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INTERPRETATION IN THE ISRAELI LEGAL SYSTEM

Shira Hefer

This article examines how the Israeli courts deal with the 'translation-dependent.' Since the proper conduct of trials rests, first and foremost, on what is said in courts before judges (Israel has no jury system), language is a vitally important tool. A study conducted in 2005 sought to examine how the Israeli legal system handles interpretation, and what in fact happens to non-Hebrew speakers in the Israeli legal system. Field research indicated a very large number of misunderstandings between witnesses and the court. A deeper examination shows the reasons for the country's generally poor quality interpretation service.

Introduction

On June 21, 2005, I was present in the courtroom during a criminal case (Grievous Crime File 1184/04) in the Tel Aviv District Court. The District Court, one level below the country's High/Supreme Court, tries serious cases and also functions as an appellate court from courts of first instance. The main witness for the prosecution was a new immigrant from Ethiopia and his testimony was crucial to the three-judge bench that was to reach a verdict in a case of two persons accused of murder. Since the young man did not speak Hebrew, the court called for the services of an interpreter.

The "interpreter" who was brought in was herself a new immigrant from Ethiopia. She was working as an interpreter as part of her National Service. After questioning, it became clear that she had not been trained as a court interpreter (nor as any other kind of interpreter), had no knowledge of legal terminology, and did not even have full command of the Hebrew language. Inevitably, faulty communication between the witness and the court interfered with the proper conduct of the case, and the participants in the

case suffered as a result.

Every day, people who are "translation-dependent" (Shlesinger, 1993) come before the various courts in the State of Israel. These people do not have sufficient command of the Hebrew language to understand what is going on in their cases. Their full participation in such cases depends on an interpreter.

In 2005 I conducted a survey to examine the situation of interlinguistic interpretation in Israel's courts (Hefer, 2005). This article is based on that study. The method I used was: first, to check any previous research on the subject; second, to conduct interviews with judges of the Tel Aviv District Court. Following the disappointing findings of these two stages, I delved deeper, looking at the law and the entities responsible for implementing it. I then examined whether or not the law was being implemented. My research involved interviews with the Courts Administration (the equivalent of the AOC, or Administrative Office of the Courts, in the U.S.), with the CEO of the translation company that provides interpretation services, and with the interpreters who actually perform the work. My main argument is that the case described above, and many other similar cases, are the unavoidable outcome of a system in which there is no professional in charge of interpreting in the courts.

Prior Research

Very little research has been done about court interpreting in Israel, whether by academia or the judicial system itself. Moreover, at the time of my study, no statistical data had ever been collected for the purpose of evaluating the courts' needs or for determining how interpreting should be organized by the system. Mine is the first academic study to empirically examine both the foundations on which the system operates as well as the relationship

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Message from the Chair

Since I last wrote, NAJIT has made exciting changes and is adding new membership benefits, as I will be describing here.

On September 1st 2007, NAJIT's open listserv was switched over to a members-only email discussion group. Before the switchover, only 104 NAJIT members were subscribed. As of October 15th 2007, 238 NAJIT members have subscribed, with more members continuing to subscribe daily.

The NAJIT board has contracted with a new administrative management company, Alliance Management Group (AMG). As of October 1st 2007, NAJIT headquarters is now located in Washington D.C. Headquarters will provide us with the customary services provided by administrative management companies, including bookkeeping, financial reports, conference registration, processing new memberships and membership renewals, responding to general questions via e-mail and phone, and providing staff support at our annual conferences. Additionally, headquarters will be providing new benefits that are worth highlighting. With our operations now based in Washington D.C., NAJIT will be readily available and visible for advocacy and PR work with government agencies, non-profits and other public interest associations. Headquarters will provide a private extension for members to contact our Executive Director Andy Ozols or me regarding matters separate from administrative services. AMG also has a conference room available for the NAJIT board, SSTI board and committee members to use when in DC conducting NAJIT-related business.

Robin Lanier, CEO and President of

AMG, is currently serving as our administrator while she learns about NAJIT and trains her staff on the language industry and NAJIT's specific administrative needs. I've had many conversations and e-mails with Robin, and find her to be professional, conscientious and caring about providing excellent service to our members. (She also has a great sense of humor, which helps when our agenda gets full.) To read more about her background, please refer to page 16.

Two years ago, we were given the task of looking into additional membership benefits. NAJIT members had expressed interest in obtaining professional liability (errors and omissions) insurance. We hit many dead ends: some companies were asking way too much to create a program because they didn't really have one tailored to our type of industry and others had exclusive programs with other organizations which weren't available to us. However, we made one last attempt, and I am very pleased to announce that through Lloyds of London, NAJIT has obtained coverage for our members that is tailored specifically to the risks we incur as judiciary interpreters and translators. As of this writing, we are putting the finishing touches on the program, which should be ready to roll out in the near future. Coverage will include spoken and sign language interpreters, translations, and transcription work. For more information about this unique Professional Liability insurance, please check our website often.

Members have also requested help in dealing with instances of non-payment for services rendered. Fortunately, NAJIT has been able to obtain a special collections program from Dunn & Bradstreet. As of this

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NAJIT's New Headquarters

Effective October 1, 2007, NAJIT has retained the services of a new Association Management Company, the Alliance Management Group in Washington, DC.

All future correspondence and phone calls should be directed to the new headquarters office:

The NAJIT website and office email address remain the same.

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EUROPEAN UNION LAW

The Journey of a Proposal re: Language Services in Criminal Proceedings

Nancy Schweda Nicholson

The European Union is currently comprised of twenty-seven Member States. The most recent additions, Bulgaria and Romania, joined in 2007. The EU is guided by a basic and seminal document, the European Convention on Human Rights, which enshrines individual liberties such as freedom of religion and the right to privacy, among others. Article 6 deals with interpretation services in criminal matters (<http://www.hri.org/docs/ECHR50.html#C.Art6>).

The expansion of the EU to include many former Soviet bloc countries has brought to light the fact that widely varying standards of human rights and personal freedoms exist in different Member States. In fact, so many human rights cases alleging violations of the European Convention are brought before the European Court of Human Rights each year that this judicial body is currently “seriously overloaded” and its “ability to respond [is] in danger” (Morgan, 2004a:7).

The European Commission, a body which “is given a right of initiative in the legislative process, proposing the legislation on which the European Parliament and the Council decide” (http://ec.europa.eu/atwork/basicfacts/index_en.htm#comm), is divided into 40 Directorates-General. The Directorate-General: Justice, Freedom and Security has a fundamental rights responsibility. Its mandates include: (1) setting common EU standards and facilitating “mutual recognition”; (2) promoting consistent compliance; and (3) instilling greater confidence in Member States’ judicial systems (Council Framework Decision, 2002:8; Morgan, 2004b).

On April 28, 2004, after many years of meetings and numerous background reports, the European Commission issued a “Proposal for a Council Framework Decision” (PCFD) on certain procedural rights in criminal proceedings throughout the EU (COM [2004] 328). (See Keijzer-Lambooy and Gasille 2005 for a detailed timeline of projects, meetings and publications that led to the creation of the PCFD, which will be referred to here as the Proposal.)

In November of the same year, an EU-wide conference in The Hague entitled “Instruments for Lifting Language Barriers in Intercultural Legal Proceedings” was sponsored by the AGIS project, named after a king of ancient Sparta (JAI/2003/AGIS/048). The conference goal was to provide a forum for an in-depth discussion of the Proposal and its provisions. I was honored to be one of two Americans invited to participate. In a presentation offering

an American perspective on the issues treated in the Proposal, I highlighted not only milestones in the history of court interpreting in the United States, but current challenges as well (Schweda Nicholson, 2005).

In this summary for *Proteus* readers, I will identify the articles in the original Proposal that relate to interpretation and translation services; review points made at the AGIS Conference; broadly trace the Proposal’s journey through the EU; and to conclude, I’ll discuss the current status of the document and its future.

I. Articles 6-9 of the Proposal

The Proposal’s major aim was to strengthen the protection of individual rights in criminal proceedings and, ultimately, to reduce the caseload for the European Court of Human Rights. Relevant articles include:

“Article 6: The right to free interpretation.” This article states

that a suspect “who does not understand the language of the proceedings” shall be furnished with “free interpretation” services. Article 6 stipulates that an individual will be provided with an interpreter so that he can communicate with counsel, and encompasses signed languages as well as spoken ones (PROPOSAL 2004: 26).

“Article 7: The right to free translation of relevant documents.” “Competent authorities” will decide which documents are relevant

(PROPOSAL 2004: 26).

“Article 8: Accuracy of the translation and interpretation.”

Member States are required to provide “qualified” interpreters and translators. If there is a problem with accuracy, Member States must have a framework in place to replace the language services provider with another one (PROPOSAL 2004: 26).

“Article 9: Recording the proceedings.” This article mandates that, when an interpreter is used, a recording be made as a “quality control” measure (PROPOSAL 2004: 26).

Relevant as well are Article 15 (evaluating and monitoring the effectiveness of the framework decision) and Article 16 (duty to collect data), as they both involve the results and impact of interpretation and translation services (PROPOSAL 2004: 18-20).

II. Highlights: AGIS Conference Discussions

Many Member State representatives objected to the Proposal in principle, believing that existing rights provided by the European

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Convention on Human Rights and case law were sufficient. Some vociferously opposed Article 9 on the basis that associated costs would place an overwhelming burden on Member States. Some delegates reacted negatively to the entire proposal from a financial perspective, indicating that they would expect significant additional funding from the EU in order to pay for these mandates. Much discussion revolved around how to determine if an interpreter is “qualified” or not. Once again, the widely varying norms for training, testing and certifying interpreters and translators were raised as problematic if the goal is to provide equally qualified language specialists throughout the EU. Some representatives from more advanced, more stable and wealthier Member States (those with well-developed training and certification programs, for example) expressed concern that, if implemented, the Proposal would actually lower standards. These individuals were assured that the Proposal’s goal was to provide minimum safeguards—a norm below which interpretation should not fall. Member states with additional protections in place will not be expected to abandon them if the Proposal is adopted.

III. Developments after the AGIS Conference

For a complete record of the various stages and committees through which a proposed law travels, the Procedure File is a helpful EU tool. (See: <http://europarl.europa.eu/oeil/FindByProcnum.do?lang=2&procnum=CNS/2004/0113>).

Over the past four and one-half years, the Proposal made its way to the European Parliament, the European Commission and the Council of the Union. When the Parliament issued its report in April of 2005, it approved the Proposal and added some amendments that strengthened the original. For example, Parliament stated that interpreters should be “certified” and listed in a national register. It also mandated that feedback on the Proposal’s implementation and effectiveness be gathered from professional associations of translators, interpreters and lawyers on an annual basis (Procedure File 12/04/2005: 2).

The Proposal passed through many other committees for the remainder of 2005 and much of 2006, engendering discussion in all venues. In May 2006, a revised Proposal prepared by the Austrian Presidency replaced the European Commission version. Soon after, a German Presidency draft replaced the Austrian one. The latter draft was fashioned much like the European Convention on Human Rights, and was more limited in scope than the original European Commission proposal. It focused on “general standards” and did not specify implementation procedures in each Member State. It also suggested that “work on practical measures” must continue (Procedure File 01/06/2006:1-2). From discussions at the AGIS Conference and my in-depth study of the Proposal, I believe that the “practical measures” encompass training, testing and certification, monitoring performance and effectiveness, and so on. These are all critically important matters that must be dealt with in the future.

The German text became the final version and was voted on at the Council of Justice Ministers in June, 2007. In all areas that involve the “third pillar,” such as “judicial cooperation in criminal matters,” a proposal must be approved unanimously. The vote,

however, was not unanimous and so, after many years of sweat and toil, discussion of the Proposal was halted (P. Csonka, personal communication, August 21, 2007).

Conclusion

Even though a watered-down version of the Proposal went to a vote in June of this year, it still was not accepted by all Member States. Significant reductions in the scope of the Proposal resulted in the elimination of Articles 8 (accuracy), 9 (recording) and 16 (data collection). Article 15 became Article 6, and included no specifics regarding evaluation or monitoring. It simply stated that “[t]he effectiveness of this Framework Decision shall be evaluated in accordance with the mechanisms to be established under the Treaty of the European Union” (Council of the European Union, 2007:15).

