



30TH ANNUAL
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FUNDAMENTAL FAIRNESS AND LIMITED ENGLISH PROFICIENCY: ONE SHOULD NOT PREVENT THE OTHER

Hon. Ronald B. Adrine



The following text is an edited version of the keynote address at NAJIT's 30th annual conference, held in Scottsdale, Arizona, in May 2009. The author is administrative and presiding judge in the Cleveland Municipal Court.

The genius of the Constitution of the United States is that it establishes certain central shared values: this is a society governed by the rule of law, not the rule of men; everyone who lives here is entitled to the equal protection of those laws; the government can't deprive you of your life, your liberty, or your property without affording you the due process provided under those laws; and the fact that fundamental fairness breeds community. It is our belief in these values that allows us to tolerate wildly disparate views without resorting to violence. It is our belief in these values that leads us to hold that each of our views will be heard and considered, even if they are not immediately adopted. It is our belief in these values that allows us to engage in civil discourse instead of armed conflict when our ideas do not enjoy current favor.

It is fundamental fairness that makes this nation great, and fundamental fairness that has always set the United States of America apart among nations. It is the reason that, over the centuries, so many people from around the world have sought to come here. They believed that in this place their "otherness" could be overlooked and that they would ultimately be judged by what they contributed. America is at its very core a nation made great by the contributions of diverse people who nurtured a belief

that the American value of fundamental fairness would allow them the opportunity to succeed.

But while I am a cheerleader for my country, my eyes are not closed to the myriad divergences from America's true beliefs. I am a consummate realist, and therefore am painfully aware that throughout our history, we as a nation have not always lived up to our ideals.

At no other time in our history has our resolve to keep our ideals been so tested as it is today. At a time of catastrophic worldwide economic unrest, never has the desire of others to come to America, the land of opportunity and fundamental fairness, been greater than it is today. Yet, at the same time, faced with both internal and external threats, a majority of our people, motivated by the fear and unease that comes with an uncertain future, seem to question those core values that make us great.



We find ourselves confronted and conflicted. In no other arena is the conflict for our constitutional soul more evident than in the area of linguistic diversity. On the one hand, the pressure to conform to the use of a shared public language has played a huge part in the ability of this nation to effectively work

and grow together. The rapid demographic and linguistic changes of the last 40 years, brought about by increased immigration, especially from places other than Europe, have strained our ability to assimilate the newcomers, particularly as it relates to serving their language needs.

Nowhere is that strain more evident than in the judicial system, the institution that we have entrusted

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MESSAGE FROM THE CHAIR

It is with great pleasure that I greet you for the first time as Chair of our association. It is both an honor and a challenge, considering that my predecessor, Isa Framer, although petite, left me some enormous shoes to fill.

For our thirtieth anniversary, the annual meeting and educational conference was held at the beautiful Double Tree Paradise Valley Resort in Scottsdale, Arizona. With offerings of nine pre-conference workshops and thirty-two regular sessions, as well as the administration of the NAJIT written and oral certification exams, the weekend was jam-packed with professional activities. Of course, there was still time for that dip in the pool, shopping, and restaurant-hopping. The conference was attended by some 250 participants, including twenty students, six of whom were NAJIT Scholars. Given the economic times, we consider that a real success. I'd like to thank all the presenters for insightful and thought-provoking sessions; the conference committee for diligence and hard work; and our staff, Executive Director Robin Lanier and NAJIT Administrator Christina Filipovic, who oversaw the details, put out fires, and generally ensured smooth sailing. A special thank-you also to Judge Ronald Adrine for his excellent keynote speech and long-standing support for NAJIT. Next year, we will be gathering in Orlando, so start making your plans now!

As we embark on our fourth decade, NAJIT will no doubt undergo changes and face new challenges. One recent development is that Measurement, Inc. will no longer function as the administrator of our certification exam: NAJIT itself has assumed that responsibility. Although the initial transition did not go quite as painlessly as we would have liked, the board feels that self-management is the best course of action. We appreciate your understanding and patience during this transitional period. The newly constituted Certification Commission has taken the helm, and we anticipate smooth administration in the future.

The Advocacy Committee has prepared letters in support of the re-introduction of Senator Kohl's bill, S. 1329, The State Court Interpreters Grant Program Act. This is crucial legislation, which provides for funding to states for testing and training interpreters and organizing ongoing interpreter programs. (You can also write directly to your state senators in support of the bill – hint, hint.)

One of my goals this year is to increase active participation by our members. It was somewhat disappointing to see that despite several requests for nominations, only two members (myself included) chose to run for the Board of Directors this year. I sincerely hope that you do not feel that the leadership of NAJIT is an exclusive club. Our bylaws limit board membership to a total of six years. Each year, one or more seats open for new board members as current members complete their terms. Somebody will have to fill these positions. Why not you? Perhaps you feel that you don't have enough experience, either as an interpreter or in a leadership position. I know how you feel, as I have felt that way myself. So, how do you get to be a leader? It's like the old joke: **Q:** How do you get to Carnegie Hall? **A:** Practice, practice, practice. Start small. Look over our committees and identify areas of particular interest to you; then contact the committee chair(s) and offer informal help. Next year, submit your name for committee membership. If you live anywhere near the Orlando area, get involved in the planning of next year's annual meeting. Local help and input are always welcome. Get to know NAJIT's current leaders. We're all very accessible and willing to help in any way we can. Each one of you has unique talents, expertise and diversity of experience to bring to the table. I hope that you will share these attributes with your colleagues to help make a great organization even better.

I'm looking forward to meeting as many of you as possible, and to a very productive year.

All the best,
Rosemary Dann
Chair, NAJIT Board of Directors

NAJIT occasionally makes its member information available to organizations or persons offering information, products, or services of potential interest to members. Each decision is carefully reviewed and authorization is given with discretion. If you do not wish to have your contact information given out for this purpose, please let headquarters know and we will adjust our records accordingly.

PHILOSOPHER'S CORNER

NATURAL LAW AND DAO: COMPARING
LEGAL AND CULTURAL CONCEPTS

Lin Wei

Natural law and *Dao* are meaningful concepts in the traditional cultures of the West and China. While quite different, these concepts share common elements that may contribute to cross-cultural understanding. By comparing the two, we may discern distinct legal textual meanings in different cultural contexts.

The theory of natural law has been one of the oldest and most persistent beliefs in western philosophy and legal theory. The phrase “natural law” implies a host of philosophical questions, not the least of which are essential inquiries concerning the exact meaning of “nature” and “law.”

Ancient Greek philosophers laid the groundwork for the idea of natural law. By observing the regularities and consistencies of nature, they developed a belief in a force underpinning natural phenomena. Thinkers began to reflect on the problems of social and political life in the West, on the reasoning and legal basis for laws, and to examine these to see if they displayed any eternal features.

“In general, [natural law] denotes belief in a system of right or justice common to all men prescribed by the supreme controlling force in the universe and distinct from positive law, law laid down by any particular state or other human organization” (Walker 1980, 868).

“Nature,” then, is a feature of the objective world, and “law” is a man-made product. Because natural law and positive law are not mutually exclusive, a rule such as “Thou shalt not kill” might be a rule of equal importance in both systems.

“Natural law [is a] philosophy of law which proceeds from an assumption that law is a social necessity based on the moral perceptions of rational persons, and that any law which violates certain moral codes is not valid. Human law is thus based on certain universal principles, discoverable through reason or revelation, which are seen as being eternal, immutable, and ultimately based on the nature of human beings” (Zhang Wanhong 2003, 20).

In contrast, positive law refers to the legal rules adopted and formally endorsed by the state. However, a positive law can be legitimate only when consistent with the basic principles manifested in natural law. Legal philosophy deals with the nature of the precepts and norms in both natural law and positive law.

Dao, one of the most influential concepts in Chinese philosophy articulated by Lao Zi, the founding father of Daoism, has much

broader connotations, and covers a wide range of philosophical and legal aspects. The theory of *Dao* was expounded in the book of *Dao De Jing* around 2,000 years ago. Essentially, *Dao* is an inner force animating everything in the natural world, the original source of all existence. In other words, all things in the universe represent the flourishing and transformation of *Dao*'s potential.

As Lao Zi pointed out, “*Dao* that can be expressed in words is no longer the invariant and authentic *Dao*; the thing that can be named is not enduring and unchanging; having no name, it is the source of the countless things existing in the universe; having a name, it is the mother of all things” (Lao Zi 2001, ch. 1; subsequent

citations from the same source are identified by chapter number only). (道可道，非常道。名可名，非常名。无名天地之始；有名万物之母，*dao ke dao, fei chang dao. Ming ke ming, fei chang ming.*)

These sayings are usually described as “cosmological” or “metaphysical,” but essentially *Dao* is philosophical in nature.

