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Résumé de l'article

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TRAINING AND CERTIFICATION OF COURT INTERPRETERS IN A MULTICULTURAL SOCIETY

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Résumé

Étant donné le caractère multiculturel de la société, le Canada doit se doter de systèmes de formation, d'accréditation et de reconnaissance des interprètes «de tribunaux». Depuis 15 ans, de nombreux efforts ont été faits en ce sens, particulièrement en Colombie Britannique où les programmes de formation se sont diversifiés. Les Britanno-Colombiens ont également aidé les Ontariens à mettre en place leur programme de formation et à identifier les étapes pour l'amélioration des services d'interprétation devant les tribunaux. Des efforts importants sont faits pour faire reconnaître la profession.

INTRODUCTION

The need for a system of training and accrediting court interpreters has been repeatedly demonstrated in the bilingual, multicultural Canadian society (see Sheppard 1971: 164-169). We shall outline parallel developments in court interpreting in B.C. and other provinces and the United States as they relate to the multilingual situation where English is the language of the court.

Legal interpreting is the Cinderella of interpretation: an unglamorous girl who is only of late developing a degree of appeal. Unlike conference interpreting, court interpreting has no well-defined beginning but rather existed, in a low profile, from the very beginning of the justice system as we know it. Paradoxically, the Nuremberg trials interpretation helped establish the profession of conference interpreting but did little for court interpreters. From time immemorial, an untrained bilingual person was brought into the court to help with the understanding of evidence given by a foreigner in the United Kingdom, Canada and the United States. It appears that virtually centuries went by before the internationalization of our societies brought a new perspective into court interpreting. It was not until the sixties and seventies in North America that a complete lack of structure in court interpreting was gradually recognized as an issue. It is suggested here that the last 15-20 years have indeed brought considerable advances in court interpreting in Canadian and American jurisdictions. The next few years cannot but further improve court interpreting services, a profession now in its adolescence.

Court interpreting requires a mix of immediate, consecutive and simultaneous interpreting. Different courts and judges will call for somewhat different approaches and many interpreters, unsure of themselves or of the job requirements, will oblige and attempt to do what has been requested by the judge. So they will provide whispered interpretation for a party in the audience or the prisoner's box or will stand by to clarify the meaning of English words as requested by the accused. Court interpreting procedures remain to be developed and accepted.

The mixtures of interpreting modes found in court interpreting bear some similarities to interpreting needs in social work, medical services, tourism and business. The term "escort" interpreting has been used widely and may be defined as "mixed mode" interpreting, in applications other than court interpreting.

My first experience as an interpreter was in my high school and university days in Czechoslovakia where I worked during the summers for the State Tourist Agency. Before I was hired, I had to demonstrate in a 15 minute oral examination that I could communicate in the languages I applied to work in. A few years later, still at school, I accepted an assignment to interpret in a court in Toronto. There was no examination, nor an explanation of my duties prior to the assignment. The experience in Toronto pointed out to me an obvious area in need of development and awakened my interest in court interpreting. A subsequent lengthy trial in Vancouver where I acted as one of the three attending interpreters provided a good opportunity to become familiar with different aspects of interpreting and to forge alliances with members of the legal profession who were equally dissatisfied with the then prevalent casual approaches to interpreting.

It has been a satisfactory experience to witness, over the last fifteen years, the remarkable development of training and accreditation programs across the continent.

Training programs are now available in Vancouver, Sudbury, Ottawa and several American centers. Court interpreters are examined and certified by a professional society in British Columbia and the provincial government in Ontario.¹ The B.C. government has supported the development of a system of training, certification and appointment of legal interpreters² and the national organization of translators and interpreters (CTIC) is committed to making certification examination available across the country.³ Future developments may follow more predictably the few pioneering programs in existence where court interpreters are trained, examined and organized as a profession.

LEGAL ASPECTS

Right to interpretation has generally been recognized and practised in Canadian courts. Various pieces of legislation such as the Canadian Bill of Rights, the United Forces Act and the Charter of Rights refer to rights to the assistance of an interpreter if the person does not understand the language in which proceedings are conducted (Sheppard 1971: 165-166). The role of an interpreter and his or her qualifications are, however, generally not defined and therefore without a specific use for the all important act of appointing interpreters in the law courts of Canada.

