

**EVALUATION OF MEANING IN COURTROOM INTERPRETING  
TESTIMONY BETWEEN XITSONGA AND ENGLISH: A CASE STUDY OF  
MPUMALANGA**

**By**

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## CHAPTER ONE: BACKGROUND AND ORIENTATION TO THE STUDY

### 1.1 Introduction

Translation and interpreting are forms of linguistic mediation that involve rendering written or oral text from one language to another. Nida (2004: 11) outlines three distinct meanings of translation; translating (as a process), a translation (a product of the translation process or a translated text, and translation (which is the abstract concept that encompasses both the process and the product of translating). Munday (2001) says that the process of translation between two different languages causes the translator to change an original written text (source language or ST) into a written text (target language or TT). Munday's definition of translation corresponds with the interlingual translation described by Jakobson (1959/2000: 114). Jakobson sees *intra-lingual* translation as *rewording*; interlingual translation as translation *proper* and *inter-semiotic* translation as *transmutation*. Here, Jakobson's notion of *intra-lingual* or rewording, occurs when the translator or interpreter rephrases an expression or a text in the same language to clarify something written. However, Jakobson says that interlingual translation, which he calls translation proper, is an interpretation of verbal signs by means of other languages. On the other hand, *inter-semiotic* translation or transmutation occurs if a written text is translated to either verbal signs, music, film or painting. In *intra-lingual* translation the translator translates what has been written from one language to another language.

The increased globalization, growing mobility of people and the wide spread and intensity of armed conflicts in the recent years have established translation and interpreting more firmly in the public sector (Baker and Perez-Gonzalez, 2011: 39). Translators and interpreters have become economic and political players in the services sector worldwide. Irrespective of the clout and political impact they bare, the growing pervasiveness of translation and interpreting in all domains of private and public life has also created the need for a better understanding of their social relevance (Baker and Perez-Gonzalez, 2011). In addition to backdrop and growing dominance of English as a lingua-franca, translation and interpreting have become central to promoting cultural and linguistic diversity in society and in the development of multi-lingual content in the global media networks. They have also become central

to the delivery of institutional agendas in a wide range of settings from supranational organisations to judiciary and healthcare services at community levels.

## 1.2 Background

People rely on language for the purposes of trade and communication. However, due to differences in languages and cultures, they suffer barriers. These barriers can be very costly when in a courtroom interpreters fail to render accurate renditions from the source language to the target language. It often occurs that in court proceedings, in South Africa, witnesses and the accused persons are illiterate Africans while all the other court officials, except the interpreter, are non-Africans. The researcher has noted with grave concern the extent to which justice is miscarried as a result of inaccurate and imperfect interpretation of the accused persons and witnesses. This state of affairs may cause disastrous effect rendering the court officials at a loss and arrive at an unjust resolution or verdict. This study stood up to evaluate the extent to which interpreters lose meaning of the intended message during courtroom trials.

This study focuses much on *interlingual* and *intersemiotic* translation because the two are used by South African courtroom interpreters during court proceedings. Kade, (1965:11) defines interpreting as a form of translation in which first and final rendition in another language is produced on the basis of a one-time presentation of utterance from a source language to a target language. In principle, interpreting is performed 'here and now' for the benefit of people who want to engage in communication across barriers of language and culture (Kade 1968:12). Kade's notion of interpreting is that of a form of translation in which the source language text (utterants) is only done once and cannot be reviewed or replayed, and the target language text is produced under time pressure with little chance for corrections or revision. Drawing from Kade's perception of interpreting one can construe that the first and the final rendition in the target language is produced on the basis of source language. The South African court proceedings, which are necessary metalinguistic, are susceptible to errors and sensitive to questions of procedural fairness. Different types of interpreting have been discussed by scholars like (Kade 1968; Van Hoof, 1962, and Gentile *et al.* 1996). These scholars, argue that interpreting can be used in different spheres for the purposes of business interpreting as a primary type of

interpreting. However, this study is focusing its attention on courtroom interpreting. More detailed types of interpreting will be given in the next chapter when reviewing related literature.

The courts of South Africa are civil and criminal courts responsible for administration of justice in the country. These courts are established under the Constitution of South Africa or under the Acts of Parliament of South Africa (The South African Government Information 2009/2010). These courts are funded by the national Department of Justice and Constitutional Development, and are contained in Section 165 of the constitution of the Republic of South Africa. They are divided into district, regional and magistrate's court; the provisional divisions of the High court; and the Supreme Court of Appeal (Sabinet Law, 2013). The Constitutional Court is the highest court for constitutional matters. Van Velden & Duffeny Attorneys (2013) indicate that hierarchy consist broadly of Constitutional Court, Supreme Court of Appeal and the High court. The Constitutional court seat in Johannesburg while the Supreme Court is in Bloemfontein. There is at least one High court in each province (Van Velden & Duffeny Attorneys, 2013).

Nonetheless, this study focused its attention on the South African Magistrate Courts. There are approximately 350 magisterial district in South Africa. Each district is served by a magistrate. These district courts have jurisdiction over all crimes except treason, murder and rape; and can impose a sentence of not more than three years' imprisonment and a fine of not than R120, 000. They can also hear civil cases where the claim is not more than R200, 000 (Association of Commonwealth Lawyers: 2010). On the other hand, magisterial district courts are grouped into region; each region has a regional court that may sit at multiple locations. These regional courts have the jurisdiction over all crimes except treason, and can impose a sentence of not more than fifteen years' imprisonment and a fine of not more than R600, 000. They can also hear civil cases where the value is not more than R400, 000 as well as divorce cases (Sabinet Law, 2013). This study uses sampled magistrate courts in Mpumalanga province.