Although Lao Zi asserted that *Dao* cannot be named, he wrote more than 5,000 words in poetic form to elaborate on the concept, which may be summarized as follows:

- *Dao* is the natural law of all things.
- *Dao* is the proto-material or substance which

constitutes the universe.

- *Dao* is the potential driving force that creates and operates all things.
- *Dao* is as eternal as the everlasting physical world. It is therefore infinite in time and space.
- *Dao* is neither visible nor tangible; it is beyond our sensory perception, yet it can be grasped by means of logical and deductive thinking.
- *Dao* functions in a way that all things and phenomena are in constant motion, a process where everything is being transformed into its own opposite.
- *Dao* underlies the motion and development of all things.
- *Dao* is the standard, rule, or code by which to evaluate human conduct.

Natural law has been theoretically defined, particularly in the legal field; whereas *Dao* cannot be categorically defined. Three features of *Dao* — it is imageless, soundless, and formless — all reflect the subtlety of *Dao* that goes beyond sensory perception.

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FAIRNESS AND ENGLISH PROFICIENCY *continued from page 1*

with the task of safeguarding our most important shared values. It embarrasses me to say that when it comes to dealing with those with limited English proficiency, despite our best efforts, we have on balance failed to demonstrate that our stated commitment to equal protection and due process for all remains unshakably in place.

Why would I say such a thing? Primarily because, despite a federal law that makes it illegal to discriminate against people with limited English language proficiency; and despite the creation of a national consortium of approximately 41 states that have pledged to address the judicial needs of individuals with limited English language proficiency; every day we read about failures to uphold our values, resulting in manifest miscarriages of justice for those who have not mastered the use of the English language. These miscarriages are the result of a classic clash of competing interests.

I believe it was one of John F. Kennedy's cabinet members, Joseph Califano, who described politics as the art of determining who lives, who dies, and who pays. For those with limited English proficiency, due process and equal protection are frequently the casualties of an unwillingness of our society to pay. We believe that those who don't have English skills are entitled to the same rights as everyone else — until we get the bill.

This is particularly true in courthouses across this country. Why are judges so challenged when we try to address the issues surrounding the provision of equal protection and due process to those whose first language is not English? To begin with, it's a matter of privilege. Those of us who are proficient in English are privileged; and those who are not, aren't.

In America, someone who speaks English and doesn't get the concept of privilege is like a fish that doesn't get the concept of wetness. It's all around us, it's essential to our survival, and yet we are totally oblivious of it. If you speak English in this country, you never give language a second thought, because you never have to. When it comes to language, it is all about you all of the time — that's just the way it is. It's a given that requires no thought.

Judges are a particularly privileged lot when it comes to language. We've been trained in its use. Before we took the bench, most of us made our living as wordsmiths. We take great pride in our ability to turn a phrase or discern the meaning of a passage. Therefore, for some of us, dealing with those who are not privileged is at best an irritation, and at worst, an aggravation.

The unprivileged require that we spend precious time on their problems — time that we don't have — because of their ignorance. They also cost us money that we don't have, which we expend for interpreter and translator services, as well as for specialized testing, intervention, treatment, and counseling.

Because we are privileged, some of us think that the majority of those claiming limited English proficiency are actually malingering. We resent the time that they require and just wish they would go away.

Virtually all of us who have donned the judicial robe did so because we wanted to make a positive contribution to the communities that we live in and to the people who appear before the judicial systems that serve them. The judges in many of the jurisdictions where you come from probably want to do something

to improve the circumstances of those with limited English proficiency, but in many instances, they don't have a clue as to what they can do.

So what *should* judges do? First, let me suggest that we could all use a little education, because in many instances we don't even know what we don't know about this issue. Most of us are woefully uninformed about the extent that language issues have pervaded our communities and the justice systems that we work in. We are not as informed as we should be about the federal laws enacted to secure the constitutional rights of equal protection and due process to those whose first language is not English. We are not, as a group, fully aware of the duties placed upon us to safeguard those rights, nor are we aware of the penalties that we and our courts face if we are complicit in the violation of those rights.

I believe, however, that with the recent action by the U.S. Department of Justice towards the State of Indiana, the State of Maine, and the State of Oklahoma, that may be changing. Everyone is paying more attention now because there's a new sheriff in town, and he doesn't appear to be prepared to look the other way.

Let me share with you several things that any judge can do right now, at little or no cost, to proactively address the issues that limited English proficiency present to the courts:

- Become familiar with the bare minimum technical and ethical skills constitutionally required for anyone to adequately provide interpreter or translator services.
- Determine how frequently interpreter services are used by the court; how often the court has resorted to the use of non-professional interpreter services in the last year — and more importantly — why?
- Only allow those who can meet the required technical and ethical standards to provide interpreter services in a courtroom. This would exclude, in many instances, not only miscellaneous bilingual friends, family, community members, and other interested parties, but also untrained attorneys and court employees, law enforcement officers, and others.
- Ensure that when the court is called upon to acquire the services of an interpreter, that the court's protocol will deliver someone capable of providing a service that meets minimum constitutional standards.
- If the court has no protocol, convene a community committee or a task force to develop one.
- Identify all of the agencies in the community that provide professional interpreter and translation services.
- Determine if those agencies employ individuals who have been specifically trained to provide interpreter and translation services in a legal setting. If they don't, establish a timeline for them to come into compliance.
- Determine how the court acquires legal interpreter and translator services for those who speak foreign languages other than Spanish.
- Conduct regular clinics for court employees, such as clerks and security officers, to sensitize them to the issues facing people with limited English proficiency, and provide them with the resources necessary to assist.

- Give every judicial officer and every court department copies of the “I Speak” language identification booklet.
- Convene a group or groups from foreign language-speaking and hearing-impaired communities to identify the existence of access to justice issues in the court, and to develop and/or enhance the capacity to deliver legal interpreter and translator services.
- Identify fiscal resource impediments regarding the deployment of legal interpreter and translator services, and develop strategies to overcome them.
- Determine the applicability of Title VI of the U.S. Code to the court and the penalties for failing to comply with its provisions.
- Give at least one presentation to a community group on the importance of interpreter and translator services to the rule of law.
- Distribute to all judicial officers bench cards or bench-books from the National Center for State Courts or from the Supreme Court of the jurisdiction, if such a resource is available, on interpreter and translator services.
- Urge your state to join the National Center for State Courts’ consortium that is developing national proficiency tests to certify interpreters in major languages.
- If your state is already a member of the consortium, become active in its activities.

- Sponsor a judicial seminar on interpreter and translator issues for the judicial officers in your jurisdiction, complete with continuing judicial education credits.
- In jurisdictions with large concentrations of specific non-English speaking populations, post appropriate signage throughout the courthouse.

On issues involving improvements to the administration of justice, judges are expected to lead. This list is not intended to serve as the ultimate answer to the question of what judges should do when faced with defendants with limited English proficiency. Rather, by sharing it with you, it is my intention to showcase the fact that within every judge’s comfort zone, there are many things that can and should be done to advance solutions to the problems posed by these issues.

We know for a fact that these questions are not going to go away and are not going to diminish. The decision to do nothing is still a decision. And doing nothing in this context is the one thing that we cannot afford to do; not if we value our civil society and the quality of our justice system. Fundamental fairness and our constitution demand that the judiciary take its rightful place in the vanguard of those working to resolve these access issues in order to insure that justice is available for all of us. ▲

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NATURAL LAW AND DAO *continued from page 3*

Natural law mainly deals with morality, justice, and legality, whereas *Dao* is a theory of both macrocosm and microcosm, and as such is more dialectic. Daoism is a philosophy or belief system holding that all things are inclined to reverse to their opposite in a continuously evolving process. This is precisely the essence of ancient Chinese philosophy: things that are too lofty easily collapse; things that are too white stain easily; songs that are too exaggerated have few listeners; reputations that are too elevated fall short of reality. Therefore, *Dao* has broader application than a theory of natural law.

Although natural law is deemed a higher authority than positive law, *Dao* is deemed the highest ruler, controlling everything under the sun. However, both *Dao* and natural law involve issues of philosophy, law, justice, reason, morality, rights, and the nature of man.