Court interpreting and the Law have been specifically addressed by Sheppard (1971), Keating (1985) and Vlug (1985). Comparing Sheppard with more recent contributions by Keating and Vlug, one cannot help noticing how relatively little has improved over the past fifteen years. There appears, however, to be complete agreement in terms of the necessity for competent, trained/tested interpreters to act in legal proceedings.

Keating distinguished between two functions: Witness, and Proceeding Interpretation, and indicates that while complete interpretation of the evidence is always required, individual judges differ as to the extent of necessary interpretation and proceedings. Apparently, the right of the accused to have the proceedings interpreted was upheld by the Supreme Court of Canada in 1983.

Keating also notes that most court officers will say that "verbatim" interpretation is needed for evidence but an interpreter will refer to "complete and accurate" interpretation. It is not an easy task at the best of times to teach judges and we may hear from the court yet for some time the unfortunate term "translator" when "interpreter" is meant.

To admit an interpreter to the court is the privilege and duty of each judge (Sheppard: 169). Most commonly, subjective criteria will be used to determine whether an interpreter is competent or not. For example, it may become obvious to the judge that the interpreter cannot communicate with the witness. On one occasion, I saw a judge of the Supreme Court of B.C. diplomatically relieve an interpreter with the words, "I think that you must be tired by now," when the interpreter had very obviously become uncertain of her own words. This uncertainty was shown in the interpreter's face! Sheppard, Keating and Vlug call for mandatory certification to take the element of chance out of court interpreting.

Vlug further discussed the implications of the concept of fundamental justice as it strengthens the right to an interpreter and comments on the constitutional right to an interpreter in the United States. As well, he discusses fiscal responsibility for interpreter's fees and the concept of waiving one's right to an interpreter. Keating also discusses the effects of the use of an interpreter on the trial process.

TRAINING AND CERTIFICATION

The first training programs for court interpreters were those at Laurentian University in Sudbury (1978) and Vancouver Community College (1979). While the Laurentian program was designed as an option for students in the official language translation program, the Vancouver program used a broad multilingual approach to training court interpreters in a community with a very large spectrum of official, native and ethnic languages.

The Continuing Education Division of Vancouver Community College offers a one year part-time study program leading to a certificate. Applicants must prove, in an examination, their full functional bilingualism in English and another language. Admission to the program is further subject to sufficient enrollment in a particular language combination and availability of resources and instructors. The following languages have been included in at least one year of the program: French, Spanish, Italian, Portuguese, German, Dutch, Chinese, Japanese, Hindi, Punjabi, Vietnamese.

Training over two terms and 180 hours of instruction includes legal proceedings and terminologies, interpreting theory and practice and practicum. For detailed descriptions of the program, see Repa (1981) and Carr (1989); for a comparative discussion of the two training programs, see Roberts (1981).

From the very beginning in 1979, the program at Vancouver Community College was not intended to stand alone but rather its purpose was to serve as one aspect of a tripartite system of training and certification. The other two parts were to be played by a professional association and the government.

The Society of Translators and Interpreters of B.C. was founded in 1980 as an association of court interpreters. Its mandate was subsequently expanded to include translators. A provincial charter was obtained in 1981. The society became a full member of the Canadian Council of Translators and Interpreters and offers professionals in British Columbia an opportunity to prove their competence and be certified as translators and court interpreters.

The national uniform translators examination was developed by the founding members of the Canadian Council of Translators and Interpreters (Association of Translators and Interpreters of Ontario and the *Société des traducteurs du Québec*), and is now used also in New Brunswick, Manitoba, Saskatchewan, Alberta and British Columbia.

Supplementary provincial examinations for translators are used in Quebec and Ontario and court interpreters are examined and certified, as mentioned above, in British Columbia. The Canadian Council has plans to expand these provincial initiatives into national, standardized examinations parallel to the translator examination. Such a national examination would replace the provincial examination for court interpreters currently offered in British Columbia.

The court interpreter examination is offered once a year in B.C. and consists of the following procedures:

A. Pre-requisites:

- 1) Applicants must be members of the Society of Translators and Interpreters of British Columbia.
- 2) Applicants without prior experience and/or training in court interpreting are discouraged from taking the examination.

