2003:93), for instance, who discusses the set of skills legal interpreters must possess, states that “…knowledge of the culture and the legal system of the countries of the working languages” should be one of the core competences of legal interpreters.

Many of the variables which came to the fore in the data collected underpin the importance of bicultural knowledge or the lack thereof in this study. For example, 93 percent (N=28) of the respondents in this study reported that their working languages have dialects. Although they all claimed to understand the dialects of their working languages (as discussed in Subsection 7.5.3, which deals with the role of dialects in this study), certain sub-cultural challenges linked to the sociolinguistic context of dialects pose major problems to those interpreters whose working languages are not their mother tongues. This is an even larger concern for interpreters whose working languages are cross-border languages, because, while they may understand the dialect(s) on their side of the border, a lack of understanding of those on the other side of the border, together with the socio-cultural factors influencing their use, will jeopardise unfettered communication between the relevant parties in court.

One of the ways the effect of this type of ignorance is mitigated is to allow the interpreter sufficient time to interview the accused/witness as part of his/her preparation for the beginning of the trial. During the course of the interview, the interpreter should be able to determine the dialects, jargons, regionalisms and colloquial expressions of the accused/witness, as well as to confirm his/her level of education. Prior knowledge of these facts would, amongst other issues, enable the interpreter to eliminate any possible misunderstanding as a result of dialect variation.
If it becomes clear that these factors will present an insurmountable challenge, the interpreter should, in good conscience, or as is required by the ethical code of his/her profession, withdraw from the case.

Furthermore, an explorative interview of this nature should provide the interpreter what De Jongh (1992:28) refers to as sufficient referential knowledge. Apart from allowing the interpreter enough time to interview the accused/witness, De Jongh suggests that the interpreter should be given sufficient information about the “situation or subject matter” of the case, or else the “interpreter may not possess the minimum level of knowledge that enables a person to interpret, that is, to understand”.

My interaction with the foreign African court interpreters, after observing their participation in court proceedings, showed that such interpreters are not given the necessary information in advance regarding the nature of their interpreting assignments. The interpreters’ responses to the question: “Are you always given as much information as possible in advance regarding the nature of the interpreting assignment before your first court appearance in a case?” confirmed my observation. Almost all the respondents (90 percent - [N=27]) responded in the negative to this question. Similarly, 53 percent (N=16) claimed that they were aware that there is a provision that they have to determine the language ability of the accused, but this is done only a few minutes before the case begins.

My observation in the court confirms this response; but this conversation mostly took place in what could be regarded as a transient moment, barely sufficient to gather any useful information about the language background of the accused, let alone the necessary preparation by the interpreter. When some of the interpreters were asked what the content of their discussion was with the accused, the answers provided did not relate in any way to background knowledge regarding the language ability of the accused.

Some said they would introduce themselves to the accused persons as their interpreters for the case, while others said they would tell the accused not to feel intimidated in answering any question put to him/her.
Sufficient information about the case would enable the interpreter to determine what is important to discover in the pre-trial interview with the accused. As this is not done by foreign African interpreters, the rendition of the SL (and all its nuances) into the TL may be a serious problem, as described above.

### 7.5.5 Code-switching

Code-switching (CS) is a common practice employed by interpreters and other role players, such as prosecutors and attorneys in the courtroom. It is common to hear the prosecutor embedding isiZulu expression such as “woza lapha baba” (Come here, father/old man) in an English conversation. Figures and colours which can easily be expressed in both the SL and TL are frequently code-switched. This is a common occurrence when the SL being rendered into the TL by the court interpreter is from the magistrate, prosecutors and attorneys. Some frequently code-switched words are names of months, dates and names of departments or government offices, such as Johannesburg City Council. These words have common equivalents in local languages, especially in Igbo, Yoruba, Ẹdo and Shona, according to the court interpreters whose working languages are these mentioned.

In magistrates’ courts, one often sees the magistrates taking over the role of the prosecutors; and in one such instance in Hilbrow District Magistrate Court, Court 1, the accused responded in CS form to the questions asked by the magistrates without waiting for the interpreter to interpret what the magistrate had said. This shows the accused understood English.

CS is the mixing or switching of two or more languages in one sentence or between sentences. CS is a common speech pattern of people in multilingual communities. CS, as defined by Bokamba (1988:24), is “the embedding or mixing of words, phrases, and sentence from two codes within the same speech event across sentence boundaries”. CS is also called intersentential CS by Myers-Scotton (1993:4), who defines intersentential CS as “switches from one language to the other between sentences”, or as defined by Jisa (2000:4), it is “the use of sentential constituents from two languages in the same discourse”.
There are two types of CS: situational CS and metaphorical CS. Situational CS, as defined by Wardhaugh (2002:103), “occurs when the languages used change according to the situation in which the conversants find themselves: they speak one language in one situation and another in a different one”. Metaphorical CS, on the other hand, is said to occur, according to Wardhaugh (2002:103), “When a change of topic requires a change in the language used”.

CS is also seen from the intrasentential perspective, and this, as maintained by Hudson (1980:56-57), enables speakers to switch codes within a single sentence. Hudson calls this conversational CS, but a scholar, such as Myers-Scotton (1993:4) qualifies it as intrasentential CS, which according to her means the occurrence of “switches within the same sentence or sentence fragments”. Intrasentential switching is also referred to as code-mixing, and, as pointed out by Cheng and Butler (1989:295), "code-mixing is sometimes used to denote a category of code-switching." They (1989:295) define code-mixing as "a short insertion of one or two words of language A into the language B context". Similarly, Bokamba (1988:24) defines code-mixing as the “embedding or mixing of various linguistic units, i.e., affixes, words and clauses from two distinct grammatical systems – or systems within the same sentence and the same speech situation”.

An example of code-mixing given by Osadolo (2006:24) is: “Igha try e-number iyi’reti, ẹ ring i sure ighẹ ẹvẹn air time (If I try Mama Ireti”s number, it doesn”t ring, I am sure she doesn”t have air time”).

According to Osadolo (2006:20), when people from different cultures and linguistic communities come into constant contact, bilingualism develops and this results in the mixing or switching of languages by some individuals in the bilingual community. One of the corollaries of the colonisation of Africa was the adoption of the colonisers' languages as official languages. Today, it is a common sociolinguistic phenomenon to see nationals from these countries mixing or switching their indigenous languages with that of their erstwhile colonisers. Communication in courtrooms is not spared this phenomenon.
Some scholars see CS, according to Osadolo (2006:22), as “a host of communicative functions used by bilinguals”. For example, Cheng and Butler (1989:293) argue that when "code-switching is used to maximize communication and to strengthen not only the content but the essence of the message, it can be considered as an asset, not a deficiency". Heller (1988:3), who quotes Tannen (1979), Gumperz (1982) and Cicourel (1978), holds the same viewpoint. In Heller's (1988:3) view, CS refers to the extent to which interlocutors can draw on their verbal resources to arrive at a shared understanding.

However, some scholars regard CS as a sign in a speaker “who has poor command of the language or displays signs of language deficiency” (Osadolo 2006:21). In this regard, Myers-Scotton (2002:21) remarks that some speakers code-switch when they do not have a complete understanding of the participating languages being used. In the same vein, Cheng and Butler (1989:293), cited in Osadolo (2006:21-22), argue that authors consider code-switching as a language deficit "when used in great abundance, and to the degree that it interferes with the smooth flow of communication" (emphasis mine).

Although some scholars can point to the advantages of CS, the nature of communication in the court demands that the court interpreter convey the complete meaning of the speaker’s message, as it is. CS, as used by the court interpreters indicates what Auer (1988:195) refers to as the display of “an imbalanced bilingual competence” and it negates the view earlier stated in Section 7.5.2 about the need for a balanced bilingualism on the part of court interpreters. Although balanced bilingualism is not enough to ensure accurate and quality interpreting, as earlier indicated, the notion of an imbalanced bilingual competence, as revealed by the use of CS by the court interpreters in this study, is an added concern regarding the need for quality interpreting in the courtroom.

One interesting fact code-switching has revealed in this study is that it is not true that all the accused persons or witnesses requesting court interpreting do not understand English, which is the common language used in the court. My observation of courtroom proceedings shows that some of the accused persons or witnesses can speak English. This is usually in the form of English as an embedded language in
addition to their mother tongue (the matrix language). They use English as an embedded part of their sentences and with a level of proficiency the magistrate or the prosecutor can easily understand.

This also manifests in the way some of the accused persons would react to what the prosecutors or the magistrates have said before the interpreter’s turn to interpret what has been said.

A number of accused persons and witnesses, who were either on bail or had been discharged were interviewed on this phenomenon. In the interview, some of the accused persons and witnesses admitted that the use of English in the form of writing and speaking was not their problem, but that they were uncertain about the level of proficiency required in the courtroom situation, hence they had to request the services of an interpreter. One of the accused persons said he had no problem with the use of English in the courtroom, but he opted to use the services of court interpreters, “because these people depend on us to survive”.

In other words, his assertion means that even though he understands English, he would prefer to use the services of a court interpreter, as that would enable the interpreter to handle more interpreting assignments in order to get more money. (See Section 7.9.5 where it was indicated that the court interpreters said the more interpreting assignments they handle, the more they will get in the form of remuneration.)

7.5.6 Interpreting in first person and third person

The use of the first person is regarded as the most efficient and effective way of interpreting in the court, as it allows the interpreter to directly state what the speaker has said (Krikke and Besiktaslian 2005:166). In other words, it allows the SL message to be transferred in direct speech as if it had originated with the court interpreter (Moeketsi 2000:230). In this way, the interpreter ensures that the SL message is conveyed in the same way as it has been spoken. This causes the court interpreter to be unobtrusive and invisible in the court, according to Moeketsi (2000:232).
However, what happens in actual fact is that most foreign African court interpreters use the third person in the courtroom, as the discussion below exemplifies.

For example, in my observation of court proceedings, an Igbo interpreter assumed that the accused understood what the magistrate had said. She therefore continued by asking the accused in standard Igbo “Ighota ife okwuru?” ('Do you understand what he said?'), to which the accused responded “yes”. She nevertheless continued to interpret (possibly for the record) in the third person by saying, “He said your case has been postponed”. In cases where the accused had pleaded guilty, it was a common occurrence that both the foreign African court interpreters and the South African court interpreters observed did not care about professional conduct or practice. They would assume that not much is in contestation that warrants caution. Consequently, instead of the interpreter interpreting the accused's statement in the first person as: “I plead guilty”, some of them relayed the statement by saying: “He pleads guilty”, after sight translating the charge to which the accused had pleaded guilty.

In such cases, the interpreters continued with summary interpreting, especially during the sentencing stage.

It was common also to hear the court interpreters interpreting any Nguni family language using the third person, such as uthi (he/she said), several times when they were relaying what the prosecutors, attorneys or the magistrates had said to the accused or witnesses.

7.5.7 Use of unclear and incoherent language by accused and witness
Besides the language-related challenges analysed above with respect to cross-border languages, dialects and biculturalism, one of the difficulties experienced by court interpreters is the use of unclear and incoherent language on the part of the witness.

An analysis of the results shows that 70 percent (N=21) experienced difficulty in being able to interpret unclear or incoherent language used by the defendants. Of those who said they had experienced this difficulty, 35 percent (N=11) attributed it to
a lack of preparedness by the attorneys of their clients. In other words, they believed that the attorneys were required to prepare their clients on courtroom procedures, especially about how examination-in-chief and cross-examinations are done. They believed the defendants who used incoherent language were simply afraid or had stage-fright.

The interpreters said they had to disambiguate, clarify and polish their answers. Some said they would tell the magistrate that the defendant’s response was incoherent and thus request them to restate what they had said. Those who disambiguated or clarified what the defendants had said believed it was their job to restate what they thought the defendants were going to say, judging from their previous responses to questions they had been asked on the topic.

No matter how the court interpreters would try to justify their actions to help the accused or witnesses in disambiguating, clarifying and polishing their responses, the fact remains that they had stepped out of their prescribed role. The court interpreter’s role is to facilitate communication between the parties who do not understand one another’s language in the courtroom, and this has to be done without additions, deletions, modifications or omissions. Court interpreters who do any of these, are violating an important ethical principle of interpreting, and stepping outside their mandate.

7.6 PRIOR PREPARATION

In the analysis of the effects or challenges of cross-border languages, bilingualism, and dialects, one of the mitigating factors mentioned to overcome some of the challenges posed by these elements is the recommendation that the interpreters need to engage in prior preparation before the case begins. This can be in the form of compiling probable vocabularies and terminologies, and reading relevant literature on the case.

The court interpreter can only do this if he/she has been informed sufficiently in advance about his/her next interpreting assignment. This is why it is recommended in the literature that the case file be made available to the court interpreters before the case begins (Martonova 2003:128). De Jongh refers to this as, “sufficient
referential knowledge” to enable the interpreter “to possess the minimum level of knowledge that enables a person to interpret (1992:28).

When the court interpreter has prior information or referential knowledge about the case, he/she will be able to act pre-emptively. This would afford them an opportunity to interview the accused persons to determine their language backgrounds in terms of dialect and culture. Allowing the interpreter to have access to the file would also help him/her to overcome the challenges of sight translation, if there is any document to be sight translated.

Data collected in this regard highlight the fact that the court interpreters are not given enough information which would enable them to prepare before the case, either during bail application or during trial, as evidenced in the response to the question below:

Are you always given as much information as possible in advance regarding the nature of the interpreting assignment before your first court appearance in a case?

<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondent (N=30)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>27</td>
<td>90%</td>
</tr>
<tr>
<td>Yes</td>
<td>3</td>
<td>10%</td>
</tr>
</tbody>
</table>

Table 7.7: Provision of information about the case in advance

It is clear that, based on the responses to the question, this information was (or still is) rarely provided. The results also correlate with the information provided by the chief interpreters, who are mainly responsible for assigning interpreters to courtrooms. It appeared that the chief interpreters also had no more knowledge about the cases to be interpreted than the venues in which they would be heard. As stated by one of the chief interpreters, “We don’t know what kind of case they are going to handle. The prosecutors do request in time anyway, but the type of case is not disclosed”.
Even the 10 percent (N=3) of the court interpreters who answered in the affirmative regarding the provision of information about the case in advance said that the information was presented to them only one day before the case. The post-survey interview with them showed that they were constrained regarding the options of answers in the questionnaire. They said they ticked one day because it was the least time in the questionnaire, but actually they get to know about the case either from the prosecutors or the accused persons a few minutes or seconds, while the accused is already in the dock. My observation of court proceedings attests to the fact that that some interpreters do in fact interact with the accused briefly in the dock, but this is restricted to what I have referred to as a *transient moment* (in Section 7.5.4 above).

In the post-survey interview with the chief interpreters, they were asked if they were aware of their duty to provide the details of the case to the court interpreters in advance before the commencement of the case. In their responses, it was clear that they were aware of the need to have access to the details of the case in order to brief the court interpreter. However, they explained that the prosecutors would not divulge the nature of their cases before they arrive at the courtroom.

This, in other words, suggests that the prosecutors treat the cases they handle as confidential and the consequence of this leave the court interpreters with little or no information about the case in advance. This, in turn, would affect the court interpreters in terms of knowing the type of preparation to make in advance for the case they are to interpret. In order to prevent this from happening, Martonova (2003:128) suggests that it is imperative that the prosecutors work in a relation of trust with the court interpreters, and therefore give them unconditional access to the cases they are handling in advance.

The ultimate concern in communication is to make sure one’s interlocutor understands what is being communicated. In the court interpreting context, the provision of information in advance to the court interpreters would help in making the appropriate preparation for the necessary communication that would result in the desired outcome in the dispensation of justice.
The data represented in the table below, show that 53 percent (N=16) of the respondents said provision is made for them to determine the language ability of the accused, and they do this a day before the case.

Is provision made for you to determine the language ability of the accused or the person for whom you are interpreting?

<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondents (N=30)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>16</td>
<td>53%</td>
</tr>
<tr>
<td>No</td>
<td>14</td>
<td>47%</td>
</tr>
</tbody>
</table>

Table 7.8: Determination of the language ability of the accused

Again, the post-survey interview revealed that one day was the least time in the option of answers in the questionnaire; hence, they had ticked “one day”. However, they actually meant that they only had a few minutes or seconds with the accused in the dock before the commencement of the case. As indicated earlier in an analysis where this was referred to, the interpreters (53 percent [N=16]) only engage in a brief interaction with the accused. In the analysis I referred to this as a transient moment.

It should be added that it has nothing to do with determining the language ability of the accused persons by the court interpreter. For example, as earlier stated, most of the interpreters reported that their interaction with the accused ranges from introducing themselves to the accused persons to encouraging the accused not to feel intimidated in answering the questions put to them.

7.7 FATIGUE

Interpreter fatigue, according to Vidal (1997), comes about as a result of mental exertion, as opposed to that of athletes, whose muscles become physically strained after repeated exertion. In the case of an interpreter, fatigue is a consequence of “complex mental processing and the high degree of concentration the interpreter must have to hear, then understand, analyse, and finally express ideas coherently in another language” (Vidal 1997).
Early research on fatigue was done on conference interpreting (simultaneous interpreting) and, according to Gerver (1974), cited in Vidal’s (1997) article, fatigue is caused in interpreting because “difficulty in perceiving source language passages reduced the ability of simultaneous interpreters to monitor their own interpretations into the target language.” Gerver further adds that the “levels of noise which would not necessarily impair perception of speech by simultaneous conference interpreters could interfere with the processes involved in the retrieval and transformation of the messages being interpreted.”

In support of this observation, Vidal (1997) asserts that “[s]ince monitoring their own utterances and making corrections is one of the many cognitive functions performed by interpreters, if their ability to self-correct is impaired, their level of stress and resulting fatigue also increase proportionately”.

Other causes of fatigue and stress are unfamiliarity with terminology, fast speakers, incoherent and ambiguous language, etc. These factors have been identified as primary causes of stress and fatigue to conference interpreters, but in reality, it applies even more to court interpreters than to interpreters in other settings (Vidal 1997). It is more strenuous in the case of court interpreting, according Vidal (1997), because the conference interpreting environment gives room for more flexibility, while,

…interpreting in court requires greater precision, since a complete and faithful rendition must include hesitations, false starts, repetitions and inaccuracies. It follows then that judiciary interpreters face more demanding and stressful working conditions than their counterparts elsewhere.

It is for these reasons that care must be taken to avoid interpreting fatigue in the case of court interpreters. In court interpreting, any error may result in a mistrial, or a miscarriage of justice. For example, González et al. (1991:510) point out that, to avoid court interpreter’s fatigue, many district courts in the United States “assign two court interpreters to any case lasting more than two hours”.

The use of more than one interpreter in a case is referred to as team interpreting (González et al. 1991:510, Nicholson 2005:48). In team interpreting, court
interpreters work in a team and relieve each other at a given interval of, say 20 minutes or 30 minutes. The interpreting interval prescribed by the Association Internationale d'Interprètes de Conférence (AIIC), according to González et al. (1991:510), is 30 minutes, but in Canada, the recommended interval is 20 minutes (Bennett 1981 cited in González et al. 1991:510). Lambert (2004), who justifies this recommended interval, says that “[t]he simultaneity of listening and speaking imposes a severe strain on human channel capacity, which may explain in part why professional interpreters normally ask to work for 20-minute periods only”.

A lengthy period of interpreting without a break affects the accuracy of interpreting, according to Obst (in Vidal 1997), who points out that “[a]fter 30 minutes the accuracy and completeness of simultaneous interpreters decrease precipitously, falling off by about 10% every 5 minutes...”. Despite this available evidence in the literature against lengthy periods of interpreting, in South Africa, court interpreters only break from proceedings during tea and lunch periods. In reference to the data collected for this study, 87 percent (N=26) of the respondents declared that the only break periods they have are for the customary tea break in the morning and the lunch break.

The ‘no response’ percentage was 10 percent (N=3), while 3 percent (N=1) responded that the customary tea and lunch breaks also included visiting ablution facilities, something which obviously applies to all other respondents also. Among the respondents who pointed out that their break periods were only for tea and lunch, some added that sometimes they would be told ‘no break’ in order to make sure that the case being dealt with could be finalised on that day.

To mitigate the effects of fatigue, it has been indicated that team interpreting is used, according to González et al. (1991:510) and Nicholson (2005:48), or twin-interpreting, according to Moeketsi (2000:234). This is not a practice in the South African magistrate courts, as evidenced in my observation of court proceedings and the data provided by the respondents to this study. According to the data, 80 percent of the respondents reported that one court interpreter is assigned to an interpreting assignment. The rest, who indicated that two and five respondents were allocated, respectively, were referring to a case where there were multiple witnesses speaking
different languages, so that to each of the witnesses a separate interpreter had to be allocated, as evidenced by the post-survey interview.

**7.8 SIGHT TRANSLATION**

Sight translation involves the rendering of written material in one language into an oral version in another language; or, as stated by González et al. (1991:401), it means “oral translation of a written document”. On a daily basis in South African courtrooms, court interpreters sight translate charge sheets into the accused person’s language.

My observation of court proceedings, especially at the beginning of trials, shows that all charge sheets were sight translated into the accused’s language. Furthermore, 60 percent (N=18) of the court interpreters in this study reported that they had also sight translated other documents on several occasions, either from the language of the accused or witness into the official language used in court, or vice versa. This makes sight translation skills imperative for court interpreters. Such skills, as stated by Ostarhild (2001), should enable the court interpreters to have “a quick grasp of the meaning of the written text and a high degree of linguistic flexibility to produce almost immediately an accurate, lucid and fluently spoken version, translated at sight from the text”.

Sight translation requires specific skills, some of which have to be taught through specialised educational programmes, such as reading and comprehension skills. In addition, a sight translator needs to have insight into both linguistic and sociolinguistic aspects of communication. The data collected, however, do not indicate that participants in this study have (at least formally) acquired these skills, as 73 percent (N=22) of them have less than a degree, and 64 percent (N=20) of those who claimed to have studied their working languages at school, had only reached either primary school or secondary school level.

As stated earlier in Section 7.2.1, it also emerged that what they regarded as “language studied at school” (e.g. English) was in fact the medium of instruction. None of the 7 percent (N=2) who said they had studied a language at tertiary level had obtained his/her diploma or degree in linguistics-related fields.
In addition to this, the data show that 84 percent (N=25) of the interpreters had not been given any form of CPD training. It is highly unlikely that they would be trained, as present DoJCD’s policy makes no provision for CPD for temporary interpreters (see chapter five, Subsection 5.5.1). This means that the quality of sight translation currently practised in the DoJCD leaves much to be desired. Ostarhild (2001) warns that “[s]ight translation is not an easy skill to acquire”, and she continues that the skills come about through “training, practice and knowledge of the process of producing sight translations from written texts”.

There are two possible problems interpreters working with cross-border languages may encounter during sight translation. Ostarhild (2001) recommends that a sight translator must have knowledge of the two cultures of his/her working languages – that is, the cultures of the SL and the TL. She goes further to point out that “[t]o access written texts quickly, knowledge of the structures and syntax of the two languages is essential”. As indicated above in Section 7.5.1, some court interpreters interpret in cross-border languages for accused persons from a country with different sociolinguistic backgrounds.

In this regard, the first problem is that due to the different backgrounds, the court interpreters may not be adequately informed about the societies and cultures of the accused persons, especially when (in the case mentioned) the accused is from a lusophone country and the court interpreter from an anglophone country (see Section 7.5.1 above). Secondly, this may also extend to the fact that because of orthographical differences between, for instance, Malawian Sena (which reflects the English orthography) and the Mozambican Sena (which reflects Portuguese orthography), interpreters may have problems in accessing written texts quickly.

This is also applicable in terms of knowing the structures and syntax of the two languages, which Ostarhild (2001) suggests is essential in sight translation.

Related to this is prediction, which is also important in sight translation and an important strategy when used in interpreting. In this regard, González et al. (1991:403) maintain that, “[i]nterpreters are able to predict the outcome of an incomplete message because of their knowledge of the syntax and style, as well as
other sociolinguistic factors in the SL culture”. This requires professional training, which foreign African court interpreters do not have, and may not have even in the near future, given the data presented about them in this study.

Interpreting is a complex task, and it is even more complex when no attempt is made to alleviate some of the problems the court interpreters may encounter. As discussed, there is no doubt that the participants (interpreters) in this study may have problems of comprehension, if not reading also, due to their low level of education or irrelevant qualifications. Thus, they may not have the appropriate knowledge of the phonology, sentence structure and semantics of the SL; and, in the case of cross-border languages, the interpreter may have problems with the culture and sociolinguistic conventions of the accused hailing from the “other” side of the border.

These problems have to be addressed in order to ensure a fair process in the dispensation of justice. A first step, in the present circumstances, would be to make available in advance the documents to be sight translated to the court interpreter. In addition to empowering the interpreter in terms of the appropriate background knowledge, this would enable him/her to decipher illegible handwriting in the case of hand-written documents. The interpreter would then be able to study the document and possibly consult the author for an explanation of the aspects he/she finds difficult to decipher.