Definitions of Law

The words “law” and “laws” in English are used not only in the legal, but also in a scientific or general context. Numerous attempts have been made to define “law,” but no single definition has been universally accepted. In the most general sense, “law” is a central problem of legal philosophy or theory. “The law” signifies something more general and abstract, sometimes in conjunction with a recognized branch of a doctrine.

The law prescribes human conduct, setting out normative behavior. It is therefore concerned both with *is* and *ought*, with what a man should or must do in particular circumstances, and with what will happen if he deviates from the permissible limits of conduct. Law is a principle of order, a rule, a pattern, a regulation of both nature and human acts and relations.

In natural law the word “natural” acts as a modifier. “Natural” refers to that which exists prior to any human involvement or manipulation. In this conceptualization, natural law is not the product of any individual or collective, and cannot be abolished; nevertheless, its standards can be violated, defied, or ignored.

As relates to justice

The ultimate purpose of natural law is to achieve justice. Yet there are just, consistent, permanent elements in nature that can be contrasted with changeable, sometimes oppressive and unjust, human laws.

Nature involves not only the order of things, but also human reason, which is part of nature; since man is a natural creature, man is also endowed with reason. Therefore, “it is possible to deduce from nature, that is to say, from the nature of man, from the nature of society, and even from the nature of things, certain rules which provide an altogether adequate prescription for human behaviour, that by a careful examination of the facts of nature we can find the just solution of our social problems. Nature is conceived of as a legislator, the supreme legislator” (Curzon 2002, 244).

Justice is often thought of as a virtue of the will, insofar as it contextualizes choices made in consideration of others. As Finnis says, “Justice has to do with one’s relations and dealings with other persons; it is ‘inter-subjective’ or inter-personal. There is a question

of justice and injustice only where there is a plurality of individuals and some practical question concerning their situation and/or interaction vis-à-vis each other” (Finnis 1980, 161).

The word “right” translates from the Latin *ius* or *jus*, the root of justice, juridical, and jurisprudence (Finnis 2002, 24). In fact, “human rights” is a rather recent construct.

The term “natural justice” has often been used interchangeably with natural law, equity, and other similar expressions, and the idea undoubtedly originated from the concept of natural law as a higher law by which the validity of positive laws could be — and has been — measured.

Since western philosophers postulated a world where men lived as equals, absolute and relative beliefs of natural law can be intermingled. Human positive law is valid only when compatible with natural law. Human positive law is variable, depending on time and circumstances, and should serve the interests of society. Over time, many natural law precepts were gradually adopted as part of modern positive law.

According to the philosophy of *Dao*, heaven (nature) acts in a consistent pattern that can be imitated. As Lao Zi said, “May not *Dao* of heaven be compared to the drawing of a bow? What is higher is pulled down, and what is lower is raised up; *Dao* diminishes wherever there is superabundance, and supplements wherever there is deficiency. *Dao* of heaven decreases those who have more than they need and increases those who need more than they have.”

Daoist philosophy distinguished between *Dao* of heaven and that of man. In Lao Zi’s terms “the *Dao* of [h]eaven decreases whatever is superfluous, and increases whatever is deficient”; whereas “the *Dao* of man on the other hand, does the opposite — it decreases the deficient and increases more to the superfluous” (ch. 77). (天之道，其犹张弓欤。高者抑之，下者举之；有余者损之，不足者补之。天之道，损有余而补不足。 *Tian zhi dao, qi you ru zhang gong yu. Gao zhe yi zhi, xia zhe ju zhi; you yu zhe sun zhi, bu zu zhe bu zhi. Tian zhi dao, sun you yu er bu bu zu.*)

There is absolute justice in how nature operates, but the rules of man may be not always just.

As relates to God

Natural law theorists believed that natural law was derived from the law of God. The world was ruled by divine providence, and the whole community of the world was governed by divine reason (Aquinas 1993).

In western Christian culture, the Lord or God has always been worshiped as the ancestor of all things in the universe. Natural law theory became associated with religious belief, in part because the Catholic Church was the main elaborator and defender of the tradition (Brian 2002, 66). “There was also divine positive law enacted for men by God, contained in the scriptures, and all laws enacted by human authorities had to keep within these categories” (Schneewind 1995, 664).

It was believed that natural law was the superior law, and according to the principles of natural law, the legislators’ obligation was to repair damage caused by man’s faults. Hobbes believed that

natural law should be seen not only as superior to positive law, but as a body of natural rights, subjective claims based on the nature of man.

In the philosophy of *Dao*, however, *Dao* itself embodies God. *Dao* exists ubiquitously in the universe and therefore is eternal, profound, inexhaustible — a mighty power.

The Chinese use the word *Di* to refer to the God of heaven, who created and ruled all things under the sun. The ancient Chinese believed that all their surroundings and all phenomena were derived from the magic power of the Lord of heaven, the ancestor of all things.

Lao Zi's posited *Dao* as something that existed prior to the Lord of heaven. In western terms, then, *Dao* can be seen as more primitive than God. Lao Zi's perception of *Dao* is as the ancestor of all things. The uniqueness of this philosophy also lies in his perspective that heaven and earth represent the sky and the ground.

It has been suggested that Lao Zi's concept of *Dao* may have been derived from two pre-existing terms known as *tian dao* (*Dao* of heaven) and *tian ming* (heavenly-designated fate). His concept may have taken the place of a supernatural being worshiped by the ancient Chinese. This may explain the absence of religion (in the sense of God) from the Chinese cultural context ever since.

Dao produces the One; One transforms into Two; Two give rise to the structure of Three, which results in myriad things. Within these things, *yin* and *yang* are vital forces which produce harmony through their interactions (ch. 42).

The *Dao* of the universe actually operates by "the way of spontaneity" (naturalness). It treats all things alike without any discrimination and lets all things be what they ought to be, just as God operates in the universe (ch. 25).

As Lao Zi points out: "When someone tries to take over the world, I cannot see the possibility of success; nature is shaped by the spirit of *Dao*; he who would control it damages it, he who would hold it in his grasp loses it" (ch. 29). (将欲取天下而为之，吾见其不得已。天下神器，不可为也，不可执也。 *Jiang yu qu tian xia er wei zhi, wu jian qi bu de yi. Tian xia shen qi, bu ke wei ye, bu ke zhi ye.*)

Heaven and earth in Chinese culture normally mean nature or the universe, and "the myriad things" symbolize all beings in the world. While *Dao* may embrace the nature of God, it is not different from the concept of God in the West. *Dao*'s mighty power is sanctioned by the supernatural force in which the two forces known as *yin* and *yang* are always on the move, interchangeably.

Morality

Let us now examine philosophy, doctrine and practice in terms of personal behavior.

Howard Kainz has characterized natural law moral theory as "one of a group of theories that emphasize the objectivity of morality, which is to say that there are at least a subset of moral norms that are not merely the products or creations of subjective viewpoints or to be judged by subjective intentions, but based on human nature, the nature of society, or evolving nature" (Kainz 2004, xv).

The selection of the morally right standard, the morally right

resolution of a case at hand, can thus be reached properly only by those who know the positive law well enough to know what new dispute-resolving standard really fits it better than any alternative standard (Finnis 2002, 10).

Aquinas, one of the prominent figures of this school of thought, believed that "what we experience as fundamental human inclinations are aspects of the eternal law instilled into human nature, orienting humans toward certain natural goals. Human beings have a natural inclination to accomplish the general ends congruent with their nature, and this inclination is a mark or impression of the eternal law in which they are participating" (Kainz 2004, 19). For Aquinas, then, morality is what distinguishes human persons from the rest of the natural world.

The most important notion that modern natural law theorists have contributed to social theory and jurisprudence is that the study of law should take into account law's moral aspirations. This contrasts with approaches that tend to ignore or marginalize such considerations. However, it has been argued by some legal positivists that moral principles can be legally valid if and only if they are consonant with social observance. Nevertheless, the idea has gained currency in jurisprudence that a rule or rule system should not earn the appellation "law" unless it meets certain moral criteria.

Therefore, judges can and do have a legal and moral obligation to include in their judicial reasoning the principles and norms which are taken by the judge in question to be morally true. A rule may direct the judge to decide a case according to what is fair and equitable. Or the judge may be entitled to import a moral rule of justice, if not explicitly excluded by any legally posited rule (Finnis 2002, 9).

Linguistically, in the West, the word "moral" is derived from the Latin *moralis*. "Being moral concerns human actions, which can be evaluated as good or bad and right or wrong. These actions are in our power and we can be held responsible for them. If a person's actions conform to rules of what is morally right, he is said to be moral. If he violates them, he is immoral or morally wrong. A moral action is also opposed to an amoral action, which is morally value-free, that is, neither right nor wrong.