Yet there may be a glimmer of hope for a revived Proposal in the future. In June of 2007, the EU agreed it would produce a new Treaty to take the place of the failed EU constitution. One provision of the proposed legislation is to allow more decisions to be made by a majority vote, thus reducing the “unwieldy bureaucracy” that often prevents widely-accepted proposals from becoming laws (EU overcomes differences, 2007).

The long-range plan is for a new Treaty to be drafted soon and approved by all EU Member States by 2009. In the meantime, whether or not the Proposal will be revived (or further revised) is uncertain. Whatever the future may hold, it is clear that an agreement in this critical criminal justice domain cannot be implemented soon enough.

Given the time and effort devoted to the Proposal and its resulting failure to pass, I believe it will not be revisited until a new EU Treaty is in place. Several countries have remained steadfast in their opposition throughout the process. The only chance for the Proposal to be approved would be if a procedural reform permitted majority rule. I do believe, however, that some guidelines will eventually be adopted, although they probably will not be as all-encompassing as the original Proposal.

[The author is professor of linguistics and cognitive science with a joint appointment in the legal studies program at the University of Delaware, as well as an interpreter trainer and consultant.] ▲

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MESSAGE FROM THE CHAIR *continued from page 2*

writing we are also finalizing that program. For more information about the collections agency, please check our website often.

Both these programs are voluntary programs being made available to our organization as a member's benefit at a discounted membership group rate.

The NAJIT board continues to work diligently on our regular day-to-day NAJIT activities while adjusting to the transitional period. Our website will soon have a new look: we plan major reconstruction to assist members in navigating the site more easily.

NAJIT membership continues to grow steadily. This year our membership increased by 100 new members, bringing membership total to 1,200. Conference registrations have also increased steadily each year. Our financial status is healthy. Our visibility has increased. However, with increased visibility, our work has also multiplied. We are at a point where we need more hands on deck.

NAJIT is the largest and only judiciary interpreter and translators association with international members. Although the largest, we're still relatively small in numbers. In order to continue our strong advocacy for the profession, we must grow substantially. I cannot stress enough how important it is to continue to support and promote NAJIT. In furtherance of these goals, we are instituting a membership recruitment plan. Please see page 13. We need strong leaders, good writers, and energetic members to help us continue NAJIT's work. I encourage you to sign up for one of the committees or position papers by e-mailing me at chair@najit.org. Because I know most of you, I am very optimistic that we can reach our membership goals, fill our committees, create new position papers and continue our strong advocacy.

So get active... your ripple combined with all the other ripples can help build NAJIT into a strong voice for the judiciary interpreter and translator.

Isabel Framer, Chair
NAJIT Board of Directors

**EUROPEAN UNION LAW** *continued*

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ISRAELI LEGAL SYSTEM *continued from page 1*

between what the system is and what perhaps it ought to be.

The Judges' View

In 1990, Judge Vardimus Zailer, then Presiding Judge of the Jerusalem District Court, was quoted in a published interview as having commented that a substantial portion of the population was unable to understand the language used in the courts, and that the problem of court interpreting troubled him.

Judge Zailer is not the only judge to remark on this issue. Other senior justices, such as Yaakov Tirkel, Yitzhak Zamir and Mishael Cheshin have also expressed similar points of view on the topic.

In interviews conducted with three judges of the Tel Aviv District Court, the interviewees expressed strongly worded complaints about the quality of interpretation. They reported that the interpreters working for the courts are not professional, do not translate accurately, and tend to omit (i.e., not to render) many statements by witnesses. In addition, the interpreters very frequently identify with one of the parties and distort statements in that party's favor. According to the judges, these factors cause problems from which all parties suffer.

While asserting that the interpreters who appear before them are unprofessional, the judges were apparently unaware of the existence of any criteria defining what a professional court interpreter ought to be. Nor were they aware that the Courts Administration had formulated such criteria for the Israeli legal system, in a section of the invitation to tender [what in the U.S. would be called an RFP, request for proposals] for the supply of translation/interpretation services to the courts, which sets out what the company that is awarded the contract is required to provide. In other words, no one had notified the bench of these criteria, and in their day-to-day work, judges decide base their opinions of interpretation or translation quality on individual criteria.

In a paper on interpreting in Israel's courts, Ruth Morris shows that judges have no choice but to live with the failings of the system. Although a number of judges have tried to correct this state of affairs, their attempts have proved fruitless, and any real progress has been thwarted due to the unwieldy nature of the administrative system (Morris, 2003). Similarly, the judges interviewed for this study did not foresee a solution in the near future, and argued that any attempt to change the status quo would, in their view, be utopian.

We can therefore conclude that while in the judges' view the existing situation as far from desirable, and as not conducive to the professional conduct of proceedings involving non-Hebrew speakers, they also feel that their hands are tied in a system which fails to offer an adequate solution.

Statutory Requirements

Access to the courts is a fundamental human right: "... *the right of access to the court [...] is a supremely fundamental right. What is more, the upholding of this right is a necessary and essential condition for upholding all other fundamental rights.*" (Levin v.

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Levin, 1993). Judge Ilan Sofer (2002) goes on to make a connection between *the right to access to the courts* and a person's right to an interpreter in court, arguing that the linguistic gap must not be an obstacle to the realization of this right.

In the British Mandatory period preceding Israel's establishment in 1948, the country's courts employed an ad hoc approach: when a person who did not understand Hebrew was before a Hebrew-speaking court, the judges would improvise in any way they could. In his memoirs, Judge S. Z. Cheshin writes that the judges themselves would act as interpreters, or would be assisted by people who happened to be in the courtroom at the time.

Although more than 50 years have passed since the establishment of Israel's legal system, it appears that not much has changed, and yet the need is ever greater. The right of access to the courts gave rise to the enactment of a statute in Israel requiring the court to summon an interpreter where necessary in criminal proceedings. The wording of that statute is as follows:

The Criminal Procedure Law [Consolidated Version], 5742-1982:

- 140. Where the Court becomes aware that the defendant does not know Hebrew, it shall appoint an interpreter for the defendant, or shall itself interpret for the defendant.
- 141. Evidence not in Hebrew or in some other language spoken by the court and the litigants, adduced with the leave of the court, shall be translated by an interpreter, and evidence adduced as aforesaid shall be recorded in the transcript in Hebrew translation; unless the court orders otherwise; the recording of the translation into the transcript shall serve as prima facie evidence of the statements translated.
- 142. The interpreter's fee shall be paid by the State Treasury, unless the court otherwise instructs.

Note that this law refers to criminal procedure only. According to the Civil Procedure Law, the parties are responsible for paying the interpreter, based on the argument that the State is not a party to the civil proceedings.

However, the Criminal Procedure Law is itself couched in over-general terms. The section provides that in the absence of an interpreter, the judge may interpret, or may use any other means available to him. In other words, the law as presently articulated does not require that a language professional be utilized.

Implementing the Law

The entity responsible for implementing the statute is the Courts Administration. It was difficult to find out the exact year when this body began to outsource interpretation services by hiring the services of a private-sector company, but it was probably some 20-25 years ago. The Purchasing Department of the Courts Administration, a logistical entity in its own right, has issued a tender (Tender, 2004) every three years or so for bids to provide both interpretation and translation services to the country's courts. However, even a careful reading of the tender

documents fails to reveal the basis for the specific requirements to be complied with, let alone any specific wording relating to the provision of interpretation services. One thing is clear: the tender's requirements regarding the quality of interpretation and the level of expertise of the interpreters themselves do not meet the standards of a legal system which must be built on reliably interpreted testimony.

Interestingly, only Section 4 of the tender relates to translation, and it includes both oral interpretation and written translations. The rest of the tender addresses the commercial and legal aspects of the contract. The following is a summary of Section Four:

In a section entitled "Description of the Work Required," the services tendered for are faithful, reliable and quick translation services for the purpose of ensuring that all relevant persons understand what is said in court. Interpreters must have a fluent knowledge of both of the translation languages, and must be able to translate meanings in context; interpreters must have general knowledge in various areas: politics, economics, law, psychology, medicine, so as to be able to interpret in a reliable and precise fashion; interpreters must undergo training in order to learn basic legal terms, activities to be organized and paid for by the company; the interpreter must undergo security vetting as an essential precondition to commencement of employment, and the Courts Administration may, at a time prescribed by it, examine and test the interpreter's knowledge of the basic legal terms. The interpreting candidate must present a résumé, documents attesting to full secondary education and an Israeli matriculation certificate. The candidate must be present at three legal proceedings before commencing work and must receive written confirmation of such fact from the courts secretariat; and the candidate must produce recommendations from previous employers for whom the candidate provided a similar service.

The tender does not require that translators be professional. Instead, it refers to criteria which do not meet the usual standards. (The professional criterion is based on the requirements established by NAJIT, a professional association founded in 1978 in the State of New York, for those who specialize in interpreting and translating for the judicial system. The association has formulated professional criteria, including a code of ethics. Court interpretation studies frequently use the professionalism of this association as their benchmark.) Professional standards would require that an interpreter hold special qualifications in the field of court interpreting, subsequent to training in relevant legal terms and concepts, aspects of the legal process and rules of ethics. In this scheme, a court interpreter would, for instance, be aware of the need to render a witness's statements without omissions, additions or distortions; to maintain objectivity and avoid bias; and to refrain from intervening in the judicial process, either by giving advice to the translation-dependent person, or by providing explanations relating to the proceedings. The absence of these and many other requirements from the Court Administration's tender indicates that the Israeli legal system is not aware of many of the professional aspects of an interpreter's work. Inevitably, such a shortcoming cannot but cause obvious harm not only to the proper

conduct of judicial process, but also to the most fundamental right of the translation-dependent — having true access to the courts.

In response to the tender of 2003, issued for Israel's five jurisdictions, five companies put in bids. In January 2004, a company named "Protocol Office Services (1993) Ltd." won the interpreting tender for all five jurisdictions. This company had in the past provided cleaning services for the five judicial districts. Protocol received the entire annual interpretation budget (approximately NIS 3.2 million), in return for which it was required to comply with the conditions of the tender and provide interpreters to the country's court system. The questions are whether it did so, and whether the Courts Administration had any oversight to ensure that the conditions of the tender were fully upheld. In order to answer these questions, I looked at practices in the field by observing proceedings in courtrooms, interviewing interpreters, talking to Protocol, and speaking with all the people involved in this matter in the Courts Administration and the various "secretariats" or administrative bodies responsible for the day-to-day running of the different courts.

The Company and the Conditions of the Tender

My research found the following:

Contrary to the section in the tender which provides that interpreters must have fluent knowledge of both the languages to be interpreted, most of the interpreters do not have full command of the Hebrew language.

All of the interpreters stated that none of them had been trained by the contractor, at its expense, to learn basic legal terms, as required by another section.

None of the interpreters had been given any instruction regarding the translation of legal terminology, as is required of the contracting translation company.

Apparently, none of the interpreters specializes in any particular field, i.e., none is well versed in special terminology relating to fields such as medicine, economics or weapons.

All the interpreters stated that they had not been asked to show any documents attesting to their education, not even on acceptance for employment.

One section of the tender provides that a candidate who wishes to act as interpreter in a court be required to attend three court proceedings prior to commencing work. Interpreters informed me that none of them had been present at three proceedings; some of them had not even been present at one proceeding prior to commencing work.

All these deficiencies are the responsibility of Protocol, which is not, so far as can be determined, performing its contractual duties and functions. It would appear that every one of the sections of the agreement between Protocol and the Courts Administration is being breached. When asked in an interview about the linguistic level of the interpreters he employs, Doron Cohen, CEO of

Protocol, responded: "There is no need for interpreters who have a good knowledge of Hebrew, or who are specialists in a particular field, since the criminal cases relate to criminals and they speak in simple, everyday language. There are almost no cases where the specific terminology of a particular field is required knowledge."

Natan Sabo, in charge of the employment and training of Protocol's interpreters, told me that the interpreters are only required to present their résumés when accepted for work, and that the extent to which they are qualified for the job is examined in the field, by an interpreter who is also a dispatcher, known as an "on-call" interpreter. (This person, not necessarily a professional interpreter although with greater seniority than others, is called by the court to obtain interpreters from Protocol's list.) As for the level of service the company provides, the two interviewees claimed that a lack of complaints by the courts is an indication that Protocol is operating properly.

