

A MEETING OF THE "MOUTHPIECES"

6th International Forum on Legal Translation and Court Interpreting

Paris (12-14 June 2002)

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English newspapers reported on June 14, 2002 that Satpal Ram, convicted in 1985 of murdering a man in a Birmingham restaurant, was being released after 17 years in jail. In 1987 he had tried (unsuccessfully) to appeal his conviction. Among the issues raised on appeal was the fact that testimony by a Bengali-speaking witness had been "unintelligible" – so much so that it was impossible to cross-examine him. No interpreter was provided, nor did defense counsel request one. In what *The Guardian* described as a farcical trial, "at one point the judge told the jury he would translate, even though he did not speak Bengali" (*Guardian*, 30 January 2000).

Is this case peculiar or does it reflect the state of interpreting in judicial systems worldwide? The Sixth International Forum on Legal Translation and Court Interpreting, organized by the FIT (International Federation of Translators) Committee of the same name, brought together practitioners and academics from six of the world's seven continents to exchange research findings, experiences, and questions. The picture that emerged was varied but not outstandingly positive.

A highly qualified Spanish-French interpreter related frustrating attempts to offer his services to the French courts. Spain and France were cited as examples of diametrically opposed attitudes to recognizing other countries' interpreter credentials. An Italian informant reported on providing interpretation in a major terrorism trial for days on end without relief. Another Italian colleague observed that the judge often complains about the volume of the interpreter's voice. Interpreters in the English courts voiced concern at not being allowed to contact or approach a judge over anything, including issues relating to the proper performance of their duties.

In agreeable contrast, the Finnish Association of Translators and Interpreters recommends that an interpreter (of spoken or sign language) work from a convenient position. That such a recommendation is respected by Finnish courts elicited a deeply felt reaction from a Polish colleague, who reported that court interpreters in Poland are required to stand.

In Austrian courtrooms, the interpreter sits with the judges, hence has no opportunity to provide a complete rendition of the proceedings to a non-German speaking defendant. Interpreters render only what the judges ask to hear, consecutively. As a result, through no fault of their own, Austrian court interpreters are not providing true linguistic access to non-German speakers.

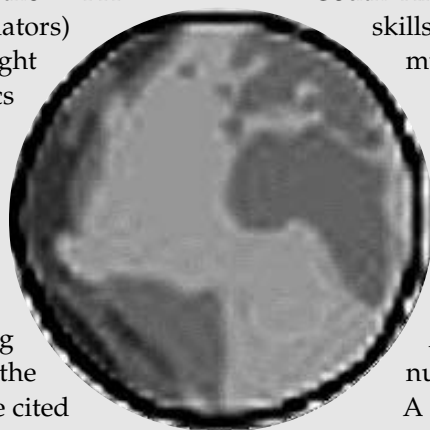
In South Africa, court interpreters are permanently assigned to the same judge, for whom they become something of a factotum. Working alone at trial, the interpreter may have to provide interpretation between English and up to five African languages. Nearly all South African court interpreters are full-time court employees. A recently introduced distance-learning BA in court interpreting at the University of South Africa aims to improve court interpreters' skills and enhance awareness of their vital communicative activity.

Bologna city court judges frequently consider interpreters as "judge's aides" to be treated high-handedly. Nor do they follow the principle of equal access to communication for non-Italian-speaking defendants. This similarity in attitudes between Bologna judges and their South African counterparts struck a chord with a number of Forum participants.

A researcher from Finland discussed the linguistic, cultural and sociological framework of police interrogations, an important area not widely researched in other countries. In the area of police interpreting, reports were that practice varies widely, with some countries routinely using their own in-house personnel, some of them well-trained (Japan), while other countries (UK) use freelance interpreters. London's well-organized and quality-conscious Metropolitan Police recently changed its financial arrangements for interpreters, reducing the minimum number of hours per assignment so that interpreters now receive less for the same amount of work.