If the author is not available, the interpreter may consult other interpreters for assistance, and, in the worst-case scenario, may have to decline the assignment or bring to the notice of the court that the document contains undecipherable parts. Unfortunately, all this is currently impossible. The data in this study have shown that 73 percent (N=21) of the interpreters have never been provided with the documents they must sight translate in advance. Worse still, the interpreters are not encouraged to decline an interpreting assignment even if they feel they are unable to handle it. Foreign African court interpreters are paid according to the number of cases they interpret; hence they may not want to decline any interpreting assignment, even if they do not have the necessary competence.
7.9 QUALITY ISSUES
Although the aforegoing discussion has had a definite bearing on the quality of the service rendered by court interpreters, it should be emphasised that court interpreting is an output that complements efforts made by other role players in the courtroom to ensure the proper administration of justice. This means essentially that the rendering of textual information between two languages with the ultimate aim of establishing equivalence between the SL and the TL, is crystallised in what Moser-Mercer (1996:44) refers to as optimum quality. This means that:

…an interpreter provides a complete and accurate rendition of the original that does not distort the original message and tries to capture any and all extralinguistic information that the speaker might have provided, subject to the constraints imposed by certain external conditions.

For court interpreters to attain this optimum quality of interpreting, a host of linguistic and extralinguistic factors, such as institutional support or the lack thereof, a professional approach to the task, and professional ethics and conduct must all come into play.

In this section, these factors will be discussed, based on examples from the data collected.

7.9.1 Employment of foreign court interpreters
The ideal process of employment starts with the employer’s advertisement, using both internal advertising and the mass media for external advertising, in order to ensure that a wide array of applicants will read the advertisement and respond to it. This method is followed in the DoJCD, except for the employment of foreign African court interpreters. (See, for example, the table below indicating the court interpreters’ answers to the question: “How did you learn of the position?”)
Table 7.9: How the court interpreters learnt that the position of a court interpreter was vacant in the DoJCD

The results in the table indicate that posts for foreign African court interpreters are not filled by way of advertising, and that the respondents in this study did not learn of vacancies for court interpreters through either external or internal advertisements. They all learned of the relevant positions via informal sources. As evidenced in the table, 33 percent (N=10) of the respondents learned of the position through practising court interpreters, while 43 percent (N=13) of the respondents became aware of it through their friends, and 23 percent (N=7) through personal enquiry.

One of the purposes of a job advertisement is to indicate that there is a vacancy in the organisation that has to be filled. It is also used to attract a pool of applicants from among whom a few suitably qualified ones will be called for interviews, based on particular selection criteria. As stated by Nel et al. (2005:222), advertisements are used to reach the most desirable “… candidates and supply enough information to unsuitable candidates, to allow them to exclude themselves from the process”.

This is the first step taken in any organisation to ensure that the employees recruited are of the calibre that would be able to contribute to the expected quality and standard of operation in the organisation. In the employment of foreign African court interpreters, this principle seems to have been abandoned, as no advertising is done to recruit the most suitably qualified candidates. An explanation provided by one of the chief interpreters in this regard is that sometimes the need for a court interpreter in a particular language will be so urgent that all other considerations that normally
apply in the recruitment process would be ignored. Although the chief interpreter’s explanation of the situation seems excusable, the need for quality interpreting which would help to contribute to the fair dispensation of justice should start by ensuring that the best and most competent person is recruited as a court interpreter.

This can only be done through a recruitment process, such as a job vacancy advertisement, as stated in the reference to Nel et al. (2005:222).

7.9.2 The selection process
After the advertisement, the next process is to select a suitable candidate from the pool of applicants who have responded to the advertisement - an important process, as it should result in hiring the best person for the job if it is done professionally. Hence the affirmation of Nel et al. (2005:232) regarding the recruitment task, viz “Finding and hiring the best person for a job is a complex process of data gathering and decision-making that does not occur through a flash of insight”.

The data in this study revealed that foreign African court interpreters are not employed through a formal recruitment process and thus the question of a selection process does not apply in this case. Once a candidate has been identified, an interview, facilitated by a so-called middle man (in most cases an interpreter in the same court), between the chief interpreter, the middle man and the candidate is scheduled, and the latter is simply informed about the date for the interview.

7.9.3 The interview
In the table below, the foreign African court interpreters responded to the following question: “Were you interviewed for the job?” as follows:
<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondents (N=30)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, an oral interview</td>
<td>23</td>
<td>77%</td>
</tr>
<tr>
<td>Yes, both oral and written interview</td>
<td>4</td>
<td>13%</td>
</tr>
<tr>
<td>No, I was not interviewed</td>
<td>3</td>
<td>10%</td>
</tr>
</tbody>
</table>

Table 7.10: Respondents' methods of being interviewed before their employment

As can be seen in the data, 77 percent (N=23) of foreign African court interpreters said they were interviewed in the process of their recruitment by means of an oral interview. Those who were interviewed in both oral and written format, amounted to 13 percent (N=4), and 10 percent (N=3) said that they were not interviewed before being employed.

The data show that foreign African court interpreters are usually interviewed orally, that a few undergo a combination of oral and written interviews, and that some are not interviewed at all. The present study did not pursue the reasons, but inferences from the data may logically point to the possibility that the department (DoJCD) does not have the manpower needed to conduct proper interviews for foreign African court interpreters.

Interviewing is another important stage in the process of employing court interpreters. As mentioned repeatedly, interpreting, and in particular court interpreting, requires a number of skills, and these can be ascertained to some extent in the course of the interview process. For example, it is stated in Nel et al. (2005:237) that an interview can be used to evaluate an applicant's speaking ability, confidence and manner of interaction. These are personal qualities which are important for court interpreting and they should be known about a potential court interpreter.
In response to the question, “What other role do you perform in the court besides interpreting?”, 30 percent (N=9) of the interpreters declared that they also performed various other duties in the court. One of the roles they mentioned was assisting in interviewing potential foreign African court interpreters. This may account for the fact that in the case of candidates whose languages do not have a practising court interpreter in the court, they may be employed without any interview, as evidenced by the 10 percent (N=3) who intimated as much.

This is also supported by the explanation of one of the chief interpreters, namely that sometimes the need for a particular foreign language becomes too urgent to follow the normal recruitment procedures.

However, the sensitive nature of court interpreting demands that best practice must be used, and this requires, on the part of the DoJCD, a methodical administrative system with a sufficiently equipped human resource department to do what is necessary for a proper interview of anybody who has to be employed as a court interpreter in any language.

7.9.4 Induction and orientation processes
The only form of induction and orientation, as explained by foreign African court interpreters who participated in this study, would be a brief moment with their chief interpreters who would assign them to senior interpreters from the same country, or the same working language, and would be told to observe them as they interpret. When the foreign African interpreters were asked to describe their first or second day at work, 100 percent (N=30) responded that they were told to observe senior interpreters at work.

What they are told to observe varied from interpreter to interpreter, according to the data collected, but it generally revolves around the procedures, the functions and the address form of the different role players and phases of the trial. In addition, foreign African court interpreters also mentioned that they were always told to take note of legal terms and concepts in their working languages.
In this regard, one of the chief interpreters declared: “I tell them about the glossary, give them a copy of the glossary, for example, shoplifting, and tell them to learn words that are commonly used in the discussion of shoplifting. I also do this for cases that are common in court, such as housebreaking, assault, armed robbery, etc”.

In chapter five, the induction and orientation processes in the DoJCD have been explained in detail; however, these apply only to South African court interpreters for indigenous languages. In other words, the induction and orientation processes of the foreign African court interpreters are restricted to the brief moment with their chief interpreters during which they are simply assigned a locale, and told to observe a senior interpreter for a few weeks. The exclusion of foreign African court interpreters from the induction and orientation processes described in chapter five amounts to throwing them in at the deep end, and the obvious casualty is quality interpreting.

Induction and orientation are two processes which are considered to be very delicate by organisational psychologists and human resource specialists, who recommend that they should be handled professionally. As explained by Nel et al. (2005:251), “Starting a new job is considered to be one of the most stressful life experiences and a proper induction process that is sensitive to the anxieties, uncertainties, and needs of a new employee is of the utmost importance”.

The importance of proper recruitment, induction and orientation processes cannot be overemphasised. Apart from the fact that the processes should result in recruiting and preparing the best candidates to take up the court interpreting job, it is important to point out that, as part of these processes, the court interpreter’s job description should be spelt out in detail to him/her. A job description is essential to provide guidance regarding the specific duties of employees. It provides guidance to the employees concerning “what to do and how to do it” and it enables them “to know who does what and who knows what” (Nel et al. 2005:200).

This, in essence, provides information to the court interpreter about the limitations or boundaries of his/her role in relation to other role players in the courtroom. In the absence of such a description during the recruitment, induction and orientation of
foreign African court interpreters, to which the results of the investigation bear testimony, the result would be ignorance concerning their specific duties, as well as the duties of the other role players they would encounter in their practice as court interpreters. The consequence of this has been a misunderstanding of their role, (and especially the boundaries of their role).

7.9.5 Conflict of interest

According to Almeida and Zahler (1981), quoted in González et al. (1991:496), “Any condition which impinges on the objectivity of the interpreter or affects his professional independence constitutes a conflict of interest”. Some of the previous data presented above constitute a clear case of a conflict of interest. For instance, when the interpreters were asked: “Have you at any time felt that the accused’s right is being infringed, and decided to assist in any way you can?”, 73 percent (N=22) answered in the affirmative. Similarly, 50 percent (N=15) of the respondents said they had been contacted by the accused, or relatives of the accused, before or during the trial of the accused.

A pre-trial meeting between the court interpreter and the accused or witness is very important, as such a meeting would allow the court interpreter to have prior knowledge of the individuals involved in the case. It is also important for the court interpreter to have the details of the charges and the nature of the case before the case starts. This, and his/her prior knowledge of the case, may stand the interpreter in good stead in determining whether there will be a conflict of interest if he/she decides to interpret the case.

The data obtained from two questions in this study show that this is not taken into consideration by the court interpreters and the chief interpreters who have direct authority over the court interpreter. Firstly, in Table 7.11 below, the different percentages of responses to the question: “When you are told about interpreting an assignment, are you asked whether you are competent to handle the assignment?”, support this assertion.
As indicated in the table, when court interpreters are told of a new interpreting assignment, 80 percent (N=24) of the respondents are not asked whether they are competent or not to handle the assignment.

The interpreters themselves (83 percent; [N=25]) also revealed that they had never had cause to reject any interpreting assignment because they felt they could not handle such an assignment at the professional level required. One of the reasons given for their acceptance of assignments, whether it constituted a conflict of interest or not, is linked to the desire to handle more assignments so as to obtain better remuneration.

This is illustrated in Table 7.12 below, which shows the percentages of responses to the question: “Have you rejected any interpreting assignment because you felt you could not handle it at the professional level required?”

<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondents (N=30)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>No (I have not been asked)</td>
<td>25</td>
<td>83%</td>
</tr>
<tr>
<td>Yes (I have been asked)</td>
<td>5</td>
<td>17%</td>
</tr>
</tbody>
</table>

Table 7.12: Rejection of interpreting assignments
The data in the tables above show that the question of a conflict of interest is not important to either the court interpreting management or to the interpreters themselves. If the question of a conflict of interest is considered to be a problem by the court interpreting management, the court interpreters should be allowed to have all the details of the case in order for them to make an informed decision as to whether the case has elements that would constitute a conflict of interest to them. This should be considered in co-operation with their superiors. By so doing, it would also be a platform where the court interpreters could be sensitised against the possibility of such a conflict and thus be given the opportunity to accept or decline an assignment.

Unfortunately, even if this is done, the fact that the interpreters are paid according to the number of cases they handle, the question of financial gain or loss would militate against any possible improvement in ethical standards.

In the post-survey interview, the court interpreters indicated that the primary consideration used by chief interpreters when assigning cases requiring interpreting for them is bilingualism. For example, if the accused is Shona-speaking, the chief interpreter simply looks for any Shona-speaking interpreter to handle the case.

Over and above these considerations, the question of a conflict of interest would be difficult to manage by the court interpreters and their superiors, because the data provided by the court interpreters and some senior court interpreters indicate a 100 percent ‘No’ to the question: “Do you inform your interpreters in advance about the details of the interpreting assignment you want to handle?”. This is also supported by a similar question responded to by the foreign African court interpreters, where 90 percent gave a ‘No’ response to the question: “Are you always given as much information as possible in advance regarding the nature of the interpreting assignment before your first court appearance in a case? ”

Judging by the percentage of responses to these questions, the opportunity to determine a case constituting a conflict of interest is limited, or it is not there at all. The reason is that if the interpreters are not informed in advance about the
assignment they are going to handle, they would not be able to know the necessary elements in the case to decide whether it ethically constitutes such a conflict.

Returning to the question of assistance to the accused, some of the respondents said they had decided to help the accused because they perceived unfairness on the part of the prosecutor or magistrate in the manner in which they dealt with a particular case. One of the respondents felt he had to help the accused because the case was a winnable one, and therefore there was no need to engage the services of an attorney. The third reason the respondents gave for helping the accused was that the prosecutor seemed to be fighting “a non-issue”, or wanted the accused to be prosecuted for a reason other than the one for which he/she had been arrested.

In addition to this, 33 percent (N=10) of the court interpreters indicated that they had handled court interpreting assignments in which their relatives or friends were the accused persons. While this factor, on its own, may not be statistically significant, it may be interesting to know that in the post-survey interview with those who had not handled court interpreting assignments for their friends or relatives, they said they would do so even if their friends or relatives were the accused persons.

In other words, they had not interpreted for their friends or relatives because the opportunity to do so had not presented itself. While this response and the data elicited by the two previous questions constitute a clear conflict of interest on the part of the court interpreters, the post-survey interview unearthed an avalanche of reasons (which are discussed below) why foreign African court interpreters do not care about such a conflict of interest.

The post-survey interview in this case was done with:

- 73 percent (N=22) of court interpreters who said they had helped the accused when they felt their rights were being infringed;
- 50 percent (N=15) of court interpreters who said the relatives or friends of the accused had made contact with them before the trial had started, or as the trial was in progress; and
- 33 percent (N=10) of court interpreters who said they were involved in interpreting assignments in which their friends or relatives were the accused persons.

7.9.5.1 Questions on why the accused was arrested
Some of the court interpreters questioned why the accused had been arrested, especially in cases where the accused persons were arrested and charged as illegal aliens even though they were not. The foreign African court interpreters cited some examples of how this scenario usually takes place in the court. They said the police would come across the foreign African on the streets and demand to see their passports or identity documents. Once they are presented with any of these documents, the police would tear it to pieces and have the foreign African immigrant arrested as illegal aliens.

In other cases, the police or the immigration officer would arrest foreign African immigrants and lock them up until their permits had expired before taking their cases to court. They also gave another example where the foreign Africans would present their permit, but the police or the immigration officer would arrest them on the basis that the permits could possibly be fake.

In any of these scenarios, the court interpreters revealed that they would help the accused in their interpretation in any way they could. This they said they would do by covertly interpreting in a manner of advocacy, and the response from the accused would be phrased or couched to suit what they thought would be the appropriate response to the question asked. Some went to the extreme of saying that they would deliberately be unavailable in the court to interpret, and when this had happened several times, the magistrate would throw the case out of court for lack of an interpreter.

7.9.5.2 Strong ethnic allegiance
Some of the court interpreters have such a strong ethnic allegiance to the accused that they could not care less about any conflict of interest. Some of the foreign African interpreters belonged to associations which are ethnically based. According to the data for this study, 27 percent (N=8) of the interpreters said they were
members of associations representing their ethnic groups. For example, different Nigerian ethnic communities in Johannesburg have associations organised along ethnic lines.

Through these associations, members socialise, get to know each other and bring to the notice of the authorities any members' problems. Where any of the members is having a problem, this would be discussed with a view to seeking input regarding how the problem could be solved. Most of the interpreters I spoke to belonged to these associations. Through these associations, there is the likelihood that the interpreters do meet with the relatives of the accused, as will be indicated in the data below (Subsection 7.10.2), where 50 percent (N=15) of the interpreters said they had been contacted by the relatives or friends of the accused for whom they were interpreting in court.

7.9.5.3 The us-versus-them mentality
Ordinarily, foreign African immigrants in South Africa believe that a significant percentage of South Africans are xenophobic. This resonates with some court interpreters' statement that some magistrates hate foreigners. For example, Nigerians believe that they are characteristically stereotyped as drug peddlers and kingpins of other sorts of crimes. For this reason, they believe that no matter what the merit of their cases may be, the justice system would not always be fair to them.

The interpreters in this case feel obliged to assist in any way they can, while some even allege that certain magistrates ignore obvious lapses because the accused persons are foreign Africans. This us-versus-them mentality also seems to influence some court interpreters to believe that the state attorneys or advocates are not interested in going to extra lengths to help the accused persons who are foreign African immigrants.

In such a case they said the attorneys come to the court unprepared and it is common to see them telling their clients to plead guilty for the sake of getting lesser sentences. To foreign African court interpreters, this amounts to collusion on the part of the attorneys hence according to them, they would help in whatever way they could to help the accused.
The ideal role of the court interpreters in the courtroom is not to become involved in the case, except to make sure they facilitate communication between the parties who do not understand each other in the courtroom. According to De Jongh (1992:65), at all times the court interpreters should detach themselves from other circumstances in the assignment in order to be able to render an accurate interpretation of the SL input. In De Jongh’s words (idem), “In court, personal detachment results in maximal attention to faithful interpretation, even to the reproduction of intonation and gestural signs. Communicative content must not be manipulated (i.e., angry words blunted or profanity, whether it has been ‘cleaned up’ – or simply omitted”).

7.10 THE ROLE OF FOREIGN COURT INTERPRETERS IN THE COURTROOM

Besides the court interpreter, other major participants in the courtroom proceedings are magistrates, prosecutors, the attorneys and the accused. Apart from the accused, the other participants’ sole interest is to make sure justice is done, based on the merits of the case and the available evidence presented. Usually, accused foreign African immigrants and witnesses do not understand the two de facto official languages of the court; hence they have to rely on the interpreters’ language proficiency and skills to bridge the language barrier that exists between them and other participants in the courts.

The principal role of the court interpreter, as stated by Mikkelson (2000:2), is to “level the playing field by overcoming the language barrier, and not to put the interpretee at an advantage over other litigants”. This, according to González et al. (1991:155), means that the non-English speaker in the legal setting is placed as closely as linguistically possible in the same communicative situation as an English speaker. In addition, the court interpreters are bound by a professional code of ethics which stresses impartiality and accuracy, or, as De Jongh (1992:65) puts it, “…the interpreter must act as a ‘faithful echo’ of the remarks of all parties, therefore casting themselves in the role of the non-partisan, a sometimes difficult, but necessary task”.

Generally, there is a lack of understanding or a converged view among interpreting scholars on the one hand and the court interpreters themselves on the other regarding the exact role of court interpreters (Mikkelson 2000:3, Moeketsi 2000:222 and Hale 2004:8).
The data collected in this study confirm this view. They will now be discussed below.

7.10.1. Understanding the role of the court interpreter by other participants in the courtroom

Although court interpreting is a constant feature of the judicial system in multilingual societies, Mikkelson (1996) remarks that this fact has not been translated into an understanding of the role expected of the court interpreter by major participants in the court. This affects the professional relationship of the court interpreters with other major participants in the courtroom.

The court interpreters’ work would be easy if other principal participants in the courtroom understood and appreciated the nature of the service they (the court interpreters) render in ensuring that there is a fair dispensation of justice. Comments or responses made by other participants in the courtrooms illustrate a general lack of understanding of the role court interpreters play in the courtrooms.

Firstly, the magistrates who were respondents in this study generally believed that the provision of the court interpreters in the courtroom rests with the prosecuting authority or the chief interpreter in the court. A look at the table below gives an indication of the views the magistrates hold in this regard.

<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondents (N=10)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prosecutor is responsible</td>
<td>7</td>
<td>70%</td>
</tr>
<tr>
<td>Chief interpreter is responsible</td>
<td>2</td>
<td>20%</td>
</tr>
<tr>
<td>Court Administration is responsible</td>
<td>1</td>
<td>10%</td>
</tr>
</tbody>
</table>

Table 7.13: Person chiefly responsible for determining the need for a court interpreter (Magistrates’ views)

As shown in the table, the data illustrate that an overwhelming percentage of the magistrates (70 percent; [N=7]) believe that the need for court interpreters in the
courtroom rests with the prosecutors. Following this, 20 percent (N=2) of the magistrates believe that the chief interpreter has the responsibility of determining the need for a court interpreter in the court, while 10 percent (N=1) believe this should be done by the court administration.

It is interesting to note that the normal procedure is that the prosecutor should inform the chief interpreter through the language service office of the court if a particular case requires the services of a court interpreter; and the chief interpreter will then ensure that one is ready as soon as the case begins. This is reflected in the response given by one of the magistrates, who replied that “The prosecutor, who has prior access to the docket, is the first person to note the language requisites of the parties to a case; and he arranges for an interpreter”. Whatever arrangement needs to be made for a court interpreter goes through the chief interpreter, who is a part of the court administration or language services of the court.

Thus, it is logical to collapse the percentage of respondents (magistrates) who said the need for a court interpreter is determined by the prosecutor, the percentage of respondents who said it is the duty of the chief interpreter and the percentage of respondents who said it is the court administration’s duty into one type of response. The combination of the responses thus amounts to 100 percent (N=10).

There is a general acknowledgement on the part of the prosecutors that they are responsible for determining the need for court interpreters, as they all agreed that the onus rests on them to inform the chief interpreter to make available a court interpreter for a case that needs one. It could be stated, however, that it should be a concern of the magistrate whether the procedures they follow would assist the court interpreters to play their role effectively in the courtroom.

For example, in Section 7.6 the data show that the prosecutors merely inform the chief interpreters to make court interpreters available for cases requiring foreign African language interpreting. They do not necessarily make the detail and nature of the case available to the chief interpreters in order for them to pass it to the court interpreters so that they will be informed about the type of preparation to make regarding terminology, language ability or background of the accused or witnesses.
The normal procedure, as alluded to by the response of one of the magistrates above, is to rely on the prosecutor or the chief interpreter to provide court interpreters in the courtrooms. It is important to point out that the magistrates are the presiding officers in the court, and they thus have the responsibility to decide what is permissible or not permissible in their courtrooms. This, therefore, makes it imperative for them to play an active role in the provision of court interpreters in their courtrooms.

It is equally important that all the major participants in the courtroom are aware of the presence of the court interpreters and their role in the courtroom. This would be of assistance in the sphere of role relationships and role boundaries between court interpreters and other major participants in the courtroom. The responses in the table below show, however, that this is not considered as being important by magistrates.

<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondents (N=10)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>No, it is assumed they know</td>
<td>5</td>
<td>50%</td>
</tr>
<tr>
<td>Yes, accused are informed there is interpreter available for them</td>
<td>3</td>
<td>30%</td>
</tr>
<tr>
<td>Yes, this is done briefly</td>
<td>1</td>
<td>10%</td>
</tr>
<tr>
<td>Yes (No reason given)</td>
<td>1</td>
<td>10%</td>
</tr>
</tbody>
</table>

Table 7.14: The importance of ensuring that the role of the interpreter is known by other court major participants

The table also shows that some of the magistrates do not know what the role of the court interpreter is, let alone knowing how to explain the said role to other participants in the courtroom. In the table, 30 percent (N=3) of the magistrates answered: “Yes, the accused are informed there is an interpreter available for them”. The purpose of being informed of the presence of an interpreter is just to let the
accused or witness know that if they cannot speak the official language being used in the court, there is an interpreter to help them. It does not explain to the accused or other participants in the courtroom that the interpreter is there to interpret and is not allowed to carry out any other role in the courtroom.

It is not clear what the 10 percent (N=1) of respondents who said: “Yes, this is done briefly” actually meant. My observation of court proceedings showed that the magistrates by and large simply inform the accused that there is a court interpreter if they do not understand the official language of the court. This takes place briefly before the court proceedings, which may be for the purpose of a bail application or trials. This same explanation may suffice for the 10 percent (N=1) who answered “Yes”, but gave no reason.

The responses given by the court interpreters, as exemplified in Table 7.15 below, support the responses given by the magistrates. The court interpreters were asked: “Do you or any designated authority in the court explain the role of the court interpreter to the accused or other parties in the case before the trial process begins?”

<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondents (N=30)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>10</td>
<td>33%</td>
</tr>
<tr>
<td>No</td>
<td>20</td>
<td>67%</td>
</tr>
</tbody>
</table>

Table 7.15: Explanation by the court interpreter or other authority in the court of the purpose of the court to the accused, witnesses, etc., before the trial begins.

Both responses (that of the magistrates and that of the court interpreters) show that no effort is made to explain the role of the court interpreters to other participants, especially the accused persons and the witnesses, in the court. As the response given by 50 percent (N=5) of the magistrates illustrates, the magistrates believe that other participants in the courtroom know about the role of the court interpreters in the courtroom. This belief is reflected aptly by one of the magistrates’ responses: “No,
since the prosecutors and attorneys are conversant with the role of an interpreter and they have to explain it to their clients.”

This response again shows that the magistrates believe it is the responsibility of the prosecutors and the attorneys to explain the interpreter’s role to the accused persons and the witnesses. It also shows a dim understanding of the role of court interpreters by the magistrates. This may account for the reason why court interpreters’ opinions are still being sought by the magistrates or prosecutor, as my observation of the proceedings in court have revealed. On the other hand, the respondents to this study said that the prosecutor and magistrates would dismiss their concern if they were to raise any objection to issues affecting the discharge of their role. In a similar situation discussed by Moeketsi (2000:235), she refers to a lack of understanding of the role of interpreters when legal personnel would be asking court interpreters’ opinion such as: “What does he mean by …?”. 