Another finding indicative of the attitude of the company management relates to the interpreters' conditions of employment. Since almost all are employed as freelancers, they do not receive salary slips and are not entitled to social benefits. In addition, their salaries are

low, they are not entitled to full refunds on travel expenses, and they must acquire other sources of income in order to make ends meet.

Interpreters employed by Protocol repeatedly stated that

their employer fails to provide solutions to problems relating to their employment, and that at best interpreters' requests are treated with contempt, when not ignored outright. Their employer's attitude makes interpreters feel exploited and helpless. They added that the translation company ought to at least assist them in integrating effectively into the legal system, by providing them with a glossary of legal terms, and a detailed explanation of their duties.

The Courts Administration and the Conditions of the Tender

To answer the question of whether the legal system does in fact check on the implementation of the tender's conditions, I looked next at the administrative mechanisms, from the national Courts Administration down to the "secretariats," or administrative bodies, in the different courts in Israel's cities. My study shows that there is no one in the organizational structure of the Courts Administration with responsibility for ensuring that the contracting company's obligations to the public are in fact implemented. Nor is there any such person in the various courts on a local level.

My inquiry revealed the following:

The person in charge of the translation budget and of drafting the tender documents in the Purchasing Department confirmed that there is no unit in her department which checks interpreting/translation quality. Her department is responsible for financial aspects only, and in her words, the manager of the Court Typists Department is the only person in touch with what goes on in the field. To the question of who drafted the require-

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ISRAELI LEGAL SYSTEM *continued from page 7*

ments of the tender (Israel does not have a body of court reporters. What passes for the record of legal proceedings held in the courts is a version typed “live” by a typist, in part dictated at the time by the presiding judge), she replied that she herself had, without consulting any professionals working in or researching the field of court interpretation.

The manager of the Court Typists Department does maintain contact with Protocol, but only regarding financial statements; she told me that she had not been made responsible for checking the quality of translations or interpretations in the field. When asked to whom that responsibility had been assigned, she said that in some cases, the judges inform the chief court clerks of their dissatisfaction, and the latter report to her, so that she can deal with the matter financially.

When the Administration was asked whether the State Comptroller (who also doubles as the country’s ombudsman) looks into the matter, the response was negative.

The Chief Clerk of the Beersheba District Court, who has held this position for many years, informed that he does not check interpreters at all. He made the point that not only did he not have the knowledge or the tools to do so, but also that it is not part of his job to test their level or even to come into contact with them. Only when complaints are received from judges, which he claims is a very rare occurrence, will he intervene to replace an interpreter.

Under the tender applicable during my research, the courts may conduct quality assurance tests of the interpreters supplied by the contractor at any time; however, no one in the system has been designated to do so. Confirming the view of his superiors, the Chief Clerk asserted that the judges are responsible for monitoring the quality of interpretations.

The Responsibility of the Judges

The Courts Administration adopts a passive attitude, in the belief that the authorization or disqualification of an interpreter are matters for which judges alone are responsible. Effectively, “so long as the judges aren’t complaining, everything must be in order.” Therefore, the responsibility falls entirely on an entity — the judiciary — which is separate from the administrative structure.

It is important to note that the administration has not given the country’s judges any clarification or information regarding the requirements in the tender, nor have the judges received any guidance for assessing the level of interpretation services. Clearly, the Courts Administration relies on the theoretical presumption that if a party has signed a contract, it must be complying with it.

To reinforce this last point, I will quote the spokesperson for the courts in response to a newspaper article by Liat Ron, which appeared in *Ma’ariv* on August 16, 1998, describing the problematic state of affairs:

The courts are unable to monitor or oversee the interpreters who are hired by the companies that provide interpretation services.

The professional who hires them is supposed to supervise their work based on his own accumulated experience. There have been a very small number of complaints in this regard, but we have received no input from judges or attorneys and, therefore, we see no problem with the level of interpretation services provided at present. There are Russian and Arabic interpreters available at the courts in Tel Aviv, and therefore the judges have not needed to call upon the public in the courtroom for assistance. A judge’s translation of proceedings occurs in very short segments only, where no other option is available. We trust the judges to exercise their discretion and not prejudice defendants’ rights to a fair trial due to proceedings being too cumbersome.

Conclusion

My research gives rise to the conclusion that courts in Israel are not treating the issue of interpretation with the requisite gravity. The company that works for the courts does not see its mission as a professional service; and the Courts Administration does not check the quality of the services received. The Courts Administration relies on the judges to evaluate interpretation services, but provides them no guidance in how to do so. In fact, judges do not have the means to evaluate interpretation work, and are forced to make

do with interpreters whose qualifications have never been tested, since there is no entity in the court system that considers itself responsible for testing

qualifications or monitoring performance.

What value can a defendant’s physical presence in a courtroom have, if he is not present mentally? As stated succinctly by Advocate Claris Harbon: “In the absence of interpretation, or where a translation is faulty, the witness is prevented from being mentally present at his own trial, and the other people involved in the case are unable to derive maximum value from his presence.”

In light of these findings, we may ask one final question: given that Israel’s judicial interpretation system is not at the required level, who is responsible? Where is the weakest link?

Prima facie, it would appear that a stringent mechanism to monitor the specific performance of the tender would change matters. But in the chain of procedures that makes up the interpretation system, we can find deficiencies in each of the links: there is no Basic Law ensuring access to the courts, the Criminal Procedure Law is vague and there is no provision in the Civil Procedure Law at all; the company that provides interpretation services to the courts is unprofessional and there is no designated professional in the Courts Administration responsible for language services. Given this state of affairs, it is not possible to point to only one weak link, the repair of which would improve the situation.

Therefore, the question that must be asked is rather: what is the missing link? The missing link in this scenario is a professional linguist in the administrative chain, who would have knowledge of the issues surrounding court interpretation and who could manage this area in accordance with professional standards, with a view to improving the quality of service.

Courts do not monitor or oversee the companies that provide interpreters.

In this paper I do not presume to suggest any one solution. My argument is simply that the interpretation system in Israel's courts at present is so weak as to be void of any professional value, and its practical efficacy is in grave doubt. Those who are dependent on interpreting services suffer each day. And it is undeniable that a justice system as a whole suffers if it receives incomplete or inaccurate information. This is a state of affairs that requires immediate change.

Epilogue: A New Tender

Originally, the tender for providing interpretation (and translation) services to the Israeli legal system was system-specific, i.e., the special tender was for the legal system only. In February of 2007, the tender for interpretation services for the legal system was suddenly replaced by a new tender with a much wider range of public systems to provide for, namely, all governmental ministries, presumably including such bodies as the Health Ministry, the Social Security services, etc. Protocol, the same company that has proven to be inept in providing interpretation services to the legal system (one of the many reasons being its lack of personnel), has been awarded the new tender, and is now the only company in the whole country to receive the entire budget allocated to language services in all public services. This has, of course, worsened the situation for the Israeli legal system and for those in it who are dependent on interpretation. The new tender does not address or even define the specific needs of legal interpreting; rather, it lays out general requirements for language services needed for public services. Moreover, there is scanty if any reference to professional requirements for interpreting; instead the provisions of the tender focus almost exclusively on the financial aspects of the contract.

At the same time that Protocol was awarded the new tender, in a case where an Amharic interpreter was required (Case Misc. App. 1135/07, Beersheba Magistrates Court, defendant: Demka Kapela, February 11, 2007), Judge Pablo Akselrad fined Protocol for failing four times in a row to provide an interpreter without previously notifying the court, thus causing the court to convene and cancel proceedings. "... I feel a great shame that the respondent appears in court, hears the judge talking, hears the lawyers talking, sees the record being written, while all he can do is to stare into the courtroom frightened, not having a clue about what is going on around him," said Judge Pablo Akselrod in response to poor performance by Protocol.

Protocol was ordered to pay court costs to the defendant and an additional sum to the state treasury for unprofessional behavior. If Protocol does not have adequate personnel to service the legal system properly, how does it intend to provide interpreters for a contract that has grown many times bigger in its requirements? Further deterioration in the system can only be expected.

Finally, a peek into the legal landscape in Israel. On June 21, 2006, Knesset member Eli Aflalo posed a parliamentary question

to then-Justice Minister Haim Ramon (<http://www.knesset.gov.il/plenum/data/04012306.doc>). A new Romanian immigrant had been detained in custody for over a month due to lack of an interpreter; Mr. Aflalo queried the Justice Ministry's position on the case: had the court investigated why an interpreter was not provided, and what could be done to prevent such a case from recurring?

The Justice Minister responded that a Romanian-speaking court employee referred to as a "legal assistant" (whom Mr. Aflalo later implied was a typist or cleaning woman) was used to interpret the proceedings, and so "the defendant's rights were not violated." Such an assertion clearly illustrates the Justice Minister's ignorance regarding the need for professional legal interpretation, indicating at best a cavalier attitude if he truly believed that "ad hoc" interpretation was a legitimate way of maintaining the rights of those dependent on interpretation.

The Minister added, however, that Protocol had acted in an irresponsible and harmful manner and that he doubted whether Protocol could be trusted in the future to provide interpretation services. In response, Mr. Aflalo reiterated that a defendant's rights had been infringed, and demanded that the Minister recuse Protocol from employment by the court system. This demand was never answered. A new Justice Minister is now in office. ▲



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ITEMS OF INTEREST

ATA President-elect Dr. Jiri Stejskal took office on November 2, 2007 at the American Translators Association's Annual Conference in San Francisco. Dr. Stejskal is President and CEO of CETRA Language Solutions.

PROFESSIONAL SOLIDARITY

Least Understood or Least Applied Tenet of the AUSIT Code of Ethics?

Merie Spring

Before we consider issues related to the tenet of the code of ethics regarding professional solidarity, it's important to have a clear understanding of what is meant by the term. The definition according to AUSIT (Australian Institute of Interpreters) is as follows:

Professional Solidarity

1. Support of Colleagues

- a) *Interpreters and translators shall support and further the interests of the profession and their colleagues and offer each other reasonable assistance as required.*
- b) *Interpreters and translators shall refrain from making comments injurious to the reputation of a colleague.*

2. Trust and Respect

- a) *Interpreters shall promote and enhance the integrity of the profession by fostering trust and mutual respect between colleagues.*
- b) *Any differences of opinion among interpreters and translators shall be expressed with candour and respect, rather than by denigration.*

Other codes of ethics include this tenet and can shed further light on additional facets of personal behaviour that demonstrate a practitioner's understanding and compliance with this guideline. Other definitions highlight the following:

- *Approach colleagues privately to discuss and resolve breaches of ethical or professional conduct through standard conflict resolution methods; file a formal grievance only after such attempts have been unsuccessful or the breaches are harmful or habitual. [RID 5.3]*
- *Assist and encourage colleagues by sharing information and serving as mentors when appropriate. [RID 5.4]*
- *It is incumbent on interpreters and translators to support and encourage the professional development of their colleagues. [International Criminal Tribunal for the Former Yugoslavia]*

We are all aware of what can be accomplished when people band together to achieve certain goals or objectives. This is professional solidarity at a macro level. A good example of this was the successful outcome of a Supreme Court case in 1981, *Wilkes vs. AMA* (American Medical Association). A group of 5 chiropractors, essentially with the backing of every chiropractor and chiropractic organization in the U.S., sued the AMA for violation of anti-competitive behavior in the health care arena. The Supreme Court ruled in favor of the chiropractors and fined the AMA.

What needs to be considered when individual practitioners need to apply principles of solidarity? At a micro level, considerations become more personal. Respect comes from understanding and accepting each other's needs, recognizing each other's qualities and contributions, and supporting each other's ideas and aspirations.

We may liken professional solidarity at the macro level to a magnificent home, beautifully landscaped. The establishment of practitioner associations such as AUSIT, ASLIA, NAJIT and RID have resulted in more training programs for interpreters and translators, ongoing professional development opportunities for accredited practitioners and academic pathways for further research.

At the micro level, however, if individual practitioners do not actively adhere to the many facets of professional solidarity, the overall profession can be undermined. As surely as tiny termites can destroy the interior of a glamorous mansion, so too can destructive behaviour of individual practitioners eat away at the soul of our profession. On the outside it may appear to be thriving and achieving great things—but what is happening at the grass roots level?