Conflicts can arise between socially accepted rules of morality and rules determined by reason and individual conscience" (Bunnin 2001, 636). "Moral," in Chinese, is rendered by two Chinese characters — *Dao* and *De*, implying "virtue," "ethic," "attribute." As Lao Zi pointed out, "All things in the universe are produced by *Dao*, and nourished by its outflowing operation, *De*. They receive their forms according to the nature of each, and are completed according to the circumstances they are in. All things therefore without exception honor *Dao* and exalt *De*" (ch. 51). (道生之，德畜之，物形之，势成之。是以万物莫不尊道而贵德。 *Dao sheng zhi, de xu zhi, wu xing zhi, shi cheng zhi. Shi yi wan wu mo bu zun dao er gui de.*)

The question, then, is how can a human be moral? What are one's moral obligations as a citizen within a state, or as a state official?

For theorists of natural law, the answer is straightforward: to

NATURAL LAW AND DAO *continued from page 7*

behave according to the rules of justice as bequeathed by nature. For Daoists, the answer is more philosophical. Given the non-religious nature of the Chinese culture, the doctrine of “heaven-man oneness” (or “nature-man oneness”) is all the more important to the Chinese people. In traditional Chinese culture, “heaven” is synonymous with *Dao*, therefore the pursuit of super-moral values is intertwined with the search for heavenly *Dao*.

In Daoism, the *Dao* of heaven is an ideal for man to follow. The highest level of spiritual life therefore will result from the state of oneness between heaven and man (天人合一, *tian ren he yi*).

Unlike “fate,” which the West sees as something preordained by divine power, “destiny” (*ming*) in Chinese culture may be transformed according to *Dao*, if one understands and follows it carefully. A *shi* [man of learning] thus should spare no efforts to integrate himself into the *Dao* of nature. There are “four great things in the universe,” namely *Dao*, heaven, earth, and man. “Man follows the way of earth; earth follows the way of heaven; heaven follows the way of *Dao*; and *Dao* follows the way of spontaneity.” Therefore, the way of naturalness signifies *Dao* itself, which is the highest law or hidden principle in the universe (ch. 23).

All in all, the most important objective lies in how to attain *Dao* as the highest aspiration of human spirit. In an approach proposed by Lao Zi, attaining *Dao* comprises six components: self-purification and deep contemplation; plainness and simplicity; vacuity and tranquility; tenderness and non-competitiveness; less selfishness and few desires; naturalness and take-no-action (chs. 13, 16, 17, 22, 25, 28, and 49).

In other words, the highest virtue (*Dao* and *De*) of Daoism is not doctrinal speculation, but the concrete practice of self-cultivation, comprising a special set of recurrent terms: stillness, emptiness, femininity, softness/weakness, harmony, clarity, the merging, the oneness, the un-carved block, the mother, *Dao*, excellence.

According to *Dao*, one should constantly cultivate the state of mind, avoiding any distractions of the world, resulting in a state where one can value something truly for one’s own benefits, which transcends the conventional world.

In fact, what one cultivates may not necessarily be virtue as it has been termed in the West; rather, it is something called “peace of mind,” a state of mental calmness, derived from the consciousness of nature.

Based on Lao Zi’s theory, Confucius further promoted and diversified the idea of *Dao*, applying it in various situations: “A true gentleman should always concentrate on fundamentals of self-cultivation; once the fundamentals are firmly established, *Dao* will grow thereby” (Confucius 1994, chs. 1 and 2). (君子立本, 本立而道生. *Jun zi lib en, ben li er dao sheng*.) And in interpersonal relations, one should follow the motto: “Do not impose on others what you would not want to be obliged by them to accept; do to others as you would have them do to you.” That is the way of *Dao* operating both in the natural world and human society.

Overall, natural law and *Dao*, two profoundly culture-bound concepts that appear very different in the West and in China, have philosophical, legal, moral, and interpersonal commonalities. This

fact has extensive implications in cross-cultural understanding when it comes to legislation, legal translation, and related issues.

[The author is associate professor at Macao Polytechnic Institute and publishes widely on subjects related to translation and interpretation.] ▲

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CONFERENCE NEWS

SCOTTSDALE MEMORIES

The report by NAJIT Scholars, and a compendium of comments by attendees on their favorite sessions at the Scottsdale conference.

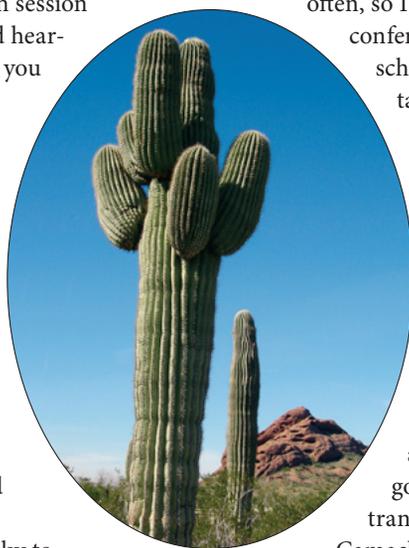
NAJIT Scholars

When Professor Rainof promoted the 2009 NAJIT conference, I had great interest in participating. I just wasn't sure if I would be able to go. Then he mentioned there were scholarships, so I filled out and mailed my application. A month later, I found out I was accepted as a scholar for the 2009 NAJIT conference. I enjoyed all the friendly people who made me feel welcome and congratulated me. It was exciting to meet so many professionals who shared their personal experiences, and shared input and advice about this amazing profession. Above all, I enjoyed spending those days with my fellow classmates and scholars who participated at the conference; we all shared our highlight moments at each session we attended. I left feeling motivated in seeing and hearing the speakers and participants at each session; you are all incredible!

Thank you for this wonderful experience to participate as a scholar at the 2009 NAJIT conference.

[Paola Martinez]

I've always had a passion for languages, but it wasn't until about a year ago that I focused on a career in translation and interpretation. I am so grateful that I was invited to come to the NAJIT conference and that I have been lucky enough to have studied under Dr. Alexander Rainof and Raoul Rizik (at UCLA Extension) and Vanessa Lopez-Ríos (at the Southern California School of Interpretation). I am also incredibly lucky to have such a supportive husband, who never complains about my busy school schedule, but pushes me continue to do my best and to pursue what makes me happy. I feel like I've finally found my niche among this prestigious group of smart, well-rounded, interesting, well-travelled, and incredibly skilled people. It was a true honor to be in the same classes with so many successful people who not only respected my opinions as those of a peer, but also encouraged my professional growth by giving me words of wisdom and encouragement. (It would be a great omission if I didn't mention at this time that being a scholar at this conference made me feel like a bride again; my "scholar" ribbon put me at the center of attention, and I relished every moment of it.) Aside from having made many great contacts (whom I look forward to seeing at the conference next year), I also learned a lot. I like that this year's workshops addressed a wide variety of topics including skills-



building, digital dictionaries, curriculum development, and community outreach. I owe a big thank you to Christina Courtright, who gave me the opportunity to make a small presentation on the iPhone in the middle of her presentation on the Blackberry and other PDAs. I'd also like to thank the NAJIT board of directors, the SSTI board of directors, and Christina Filipovic, who not only made this experience possible, but also helped make it memorable and rewarding. While in Scottsdale, I had the best pizza I've ever had, at a little place called Grimaldi's, in Old Town Scottsdale. If you should happen to be in the area again, make sure to pay a visit!

[Mary Lee Behar]

Since the NAJIT conferences generally take place in May when my children are still in school, I don't get to go to them very often, so I was very happy to be at this year's annual conference, and it was just awesome being there as a scholar. I got to meet the other scholars — a truly talented group, and it was a pleasure getting to know them. It was also wonderful seeing old friends and making new ones. As difficult as it was, I did try to be everywhere at once (and almost succeeded), but I have to say that my favorite two sessions were: the Skill Building Seminar: Team Interpreting with Thelma Gómez-Ferry and Francesca Samuel and the session on English to Spanish Translations for the Private Sector by Rogelio Camacho. I had never worked with another interpreter as a team, so it was a learning experience and very good practice (I did horribly). Now that I'm adding translation to my field of study, I really enjoyed Dr. Camacho's session; he is very informative, focused, energetic, and a lot of fun as an instructor.