Interpreters in the legal system normally fall into two categories: those who care about the quality of justice, and those who do not. It may safely be asserted that those attending the Paris Forum fell into the first category. Yet at the same time, interpreters do not wish

Continued on page 12



A MEETING OF THE "MOUTHPIECES"

Continued from page 6

to provide their services as a charity, which some courts seem to expect. There was much discussion of "adequate remuneration," of considerable concern to all Forum participants. In Belgium, for example, which has a sliding scale of fees depending on language combination, the most commonly required language combination (French-Flemish) pays so poorly that an interpreter who works 40 hours a week, every week, will take home less than the minimum wage. If it is impossible to make a living wage from full-time activities in court, how can the legal system expect to attract and retain quality interpreters?

In Ireland, now being swamped by asylum seekers, judges reportedly consider interpreters an "unnecessary evil" since consecutive interpretation slows the proceedings down excessively. As a result, judges may stop everything from being interpreted. Ireland's Ministry of Justice generally contacts agencies, whose interpreters receive very low rates, although some conference interpreters are willing to accept court work. In the absence of court interpreter training in Ireland, many go to the UK to train and then, attracted by higher rates, do not return to Ireland.

One example of best practice was provided by two British Sign Language (BSL) interpreters who work out-of-court, in child protection cases. They explained how they developed a protocol, "Seven Steps to Heaven," including a code of conduct, confidentiality agreement, supervisory support, and briefing/debriefing sessions, which has immeasurably improved working practice for the benefit of all. In out-of-court settings, interpreters' use of "annotation" enables an interpreter to draw attention to culturally inappropriate references and avoid miscommunication. Other cultural and ethical issues abound for Hmong interpreters in Milwaukee who work in domestic violence cases. Through a well-orchestrated training program, they learn to give voice to people who cannot speak for themselves.

A shining example of judicial authorities who aim to achieve justice across linguistic and cultural barriers was seen in the practice at the International Criminal Tribunal for the Former Yugoslavia (ICTY), which has learned from and built on the lessons of the Nuremberg Tribunals. There, judges and lawyers alike make allowances for differences in witnesses' backgrounds, for example by sometimes modifying traditional forms of questioning. Considerable financial and technological resources have been allocated to all aspects of the ICTY's work. Interpreting services are treated not as Cinderella but as a crucial element in the administration of justice. [See ICTY's website, www.icty.org.]

Participants in the Paris Forum had the opportunity in

both formal and informal settings to report on a whole panoply of issues, linguistic and other, which arise in cross-cultural encounters in judicial settings. In many countries, interpreters have insufficient knowledge of legal procedures, or are not sufficiently prepared and hence cannot interpret effectively. Then again, interpreters may not be adequately remunerated by local judicial authorities for hard-earned skills and experience. Many legal professionals have little or no awareness of the issues involved in the provision of language service.

Participants came away knowing there is a groundswell of like-minded individuals in many diverse areas of the world. However, the overall future for court interpreting is mixed. In some places (Finland), major progress has been made and further improvements are planned; in others (Belgium), basic legislation is being introduced to address fundamental interpreting issues. In some places (such as the U.S.), legislation exists and can be effective in regulating practice (the federal courts) for some languages (especially Spanish), but elsewhere, practice and quality is extremely variable (state court systems); in other countries (Japan), though much has been achieved in recent years, much remains to be done in interpreter training, planning and management.

In some supranational settings, such as the European Union, there is growing awareness of the need for "procedural safeguards" and proper protection for linguistically vulnerable groups. However, the extent to which national states are prepared to "put their money where their mouths are" – as the ICTY has done – is not clear. EU proposals (in the framework of the Grotius Programmes for equal access to justice across language and culture) tend to shy away from the financial aspects of engaging competent interpreters. Yet those used to dealing with court administrations cautioned that over-ambition is likely to result in "lip service" being paid to the concept of equal access.

All the countries represented at the Paris Forum have ratified either the European Convention on Human Rights or the International Covenant on Civil and Political Rights, both of which mandate "the free assistance of an interpreter" for individuals in criminal proceedings who cannot understand or speak the language used in court. The question is whether, against this background, in the brave new third millennium, where rights-based approaches are so often advocated, the world's countries will see fit to take action in order to effectively implement elementary linguistic norms in their domestic justice systems.

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