Regarding the belief by the magistrates that the prosecutor and the attorney know the role of the court interpreter, and should thus explain it to their clients, one would like to ask: To what extent do they ensure this is done by the prosecutors and the attorneys? Secondly, the role of the court interpreter is to ensure that communication takes place between the accused person or the witnesses and other participants who do not understand each other. Thus the onus rests on the magistrate as the presiding officer or, in the words of Corsellis (2005:123), “[a]s the chairman of the court”, to make sure the court interpreter is helped to perform his/her duty well in the court.

This may mean cautioning other participants in the court to speak in such a manner that the interpreter would be able to understand them.

In addition, much of what takes place in the courtroom in determining the guilt or innocence of the party is conducted via verbal discourse, which in most cases is through serious contestation of ideas by the prosecutor and attorney in an adversarial court setting. All the magistrate does is to listen to what is being said by the opposing parties in the court in order to arrive at a verdict based on the evidence presented before him/her.
When the roles of the opposing parties are not properly explained and understood by all involved, there may be a situation where participants in the courtroom will be hindering each other in the performance of their duty. This may hinder the court interpreter and the magistrate from effectively executing their duties in the courtroom. This problem has caught the attention of Corsellis (2005:122-123), who reports that there are “… instances where lawyers and judges speak in ways that are almost impossible to interpret accurately. They mutter, so the interpreter cannot hear them properly. They speak at a speed that makes it impossible for the interpreter to keep up”.

The data collected in this study support Corsellis’s assertion, because when interpreters who participated in this study were asked, “Is there any court that is particularly difficult to work in as an interpreter?”, 40 percent (N=12) answered in the affirmative. Some of the pertinent reasons they gave as to why some courts are particularly difficult to work in, were as follows:

- The magistrate speaks so fast that it becomes difficult for the interpreter to interpret what they are saying to the accused;
- The magistrate is not audible when speaking;
- Uncooperative; and
- Some prosecutors are too fast when they speak, and when you tell them to be slow, they will simply dismiss your concern.

Although the data collected show that only 40 percent of the court interpreters responded that there were particular courts where it is difficult to work as court interpreters, it is enough, statistically, to cause concern, given that there is a need to ensure that the dispensation of justice is conducted with minimal or negligible flaws. Corsellis’s observation and the reasons given by the court interpreters as to why they believe some courts are difficult to work in, can be applicable to situations where the courtroom participants do not understand the important role played by the court interpreter in the dispensation of justice.

If they understand and appreciate the court interpreters’ role in the courtroom, they would make sure that they are assisted in fulfilling this role effectively. Regarding the
magistrates, it is incumbent on them to not only listen to examination and cross-examination taking place in the court, but also to make sure that this is being done in an enabling environment which gives room for proper communication in the court. In South Africa, there is a need to start training magistrates in this regard, similar to what is already happening in the EU, as expressed by Corsellis (2005:123): “We have started by training the magistracy in what is needed, so that the chairman of the court can monitor and protect communication in the court”. This type of training should not stop with the magistracy, as it is equally important for all legal professionals to be trained on how to work with court interpreters to improve interdisciplinary working relationships and co-operation.

The first instance of the misunderstanding of the interpreter’s role, according to the data for this study, is that 73 percent (N=22) of the respondents indicated that they sometimes assist the accused by altering, adding, omitting what the accused persons have said. In response to the question: “Have you at any time felt the accused’s right is being infringed, and decided to assist in any way you can?” 73 percent (N=73) of the interpreters responded “yes”, meaning they had not been impartial in rendering the SL into the TL, because they felt the accused’s rights were being infringed.

They are able to help the accused in the manner they do because the other participants, except the interpreter, do not understand the language of the accused in the courtroom.

In some of the responses, the data show that the interpreter would decide to help because of a perceived unfairness on the part of the prosecutor, the magistrate and the attorney. As one of the respondents put it:

I simply help him by saying what I feel would be the best response. I do this because I perceive unfairness on the part of the prosecutor, the magistrate and the attorney. For example, the attorney (usually the State provided one) would come and say my accused wants to plead guilty to the offence, as charged. When this is not the case, I will tell the accused to refuse. There are other cases one could easily see a “gang up”, and I will refuse to be part of it and thus …assist the accused in any way I can….I know this is not allowed,
but when people who are supposed to give justice decide otherwise, what would you do?

With experience, the court interpreter could understand and be able to distinguish an experienced or a good attorney or prosecutor from an inexperienced or a bad one. This also influences the type of advice they give to the accused when they feel his/her rights are infringed. For example, one of the court interpreters responded as follows:

This varies. Sometimes, I tell the accused to do his proper homework, to change his attorney for a good one. Tell him possible areas of weakness of the prosecutors to work on. Sometimes I tell the accused to represent themselves, as the case is winnable no matter what. I do most of these outside the court, anyway.

In a similar response given by another interpreter, he said: “I try to tell the accused to wake up”.

In the response given below, the court interpreter said he would assist the accused when it becomes clear that the prosecutor is concerned with issues not related to the reasons for which the accused was arrested. According to the interpreter in a post-survey interview, this usually occurs out of “pure malice” on the part of the prosecutor, and when it becomes clear that the accused was arrested for a reason that may not lead to his/her conviction. In his response, he (interpreter) said he would assist...

When it becomes clear that the prosecutor is fighting a non-issue, such as the residential status or the authenticity of the residential status of the accused, as opposed to the reasons for why the accused was arrested, I will help the accused in any way I can.

These three responses, among other responses in the data, represent instances of an aberration from their role by court interpreters. It is a case of partiality and a clear conflict of interest. It also amounts to a lack of understanding of the role boundaries, as well as covert advocacy by the court interpreter.
In a normal and standard process of court interpreting, the court interpreter’s role stops at enabling communication between the parties he/she represents in the courtroom. Anything outside this might be construed as advocacy, which is clearly the case, in view of the data already discussed. As the data have shown, the court interpreters were expressing their personal opinions about the case and even coaching the accused about the suitable response to give. No matter what they may say to justify their action, this signifies a case of ethno-solidarity or ethnic allegiance; hence they are not able keep the distance between themselves and the accused in the court. The extent to which ethnic allegiance affects the court interpreter is illuminated below in the data, where the court interpreter’s relationship with the accused is discussed.

7.10. 2 The relationship between the interpreter and the accused

In response to the question put to the accused, “Has there been a case where the accused or his/her relative(s) have made contact with you prior to the court appearance or in-between court appearances?” The data in the table below show that there is very often a relationship between the court interpreters and the accused persons.

<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondents (N=30)</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>15</td>
<td>50%</td>
</tr>
<tr>
<td>No</td>
<td>15</td>
<td>50%</td>
</tr>
</tbody>
</table>

Table 7.16: Court interpreter's contact with the accused or his/her relative(s) before the court appearance or in between court appearances

Based on the data above in Table 7.16, 50 percent (N=15) of the court interpreters said they had been contacted by the relatives of the accused persons prior to or during the proceedings of the case. Apart from the contacts which the court interpreters should ideally make with the accused persons or the witnesses to ascertain their language background, in terms of dialect and culture, as well as other
necessary information that would help him/her to deal with them, the court interpreter must avoid any unnecessary contact with the accused persons or witnesses.

Ethically, the court interpreters should make sure they perform their duty by refraining from any personal involvement with the parties they represent.

The existence of contact in this manner demonstrates some level of relationship between the accused relatives and the court interpreters. Professional ethics demands that the court interpreter should inform the court very early in the case of his/her relationship with the parties to the case, and let the magistrate decide if the relationship would compromise his neutrality or impartiality.

Most importantly, professional ethics also demands that court interpreters must maintain confidentiality about the documents and any information to which they are privy. It is troubling that 50 percent (N=15) of the respondents said they had been contacted by the accused’s family or relatives and one is tempted to conclude that this type of contact is taking place to obtain the court interpreters’ opinion or information of the case.

7.11 OTHER PROFESSIONAL MATTERS – ABSENCE FROM WORK, PROFESSIONAL CONDUCT, ETC.

Apart from the obtrusive manners referred to above regarding how foreign African court interpreters do their work, the data in this study also show some aspects of the lack of professionalism among foreign African court interpreters. For quality purposes, it is important that an interpreter who starts a case should finish the case. This is important, because, as the court interpreters spend time with the accused person or witnesses, they will not only become used to the ways they speak, but to any other language-related problems pertinent to the subject matter of the case. These may be in areas of jargons, registers and legalese – areas which are specific to the case.

The data in this study show that court interpreters are not always available to finish interpreting the cases on which they have started. As many as 70 percent (N=21) of the respondents in this study said that it does happen that they will not be the court
interpreters who finish the case they have started. Many reasons were given for this phenomenon. Chief among the reasons is that they have to take time out for other jobs they do besides interpreting. As many as 70 percent [N=21] of the respondents said they have other jobs besides interpreting. Many said they would not turn up at work because they had no taxi fare, owing to the fact that sometimes their remuneration would not be paid (some claim the DoJCD owed them unpaid remuneration for several months).

Some said they deliberately stayed away from work to protest the non-payment of their remuneration. They also explained that they might be absent in order to go to another province to work as court interpreters because working in other provinces, or far from their usual place of work, enables them to make more money in terms of claims for transport, feeding and the accommodation expenses incurred during the journey.

Court interpreters’ absence from work was one of the challenges reported by 75 percent (N=8) of the magistrates in terms of their working relationship with foreign African interpreters. They said they often had to postpone cases or strike them off the roll of cases before the court, because the interpreters were never around to continue with the case. This is also the complaint of most prosecutors (70 percent [N=7]). One magistrate described this as a “vicious circle”, and said it was being addressed in meetings of magistrates.

Furthermore, the same magistrates indicated that the dearth of interpreters servicing foreign African languages has resulted in the frequent postponement of cases. This was acknowledged by one of the foreign African court interpreters who said she had more than ten years experience as a court interpreter. She agreed that most of the reasons earlier mentioned for the unavailability of foreign African court interpreters were correct. However, she added that the magistrates do not have regard for the important role of foreign African court interpreters in the courtroom; hence they postpone cases at will, without consulting with the foreign African court interpreters on whether they will be available or not.
Absenteeism among foreign African court interpreters is a serious challenge, as was rightly said by one of the magistrates; hence it deserves more attention than merely being addressed in the magistrates’ meetings. One way to address the problem is to make it mandatory for court interpreters to report their intention to be absent from work to their superior in time. This will ensure that there is sufficient time for alternative arrangements to be made in the form of a replacement. That this was clearly not the practice at the time of the study, is evidenced by the fact that 67 percent (N=20) of the foreign African court interpreters indicated that they would inform their supervisors (the chief interpreters) a day in advance when they would not be available in the court. This was refuted by the chief interpreters, who said the foreign African court interpreters would usually phone to say that they would be absent either the evening of the day before the next court date or the very day they were supposed to be present in court. It became clear in the post-survey interview with the foreign African court interpreters that this notification is usually given the evening before the day of the court session.

A day’s notice, or notice the same day, is patently not acceptable, because the chief interpreter may not have sufficient time to find a replacement. The procedure used in replacing the absent foreign African court interpreter leaves much to be desired, as is evident from the data emanating from this study. Both the chief interpreters and the foreign African court interpreters said that this usually involved finding a replacement among the court interpreters present at work, or a phone call would have to be made to another court interpreter to act as replacement. In most cases, a replacement would not be found, and this would mean postponement of the case by the magistrate, and, in some cases, the case would be struck off the roll.

In a situation where the chief interpreter was able to find a replacement, the urgency of the situation would be such that the new court interpreter would have no opportunity to briefly interview the accused about his/her language background or ability. He/she would be thrown in at the deep end to interpret a case that was already in progress without any clue about the nature of the case.

In my observation of court proceedings, foreign African court interpreters were frequently seen to be omitting what they thought was not important or anything that
they thought would not affect the outcome of the case. For example, in Hilbrow Court, Court 2 on 13 March 2009, the witness testified about a cheque and mentioned the number of the cheque in his testimony. However, this was not mentioned in the interpreted version to the accused. This is contrary to the professional and moral responsibilities which the court interpreters are supposed to uphold at all times, or as Mikkelson (2000:49) puts it, the court interpreter’s commitment is to render the entire meaning of the speaker’s message. It is a common occurrence that court interpreters do not look at the demeanour of the accused or witnesses in order to see their gestures or facial expressions while interpreting. These are important non-linguistic clues which may convey more meanings than that which meets the eye. These factors are nevertheless considered to be rather complex in the court interpreting situation (Mikkelson 2000:50). This author notes that “it can be argued that everyone in the courtroom can see the witness and there is no need for the court interpreter to repeat any movements or facial expressions made by the witness”. However, Mikkelson also states that “[c]ertain gestures and facial expressions are culture-specific … and might be misunderstood without some explanation by the court interpreter who knows the meaning or the underlining context in which they are used” (italics my emphasis) (2000:50).

Another common instance of professional misconduct by court interpreters is the personal reactions to the development of the case. This happens when it becomes apparent that in the statement the accused persons have made, there are flaws directly pointing to the fact that the accused is guilty or lying. The magistrates should have also pointed this out in their characteristic interjections during examination or cross-examination by the attorney or prosecutor. In this case, my observation of court proceedings revealed that there were frequent instances where the court interpreters would be laughing, openly displaying by facial expressions and other gestural movements their disbelief of what the accused person was saying. Although this is a common occurrence in court proceedings, a specific example noted for this study took place in Hilbrow District Magistrate Court, Court 1 on 19 March 2009, at 10.30 am.
As participants who witnessed the development of the case before the court, court interpreters may have opinions or impressions about the merits or demerits of the case, but this must not be made public in order to maintain the neutrality of the court.

Professional conduct also demands that court interpreters should prepare adequately for the case they will be interpreting by way of research and compiling probable terminologies for the case. The data in this study indicate that 50 percent (N=15) do prepare adequately for the cases they interpret. It is important to know the nature of the case and to be au fait with the relevant terminologies. How this is possible, given the prevailing circumstances, at the beginning of a case is doubtful, as many of the court interpreters – 90 percent (N=27) – said they did not have any prior knowledge of the nature of the case and did not interview the accused or the witnesses in order to know their language background.

7.12 EVALUATION

Much has been said about the professional conduct of court interpreters, which includes deliberate omissions, additions or alterations to what the accused persons have said. Mention was also made of the fact that court interpreters are not given enough time to interview or speak to the accused or witness before the case starts. All these instances, and many more, as discussed here, are happening because of the lack of any proactive evaluation mechanism. Although one of the chief interpreters in the Johannesburg Magistrate’s Court said that he went around seeing interpreters at work, this could not be confirmed through my numerous observations of courtroom proceedings and other chief interpreters and senior interpreters I spoke to in this regard.

Moreover, 67 percent (N=20) of the interpreters said they had never been evaluated in the course of doing their work as court interpreters. For those (33% [N=10]) who claimed to have been evaluated, it emerged that what they regarded as evaluation, comprised occasional meetings with their superiors or the meetings held following their induction and orientation during the first few days or weeks at work.

In a normal working environment that is mindful of quality, there will be evaluation or monitoring mechanisms in place which would enable performance to be monitored or
assessed by a designated authority. This is not the case in the DoJCD; hence court interpreters (both South African and foreign African court interpreters) are not evaluated and numerous instances of professional misconduct are simply overlooked. If there are monitoring mechanisms, the senior interpreters or chief interpreters would be able to detect the cases of professional misconduct, as mentioned above, and then find a way to remedy the situation.

The solution to this situation finds expression in what Nel et al. (2005:477) refer to as performance evaluation based on absolute judgment, in that it allows the senior interpreters or chief interpreters to make a judgment on the court interpreter’s performance based on clear performance standards. This would enable the senior interpreters or the chief interpreters to know the areas of weakness and where to direct his/her feedback on the part of the court interpreters.

Another type of performance evaluation method that may work in court interpreting is the 360° feedback performance evaluation method. This is also a called multi-rater system, and allows other principals in the courtroom to evaluate the court interpreters. According to Nel et al. (2005:479), 360° feedback is based on a “questionnaire that asks many people (superiors, subordinates, peers and internal and external customers) to respond to questions on how well a specific individual performs in a number of behavioural areas”. The 360° feedback is very important as a performance evaluation strategy in court interpreting, because court interpreters work in a team of experts whose actions have to complement each other for the successful dispensation of justice.

The other principals in the courtroom would be able to provide insight regarding the performance of the court interpreters whose activities interface with theirs on a daily basis. This could be a very necessary addition to the performance evaluation already done, or that will in due course be done by the court interpreters’ superiors. It should be pointed out, however, that 360° feedback will not work in the present situation of court interpreting, where other principals, such as prosecutors, attorneys and magistrates do not really know the role of interpreters and the nature of court interpreting. The 360° performance evaluation feedback done by the prosecutors, magistrates and attorneys might suffer from a lack of objectivity, because, as the
data in this study have shown, the attorneys (66 percent [N=7]), prosecutors (60 percent [N=6]) and the magistrates (70 percent [N=7]) said that it is possible for interpreters to interpret on a word-by-word basis.

One of the ways to ensure continued competence besides workshops, seminars and conferences is evaluative feedback.

The data collected regarding evaluative feedback in this study show that 67 percent (N=20) of the respondents said their work as court interpreter had never been evaluated. Respondents who said their work as court interpreters had been evaluated constitute 33 percent (N=10), and this usually involved meetings they would sometime hold with their superiors to discuss interpretation-related matters. Some also said they regarded their few weeks of orientation and induction as an evaluation of their work. This means that the court interpreters are not being observed by their superiors in the courtrooms and there are no other evaluation instruments, such as asking the other principals who work on a daily basis with the court interpreters to evaluate them through a designed evaluation instrument like a questionnaire.

Of the 33 percent (N=10) who said they had been evaluated, 70 percent (N=7) of these said the result of the evaluation was made known to them, while 30 percent (N=3) had not received the results of the evaluation. Those who said the results of the evaluation were given to them referred to specific cases they took to their superiors, and feedback was given to them by their superiors during the discussion of the problems.

The only existing system of evaluation of court interpreters, according to one of the chief interpreters, is a reactive type of evaluation (if it can be called evaluation). This emanated from the response of one of the chief interpreters, who, when asked whether he evaluated his court interpreters’ performance, responded as follows: “We do go from court to court and where they have problem, we call a meeting and discuss it with all the interpreters to share ideas”. The same chief interpreter also responded that he does an evaluation of his court interpreters on a quarterly basis every year by giving them (court interpreters) a performance agreement. Given the
overwhelming response of foreign African court interpreters who said they had not been given any kind of performance agreement, one could conclude that the chief interpreter was referring only to the permanently employed South African interpreters.

Several unsuccessful attempts were made to reach the chief interpreter, but he claimed he was too busy for a meeting, and refused to discuss the matter over the telephone. No attempt was made to meet the court service manager who oversees the affairs of the court because as already indicated in chapter three, Section 3.3, he said all matters about court interpreting should be referred to the chief court interpreter of the court being investigated.

Different chief interpreters gave different accounts of the type of evaluation in the courts that fall under their jurisdiction. The chief interpreter in the Germiston Magistrate’s Court referred to the training he gave every three months to his court interpreters as evaluation, because it gave him the opportunity to monitor the progress of their learning. He based his training on the terminologies of different domains, where the court interpreters had to learn terms and concepts specific to the domain being studied. In a nutshell, both types of evaluation referred to by the chief interpreters did not suggest that there is any proper evaluation or monitoring mechanism in place to ensure quality court interpreting.

7.13 CONCLUSION
In this chapter, the data collected from the foreign African court interpreters, the chief interpreters and senior interpreters, the prosecutors, the attorneys and magistrates have been presented and analysed. These data were complemented by the data collected from the post-survey interviews.

The data analysis started with the question of training for foreign African court interpreters. This was found to be non-existent in the DoJCD, and not a priority to court interpreters. Training for foreign African court interpreters was discussed in the context of:

- Whether the foreign African court interpreters had any prior court interpreting training before they began working in the DoJCD;
whether the DoJCD was making an effort to train them before they were allowed to work in the courtroom; and

- Whether there was any CPD training, either by the DoJCD, or self-sponsored training by the foreign African court interpreters, in the form of conferences, workshops and short courses.

In the analysis, the results of the investigation pointed to scant regard for the necessity of training by both the DoJCD and the foreign African interpreters, except an insignificant percentage of foreign African interpreters who were following a part-time LLB programme in Law.

The foreign African court interpreters' work experience and working conditions were furthermore discussed in this chapter. It was found that basic employees' benefits, such as medical aid, paid sick leave, housing subsidies and promotion are not available to foreign African court interpreters. As discussed, it was pointed out that the absence of these could affect their morale in terms of commitment to their job.

Following this, the data that addressed the issue of a professional association were presented and analysed. It was emphasised in the analysis that a professional association was necessary for the protection of the status of any profession and to see to the CPD needs of the members of the profession. The discussion in this regard showed that the foreign African court interpreters were not members of any professional association and this was not encouraged by their employers (DoJCD), even for their South African counterparts who are permanent employees of the DoJCD.

The discussion of the professional association was linked to the need for the accreditation of court interpreters. The analysis in this chapter has shown that this (accreditation) is not a requirement in the court interpreting system in South Africa, that the only body doing accreditation of interpreters in South Africa (the SATI) is not officially recognised, and that it does not have an accreditation system for court interpreters.
Interlingual and cultural issues were also discussed, based on the relevant data in this chapter. The discussion centred on cross-border languages, bilingualism, biculturalism, dialects, code-switching, interpreting in the first person and unclear language used by the accused and witnesses. The emphasis was on socio-cultural issues which could affect the way language is used. For cross-border languages, it was pointed out that the court interpreter may have problem in terms of the socio-cultural environment of the language if the accused or witness happened to come from a country whose variety of the cross-border language was influenced by a different colonial language.

In the subsequent discussion of the need for the interpreter to interpret in the first person, it was pointed out that the foreign African court interpreters do go to the extent of helping the accused to disambiguate any ambiguous statements. They also help them to restate any aspect of their statement, based on what they think would be a more preferable form of answer to the question asked.

In this chapter, a further section was devoted to the discussion of the data regarding preparation for cases by the court interpreters. The discussion revealed that foreign African court interpreters do not have enough information for them to make the necessary prior preparation for cases.

The data presented in this study showed that only 53 percent of the foreign African court interpreters would care to know about the language background and the ability of the accused persons or witnesses before the case begins. How well this is done, is questionable, as the post-survey interviews and the data from the Chief interpreters painted a different picture from those forthcoming from the answers given by the foreign African court interpreters.

Quality issues were also considered in this chapter, and this discussion was based on the employment process of the foreign African court interpreters. The study was illustrative of the fact that the employment of foreign African court interpreters was done informally. It was concluded in this chapter that following strict employment criteria was one way of ensuring quality performance in any organisation; hence it was admitted in this section of the chapter that in the absence of appropriate employment criteria, quality interpreting would unavoidably be compromised.
Another aspect regarding the question of quality was the orientation and induction process of newly-employed foreign African court interpreters. The data in this case revealed that the interpreters were simply paired with an old interpreter for a few weeks’ observation, at most.

Quality interpreting was being compromised, as was clear from the analysis presented in this chapter, because the data showed that the foreign African court interpreters were committing serious breaches of the professional code of ethics in terms of conflicts of interest. Based on the admission of the foreign African court interpreters, it was pointed out that there would be conflicts of interest if, among others:

- The accused’s relatives contact the foreign African interpreters about the case and they fail to report this to the magistrate;
- The foreign African court interpreters are helping the accused persons in any way, because they feel the rights of accused persons are being violated; and
- Ethnic allegiance is blinding the foreign African court interpreters on his/her need for neutrality and impartiality, etc.

Of equal importance were the role of court interpreter and the understanding of the role of court interpreter by other participants in the courtroom. In the discussion presented in this chapter, it was explained that foreign African court interpreters and other participants in the courtroom cannot delineate their roles. As discussed, the magistrates assume that other participants in the courtrooms are aware of the role of the foreign African court interpreters, and thus they would not make the effort to explain the role of court interpreters to other participants in the courtroom.

On the prosecutors’ side, while they agree that it is their responsibility to inform the Chief interpreters of the need for an interpreter in a particular courtroom, they do not regard it as important to divulge full information about the case to interpreters to enable them to make the necessary prior preparations. Although 67 percent of the foreign African court interpreters said they did make an effort to explain the role of the interpreter to the accused before the case begins, the observation I made of court proceedings did not support this assertion.
In this chapter, other professional matters about foreign African court interpreters were discussed, first of which was the rate of absenteeism of foreign African court interpreters. This, according to one of the magistrates, was “a vicious cycle”, often resulting in the postponement of cases or in cases being struck off the roll. Secondly, it was pointed out in this section that, based on the observation of court proceedings, interpreters were often found to be expressing personal reactions to the development of the case and important non-linguistic elements such as gestures which were not interpreted.

Finally, the data on the evaluation of foreign African court interpreter were presented in this chapter. By and large, from the data obtained through the questionnaire, and validated by the post-survey interview, it became clear that foreign African court interpreters are not evaluated in the course of doing their work.