[Gloria Keller]

It was an honor being selected as a 2009 NAJIT Scholar. What struck me most was the collegiality. As a student, sometimes you get lost in the shuffle in a professional organization, but I truly felt welcome at the conference. It was surprising and refreshing that a simple "hello" would lead to an in-depth conversation about the field. For example, after the dance, around 11:30 p.m., some of my colleagues from my program at UCLA and I were about to call it a night when a NAJIT member walked in to the lobby, bags in hand, straight from the airport, and asked us where the registration table was. What should have been a brief chat led to a thirty-minute conversation about interpreting, useful resources, and some do's and don'ts for beginners. A short conversation with Chris

SCOTTSDALE MEMORIES *continued from page 9*

Dimmick about a comment made in a session about interpreting for large groups led to a conversation about terminology and a reference to a glossary of Mexican medical terms. Board members Rob Cruz and Rosemary Dann took time out of a busy conference schedule to talk about how to get more involved in NAJIT and encouraged us to do just that. These few moments are indicative of how dynamic the environment was for a newbie. I walked away from the conference revitalized and focused. Aside from the sessions, it was the generosity of NAJIT members, people willing to share experiences, information and encouragement for interpreters in training, that made the conference so memorable for me.

[Soraya Alamdari]

Favorite Sessions

I enjoyed *Did You Catch that Pitch? Pitch Perception and How it Affects Interpreter's Understanding* very much. It was most professionally presented, with audio and video clips. It is a fascinating subject, one that especially interests me because I am deaf in one ear and find that pitch affects my hearing and comprehension greatly. I find very interesting the assertion that people with musical training have been shown to have greater pitch perception, and I regret that I never had any, although my parents were informed that I would never be able to master an instrument because of my deafness. Just goes to show that you shouldn't listen when your potential is described as limited.

I have been a court interpreter for over 20 years now in spite of the deafness.

Alexandra Baer showed slides of MRI samples of brain activity during the performance of different tasks such as listening, generating and pronouncing words, as well as seeing words passively. Then the slide of the brain doing all of these activities at once as well as the many other tasks performed while interpreting and it was very impressive. She also discussed research regarding the relationship between music and language and how this awareness can affect and improve simultaneous interpretation. She included an exhaustive list of resources.

I was very impressed with Ms. Baer's knowledge of the subject and her presentation and would definitely like to see more on the subject. I wouldn't be surprised if this session was based on research for a dissertation and would certainly love to read something like that which would be such an advance for our profession. The clip on Silbo Gomero was unbelievable, and I forwarded it to my friends and colleagues.

I also enjoyed all the other sessions I attended and applaud all the presenters for making this one of the best NAJIT conferences I have attended.

[Jennifer E. Hammond-Tassara, Superior Court, Arizona]

The one I enjoyed most, since it was fast-paced and informative, was Mr. Camacho's session on the topics from the world of organized crime. I have recently been reading a novel by Rafael Ramirez Heredia, *La esquina de los ojos rojos*, which is full of Mexican slang and gang, crime and drug-related vocabulary. A lot

of the words in the novel can't be found in dictionaries. Attending the session was very helpful, as I can now use it in part as a glossary to help me find those words a lot faster.

[Sabine Michael, Superior Court, Pinal County]

It was a great pleasure to attend Ms. Baer's presentation; both the subject matter and the presenter kept my attention throughout, in the toughest time slot to fill in any conference – the last session! The presentation was very professionally laid out, with excellent use of technology – amazingly enough, everything worked. As someone who has been in the field for over 15 years and who has attended plenty of conferences, I have to admit to being pleasantly surprised and highly intrigued throughout. I have to thank the presenter for providing insight on how music, language, and the brain work together, all of which leads one to consider alternative methods to improve the knowledge, skills, and abilities of interpreters. Although we can always find something new to learn, it is delightful when information is imparted in such a way that the attendee walks away reinvigorated and ready to seek new challenges. Kudos to Ms. Baer and Ms. Oakes, who collaborated on this one.

[Carola E. Green, National Center for State Courts]



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TRANSLATION WORLD IN TORONTO

Alexander Raïnof

The Translation Summit Advisory Council's stated mission is "to provide a vehicle for cooperation among organizations concerned with language translation and interpretation, to foster the following mutual objectives: 1) strengthening the profession, 2) promoting awareness and image of the career, and 3) informing buyers on how to obtain appropriate translation services."

Current TSAC members are twelve organizations (each with a representative on the council) and three members at large. NAJIT/SSTI is an organizational member, together with associations such as MLA, ACTFL, ATA, AILIA, NVTC, and TISA. Since its inception, one of TSAC's guiding principles has been to include among its stakeholders representatives from government agencies, the business sector, translator and interpreter associations, and academe.

At the 2008 annual meeting in Orlando, held just before the ATA meeting, the AILIA (*Association de l'industrie de la langue*, the Language Association Industry), the Canadian counterpart of TSAC, joined. At that meeting, it was decided to hold a joint TSAC-AILIA meeting in Toronto in 2009.

Thus, *Le Monde de la Traduction 2009*, **Translation World 2009**, was born. Representatives from the four sectors mentioned above, all of whom were members of TSAC or AILIA, assembled in Toronto on May 11 and 12, for what turned out to be one of the best organized and most fruitful meetings this writer and participant has had the pleasure to attend. In years to come the ramifications of this gathering no doubt will prove its importance.

The venue for the encounter was the Toronto Hilton, an excellent downtown location; and it must be said that Toronto put on its best spring garb for the occasion — sunny skies, with delicate and elegant tulips creating a symphony of multicolored notes.

Presentations involved all the main translation and interpretation organizations in Canada and the U.S., as well as some from Europe. All sessions were good, and some were excellent. Topics ranged from management models to curriculum development; trends in translation and interpretation; the impact of legislation and policy; assessment and standards; as well as social, historical, and philosophical considerations.

NAJIT and SSTI were well represented. Christina, from headquarters, with her usual efficiency, had mailed a box of NAJIT materials to Toronto (*Proteus*, position papers, the Scottsdale conference program, membership applications, etc.), which the attendees found particularly useful — not a scrap was left over. Numerous comments regarding our printed matter were very favorable.

I gave a paper on "Thematic and Interactive Approach to the Teaching of Translation and Interpretation." Dr. Lois Feuerle spoke about the "Future of Interpretation: Trends, Projections, and Visions," and Dr. Michael Piper discussed distance learning in the fields of translation and interpretation. The three papers were well received. Professor Piper and I also chaired several sessions.

The distinguished role NAJIT plays in the profession, and the authority and respect it has earned, were clear and gratifying at this conference. The Canadian and U.S. translation and interpretation organizations in attendance did not spare their praise and high regard for the work we do.

Some important projects and decisions involving the profession were discussed in Toronto, two of which involve North America and Europe.

Having already joined forces with AILIA from Canada, TSAC discussed the possibility of bringing Mexican translation and interpretation organizations into the partnership, thus giving the council a North American scope. The project would open the door for TSAC and partners to represent FIT (*Fédération Internationale des Traducteurs*, International Translators Federation) in North America. FIT, which holds a world conference every three years, will hold its next conference in 2011 in San Francisco. The last one was held in 2008 in Shanghai (see *Proteus*, Winter 2008-2009 issue).

Dr. Erik Hertog, professor of cultural studies and conference and public service interpreting at Lessius University in Antwerp, Belgium, shared with us a promising project which would bring together twenty-seven countries comprising the current European Union in order to form a European judiciary interpreters association. The association might be similar to FIT in format and governance, and might incorporate some NAJIT features. We hope to see Professor Hertog at our annual conference in 2010 in Florida, and to receive a detailed progress report of the project.

Special thanks go to Gonzalo Peralta, the President of AILIA, for organizing a splendid conference, as well as to Professor Alan Melby of Brigham Young University, for making the conference possible by coordinating many of its aspects. Lola Bendana, the director of MultiLanguages Corporation, and her staff are also to be congratulated for the magnificent job they did.

The Toronto meeting made it clear that important developments are taking place in North America and Europe in judiciary, medical, and community interpretation. Given NAJIT and SSTI contributions, we will continue to have a front row seat in learning of future professional developments.



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NAJIT ADVOCACY IN ACTION

July 13, 2009

Hon. Herbert Kohl
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510



Re: S. 1329 to authorize the Attorney General to award grants to State courts to develop and implement State courts interpreter programs.

Dear Senator Kohl:

On behalf of the National Association of Judiciary Interpreters and Translators, a professional association of language specialists in the legal interpreting and translation field, we write in support of S. 1329 to authorize the Attorney General to award grants to states to develop and implement state court interpreter programs.