B. A written language proficiency examination is given as a pre-screening device. The usual format is translation of texts related to legal proceedings from each language of specialty to the other language of specialty (example: Italian to English; English to Italian).

C. An examination of principles of law and legal procedures is administered concurrently with the written language proficiency exam.

D. A mock trial concludes the examination. Candidates are not only given an opportunity to prove their own competence in providing accurate interpretation but also demonstrate their ability to perform in the often unpredictable atmosphere of a court setting.

Both the Society of Translators and Interpreters of B.C. and the Vancouver Community College training program cooperate extensively in advising each other and ensuring that standards in the training program and examination are compatible. The cooperation is formalized through participation in the Program Advisory Committee and strengthens the effectiveness of both the training program and the Society's examinations.

MANUAL FOR COURT INTERPRETERS

VCC, with the assistance of the provincial Ministry of Education, consolidated in 1984 the various materials and resources used in the training program and produced a four volume *Manual for Court Interpreters*, designed for use in schools, informal training groups and individual interpreters (Roberts 1981).

The first volume contains several handbooks (legal aspects, interpreting techniques, immigration inquiries) and has been compiled with the cooperation of lawyers, interpreters and officials in the Department of Employment and Immigration.

The second volume is a collection of trial transcripts suitable as training texts. They may be used for sight interpretation, mock trials and other exercises as determined by the specific training needs of a particular group.

The third volume also includes trial transcripts but these are modified and each has a complementary audio tape for use in interpreting exercises. There are 5 tapes in total where all voices use English only. One tape has a French speaking witness and another tape has Spanish speaking witnesses. The tapes may be used in a variety of exercises for both witness and proceeding interpretation.

The last volume contains a bibliography of suitable audiovisual resources, program objectives and course outlines suitable for development of similar training programs

elsewhere. Currently this section and other parts of the Manual are in the process of being updated.

There has been considerable interest in this manual and many schools across the continent have obtained copies. Individual interpreters also order the manual but one must wonder how useful it could have been for the interpreter who ordered the manual to study for a U.S. Federal Examination. Obviously, the local needs and terminologies may vary somewhat from jurisdiction to jurisdiction and must be taken into consideration. Useful court interpreter manuals are now available in Ontario (Carr 1984) and several American jurisdictions.

NATIVE COURT INTERPRETER PROGRAM

The Gitksan-Wet'suweet'en Tribal Council of Hazelton, British Columbia approached Vancouver Community College in 1985 with a request to develop a certificate training program for its interpreters who were needed to work in the Council's land claim case. The Gitksan-Wet'suweet'en Education Society and Vancouver Community College co-sponsored the program, offered in Hazelton, B.C. from April 15 to June 15, 1986. Mr. Don Ryan, Executive Director of the Tribal Council and Mr. Ian Anderson, Planner initiated the project. Mr. Ken Birrell acted as the Vancouver Community College Coordinator on site. Ms. Barbara Huson was the Tribal Council's Program Coordinator. It was a challenging task to develop a training program for interpreters working from English and into Gitksan and Wet'suweet'en — languages that the College has no linguistic expertise in. One has to bear in mind, however, that neither is any other institution in a position to offer training in the two native languages. It may well be symptomatic for many native languages that the best available linguistic resources are in their very own communities.

We started with a premise that we could not offer the program unless we designed a method of combining skills in separate areas such as English, native languages, law and interpreting techniques. A brief outline of the program follows.

1. A two month duration, full-time attendance model was used which allowed for 180 hours of instruction in a more intensive mode than one finds in the Vancouver program described earlier. Full-time attendance suits native persons better as most instruction available to them is offered in that fashion.
2. Admission requirements called for proven proficiency in English and one of the two native languages. A standard English Language Assessment was administered by the Testing Centre, Vancouver Community College. The proficiency tests in Gitksan and Wet'suweet'en were somewhat more exotic:
Applicants attended individual interviews with a committee of elders. This was done separately for each of the two languages. Each interview followed a set of guidelines to ensure that all tests were of comparable difficulty. An evaluator, appointed by the Tribal Council for his or her credibility as a competent speaker, facilitated the translation of the elders' comments into a ruling on the eligibility of individual applicants. Applicants successful in both language tests were admitted to the program. There were 15 students altogether, in the two language combinations.
3. The program consisted of the following courses:
 - a) Legal Procedures and Terminologies (24 hours)
 - b) Court Observation and Practicum (30 hours)
 - c) Native Language Development (48 hours)
 - d) Interpreting Theory and Practice (48 hours)