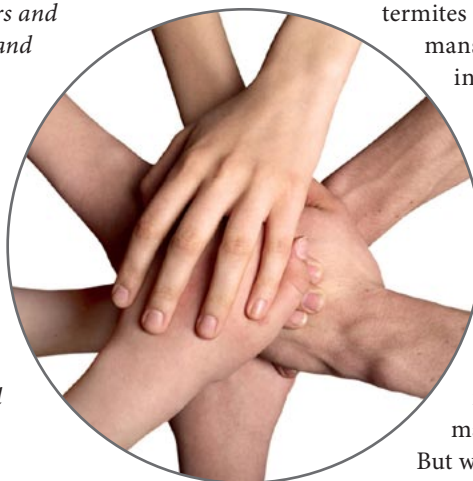
Most practitioners work independently of one other. Some have formed partnerships or set up companies while others work for agencies. Naturally there is competition for work. There is nothing intrinsically wrong with competition as it can promote initiative and 'thinking outside the square' to make our service more appealing to customers.

But we have to make sure that we don't lose the balance between competition and cooperation (Kofman, nd).

"Solidarity is based on a shared understanding of the importance of our work, a commitment to good will and a recognition that we can disagree on certain issues, leading to discussion and debate that can strengthen the growth and development of the profession." (Park, 2006).

"Cooperative experiences promote greater feelings of support and acceptance of peers and greater feelings of security and psychological safety; lower levels of anxiety about failure; more open and accurate communication of ideas and feelings; higher levels of trust; greater ability to take the emotional and cognitive perspective of others; and greater satisfaction from efforts to achieve." (Norem-Hebeisen and Johnson, 1981)

Interpreters are communication specialists, ensuring that cultural factors are included in the transfer of concepts between speakers of two different languages. At times however, as practitioners we may forget the impact our own cultural values



have when dealing with difficulties between ourselves and another colleague. “Members of individualistic cultures emphasize self-reliance, independence and mobility. Other characteristics include emotional detachment, competitiveness, and an emphasis on personal well-being and individual survival. In collectivist cultures, individuals tend to share resources, and to be supportive of one another. Their members are linked on the basis of equality, mutual support, cooperation, respect and caring.” (Nikelly, 2000).

Due to our own cultural heritage and environment, we may be challenged at the micro level to develop strategies to enable us as an individual to comply with the principles of peer support.

To examine these principles in actions, I prepared a questionnaire on professional solidarity and distributed it to an admittedly limited cross-section of the interpreting community in Australia. However, the answers are revealing, and I’m sure can be generalized to interpreter communities elsewhere.

Q1 From your personal experience, have you found that practitioners generally adhere to this tenet [professional solidarity] of the Code of Ethics?

(Responses included yes; generally they try; very few; and generally not.)

Q2 Have there been times when you have not felt supported by your colleagues?

(Answers here varied. One person said, “Yes, a lot of backstabbing and undermining are rife in our profession.”)

If you did not feel supported by your colleagues, why do you think this happened?

- Team interpreter took over and I felt redundant.
- Competition for supplying services, team interpreter divulging skills weakness in other interpreters to clients
- Jealousy and envy came to the fore
- Inflated ego
- Lack of understanding of my credentials relevant to the situation
- Not knowing me very well
- Some jealousy of skill difference which leads to running down other interpreter’s performance
- Agency told client I no longer worked as an interpreter. I think that was so they could book their own in-house interpreters.
- Lack of respect and regard for each other professionally

Q3 On reflection, have there been times when you did not provide collegial support for another practitioner?

(Responses here were both yes and no.)

If you did not support your colleague what factors influenced your decision?

- I failed to prompt my partner appropriately due to inexperience.
- I wanted to give feedback on the Auslan [Australian sign language] to English interpretation and suggest language more suitable to that register, but I was too uncomfortable, afraid she would think I was a “know-it-all.”
- May destroy harmonious relationship with the other interpreter.

- Often no time to give safe feedback or comforting support.
- The receptiveness of the colleague did not lend itself to offered support.

Q4 What principles do you believe are embedded in the tenet of professional solidarity?

- Respect for the profession
- Respect for others as human beings — “Walk a mile in my shoes.”
- Working for the clients, not for myself
- Unselfish work practices; responsibility to enhance the profession through positive working relationships
- Mutual respect and best practice
- Respect for the individual and full professional support for the individual on and off the job; straight talk, honesty, diplomacy and discretion
- Trust, respect, empathy, honesty, diplomacy
- Confidentiality, including making comments on other interpreter’s performance
- Acceptance, tolerance, cultural awareness
- Selflessness, a view of the bigger picture where the actions of a few can affect the reputation of the majority
- Loyalty, ethics, civility... there is also, in every professional association, the underlying notion of covering each other’s back
- Respect for the profession — conducting oneself in a mature manner — not making the profession look bad to consumers

Why do these principles provide a challenge for interpreters?

- I think because we often work on our own and don’t always see ourselves as ‘part of a profession.’ We also don’t seem to think that professional responsibility for our actions with colleagues is part of our job. Having to discuss or challenge a person with unwanted information is a skill not all of us have or learn to do well.
- It is a very competitive industry. People protect their own territory for financial security reasons. People protect their reputations, which includes giving lip service to ethics, because to admit to some latitude could result in a damaged reputation and a loss of work opportunities. In reality, ethics are generally interpreted with great flexibility — then no one is offended or put on the spot. I suspect there might be differences between the states.
- In my opinion the above principles are challenging because of personality, attitude, and differences in morality. The lack of shared understanding underpinned by training, education and ongoing professional development.
- Trust: If people don’t trust themselves, they tend not to trust others. Do we have a personal ethic of self-trust? The profession is small; situations limited, community close, so trust is paramount. We all know each other well as friends, not just colleagues.
- Empathy: Often interpreters do not have the skills or knowledge of empathetic listening and empathetic language.
- There is nowhere to vent difficulties or problems.
- It’s so easy to do our “own thing” and disregard rules and regulations because we often work in isolation, and fledgling interpreters have no mentors.
- Financial reasons rising out of a competitive marketplace. The cultural background of certain language groups also has a bear-

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PROFESSIONAL SOLIDARITY *continued from page 11*

ing on the behaviour of some practitioners.

- Because they can occasionally oblige them to understate their opinion for the sake of their collective image.
- We are at various stages in our emotional and moral development.
- There are disreputable practitioners in every profession.

Q5 While confidentiality, impartiality, objectivity are tenets most widely taught and spoken about, do you believe enough attention is given to the practical application of “Professional Solidarity” principles?

- Definitely overlooked — needs attention
- No, because most AUSIT members are new or newish Australians from various ‘community-oriented’ backgrounds, where being nice to each other and giving support is something learnt at a very young age. On the other hand, I am aware of the few (very few) people who are behaving unprofessionally in this regard.
- I am not sure this can be policed or taught. I believe within the various sub-groups within the profession this may be occurring. People coalesce because they have common values. I suspect these principles are more transmitted by osmosis. By actioning them and by one-to-one discussion, I think they spread and create a standard and solidarity within that growing group. Most businesses have regular staff meetings to discuss their performances, outcomes etc. of their particular area. This enables the staff to discuss problems and to clarify variations in approach, ethics, etc. As interpreters we meet only for workshops and social gatherings. There is no setting of expectations by or in a group that requires solidarity to achieve its goal. I prefer to go out of town to replenish my batteries, because there is less competition and thus more sharing.
- Up until now, I do not believe so. Professional solidarity is overshadowed by the other big three and has no focus. Often it comes back to who you are friends with and you get along well with, and just doing your job with the rest.
- No, not nearly enough. I think interpreters need training in basic communication for grievances e.g. how to make “I” statements, not “you” statements. How to empathise but not necessarily agree or give an opinion, i.e., basic counseling skills. The practice of humility will help.
- None is taught and out in the wide world; only a few interpreters model it successfully.
- No, practitioners are aware of it, but since demonstrating a lack of professional solidarity does not carry immediate consequences, it is probably less front-of-mind.
- I think that modern society is more aware of those principles and certainly pays more lip service than before. As far as putting them into practice is concerned, I suppose that it all depends on individual reactions and circumstances. But there is certainly more awareness of the right way to go about it.
- Yes, but it bears continued work.

Let’s consider some case studies that highlight the impact lack of peer support can have.

■ Assumptions

A well-known interpreter of many years’ experience accepted a contract with a certain service provider. Gossip and innuendo about the interpreter’s integrity and professionalism spread throughout the community. The interpreters who knew him did not provide professional or personal support, nor did they approach him to learn the facts surrounding his decision to take on the contract in question. During this time the interpreter felt professionally isolated, experiencing distrust and suspicion from his colleagues. This had a profound effect on him physically, mentally and emotionally. In time it was proven that limited and incorrect information had triggered his colleagues’ distrust and lack of peer support. Had the principles embodied in the tenet of professional solidarity been applied, a lot of difficulty would have been avoided.

■ Power Imbalance

A National Accreditation Authority for Translators and Interpreters (NAATI) paraprofessional interpreter with a qualification in counselling and social work was teamed with an interpreter accredited at professional level to interpret a counselling session. Although the NAATI interpreter had a higher interpreting accreditation, she did not have the same background knowledge and understanding of specific terms and processes used in this type of situation and, as a result, did not accurately convey some concepts from English to the LOTE [language other than English]. After the session was completed and the non-English speaker had left, the paraprofessional interpreter approached the team interpreter to discuss her observation. Although the paraprofessional interpreter chose her words very carefully, her teammate became extremely defensive, accusing her of being out of line — “What would you know anyway, I have much more experience than you” — and stormed off.

■ Lack of Humility

Students involved in the Diploma of Interpreting Courses in Australia are required to spend a certain number of hours observing experienced interpreters at work. They are to keep a log of ways various concepts are interpreted, how theory they have learned is translated into ‘real life’ working situations. With this in mind, one student noticed that an interpreter who had been doing an excellent job interpreted a specific concept inaccurately (the student knew this because the topic had been covered in class). After the seminar ended, the student approached the interpreter, complimenting her on the fantastic overall interpretation and then queried the way that one particular concept had been interpreted. Rather than admit her mistake and use the moment as a teaching/support opportunity with the student, the interpreter became defensive and insisted that her interpretation had been correct. The student was dismissed.

For practitioners to successfully comply with the principles embodied in this tenet of the code, individually we need to develop the following:

- mentoring skills

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Attention All NAJIT Members

Interested in earning free membership to NAJIT?

On November 1, 2007, NAJIT launched a new membership campaign designed to increase NAJIT membership to 2,000 professional interpreters and translators. This new effort requires your help, because each of you knows of other judiciary interpreters and translators who are not yet NAJIT members.

The plan is simple and straightforward: for every new member you help to recruit between November 1, 2007 and February 28, 2008, you'll earn an extension of your existing membership as follows:

1. Recruit an Associate member and **receive a one-month extension** of your membership. (Just 12 referrals equals a free year of membership).
2. Recruit an Active, Corporate or Organizational member and **receive a two-month extension** of your membership. (Just six referrals equals a free year of membership).
3. Recruit a corporate sponsor member and **receive a four-month extension** of your membership. (Just three referrals equals a free year of membership).

As a bonus, all members who recruit 10 new members in any category will be entered into a drawing for a free conference registration at NAJIT's 29th Annual Conference in Pittsburgh, PA, May 16-18, 2008.

Help NAJIT grow by recruiting others. Just ask your recruit to write your name on the "Referred By" line on the membership application form found on the website and we'll take it from there. Help NAJIT grow by recruiting others.



PROFESSIONAL SOLIDARITY *continued*

- teamwork
- communication—verbal and non-verbal
- empathy
- justice
- compassion

AUSIT's mission statement sums things up very well: "Only if we work together to uphold the interests of interpreters and translators and maintain the highest ethical standards can we expect to advance the status of the professional in Australia."

In an article on socialization failures that led to a loss of professional autonomy among educators, Hamilton (2006) points out, "Open and honest communication, motivated by mutual respect will create an environment where practitioners feel supported and appreciated and will therefore be more likely to accept constructive challenges to their work without suspicion or feeling threatened. Any challenge to a choice made in interpretation or translation provides an opportunity to reflect on why those choices were made. Sharing that process in the form of a discussion with a colleague can be a moment of growth for both. Each practitioner throughout his or her career grows in personal conscience, hopefully including the capacity for self-scrutiny and moral discourse with colleagues."