### **1.3 Research problem**

Hereunder are the challenges that contribute to courtroom interpreters' incompetent and inaccurate renditions of the testimony during court proceedings.

Court interpreters do not have adequate professional qualifications for the interpreting job. They are employed on the basis of them being native speakers of a particular language from which they should interpret, or having little knowledge or native level fluency on the language to which they should interpret. Scholars like (Inggs, 1998; Moeketsi, 1999) points out that court interpreters have a very low standard of education, at best a very poor twelfth grade which would not allow them direct entry into a university. This lack of relevant qualification contributes to inaccurate interpreting in the courtroom trials. Hertog (2001:11-12) argues that without competent qualifications and experience for legal translators and interpreters, there cannot be an effective and fair legal process across languages and cultures. According to Hertog, these standards vary somewhat from county to country but all have certain universal features. Wallace (2015: 223) adds that 'another dilemma in court interpreting is the prolific use of unqualified interpreters in court', this pervasive problem varies from State to State, and poses a lot of challenges in the judiciary.

The period of engagement (time-on-contact) for courtroom interpreters in South Africa is far too long. The American Accredited Interpreter Basic Condition of work provides amongst other things a 30 minutes on and 30 minute-break to enable accuracy and minimise misinterpretations of words. However, it has been observed that in South Africa a court interpreter would be allowed to stretch for hours, say 3-4 hours and rest only during lunch hours. These long hour stretches of work include listening attentively with the intention of grasping every spoken word without missing anything. The norms governing court interpreters in different countries emphasize the requirement for message to be interpreted faithfully and completely. Hewitt (1995: 199) in the Canon 1 of the U.S. Model Code cites above all that 'interpreters should render a complete and accurate interpretation without altering, omitting, or adding anything to what is stated or written, and without explanation.

The assertion that an interpretation is the one that contains no alteration, no omission, additions or explanations is very common in writings of the role of interpreters in judiciary. Morris (1995, 1999) cited in Benjamin (2008:2) argues that the fact that lawyers and judges define the functions of interpreters may interfere with the case by distorting meaning. Morris believes that an interpreter who edited out an offensive language, added an explanation or volunteered to alter the

background information, could cause disastrous impact on the case (1999). Interpreters are obligated to apply the best skills and judgement to preserve faithful meaning in court, including the style or register of the speech. However, verbatim, 'word-for-word' or literal oral interpretation is not appropriate when it distorts the meaning of the source language message...' (Hewitt, 1995: 200).

Linguistic and semantic differences between English and South African indigenous languages influence inaccurate interpretation of utterances in courtroom interpreting. In an attempt to render equivalent items, interpreters find themselves faced with cohesion in the target and the source language. This act is called referential gap because the relationship between two words, actions or things do not relate semantically. Richards, Platt and Weber (1995) indicate that there are cases where there is a lack of a term in a particular place in a lexical field of a language, and that is referred to as lexical gap. Baker (1992) says that translational gaps come to pass because there is a problem of non-equivalence triggered by a number of factors.

Non-equivalence creates more inaccuracies for court interpreters. 'Translation equivalence is the degree to which linguistic units can be translated into another language without any loss of meaning' (Richards, Platt and Weber, 1995:299). In the trio's opinion, direct equivalence occurs where the relation of the equivalent items transports meaning of the original term in the target language like that of the original item. There are however, some common types of translation equivalence that often create problems for translators and interpreters when they refer directly to a source language. Here, the target language is mechanically produced with a distortion of grammatical and stylistic pattern. As a result, the formal meaning of the source term in the process of forming a new term in another language. This can be evident in the translation of idioms, sayings in English, and fixed collocations meaning could be lost when translated to a target language.

There is an overwhelming cultural untranslatability between languages. Catford (1965) distinguishes between two types of untranslatability, that is, linguistic and cultural. Catford states that on linguistic level, untranslatability occurs when there is no lexical or syntactic substitute in the target language for a source language item while the cultural untranslatability occurs due to the absence of a relevant situation feature for the source language text in the target language culture. Fenton (2001)

alludes to a distinction between linguistic elements that reflect culture, which interpreters should account for, and broader, more abstract aspects of culture that not only impede the understanding but also more difficult to explain without going beyond the normal responsibilities of an interpreter. Fenton's notion of distinction between linguistic elements is supported by Moeketsi and Wallmark (2005: 88) who report that 'a wrongful acquittal based on erroneous interpretation of terms can be disastrous'. It could contribute to miscarriage by misleading the magistrate causing him to arrive at an ill-informed verdict.