In the next chapter, the conclusion to this research as well as a synopsis of the study will be given. In addition, there will be recommendations to address some shortcomings identified in the study regarding the court interpreting system in South Africa. Lastly, a suggestion for further study in an area that presents a challenge to the court interpreter will be given.
CHAPTER EIGHT
CONCLUSION, RECOMMENDATIONS AND SUGGESTIONS FOR FURTHER STUDIES

8.1 INTRODUCTION
Many reasons account for the emphasis on the need to develop court interpreting in South Africa, both in theoretical and practical terms. Firstly, the South African Constitution is pertinent in its Bill of Rights, when it encapsulates linguistic human rights in general, and makes specific reference to the need for court interpreters in chapter two section 35 [3(k)]. This reads: “Every accused person has a right to a fair trial, which includes the right to be tried in a language that the accused person understands, or, if that is not practicable, to have the proceedings interpreted in that language”.

These rights will amount to nothing when they are not supported by committed efforts to ensure that language barriers do not obstruct the communication necessary to achieve the ends of justice in the courtroom. This means that all accused persons, plaintiffs and witnesses appearing before the court must be provided with the means of communicating and understanding what is going on in court, especially if they do not understand the language in which the proceedings are conducted. This means, according to Corsellis (2005:122), that “…accurate communication is the absolute prerequisite for proper administration of justice”. As this study has shown, the provision of accurate communication in the form of court interpreting is still a distant dream in South Africa, especially for African immigrants who, on a daily basis, are being brought to the court, either as the accused, plaintiffs or witnesses.

This is not a surprising state of affairs, because the context in which the recognition of linguistic human rights for minorities and marginalised groups can be considered in South Africa as being different from the context which applies in many other nations of the world. While in many countries efforts are being made to respect the linguistic human rights of minorities who are in a literal sense in the minority (i.e. numerically fewer), in South Africa, the reverse is the case. The languages of the indigenous majority are being ‘minoritised’, according to Moeketsi and Wallmach.
(2005:2), in the sense that the languages are suffering “from functional difficulties, not because of lack of numbers, but rather as a result of historical and socio-economic conditions such as colonialism”.

This view holds sway, given that the linguistic rights of the majority, as far as the official usage of their languages goes, have not seen any practical application until this day.

This situation is more pronounced in the courtroom, where the two erstwhile official languages (English and Afrikaans) still dominate as the de facto official languages of the court. However, judging from my observation of courtroom proceedings, English is gradually strengthening its position as the only de facto official language, or at least the most commonly used de facto official language.

This being the case in court, what will be the fate of South Africans who do not understand English or who do not have the required level of proficiency to confidently communicate in it? The same question also applies to the language situation many foreign African immigrants face in the court. In order to address this problem, the court system has to make available the service of court interpreters for those who do not understand the language of the court.

But does this alone ensure “accurate communication” for the proper dispensation of equal justice for all, as expressly stated in the South African Constitution?

The present study has shown that the appearance of language-handicapped accused persons, plaintiffs and witnesses of both South African and foreign origin in court is a daily occurrence, and is not abating. Part of the answer to the question put in the previous paragraph is that it is critically important for the judicial system to look beyond the mere provision of court interpreters, by putting in place a system to ensure the best-practice paradigm for the use of court interpreters.

It will also mean that the judicial system must develop a workable system committed to promoting accurate communication among all the relevant participants in the
courtroom, so that every plaintiff, accused and witness will comprehend what is happening in the courtroom, and be able to participate in the discourse of the court.

Developing such a system is important for a number of reasons: Firstly, as stated earlier, linguistic human rights are enshrined in the South African Constitution; hence the judiciary, which is tasked to promote these rights, cannot be seen as the one not upholding them. Secondly, there are many international instruments (some to which South African is a signatory, and some from which South Africa has to learn or consider replicating them), where it is expressly stated that the provision of court interpreters for accused persons and witnesses should be seen as an inalienable right.

For example, Articles 14.3.a and 14.3.f of the International Covenant on Civil and Political Rights (ICCPR) signed in New York on 19 December 1966, states that in the determination of any criminal charge against anybody, he/she shall be entitled to “be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him” and “to have the free assistance of an interpreter if he cannot understand or speak the language used in court…”(See http://www.unhcr.org/refworld/pdfid/3ae6b3aa0.pdf).

These two reasons are premised on the basis of linguistic human rights, which cannot only be seen in terms of the majority of South Africans who are linguistically marginalised and handicapped, but also in the context of the increasing population of foreign African immigrants who are disadvantaged in a similar way. The importance of linguistic human rights is echoed by Eide (2007:11), who sees human rights as universal, which “…are valid and applicable everywhere, in all societies and all cultures in all parts of the world … and should be enjoyed by every human being, without discrimination…”

As this study has shown, it seems the DoJCD is satisfied that it is not violating the constitutional provision regarding the linguistic human rights of foreign Africans appearing in court by providing court interpreters to those (in particular foreign African immigrants) who do not understand any of the de facto official languages of the court. However, according to Corsellis (2003:135), “[a]chieving the long-term
targets of equality before the law, irrespective of language and culture, does not mean simply the ad hoc employment of interpreters or translators at certain (and often random) points in a legal process; it involves a wider and deeper approach”. Communication in the court is different from any other setting, because the issues being verbalised are about the contestation of rights, and sometimes about gross violations of the fundamental human rights of one of the parties – something which requires a stiff penalty for the guilty party.

This requires accurate communication; otherwise “[f]lawed communication and information …” can put any trial at risk, and the judiciary may not be in a position to act” (Corsellis 2003:136) to correct the anomaly caused. This view of Corsellis accentuates the sensitive nature of communication in the courtroom.

As can be seen from the review of some selected countries in Africa and the EU, (chapter six), scant attention is generally given to the provision of court interpreting services. However, as a corollary of the ECHR article, the EU countries are already moving in the direction which will ensure proper and appropriate court interpreting to defendants in their courts (Keijzer-Lambooy and Gasille 2005:6-12). The launch of the European Legal Interpreters and Translators Association (EULITA) on 25 November 2009 is one such step, besides other studies which have been carried out, such as Grotius 1 and 2 (EULITA Mission Statement 2009:1).

Article 2.1 of the EULITA constitution states the following objective of the Association:

- To promote, in the interests of justice, the fundamental principles of human rights and fundamental freedoms, as enshrined in Articles 5 and 6 of the European Convention of Human Rights and Fundamental freedoms. In addition, Article 2.2 states a second objective:

- To advance the quality of legal translation and legal interpreting in both spoken and sign language in all member states of the European Union. In South Africa, the pronouncement in section 6 of the Constitution (1996), read together with the Department of Art and Culture’s (DAC) National Language Policy Framework, which encapsulates the proposed South African Language
Bill approved by Cabinet in 2003, are two steps to ensure that language issues are addressed in South Africa. The National Language Policy Framework (NLPF) is particularly pertinent in stating its aims:

(a) The development of the indigenous languages, including the establishment of infrastructures and the development of products, such as dictionaries and grammars.
(b) The reinforcing of government responsibility to ensure that the benefits of service delivery are distributed equally, by providing equitable access to services for all citizens, irrespective of language, in order to enhance their participation and voice in government matters.
(c) The management of language, to ensure the functional use of all the official languages, and to promote the public image of the Government.
(d) The encouragement of language learning, specifically tailored to the needs of the public service, to improve public servants' efficiency and productivity in the workplace, and to make the benefits of multilingualism visible.
(e) The encouragement of a vibrant discourse on multilingualism with language role-players and stakeholders.
(f) The establishment of collaborative partnerships to ensure the successful implementation of the Policy (DAC 2003:6).

According to Beukes (2004:9), the NLPF is meant for administrative government departments (national, provincial and local) and other public entities, such as parastatals, national and provincial legislatures. In spite of the laudable aims put forward by the NLPF, these have unfortunately not been practically applied as yet. No other effort has been made regarding the use of language, neither in public offices nor in the courts.

However, a review of the court interpreting situation in South Africa points to some efforts in the form of training of South African court interpreters and better working conditions, among others, than the foreign African court interpreters. This signifies that South African accused persons and witnesses are getting a better interpreting service than the foreign African immigrants.
In the light of the aforegoing, the question that comes to mind is: "Should the rights of foreign African accused persons tried in the South African courts be treated any worse than South African accused persons?" This certainly may not be the intention of the judiciary in South Africa, especially in the light of the constitutional Bill of Rights, as it applies to linguistic rights, which the judiciary is obliged to uphold.

However, as evidenced in this study, it exposes itself to the question as to whether it sees the need for a professional court interpreting system as a requirement to ensure due process for not only South African accused, plaintiffs and witnesses, but also for foreign African immigrants.

This perception of the differential treatment is one of the motivations for this study, in addition to the fact that a review of literature has shown that scholars have not shown any significant interest in the use of foreign court interpreters in South African courtrooms. In an attempt to bring issues about foreign court interpreters in South Africa to the fore, this study has looked comprehensively at the use of foreign court interpreters in some magistrate courts in Johannesburg, Hillbrow and Germiston from a spectrum of interrelated perspectives:

- Requirements for employment,
- Their practice as court interpreters,
- Their role in the present system, and
- Other pertinent issues about court interpreters.

In order to carry out this study, the following aims were identified and they informed the route the research has followed:

1. To examine the current interpreting system in South Africa;
2. To establish the roles of foreign African court interpreters in the judicial system;
3. To observe how these roles are performed in the courtrooms by foreign African court interpreters;
4. To analyse alternative measures to address the different dynamics in dealing with foreign African court interpreters;
5. To examine how other role players interpret the role and importance of foreign African court interpreters; and
6. To recommend solutions in addressing the challenges identified regarding the use of foreign African court interpreters.

To this end, a review of the literature on the theoretical issues pertinent to court interpreting and situations of court interpreting in selected African and EU countries was undertaken. This was preceded by an introduction to the study, in which the premises informing the investigation were laid down. Both these premises and the issues covered in the literature review will be summarised in the next section.

8.2 SUMMARY OF THE STUDY
This study essentially has analysed the use of foreign African court interpreters in South African courtrooms as the main research problem. In order to obtain a better understanding of the focus of the analysis, the premises for the study were discussed in chapter one. It was pointed out that the multilingual nature of South African society is recognised as such in its Constitution as promulgated in 1996. This multilingualism, as explained further in the chapter, should be enough ground for accommodating its ethno-cultural pluralism in a democratic way, as opposed to the differentiation imposed by the old order, viz. apartheid.

The fact that the Constitution sufficiently recognises or guarantees the linguistic human rights of the people in the new political dispensation was emphasised, with reference to the statement of Du Plessis (1999:6) in this regard.

Significantly, it was furthermore stated in chapter one that linguistic human rights and other aspects of human rights are inextricably bound together. This perspective, as stated in the first chapter, informs the link between linguistic human rights and court interpreting, because court interpreting can be seen as a vehicle through which accused persons or plaintiffs are able to explain themselves in defence of other rights that may have been violated.
In South Africa’s multilingual society, a significant percentage of the population do not understand the two *de facto* official languages of the court; hence, it was argued in this chapter that linguistic human rights, as they apply in the courtroom setting, should be honoured and, by extension, should apply to foreign immigrants as well.

Both local and international instruments were referred to in chapter one to justify the importance of the provision of court interpreters for linguistically handicapped persons. Firstly, there was a pertinent reference to the South African Constitution (section 35 [3(k)]), which emphasises that every accused person has the right to be tried in a language he/she understands.

Secondly, the 1950 European Convention on Human Rights (ECHR) was cited. According to the convention, an accused person shall have the right of free access to justice by way of the provision of free interpreting services if he/she does not understand or speak the language of the court.

A further justification was given for the need for an effective court interpreting system. This was based on the possibility that in South African courtrooms there is always the likelihood that the participants (magistrates, prosecutors, attorneys, accused, witnesses, and plaintiffs) would be from different linguistic and cultural backgrounds. This was extended to the fact that the presence of foreign nationalities, especially foreign African immigrants appearing before the court requiring interpreting assistance, is now a daily reality.

In order to have a compass point of focus, the problem statement, the aims of the study were given out in chapter one, and these were followed by pointing to the limitations of this study. Lastly, the organisation of the study, which contains the contents of the chapters, was presented.

In chapter two, the primary focus was the history and development of interpreting in Africa, the Americas, Europe and South Africa. With regard to the history of interpreting in Africa, this was divided into three eras: the pre-colonial era, the colonial era and the post-colonial era.
In the pre-colonial era, many African countries relied on “local linguists”, especially in ancient African kingdoms such as Mali, Zimbabwe, and Ghana. These local linguists were language mediators between the chiefs and their subjects.

In the old Benin Empire, it was pointed out there was interpreting problem due to many ethnolinguistic constituencies whose languages were not mutually intelligible, especially with regard to speakers of the dominant language (Ẹdo). One of the ways the interpreting problem was solved by the king of the empire was to send his brothers, appointed as chiefs by him, to head the communities all over the empire. The literature review on many occasions also referred to the contacts between the Edo-speaking people and the Portuguese traders in the 15th century to exemplify the existence of interpreting.

Subsequently, the colonial history of interpreting in Africa was reviewed. Here, Arabs were very visible as non-Africans who had encounters with Africans, and they were followed by the Portuguese in the 15th century, who were known for trading and their religious activities. Through their religious activities, the Portuguese spread their Christian faith among the various African communities through their mother tongues by reproducing the local languages in writing and developing their orthographies (Bandia 2001:297).

The Berlin Conference on Africa in 1884-1885, where the colonial authorities divided Africa up among themselves, was cited as the beginning of the waning influence of the local linguists, or griots, as they were called in Francophone African countries. The role of the local linguists diminished in Francophone and Lusophone African countries because of the aggressive assimilationist policies of France and Portugal. This was different, however, in Anglophone African countries because of the policy of indirect rule by the British colonial authorities which encouraged the use of vernacular.

A number of African countries obtained their independence in the 1950s and 1960s; and it was emphasised in the review that the footprints of their colonisers as regard their languages and ways of doing things on the different countries they had colonised could not be erased. For many Africans who were not educated, it was still
necessary to use the services of interpreters, especially the government departments where the colonisers’ language were used.

In addition to this, Christian evangelisation and other religious activities were continued by the European missionaries; and most of them learnt the local languages in order to translate and interpret religious texts in the African communities.

In chapter two, some notable translation and interpreting professional associations were mentioned. These were, among others, NATI and CHAWATA. According to Simpson (1985, in Bandia 2001:303), the interpreting and translation situation in the countries represented by these unions was far from being an ideal situation.

Chapter two also covered a literature review on interpreting in the Americas. This was traced to the time of Columbus and the Spanish Conquest of the Americas. In the review, it was pointed out that the problem of interpreting was solved by Columbus and other colonisers after him by capturing some of the locals and sending them to Spain to learn Spanish and the Spanish culture, before returning them to the Americas to assist in interpreting in communicative encounters between them and the locals. Mention was also made of the fact that the formal recognition of interpreting in the Americas could be dated back to 1537 (Angeleli 2004:10).

An overview of the history of interpreting in Europe covered the period from antiquity in Europe right up to the 14th century. The history of interpreting during this period revolved around the effort the Jews had made during the Diaspora to interpret from Hebrew into Greek and Aramaic. The Roman Empire, which was one of the notable empires in Medieval Europe, was multilingual, and the work of interpreters was recorded around the 15th century, according to Angeleli (2004:8) and Connolly and Bacopoloulou-Halls (2001:429).

In Medieval France, the review revealed that the first written document was in the 9th century, and this was in verbalised Latin text, before it was translated into a written document (Salama-Carr 2001:409). There was an allusion made to a lawyer in the review who advised the French king to set up an interpreting school in the Middle
East in the 13th century. This was followed by what is now regarded as the first university in France during the 13th century, where the real momentum of interpreting was said to have begun. Tabakowska (2001:524) refers to the same degree of interest about the Synod of Polish Bishops at approximately the same time, who by decree made it mandatory in church schools for all teachers to master Polish in order for them to be able to explain Latin to the students in the Polish language.

The next period reviewed was the Renaissance in Europe. The development of printing technology contributed to the spread of interpreting in Renaissance Europe, as this resulted in the translation of books and novels.

Translation in the Nordic region during the Renaissance was mainly of religious texts, and this was also the focus in Britain. The translator, Tyndale, was famous during the Renaissance in Britain for his work in translating the New Testament from Greek into English in 1525 (Ellis and Oakley Brown 2001:337).

In the review, it was pointed out that King Charles V’s love for classical works during the Renaissance period in France boosted the translation of classical works. For example, there was coinage of many translation terms in French. Similarly, the review also showed that King Carlos I was instrumental in the promotion of interpreting and translation activities in Spain and its colonies. The King was said to have enacted a law during 1529-1630 to regulate interpreting practices in the Spanish colonies (Pym 2001:555).

In the period of Enlightenment, the interpreting needs in Greece were influenced by national consciousness and fuelled by the war of independence against the Turks in 1821. For the Polish, their strong ties with the East meant that they had to rely on interpreters to facilitate communication in their encounters. In the review, it was stated that the first reported use of court interpreters during the period of Enlightenment in the Commonwealth was in 1806.

The formal recognition of court interpreting as a profession in the first Czech Republic dates back to between 1918 and 1937, and during the same period (to be precise, in 1929) court interpreting was recognised in Poland (Kierzkowska 1991:87).
In international meetings, French dominated as the only language of communication in meetings, and usually delegates in such meetings were expected to have a high command of French before they were sent to such meetings (De Jongh 1992:2). This changed, according to Herbert (1978:5), as "some of the topmost ranking negotiators from the U.S.A and the United Kingdom were not sufficiently conversant in French, which made it necessary to resort to interpreters". Herbert regards this period as the beginning of conference interpreting.

In the review, the real turning point in the history of court interpreting was identified as the Nuremberg Trials in 1945-1946, because it marked the first use of equipment to enhance simultaneous interpreting (De Jongh 1992:2).

The final section in the literature review covered the history of court interpreting in South Africa. It was noted that interpreting had always existed among the first indigenous San and Khoikhoi communities in South Africa, given that they represented different language groups. However, the interpreting scenario was said to have changed markedly with the arrival of the Europeans in South Africa in the 17th century. Some of the Khoi and San were said to be remarkable in their ability to speak Dutch after a brief contact with the Dutch people.

Other instances of interpreting referred to by scholars pertained to the British settlers and the Dutch people who moved to the interior and consequently made contact with the Sotho and Nguni language groups. According to Moeketsi, this type of contact resulted in an increase in the bilingual experience of the Xhosa-speaking people, who became notable as interpreters of Dutch into Xhosa and vice versa (Moeketsi 1999b:129).

The first known recorded use of African court interpreters was in 1892, namely Isaiah Bud-M’belle, Simon Mokuena, Jan Moloke and Sol Plaatjie. Because of the multilingual nature of South Africa, court interpreters had always featured prominently in the court system, but Mayne (1957) remarked that there was a shortage of literature on court interpreting. This, as stated by him, prompted him to write a book about court interpreting.
Many scholars wrote about court interpreting in anticipation of the expected change in the political landscape in South Africa. Some of the scholars works such as Trew (1994) and Steytler (1993) have been reviewed in this study.

Moeketsi (1999b) reported on court interpreting after the 1994 dawn of democracy, and her emphasis was on indigenous language interpreters in South Africa. She pointed out that in a typical South African courtroom, there is high possibility that the main participants (the magistrate, the prosecutors, the attorneys and the accused) would be from different language groups (Moeketsi 1999b:17). Following this, a review of the nature of the interpreting service used at the TRC was given.

In chapter three, the methodology used for this study was discussed. It was pointed out that the method used for this study followed a qualitative approach, because the study is located within the fields of the humanities and social sciences. In addition, the use of basic descriptive statistics in the study in the form of percentages and the tabular representation of the data were both discussed.

With regard to the methods of data collection and interviewing, questionnaires and post-survey interviews were used. The interview methods used were telephonic and face-to-face structured interviews and unstructured interviews. It was remarked in this chapter that the interviews done with South African indigenous language interpreters were done essentially to corroborate the data collected from other respondents for this study. Another source of data collection reported in this study was the observation of court proceedings.

The population and sampling methods used in this study were furthermore discussed. It was mentioned that the sample of court interpreters used for this study consisted of foreign African court interpreters from Nigeria, Zambia, Zimbabwe, Ghana, Mozambique, Malawi, the Democratic Republic of the Congo, Tanzania and Somali in the magistrate courts in Johannesburg, Germiston and Hillbrow in the Gauteng province.

In these courts, the chief interpreters were all involved in the elicitation of data, as well as ten magistrates, ten prosecutors and ten attorneys in each court. The
sampling methods reported in this study were purposive sampling and snowball sampling.

The data analysis was an ongoing process throughout the duration of the study, but in the formal analysis, the data were arranged on the basis of the identified subject matter into which they fitted.

Chapter three ended with a discussion of the ethical considerations, which were based on the NMMU’s Human Ethics regulations applicable to this study.

In chapter four, some theoretical perspectives on interpreting and translation were reviewed. In the review, the differences between interpreting and translation were stated. Following this, the different modes of interpreting were discussed in the review. The first mode of interpreting discussed was consecutive interpreting, which, as defined by Gile (2004:11), involves a SL speaker who speaks for a period of time, and the interpreter, who will render what the SL speaker has said into the TL. Different types of consecutive interpreting were distinguished, i.e. long and short consecutive interpreting.

Another mode discussed was that of simultaneous interpreting. This was defined as the mode in which the interpreter speaks at nearly the same time as the SL speaker. In the courtroom setting, it was remarked in the review that there is a type of simultaneous interpreting known as whispered-simultaneous interpreting or chuchottage. The third mode of interpreting discussed in the review was sight translation. This is defined as the oral rendition of a written source text into the TL.

The review in chapter four also covered various types of interpreting. This began with community interpreting as a type of interpreting, which is an umbrella term for liaison interpreting, cultural interpreting, public-service interpreting, dialogue interpreting and institutional interpreting (Garcés 2003, Martinsen 2003 and HIN 2007:8). Besides community interpreting, conference interpreting was also discussed. This, as defined by González et al. (1991:26), is a language service performed in order to facilitate communication between speakers of various languages attending a meeting or conference. The last type of interpreting discussed
in the review was remote interpreting. This is also known as telephone interpreting or video-conference interpreting, in which neither the interpreter nor the parties using the interpreting service are in the same place physically (Mikkelson 2000:80).

Among the theoretical issues discussed in chapter four was the notion of equivalence in translation and interpreting. Equivalence in translation is the relationship between the ST and TT that allows the TT to be considered as a translation of the ST (Kenny 2000:77). It was noted in the discussion that there is disagreement among scholars about what constitutes an ideal level of equivalence in translation and interpreting.

The first theoretical concept discussed in this study was formal equivalence. Scholars describe formal equivalence as a strict adherence to the form of the original language of the SL, according to Gordon (1985). Formal equivalence is a problematic notion, according to (Nida and Taber 2003:1) and in order to avoid its problems, a translation equivalent which is dynamic was suggested; hence the concept of *dynamic equivalence*.

Dynamic equivalence, as opposed to formal equivalence, is concerned “with the dynamic relationship. That is, the relationship between the receptor and the message of the translated version should substantially be the same as that which existed between the original receptors and the message” (Nida 2004:156). It was noted that the notion of dynamic equivalence is based on the principle of equivalent effect, as expounded by Rieu and Phillips (1954), according to Nida (*idem*).

Some critiques of dynamic equivalence were mentioned in this study, inter alia on the grounds that the TL version is not constrained by the grammatical form of the original.

Besides formal equivalence and dynamic equivalence, other approaches to translation equivalence were reviewed in this study. For instance, Baker’s (1992) text-linguistic approach was referred to in terms of her assertion that translation should also be considered at word level, and above word level. In this regard, Baker (1992:47) explained that it is possible that elements of meaning which are stated in
numerous orthographic words in one language could be stated in one orthographic word in another. Above word level, Baker (1992:47) uses lexical patterning, such as collocations, idioms and fixed expressions as examples.

Regarding collocation, Baker explains that words that can collocate in one language may not collocate in another, and if they do, they may not convey the same sense of meaning in the TL. Regarding idioms, Baker (1992:65) labels them as a source of problems in translation, as many translators may not even recognise them as idioms and thus translate them from a literal perspective.

Fixed expressions, on the other hand, are described by Baker as that which is transparent in meaning, which can easily be inferred from the meaning of the words which make up the expression, although they may not have equivalents in the TL (1992:64). Other aspects of Baker’s views regarding translation equivalence are grammatical equivalence, textual equivalence and pragmatic equivalence.

A theory explained in this study which constitutes a marked shift from formal equivalence and dynamic equivalence is the skopos theory, as formulated by Reiss in 1970. The Greek word skopos (σκοπός) stands for “purpose” in the context of translation. The main emphasis of the skopos theory, as pointed out in this study, is that the purpose of translation must be known before translation begins. This is the reason why this theory is said to have a prospective approach, as opposed to the retrospective approach of other theories that emphasise the source text.

Two “rules” influence the application of the skopos, namely coherence and fidelity. It was noted in this study that the coherence rule means that TTs must be understandable to the receiver in the TL culture, based on the communicative context in which the TTs will be put to use (Jing and Su-zhen 2008:34). The fidelity rule, on the other hand, stresses that there must be intertextual coherence between the STs and TTs, which is similar to the fidelity of the STs (Jing and Su-zhen 2008:34).
Skopos theory was criticised for its disregard of the source text (Honig 1997:10), and scholars such as Schäffner (2000:237), argue that the theory deals more with adaptation than with translation.