I hope that this preliminary discussion of professional solidarity will inspire interpreters to view discussions with their colleagues in a more positive light. ▲

[The author is director of Sign Language Services Australia. This paper was presented at the Critical Link 5 Conference in Australia in April, 2007.]

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WEBSITES OF INTEREST

The IACP Releases A Police Chief's Guide To Immigration Issues — www.theiacp.org/documents/pdfs/Publications/PoliceChiefsGuidetoImmigration.pdf

A *Police Chief's Guide To Immigration Issues* provides law enforcement executives with an overview of the issues surrounding immigration, both legal and illegal, provides background information on the current resources available to law enforcement, and examines the concerns and obstacles that currently surround the debate about immigration enforcement by state, tribal, and local law enforcement.

APPELLATE JUDGE ADVOCATES NATIONAL STANDARDS IN AUSTRALIA

[The following excerpts are from "Forensic Interpreting: Trial and Error," a paper read by The Hon. Justice Len Roberts-Smith, Court of Appeal, Supreme Court of Western Australia, at the Critical Link 5 Congress, in Sydney, Australia, April 2007.]

I wholeheartedly support the move to establish national competency standards. These should apply both to training and performing. Training courses, institutions and individual translators and interpreters should be accredited in accordance with a recognised and accepted academic and professional regime. The legislatures could then embody in statute law the necessary professional standard required for interpreters in law, health, social work or any other area, by reference to a national standard which actually guaranteed competency. The courts, the legal profession, the police and other law enforcement agencies would have a national frame of reference for determining competence objectively, without being forced into the unacceptable position of having to make assessments of competence they are not equipped to make.

My own vision is that such national competency standards would be sourced through all elements of the translating and interpreting profession, academic, practising and regulatory. It would be nationally approved and implemented. Recognition of competence or qualification accreditation must be at a national level and must be consistent across Australia. My preferred model for national accreditation is a national body representing the interpreting and translating profession.

... I suggest the move now to such a national competency standard model is critical to the future of the translating and interpreting profession in Australia. All else really depends upon it. Pay levels will never be commensurate with the real demands and skills of the work without standards which are nationally recognised by appropriate professional qualifications. Courts, governments, businesses and others will never uniformly insist on the employment

of professionally qualified interpreters unless and until they can do so by reference to a national standard which they have confidence will give them interpreters with the levels of competency they require. Translating and interpreting will never be recognised as a profession until its members can show they have a professional structure of recognised and guaranteed competencies, underpinned by a construct of professional ethics and a national organisation representing them as a profession.

... Once national competency standards are in place, it then becomes easy to see what others can do. Courts, legislatures and governments can establish minimum standards needed for forensic interpreting. A court could simply require, as a minimum, a certificate of interpreting in the appropriate language. For a particularly complex criminal trial, or complex civil litigation, they would know to require an interpreter with a graduate degree, or better. They would have a frame of reference which would require them to make no assessment of the competence of the individual interpreter. They would have the confidence that the interpreter with the qualification actually had the competencies, including a professional ethical framework.


In conjunction with a national regime which guarantees interpreting and translating competence, governments would implement policies of the kind recommended by the Law Reform Commission of Western Australia.

Unlike most European and some Asian countries familiar with a multiplicity of languages, Australians are generally completely unfamiliar with working with interpreters and have little understanding of what is involved. Accordingly, educational and training packages targeted to particular institutions and professional groups are fundamentally important.

It is not enough for only some of the participants in the forensic process to have an understanding of the need for, and role of, the interpreter. All must. Police require training in the context of interviewing suspects and witnesses. The judiciary need to understand that communication is facilitated by sound interpreting, not hindered by it; they need an understanding of when a party or witness is being disadvantaged by lack of language fluency and they need to understand how to work with interpreters in court. Legal practitioners need to understand the importance of communicating with their clients or witnesses or other parties through interpreters, and how to work with them effectively. These educational and training packages would include not only the matters I have mentioned generally above, but also such points as the need to brief the interpreter (because interpretation is about context) and to provide appropriate working conditions (including appropriate breaks or having more than one interpreter where long periods are involved).

The theme of this congress, *Quality in Interpretation: A Shared Responsibility*, is an accurate statement of the only way we can achieve this goal." ▲

Join the NAJIT Listserv

 As many of you are already aware, the NAJIT listserv was recently closed to all but NAJIT members. The email discussion group is a great way to make new friends, share your knowledge with other professionals in the field, ask interpreting and translating questions of your fellow members, find that right word or phrase, better understand a local or cultural idiom, check on procedural matters, and learn from your colleagues.

Joining is easy and FREE! Just log on to:
www.najit.org/ListServe/list_guidelines.html
 and sign up.
Remember, only NAJIT members can join.

DIFFERENT AND SEPARATE: INTERPRETERS OF AFRICAN LANGUAGES

Hailu Gtsadek

In September of this year I was asked to speak to a group of African immigrant community members who received a 40 hour community interpreting course provided by Cross Cultural Communications (www.cultureandlanguage.net). The course was sponsored by the Ethiopian Community Center in Washington, D.C.

I thought long and hard about what to share with the course participants. In preparing my speech, the need to share how different and separate the experience of interpreters of African languages is from that of other interpreters became clear to me. The following is a summary of my remarks.

As interpreters, the number one tool we work with is the languages we interpret in. To understand the different reality an interpreter of African languages finds himself in, I compared a European language (Spanish) to an African language (Amharic). Due to historical factors, your typical African for centuries has been systematically denied the ability to express and articulate his or her thoughts, ideas, feelings, emotions in his or her native language. Even though today we are no longer persecuted for using our native languages, no matter which side of the Atlantic Ocean we find ourselves on, Africans are still suffering from the hang-over effect.

What is the status of those two languages today: which language is blooming by acquiring, borrowing, creating, and adapting new vocabulary and terminology, and which one is decaying and dying due to neglect? In most African countries higher education is not provided in native languages; rather, students are subjected to study in non-African languages. In today's Africa the language of business, medicine, technology, and culture is a non-African language. There are no efforts to develop native African languages by introducing or incorporating new terminology and vocabulary, and this has a direct effect on African language interpreters and a community seeking the service of interpreters, because there are limited linguistic and cultural equivalents in vocabulary, terminology and concepts.

The limited-English or non-English proficient African immigrant community is the one we provide interpretation services for. What is their understanding of the role of the interpreter? For an African language speaker, an interpreter is anyone who is bilingual. Unlike your typical Spanish speaker who expects nothing more or less than professional interpretation service, African language speakers believe the role of the interpreter is to assist them by providing counseling, that an interpreter is someone to provide advice and

advocate on their behalf. When they encounter a professional interpreter who tells them that his or her only role will be to interpret, they consider that person as one who has betrayed his culture and heritage.

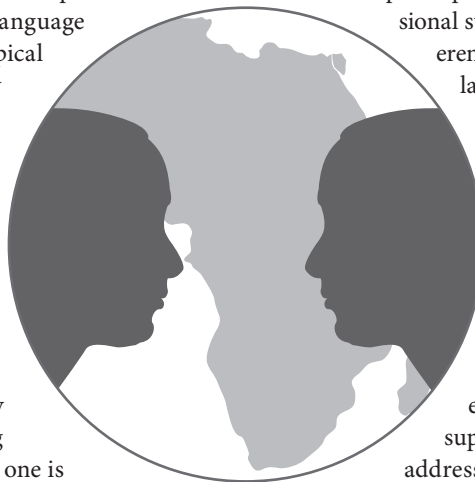
One factor that prevents African language speakers from using the service of an interpreter is that they are the last persons to realize their English proficiency is limited. They often choose to conduct business in their limited-proficient English, and we all know what the consequences are: a lot of room for errors and misunderstanding. African language speakers have frequently been exposed to mediocre interpretation services, because the typical African language interpreter most likely did not get a chance to benefit from formal training in the profession, is possibly not even aware of the interpreter professional code of conduct, and has no profes-

sional support group, with little or no access to basic reference materials or dictionaries. In addition, African language speakers may be hesitant to use an interpreter as they fear judgment from someone of their own culture and community and are concerned about confidentiality.

In response to my talk, the course participants had several questions: What steps can be taken to create awareness in the immigrant community? How can one develop and share reference materials? What needs to be done to educate oneself and others? They expressed their desire to form a professional support group to share information, strategize and address the issues discussed.

We interpreters of African languages who choose to practice interpretation as a profession work in a difficult environment. We don't have the best tools to work with and are expected to deliver professional service. Against all odds, some of us actually do just that. ▲

[The author, an active NAJIT and ATA member and an Amharic/English interpreter/translator since 1994, is a managing partner with African Translation. (www.africantranslation.com)



For regularly updated information on meetings, conventions and other events, go to www.najit.org and click on "Calendar of Current and Future Events."

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1707 L Street, NW, Suite 570

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Robin W. Lanier, president of Alliance Management Group, is an effective coalition builder whose grass roots and public affairs efforts have led to legislative and business results on a wide range of issues. In 2001, she was named to *World Trade Magazine's* list of "Most Influential People in World Trade." Ms. Lanier was also one of a handful of women who created the Washington Chapter of Women in International Trade, and has variously served on that organization's board of directors and as its secretary, treasurer and president.

Offering decades of experience in association management, Ms. Lanier is also a skilled public speaker and an effective meeting facilitator with experience in strategic planning and board gover-

nance. She has appeared on national television programs like *Good Morning America* and *ABC World News Tonight*, and scores of radio programs across the country including *All Things Considered* and *Market Place*. Ms. Lanier began her career on Capitol Hill as an aide to the Honorable Morris Udall (D-AZ) and the Honorable Thomas J. Downey (D-NY).

Alliance Management Group (AMG) will provide NAJIT with the customary services associated with administrative management services. Conference facilities will be available to NAJIT and SSTI board and committee members while they are in Washington, D.C. conducting NAJIT business.

NAJIT looks forward to a productive, long-term relationship with Alliance Management staff. They are well equipped to help NAJIT and SSTI serve the needs of all judiciary interpreters and translators. Members are encouraged to contact NAJIT Headquarters with any questions, suggestions or concerns, or when they need any membership services. ▲

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ADVOCACY

July 16, 2007

Secretary Michael Chertoff
Department of Homeland Security
Washington, DC 20580

Secretary Condoleezza Rice
2201 C Street NW
Department of State
Washington, DC 20520

RE: Letter of support to extend, prioritize and expedite asylum applications and special visas to Iraqi and Afghan Interpreters and Translators

Dear Secretary Chertoff and Secretary Rice:

On behalf of the National Association of Judiciary Interpreters and Translators (NAJIT), I write to urge you to take immediate steps to expand and expedite your programs for granting immigrant visas for Iraqi and Afghan Interpreters and Translators who have provided substantial and direct assistance in support of our military activities in those countries. In particular, we recommend that you prioritize your activities to promptly address the petitions of these individuals.

NAJIT is the largest judiciary interpreting and translation association in the world. Our association was founded in 1979 and currently has over 1,100 members who work daily to bridge the language gap in state and federal courthouses and in a variety of legal and quasi-legal settings across the country. Because of our profession and our national involvement, our members are in a unique position to hear of issues regarding interpreters and translators not only throughout the country but around the world.

In recent years we have learned with growing concern of Iraqi and Afghan interpreters who are targeted by the enemy because they are viewed as collaborators. We read reports of abductions, torture, abuse and killing of interpreters and translators and of their family members. It is heartbreaking to hear soldiers' and journalists' desperate pleas for our Government to help save the lives of interpreters they have worked with and those of immediate family members.

We have also noticed that these reports have increased throughout the past two years and have become more frequent in the past few months. Please see attached partial list of news articles regarding the subject, evidence of the importance that these individuals play in advancing our country's interests.

These expanded immigration visa programs we support are not unique in our country's history. In prior wars, the United States has always opened its doors to those who have assisted us in defending our nation. No different response should be shown to the Afghan and Iraqi interpreters who stand with us now. These interpreters have stood shoulder to shoulder with our soldiers exposed to the same risks and suffering the same consequences. It is inconceivable that our country, which takes pride in supporting democracy and human rights throughout the world, cannot now find resources to bring Afghan and Iraqi interpreters to the United States before they and their families are tortured or killed.

We believe that their visa applications should be prioritized above those of any other asylum applicant, and that they should be provided with a safe location until their asylum and/or visas are processed.