The South African Translators Institute (SATI) seem to be lacking in the maintenance and regulation of South African interpreting profession since the adoption of South African National Language Council Act (SANLCA), (Act 8 of 2014), as well as the adoption of the Use of the Official Languages Act (Act 12 of 2012). In the absence of regulatory framework for language profession in South Africa, 56 years ago, the SATI stepped up to provide and play an important role to ensure quality language services through its accreditation system (Cornelius, 2014:5). However, the quality of SATI's implementation of its accreditation came to a critical image scrutiny and received negative public perception about the level of professionalism and competency of interpreting and translators in South Africa (Pienaar & Cornelius, 2015: 187) after negative interpreting services unearthed consecutively, one in December 2013 (the Madiba's fake interpreter), and the other, just three months later in March 2014 (the Oscar Pistorius murder case interpreting drama). Surprisingly, no one claimed responsibility for the fake interpreter. Nonetheless, the then Deputy Minister of Woman, Children and People living with Disabilities, Henrieta Bogopane-Zulu, commented as follows:

'Yes, a mistake happened but we should not say he is a fake interpreter because he does have a basic sign language translation (sic) qualification. He started off well and got tired in the process. He was not a bad interpreter. He also stated that he was overwhelmed by English, which is not his mother tongue, and that he has interpreted for deaf people before and he is able to communicate with his deaf friends very well' (City Press, 12 December 2013 cited in Pienaar & Conelius, (2015: 188).

It is in the light of the Deputy Minister's comment that the public concluded that not even the highest qualification in interpreting can guarantee a competent and accurate rendition.

#### **1.4 The role of theory in the study**

In order to clearly understand the point of discussion of this study, two theories of translation relevant to the study were used. These are, the Theory of Translational Action and the Skopos Theory.

##### *1.4.1 Theory of Translational Action*

The theory translational action proposed by Holz-Mantarri (1984) who takes up the concept from the communication and action theory with the aim, among others, of providing a model and guidelines applicable to a wide range of professional translation situation. Holz-Mantarri points out that the translational action views translation as purpose-driven, outcome oriented human interaction and focuses attention on the process of translation as message-transmitter compounds involving intercultural transfer. Interlingual translation is described as 'translational action from a source text and as a communicative process involving a series of roles and players' (Nord, 2005: 7-8). Translational action goes on to focus on the target text (TT) that is functionally communicative for the receiver. The point here is that, the form and genre of the TT must be guided by what is functionally suitable in translational action and whose role is to make sure the intercultural transfer takes place satisfactorily. The values of Holz-Mantarri's work is the placing of translation within its sociocultural context including the interplay between the translator and the initiating situation. Schaeffner (1997:5) offered a fulsome praise to Holz-Mantarri's translational action and said 'this concept translational action is considered to be most relevant to all types of translations, and the theory is held to provide guidelines for every decision taken by translators'. However, Nord (1991: 28) stresses that 'while functionality is the most important criterion for translation, there needs to be a relationship between the ST and the TT which will be determined by purpose or Skopos.

Thus, the theory of translational action provides foundation for Skopos theory, Du (2012: 2191). Du, adds that considering the multiple factors involved in translation

procedure, translation is also an interaction. He conveys that translational theorists of functionalist approaches view translating as a form of translational interaction, as an intentional interaction, interpersonal interaction communicative interaction, and intercultural action, and as a text- processing action.

#### 1.4.2 The Skopos Theory

Skopos is a Greek word for 'aim' and 'purpose' (Vermeer, 1989/2000:221; Du, 2012: 2191). Skopos theory was introduced in the 1970's by Vermeer as a technical term for purpose of translation and the action of translation. This theory predates Holz-Mantarri's theory of translational action and should be considered to be part of the same theory because it deals with the translation that is ST based, that is, to be negotiated and performed and has a purpose and a result (Vermeer, 1989/ 2000). We can distinguish between three possible kinds of purpose of translation, that is, the general purpose aimed at by the translator in the translation process, the communicative purpose aimed at by the target text in the target situation, and the purpose aimed at by a particular translation strategy or procedure (Vermeer, 1998a: 100, cited in Nord, 2001). Nonetheless, the term Skopos usually refers to purpose of the target text (TT) that Vermeer calls 'the *translatum*'. Apart from the Skopos, Vermeer uses the related words aim, purpose, intention, and function (Du: 2012), while in attempts to avoid conceptual confusion, Nord (2001) have proposed a basic distinction between intention and function.

Nord, defines intention from the viewpoint of the sender, who wants to achieve a certain purpose with the text, more-so, Nord, provides that best intentions do not guarantee a perfect results, particularly in cases where the situation of the sender and the receiver differ considerably. This distinction is particularly useful in translation where the sender and the receiver intention and function may have to be analysed from two distinct angles (2001), cited in (Du, 2012: 2191). Reiss and Vermeer (1984:119) formulated the following rules for Skopos Theory:

1. A *translatum* (or TT) is determined by its Skopos
2. A TT is an offer of information (*informationsangebot*) in a target culture, and the target language concerning an offer of information in a source culture and source language
3. A TT does not initiate an offer of information in a clearly reversible way

4. A TT must be internally coherent, and
5. A TT must be coherent with the Source Text

Reiss and Vermeer maintain that the five rules above stand in a hierarchical order with the Skopos rule predominating. The hierarchical order of the rules means that the intertextual coherence of rule 5 is of less importance than intra-textual coherence of rule 4, which in turn is subordinate to the Skopos rule 1. This down-playing or (dethroning) as Vermeer calls it, of the status of the ST is a general fact of both Skopos and translational action theory (Du, 2012:2193). Although, Skopos theory defines translating as an interpersonal, intentional and partly verbal intercultural interaction based on a source text, it has consequently brought in a new concept for the status of the source and target text. An important advantage of the Skopos theory is that it provide for the possibilities for the same text to be translated in different ways according to the purpose of the target text and the commission given by the translator. What the Skopos states is that one must translate consciously and consistently, in accordance with some principles respecting the target text, though the theory does not state what the principle is, this must be decided separately in each specific case (Vermeer 1989/2000: 228, cited in Munday 2001 and Du 2012). It is in the light of the above theories that this study investigated and evaluated whether translators and court interpreter perform purposeful interpretation and that when confronted with non-equivalence, do their attempts serve the purpose of their communication.