The role of the court interpreter and quality in interpreting were also reviewed in this study. The misunderstanding of the role of the court interpreter was explained by referring to an example of how court interpreters are still being referred to as language conduits or language mediators and how court interpreters themselves, see their role from the perspective of social justice.

It was emphasised in this study that the magistrate, as the presiding officer of the courtroom, has a significant role to play in ensuring that court interpreters work within their role boundaries.

Lastly, in chapter four, quality issues in interpreting were discussed. One of the measures implemented to ensure quality, as variously stated by scholars (see Robinson 1994:97), is that court interpreters should belong to a professional association with a set of standard measures with which their members must comply.

Central to the consideration of quality is the question of quality assurance. Kalina (2005:769), Verhoef (2007:9) and HIN (2007) emphasise that quality assurance should be approached from a systemic view of court interpreting, or interpreting in general.

Biel (2008) addresses quality in interpreting based on two types of competence, i.e. translation competence and translator’s competence. In her view, translation competence refers to the interpreter’s ability to interpret to the required standard, while translator’s competence refers to the interpreter’s ability to function efficiently as a professional.

Another issue pointed out in the consideration of quality interpreting is the general belief that any objective measurement of quality is not possible. This, according to Verhoef (2007:8), is due to a lack of discernible standards; but for Kahane (2000) it
can be ascribed to varying working conditions which may cause methodological difficulties.

Chapter five provided an overview of interpreting in South Africa. The overview started with the employment procedures of court interpreters in South Africa. It was stated in the chapter that the basic educational requirement for employment is Grade 12, but with an emphasis on a knowledge of Afrikaans and English and at least two indigenous languages. Similarly, for the foreign African court interpreters, an equivalent of Grade 12 is required but with a knowledge of English and their mother tongue.

The selection and interview process is undertaken by the chief interpreter and some experienced senior court interpreters. This was berated in this study, as the absence of a professional human-resource expert could jeopardise the quality of the process in terms of selecting and hiring the best person for the job.

Following on the discussion on the selection and interview process comes the orientation. As discussed in this study, the orientation and induction processes generally involve the introduction of the new court interpreter to important aspects of the court system and to observe other court interpreters at work.

The new court interpreter is allowed to work alone for six months before being sent to attend a beginner’s course in court interpreting at Justice College, Pretoria. In addition to the beginner’s course, Justice College also offers specialised training in court interpreting, such as the advanced interpreter’s course and a management training course for senior court interpreters. Other forms of training available to court interpreters are those at various educational institutions in South Africa.

Besides training, other issues covered in chapter five included a discussion of the hierarchy in the court interpreting profession in South Africa. The discussion included the main participants in the courtroom who are the magistrates, the prosecutors, the attorneys, the accused persons, witnesses and, in some cases, the assessors.
Next was a discussion of professional associations, accreditation and court interpreters’ trade unions. This study revealed that neither South African indigenous language interpreters nor foreign African court interpreters belong to any professional association and they do not have any accreditation status as interpreters.

In chapter six, some selected EU countries and African countries were reviewed in terms of the court interpreting situations in them. The review focused on former colonial powers such as Portugal, France, the U.K, and Spain.

There are a number of similarities in the SADC countries reviewed in this study. The review showed that in Namibia, Botswana and Mozambique, there is no professional association for court interpreters. The basic requirements in these countries for the employment of court interpreters are generally the South African equivalent of Grade 12, proficiency in the official language and one or two local languages, except in Botswana, where a degree in humanities is also emphasised.

In Namibia, Botswana and Zimbabwe, the court interpreters are permanent staff of the Ministry of Justice in their respective countries. In Namibia, certain officials are employed as temporary court interpreters, who do most of the interpreting in the courtroom, while the so-called permanent officials do clerical duties and paper work in the office. In Mozambique, court interpreters are used on an ad hoc basis and the magistrates and prosecutors are known to sometimes take on the role of court interpreter, in addition to their usual job.

In Kenya, court clerks who are permanent employees of the courts are called upon to act as court interpreters when the need arises. These court clerks have had no court interpreting training, either before they were employed or by way of in-service training.

All categories of court interpreter in the Republic of Benin are used on a temporary basis. There is no specific training institution for court interpreters in the Republic of Benin. The same situation applies to court interpreting in Nigeria.
In the EU, though the level of development of court interpreting systems differs across the member states, the countries reviewed in this study appear to have similar systems, with some minor differences. Spain, France and the U.K. keep registers of court interpreters, who are either sworn court interpreters or have met some selection criteria in order to be listed in the registers. These interpreters are generally freelance or self-employed interpreters, except for staff interpreters in Spain, who are permanent staff of the Ministry of Justice.

The court interpreters are categorised differently in Spain, France and the U.K. In Spain, there are staff interpreters who are employed by the Ministry of Justice, freelance interpreters and other types of court interpreters who are self-employed. In France, there are sworn interpreters and ordinary interpreters, while in the U.K., court interpreters fall into the category of public service interpreters.

There are professional associations that help in terms of CPD and accreditation in France and the U.K. The situation in Portugal is different from that in these aforementioned countries. Where France, Spain and the U.K. can boast to some extent of a co-ordinated court interpreting system in terms of sworn court interpreters and registers for interpreting, the study revealed that there is scant regard for the profession of court interpreting in Portugal. For example, the selection of court interpreters in Portugal is done by court clerks without any selection criteria.

8.3 SUMMARY OF THE FINDINGS

In this section, a summary of the research findings as presented in chapter seven will be given. The findings as presented there are based on the processing of the data obtained by way of the interviews (structured and follow-up) and the questionnaires completed by the respondents.

The presentation of the analysis started with the findings regarding the training and experience of foreign African court interpreters. This discussion centred trainings – both prior employment and in-service training of foreign African court interpreters.

The data on training presented in this study were not encouraging. As in the discussion of the data, court interpreters require specialised interdisciplinary
knowledge to function effectively. They require more than just bilingualism or trilingualism, but rather a host of specialised skills. These skills, in the context of the intricacies of court interpreting, are acquired through prior related experience, in-service training, and, for short, CPD. The quality interpreting to be expected is highly questionable, given the fact that the data point to the fact that foreign African court interpreters do not have any relevant or related experience for the job of court interpreting, and the DoJCD are not making any effort to train them to be sufficiently capable to do their job. It becomes more worrying that they are not afforded the opportunity of in-service training, except for some terminology training on the initiative of the chief interpreter in the Germiston Magistrate’s Court.

With regard to employment conditions and the support for foreign African court interpreters, the situation as it applies to foreign African court interpreters, is a far cry from what normally applies to government employees. They do not receive any social benefits and work progression, or promotion. This is acknowledged by the management of court interpreters in the DoJCD, on the grounds that foreign African court interpreters are temporary employees only; hence they do not receive the social benefits enjoyed by court interpreters working in South African indigenous languages.

Some of the data presented and analysed make this assertion untenable. Firstly, cases involving foreign immigrants are heard on a daily basis in the courts observed for this study; hence an argument could be put forward that this provides enough basis to employ some of the interpreters as permanent employees of the DoJCD. The data also revealed that the shortest period the respondents in this study have worked is six years. One of the reasons given by most of the foreign African court interpreters for their lack of interest in upgrading their skills in court interpreting was their continuous status as casual or temporary court interpreters.

To them it would be a significant incentive to upgrade their skills if the DoJCD would reward their efforts. A situation such as this can dampen the morale of any employee. A positive morale is essential, because it increases the sense of commitment of employees to their job. This is necessary for any occupation, and
even more so in court interpreting, given the importance and need for good court interpreting to sustain the fair dispensation of justice.

For court interpreters to maintain a high degree of competence and remain abreast of developments in their field of work, they have to be involved in life-long learning. As indicated in the analysis, court interpreters’ membership of a professional association will give them an opportunity for life-long learning. Professional associations see to the CPD needs of their members by organising conferences and workshops through which members can update and upgrade their knowledge. Professional associations also promote the public awareness on their members and their practice. The only professional association for interpreting in South Africa is SATI. Foreign African court interpreters do not belong either to SATI or to any other international professional association.

The results of this study further show that interlingual matters with regard to foreign African court interpreters need to be addressed. It was pointed out, inter alia, that foreign African court interpreters are used to interpret cross-border languages. This is happening, for example, when court interpreters from Zambia are used to interpret for an accused from Malawi on the basis of the fact that the interpreter understands the language of the accused person which is also spoken in Zambia. This may present a problem, because the accused and the interpreter are from different social backgrounds, which may show in the different ways both of them use the cross-border language.

The analysis further highlighted the fact that because court interpreters are not given sufficient opportunity, if any, for a pre-interview or discussion with the accused, the plaintiff or the witness, they would not be able to ascertain the language abilities or any other factors about the language of the accused or other role player in the judicial process.

Following the data presented about cross-border languages was the matter of bilingualism. In addition to the basic educational requirement, bilingualism is the main requirement for the employment of foreign African court interpreters. This reflects the assumption by the employer of foreign African court interpreters that they
have, according to Richards and Schmidt (2005:51), “balanced bilingualism”, or are able to speak and understand their working languages equally well.

I argued in my presentation of the data regarding balanced bilingualism that most of the languages the interpreters interpret are not their mother tongues, but that they speak the languages because they once lived in the communities in which the languages are regularly spoken. As regards their mother tongues and the official language of the court, the possibility of achieving balanced bilingualism is remote, as the data showed that many of them (64%) said they only studied their mother tongues up to secondary school level.

A further issue was that the reliance on mere bilingualism in the employment of foreign African court interpreters would be problematic in terms of quality interpreting, because interpreting requires other skills, such as, among others, skills of listening and cultural awareness.

All the working languages of the respondents in this study have dialects. The problem of dialects in court interpreting could be mitigated if there were dialect levelling or the existence of a common variety which everyone understood. In the discussion of dialect in this study, I presented the case of an interpreter who did not understand the dialect of the accused he was interpreting for. Although there is a common variety, or the standard form of the language, which the accused claimed he understood, because of an act of ethnocentricism, he refused to use it. I also pointed out that individuals who interpret cross-border languages may have a problem when they have to interpret a dialect of a cross-border language for an accused or witness from a different country of origin from that of the court interpreters. This, as pointed out in the analysis, means that court interpreters may not understand some socio-cultural issues which could influence the way the accused or witness will use the dialect.

Closely related to the discussion of data regarding the ways socio-cultural issues affect the form of the language, is the discussion of biculturalism. In the discussion of biculturalism, it was emphasised that court interpreters should have the “ability to interpret experiences in the manner appropriate to both cultures involved” (De Jongh
This requires a significant level of cross-cultural awareness. The data in this study showed that the most of the respondents interpret cross-border languages which have dialects. In addition, most of the languages they interpret are not their mother tongues, but the languages learnt in the speech communities in which they once lived.

This calls into question their level of cross-cultural awareness or experience appropriate for a reflection on biculturalism in their interpreting. I highlighted the fact that court interpreters whose working languages are not their mother tongues will have problems with the bicultural knowledge needed in court interpreting. This is also true of interpreters whose working languages are cross-border languages. While they may understand the dialect or dialects on their side of the border, this rarely applies to the dialect or dialects on the opposite side of the border, given the socio-cultural factors influencing the use and the development of such dialect or dialects.

As I have indicated in the analysis, court interpreters will be able to accommodate, to some extent, differences in the dialects of the accused and the concomitant socio-cultural differences if they are given enough time for a pre-trial interview or discussion with the accused persons or the plaintiffs. Information about the accused persons or the witnesses obtained in this manner will enable court interpreters to make the necessary preparations in terms of any variations in dialect. The data presented in this regard showed that court interpreters are, unfortunately, not given the opportunity for any such pre-trial interview or discussion with the accused or the person whom their interpreting is meant to help.

Other interlingual matters pointed out in this study are code-switching, interpreting in the first person and the use of unclear and incoherent language by accused persons and witnesses. These are common interlingual phenomena in the courtroom. The use of code-switching by some prosecutors constitutes a common pattern, in particular, regarding the SL forms for numbers and colours. Although the phenomenon of code-switching is not peculiar to foreign African court interpreters, one interesting fact about accused persons or witnesses of foreign extraction came to the fore in this study. From the analysis, it became clear that accused persons or
witnesses used code-switching in such a way that they were evidently able to understand and speak English.

My observation of courtroom proceedings showed that some of the accused persons or witnesses were able to use English, as an embedded language, in addition to their language as the matrix language. They did this with a level of proficiency which the magistrate or the prosecutor could easily understand. This is supported by my interaction with some accused persons and witnesses, who admitted that they understand and speak English, but they doubted their level of proficiency; hence they had to request interpreters to be made available.

Some others also jokingly admitted that they feigned a lack of understanding of English because they wanted the interpreter to get work to do.

Many foreign African court interpreters use the third person in the courtroom when restating the words of the accused/witness in the TL, as indicated in the analysis. Court interpreters seemed to become reckless when the accused has pleaded guilty, because they apparently believe there is nothing in contention any more. In this case, the interpreters were observed as interpreting “I plead guilty” in the third person, i.e. as “he pleads guilty”.

This negates the benefit of using first person pronouns. As stated in the analysis, using the first person allows the SL message to be transferred in direct speech as if it had its origin with the court interpreter (Moeketsi 2000:230). The same apparent recklessness typifies the way the foreign African court interpreters deal with unclear and incoherent language by the accused, as they generally admitted that they had to help the accused persons or the witnesses to disambiguate and clarify their statements, even when it was ethically wrong to do so.

Data collected in the study showed that enough information on the case was not made available to the foreign African court interpreter; hence they were not able to make the necessary prior preparations in terms of compiling probable terminologies and vocabularies, knowing the accused’s language abilities and culture. This also
applied to sight translation, because the data indicated that the court interpreters were not given the documents in time to familiarise themselves with the text.

A number of issues regarding quality interpreting were discussed. It was pointed out that the consideration of quality interpreting should start with the employment process, which should ensure that the best person is employed as court interpreter. The data presented in this study showed that the employment process of foreign African court interpreters was mostly done informally in the DoJCD. A similar informal approach seems to typify the orientation and induction of foreign African court interpreters, which involves just a brief moment between the interpreter and the chief interpreter, after which the interpreter is twinned or paired with an older interpreter for observation for some days or weeks, before he/she is left to interpret alone without any supervision.

The question of fatigue was presented as a factor that could affect the quality of interpreting. From the data presented in this study, it was clear that the court interpreting system did not consider fatigue as being a problem in court interpreting; team interpreting is not practised, and interpreters are not relieved of their interpreting duties after a stint (elsewhere set at 20-30 minutes of interpreting) for an interval in order for them not to experience fatigue. Furthermore, mention was made of some foreign African court interpreters’ neglect in interpreting non-linguistic indicators and their open display of personal reactions during the development of the case.

Generally, the study also showed that there was a lack of understanding of the role of court interpreters by other participants in the courtroom. For example, most of the magistrates reported that they assumed that the attorneys and the prosecutors are aware of the role of the interpreters and they expected them to tell their clients. This was not done and the magistrates did not care to check whether it had been done. The analysis mirrored the fact that the prosecutors did not understand the intricacies of the job of court interpreters; hence they did not make available information about the case to them.
As the presiding officers of the courts, the onus rested on magistrates to ensure that the role of the interpreters was explained to the accused and other participants in the court; however, this was not done.

An issue such as absenteeism by court interpreters was discussed and it was stated that this was a major concern to most of the magistrates. Absenteeism was (a) linked to non-payment of their remuneration in time; hence, some claimed they had to be absent from work because they had no taxi fare. It was also (b) linked to the fact that most of the court interpreters had private jobs, or were doing other work, so that they consequently had to be absent to work elsewhere from time to time.

Reference was made to different examples of conflict of interests as a possible factor infringing on quality interpreting. Ideally, the court interpreter is supposed to know the nature of the case in order for him/her to ascertain whether there is any element in it that constitutes a conflict of interest, but as revealed in the data, this was not done. Even if this were done and there was indeed a case for conflict of interest, the interpreters also revealed that they would not turn down an offer to interpret any case, because the more cases they interpreted, the higher their remuneration.

Other instances constituting a conflict of interest on the part of the court interpreters included their declaration that they do help the accused, especially when, in their judgment, the rights of the accused were being violated by the court. More reasons why the foreign African court interpreters did not care about conflict of interest, as highlighted in the study, is their possible strong ethnic allegiance with the accused person and the “us/them” mentality; or they identified with the accused persons in their belief that the justice system could not be fair to them because of the particular stereotype or view it held of them. Consequently, foreign African interpreters went out of their way to help the accused in whatever way they could in the manner in which they interpreted.

Lastly, in the analysis, the importance of evaluation was emphasised, as it was demonstrated through reference to literature how evaluation could be used to mitigate or reduce problems or challenges the court interpreter may face.
8.4 RECOMMENDATIONS AND SUGGESTIONS FOR FUTURE RESEARCH

The main objective of this study was to analyse the use of foreign African interpreters in South African courtrooms in some selected magistrates’ courts in the Gauteng Province. In the course of the analysis, I observed many things, some of which concerned shortcomings in the court interpreting system, and others which would improve the general practice of court interpreting as it applies to foreign African interpreters, or in South African courtrooms by and large.

These matters and the steps in the form of suggestions and recommendations to improve the situation will be discussed below.

8.4.1 Training

The data presented in this study showed that there is an urgent need for training of foreign African interpreters and other participants in the courtroom. Court interpreting, as a profession, demands a high degree of competency beyond merely being bilingual. A competent court interpreter must have a comprehensive understanding of his/her working languages - both the SL and TL. Added to this, he/she must be competent to handle legalese, colloquial language, slang and specialised terms used by the accused persons or the witnesses. There are also skills required in performing consecutive and sight translation – the two modes of interpreting commonly used in South African magistrates’ courts.

No court interpreter is born with these competencies; hence they have to be provided by means of some relevant training. Although various training opportunities by means of which these competencies or skills can be acquired are available in different tertiary institutions, as well as in the Justice College, Pretoria, at present foreign African court interpreters are not making use of these opportunities. I therefore recommend that foreign African court interpreters should be given study grants to access such opportunities for training. The excuse that they are temporary employees only and thus do not qualify for assistance from the DoJCD is not tenable, considering that this study found that in the majority of cases, six years was the shortest period for which foreign African court interpreters had been employed as such.
If the DoJCD had been using the service of these interpreters for at least the past six years without any effort to upgrade their skills, it was tantamount to an obstacle in the way of a fair dispensation of justice for foreign African immigrants.

I would also like to recommend that the DoJCD should remunerate foreign African court interpreters according to their levels of training and experience. As temporary or casual interpreters, they should be encouraged to upgrade their skills, but this must be reflected in their remuneration. In other words, any foreign African court interpreter with proof of having undergone court interpreting-related training should be remunerated differently from those who have not, or who were simply employed on the basis of their bilingual ability.

This could also apply to a new court interpreter who will only be employed because he/she has interpreting-related qualification(s) and experience. If the salary is attractive, interpreters will be encouraged to gain the required qualification(s), knowing that without it they stand the chance of not being accepted as court interpreter.

One of the facts revealed about magistrates, prosecutors and attorneys in this study was that they did not correctly understand the role of the interpreter as well as the intricacies of court interpreting. In this study it was reported that at times, foreign African court interpreters were seen displaying personal reactions to the development of the case. The magistrates did not care to explain the role of the court interpreters to other participants in the court. The prosecutors did not provide to court interpreters information on the case in order to assist their pre-trial preparation. The reason for this state of affairs is that there is a general lack of understanding of the role and the complexity involved in court interpreting. In order to prevent these situations from occurring and for the sake of effective court interpreting and fair justice, all other participants working with the court interpreter in the courtroom should receive appropriate training and guidance in order for them to know how to work with court interpreters. Such training would also sensitise them towards the complexity of court interpreting; consequently, they would know how to deal with court interpreters as professional colleagues with an equal concern for fair justice.
Mwepu (2005:230) provides an interesting argument to support the reason why other participants in the courtroom need training on court interpreting. As I have indicated in this study, foreign African court interpreters could not care less about their professional misconduct, because the magistrates and other participants, who are supposed to put them under check, do not understand their mother tongues. This also holds true for the argument that the magistrates and other participants do not have a sufficient grasp of court interpreting practice.

Mwepu (2005:230) argues that “Interpreters tend to be more careful when they know that the magistrate, the prosecutor or someone else in the court can understand the source and target language and possibly challenge the quality of the interpreter’s interpreting”. Thus, when other participants in the courtroom are given basic training in court interpreting practice, the court interpreters’ brazen disregard for their errors and possible conflicts of interest could be reduced because they know they may be taken to task by other participants.

Another way to take care of the training needs of court interpreters is to encourage them, or even make it mandatory for them, to belong to a professional association such as SATI. Professional associations help to sensitise the members of the public towards the profession and they also organise training, conferences and workshops for their members. Thus, I would recommend that foreign African court interpreters should be encouraged (if not obliged) to take membership of a professional association in order for them to be exposed to the training, conferences and workshops such associations provide. They would, furthermore, be more sensitive in upholding their professional code of ethics in order not to lose their membership of the association.

To enhance sustained competence, I recommend that the court interpreting authorities should periodically allow the interpreter to video-record themselves. This recommendation is in line with De Jongh’s (1992:41) observation that “[v]ideotapes offer the opportunity to self-critique as well as to monitor progress” made by new interpreters. The benefit of a video recording, especially for a beginner court interpreter, is that it allows a replay, as opposed to mere observation of experienced interpreters at work. Some of the training given to court interpreters should be based
on the observation of interpreters at work through video recordings, so that the interpreter trainers would be able to point out any problems they have observed to the new interpreters.

This, to me, is not only important in the training of new court interpreters; it should also be used to enhance sustained competence of the experienced foreign African court interpreters. The experienced court interpreters should from time to time be asked to video-record themselves at work, and then given time to watch the videotape along with their colleagues in order to make a self-appraisal with a view to possible improvement. This can also be used as an evaluative tool in the performance of the foreign African court interpreters by their superiors. Or, as Hertog (2003:171) put it, video recordings should be used as quality-monitoring mechanisms that provide an opportunity for both the court interpreter and his superior to pore over the recording, showing the interpreter at work, and whatever is not done well, could be corrected.

This would also minimise the possibility of the court interpreter becoming involved in any conflicts of interest or partiality. If they are used to the fact they are being video-recorded, or that they may be video-recorded, they will want to give their best to avoid being censured.

8.4.2 Court interpreter’s register
As is being done in some EU countries, especially in France and the United Kingdom, a register should be kept of court interpreters, either at provincial or at national level. At national level, the register can be kept in the office of the Chief Inspector of court interpreting services and in the office of inspectors at provincial level. This would help in alleviating the problem of absenteeism by foreign African court interpreters referred to earlier in this study, because with such a register it would be easy for the court interpreting authorities to find a replacement for any absent court interpreter. This would be one way of ensuring quality interpreting. Court interpreters would require a basic minimum of interpreting-related qualifications to be allowed on the register. In order for court interpreters to sustain their continued listing, they would have to give proof of their CPD (workshops,
conference attendance and other professional activities) annually; otherwise their names should be de-listed or suspended.

In the U.K., the national register of interpreters is used as a regulatory tool of interpreting practice. Such a function could also be applied to the recommended court interpreters' register in South Africa. According to Corsellis (2005:126), a professional register would also provide a way of regulating the practice through such a recommended code of conduct. Its members would be obliged to sign up, and conform to the associated disciplinary procedures where breaches of that code are alleged. Complaints can be made to any professional register of the conduct of its members, and, where shown to be necessary, appropriate action can then be taken.

8.4.3 Central database for legal terminology and other fields frequently encountered in the court

A database of legal terminology and the equivalents in the foreign African languages should be made available. This will help to some extent in dealing with the question of the notion of equivalence discussed extensively in chapter four, Section 4.6. For example, there should be a database for legal terminology in Shona/English/Afrikaans, Yoruba/English/Afrikaans and other languages frequently interpreted in the court. This should also cover the terminology in other fields such as health (HIV/AIDS), traffic offences and car theft, commercial offences (white-collar crime in banks and insurance companies), et cetera.

One of the benefits of a database of terminology is that it would provide court interpreters with a uniform way of interpreting terms that are otherwise not very common. This may mean that the court interpreting authorities would have to seek the assistance of linguists and court interpreters in the countries in which such languages were originally used.

8.4.4 Access to detailed information about the case and pre-trial preparation

The data in this study have shown that court interpreters are not provided with detailed information on a case, and they do not conduct any pre-trial interviews with the accused or plaintiffs. Such information should be given to the court interpreters,
as this would enable them to identify cases that constitute conflict of interest, and to know in time if they possess the required competence to handle the case.

The court interpreter should be allowed to have pre-trial contact with the accused or witnesses, because through such contact the interpreter would be able to ascertain the educational level and language ability of the accused. This would also provide the court interpreter with an opportunity to interact with the accused or witness, and in the process he/she would be able to learn about the dialects, colloquialisms and regionalisms of the accused or witnesses.