Court interpretation is a highly-skilled profession requiring specialized training and experience. Even bilingual individuals who speak languages at a high degree of fluency are not qualified thereby to provide legal interpreting or translation services in judicial or quasi-judicial settings. In a courtroom, language and the law combine to demand excellence and full command of technical language, nuance, register, and vocabulary. In addition, there are skills that an interpreter must possess to interpret in the modes of interpretation already established by federal statutes, court rules, case law, and the profession, including knowledge of strict ethical requirements in these settings.

NAJIT members interpret every day in federal, state, and municipal courtrooms, jails, prisons, attorneys' offices, law enforcement agencies, and in other justice agency settings. We strive to provide services of the highest quality and invest time, energy, and money in improving our skills because court interpreting is such demanding work. We see first-hand some of the challenges that our courts and other justice partners are experiencing in the use and misuse of interpreters.

NAJIT is aware that even states that have established otherwise solid interpreter programs have been hampered by diminishing or non-existent funds to recruit, train, test, and retain certified and qualified interpreters. Other states are still struggling to organize and provide reliable language services to the limited-English-proficient population. Still others have been forced to rely on a scattershot approach to providing language service, often using interpreters who lack linguistic competence or skills, or are unaware of courtroom protocols and their role and professional responsibilities due to lack of orientation and training. We encounter numerous cases

in which interpreters have not been provided, or where untrained bilinguals, friends, family members, bystanders and even children have been utilized because the court is either unaware of what constitutes minimum standards of competency or does not have funds to pay for competent interpreter services.

Haphazard use of untrained and uncertified individuals ultimately costs the judicial system much more than seed funding for court interpreter programs that include reliable standards and certification. The lack of competent interpreter services also negatively impacts the efficient administration of justice and affects the court's ability to function effectively. The use of untrained and uncertified individuals as interpreters has resulted in cases being reversed, dismissed, re-tried or being brought to conclusion with reduced charges—all at considerable cost to the courts and the public.

The United States is a diverse country. Every day, thousands of citizens and residents who have not yet mastered English come in contact with a judicial system that they cannot fully understand nor effectively access due to language barriers. We are well aware that this diversity poses unique challenges in providing effective delivery of government services, particularly in the courts.

The continuing shortage of qualified interpreters has been widely reported in the media. Many have expressed their concerns about this shortage in legislative hearings. September 11, 2001, and other disastrous events have alerted us to our urgent language needs and the need to organize our certified and qualified interpreters and translators. Hurricane Katrina and other tragedies remind us of our deficiencies in this area. Yet, there have been few incentives and no funding to recruit, train, and test aspiring interpreters and/or to retain existing certified and qualified interpreters.

Serious communication problems not only affect people's rights, equal access, equal protection, health, life, and safety, but also our national security. Too many officials at the national and local levels miss the critical link between legislated interpreter and translator credentialing and our country's compromised ability to respond to national disasters. Only through legislation and appropriation can we improve access to services throughout all levels of local and state government.

For all of the above reasons, NAJIT commends S. 1329 for its recognition that court interpreter programs need support, and strongly urges its passage.

Sincerely yours,

Rosemary W. Dann, Esq.
Chair, Board of Directors,
National Association of Judiciary Interpreters and Translators

A LEXICOGRAPHER'S LAIR

REFERENCES WORTH THEIR WEIGHT IN GOLD

Dennis McKenna

The other day I got a call about my *Criminal Court Dictionary*. The caller waxed eloquent about the book, and for a few glorious minutes I forgot that I needed to take out the trash. But I could sense there was something else on the caller's mind. Indeed, after buttering me up, she came out with it. "Do you know anything about Thomas West's *Spanish-English Dictionary of Law and Business*?" I told her what little I knew. Appearing in 1999 for \$75 retail, it had a sterling reputation. In 2000, the *Proteus* reviewer stated: *Para la traducción de documentos jurídicos de España y Sudamérica, el diccionario representa un adelanto importante* (Sherr 2000, 1). Currently it's out of print.

"I found it for sale on the Internet for \$250, but they have to ship it from France," my caller gushed. "Do you think I should buy it?"

To some people, books are like romantic interests: if readily obtainable, they become too uninteresting to merit attention. For men, what makes a woman most desirable is often the hell he has to go through to win her over: a last-minute change of plans; an airline ticket to Paris to follow his elusive prey to a five-star hotel, where the hotel security guard politely invites him to leave before the gendarmes are called; an overwhelming desire to prove himself at squash, a sport he is completely unfamiliar with, to ingratiate himself with an overprotective father. All these seemingly insurmountable tasks are but small stones in the path of a would-be Romeo.

With books, it's much the same. I'll never know if my caller forked over the \$250 (plus shipping and handling from France) for a slightly tattered copy of West's 1999 reference work. But somebody probably did. Was it worth it? Beauty—or in this case, utility—is in the eye of the beholder.

This call reminded me of a title I myself was searching for. Unlike West's specialized reference work, the *Simon and Schuster International Spanish Dictionary* is a well known, all-round bilingual dictionary in use for the past 35 years. The *Manuel de traducción* by Juan Gabriel López Guix and Jacqueline Minett Wilkinson compares four major bilingual dictionaries (*Simon and Schuster, Oxford, Collins and Larousse*) and concludes that of the four, *Simon and Schuster* has the most entries. It's also the one with the most technical terms, and the only one with abundant references to American culture: "Incluye asimismo palabras poco frecuentes y numerosos americanismos y referencias culturales estadounidenses. Esta característica se debe sin duda al hecho de ser el único de los cuatro realizado en Estados Unidos y reviste gran importancia puesto que es un aspecto menos tratado en los demás" (López Guix and Wilkinson 2001, 311). Over the years, I have more often than not found what I was looking for within its covers, and that's high praise for a bilingual dictionary. My copy is battered and frayed, ready for retirement to the recycling bin. I'd love to replace it with a digital copy or new paper edition. So finding another copy of

this dictionary is a priority—first, because I need it, and secondly, because I want to find out what happened to it. High-quality reference works don't just disappear into thin air, do they?

First stop was to my local independent bookseller, a friendly place that serves coffee and has two humungous floors to entice the bibliophile in all of us. I checked the shelf in the Spanish section, where I saw everything except what I was looking for, and then asked at the information desk. *Nada*. Next I checked with the chain stores nearby, Barnes and Noble, Borders: zilch. Apparently, any further investigation would have to be online. No more wandering through the stacks of favorite haunts. This got me thinking about why brick and mortar shops are struggling, with even large chains on the edge of bankruptcy.

A bookseller friend who sells his wares at translator and interpreter conferences tells me that at the end of a conference he's often missing a book or two—usually among the most expensive titles he carries. And he's not alone. One former New York bookstore manager bemoaned the professional rip-off artists: "Some thieves have special pockets made in coats or jackets to hold what we term in the trade a 'pocket of books,' that is, five or six copies of a title. These men are slick. They wait for an opportune moment and are in and out, often with as much as \$500 to \$1,000 of books at a clip. Often they enter a store with two sturdy book cartons. It's easy to pack up an entire display in less than a minute and run out, alarm system and all." Among their favorite titles was *Webster's Collegiate Dictionary*, apparently because these tomes are easily sold to the many first year college students at impromptu bookstands around the city. Other booksellers confirm that thieves operate with lists of "most wanted" books. The *Times* of London recently observed, "Certainly, reference books feature strongly in our most-stolen top ten" (Ahmed 2009). There the *Oxford Dictionary of English* was on the current list of most pocketed books, all the more remarkable because it measures 11 by 8.5 inches and weighs 6.6 pounds.

Reference books are expensive to develop, given all the research that goes into them, not to mention their sheer size. Their intended market is often the very people who have the least money, i.e., students, who may be tempted to swipe high-priced books they consider vital to their education.

Carlos Ruiz Zafón's novel *La sombra del viento* describes a different kind of book thief. This one is a shadowy figure with a badly scarred face who attempts to obtain the last known copy of a book—in order to burn it. The story is based on the unlikely scenario that in the labyrinth of streets in downtown Barcelona lay a *cementerio de libros olvidados* (cemetery of forgotten books), the last remaining repository of rare or out-of-print books. Aside from being a great read, Ruiz Zafón's book shows how hard it is to save a book from oblivion.

The Royal Library of Alexandria in ancient Egypt, a collection of works from about 283 BC to perhaps as late as 640 AD, was believed to house half a million papyrus scrolls from Greece, Persia, Assyria, India, and Egypt — virtually all the ancient world's knowledge of geometry, philosophy, alchemy, and religion. The library's founder, ruler Ptolemy I Soter, ordered his soldiers to board all ships that docked at Alexandria, then a key trading point between East and West, and to seize any book onboard. The texts were then dutifully copied by a team of scribes and scholars. The original would be kept in the library's permanent collection and the copy returned to the ship.