## **1.5 The purpose of the study**

### *1.5.1 Aim*

The aim of this study is to evaluate loss of meaning in courtroom interpreted testimony in the linguistic and cultural diverse magistrate courtrooms of Mpumalanga province in South Africa.

### *1.5.2 Objectives*

In order to achieve the above-mentioned aim, the specific objectives are:

- To assess the qualifications and expertise of courtroom interpreters in Mpumalanga province,

- To evaluate court proceedings with regard to time-on-task of court interpreters,
- To conduct textual comparative study of linguistic gaps that exist between English and Xitsonga language in Mpumalanga Province,
- To review the South African Translators Institute's ( SATI) code of ethics, and
- To investigate cultural untranslatable words and expressions between English and indigenous languages in Mpumalanga province.

## **1.6. Research methodology**

Research methodology refers to 'a general approach to studying research topic or hypothesis (Silverman: 2000: 88). A researcher chooses a research method that he or she will facilitate the gathering and analysis of necessary data to provide answers to the research questions. This study employed qualitative research method which Denzil and Lincoln (1998:3) describes as 'multidimensional in its focus'. This method allowed the researcher to investigate and evaluate courtroom interpreters in their courtroom settings with the aim of finding and explaining the factors contributing in their incompetence and inaccuracy when rendering the interpreting job. The study is guided by the theory of translational action (Holz-Mantarri, 1984) and the Skopos theory (Vermeer, 1989/2000).

### *1.6.1 Research Design and Sampling*

This study used a case study design because is a type of research enquiry tool that examines a real life contemporary phenomenon, and highly usual for it to be used multiple source of evidence (Yin, 2000). In this study, two different groups of professionals working hand-in glove with court interpreters were used to collect data using different instruments. Purposive sampling method was used in the study to assist the researcher to account for the differences within the population selected and justify the cases selected for the study. Out of the thirty one (31) magisterial district courts in Mpumalanga, five (5) towns hosting district courts for civil cases in the province were sampled: Mbombela, Evander, Eesternhoek, Middleburg and Kwa-Mhlanga. In the remaining 26 sub-districts, 2 courts per-region were sampled: Bohlabela, Ehlanzeni, Gert-Sibande and Nkangala. In these courts, the focus was on the courtrooms where the magistrate, prosecutor and Lawyer are White Afrikaans or

English natives while the interpreter, accused and witness/ defendant are Blacks speaking the same language.

In order to attain better understanding and relevant answers to aim and objectives of the study, court proceeding observations questionnaire methods were used by the researcher. According to Wimmer and Dominic (1983:115), qualitative research uses flexible questioning approaches. Although basically a set of questions was set in the form of open-ended question for questionnaire to answered by interpreters (annexure 1), and magistrates (annexure 2) when the project started, the researcher saw a need to add up a third annexure (annexure 3) for court managers or personnel because they are the ones conversant in issues of qualifications and expertise for courtroom interpreters. The questions from both the observation sheet and questionnaires were self-developed by the researcher and the sequence recognised as the situation demanded. The observation sheets and questionnaires utilised open-ended questions format with the annexure 1, 2 and 3 having similar questions but required answers from the perspective of interpreters, magistrates, and court managers.

#### *1.6.2 Data collection and analysis*

Data collection is the process of gathering and measuring on variables of interest in an established systematic fashion that enables the researcher to answer research questions, test hypothesis and devaluate outcomes (Brainerd *et al*, 2005). The goal for data collection is to capture quality evidence that would then translate to rich analysis and allow the researcher to build convincing and credible answers to questions posed by the study. Questionnaires for interpreter, magistrates and court personnel were designed by the researcher. Open-ended questions format were used in the questionnaires to allow participants to express their opinions in a free flowing manner. As Leedy and Ormord (2001) puts it, anonymity was guaranteed to all respondents in order for them to respond truthfully. All questionnaires were analysed through Thematic Content Analysis. This allowed the researcher to objectively compare and contrast the content found in them (Portal, 2014). Thematic Content Analysis was also utilised to analyse the data obtained from observation sheets and the notes taken during the trial proceedings. Observation sheets were meant to evaluate interpreters' only. Here, the researcher formulate themes when

presenting the findings, as Braun & Clark (2006) puts it. This Thematic Content Analysis entails identifying, analysing and reporting the theme within data.

## **1.7 Quality criteria**

In order to ensure credibility, the researcher made sure that all participants are identified and described accurately (Shenton, 2004). Taking from recommendations by Lincoln and Guba (1985), the researcher used a number of strategies to ascertain credibility such as prolonged and varied field experience member check, and persistent observations with thorough note-taking (Anney, 2014).