This is highly recommended, given what has been explained about cross-border languages and sight translation in chapter seven, where it was pointed out that without pre-trial contact with the accused or witness, the court interpreter might encounter problems if the accused’s dialect or language should be from the opposite side of the border, where a different orthography is used, and the language is subject to a different sociolinguistic influence.

A pre-trial meeting with the accused is also recommended because it would be the appropriate avenue for the court interpreter to explain his/her role as interpreter to the accused, as well as to let him/her know that everything said would be interpreted even if it contains invectives or vulgarities. Many accused persons believe that because the interpreters are from the same ethnic background as they are, they can count on them for assistance during the court proceedings. A pre-trial meeting would be an opportunity for court interpreters to explain that their role does not include any advocacy towards the accused.

8.4.5 Quality control

From the data collected in this study, it became clear that the question of quality control was not uppermost in the thinking of the court interpreting authorities such as the chief interpreter who are directly responsible for court interpreting service in the DoJCD. It seemed that the court interpreting authorities were simply satisfied that they had met their obligation in ensuring that court interpreters were made available to the foreign African accused. However, this does not go far enough in guaranteeing that the interpreting provided necessarily meets the stated purpose. It was for this
reason that I recommend quality control through the establishment of a department or unit within the court interpreting system to carry out the necessary quality control of the interpreting practices in the courtroom.

In fact, such a unit should be tasked with the overall control of quality management of court interpreting. At present, no such unit or similar body exists in the court interpreting system, particularly as it relates to foreign African court interpreters.

8.4.6 Administrative capability
It is important that the court interpreting system should have the administrative capability to know: (a) the number of foreign African court interpreters currently busy with interpreting assignments, as well as (b) the magistrate’s court where the assignment is taking place. This information should be available nationally, so that a chief interpreter in, for example, Limpopo Province, who requires the service of an Edo or Yoruba-speaking interpreter, could obtain the information to correctly request for the services of an interpreter without any interpreting assignment, or one who would be free during the period the Limpopo assignment lasts. Information such as this would prevent or reduce any unnecessary absenteeism of foreign African court interpreters.

In the analysis of the data for this study, one of the reasons given by foreign African court interpreters for being absent or unavailable to finish the interpreting assignment they had started was that they had to go to another province for another interpreting assignment. They said they preferred assignments in other provinces because the pay was good and they could claim for travelling and accommodation expenses.

In addition, I recommend that the court interpreting management should develop a method to reach out to the foreign immigrant communities by keeping communication links with them, in order to identify individuals among them who could be used for court interpreting when the need arises. If these individuals are identified, they should be trained or recruited to take up the job of a court interpreter, especially if their language(s) is among those languages which are in constant demand, requiring the services of foreign African court interpreters.
8.4.7 Cross-border languages

Some problems court interpreters are likely to encounter in interpreting cross-border languages were discussed in this study. I recommend that the court interpreting system should discourage foreign African court interpreters from interpreting for accused persons or witnesses who are not of the same country of origin as themselves, except where the court interpreters have really demonstrated versatile knowledge of the accused’s sociolinguistic background.

From my discussion with court interpreters who interpret cross-border languages, it appears that the court interpreting management assigns court interpreters to a case based on their known working languages. No check is done to ensure that the accused and interpreters are from the same country. On the part of the court interpreters, even if they are aware that the accused person is from another country, they do not care, because they are not aware of the interlingual implications. Even if they know that there are interlingual implications, this study revealed that interpreters would not turn down any interpreting assignment, because the more cases they interpret the greater their remuneration.

For the sake of quality interpreting, foreign African interpreters should, wherever possible, only interpret for accused persons with whom they share a similar sociolinguistic background. This is important given the Baker’s (1992:11) assertion that there is lack of one-to-one correspondence between orthographic words and elements across languages (see chapter four, Subsection 4.6.3). This argument holds true with regard to cross-border languages because of the different sociolinguistic backgrounds which may result in the use of different orthographies in the countries the cross-border languages are used.

The court interpreting management should enforce this by making sure that foreign African court interpreters and the accused are from a similar sociolinguistic background, or at least from the same country.

8.4.8 Permanent employment

The DoJCD should employ foreign African court interpreters on a permanent basis, especially those who have been on its list of temporary or casual court interpreters for six years or more. Giving the foreign African court interpreter permanent
employee status would boost their commitment to their job, as they would then be able to access the same social benefits as their South African counterparts. Some of the foreign African court interpreters are naturalised South Africans, while others might have valid work permits, which would make it easy to formalise their employment on a permanent basis in the DoJCD.

As indicated in this study, as permanent employees of the DoJCD, interpreters of South African indigenous languages do receive some form of training. A similar type of training aimed at developing generic skills for foreign African court interpreters, would allow the DoJCD to have a one-size-fits-all approach to court interpreting, thereby eliminating the disparity which currently exists in the treatment of foreign African court interpreters, when compared with their South African counterparts.

**8.4.9 Plain language**

The recommendation of plain language applies to court interpreting in general. The attorneys, prosecutors and magistrates should be encouraged to use plain English or Afrikaans instead of legal terms or legalese when communicating with accused persons or witnesses. Legal language or legalese may be defined as formulaic, heavily stilted language with many borrowed words or phrases from (especially) Latin. Legal terms and jargon are only understood by legal experts. The public with whom these experts deal on a daily basis are lay people who do not understand the legal jargon.

Thus, it does not serve any communicative purpose for these experts to communicate with the lay public, but not be understood. Therefore, one would like to question the logic of using legal jargon.

By nature, legal language is wordy. This causes the law and the judiciary to be out of the reach of the common public, who form the majority of the South African population. For example, instead of simply saying *annul*, attorneys, prosecutors and magistrates in their characteristic way of speaking would say *annul and set side*. Instead of simply saying *will* attorneys, prosecutors and magistrates would say *last will and testament*. Legal language borrows heavily from other languages, and these borrowed words are used freely by legal experts when they deal with the lay public.
Examples in this regard may be found in the table below:

<table>
<thead>
<tr>
<th>Latin words and phrases</th>
<th>Equivalent in English</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amicus curiae</td>
<td>Friend of the court</td>
</tr>
<tr>
<td>Seriatim</td>
<td>One after the other in order or point by point</td>
</tr>
<tr>
<td>Status quo ante</td>
<td>In the state in which it was or is</td>
</tr>
<tr>
<td>Ipso facto</td>
<td>Obviously</td>
</tr>
<tr>
<td>Locus standi</td>
<td>The right to be heard in court</td>
</tr>
<tr>
<td>Mens rea</td>
<td>Wrongful intent</td>
</tr>
<tr>
<td>Ex post facto</td>
<td>Seen in retrospect</td>
</tr>
</tbody>
</table>

Table 8.1: Foreign terms and their English equivalents

As shown in Table 8.1, for each of the Latin words or phrases, there is an equivalent English term or phrase which the lay public would understand far better. The reason why Latin words or phrases are still being used has to do with precision in legislation and very often simply with tradition specific to the legal world, but in communicating with the public, the latter are being deprived of their freedom or right to access the judiciary by the use of these foreign terms. Not only the public, but also court interpreters are under immense pressure in finding equivalents for these terms or phrases.

One of the challenges facing most of the foreign African court interpreters I spoke to is that they find it hard to follow the fast pace with which many prosecutors speak. This is aggravated when they struggle to identify some of the Latin and French terms in their sentences. The only solution to this is plain English, and this would help the lay public, as well as the court interpreters.

8.4.10 Remuneration
Court interpreters, in general, are not remunerated appropriately, in the light of the wide spectrum of skills required in order to work as a court interpreter. The situation is worse for foreign African court interpreters, given their complaint that that they are
often not remunerated in time, and they have to borrow from friends to pay their
costs of commuting. Considering the challenges of court interpreting, especially in
the absence of any proper training, court interpreters would be demotivated further
as a result of the late payment of their remuneration.

Reasonable remuneration, in time, is a *sine qua non* to do justice to the specialised
services rendered by foreign African interpreters.

**8.5 FUTURE RESEARCH**

My limited experience in court interpreting and my observation of courtroom
proceedings during the course of this study has revealed to me that the question of
dialect variation in the legal context needs also to be addressed. Many respondents
in this study said their working languages had regional dialects, and that they often
interpret these dialects to accused persons and witnesses. From my experience, and
as reported in Subsection 7.5.3, it is possible that a court interpreter does not have
the required mastery of some these dialects to be able to interpret in them.

A case in point is the dialect of the same language which has its origin in another
country. Such dialects usually have different orthographies, resulting in a different
pronunciation of the same word in different dialects. I have also encountered a
situation where different dialects of one dominant language have different words for
the same objects, and these words are often completely different from the words
used in the dominant language.

I would, therefore recommend further study in this regard, where a dialectologist is
commissioned to look at the dialect of the common languages interpreted in the
court and to then compile a compendium of the differences – as a guide to
interpreters. Such a study would furthermore enable the court interpreting authorities
to assign the appropriate interpreter to a particular case. Where it is known that the
accused person does not understand the dominant language, but only the dialect, a
suitable court interpreter who understands the dialect would have to be found.
8.6 CONCLUSION TO THE CHAPTER
The thrust of this study has been to analyse the use of foreign African interpreters in South African courtrooms. This, therefore, required an in-depth review of the theoretical perspectives of interpreting, court interpreting situations in South Africa, as well as in some selected EU and African countries in order to gain some perspective in considering the analysis.

The analysis of the data has shown that despite the provision of chapter two section 35 [3(k)], of the South African Constitution – which emphasises the language rights for an accused in the courtrooms -- the court interpreting practices for foreign African court interpreters are far from being ideal. The study has uncovered, among other things, that unqualified personnel are being used as foreign African court interpreters and that no effort is being made in the form of in-service training to make them qualify for the job they are doing.

Being unqualified court interpreters, they perform their duties in unacceptable ways which can so easily constitute conflict of interest. They also step out of their prescribed role by helping the accused or witnesses to disambiguate, clarify and polish their responses without realising or caring about how their actions might affect the fair dispensation of justice.

The study has also revealed that other major participants in the courtroom do not understand the complexity of court interpreting. This shows in their working relationship with the interpreters in such a manner that the need to give the court interpreters information in advance on the interpreting assignment in order to assist their preparation for the assignment is not being met. The same view applies regarding how the court interpreting management treats the quality of service rendered by the court interpreters. In this regard, the court interpreting management does not appear to care, among others, about the need to ensure that the best are recruited for the job, and they also do not care about the effect of fatigue from long hours of interpreting which causes physical and mental exertion.

Some recommendations have been given to mitigate the shortcomings identified in the study; and it is hoped that this might help to improve the court interpreting
landscape in terms of the practice of foreign African court interpreters in South African courtrooms.
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APPENDIX 1: QUESTIONNAIRE
SECTION FOR FOREIGN AFRICAN COURT INTERPRETERS

1. BIOGRAPHICAL INFORMATION
INDICATE YOUR RESPONSE BY CROSSING THE APPROPRIATE BLOCK

1.1 Sex

<table>
<thead>
<tr>
<th>Sex</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td></td>
</tr>
<tr>
<td>Female</td>
<td></td>
</tr>
</tbody>
</table>

1.2 Age

<table>
<thead>
<tr>
<th>Age</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>21 - 25 years</td>
<td></td>
</tr>
<tr>
<td>26 – 30 years</td>
<td></td>
</tr>
<tr>
<td>31 – 35 years</td>
<td></td>
</tr>
<tr>
<td>36 – 40 years</td>
<td></td>
</tr>
<tr>
<td>41 - 45 years</td>
<td></td>
</tr>
<tr>
<td>46-50 years</td>
<td></td>
</tr>
<tr>
<td>51 - 55 years</td>
<td></td>
</tr>
<tr>
<td>55 years and above</td>
<td></td>
</tr>
</tbody>
</table>

1.2 Nationality

<table>
<thead>
<tr>
<th>Nationality</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>South African</td>
<td></td>
</tr>
<tr>
<td>Non South African</td>
<td></td>
</tr>
</tbody>
</table>

1.2.1 If you are a non South African, please indicate your nationality in the box below


1.3 Qualification

<table>
<thead>
<tr>
<th>Qualification</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Matric/secondary school leaving certificate</td>
<td></td>
</tr>
<tr>
<td>Post secondary school certificate (please specify the academic field you studied)</td>
<td></td>
</tr>
<tr>
<td>Diploma (please specify the academic field you qualified as diploma holder)</td>
<td></td>
</tr>
<tr>
<td>Degree (please specify field of specialisation if any)</td>
<td></td>
</tr>
</tbody>
</table>

2. LANGUAGE BACKGROUND

2.1 Home Language (mother tongue)

| Language |               |
|          |               |
| English  |               |
| Afrikaans|               |
| IsiNdebele|             |
| IsiXhosa |               |
| IsiZulu  |               |
2.1.1 If your language is other language, please indicate the language in the box below

2.1.2 Apart from your mother tongue, indicate other language or languages you speak and write in the box below.

2.2 Did you study any or some of these languages at school?
Yes
No

2.2.1 If you answered ‘yes’ which language? (If you studied more than one language indicate all the languages you studied in the box below)

1
2
3

2.3 To what extent did you study the language or languages at school?
Primary school level
Secondary school level
Tertiary or university level

2.4 From and to what languages do you interpret?

<table>
<thead>
<tr>
<th>Language combinations</th>
<th>Indicate with a cross</th>
<th>Specify if applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td>English to Afrikaans</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Afrikaans to English</td>
<td></td>
<td></td>
</tr>
<tr>
<td>English to an African language or languages (please specify which language or languages)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>An African language or languages</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 2.5 How many languages do you interpret from and to?

<table>
<thead>
<tr>
<th>Language</th>
<th>One languages</th>
<th>Two languages</th>
<th>Four languages</th>
<th>Five or more languages</th>
</tr>
</thead>
</table>

**Afrikaans to an African language or languages (specify the language or languages)**

### 2.6 If you did not study any of the languages you interpret at school, how did you acquire the usage of the language?

<table>
<thead>
<tr>
<th>Method</th>
<th>Once lived in the community where the language is spoken</th>
<th>The language is your mother tongue</th>
<th>Self education</th>
</tr>
</thead>
</table>

### 2.7 Does the language or do the languages you interpret have dialect?

<table>
<thead>
<tr>
<th>Dialect</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

#### 2.7.1 If you answered ‘yes’ do you understand the dialect?

<table>
<thead>
<tr>
<th>Understanding</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

### 3. EMPLOYMENT AND TRAINING

#### 3.1 How many years have you been working as an interpreter in the court?

<table>
<thead>
<tr>
<th>Experience</th>
<th>Less than 2 years</th>
<th>2 to 5 years</th>
<th>6 to 10 years</th>
<th>11 to 15 years</th>
<th>16 to 20 years</th>
<th>More than 20 years</th>
</tr>
</thead>
</table>

#### 3.2 Are you permanently or temporally employed interpreter?

<table>
<thead>
<tr>
<th>Employment</th>
<th>Permanently employed</th>
<th>Temporally employed</th>
</tr>
</thead>
</table>

#### 3.3 How did you learn of the position?
<table>
<thead>
<tr>
<th>Method</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Through news media</td>
<td></td>
</tr>
<tr>
<td>Advert</td>
<td></td>
</tr>
<tr>
<td>From a friend</td>
<td></td>
</tr>
<tr>
<td>From a practising interpreter</td>
<td></td>
</tr>
<tr>
<td>Through personal enquiry</td>
<td></td>
</tr>
<tr>
<td>Other means (please specify)</td>
<td></td>
</tr>
</tbody>
</table>

3.4 What were the educational requirements stated for the position when you were applying for the job? Please list the requirements in the space provided below.

....................................................................................................................................................................................
....................................................................................................................................................................................

3.5 What were other requirements besides educational requirements? Please list the requirements in the space provided below.

....................................................................................................................................................................................

3.6 Were you interviewed for the job?

<table>
<thead>
<tr>
<th>Yes</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

3.7 Was the interview oral or written or both?

<table>
<thead>
<tr>
<th>Oral</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Written</td>
<td></td>
</tr>
<tr>
<td>Both</td>
<td></td>
</tr>
</tbody>
</table>

3.8 Do you know whether other candidate was interviewed for the job?

<table>
<thead>
<tr>
<th>Yes</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

3.9 Describe briefly what happened or what you were told to do the first and second day at work. Please use the space provided below.

....................................................................................................................................................................................

3.10 Were you given any form of training when you were employed?

<table>
<thead>
<tr>
<th>No</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

3.11 Were you given professional code of conducts and ethical principles of interpreting when you were employed or at any stage since you have been working as interpreter?

<table>
<thead>
<tr>
<th>Yes</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>
3.12 Have you been given any form of in-service training since you were employed?

| Yes | No |

3.12.1 If you answered ‘yes’ how long have you been working before you were sent to training? Please write your answer in the box below.


3.13 Have you attended since you began working as an interpreter any self-sponsored professional seminar, workshop and conference?

| Yes | No |

3.13 Have you been sponsored by your employer to attend professional seminar, workshop and conference?

| Yes | No |

4. CASE PREPARATION AND ROLE IN COURT

4.1 Are you always given as much information as possible in advance regarding the nature of the interpreting assignment before your first court appearance?

| Yes | No |

4.1.1 If you answered ‘yes’ how early are you given these details?

| One day | Two days | Three days | 4 days | 5 days | 6 days | 7 days and more |

4.2 Is there a provision that allows you to determine the language ability of the accused or the person for whom you are interpreting?

| Yes | No |

4.2.1 If your answer is ‘yes’ how early is this done?

| One day | Two days | Three days | 4 days |

405
4.3 When you are told about interpreting assignment to interpret, are you asked whether you feel you are competent to handle the assignment?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

4.4 Have you rejected any interpreting assignment because you feel you cannot perform at the professional level required?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

4.5 Do you do any preparation to familiarise yourself at home, or during recess for your interpreting assignment?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

4.5.1 If you answered ‘yes’ what preparation do you normally do?

<table>
<thead>
<tr>
<th>Compiling probable terminologies</th>
<th>Studying literature about the nature of the case</th>
<th>All of the above</th>
<th>Other (please specify)</th>
</tr>
</thead>
</table>

4.6 Is this above encouraged by your supervisor?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

4.7 Do you or any designated authority in the court explain the role of the interpreter to the accused or other parties having in the interest case before the trial process begin?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

4.8 How many interpreters are assigned to an interpreting assignment? Please state your answer in the box below.

<table>
<thead>
<tr>
<th>5 days</th>
<th>6 days</th>
<th>7 days and more</th>
</tr>
</thead>
</table>

4.9 What other role do you perform in the court besides interpreting? Please state this role briefly in the space provided below.

| ........................................................................................................................................................................ |

4.10 Have you ever been involved in an interpreting assignment in which your friend or relative is the accused?
4.11 Has there been a case where the accused or his or her relative has made contact with you prior before court appearance or in-between court appearance?

Yes                                  
No                                   

4.12 Have you at anytime felt that the accused right is being infringed upon and decided to assist in any way you can?

Yes                                  
No                                   

4.12.1 If you answered ‘yes’ what kind of assistance did you render? Please explain briefly in the space provided below.

...........................................................................................................................................

4.12 Has there been an interpreting assignment you started and did not complete?

Yes                                  
No                                   

4.13 If you answered ‘yes’ why did you not complete the assignment? Please state your answer in the place provided below.

...........................................................................................................................................

4.14 How early are you expected to inform your supervisor that you would not be available for the interpreting assignment you have been working on? Please state your answer in the space provided below.

...........................................................................................................................................

4.15 Do you know of the procedure that is used to appoint another interpreter to take over the case?

Yes                                  
No                                   

4.15.1 If you answered ‘yes’ what procedure is followed to appoint another interpreter? Please state the procedure briefly in the space provided below.

...........................................................................................................................................

4.16 On what ground do you take a break during interpreting process? Please state your answer below.

...........................................................................................................................................

4.17 Do you sometimes realise there is error in your interpretation?

Yes                                  
No                                   

4.17.1 If you answered ‘yes’ do you correct the error?
Yes
No

4.18 Has there been any form of evaluation of your work as interpreter?
Yes
No

4.18.1 If you answered ‘yes’ were you told of the result of the evaluation
Yes
No

4.19 Is there a routine test-run of the interpreting tools such as microphone?
Yes
No

4.20 Do you translate document as an interpreter in the court?
Yes
No

4.20.1 If you answered ‘yes’ are you provided the document in advance to familiarise yourself with the content?
Yes
No

5. GENERAL
5.1 Are you a member of an interpreting-related professional association?
Yes
No

5.2 If you answered ‘yes’ does the association have code of ethics you must comply with?
Yes
No

5.3 Do you do other work besides interpreting?
Yes
No

5.4 Do you have previous work experience as interpreter or related job?
Yes
5.5 Is there any court that is particularly difficult to work as an interpreter?
Yes [ ] No [ ]

5.5.1 If you answered ‘yes’ why is the court difficult to work as an interpreter? Please state your answer below in the space provided.
…………………………………………………………………………………………………

5.6 Are you a member of any ethnic-based organisation in South Africa?
Yes [ ] No [ ]

5.6.1 If you answered ‘yes’ please state the name of the association in the box below

SECTION FOR PROSECUTORS AND ATTORNEYS

1. How often do you handle cases involving foreign African immigrants?
Please mark the appropriate with an ‘X’.

<table>
<thead>
<tr>
<th>Everyday</th>
</tr>
</thead>
<tbody>
<tr>
<td>Few times a week</td>
</tr>
<tr>
<td>Few times a month</td>
</tr>
<tr>
<td>Not at all</td>
</tr>
</tbody>
</table>

2. If you handle cases involving foreign African immigrants, from which countries are most of the immigrants?

3. Have you represented foreign African immigrants who do not understand the two main languages (Afrikaans and English) of the court?
Yes [ ] No [ ]

4. If ‘yes’ is your answer, how do you ensure their language barrier is addressed?

5. Have you had problem of language during attorney-client briefing with any of your clients?
Yes [ ] No [ ]

6. If you do, how do you address this language problem?
7. How often do you handle case involving foreign African immigrants with language problem (inability to speak and understand any of the main languages used in the court)?

<table>
<thead>
<tr>
<th>Often</th>
<th>Not very often</th>
<th>Not at all</th>
</tr>
</thead>
</table>

8. Are you satisfied with the service of foreign African court interpreters you have met during court proceedings you are involved?

<table>
<thead>
<tr>
<th>Yes, satisfied</th>
<th>Not very satisfied</th>
<th>No, not satisfied</th>
</tr>
</thead>
</table>

9. If yes, why, if not very satisfied, why and if no, why?

10. Do you believe it is possible for an interpreter to interpret from source language to target language word-for-word, without distortion and reflecting cultural nuances of the source in the target language?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

11. Have you as an attorney or a prosecutor noticed error made by interpreter during court proceedings?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

12. If ‘yes’ is your answer to the question above, how did you bring it to the attention of the magistrate?

13. What is your mother tongue?

<table>
<thead>
<tr>
<th>IsiXhosa</th>
<th>Afrikaans</th>
<th>English</th>
<th>Sotho</th>
<th>Zulu</th>
<th>Other</th>
</tr>
</thead>
</table>

14. If your mother tongue is not English or Afrikaans but is one of the official languages, do you sometimes or always conduct cross and direct examination in your mother tongue?

<table>
<thead>
<tr>
<th>Yes, always</th>
<th>Yes, but not always</th>
</tr>
</thead>
</table>

410
15. If 'yes' is your answer to the question above, does any of the principals in the court, (i.e, a magistrate or a prosecutor) require the service of an interpreter to understand you?

| Yes | No |

16. How long have you been practising as an attorney or as a prosecutor?

17. What do you think is the role of court interpreter in the courtroom?

18. What is your overall impression of foreign African court interpreters?

19. What is your overall impression of South African’s court interpreters?

SECTION FOR MAGISTRATES

1. What is the role of the magistrate in ensuring the availability of court interpreter to interpret for an accused that does not understand the two main languages (English and Afrikaans) of the court?

2. How do you determine if an accused, witness or the plaintiff needs the service of a court interpreter?

3. Who is chiefly responsible in determining the need for a court interpreter for an accused person or witness?

4. If you are not chiefly involved in the process, do you as a magistrate ensure the interpreter appearing in your court is competent? If you do, how?

5. Do you ensure that the role of the interpreter is explained to other participants such as the attorney, witness and accused in the court?

6. Is the interpreter allowed to briefly interview the accused person or witness in order to be familiar with his or her speech patterns, proficiency and other language abilities?

7. How often do you handle the need for interpreting in cases involving foreign African immigrants?

8. Which countries are most of the accused foreign African immigrants from?
9. Is there a regulation guiding the number of minutes an interpreter can interpret before he/she is relieved or before he/she goes to break?

10. Do you believe it is possible for an interpreter to interpret from source language to target language word-for-word without distortion and reflecting cultural nuances of the source in the target language?

11. Do you use assessor during trial of cases?

11a. If you do, how often?

11b. Are there any compelling reasons for you to use assessors?

11c. If you do, do you use assessor during trial of cases involving accused foreign African immigrants?

11d. If ‘yes’ is your answer to the above question, what criteria are used to select an assessor?

12. Have you experienced a situation where an attorney or a prosecutor would choose to conduct direct- and cross-examination in any of the indigenous languages?

12a. If you do, how often?

12b. If you do, does it present a communication challenge to the court such as getting an interpreter to bridge the communication divide? Or please describe the challenge(s) below

12c. How do you handle the challenge?