NAJIT would also like to commend and support Senators Kennedy, Smith, Biden, Hagel, Leahy, Levin and Lieberman in their call for immediate action to expand our government's ability to process refugee applications and special immigrant visas for Iraqi and Afghan interpreters and translators.

Please support this call for immediate action.

With respect and consideration,

Sincerely,

Isabel Framer
Chair of the Board of Directors
National Association of Judiciary Interpreters and Translators

cc: Senators Kennedy, Smith, Biden, Hagel, Leahy, Levin and Lieberman.

SELECT ARTICLE REFERENCES

<http://www.alternet.org/asoldierspeaks/56397/>
U.S. Failing to Help Iraqi Translator and Family Targeted for Execution
By Maura Stephens, *AlterNet*. Posted July 10, 2007

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Yankton, SD Soldier Rallies Support For Iraqi Interpreter

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<http://www.worldpress.org/link.cfm?http://www.cphpost.dk/get/102236.html>
Iraqi interpreter killed

http://www.thislife.org/Radio_Archive.aspx
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<http://www.ihl.com/articles/2006/11/20/opinion/edmardan.php>
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<http://www.iti.org.uk/pages/news/viewNews.asp?article=95>
Iraqi Interpreters hunted and killed

<http://www.brightcove.com/title.jsp?title=770018210&channel=527535507>
Iraqi Interpreters Risk Lives for Mission

http://www.interaction.org/media/iraq_facts.html
5000 Iraqis have served as interpreters for the U.S., and 250 Iraqi interpreters have been killed.

CONTINUING EDUCATION

THE GAIN IN SPAIN

Jordan Fox

This past summer I attended a two-week course entitled “Topics in Spanish Law and Law Enforcement” in Avila, a small city about an hour northwest of Madrid famous for its medieval wall and Saint Theresa. The course took place at a university building, was organized by the University of Salamanca and taught mostly by high-ranking members of the Spanish National Police, whose training school is located in Avila. Subjects included Spanish penal procedure, the different types of court and their hierarchy, the organization and area of authority of the Spanish National Police, street language, the Civil Guard, municipal and autonomous police, as well as Spanish history and contemporary society.

Since the class was a hodgepodge of 16 students, including interpreters, translators and attorneys from several European countries as well as four Americans, everyone had different areas of interest. What I found most interesting were the lessons in criminal law and procedure. The teachers delved into the roles played by each participant in a criminal proceeding, including the Prosecutor’s Office (*el ministerio fiscal*) when the crime is against the People (*delito público*) and the *procurador*, a type of assisting attorney to which every person who is accused of a crime is entitled, in addition to the defense attorney, *abogado defensor*. The *procurador* attends to procedural details of a criminal case, appears in court, assists the defense attorney, and drafts documents. Any citizen or entity as an *acusador popular* may also file a complaint (*querrela*) through an attorney and *procurador*, if he/she feels additional harm has been done that has not been expressed by the victim of the criminal acts (*el acusador particular*). For example, Greenpeace could file a complaint as an *acusador popular* on behalf of the Spanish people for the effects of some criminal act

on the environment. Otherwise, most criminal cases are initiated through a police statement (*un atestado*). This is just an overview of what we learned in this area.

In addition to the classroom sessions, we also visited a courtroom, a women’s high security prison, the National Police Training School, and police stations for the municipal, provincial police forces as well as for the National Police Force and Civil Guard. In court, we were able to observe cases as diverse as bar room brawls, speeding tickets and restraining orders. At the prison, we were given a very informative Q & A session with the warden as well as a tour of the facilities, which showed some striking contrasts to local New York prisons. Among other things, the police stations explained rules and procedure regarding drunk driving, provided us with forms and explained procedures related to gun registration.

In sessions on Spanish language and culture, we were introduced to street terms as well as criminal terms derived from the gypsy language, Caló, and were given a brief history of the many regionalist and separatist conflicts that have influenced Spain’s current political structure and culture. I’ve included some of these terms in the vocabulary list below.

In sum, I found the course interesting, informative and useful for any interpreter who works in criminal court or for any translator who deals with Spanish legal documents. The teachers are well-versed in their fields and the program is well-organized. It’s an ideal opportunity to further one’s knowledge in the field and see a beautiful city at the same time.

For further information on this course, you may email Sonsoles Sanchez Reyes at: avila@cursos.usal.es. ▲

SLANG TERMS	
canuto	a cigarette with hashish or marijuana
chota	squealer
chuta	needle
costo, chocolate	hashish
el chopano	isolation cell
el colorado	the dough
farlopa, perico	crack, cocaine
fusca/o	pistol
grifa	marijuana
hierro	gun
lumi	hooker

SLANG TERMS (continued)	
maco	prison
meterse una raya	do a line of coke
papelina	a dose of cocaine
pelotazo	good deal
pincho	shank (sharpened object)
pitufu	local police
polvo, nieve	powdered cocaine
sirla	knife
talago	pound of hashish
yonkarra	drug addict

> continues on next page

THE GAIN IN SPAIN *continued from page 17*

LEGAL AND OTHER TERMS	
a bocajarro	at point-blank range
a quemarropa	at close range
acusado	defendant, after preliminary phase is complete and <i>escrito de acusación</i> is filed
archivar el caso	to drop a case, close a file
atestado	police statement through which criminal proceedings are usually instituted
circunstancias/ condiciones de custodia de las pruebas	chain of custody
condenado	defendant who's been sentenced
cuenta de peculio	commissary account
delito privado	crimes against individuals, only pursued if aggrieved party presents a "querella" (ex: slander)
delito publico	crimes against the People, pursued by the authorities (de oficio) even if no complaint has been made.
denuncia	written or oral statement informing the authorities of a possible crime, by someone not involved in the incident
establecer el secreto	to seal proceedings
establecer la publicidad	to unseal/open proceedings (to the public)
etilómetro evidencial	breathalyzer
funcionario	guard, officer
imputado	defendant, in first stage of criminal proceedings, when charged
inculpado	defendant, when " <i>medidas cautelares</i> " have been taken
ir de paisano	go undercover/in plain clothes

LEGAL AND OTHER TERMS (continued)	
medidas cautelares	preventive measures (taken by the judge to assure the availability of the defendants during the investigatory phase may be " <i>personales</i> ," restricting his liberties, i.e. detention or restraining order, or " <i>reales</i> ," restricting access to his assets
mi patrocinado	my client
número de bastidor	VIN Number
omisión del deber de socorro	failure to come to someone's aid
pinchar la llamada	intercept, "bug" a call
podrá incurrir en responsabilidad tanto civil como penal	may be subject to both civil and criminal proceedings
procesado	defendant, when real evidence of guilt is found, and judge makes an " <i>auto de procesamiento</i> "
querella	written statement of allegedly criminal acts, requesting opening of criminal case, by someone who wants to be the "accusing party" (constituirse como parte acusadora), whether harmed by acts or not
receptador	fence
reo	defendant serving sentence
revelar las huellas dactilares	dust for prints
sobreseimiento libre	dismissal with prejudice
sobreseimiento provisional	dismissal without prejudice
TONFA (brand name)	billy club, nightstick
una sentencia en firme	unappealable sentence, ruling

Second Announcement and Call for Presentations

XVIII World Congress of the International Federation of Translators *Translation and Cultural Diversity*

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Following the proposal by UNESCO, the United Nations General Assembly in Resolution A/RES/61/266 of May 16, 2007 proclaimed 2008 the International Year of Languages. This further demonstrates the consensus that cultural and linguistic diversity are as important to human existence as biodiversity. To maintain cultural and linguistic diversity in this globalized world, translation is indispensable.

On August 4–7, 2008, immediately before the Beijing Olympics, translators, interpreters, linguists, terminologists and educators, as well as leading players in the translation industry from around the world will gather on the bank of the beautiful Huangpu River, to take part in the XVIII FIT World Congress jointly hosted by the International Federation of Translators (FIT) and the Translators Association

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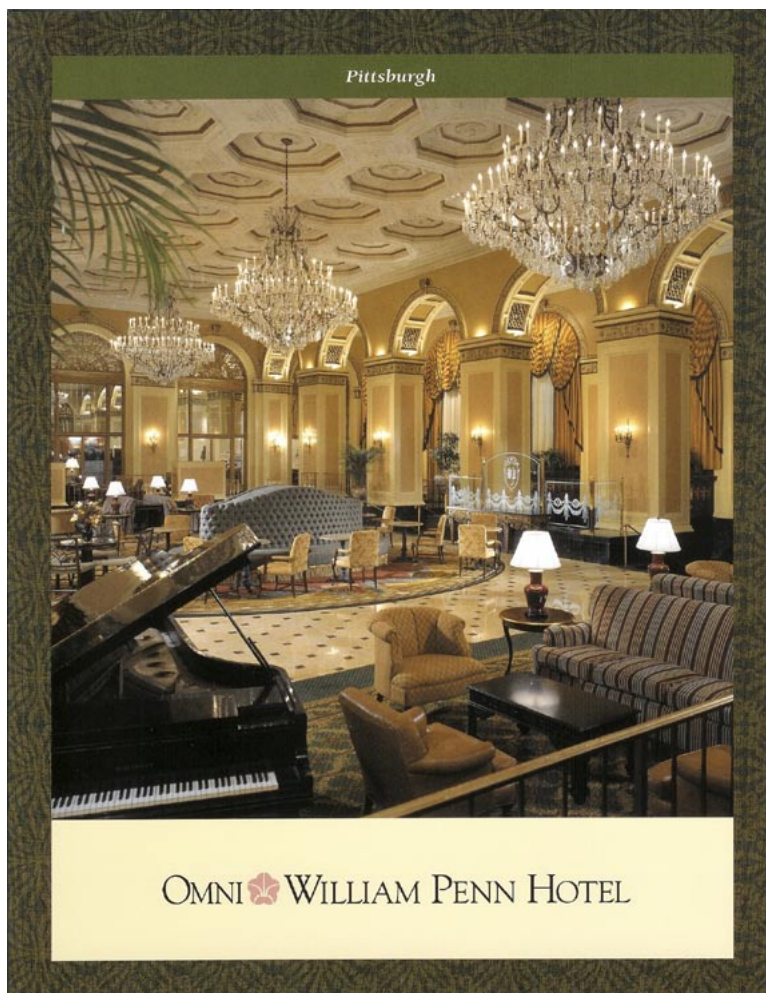
For more information about the Congress, please visit the Congress website at www.fit2008.org (in English, French and Chinese), or send an e-mail to fit2008info@gmail.com.

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## ENGLISH-SPANISH REFERENCE SECTION

# DESIGNING A DICTIONARY FOR CRIMINAL COURT INTERPRETERS

Dennis McKenna

Many readers of *Proteus* have probably been struck at one time or another by the irrelevance and inaccuracy of a large number of the entries and definitions in the English-Spanish/ Spanish-English legal dictionaries they consult. The fact is that often these dictionaries are simply too all-encompassing to be of any real use to those who interpret daily in court. Many bilingual Spanish legal dictionaries are compiled by and for people who are far removed from the world of the U.S. criminal justice system. The introduction to Enrique Alcaráz Varó and Brian Hughes's *Diccionario de términos jurídicos* seems to indicate as much:

*En lo que afecta al ámbito regional, el diccionario se ha centrado en el inglés jurídico de Inglaterra y Gales, basado históricamente en el common law y la equity y modernamente en los statutes. (Alcaraz Varó and Hughes, 1995). (TR: In terms of regional scope, the dictionary is focused on the legal English of England and Wales, based historically on the common law and equity and more recently on statutory law.)*

The authors go on to explain that since English legal culture has extended to its former colonies, “la mayoría de los términos son de aplicación a todos estos países.” (TR: “Most of the terms are applicable to all of these countries.”). No specific reference is made here to Latin America, but one can imagine that the authors assume a similar relationship exists between Spain and its former colonies (nations they would call *todos aquellos países*).

While it may be true that legal terms are frequently used in similar ways in many places, when we translate a document or interpret in court for a defendant whose freedom is at stake, it is incumbent upon us to know the precise meanings for the context of that document or that defendant. This article will discuss specific examples of the shortcomings of standard reference books for those who work in criminal courts in the U.S., and give a brief introduction to how a new dictionary I compiled, the *Criminal Court Dictionary*, was designed to help remedy this situation.