### *1.7.1 Transferability*

Transferability refers to the probability that certain research findings have a meaning to others in similar conditions (Lincoln and Guba, (1985). It is concerned with the extent to which the study findings can be applied to other situations. In this study, the researcher used proven data collection strategies to ensure that the findings arrived at are likely to be the same if the study was carried under similar conditions in another environment. Sufficient information is provided by the researcher herself as a research instrument, the process and her relationship with participants so as to enable readers to decide on transferability (Anney, 2014; Morrow, 2005).

### *1.7.2 Dependability*

Dependability refers to the stability of time, that is, if the work is to be repeated in the same context, using the same methods and participants, similar results should be obtained to ensure reliability (Lincoln and Guba, 1985). To arrive at this, the researcher reported the process under study (see chapter 3) in detail to enable future researchers to be able to repeat the work, and if necessary, to obtain the same results.

### *1.7.3 Confirmability*

It implies that the researcher took steps to demonstrate the findings that emerged from the data gathered and not her own predisposition (Shenton, 2004). The researcher ensured confirmability by providing possible explanations and reasons for choosing other approaches than the others.

### *1.7.4 Reflexivity*

Since the researcher shares the participants' experience (by virtue of being a translator and interpreter herself) she utilised prolonged engagement with the participants to ensure reflexivity. She kept observation sheets which were used for data presentation and analysis.

## **1.8 Ethical consideration**

### *1.8.1 Permission to conduct the study*

Before the data was collect, the researcher sought the ethical clearance from the University of Limpopo Research Ethics Committee (TREC). In addition to Ethical Clearance, the researcher secured permission from the Department of Justice in Mpumalanga to conduct research in their selected District courts of Mpumalanga Province. Permission was granted.

### *1.8.2 Informed consent*

In order to protect the rights of individuals, participants were informed of the purpose of the study and made aware of their rights not to answer questions they consider to be personal. They were also informed that their participation in the study was voluntary and that they could withdraw at any point without explanation. The participants were assured that confidentiality and anonymity will be maintained at all times and that their answers could not be traced back to them.

## **1.9 Significance of the study**

This study would be used as a source of reference by other scholars who want to pursue their studies in a related field. The study would also assist court interpreters to perform a translation and interpreting that is competent and accurate. This will be achieved through a series of articles published on academic journals and possible publication of the thesis as a booklet for use by court interpreters and prospective court interpreters.

## **1.10. Organisation of the study**

Chapter One- The chapter presents background of the research problem, the purpose of the study, research objectives, significance of the study, and the layout and summary of the chapter.

Chapter Two- The chapter presents the theoretical and conceptual framework and development of translation and interpreting by providing a historical background of translation between the periods 1900s till recent developments of translation history.

Chapter Three- The chapter Describe and justifies the research methodology and design based on literature reviewed, and any problems encountered and all possible confounded variables that occurred during the study.

Chapter Four- This chapter presents results findings and analyse the data from questionnaires compiled by the SPSS and Nvivo software thematically.

Chapter Five- The Chapter provides data analysis from the observations

Chapter 6- The chapter presents summary and discussions of findings from the tools used in the study, makes appropriate recommendations and conclusion.

### **1.11. Conclusion**

This chapter have presented the introduction and background of the study, it has highlighted the research problems and a theoretical conceptual framework. The chapter listed research objectives, and discussed its significance. The methodology used in the study also discussed, finally, an outline of the study presented. The next chapter presents reviewed literature germane to the study.

## **CHAPTER 2: THEORETICAL AND CONCEPTUAL FRAMEWORK**

### **2.1 Introduction**

In this chapter, the researcher discusses the historical development of translation studies. This historical development is discussed through critically analysing the conceptual and theoretical framework of theories and approaches to translation that have emerged during the periods 1900-2000 century and influenced the development of translation. This critical analysis is aimed to show the link and relationship that exists between written translation and oral translation where different types and mode of interpreting, the courtroom settings and procedure is detailed, here, oral translation is the focal point of this study. The constitutional and legal phramework pertaining courtroom interpreting in South Africa is also be discussed.

### **2.2. Historical development of translation studies during the following periods**

The concept of equivalence is be said to be the most important part of translation studies and has evoked very strong debates among translators because of its nature, its definition applicability. Influential scholars who played an important role in developing equivalence theories are Vinay and Darbelnet (1958); Jacobson (1959); Nida and Taber (1969), Catford (1965), House (1997), Koller (1979), Newmark (1981), Baker (1992) and Pym (2010). This research is based on the *Skopos* theory of translation, which looks on the purpose and the function of the translation. However, the historical development of translational studies is hereunder discussed with the translational theories from the periods 1900s to date.

#### *2.2.1 1900s – 1930s: (Literal Translation Theory)*

During this period, main trends in translation were established upon the German literal and philosophical traditions, Romanticism, hermeneutics and existential phenomenology. It was assumed then that language is not so much communicative as constitutive in its representation of thoughts and realities but rather an interpretation which reconstitutes and transforms the foreign text (Venuti, 2000:11). Some of the theorists and practitioners of the time, Fredrick Schleiermacher and Wilhelm von Humboldt, saw translation 'as a creative force in which specific translation strategies might serve different cultures and social functions, building languages, literature and nations'(Venuti, 2000; 11). Venuti further points out that at the beginning of the twentieth century Schleiermacher and von Humboldt's ideas were taken to be advantageous because it revitalised culture. However, contradictingly, Walter Benjamin mentioned that translation participates in what he calls the 'after life' (*überleben*) of the foreign text providing an interpretation that is informed by the history of reception (Venuti, 2000). More-so, according to Benjamin, such interpretation does not only transmit the message but also creates the value that comes naturally to the foreign language over a period of time.