13. What is your overall impression of foreign African court interpreters?

1.4 What is your overall impression of South African court interpreters?

SECTION FOR CHIEF INTERPRETERS
(Oral interview questions)
1. What is the minimum academic qualification required to employ an interpreter?
Matric a and diploma in legal interpreting

2. Is there a formalised process of testing language proficiency of interpreters before they are employed?
3. If there is a proficiency test requirement for employment of interpreter, what mode of interpreting is it done?
4. What employment procedure do you use to ensure competent interpreter with minimum standard is employed?
5. Are the employment criteria for South African interpreters and foreign African court interpreters the same?
6. If the criteria are different, why?
7. Is there a standardised code of professional conduct for interpreter?
8. Is this code of conduct explained to your court interpreters?
9. Do you have in-service training for court interpreters?
10. If you do, is the training also available to foreign African court interpreters?
11. Do you evaluate your interpreters’ performance?
12. If you do evaluation, how often is it done?
13. How many interpreters do you assign to a case?
14. Is there a regulation guiding the number of minutes an interpreter can interpret before he/she is relieved or before he/she goes to break?
15. Do you inform your interpreters in advance about the details of the interpreting assignments you want them to handle?
16. How do you ensure that there is no conflict of interest before your interpreters are assigned to interpreting assignments?
17. What are the educational requirements and working experience needed to work as chief interpreter?
18. I am aware of the fact that sometimes interpreter from other province do come to your court to work, how do you verify if the interpreter has the ability to do the work?
19. What is the sociolinguistic profile of the accused and plaintiffs requiring interpreters in your court?
20. Is the interpreter allowed to briefly interview the accused or witness to be familiar with his or her speech patterns, proficiency and other language abilities?

21. Among the foreign African languages, which one ranks as the highest for which interpreter is required on a monthly basis?

22. Given that there are temporal interpreters who have been working as regular day-to-day or almost on day-to-day basis for more than 5 years, why do you think the Justice department has not trained or made effort to train and make them permanent?

APPENDIX 2: CHECKLIST FOR OBSERVATION OF COURT PROCEEDINGS

The observation of court proceedings was done to ascertain:

1. Whether effort is made to explain the role of the interpreter to the accused person and witness,
2. Whether the interpreter explains to the accused the need to speak clearly and avoid long sentences,
3. Whether the interpreter uses the third person, for example “the interpreter” and not the first person “I”,
4. To check if the spatial arrangement in the court is suitable for the interpreter to perform his/her duty,
5. To check the mode of interpreting and its appropriateness to the trial phase in the court,

6. To check whether the question of fatigue in interpreting is considered or if court interpreters are allowed to go on recess or break after 30 minutes to avoid fatigue,

7. To observe whether the main principals in the courtroom stay within their role boundary in the performance of their duties, and

8. To watch how other role players in the court interpret the role of the court interpreters, i.e., the way they relate with and understand the role of the interpreters.
APPENDIX 3: LETTERS OF INTRODUCTION

LETTER OF INTRODUCTION - COURT INTERPRETER

[Logo of Nelson Mandela Metropolitan University]

Department of Applied Language Studies
Faculty of Arts
NMMU
Private Bag 77000
6031 Port Elizabeth.
17 September 2008.

Dear Sir/Madam,

REQUEST FOR ASSISTANCE

I am currently doing doctoral research in the field of legal interpreting at the Nelson Mandela Metropolitan University, Port Elizabeth. The research is regarded as being of critical importance for the practice of court interpreting in South Africa – firstly as it relates to the human language rights of role players in court proceedings who are from other African countries, but also more generally to the human language rights of role players who cannot speak the erstwhile official languages, English and Afrikaans.

The subject of my research is Justice through language for foreign immigrants in South Africa: A critical analysis of the use of foreign African court interpreters in South African courtrooms.

In order to obtain reliable information about this topic, your input as an interpreter with intimate acquaintance of this field is regarded as most important. I would therefore greatly appreciate it if you would agree to participate as a respondent by completing the questionnaire attached to this letter.

Since participation is completely voluntary, you are protected by safeguards with regard to your privacy and involvement in this project so as to ensure that the study is conducted in an ethical manner. Any queries emanating from this study and relating to your rights as a participant may be addressed telephonically to Prof T Mayekiso, Chairperson, RTI Committee (Arts), at (041) 504 2187, or in writing to her as Dean, Arts Faculty, P.O. Box 77000, NMMU, Port Elizabeth 6031.

If you have any questions about this questionnaire, please do not hesitate to contact me on 082 4292647 or via e-mail at sam.osadolo@nmmu.ac.za. On completion of the questionnaire, you may contact me in the same way, and I will personally collect it from you. Alternatively, you may mail it to me in the stamped envelope provided herewith.

Sincerely yours

Mr. S. Usadolo
Dear Sir/Madam,

REQUEST FOR ASSISTANCE

I am currently doing doctoral research in the field of legal interpreting at the Nelson Mandela Metropolitan University, Port Elizabeth. The research is regarded as being of critical importance for the practice of court interpreting in South Africa – firstly as it relates to the human language rights of role players in court proceedings who are from other African countries, but also more generally to the human language rights of role players who cannot speak the erstwhile official languages, English and Afrikaans.

The subject of my research is *Justice through language for foreign immigrants in South Africa: A critical analysis of the use of foreign African court interpreters in South African courtrooms.*

In order to obtain reliable information about this topic, your input as a prosecutor or attorney with intimate acquaintance of this field is regarded as most important. I would therefore greatly appreciate it if you would agree to participate as a respondent, firstly by (a) signing the form of consent, and by (b) completing the questionnaire, both attached to this letter.

Since participation is completely voluntary, you are protected by safeguards with regard to your privacy and involvement in this project so as to ensure that the study is conducted in an ethical manner. Any queries emanating from this study and relating to your rights as a participant may be addressed telephonically to Prof T Mayekiso, Chairperson, RTI Committee (Arts), at (041) 504 2187, or in writing to her as Dean, Arts Faculty, P.O. Box 77000, NMMU, Port Elizabeth 6031.

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Sincerely yours

Mr. S. Usadolo
LETTER OF INTRODUCTION - MAGISTRATE

Department of Applied Language Studies
Faculty of Arts
NMMU
Private Bag 77000
6031 Port Elizabeth
05 January 2009

Dear Sir/Madam,

REQUEST FOR ASSISTANCE

I am currently doing doctoral research in the field of legal interpreting at the Nelson Mandela Metropolitan University, Port Elizabeth. The research is regarded as being of critical importance for the practice of court interpreting in South Africa – firstly as it relates to the human language rights of role players in court proceedings who are from other African countries, but also more generally to the human language rights of role players who cannot speak the erstwhile official languages, English and Afrikaans.

The subject of my research is Justice through language for foreign immigrants in South Africa: A critical analysis of the use of foreign African court interpreters in South African courtrooms.

In order to obtain reliable information about this topic, your input as a magistrate with intimate acquaintance of this field is regarded as most important. I would therefore greatly appreciate it if you would agree to participate as a respondent, firstly by (a) signing the form of consent, and by (b) completing the questionnaire, both attached to this letter.

Since participation is completely voluntary, you are protected by safeguards with regard to your privacy and involvement in this project so as to ensure that the study is conducted in an ethical manner. Any queries emanating from this study and relating to your rights as a participant may be addressed telephonically to Prof T Mayekiso, Chairperson, RTI Committee (Arts), at (041) 504 2187, or in writing to her as Dean, Arts Faculty, P.O. Box 77000, NMMU, Port Elizabeth 6031.

If you have any questions about this questionnaire, please do not hesitate to contact me on 082 4292647 or via e-mail at sam.osadolo@nmmu.ac.za. On completion of the questionnaire, you may contact me in the same way, and I will personally collect it from you. Alternatively, you may mail it to me in the stamped envelope provided herewith.

Sincerely yours

Mr. S. Usadolo
LETTER OF INTRODUCTION - CHIEF INTERPRETER

Department of Applied Language Studies
Faculty of Arts
NMMU
Private Bag 77000
6031 Port Elizabeth.
4 August 2008.

Dear Sir/Madam

REQUEST FOR ASSISTANCE

I am currently doing doctoral research in the field of legal interpreting at the Nelson Mandela Metropolitan University, Port Elizabeth. The research is regarded as being of critical importance for the practice of court interpreting in South Africa – firstly as it relates to the human language rights of role players in court proceedings who are from other African countries, but also more generally to the human language rights of role players who cannot speak the erstwhile official languages, English and Afrikaans.

The subject of my research is *Justice through language for foreign immigrants in South Africa: A critical analysis of the use of foreign African court interpreters in South African courtrooms.*

In order to obtain reliable information about this topic, your input as a chief interpreter with intimate acquaintance of this field is regarded as most important. I would therefore greatly appreciate it if you would agree to participate as a respondent by completing the questionnaire attached to this letter.

Since participation is completely voluntary, you are protected by safeguards with regard to your privacy and involvement in this project so as to ensure that the study is conducted in an ethical manner. Any queries emanating from this study and relating to your rights as a participant may be addressed telephonically to Prof T Mayekiso, Chairperson, RTI Committee (Arts), at (041) 504 2187, or in writing to her as Dean, Arts Faculty, P.O. Box 77000, NMMU, Port Elizabeth 6031.

If you have any questions about this questionnaire, please do not hesitate to contact me on 082 4292647 or via e-mail at sam.osadolo@nmmu.ac.za. On completion of the questionnaire, you may contact me in the same way, and I will personally collect it from you. Alternatively, you may mail it to me in the stamped envelope provided herewith.

Sincerely yours

Mr. S. Usadolo
Dear Sir/Madam,

I am currently busy with a research PhD at the Nelson Mandela Metropolitan University, Port Elizabeth, entitled: *Justice through language in South Africa: A critical analysis of the use of foreign African court interpreters in South African courtrooms*. Prof. Ernst Kotzé is my supervisor. I am investigating the use of foreign African court interpreters in South African courtrooms. Generally, the study will look at how the linguistic human rights of African immigrants who do not understand the main languages (English and Afrikaans) are taken care of in terms of bridging the language barrier between the court and the accused or plaintiffs.

I would like to seek your permission to observe proceedings in open court sessions in your court. My main interest in the observation is to observe court interpreting process in the courtrooms.

Attached is the necessary information to assist you to understand the study. Please feel free to ask me to clarify anything that is not clear to you.

You would be required to provide a written consent that will include your signature, date and initials to verify that you understand and agree to my request. Please rest assured that all information will be treated confidentially and whatever information collected during the observation will be treated anonymously.

Furthermore, it is important that you are aware that the study has to be approved by the Research Ethics Committee (Human) of the university. The REC-H consists of a group of independent experts that have the responsibility to ensure that the rights and welfare of participants in research are protected and that studies are conducted in an ethical manner. Queries with regards to your rights as a research subject can be directed to the Research Ethics Committee (Human). You can call the Director: Research Management at (041) 504 4536 or write to: The Chairperson of the Research, Technology and Innovation Committee, P.O. Box 77000, Nelson Mandela Metropolitan University, Port Elizabeth, 6031.

If you have any questions that you may like to ask before your permission is granted, please do not hesitate to contact me on 082 4292647 or e-mail sam.osadolo@nmmu.ac.za

Yours sincerely
Sam Usadolo
APPENDIX 4: LETTERS OF AUTHORITY

LETTER OF AUTHORITY FROM THE CHIEF MAGISTRATE

01/09 2008 11:41 FAX 0118349708

Chief Magistrate

Magistrates' Courts Judiciary
Republic of South Africa
JOHANNESBURG

Private Bag 1 JOHANNESBURG 2001 - Tel (011) 491 5032 Fax (011) 834 5768
Magistrates' Court House - Cnr. Fox and West Streets - Johannesburg

Ref: 3202
Enq: G Jonkerlo
Fax No: 086 507 1384
E-mail: gjonkerlo@justice.gov.za
Date: 1 September 2008

To whom it may concern

Permission is hereby granted to Mr Sam Osadolo (student no. 207096005, Nelson Mandela Metropolitan University) to conduct interviews with magistrates from the Johannesburg and Wyndhurst (Gauteng) courts for the purpose of doing doctoral research for his thesis entitled "Justice through language in South Africa: A critical analysis of the use of foreign African interpreters in South African courtrooms".

[Signature]
G Jonkerlo
Chief Magistrate
LETTER OF AUTHORITY OF AUTHORITY FROM REGIONAL HEAD

FOR ATTENTION: PROF. ERNST KOTZE

DISSERTATION: “JUSTICE THROUGH LANGUAGE”, MR SAM OSADULO

1. Your request to conduct research at the Johannesburg and Wyberg Magistrate Court from the above-mentioned student is hereby acknowledged.

2. The Chief Magistrate for Johannesburg and the Judicial Cluster Head for the Gauteng Province, Mr. Jonker confirmed to the Regional Head, Mrs. Emily Dhlamini that arrangements have been made for Mr. Osadolo to commence with the research.

3. As the Regional Head for the Gauteng province, I would request that a formal request for his research proposal be submitted and also that upon completion of his research, that the university share with the department the findings by Mr. Osadolo.

4. The department will consider recommendations if any and decide if they can be used as part of their continuous improvement measures.

Yours in Service

Regional Head Gauteng
Ms E Dhlamini
APPENDIX 5: JOB VACANCY ADVERTISEMENTS IN THE DoJCD

ANNEXURE D

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

The Department of Justice is an equal opportunity employer. In the filling of vacant posts the objectives of Section 195 (1) (i) of the Constitution of South Africa, 1996 (Act No: 108 of 1996), the Employment Equity imperatives as defined by the Employment Equity Act, 1998 (Act No: 55 of 1998) and relevant Human Resources policies of the Department will be taken into consideration. Successful candidates may be required to undergo security clearance. Preference will be given to the disabled, Indian/coloured/white male or female. Shortlisted candidates are required to avail themselves for interviews at a date and time as determined by the Department, at short notice and will be subjected to a personnel vetting process.

NOTE

Applications must be submitted on Form Z83, obtainable from any Public Service Department or on the internet at www.gov.za. Applications should be accompanied by certified copies of qualifications, identity document and driver’s license. A SAQA evaluation report must accompany foreign qualifications. The CV to be completed by all applicants is available on the DOJ website www.doj.gov.za or at any DOJ & CD sub-office. This must be typed and accompany the Z83 and all other supporting documents required. Applications that do not comply with the above mentioned requirements will not be considered. Correspondence will be limited to short-listed candidates only. If you do not hear from us within 3 months of this advertisement, please accept that your application has been unsuccessful. The department reserves the right not to fill this position.

APPLICATIONS

Quoting the relevant reference number, direct your application to: The Registrar, Western Cape High Court, Cape Town, Department of Justice and Constitutional Development, Private Bag X9020, Cape Town, 8000

CLOSING DATE

14 April 2009

POST 12/135

PRINCIPAL COURT INTERPRETER (2 POSTS) REF: 23/09/WC

SALARY

R 145 920 – R169 410 per annum.

CENTRE

Magistrate Offices: Vredendale & Somerset West

REQUIREMENTS

Senior certificate; Language ability in any of the eleven official languages of South Africa and in particular Xhosa, English and Afrikaans; Excellent writing and verbal communication skills, administration and organization skills; At least 5 years relevant experience.

DUTIES

Control and supervise Court Interpreters in the offices/ area; Execute any duty assigned by the Area Court Manager within the Cluster; Train and develop Court Interpreters; Attend to personnel administrative aspects pertaining to Interpreters; Monitoring attendance register to ensure punctuality; Do interpretation in complicated and complex criminal / civil matter sessions when necessary; Ensure that subordinates conclude performance agreements; review their performance and provide feedback to them; Ensure that subordinates perform their duties in compliance with their performance agreements; Ensure that Interpreters keep interpreting registers up to date and compile statistics for submission; Arrange for “Foreign Language” interpreting; Do the allocation of Interpreters to each court in accordance with their competencies and experience while keeping record of all such allocations.

ENQUIRIES

Mr. N Luddy (021) 462 5471.

APPLICATIONS

Quoting the relevant reference number, direct your application to: The Regional Head, Private X9171, Cape Town, 8000

CLOSING DATE

14 April 2009
SENIOR COURT INTERPRETER
HIGH COURT KIMBERLEY (2 POSTS) Ref No: NC9/08
KIMBERLEY MAGISTRATES COURT (3 POSTS) Ref No: NC43/08
UPINGTON MAGISTRATES COURT (2 POSTS) Ref No: NC44/08
SPRINGBOK MAGISTRATES COURT (1 POST) Ref No: NC45/08

Salary: R 128 335 – R 123 450 per annum. The successful candidate will be required to sign a performance agreement.

Requirements:
• Grade 12 or equivalent qualification; A Tertiary qualification will be an added advantage; Five (5) years experience in court interpreting; Applicants will be subjected to a language test; A valid driver’s licence will be an added advantage.

Language Requirements:
• English, Afrikaans, Xhosa and Tswana.
• Venda, Sotho and Zulu will be an added advantage.

Skills and Competencies:
• Computer Literacy (MS Office) • Effective communication (verbal and written) • Administration and organizational skills • Ability to maintain interpersonal relations • Accuracy and attention to detail.

Duties:
• Interpret in Criminal Court, Civil Court, Labour Court, quasi-judicial proceedings • Interpret during consultation • Translate legal documents and exhibits • Record cases in criminal record book • Draw case records on request of the Magistrate and Prosecutors • Ensure that subordinates conclude performance agreements, review performance and provide feedback to Court Interpreters; • Ensure that subordinates perform their duties in accordance with performance agreements; • Control and supervise interpreters in small offices • Make arrangements for foreign language interpreters in consultation with the prosecution.

The Department of Justice is an equal opportunity employer. In the filing of vacant posts the objective of section 105(1)(i) of the Constitution of South Africa 1996 (Act 108 of 1996), the EE imperatives as defined by the Employment Equity Act, 1998 (Act 55 of 1998) and relevant HR policies of the Department will be taken into consideration. Successful candidates will be required to undergo security clearance.

Applications must be submitted on form 283, obtainable from any Public Service Department or on the internet at www.gov.za and should be accompanied by certified copies of qualifications, identity document and driver’s licence as well as a detailed CV. A SAGA evaluation report must accompany foreign qualifications.

APPLICANTS MUST INDICATE THE REFERENCE NUMBER AND CENTRE OF THE POST FOR WHICH THEY ARE APPLYING. SEPARATE APPLICATIONS MUST BE SUBMITTED WHEN APPLYING FOR MORE THAN 1 POST. APPLICATIONS THAT DO NOT COMPLY WITH THE ABOVE MENTIONED REQUIREMENTS WILL AUTOMATICALLY BE DISQUALIFIED.

Correspondence will be limited to short-listed candidates only. If you do not receive any correspondence from this office within 3 months of this advertisement, please accept that your application has been unsuccessful. The Department reserves the right not to fill these positions.

Quoting the relevant reference number, direct your applications to: The Regional Head, Private Bag X0126, Kimberley 8801. Applications can also be hand delivered to the New Public Building (Magistrates Court), 7th Floor, Kimberley. Enquiries may be directed to Mr J Tole at (053) 8390000.
CLOSING DATE : 14 June 2010

POST 22/21 : COURT INTERPRETER REF NO: 10/VA42/NW

SALARY : R87 978 – R103 635 annum. The successful candidate will be required to sign a performance agreement.

CENTRE : Odi Magistrate Court

REQUIREMENTS : Grade 12 or equivalent qualifications; Tertiary qualification will be an advantage; Applicants will be subjected to a language test; a valid driver’s licence will be an added advantage; Language proficiency: Setswana, Afrikaans, English, isiZulu, and isiXhosa, Sepedi, Sesotho, Venda, Ndebele and Tsonga. Skills and competencies: Good communication skills (verbal and written); Computer literacy (MS Word and Excel); Ability to work under pressure; Administrative and organizational skills; Sound interpersonal relations; Accuracy and attention to detail.

DUTIES : Interpret in criminal court, civil court, labour court and quasi proceeding; Interpret during consultation; Translate legal documents and exhibits; Record cases in criminal record book; Draw case records on request of the Magistrate and Prosecutors; Make arrangements for foreign language interpreters in consultation with the prosecution.

ENQUIRIES : Mr. Lazarus Moetanalo at ☎ 018 397 7064

APPLICATIONS : Quoting the relevant reference number, direct your application to: The Regional Head, Private Bag X2033, Mmabatho, 2735.

CLOSING DATE : 21 June 2010
28 October 2010

VACANCIES
(Head Office File 6/4/2/1)

REFERENCE NO.: 2010/70/MP
POST: COURT INTERPRETER
CENTRE: KRIEL
SALARY: R67 978 – R103 635 per annum. The successful candidate will be required to sign a performance agreement.

REQUIREMENTS:

• Grade 12 or equivalent qualification;
• Tertiary qualification will be an added advantage;
• Applicants will be subjected to a Language test;
• A valid drivers license will be an added advantage;
• Language requirements: English, Afrikaans, Zulu, SiSwati;
• Knowledge of Sepedi, Sesotho, Xitsonga and any of other foreign language would be an added advantage.

SKILLS AND COMPETENCIES:

• Computer literacy (MS Office);
• Good communications (written and verbal);
• Administration and organizational skills;
• Ability to maintain interpersonal relations;
• Accuracy and attention to detail.

DUTIES:

• Interpret in Criminal Court, Civil Court, Labour Court, quasi judicial proceedings;
• Interpret during consultation;
• Translate legal documents and exhibits;
• Record cases in criminal record book;
• Draw case records on request of the Magistrate and Prosecutors;
• Keep Court records up to date;
• Perform any other duty that he/she may be assigned to in terms of rationalization of functions by the office.

ENQUIRIES: Ms N C Maseko 013-753 9300/19

TO ALL OFFICES IN THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
13 October 2010

VACANCIES
(Head Office File 6/4/2/1)

REFERENCE: 10/VA79/NW

POST: COURT INTERPRETER

CENTRE: North West High Court - Mafikeng

SALARY: R87 978 – R103 635 per annum. The successful candidate will be required to sign a performance agreement.

Requirements:
- Grade 12 or equivalent qualifications with Mathematics or Accounting as a subject;
- Tertiary qualification will be an advantage;
- Applicants will be subjected to a language test;
- A valid drivers licence will be an added advantage
- 5 years experience

Language proficiency:
- Setswana, Afrikaans, English, isiZulu, isiXhosa, Sopi, SoSotho, Tsonga and Venda.

Skills and competencies:
- Good communication skills (verbal and written);
- Computer literacy (MS Word and Excel);
- Ability to work under pressure;
- Administrative and organizational skills;
- Sound interpersonal relations;
- Accuracy and attention to detail.

DUTIES:
- Interpret in criminal court, civil court, labour court and quasi proceedings
- Interpret during consultation;
- Translate legal documents and exhibits;
- Record cases in criminal record book;

TO ALL OFFICES IN THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
POST 10/51 : SENIOR COURT INTERPRETER 2 POSTS REF NO: 17/10/LMP

SALARY : R130 426 – R153 636 per annum. The successful candidate will be required to sign a performance agreement.

CENTRE : Magistrate Naphuno (1) And Magistrate Giyani (1)

REQUIREMENTS : Grade 12 or equivalent qualification plus five (5) years experience in court interpreting; Tertiary qualification will be an advantage; Applicants will be subjected to a language test; A valid drivers license will be an added advantage;
Language requirements: English, Afrikaans, N.Sotho, Tsonga and Venda; Fluency in Zulu, Swazi and Shona will be an added advantage. Skills and Competencies:
Computer literacy(MS Office); Good communications(written and verbal);
Administration and organisational skills; Ability to maintain interpersonal relations;
Accuracy and attention to detail. Please Note: Applicants with disabilities are encouraged to apply.

DUTIES: Interpret in Criminal Court, Civil Court, Labour Court, quasijudicial proceedings; Interpret during consultation; Translate legal documents and exhibits; Record cases in criminal record book; Draw case records on request of the Magistrate and Prosecutors; Keep Court records up to date;
Supervise Court Interpreters; Perform any other duty that he/she may be assigned to in terms of rationalization of functions by the office.

ENQUIRIES : Mr Nxumalo LT □ 015 287 2080

APPLICATIONS : Separate applications must be made for each centre if applying for more than one post and failure to do this will result in consideration given to the first choice only.
Quoting the relevant reference number, direct your application to: Postal address:
The Regional Head, Department of Justice & Constitutional Development, Private Bag X9520, Polokwane 0700 OR Physical address: Reception area, Limpopo Regional Office, 92 Bok Street, Polokwane, 0700.

CLOSING DATE : 31 May 2010
POST 10/54: COURT INTERPRETER 5 POSTS REF NO:10/00/LMP

SALARY: R87 978 – R100 585 per annum. The successful candidate will be required to sign a performance agreement.

CENTRE: Magistrate Mhala(1), Magistrate Polokwane(1), Magistrate Mankweng(1), Magistrate Sekhukhune(1) And Magistrate Mokele(1).

REQUIREMENTS: Grade 12 or equivalent qualification; Tertiary qualification will be an advantage; Applicants will be subjected to a Language test; A valid drivers license will serve as an added advantage; Language requirements: English, Afrikaans, N.Sotho, Tsonga and Venda; Fluency in Zulu, Swazi and Shona would be an added advantage; Skills and Competencies: Computer literacy (MS Office); Good communication (written and verbal); Administration and organisational skills; Ability to maintain interpersonal relations; Accuracy and attention to detail.