This method of amassing a vast collection by force reminds me of Google's recent foray into digital publishing. Google has now scanned over one million books, often without the full consent of copyright holders. Naturally, not everyone has been thrilled by this sudden unfettered access to book content. A large number of authors, publishers, and book industry organizations sued Google to stop online viewing of their works, and Google reached an agreement with them in October of 2008.

In announcing the settlement, Google stated that until now, Google Book Search only showed bibliographic information and up to three snippets of text for in-copyright books contributed through the Library Project. If a user searched for a topic and found a relevant book, in some cases, all that would appear were a few lines of text related to the search. After this agreement, readers in the U.S. will be able to preview out-of-print works to help them decide if the book is something they want to buy. Rights-holders of in-print works can authorize preview through their participation in this agreement or through the Google Partner Program. In addition, consumers will have the ability to purchase online access to many in-copyright books for online reading, highlighting, limited printing, and other potential features. These features will be available for all in-copyright, out-of-print books unless the rightsholder chooses to deactivate these features, as well as for in-copyright, in-print books if the rights holder chooses to activate these features (Google, 2009).

And so from the Royal Library of Alexandria to Google Book Search, knowledge has been preserved, first by a ruthless ruler of the Mediterranean, now by a ruthless ruler of the Web. The Alexandria library survived for several centuries before it was burned (although exactly who was to blame is a historical mystery). Hopefully, Google Books will preserve modern out-of-print books for many more centuries, making the Web useful for something other than Facebook and the latest celebrity gossip.

Some months after beginning my quest to find the *Simon and Schuster*, I mentioned my search to the editor of this publication. Until this point, I had visited all the bookstores in my area and spent countless hours searching the web through Google, Yahoo and the new Bing (Microsoft) search engine. From our editor, I learned of AbeBooks (abebooks.com), a portal for independent booksellers. Formerly known as the Advanced Book Exchange, this is the premier site for used or out-of-print books. Their catalogue contains over 100 million books and includes booksellers in 57 countries. So I gave it a shot.

Upon entering my query, I received the following: "*Simon & Schuster's International Spanish Dictionary, English/Spanish,*

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Spanish/English, 2nd ed. Now republished with new cover as: Webster's New World International Dictionary of the Spanish Language (2004) (ISBN: 0028620135/0-02-862013-5)." So much for months of fruitless searching! I hightailed it down to my local bookstore and snapped up a copy of the newly baptized reference.

After that, I wrote to Thomas West to see if he could shed any light on his vaunted out-of-print tome. He responded that a new edition of the same title will be coming out, no firm publication date as yet. My inquiry was rewarded when he graciously shared a glimpse of the content, and if the whole is anything like the sample page I viewed, it will be worth its weight in gold. ▲

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> continues on page 18

EYE ON CALIFORNIA

STUCK ON THE FREEWAY?

The Road to Good Working Conditions in California

Silvia Barden

This first article inaugurates a new regular column focusing on interpreter issues affecting California, the state that uses the greatest number of interpreters nationwide. In each issue of Proteus, we will be looking at different aspects of collective bargaining, interpreter organization, interpreter administration, and the practice of court interpretation in California.

Interpreters in California regularly face challenges performing their job in a manner that meets the standard of accuracy necessary to provide meaningful access to limited-English-proficient (LEP) communities. Common problems are acoustic conditions in which an interpreter cannot hear, speakers overlap, or the speed of courtroom discourse is excessive, impeding complete interpretation. Sometimes complex problems present ethical issues as well. What should an interpreter do when ordered to perform duties in a manner that violates best practices, professional standards, or ethical norms? Should an interpreter seek to disqualify herself, or continue working under conditions that impede complete and accurate interpretation?

These problems are compounded by the fact that judges and attorneys often do not understand the difficulties interpreters face in performing their job. Addressing these issues has been an important goal for the California Federation of Interpreters (CFI) since its inception. While progress has been made in establishing contractual protections for interpreters, these protections alone are not enough. They must be combined with training and education of judges and attorneys about interpreters' needs. Also, interpreters need to be prepared to defend their contractual rights when faced with problematic working conditions.

In July of 2005, California's court interpreter employees, through CFI, their elected representative, bargained for their first memorandum of understanding with courts across the state. Though CFI originally sought to have one statewide bargaining unit, ultimately, a compromise was reached with the Judicial Council, which had originally wanted interpreters to bargain county by county. The Trial Court Interpreter Employment and Labor Relations Act divided the state into four regions of multi-employer bargaining units, which vary from 3 to 32 courts per region.

One of the main reasons CFI sought to limit the number of bargaining units was to maintain consistency in professional standards. Of course, bargaining benefits and job protection were high on the list of priorities, but interpreters made it clear from the start that they sought to perform their work in a professional manner. In each of the four contracts, we were successful in obtaining pro-

visions that acknowledge the importance of working in accordance with our code of ethics and the rules of court.

Some of the strongest language we obtained was in Region 1, which includes Los Angeles, Santa Barbara, and San Luis Obispo, and states the following:

The Parties agree that court interpreters will not be required to perform their duties in such a manner that would require them to violate the Judicial Council's Rules for Professional Conduct for Interpreters (currently Rule 984.4). An interpreter may not be disciplined for informing the Judicial Officer, in an appropriate manner, of conditions that impede their ability to perform complete and accurate interpretation or sight translation.

Team Interpreting: *The Court recognizes that interpreter assignments can vary in the demands made upon the physical and mental stamina of interpreters and that an interpreter may need to advise the Judicial Officer that he/she is fatigued and needs a break...The Court acknowledges that team interpreting is appropriate under the following circumstances:*

- (1) *for evidentiary hearings that require simultaneous interpreting and are expected to last more than 35 minutes;*
- (2) *or whenever an interpreter is required to perform consecutive interpretation for one hour or more.*

Pre-appearance Interviews; Review of Documents and Preparation Time: *The Court recognizes the value, where appropriate, of interpreters reviewing documents to familiarize themselves with terminology and context before interpreting in a case. The Court recognizes the right of interpreters to request to do so.*

This contractual language is a valuable tool to ensure that services are provided in an ethical and professional manner, enabling the interpreter to do his job with dignity.

Despite these gains, old habits die hard. CFI continues to work to educate our members and any interpreter who inquires about how to best apply these contract provisions. We still have a lot of work to do in educating judges and attorneys about team interpreting, pre-appearance interviews and myriad other issues.

Education of the bench and bar is something we can all strive toward, whether we are new to the profession or veteran interpreters, independent contractors or employees.

[For further information, please see: www.calinterpreters.org] ▲

GETTING DOWN TO BUSINESS

MAXIMIZE YOUR FREELANCE INTERPRETING CAREER

María Cristina de la Vega

Having just returned from NAJIT's 30th annual conference, I feel inspired and invigorated to see how much our profession has evolved over the past three decades. It occurs to me that this would be an opportune time to focus on the structural aspects of our business, to learn how to be more successful. Since I have managed my own LSP for 35 years and am a newly-minted MBA, I am confident I can make a solid contribution in this regard. This new regular column on business practices will be an on-going effort that will depend on your interests and feedback. Please contact me via the NAJIT listserv so that I may take your comments into consideration for any future articles.

For this first column, I will enumerate various fundamental concepts. While they may be elementary, some of you may not have acted upon them yet.

- Your bona fides: its imperative to differentiate yourself by striving to obtain all pertinent certifications offered in the field. It is a guarantee for our clients that we have gone the extra mile to ensure that our qualifications meet industry standards. At a minimum, you need to obtain the certification or accreditation offered by the National Consortium; and if you are a translator, obtain ATA certification. If you are unsure whether your skills are sufficiently honed to pass these tests, several universities as well as qualified individuals offer courses and workshops. Attend as many of these as you can fit into your budget. If you think it's overkill to prepare for the Consortium test, the additional training will certainly be useful for either the federal examination offered by the Administrative Office of the U.S. Courts or the NAJIT certification, not to mention your general performance. (On a personal note, I just took the NAJIT exam and found it very comprehensive. It was useful to prepare with GRE workbooks. Having passed the federal certification in 1982, I honestly don't remember enough to compare its level of difficulty to that of the NAJIT credential.)