Furthermore, Benjamin indicates that in such process, the linguistic differences of the said text are signalled in the translating language to convey a philosophical concept which he calls 'pure language'. For Benjamin, translation is offered a utopian vision of linguistic harmony. However Venuti (2000) argues that Benjamin's pure language is realised in the translation through literalism wherein the syntax result in current standard usage. In other words, Benjamin supports Schleiermacher's notion of foreignizing translation highlighting that the reader of the translated text should be brought as close as possible to the foreign language by rendering translations that transforms the translating language (Venuti, 2002). In support of his notion, Benjamin quotes Rudolf Pannwitz who showed interest on German translation but complain about translations that 'germanise Hindu Greek English instead of hinduizing Graecizing anglicizing German' (Pannwitz 1917:240; trans.John Zilcosky). This shows that Pannwitz thought of translation as an experimental literary practice where a translator must broaden and deepen his own language with the foreign one, just like Pannwitz' prose that tempers with the conventional German syntax, capitalization and punctuation.

Another linguist who shares the same notion in translation theories and practices of German literary experimentalism is Ezra Pound who is known of his unusual and less favourable comment on German poetry and fascinatingly praised Rudolf Borchardt's innovative version of Dante, (Pound, 1934:55). Venuti indicates that Borchardt's use of German dialects resembles Pound's work with the Italian Poet. Guido Cavalcanti (2000:12). Venuti further points out that Pound's view on translation takes two forms. According to him, a translation might be 'interpretive' where a critical accompaniment is printed next to foreign poem having linguistic peculiarities that guides the reader across the page to the foreign textual features or, a translation might be 'an original writing' where literal standards in the translating culture guides the rewriting of the foreign poem decisively so that it looks like a new poem in translated language (Venuti, 2000:12). However, Venuti thinks Pound's standards of translating are modernist because they include philosophical poetic values like positivism and linguistic precision and his reasons for translating are seen as aiming to recover poetic values that may advance the values of English,(2000:12).

The historical development of translation theory and practice in the twentieth century was marked by two competing tendencies: 'a formalist interest technique usually expressed as innovative translation strategy to match new interpretations of the foreign text' and on the other hand 'a strong fundamentalism which is a recurrence of relationship of translation projects to culture and political agendas' (Venuti 2000: 13). However, in the 1920s Martin Buber and Franz Rosenzweig also contributed much to the renaissance of German Jewish culture. Contradictingly, in 1925 Karl Vossler argued that 'translation is only instrumental in the preservation and development of national languages' (Vossler, 1932: 177). Therefore most conservative theories who did not support stylistically innovative translations thought translation as a social function. Furthermore, in 1931, Belloc stated that 'any hint of foreignness in the translated version is a blemish because the social importance of translation is to preserve cultural unity in the west, which is currently threatened because the tradition of Latin had lost its efficacy as a common bond of comprehension' (Belloc, 1931:9, 22).

Belloc's idea was applauded by Ulrich von Wilamowitz-Moellendorf in the 1920s who urged translators of classical literature to translate in a simple manner (Lifevere,

1992a:34,164). In his comment, Venuti (2000) thinks that Wilamowitz's case of clarity and intelligibility is much important because the translations of Greek ideal would monitor the moral and spiritual decline of the nation (Abid...167). However, Jorge Luis Borges argues that such issues are not understandable and could produce different representations of the same foreign text and cultural, and their degree of equivalence would always be in doubt regardless of their impact or influence (Venuti, 2000: 13). Venuti further points out that according to Borges, "the translator's infidelity must matter only to the target readers'. More-so, his criticism exposed various values and political interest. He also mentions that his approach on the analysis of textual features such as lexicon, syntax, prosody and discourse explains the translator's habits and literary traditions that that are written in what Borges calls 'in the wake of literature', causing him to value heterogeneous language, which is a hybridisation that mixes Archaism and slang, neologism and foreign borrowings. At the end of the 1930s, Jose Ortegar Y Gasset regarded, translation as a distinctive Linguistic practice with its own norm and its end that catches the writers and thinkers, literary critics and philologists such as (Amos 1920, Matthiessen 1931, Bates 1936). Ortega furthers his argument indicating that German translation tradition should continue. For him translating is useful in challenging the contemporary culture because it fosters a historical consciousness that is lacking in the mathematical and physical sciences Venuti, 2000:14).

### 2.2.2 1940s – 1950s (*The Linguistic Era*)

Translation theory during these decades was mostly influenced by issues of translatability. Venuti (2000: 67) states that influential theorists in philosophy, literary criticism and linguistics had argued whether translation practice could reconcile with the differences that exist between languages and their cultures. Around the late 1950s, the Anglo-American analytical philosopher, Willards van Orma Quine, introduced the concept of radical translation. In his concept, Quine questioned the empirical foundations of translating by 'pointing to basic semantic indeterminacy that cannot be resolved even in the presence of an environmental stimulus (Venuti, 2000: 67).