4. The following personnel were appointed cooperatively by the College and Tribal Council:

The Vancouver Community College Coordinator, whose task it was to ensure that the overall objectives of the program were met, teach the course on Interpreting Theory and Practice, and coordinate instruction in the remaining courses.

The Tribal Council's Coordinator whose responsibility it was to ensure adequate support, facilitate logistics and liaise with the community.

A local legal counsel was appointed to teach Legal Procedures and Terminologies, and organize Court Observations.

Furthermore, one language development instructor was selected by the Council for each Gitksan and Wet'suwet'en. Their task was to assist students in acquiring appropriate terms and expressions as necessary for court situations. The language development instructors had to work closely with the College Coordinator to ensure continuity and transfer of information and skills from language development to interpreting practice and vice versa.

Instructional resources and reference materials in Gitksan and Wet'suwet'en are extremely limited. The written form of the language is either elementary or non-existent. This has led to practical solutions of perhaps temporary nature such as using an orthography suitable for the purposes of the course but not pretending to pre-judge any further linguistic research and development. Course materials, descriptions and reports are available from Continuing Education, Vancouver Community College.

GOVERNMENT TRAINING PROGRAM IN ONTARIO

Another project our Vancouver group undertook was the preparation of training materials and examination guides for the Ministry of the Attorney General of Ontario. Efforts in that province to improve court interpreting services date back to the early eighties. The University of Ottawa sponsored several special events and periodically offers a training program for court interpreters. Today, some 500 interpreters have been examined and accredited in a rudimentary fashion to work in the courts of Ontario. Although the Vancouver efforts must have helped the development of the present system in Ontario and are partially reflected in it, I would like to explain here the original purpose.

Étienne Saint-Aubin, French language service coordinator for the provincial Ministry of the Attorney General, initiated the creation of the position of Provincial Coordinator of Court Interpreters in 1985. Simultaneously, Taus Selhi, a Montreal-based interpreter and lecturer at the University of Montreal, and I were commissioned to prepare suitable training materials in the official and ethnic languages respectively. The following materials have been developed by the Vancouver group. (Project associates and co-authors: Leslie Miller, Department of Germanic Studies, University of British Columbia; Silvana Carr, Continuing Education, Vancouver Community College; Kathleen Keating, Barristers and Solicitor, Vancouver.)

1. Handbook of Legal Concepts, Terminologies and Procedures.
2. Court Watcher's Guide.
3. Review of Practice Interpreting Exercises.
4. Practice Booklet (Compendium of practice texts).
5. Examination Guide (Outline of language proficiency examinations).
6. Practical Examination Assessment Guide (Outline of Mock Trial Examination).

7. Practical Examination Assessment Sheets.
8. English/German Sample Language Proficiency Examination.
9. Examiner's Key to Errors for #8.
10. Legal Concepts, Terminologies and Procedures (Sample Examinations).
11. Sample Practical Examination of Interpreting Skills (English/Italian).
12. Sample Practical Examination Assessment Tape (English/Italian).
13. Sample Script for a Mock Trial.
14. Handbook of Recommended Courtroom Procedures and Instructions.
15. Various registration and evaluation forms suitable for implementation of a training program and certification programs.

The proposed system of training and accreditation of court interpreters in Ontario called for a three-step approach to the gradual improvement of court interpreting services:

1. A central registry of interpreters would record names of interpreters and the number of cases assigned. All interpreters in and outside the system of registered interpreters (persons listed with the Ministry) would have an opportunity to be trained and certified but interpreters whose services are used with a predetermined frequency would be required to be trained and/or prove their qualifications. A written language proficiency test in English (language of the courts) and the interpreter's language of specialty would be required in step I. Successful interpreters will be designated as certified at Level I.
2. Any interpreter I would have access to the Ministry's training manuals and would be admitted to a periodically administered examination in legal concepts, terminologies and procedures. Successful interpreters would be designated as Interpreters II.
3. A practice interpreting program will be open to all interpreters II and be mandatory for those interpreters whose services are required with a predetermined frequency. A practical examination — administered periodically — would include tasks such as sight interpretation and participation in a mock trial. Successful candidates would be designated as Interpreters III.