### One Size Fits All

The words *asegurar*, *consignar*, and *plagiar* are translated in Enrique Alcaráz Varó and Brian Hughes's *Diccionario de términos jurídicos* as:

*asegurar*: to affirm, assert, declare; preserve, secure, make sure; insure, assure, underwrite;

*consignar*: to consign, earmark, appropriate, transfer, pay, register, put/set/write down; and

*plagiar*: to plagiarize.

All of these translations are acceptable in a translation destined for most Spanish-speaking countries. However, problems arise if the person for whom one is interpreting or translating is not a faceless citizen of the world, but from Mexico, by far the leading country of origin of immigrants to the United States. For this individual, it is vitally important that a court interpreter know that in Mexico the correct translations of those terms in a criminal context are:

*asegurar*: to seize (evidence or assets);

*consignar*: to criminally charge; and

*plagiar*: to kidnap.

### Information Overload

Because bilingual legal dictionaries are not specifically focused on criminal law, finding a definition that corresponds to criminal court terminology can sometimes be like searching for a needle in a haystack. Often, even when we're fortunate enough to find a dictionary with a relevant entry for one of the terms mentioned above, the information provided is too comprehensive to be useful. For example, Javier Becerra's excellent *Diccionario de terminología jurídica mexicana* (1999) contains the following entry for *consignar*:

1. To consign (goods), to deliver, to hand over, to entrust, to send, to ship, to turn over;
2. To deposit, to make a deposit, to put, to lodge, to deliver: *aprobado el remate, se prevendrá al comprador que debe — ante el juez el precio del remate* / upon the completion and approval of the bidding, the buyer will be required to deposit the amount of his or her bid with the court;
3. To specify, to set forth, to describe, to present fully and clearly, to recite, to define, to express, to indicate, to denote: *el contrato de arrendamiento financiero debe constar por escrito y — expresamente el valor del bien objeto de la operación y la tasa de interés pactada o la mecánica para determinarla* / a financial lease agreement shall be entered into in writing and shall expressly set forth the value of the property which is the subject matter of the agreement, and shall list as well either the rate of interest agreed upon or the method to determine such an interest rate;
4. To tender delivery, to tender performance;
5. To indict, to file charges, to put on trial, to prosecute, to incriminate, to denounce, to inculcate; and
6. To formalize, to make official, to give form to.

Not until we reach the fifth meaning, nearly 200 words into the definition, do we find a translation relevant to the criminal court setting.

> continues on next page

**DICTIONARY FOR CRIMINAL COURT** *continued from page 17*

Bilingual legal dictionaries encompass a wide range of topics, including administrative law, torts, personal injury, contract law, wills, probate, bankruptcy, maritime law, international law, labor law, copyright and patent law, as well as criminal law. Wading through all the extraneous information to obtain the pertinent entries and definitions can be quite time consuming. Furthermore, one always runs the risk of choosing the incorrect translation for a criminal court context.

**Communication Between Planets**

While general subject Spanish dictionaries usually only need to translate items that are exactly the same the world over (e.g. the blue sea, *el mar azul*), bilingual legal dictionaries face the added challenge of translating terms for people living under different legal systems. This is a little like having to interpret the “blue sea” to someone living on another planet with no surface water. This distinction sets legal dictionaries apart from nearly every other field in which reference books are produced. For example, biology, physics, mathematics, history, and psychology all describe physical phenomena and ideas that exist in very much the same way the world over. However, the court interpreter or translator constantly jumps hurdles by finding ways to convey not only words, but markedly different legal realities.

These difficulties are not merely due to the difference between the English common law and the Continental European civil law systems. Indeed, every country has its own legal milieu based on its own unique legal history and traditions. While the legal systems of former colonies (e.g. the U.S., Canada and Australia and Mexico, Guatemala and Colombia) certainly do resemble those of their former colonizers (Britain and Spain), a lot can change in two centuries. An example of such a change is the felony murder rule, part of the common law that was abolished in England in 1957. The felony murder rule stated that if someone was killed during the commission of a felony, all of those who participated in the commission of the felony could be charged with murder. It was eliminated in England because it was considered too harsh. Another, and even more confusing, example is the term *amparo* (constitutional protection) in Spain, which is not the same as *amparo* in Mexico. If one ignores such differences, it creates multiple levels of imprecision that lead to inaccuracy, misunderstanding, and eventually to a communication breakdown.

**The Perils of Word Lists**

Though all-encompassing legal dictionaries are often cumbersome, a bare-bones word list presents its own problems. Precisely because legal translation and interpretation are often so complex, bilingual glossaries or dictionaries that are too streamlined can be especially misleading. During a brief perusal of one online dictionary for Spanish court interpreters, I found at least a dozen real zingers (including *juicio en banco* for bench trial and *judicial oficial* for judicial officer). Published dictionaries provide a higher degree of reliability, or at least accountability. We usually know who the authors are and in their introduction they provide us with information about how the terms were selected and how they arrived at the equivalents and definitions. But even published dic-

tionaries are not immune from mistranslations.

In their article entitled “The Dubious Quality of Legal Dictionaries,” Gerard-René de Groot and Conrad J.P. van Laer (2006) make the following observation:

It seems to us that many authors or compilers of bilingual legal dictionaries do not understand how legal translations should be made. They simply make a list of legal terms in the source language and give for each term one or more words from the target language as “translation” without any further information on the legal context. Because of the system-specificity of legal terminology, this kind of dictionary is practically useless.

Louis A. Robb’s *Diccionario de términos legales* (1982) in many ways resembles this kind of rudimentary work. For example, the term *assassination*, is translated simply as *asesinato*, without indicating that the term generally refers to the killing of a public figure.

**Previously Available Materials**

As noted earlier, even though it is often our first impulse to reach for a bilingual legal dictionary when searching for a term that arises in court, this approach is often met with multiple references to other areas of the law. Moreover, the role of criminal court translators and interpreters is not only to render accurate translations and interpretations of legal terms; they must also seamlessly render a wide range of non-legal terms into the target language.

Court interpreters are often called upon to interpret specialized slang, jargon, and expert testimony as well as legal terms and concepts. We need to know, for example, that prison guards call a homemade knife a *shank*, and that police officers may call that same weapon a *dirk or dagger*; that in Mexican Spanish a common criminal may call it a *fierro*, and that in formal Spanish it would be referred to as an *arma blanca*. Naturally, standard legal dictionaries cover almost none of this material.

In an effort to address this need, in 1991, Gould Publications brought us the *Bilingual Dictionary of Criminal Justice Terms* by Virginia Benmaman, Norma Connolly and Scott Loos. Shortly thereafter, Holly Mikkelsen’s *The Interpreter’s Companion* appeared. Both are formidable reference works that every court interpreter should have. The Gould book covers a small but well-chosen selection of essential terms, providing a wealth of useful information about U.S. criminal law terminology. But it dared to be a prescriptive work, whose stated goal was to standardize renditions in the interpreting profession, an approach that has met with resistance from working interpreters who resent being told they “must” use a certain term. Mikkelsen’s work, on the other hand, is divided into a series of thematic glossaries that include legal, weapons, and drug terminology. Many students have found it particularly well suited to helping them prepare for certification exams. Despite the dearth of useful reference materials for working court interpreters, many training programs have been able to assemble excellent materials for their students.

**A Need for More Resources**

Until now, standard-issue legal dictionaries have not furnished many answers to interpreters or translators working in U.S.

courts. Unfortunately, specialized bilingual dictionaries are not big money-makers for large publishing houses, and our university language departments seem to have little interest in real-world subjects. Clearly, an enormous gap exists between interpreter-program training materials and standard-issue monolingual and bilingual reference works.

Faced with this situation, I set out some seventeen years ago to create a practical reference dictionary for the working Spanish interpreter and translator that would fulfill five major goals:

- 1) Make a book that is area-specific (criminal law and related terms).
- 2) Make it country-specific (U.S.-Mexico and Latin America).
- 3) Make it descriptive, not prescriptive, with notes on usage.
- 4) Make it easy to use with clear, precise meanings, and necessary context.
- 5) Continuously reassess and update the text with input from interpreters.

In its present form, the *Criminal Court Dictionary* contains over 9,000 entries in the space of a little more than 500 pages. Reproduced in a sidebar is the page containing the word *plagio*, a word that Alcaráz Varó and Brian Hughes did not define for the Mexican criminal context.

The above-mentioned goals were accomplished in the following ways:

1. At least 14 of the 19 entries on the page are specifically related to our work in the criminal courts, indicating a special focus on this area.
2. Mexican (*Mex*), Central American (*C.A.*) and Latin American (*LatAm*) usage is featured prominently, accounting for over half of the material on this page.
3. The translations and definitions presented here reflect actual usage, not what a frustrated academic feels should be the correct usage. Alternatives are also given wherever possible.
4. Information is presented in a manner that is both clear and informative, saying just enough to get the point across without trying to “guild the lily.”

5. The dictionary contains wide margins, allowing plenty of space for interpreters and translators to write their own notes concerning actual usage across various jurisdictions, states, nationalities, and circumstances. Rather than presenting itself as the final word on the subject, the book encourages users to contribute their own unique examples of usage by e-mailing them in. As much material as possible will be included in future editions, with participants being given credit for their contributions.

### Conclusion

Naturally, the *Criminal Court Dictionary* will not provide an answer to every translation and interpreting question. However, by focusing on the context of the criminal courts in the U.S. and contrasting subject matter in Mexico and Latin America, a vast amount of material is filtered out, thus increasing the possibility that we will come across useful answers. Entries and translations are presented in a clear, concise, and contextual manner. Contributions from users are encouraged.

I’ve already received helpful comments that will be used to shape future editions. The book will be updated on a regular basis, and I hope that with your help it will continue to be improved, helping translators and interpreters in their day-to-day challenges at work in the U.S. criminal justice system. In order for that to happen, an electronic version of the *Criminal Court Dictionary* will surely need to be made available in the future.

If you have any questions, comments or suggestions, please e-mail me at: [dennispmckenna@yahoo.com](mailto:dennispmckenna@yahoo.com) ▲

[The author, a California state and federally certified Spanish interpreter, is also an approved translator for the Los Angeles Superior Court and has been a rater for interpreter examinations. Among his publications is the *Dictionary of Mexicanisms*. He will be contributing a regular column in *Proteus* on reference works.]

### REFERENCES

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> continues on next page

**pisto** *adj.* (*Mex*) drunk; *m.* (*Mex*) booze; (*C.A.*) dough [money]

**pistola** *f.* handgun, pistol; (*SW/inf*) gun [improper usage, very common]

**pistolera** *f.* holster

**pitazo** (*Mex*) *m.* tip-off [informing the police; *Stnd usage*: whistle blow]

**pito** *m.* (*pene*) dick [*Stnd usage*: whistle, horn]

**pizarrín** (*Mex*) *m.* dick [penis, *Stnd usage*: slate pencil]

**placa** *f.* (*trans*) license plate; *mf.* (*Mex*) cop(s) [police officer, the police]; badge; (*SW*): gang name (in graffiti); nickname (of gang member) [*Also*: metal sheet, plate, plaque]

**placazo** (*MexAm/GngSl*) *m.* graffiti gang signature

**plagiar** *v.* (*LatAm*) to kidnap or abduct (a person); to plagiarize

**plagiarío** *m.* (*LatAm*) kidnapper; plagiarist

**plagio** *m.* (*LatAm*) kidnapping, abduction; plagiarism

**planilla de costas** (*Leg*) *f.* schedule of court costs

**planta, de** (*Mex*) *adj.* staff, permanent (employee)

**platinos** (*auto*) *m.* points

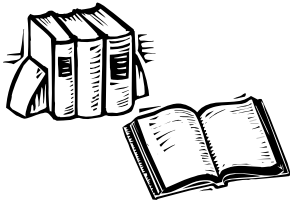
**plazo** (*Leg*) *m.* term, time limit, time period, deadline; installment

—— **fatal** – deadline

—— **procesal** – legal time limit, legal deadline

**pleitista** *adj.* litigious, (*inf*) troublemaking; *mf.* litigious person, (*inf*) guy/woman who looks for trouble

**pleito** *m.* (*Leg*) lawsuit, case; fight; (*Mex/C.A.*) fight, beef [dispute], argument; (*LatAm*) boxing match, fight



## Book Review

Francisco Olivero

### Diccionario de parlache

Luz Stella Castañeda Naranjo

José Ignacio Henao Salazar

Medellín, La Carreta Editores E.U., 2006

ISBN 958976649-8

Throughout the years I've worked as an interpreter in the federal courts in the New York area, whenever I get an assignment to transcribe and translate a wiretap recording featuring Colombian slang, I'm concerned that I may not be grasping the intended meanings, given that I'm not Colombian. That's why I'm always on the lookout for new slang dictionaries. *Diccionario de Parlache* is a welcome addition to my reference library.