Venuti also comments on Quine's opinion and highlights that his anti-foundationalism holds a larger implication of both anthropological and philosophy which are only

interpreted as a variety of other disciplines. Venuti notes that 'while Quine acknowledges that translating occurs on the basis of regulative maxims and analytic hypothesis, he also is of the view that linguists rely on these basis to produce effective dictionaries and manuals. However, Quine thinks that none of these tools could guarantee a correlation between stimuli and meaning' (Venuti, 2000:67). More so, Quine's uncertainty about metaphysical ground for language created more pragmatic views of translation wherein meaning was as conventional, socially circumscribed and; the foreign text was written according to the terms and values of the receiving culture.

In 1946, Martin Heidegger set out remarkable knowledge of how competing conceptual schemes complicate modern translation. However, Heidegger's anti-metaphysical, unlike Quine's anti-foundationalism, comes with a practical solution that is distinctly literary (Venuti, 2000: 68). While reviving Schleiermacher's notion of translation, Venuti points out that it brings out the domestic reader to the foreign text wherein Heidegger recommends a poetizing strategy that violate everyday language by relying on archaism (Heidegger, 1975:19). Another theorist, Vladimir Nabokov, makes his contribution concerning this matter above and says that 'literatures are seen as sites of international influence and affiliation which develops in national distinct way, producing a unique masterpiece that demands from the translator or ideal version, ultimately unattainable' (Nabokov, 1941:161).for Nabokov, paraphrastic version that conform to the notions and prejudices of the given public constitute the worst evil of translation (1941:160). Nonetheless, in 1958, a few years after Nabokov's Essay appeared, Dudley Fitts further criticised it saying that when dealing with poetry translation, translators need less ambitious but more audacious (Fitts, 1959: 34). Fitts also mentions that the poem translated has to be a particular kind that possesses an immense fluency, written in the most familiar language, he also adds that in order to achieve notable success with his modernizing version of Aristophanes. However, Fitts is also aware that translations of ancient Greek poetry might be anachronistic risking 'a spurious atmosphere of monotheism by writing 'God' for 'Zeus' (Fitts, 1956: xviii) cited in (Venuti 2000:69).

During these decades (1940s-1950s), translation theory was filled with linguistic analysis that addressed the issues of translatability by analysing specific translation problems and described the methods that translators have developed to solve them

(Venuti, 2000: 69). Chaim Rabin presents his argument concerning linguistics and translation and say ' it involves two distinct factors, a meaning or reference to some slice of reality and the difference between two languages in reference to that reality (Rabin, 1958:128).meanwhile Quine and Heidegger. Questioned Rabin's point of view saying which version of reality would be possibly used to measure the success of translation (Venuti, 2000:69). Furthermore Eugene Nida considered the problem of translating between different realities and argued that 'solution need to be ethnological, based on the translator's acquisition of sufficient cultural information' (Nida, 1945: 197). Nida also indicates that the Bible translators should then translate 'desert' as an 'abandoned place' in order to establish the cultural equivalence of the desert of Palestine (1945: 197). According Nida, translation should be seen as a paraphrase that works to reduce linguistic and cultural differences to a shared referent which is the core meaning constructed by the translator and weighted towards the recaving culture to be comprehensive (Venuti, 2000: 69).

Andy Cheung (2013) mentions that Roman Jakobson, another literary theorist and linguist (1896-1932) is one of the founders of influential school of structural linguistics. In 1959 Jakobson wrote an essay entitled '*On linguistic Aspects of Translation*' in which he introduced a semiotic reflection on translation (Jakobson, 2004[1959] 139). Commenting on his writing, Venuti highlights that Jacobson questions empiricist semantics by conceiving meaning not as a reference to reality but as a relation to a sequence of signs. He further described translation as a process that involves two equivalent messages in two different interpretative nature of translation. According to Venuti, Jakobson is of the opinion that 'the fact that recoding is an active rewording does not only transmit foreign message but also transforms it (Venuti 2000:69).

Another most influential work of translational study was published in 1958 by the Canadian linguists, Jean-Paul Vinay and Jean Darbelnet. They approached the French-English translation from the field of comparative stylistics and provided a theoretical basis on different translational methods that are currently used. Vinay and Darbelnet also produced a textbook<sup>5</sup> that worked as the main component in translator's training programs for more than four decades. Their description of translation methods involves reduction of linguistics and cultural differences to empiricist semantics. Vinay and Darbelnet write that 'equivalence of messages

ultimately rely upon the identity of 'situations', wherein these 'situations' indicate an undefined 'reality' but also encourage the translator to think of meaning as a cultural construction and to see a close connection between linguistic procedures and metalinguistic information' namely 'the current state of literature, science and politics of both language communities' (Vinay and Darbelnet, 1995:43).

The huge practical and scientific teaching values of Vinay and Darbelnet's work overcame any philosophical qualm about translatability and distracted attention away from the conservative prescriptions about language use in translation (Venuti 2000:70). This period closes with Reuben Brower's anthology (1959) which helpfully gathered the main trends of contemporary in translation. In this instance, conceptual and methodological differences, linguists, literary critics and philosophers joined in a remarkable unity of interest in translation as a problem of language and culture. However, Valery Larbaud, whose inspiration on translation is derived from St Jerome, who is a saint of fluency in translation, is ranked among the most accomplished of translators' commentaries. Her text has effortlessly brood theorists like Alexander, Fraser Tytle and Paul Valery, Larbaud's views translation through Aerostation of poetics and rhetoric yet his concerns are modernist recommending that translation should be given a 'foreign air', (Larbaud 1946:164). For Larbaud, only an approach to translation that combines theory and history can challenge the misunderstanding that provoke the translators' work in present.