- I am a firm believer in joining industry associations regardless of your level of expertise. These memberships also enable you to differentiate yourself and obtain visibility. If you are new to the field, you will undoubtedly learn a lot from all the programs offered by these organizations as well as from your colleagues. If you are experienced, you can update your skills, learn what is new in the industry, meet colleagues to network with for additional business, and provide mentoring for others. You will derive even greater advantage and satisfaction if you volunteer to serve in these associations, since you will be positioned at the vanguard of the profession and be aware of cutting-edge trends. Obviously, NAJIT and ATA are the primary associations

in our field of endeavor, but there are other state, regional, and international language organizations that you might research to see if they fit your purposes and aspirations. Suffice it to say that it's not enough just to belong in name to these associations. To get the most from your investment, research the benefits they offer. Obviously, there will be a list of members to interact with, and committees to join. NAJIT's listserv, for example, allows you to contact a large number of professionals throughout the country to discuss pertinent issues and needs. Annual conference and workshops are offered at reduced rates to members. In every issue of *Proteus* there is a complete listing of NAJIT benefits. The recent conference in Scottsdale was a very enriching experience for me personally as well as professionally, despite the fact that I've been in this business for over three decades.

Here are some other suggestions not usually mentioned in language publications.

- As a freelancer, you need to have certain legal documents in place to protect yourself in a number of common circumstances. You must formulate collection policies and procedures and carefully adhere to them to ensure a steady revenue stream. Make sure to have an attorney who can take delinquent bills to court. For example, with the help of an attorney, you need to draft a service agreement to send to any client who requests services. It must clearly state your billing terms, so that if payment is not received you can send an invoice for collection, with the client being responsible for attorney's fees. These terms should also be reflected on your invoices, in addition to the interest rate to be charged on past due amounts. If you don't have this, it is often more expedient to write off a bill that is hard to collect, because of what you will have to pay the collections attorney — especially if the invoice is for a modest amount.

- If you are a translator, make sure you have appropriate insurance to cover your work, such as an errors and omissions policy. Both NAJIT and ATA offer special rates to the membership for such a policy.

- If you are a translator, acquaint yourself with available, user-friendly software, in addition to stock-of-the-trade programs like *Trados*, *Déjà Vu* and others. There are simple programs such as *Quick Books* to handle your billing and finances. If you are not computer-savvy, your local colleges and universities offer diverse computer courses, such as working in Excel, which comes in very handy for quotes and managing finances. There are general business courses to bring you up to speed on sales, customer service, accounting and other categories which will impact your business.

ITEMS OF INTEREST

Hispanics and Criminal Justice

The report, "Hispanics and the Criminal Justice System: Low Confidence, High Exposure," is available at the Pew Hispanic Center's website, www.pewhispanic.org. The Pew Hispanic Center, a project of the Pew Research Center, is a nonpartisan, non-advocacy research organization based in Washington, D.C., and is funded by The Pew Charitable Trusts.

[Thanks to Christina Courtright.]

Italian Courts

At present there is no such thing as certified court interpreters or translators in our country, unfortunately anyone who can speak a foreign language can be appointed, even for criminal cases at court. As coordinator of the National Commission for Court Translators and Interpreters of AITI, I can tell you that our association has been working on certification and recognition as professionals for more than ten years, but the Ministry of Justice doesn't seem very interested in the issue. The pay is so low (4 euros per hour) that professionals flee from courts and work for private institutions or clients. I must say that there have been changes, though. Prosecutors more and more look for interpreters who belong to a professional association. Payment depends on the ministry and according to law, pay can be doubled, but not exceed that. I can tell you it's a very wearing task but we are getting positive results a little bit at a time. We hope for the best!

[Flavia Caciagli Conigliaro, President AITI-Sicilia, National Commission for Court Translators/Interpreters. NAJIT member]

A LEXICOGRAPHER'S LAIR *continued from page 15*

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GETTING DOWN TO BUSINESS *continued from page 17*

■ Stay current on market trends and information. An easy way is to sign up for Google alerts on the subject of interpreting or translating. Subscribe to the free newsletter from the Common Sense Advisory, a research and consulting group in Massachusetts that specializes in issues dealing with language, globalization, and international business.

■ Take advantage of as many electronic tools as you can, such as PDAs on which to load dictionaries that can be carried to court (without weighing you down), as well as glossaries from your online research, to keep handy in your device.

■ Finally, subscribe to free online business networking tools such as LinkedIn, where prospective clients can easily look you up by Googling your name. You can also send prospective clients a link to your profile. For help in publishing your profile and developing your network, read Guy Kawasaki's tips on using LinkedIn.

I hope to have stimulated your interest in this introductory article in a new regular column, and look forward to feedback for subsequent ones dealing with the business aspects of our profession.

[The author holds an MBA, is a federally certified Spanish interpreter, a conference interpreter, as well as co-owner of ProTranslating in Miami.] ▲

WEBSITES OF INTEREST

www.ted.com Good source for videotaped speeches, ideal for practicing simultaneous with topical subjects in technology, entertainment, and design.

<http://www.worldlii.org/> World Legal Information Institute. 894 databases from 123 countries and territories via the Free Access to Law Movement. [Thanks to Paul Merriam.]

<http://www.geonames.de/> Countries of the world, with flags, national anthems, language info.

<http://cdextras.cambridge.org/VocabTrainer/intlegalenglish/> Coursebook by Cambridge University for International Legal English Certificate, comes with exercises and games! [Thanks to Odile Legeay.]

www.brennancenter.org/ The non-partisan public policy and law institute at NYU recently published a thorough report by Laura Abel on language access for civil litigants in 35 states. Click on "Justice" and follow the link. (An article describing the report, "Study Finds Gaps in Aid for Non-English Speaker in State Civil Courts," appeared in the *New York Times* on July 4, 2009.)



Editors' Note

As of the Fall 2009 issue, references in *Proteus* articles will be listed in Chicago Manual of Style format. Editors have changed the notation style (previously APA) for general use and reliability. Authors are encouraged to consult www.chicagomanualofstyle.org when formatting their notes. ▲

MEMBERSHIP BENEFITS



NAJIT's activities are supported by membership dues and member donations. While there are no formal requirements for joining other than an interest in legal interpretation and/or translation, most of our members hold professional credentials such as federal and/or state court interpreter certification, national judiciary interpreter and translator certification by NAJIT, interpreter certification by RID (Registry of Interpreters for the Deaf), translator certification by ATA (American Translators Association), approval by the U.S. Department of State (for escort, seminar, or conference interpreting), and/or other credentialing by government agencies or international organizations.

Anyone who shares NAJIT's interests and objectives is welcome to join. Our membership categories are: Active, Associate, Corporate, Corporate Sponsor, Organizational, and Student. Please refer to our website for a full description of the membership categories and fees, www.najit.org.

The benefits of membership are many. When you join, you will enjoy, among other things:

- Full listing in NAJIT's *Online Membership Directory*
- Subscription to *Proteus*, NAJIT's quarterly newsletter dedicated to court interpretation and legal translation
- Subscription to CyberNews, NAJIT's automatic e-mail updates on training opportunities, meetings, and other matters of professional interest
- NAJIT position papers on topics of critical interest to the profession
- Electronic access to NAJIT publications, including archived materials available at the Members' Portal
- Right to use the NAJIT logo on your business card
- Reduced-rates for language-specific interpreting and translation skills-building workshops, including preparation courses for certification tests
- Access to reduced-price professional liability insurance and disability insurance
- Access to required continuing education sessions at reduced rates
- Membership registration rates for NAJIT conferences and for regional and local workshops



- Right to vote and hold office (active members only)
- Opportunities for committee membership and participation in NAJIT special projects
- Opportunity to chair committees and to be actively involved in NAJIT decision-making and long-term planning
- Participation in NAJIT's lively and informative members' listserv, where members share expertise, information, and resources. Through this e-mail discussion list, members exchange terminology, discuss transcription and translation standards, and confer on ethical and professional dilemmas and association matters.
- Active involvement in state and national legislative matters and issues affecting the community of interpreters and translators
- Opportunity to present at NAJIT conferences, workshops, and training events
- Networking and collegial relationships
- Participation in a national and international network of professionals
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I am an interpreter translator freelance instructor
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Check here if you have ever been a NAJIT member. Check here if you do NOT wish to receive e-mails from NAJIT.
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I certify that the above information is correct and accurate to the best of my knowledge and belief. I agree to abide by the NAJIT Code of Ethics and Professional Responsibilities.

Applicant's signature _____ Date _____

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Dues	\$105	\$85	\$40	\$300	\$160	\$115
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TOTAL	\$140	\$110	\$50	\$400	\$260	\$180

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