This gradual progression and the combination of voluntary and mandatory training and examination programs were designed to improve the services without jeopardizing the day-to-day functioning of the courts. This important concern on the parts of the courts is found throughout North American jurisdictions and needs to be taken into consideration when a certification system is being contemplated.

GOVERNMENT TASK FORCE IN BRITISH COLUMBIA

The initiatives in British Columbia undertaken by Vancouver Community College (training) and The Society of Translators and Interpreters (accreditation) initially lacked specific support by the provincial Ministry of the Attorney General which alone could ensure that interpreters' appointments reflect the criteria generally established in the discipline of court interpreting and specifically determined by the College and the Society.

The Ministry agreed in 1982 to sponsor a study of court interpreting services and a task force composed of educators, court officers and interpreters which conducted hearings and surveys, researching aspects of court interpreting in the province and other jurisdictions in Canada, the United States and the United Kingdom made the following recommendations:

- Court Interpreters in British Columbia be required to prove their competence by accreditation;
- The Court Registry recognize, as proof of competence, accreditation by the Society of Translators and Interpreters of British Columbia, or another accrediting body;
- A training program for court interpreters be offered at a B.C. public institution;
- A Central Registry of Accredited Interpreters be established;
- Court Interpreters' fees be upgraded and differentiated for accredited and non-accredited interpreters;
- Guidelines for court interpreters be developed and published in a handbook;
- Legislative steps be taken to elucidate the role of the interpreter in the legal process.

The Ministry of the Attorney General has accepted the report and responded favourably to most recommendations and has:

- Accepted the principle of accreditation;
- Stipulated that the interpreting community should decide upon the accrediting body;
- Agreed to give preference to accredited interpreters;
- Upgraded the interpreters' fees;
- Supported the development of guidelines for interpreters;
- Indicated the Society Act as the proper vehicle for legislative articulation.

The provincial government's position has been positive enough to give interpreters in British Columbia a fair chance of improving both the court interpreting services and the status of interpreters. The Society of Translators and Interpreters of British Columbia is generally seen as an objective and fair-minded association of professionals who pursue their own career goals and commercial ventures outside the association. The formation of a committee on court interpreting in 1986 by the Society was an effort to involve representative community groups, and language service agencies in the process of supporting the Society as the accrediting body for the province's interpreters.

The Society of Translators and Interpreters of British Columbia, through its Board, recognized the importance of any provincial certification/accreditation system having to be supported by the community of interpreters, users of interpreting services and other interest groups. Therefore, it designed a two stage consultative process where representative community groups were invited to serve on an organizing committee which in turn reviewed a proposed accreditation examination and presented it to all known interest groups, for comments and suggestions. Groups which had responded were then invited to give further comments and presentations. The objective behind this process was to avoid a situation where the Provincial Government might have received mixed messages from different groups of interpreters and users of services in the province, as to the usefulness of accreditation and ways of accomplishing it. The above-mentioned consultative process delayed the final submission of a specific accreditation proposal by the Society of Translators and Interpreters of British Columbia, to the Attorney General of British Columbia until 1990. At the same time, the process assured the involvement and support of all relevant groups.

PROFESSIONAL STATUS

The professional associations and societies traditionally uphold standards of performance and competence in Canadian professions and often have the mandate to qualify members of their professions. This practice varies somewhat from that of the United States where Government Boards examine and certify some professionals such as engineers.

Another important consideration in Canada is the necessary cooperation between provincial and national associations. Thus, for example, nurses in British Columbia will write a nationally designed qualifying examination which will be administered provincially and lead to a provincial registration. In Canada, professions are a provincial responsibility.

Professions with any clout at all have provincially enacted mandates. British Columbia has some sixty "professional" legislative acts where specific societies, associations and colleges such as the B.C. College of Surgeons are designated as self-governing bodies, representing and regulating their respective professions.