DUTIES: Interpret in Criminal Court, Civil Court, Labour Court, quasi – judicial proceedings; Interpret during consultation; Translate legal documents and exhibits; Record cases in criminal record book; Draw case records on request of the Magistrate and Prosecutors; Keep Court records up to date; Perform any other duty that he/she may be assigned to in terms of rationalization of functions by the office.

ENQUIRIES: Mr Ncumalo LT 015 287 2080

APPLICATIONS: Separate applications must be made for each centre if applying for more than one post and failure to do this will result in consideration given to the first choice only.
Quoting the relevant reference number, direct your application to: Postal address: The Regional Head, Department of Justice & Constitutional Development, Private Bag X9526, Polokwane 0700 OR Physical address: Reception area, Limpopo Regional Office, 92 Bok Street, Polokwane, 0700.

CLOSING DATE: 31 May 2010
APPENDIX 6: COURT INTERPRETER COURSES AT THE JUSTICE COLLEGE

GENERAL INFORMATION: INTERPRETER'S COURSES

Any Inspector of Interpreters, Chief Interpreter, Principal Interpreter, Senior Interpreter and Interpreter who wishes to attend any training presented by Justice College during the period 1 April 2007 to 31 March 2008 must please take note of the following:

- The training will be in line with the principles of outcomes based education.
- An Applicant must COMPLETE the accompanying APPLICATION FORM.
- The Applicant is allowed to CHOOSE ONLY ONE MODULE from the 4 Modules.
- Please indicate on the application form which Module has been chosen by marking the appropriate column.
- The Applicant must write a short motivation as to why he/she wants to attend that specific Module.
- Please note that preference will be given to Applicants who have not as yet attended any courses presented by Justice College.
- The completed application form must be handed to the relevant Supervisor, who will in turn hand it to the relevant Provincial Training Co-Coordinator at the Regional Offices.
- Each Provincial Training Coordinator is responsible for forwarding the Applications to Ms Cindy Nagan, Private Bag X659, Pretoria, 0001, Tel (012) 481-2736, Fax (012) 481-2732, E-Mail cindyN@justcol.org.za
- This Application form must reach Ms Nagan no later than TWO MONTHS PRIOR TO THE COMMENCEMENT OF EACH COURSE.
- NO LATE APPLICATIONS WILL BE CONSIDERED.
- Successful Applicants will timeously be informed of their arrangements pertaining to course that is to be attended, in order for them to plan well in advance.
- Applicants must ensure that, once selected to attend a course that they are available to attend.
- A delegate who is unable to attend a workshop must immediately and timeously inform Ms Nagan in order for arrangements to be made for another delegate to replace him/her.
- Once a delegate has indicated that he/she will attend the training, he/she will personally be held responsible for any fruitless expenditure incurred by the Justice College or the Department.

MODULE 1: COURT INTERPRETER TRAINING COURSE

The following aspects will be dealt with during this course:

- The role and functions of an official court interpreter
- Social context training
- Constitution of a criminal trial court
- Procedure at trial
- Putting the charge
- The Pleas
- The rights of the accused
- The oath
- Legal concepts
- Medical terminology
- The language in court
- The art of interpreting
- Latin terminology
- Judgment
- Sentencing
- Fingerprint evidence
- Controlling the pace of a speaker
- The role of the interpreter during cross-examination
- Ethics and etiquette

At the end of this course the delegate:

- Must understand the basic role and know the functions expected of an official court interpreter
### INTERPRETER'S COURSES

#### INITIAL COURSE FOR COURSE INTERPRETERS

<table>
<thead>
<tr>
<th>Target Group</th>
<th>Court Interpreters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Learning Objectives</td>
<td>To gain substantial information to enable the interpreter to understand the basics of Criminal Law, Criminal Procedure and Law of Evidence, which are interpreted in district courts.</td>
</tr>
<tr>
<td>Desired Outcome in the Workplace</td>
<td>A better understanding of their role in dealing with litigants and the seriousness of their appointments.</td>
</tr>
<tr>
<td>Methodology</td>
<td>Responsibility: After training, they should be able to function alone as an able interpreter in district courts.</td>
</tr>
<tr>
<td>Course Content</td>
<td>Duration: 3 weeks (3 weeks of intensive class tuition and 2 weeks of practical court interpreting in district courts.</td>
</tr>
<tr>
<td>Number of Participants</td>
<td>30</td>
</tr>
<tr>
<td>Language</td>
<td>All languages in Section 6(1) of the Constitution of S.A., 1996</td>
</tr>
<tr>
<td>Programme Material</td>
<td>Handouts on each subject, Practical in court interpreting.</td>
</tr>
<tr>
<td>Evaluation</td>
<td>Written (as per course content, presentation by the lecturer, etc.)</td>
</tr>
<tr>
<td>Contact Person</td>
<td>Name: Ms Shirley Mason</td>
</tr>
<tr>
<td></td>
<td>Tel: (012) 481-2306</td>
</tr>
<tr>
<td></td>
<td>Fax: 098 653 3453</td>
</tr>
<tr>
<td></td>
<td>E-mail: <a href="mailto:SMason@justice.gov.za">SMason@justice.gov.za</a></td>
</tr>
</tbody>
</table>

#### ADVANCED TRAINING COURSE FOR INTERPRETERS (INCORPORATING SEXUAL OFFENCES)

<p>| Desired Outcome in the Workplace | To be an excellent and self-confident interpreter in such matters. |
| Learning Objectives | Be able to deal with complex rape cases |
| | To fully understand court procedures, both civil and criminal |
| | Be able to deal with traumatized women and children |
| | Understand appropriate medical terminology used in such cases |
| | Understand all sorts of forensic evidence |
| | Be able to cope with stress accompanying such work |
| | Be equipped with appropriate court terminology in concepts Roman Dutch, English and S.A Common Law. |
| | Understand medical, scientific and other expert terminology used in courts. |
| | Understand all cultural diversity |
| Methodology | Duration: 2 weeks intensive training by invited experts from the Bench, Prosecutions, Forensic Laboratories and Medical Doctors. |
| Course Content | Number of trainers: ± 6 lecturers in different fields and languages. |
| | Criminal Law with specific reference to abuse of any kind |
| | Criminal Procedure including the use of intermediaries |
| | Law of Evidence including that of a child |
| | Ballistics, Chemistry, Biology, DNA |
| | Stress Management |
| Number of Participants | 30-35 |
| Language | English |</p>
<table>
<thead>
<tr>
<th>Programme Material</th>
<th>Handouts and DVD viewing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluation</td>
<td>Written (admin, course content, presentation by the lecturer, etc)</td>
</tr>
<tr>
<td>Follow-up Evaluation</td>
<td>This is done by the provincial Inspector of Interpreters</td>
</tr>
</tbody>
</table>
| Contact Person     | Name: Ms Shirley Mason  
Tel: (012) 481-2936  
Fax: 086 653 3453  
E-mail: SMason@justice.gov.za |

**MANAGEMENT COURSE FOR INTERPRETERS**

<table>
<thead>
<tr>
<th>Target Group</th>
<th>Principal Interpreters</th>
</tr>
</thead>
</table>
| Learning Objectives | • To understand office management  
• To be skilled in leadership  
• Plan and control  
• Code of conduct |
| Desired Outcome in the Workplace | To be excellent managers of their sections |
| Methodology       | • Duration: 2 weeks intensive training by invited experts from National Office in management theory, leadership skills, planning and controlling, project management, performance management, finance, etc. |
| Course Content    | • Management theory, leadership skills, planning and controlling, project management, performance management, finance, etc. |
| Number of Participants | 35 |
| Language          | All 11 South African languages |
| Programme Material | Various handouts all contained in one disc from Justice College |
| Evaluation        | Written (admin, course content, presentation by the lecturer, etc) |
| Follow-up Evaluation | This is done by the Office Manager, who reports back to Justice College |
| Contact Person    | Name: Ms Shirley Mason  
Tel: (012) 481-2936  
Fax: 086 653 3453  
E-mail: SMason@justice.gov.za |
• Will be sensitized to the realities of the lives of certain vulnerable groups who come before the court, specifically with regard to abused woman and children, people with different sexual orientation, cultural inequalities, language barriers, socio-economic inequality and gender related issues
• Should have a working knowledge of how a court is constituted
• Will know exactly what the sequence of the court proceedings are during the course of an ordinary trial
• Should be able to listen attentively to the prosecutor and be able to interpret all the essential elements of the crime to the accused
• Will be able to interpret everything said by the accused during the plea to enable the court to note it accurately
• Must know about the existence and nature of the rights enjoyed by an accused, as well as its impact on the role of the interpreter
• Will be able to distinguish between S162(2), 183 and 164 of Act 51 of 1977
• Will be able to distinguish between established concepts of Roman Dutch, English and South African Law
• Will understand basic medical terminology used by expert witnesses in court
• Will be able to translate in context any of the source languages into the language of record in terms of the Constitution
• Will be able to interpret from the start of the trial to the end, from the source into the target language and vice versa in languages that are not on the same level of linguistic development
• Will understand concepts of Latin origin and its relevance to our common law and law of evidence
• Will be able to interpret fully, clearly and in context the judgment as delivered in order for an accused to fully comprehend the impact thereof
• Should be able to correctly interpret the various relevant sentencing options in order for an accused to fully comprehend the impact thereof
• Will be able to interpret the evidence given by a fingerprint expert
• Should be able to control the pace at which speakers tender their evidence as well as the audibility of voices of all the speakers, in order to ensure a clear and complete record
• Will be able to interpret cross-examination correctly and in context, without interfering with the format and sequence of the questions
• Will have a proper knowledge of court ethics and etiquette in order to know the ethical responsibilities of an interpreter as well as the etiquette involved in dealing with the various role players

MODULE 2: ADVANCED INTERPRETER COURSE
(INCORPORATING SEXUAL OFFENCES)

The following aspects will be dealt with during the workshop:

• The Forensic Science Laboratory:
  o chemistry section
  o ballistic section
  o biology section
  o DNA evidence
• The chain of evidence
• Evidence pertaining to the medical examination of a victim
• HIV awareness
• Stress management
• Intermediaries
• The role of the interpreter in matters pertaining to sexual offences
• Social context training

At the end of this workshop the delegate:

• Will be equipped with the knowledge of how to deal with expert evidence derived from chemical, ballistic, biological and DNA analyses of evidence presented in court
• Will understand the procedure that is to be followed in criminal trials, together with accompanying terminology and the sequence and importance of the chain of evidence that is presented during a trial
• Will have good understanding of medical concepts used by experts in the field of medicine during a trial
• Will be aware of the possibility of secondary victimisation of witnesses, complainants and accused who are
alleged to be HIV positive
- Will comprehend the role of the intermediary
- Will know how to establish a correct rapport with the victims of sexual abuse
- Will better understand the perspectives of the people he/she has to deal with and will have a better appreciation of the impact of the diversity in culture and linguistics
- Be better equipped with methods of dealing with stress

MODULE 3: MANAGEMENT TRAINING FOR PRINCIPLE COURT INTERPRETERS

The following aspects will be dealt with during the workshop:

- Management theory
- Leadership skills
- Operational planning and control
- Project management and meetings
- Appropriate conduct expected from employees
- Performance management
- The Public Finance Management Act
- Departmental Financial Instructions
- Recruitment and Selection
- Employee Assistance Programme

At the end of this workshop the delegate:

- Familiarize him/herself with the way in which the interpreters' section is managed
- Will be equipped with the necessary leadership skills required of him/her
- Must be able to implement the departmental operational and control strategies
- Has to be able to manage specific projects allocated to him/her and to conduct effective section meetings
- Will have a good understanding of the relationship between the department and an employee and what kind of conduct is expected of an subordinate
- Will, in his/her capacity as line manager, understand and be able to manage and assess the performance of subordinates
- Will understand and be able to implement financial damage control measures
- Should be able to have a good understanding of departmental financial procedures
- Will understand and be able to implement staff recruitment and selection procedures in order to promote the vision and mission of the department
- Will be able to recognize behavioral deviations and to apply appropriate corrective measures
**APPENDIX 7: COURT INTERPRETING SYLLABI AT SOUTH AFRICAN UNIVERSITIES**

**NWU SYLLABUS: Diploma in Legal Interpreting**

<table>
<thead>
<tr>
<th>1st year</th>
<th>2nd year</th>
<th>3rd year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ethics of court interpreting</td>
<td>Interpreting modes</td>
<td>Language practice and professionalisation</td>
</tr>
<tr>
<td>The role of the interpreter</td>
<td>Interpreting types</td>
<td>The role of the interpreter</td>
</tr>
<tr>
<td>General introduction</td>
<td>The role of the interpreter and the right to a fair trial</td>
<td>Professional ethics</td>
</tr>
<tr>
<td>Liaison interpreting</td>
<td>Translation Theory and practice</td>
<td>Principles and problems</td>
</tr>
<tr>
<td>Liaison interpreting</td>
<td>Approaches to translation</td>
<td>Termbanks</td>
</tr>
<tr>
<td>Listening skills</td>
<td>Translation methods and procedures</td>
<td>Language editing</td>
</tr>
<tr>
<td>Memory skills</td>
<td>Models of translation and interpreting</td>
<td></td>
</tr>
<tr>
<td>Coping</td>
<td>Sight translation and sight interpreting</td>
<td></td>
</tr>
<tr>
<td>Translation aids</td>
<td>Note-taking</td>
<td></td>
</tr>
<tr>
<td>Terminology</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FIST YEAR</td>
<td>SECOND YEAR</td>
<td>THIRD YEAR</td>
</tr>
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<td>-----------</td>
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<td>------------</td>
</tr>
</tbody>
</table>
| **Language Practice and Professions**<br>- Language Practice Fields<br>- Translation (theory)<br>- Translation (practice)<br>- Legal Interpreting (theory)<br>- Legal Interpreting (practice)<br>- Language Skills<br>Students continue with languages offered in the first year.<br>- Advanced English Language Usage<br>- Advanced English Language Usage<br>- Gevorderde Afrikaanse Taalpatrone en –funksies OR Afrikaans in Afrika<br>- Basiese en Afrikaanse Taalgebruiksbedekte OR Afrikaanse woord-, sin- en uitingen in Afrikaans<br>- Basic sentence structure in Sesotho OR Sesotho grammar: phonology and morphology<br>- Advanced sentence structure in Sesotho OR Sesotho grammar: Syntax & Semantics<br>- Zulu: Linguistics OR Zulu: Linguistics<br>- Basic Zulu Conversational Skills OR Zulu Skills<br>- Sign Language: Basic grammar, language skills and culture<br>- Sign Language: Sentence structure and situational dialogue, history and culture<br>- Linguistics<br>- Nature and systematic aspects of language<br>- Syntax, Pragmatics, Semantics<br>- Communication Studies<br>- Nature and systematic aspects of communication<br>- Skills domain<br>- Computer Literacy<br>- Non Focused Discipline<br>Students have to select a minimum of 28 credits from any relevant disciplines offered in any programmes. The following disciplines are recommended:<br>- Criminal Law<br>- Criminal Procedure<br>- Labour Law<br>- Public Law<br>- Language Practice and Language Professions<br>- Legal Interpreting (theory and practice)<br>- Legal Interpreting (theory and practice)<br>- Language Skills<br>Students continue with languages offered in the second year.<br>- Advanced English Language Usage<br>- Advanced English Language Usage<br>- Taalverskeidenheid in Afrikaans OR Sin in Afrikaanse sinne<br>- Geevolde Afrikaanse Taalgebruiksbedekte OR Bronne van betekenis en begrip in Afrikaans<br>- Verb conjugations in Sesotho OR Discourse analysis in Sesotho<br>- Types of sentence and time references in Sesotho OR Sociolinguistics in Sesotho<br>- Intermediate Zulu communication skills OR Zulu: Grammar<br>- Self management OR Zulu skills<br>- Sign Language: Phonology and advanced language use<br>- Sign Language: Syntax and contextualised discourse<br>- Linguistics<br>- Sociolinguistics<br>- Sociolinguistics<br>- Discourse<br>- Literature Science<br>- Nature and systematic aspects of literature and texts<br>- Non Focused Discipline<br>A continuation of the modules in the first year. A minimum of 24 credits have to be obtained<br>- Criminal Law<br>- Criminal Procedure<br>- Labour Law<br>- Public Law<br>- Language Practice and Language Professions<br>- Legal Interpreting (theory and practice)<br>- Legal Interpreting (theory and practice)<br>- Terminology<br>- Language Resources<br>- Language Skills<br>Students continue with languages offered in the first year.<br>- Advanced English Language Usage<br>- Advanced English Language Usage<br>- Taalverskeidenheid in Afrikaans OR Sin in Afrikaanse sinne<br>- Geevolde Afrikaanse Taalgebruiksbedekte OR Bronne van betekenis en begrip in Afrikaans<br>- Verb conjugations in Sesotho OR Discourse analysis in Sesotho<br>- Types of sentence and time references in Sesotho OR Sociolinguistics in Sesotho<br>- Intermediate Zulu communication skills OR Zulu: Grammar<br>- Self management OR Zulu skills<br>- Sign Language: Phonology and advanced language use<br>- Sign Language: Syntax and contextualised discourse<br>- Linguistics<br>- Philosophy of Language<br>- Human and machine processing<br>- Information studies<br>- Information skills<br>- Non Focused Discipline<br>A continuation of the modules offered in the second year.<br>- Criminal Law<br>- Criminal Procedure<br>- Labour Law<br>- Public Law
UNISA SYLLABUS: BA with specialisation in Court Interpreting

Level I:
- Principles of Interpreting I
  - Introduction to interpreting: The difference between translation and interpreting, Types and modes of interpreting, The role of the interpreter, Interpreters’ code of practice
  - The interpreting process: Analysing the situation, Preparation; active listening, memorising and visualising, Encoding the message
  - Monolingual and bilingual preparatory exercises and language enhancement: Oralising, visualising, activating passive memories, Text analysis, Paraphrasing, gist exercises, closing, anticipation exercises
- Court Interpreting I
  - Introduction
  - History of court interpreting
  - Interpreting: Theory and Practice
- Multilingualism: The role of languages in SA
- A Language (module 1)
- B Language (module 1)
- C Language (module 1)
- Introduction to the Theory of Law I (module 1)
- Introduction to the Theory of Law I (module 2)
- Fundamental Rights or Criminology (module 1)

Level II:
- Principles of Interpreting II
  - Liaison interpreting: Conversational principles: co-operation and politeness, The interpreted interview, The dynamics of liaison interpreting, Specialist liaison interpreting settings
- Court Interpreting II
  - Professional Issues
- Translation and Editing Techniques
  A Language (module 2)
  B Language (module 2)
  C Language (module 2)
  Criminal Procedure (module 1)
  Criminal Procedure (module 2)
  Criminal Law (module 1)

Level III:
- Principles of Interpreting III
  - Introduction to simultaneous interpreting: Introduction, Fields of application of simultaneous interpreting, What makes a simultaneous interpreter, Professionalism and ethics, Monolingual preparatory exercises, Bilingual preparatory exercises, The simultaneous interpreting process, Preparation for accreditation as court interpreter with the SA Translators’ Institute
  - Monolingual and bilingual interpreting exercises: Oralising, visualising, paraphrasing, dual tasking, anticipation exercises, Consecutive interpreting practice in various settings (e.g. health), consecutive interpreting with notes
- Court Interpreting III
- Court interpreting in specialized areas
- Strategies
  - Translation and Editing Practice
  - A Language (module 3)
  - B Language (module 3) or
  - D Language (module 1)
  - C Language (module 3) or
  - D Language (module 2)
  - Law of Evidence (module 1)
  - Other law courses
  - Court Practice

Interpreters in the African languages may take 3 or 4 languages. The following are recommended:

If your first language (A language) is a Nguni languages (siSwati, isiZulu, isiXhosa), then your C language should be a Sotho language (Sepedi, Sesotho, Setswana) or Tshivenda or Xitsonga. If your first language (A language) is a Sotho language, your C language should be a Nguni language or Tshivenda or Xitsonga. If your first language (A language) is either Tshivenda or Xitsonga, your C language may be either a Sotho or a Nguni language.

If you take 4 languages, your D language may be any African language which you have not already chosen as you’re a or C language or Afrikaans.

English or Afrikaans is always the B language (the language of the court).
WITS SYLLABUS: Postgraduate Diploma in Translation (Translation Option)

Paper 1: General Practice of Translation

Ethics and code of conduct of profession
Analysis of texts
Gist exercises
Assimilation of information (memory skills)
Editing of texts
Conference procedures
Government structures
Local and world current affairs
Information retrieval
General translation

Paper 2: Principles of Economics and Finance
Translating Financial and Technical Discourse

South African financial system
The language of economic and financial discourse
Important economic and financial mechanisms and analytical methods
Concepts of economic policy (national and international)
International trade and current financial and economic affairs
Financial and technical translation

Paper 3: Principles of National and International Law
Translating Legal Discourse

Major legal systems of contemporary law
Major political systems
South African legal system and comparison with other countries
Legal translation

Paper 4: Principles and methodology of translation

Methodological approaches to the practice of translation (applied translation studies)
The nature of discourse/discourse and translation
Non-linguistic factors contributing to the understanding of discourse, such as thematic knowledge, social, geographical and temporal context

WITS SYLLABUS: Postgraduate Diploma in Interpreting (Interpreting Option)

Paper 1 General Practice of Interpreting

Ethics and code of conduct of the profession
Assimilation of information (memory skills)
Public speaking
Voice projection
Note-taking
Conference procedures
Government structures
Local and world current affairs
Consecutive interpreting
Introduction to simultaneous interpreting

Paper 2: Principles of Economics and Finance
Interpreting Economic and Financial Discourse

South African financial system
The language of economic and financial discourse
Important economic and financial mechanisms and analytical methods
Concepts of economic policy (national and international)
International trade and current financial and economic affairs
Paper 3: Principles of National and International Law
Interpreting Legal Discourse

- Major legal systems of contemporary law
- Major political systems
- South African legal system and comparison with other countries

Paper 4: Methodology of Interpretation

- Importance of world knowledge and understanding
- Memory
- Non-linguistic and linguistic factors (thematic knowledge, spatio-temporal context, language, languages, active knowledge, passive knowledge, correspondences and equivalences)

Consecutive interpreting
NMMU SYLLABUS: DIPLOMA IN LEGAL INTERPRETING

Rules for the Diploma in Legal Interpreting

DL 51 Admission

Unless the Senate decides otherwise, candidates shall be admitted to the study for the Diploma only if they
satisfy the following criteria:

1.1 are in possession of a school leaving certificate or equivalent qualification, and
1.2 have obtained a satisfactory pass mark in language proficiency tests in at least
two languages.

DL 52 Duration of study

The study will extend over at least three years in the case of full-time students and over a maximum of six years in the
case of part-time students.

DL 53 Obtaining the diploma

The diploma will be obtained by completing the modules prescribed by Senate; provided that candidates may not register more than twice for the same module.

DL 54 Curriculum

<table>
<thead>
<tr>
<th>Course Code</th>
<th>Course Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>LL1, LL2, LL3</td>
<td>Linguistics for Legal Interpreters</td>
</tr>
<tr>
<td>LL4, LL5, LL6</td>
<td>Legal English</td>
</tr>
<tr>
<td>LL7, LL8, LL9</td>
<td>Legal Interpretation</td>
</tr>
<tr>
<td>LL10, LL11, LL12, LL13</td>
<td>Introduction to Law</td>
</tr>
<tr>
<td>LL14, LL15</td>
<td>Law relating to Criminal Trials</td>
</tr>
<tr>
<td>LL16, LL17</td>
<td>Criminal Law</td>
</tr>
<tr>
<td>LL18, LL19</td>
<td>Civil Procedure</td>
</tr>
<tr>
<td>LL20, LL21</td>
<td>Labour Law, Alternative Dispute Resolution and Disciplinary Hearings</td>
</tr>
<tr>
<td>LL22, LL23</td>
<td>Professional Ethics</td>
</tr>
</tbody>
</table>

Pastgraduate Programmes

Rules for the degree of Baccalaureus Artium Honores

I. 56 Admission

56.1 Except by permission of the Senate and subject to the provisions of rule 59.1, persons may only be admitted as candidates in a subject taken by them as a major subject for a Bachelor’s Degree.

56.2 Persons shall not be registered as candidates for the Honours Degree except by permission of the Senate and subject to the recommendations of the Head of the Department concerned.

56.3 Candidates for the Honours course in Industrial Relations must comply with Rule 59.2 and must have offered at least one of Economics, Industrial and Organisational Psychology, Psychology of Organisation, and/or Sociology in a major course for the degree of Baccalaureus Artium and must have obtained a final mark of at least 60. In addition, candidates may be required to supplement their knowledge of a particular topic to the satisfaction of the Head of the Department before being allowed to proceed with the corresponding section of the Honours course. The admission of candidates who joined in other subjects than those mentioned above, will be considered on their merits.

For the purpose of rule 59.2 and general rule 70.2, the Head of the Department in which the course takes place shall be regarded as the ‘Head of the Department’. If an equal number of courses are selected for the curriculum from different departments, the Dean of the Faculty shall determine the ‘Head of the Department’.