Written by university professors from Medellín, Colombia, *Diccionario de Parlache* has been compiled with academic rigor. The slang terms are presented with usage examples and references to print sources. The intent is serious and the results satisfying.

This collection deals exclusively with Colombian slang; more precisely, with the Medellín variant of Colombian slang. As a matter of fact, the word *parlache* is a neologism which incorporates the terms: *parlar*, *parcero* and *parlanchín*.

So let's judge the whole from a sample, or as the Romans said, "Ex ungue leonem." I looked first to find a word that took me by surprise a few years ago. The prosecution said it meant "drug deal" and the defense said it meant "errand." I had spent a few days calling every Colombian I knew to check on the meaning of the word in various contexts. If the *Diccionario de Parlache* had been on my bookshelf, I would have saved myself a couple of calls, at least.

The word in question is *vuelta*. Here is the relevant entry from *Diccionario de Parlache*:

**Vuelta: calentar la vuelta.** Loc. v. violencia. Reaccionar con violencia. *Le mamamos gallo a Pastrana con el paro de la paz, hasta que se la volamos y nos calentó la vuelta.* R. (La Piquiña. 2004:3). **2. hacer la vuelta.** F. loc. v. Muerte. *Asesinar a alguien.* Planear y llevar a cabo un crimen, por el cual se recibe remuneración. *Días antes del crimen visitó a sus "compas" en la prisión de Bellavista y les dijo que iba a hacer "la vuelta" de su vida. "La vuelta" (palabra usada dentro del sicariato para referirse a la ejecución de un crimen) implicaba, según Maza, la orden para eliminar Jaramillo Ossa el día siguiente.* L. (Cañon. 1994:222-223). / NUDICO: fig. Otro. Vez, ocasión de hacer una cosa/. **3. loc. v. Violencia.** Resemantización. *Agredir o amenazar.* Atacar violentamente a una persona. — *¿Pablito, que vamos a hacer con ese profe?* — *Cuchita yo ya le dije: hay que darle un escarmiento.* — *Pero eso es una bobada, porque te puso en uno.*

— *No importa, hagámosle la vuelta.* R. (La Piquiña. 1997: 10).  
4. loc. v. Sexo. Copular. *Ahí le hice la vuelta a esa pelada.* CO.

One can see the exactitude that guided the enterprise. The definitions are detailed and the examples come from a variety of sources: newspaper articles, novels and non-fiction. The citations are up to date, having appeared in print over the past ten years. However, this example also shows the narrow focus of the present work: its content is confined to contemporary urban youth usage and the traditional usage of the word *vuelta* as errand, which harkens to medieval Spanish, is ignored. Likewise, many other idiomatic expressions that use *vuelta* in a legitimate sense are not listed. So long as the user understands that the aim of the compilers is to document underworld slang, the dictionary can be used as the specially calibrated tool it was meant to be.

This 233 page reference work needs to be in the library of every interpreter or translator who contends with modern day Colombian slang. You will no doubt find *Diccionario de Parlache* useful and conclude that it is money well spent. ▲

[The reviewer is a federally certified Spanish interpreter.]

#### REFERENCES continued from page 23

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4. de Groot, G-R. and J.P. van Laer, C. (2006, Spring). The dubious quality of legal dictionaries. *International Journal of Legal Information*. 34 (1), 65.
5. Robb, L.(1982). *Diccionario de términos legales*. Mexico: Editorial Limusa.

#### ADDITIONAL REFERENCES

<http://acebo.com/papers/homicide.htm>

Holly Mikkelsen's article about difficulties with terms related to homicide.

[www.nccourts.org/Citizens/CPrograms/Foreign/Documents/sourcesdictionaries.pdf](http://www.nccourts.org/Citizens/CPrograms/Foreign/Documents/sourcesdictionaries.pdf)

A list of useful dictionaries and other resources for interpreters and interpreting students.

<http://sdnyinterpreters.org/pub/term/>

A good online legal glossary created by the interpreters at the federal court in Manhattan.

## WEBSITES OF INTEREST

Online Multilingual Glossary — [www.legalglossary.ca](http://www.legalglossary.ca)

5,000 Canadian terms that have been through a rigorous process of terminology support. In Plain Language, Chinese (traditional and simplified), Farsi, Punjabi, Russian, Spanish and Vietnamese.

*Overcoming Language Barriers in the Criminal Justice System: Can Language Assistance Technology Help?* Contains key discussions from a roundtable event Vera Institute hosted in March 2007 in NYC that explored the potential uses of language assistance technology in the justice system. To download the 12-page report, go to [www.vera.org/publications/publications\\_5.asp?publication\\_id=401](http://www.vera.org/publications/publications_5.asp?publication_id=401)



## A REPORT ON THE COURTS IN SPAIN

## LA INTERPRETACIÓN JURADA EN ESPAÑA

Marisa Martínez

En la profesión en España me desempeño en dos ámbitos complementarios: la interpretación simultánea y la interpretación ante tribunales o jurada, como le llamamos, además de la traducción escrita. Para esta nota me centraré en el ejercicio de la profesión del intérprete jurado en los tribunales españoles.

En los tribunales españoles el intérprete no siempre traduce simultáneamente al acusado o al demandado a través de auriculares. Nuestras salas no están equipadas para esta modalidad en caso de que varios acusados escuchen a la vez. Alternamos la interpretación consecutiva — pregunta/respuesta — para traducir el testimonio de un testigo con el *chuchotage* para informar a quienes asisten al juicio y no declaran pero necesitan estar informados de lo que ocurre en la sala.

Una gran diferencia entre el sistema norteamericano y el nuestro es que en España, por absurdo que parezca, los intérpretes jurados dependemos del Ministerio de Asuntos Exteriores y no, como sería de esperar, del Ministerio de Justicia.

Hasta hace diez años, el examen para acceder al ejercicio de la profesión consistía en una convocatoria que lanza la oficina de interpretación de lenguas del Ministerio de Asuntos Exteriores a nivel nacional una vez al año. La convocatoria aparecía publicada en el Boletín Oficial del Estado y requería el pago de una cantidad para acceder al examen, además de una titulación universitaria, que no necesariamente tenía que ser en lenguas.

El examen consistía en dos pruebas escritas, cada una de tres horas de duración, una por la mañana y otra por la tarde. La primera era sin diccionario y eliminatoria. El tema era abierto: literatura, sociedad, ciencia y economía, pudiendo corresponder al candidato cualquiera de tales temas. La segunda era un texto de índole jurídica, con diccionario. Ambas pruebas eran de la lengua extranjera al español. Los candidatos que accedían al examen eran de un entorno variopinto y con niveles muy diversos de conocimiento de la lengua extranjera. No había ninguna prueba destinada a evaluar la competencia escrita del candidato en la lengua extranjera, y mucho menos la oral.

Las cosas cambiaron ligeramente en España con la introducción de una “prueba oral,” en el año 2000, en principio destinada a comprobar las competencias verbales del candidato, pero que

se limitaba a presentar verbalmente ante un jurado una síntesis de un texto escrito, algo no muy representativo de nuestra labor diaria en los tribunales. Asimismo, se introdujeron partes de traducción inversa, del español a la lengua extranjera y, con la descentralización de algunos poderes por parte del Estado español y adjudicación de competencias a las autoridades regionales, algunas comunidades autónomas como Cataluña organizaron su propio examen, eso sí, con las lenguas autóctonas de la

región, como en este caso el catalán. (El sistema democrático de organización de comunidades autónomas en España permite a cada región, sobre todo a las que disponen de una lengua propia, organizar algunas de sus necesidades de manera más acorde con su realidad.)

Nuestro nombramiento es a nivel nacional y ejercemos en cualquier tribunal del Estado español, tanto civil como penal o mercantil, y tanto en una región como en otra. La lógica hace que se recurra a los intérpretes locales; pero cuando no hay disponibilidad un intérprete de otra provincia está autorizado para actuar en cualquier otra provincia del Estado español.

Yo resido en Barcelona desde hace 25 años y ejerzo esta profesión a tiempo completo desde hace 18. Sí hemos observado cambios positivos, fruto del reconocimiento de la importancia de nuestro buen hacer en el sistema judicial, pero éstos han resultado y probado ser

insuficientes.

Cuando el Estado español traspasó algunas de las competencias a las comunidades autónomas, la administración autonómica en Cataluña decidió contratar en licitación pública los servicios de traducción e interpretación en tribunales y hacer la adjudicación por provincia y por cuerpo policial o administrativo. La adjudicación no cayó en manos de entes preocupados por la defensa de los intereses de la profesión, sino más bien de sus propios intereses económicos.

Y aquí es donde estamos actualmente. La triste realidad de nuestro país es que si algún ciudadano o entidad precisa de servicios de traducción o interpretación jurada, pero no cuenta con medios económicos para sufragarlos o no desea hacerlo porque

> *continues on next page*



**LA INTERPRETACIÓN JURADA** *continued from page 25*

le corresponde de oficio como un derecho constitucional, debe irremisiblemente pasar por estas entidades adjudicatarias. Naturalmente, la alternativa para los que cuentan con medios y voluntad de recibir un servicio cualificado es contratar a un profesional, sea directamente o mediante asesoramiento de su letrado.

Los honorarios son de libre estipulación dado que los intérpretes jurados lamentablemente no somos colegio. Esta es una larga lucha con fervientes defensores y feroces detractores. Hay quien afirma que ser colegio nos protegería frente a abusos de intrusismo profesional y que además sentaría las bases para exigir unos requisitos profesionales mínimos, tanto éticos como de formación. Por otra parte, la vieja guardia se cierra en banda ante toda posibilidad de perder sus derechos adquiridos o peor aún, tener que aplicar el viejo lema de “renovarse o morir.”

Este sistema de actuación en solitario, no deseado por la profesión sino impuesto por altas esferas, hace que nos sintamos verdaderamente desprotegidos en cuanto a la prestación de nuestros servicios y a la estipulación de honorarios. La supuesta libertad de actuación no obra nunca a nuestro favor como algunos quizá penséis por aquello de que, como decía mi abuela, “el buey suelto bien se lame.” Primero porque el cliente entiende que un sólo intérprete basta para un juicio porque, en teoría, son breves (¡nada más lejos de la realidad!) y porque ello permite a los recién llegados a la profesión y con ganas de trabajar reducir sus honorarios al mínimo, abriendo así la puerta a todo tipo de abuso.

Por otra parte — si bien no es general — al menos a nivel federal los tribunales y salas de vistas en los EE.UU. están equipados para el uso de un sistema de traducción simultánea. En España continúa prevaleciendo el método rudimentario de la viva voz, y hasta hace poco no se había introducido el sistema de grabación de la vista en un CD y todo el juicio lo mecanografiaba el secretario judicial, con lo cual se puede imaginar la frustración de repetir mil veces las interminables preguntas de los letrados y las largas respuestas de nuestros clientes para que todo quedase reflejado en acta.

Desafortunadamente, el poco deseable sistema de la adjudicación del servicio fuera del personal cualificado empieza a surtir sus efectos.. Cada vez más son los letrados que critican o deploran el desastroso nivel profesional de estos servicios de oficio y la necesidad en algunas ocasiones de suspender vistas por la incapacidad del intérprete de cumplir con su cometido.

Si el colectivo de letrados y el nuestro aunamos esfuerzos, y si, las múltiples tentativas de constituir el Colegio de Traductores e Intérpretes acaban prosperando y por fin alguien defiende nuestros intereses profesionales, es de esperar que la administración rectifique estas faltas. No hay que olvidar que nuestros intereses coinciden — o deberían coincidir — con los de nuestros clientes. ▲

[La autora es traductora e intérprete jurada y de conferencias; sus lenguas activas son francés, inglés y español. Para comunicarse: [mmv.interpret@retemail.es](mailto:mmv.interpret@retemail.es)]

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