A provincial Law Society will set up examinations and admit lawyers "to the Bar." The Canadian Bar Association and its provincial chapter, on the other hand, will act in a less exacting manner as facilitators of professional development. Following this example, I suggest that the term "society" may better denote self-governing powers and the term "association" refer to voluntary activities and membership.

Curiously, the professions with their own legislative acts present a wide spectrum, from lawyers to barbers — yet they do not appear to be a growing club. In fact, the Ministry of the Attorney General of B.C., in response to the above-mentioned report on court interpreting services², was very clear in discouraging the interpreters' quest for a legislative act of their own. I am not convinced, however, that interpreters and translators can function as a profession without a status comparable to that of other designated and legislatively empowered professions.

The Society of Translators and Interpreters of British Columbia sponsored in 1981 a survey of B.C. professions. The results have shown certain variations in requirements for professional membership but definite general terms of reference emerged. Considering both the general guidelines for professional self-government and the specific needs in translation and interpreting, I wish to propose the following model for professional training, accreditation and recognition of court interpreters.

TABLE I
STAGES IN PROFESSIONAL DEVELOPMENT OF COURT INTERPRETERS

1. <i>Basic Education and Training</i>	Bachelors Degree or equivalent. Proven competence in at least two languages.
2. <i>Professional Training</i>	Post graduate program in court interpreting leading to a diploma or equivalent.
3. <i>Accreditation</i>	Completion of qualifying examination set by a professional body.
4. <i>Employment</i>	Recognition of the professional accreditation by employers in the public and private sectors, including provincial governments.

As explained earlier, the court interpreter training program and the Society of Translators and Interpreters work hand in hand in British Columbia. This cooperation is in part due to the fact that both were created at approximately the same time (1979 & 1980) and by the same group of people. There might be certain obstacles to similar cooperation among educational institutions elsewhere in Canada, on account of parallel and uncoordinated developments. Cooperation is, however, essential and coordination, in my view, possible.

The established translator or interpreter will often look down upon the idea of professional training and suggest that no training is necessary as experience is all important. At the same time, he or she may voice reservations about the level of competence among graduates from translation programs. University teachers of translation and interpreting also have their share of complaints: university administrators see translation as a non-academic and therefore inferior activity and do not fully support it. Also, the pressure to produce a decent number of graduates may have occasionally softened admission and graduation standards.

The professional associations often see themselves as sole representatives of the profession, yet have only limited legislative powers to support their claims. Their disappointment with some college university programs prevents them from giving such programs much needed wholehearted support.

A vicious circle indeed; I am reminded of the archetypal story of three brothers and three stalks where each stalk can be easily broken; yet it is impossible to break all three stalks when bound together.

I suggest that the status of training programs, professional associations and translators/interpreters themselves will be greatly enhanced when all parties realize the need for unity and cooperation. We must demonstrate, in form and substance that education, training, experience, accreditation and professional designation are all important in their parts and as a system.

A degree or a diploma in translation will make a practitioner more acceptable to the public (form). It is further important that standards in schools of translation be beyond reproach (substance). Professional association examinations may be exacting (substance) but they also need to be recognized by the governments, and universities (form) to be truly effective. Despite much progress made in recent years, further work is necessary to truly professionalize translators and interpreters in North America.

CONCLUSION

It is improbable that interpreters will be in a lesser demand in the future. The multilingual, multiethnic mosaic of the Canadian society is unlikely to change. As new Canadians arrive in our communities, their introduction to the life and institutions of the land will always be accompanied by a definite need for interpreting in some situations. In the law courts, all persons must be able to make and hear accurate statements in a language they fully understand and use without impediment. It is up to the interpreting community, represented by individual interpreters, professional associations and training schools, to ensure that the present gradual development of standards is kept on a steady course and leads to a full professional status of interpreters working in the law courts of Canada.

NOTES

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2. *Toward a Court Interpreting System in British Columbia* (1985), A Report of a Task Group on Court Interpreting, Victoria.
3. Canadian Translators and Interpreters Council, Certification Examination of Court Interpreters, Guidelines and Instructions, unpublished manuscript, 1990.

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