### 2.2.3 1960s – 1970s (*Theory of Equivalence*)

The concept of equivalence could be said to be the most important part of translation studies and has caused very strong debates among translators because of its nature, its definition and its applicability. Influential scholars who played an important role in developing equivalence theories are Vinay and Darbelnet (1958); Jacobson (1959); Nida and Taber (1969), Catford (1965), House (1997), Koller (1979), Newmark (1981), Baker (1992) and Pym (2010). During these decades, the controlling concept for translation was the theory of equivalence. In 1963, George Mounin pointed out that equivalence was based on the universals of language and culture. However Mounin questioned the notion of relativity mentioning that they made translation seem impossible in the previous decade. Here, translation was seen as a process of communicating the foreign text by establishing a relationship of

identity or analogy within it (Venuti, 2000: 121). Theorists of the time believed that a foreign text was a stable object possessing invariants capable of reduction to precisely define units, levels and stylistic analysis that is established on the basis of text type and social function. Warner Koller writes that 'equivalence may be 'denotative', depending on the invariances of the content' 'connotative' depending on the similarities of register, dialect and style; 'text normative' based on 'usage norms' for culture (Koller, 1979: 186-91; Koller 1989: 99-104). The most familiar theoretical move of this period was to draw an opposition between translating that cultivates pragmatic equivalence to the receptor, and approximate the linguistic and cultural features of the foreign text. In his most cited 1964 book, Eugene Nida distinguished between 'dynamic' and 'formal' varieties of correspondence. He later replaced the term 'dynamic' with 'functional' (Nida and Taber 1969). It is in line with Nida's theory of formal and functional equivalence that this research aims to investigate whether courtroom interpreters serve the intended function and purpose when interpreting.

In 1977, Peter Newmark introduces communicative and semantic equivalence while Juliane House spoke of 'covert' and 'overt' equivalence. These varying sets of terms are derived from the traditional dichotomies between sense-for-sense and word-for-word translation. These binary oppositions are according to Venuti (2000), synonymous but unidentical because each pair emphasises a different translation aim and effect, while, on the other hand, pragmatic equivalents communicate foreign text in terms of values in the receiving language and culture while formal equivalents adhere to the linguistic and cultural values of the foreign text. In addition, Catford's (1965) 'shift' offers a precise description of pragmatic and lexical shifts. Catford thinks that shifts are used to recommend translating that is pragmatic, functional and communicative. Commenting on the issue of shifts, Popovic asserts that 'shifts do not occur because the translator wishes to change the word, but he is striving to produce it as faithfully as possible; the kind of faithfulness he has is 'functional', where the translator locates suitable equivalents in the milieu of his time and society' (Popovic, 1970: 82).

In support of Popovic, Levy (1965) indicates that pragmatic translation involves a gradual semantic shifting, especially when the translator has a number of possible solutions to choose from. Levy also asserts that 'modern translators intuitively apply the *'minimax'* strategy, choosing the solution that promises a maximum of effects

with a minimum effort fearing the violation of the linguistic or aesthetic standard of a particular readership. More so, Levy founds that 'shifts work to generalize and clarify meaning 'changing the style of a literary work into a dry and uninspiring description of things and actions' (Levy 1965: 78-80). On the other hand, Reiss (1971), presented a typology that displayed the logical tension among reigning concepts of literature. She argued that functional equivalent of translation should be based on the detailed semantic, syntactic and pragmatic analysis of the foreign text although pragmatic analysis of the foreign text risked revising and previous account of meaning.

According to Reiss, pragmatic translators do not only analyse the linguistic and cultural features of foreign text, but also verbalise them according to the values of different language and culture applies to what House calls a 'filter' to assist the receptor's comprehension (Venuti 2000: 122). Furthermore, during the 1970s, Itamar Even-Zohar and Gideon Toury moved away from the notion that literary translations are facts of the target system, but theorises literature as a 'polysystem' of interrelated forms and canons that constitute 'norms' that limits the translator's choice of strategies. In order to show how the target orientation translation transforms the concept of equivalence, Toury (1995) argues that 'adequacy of a translation to the source text becomes an unproductive line of enquiry, not because shifts always occur, but because any determination of adequacy involves the application of the translation in its receiving culture as the way in which various shifts constitute a type of equivalence that reflects target norms at a certain historic moments (Venuti, 2000: 122). Therefore, polysystem could be proved to be a decisive advance in translation research where equivalence formulates linguistic and textual models that prescribe a specific translation practice. Meanwhile, the target orientation in contrast focuses on the actual translation and submit them to the detailed description an explanation. This resulted to inspired research project that was pioneered by Lieven D'hulst, Jose Lambert and Katrin van Bragt.

Expanding from the translation research in the 1960s-1970s, theorists like Catford think that translation studies do not deserve institutional anatomy of linguistics, it is a site of applying linguistic theories. When Nida and Wolfram Wills, called their theoretical work a 'science of translation' was seen as giving the topic a scholarly coherence and legitimacy that was lacking in the study (Wills 1977: 1987). During

the second half of the twentieth century, Holme (1972) developed the process of translation and termed it 'translation studies'. 'Although his concept of translation studies was widely accepted by many scholars as a broad discipline shifted emphasis and neglected areas of translation as interpreting and translator training' (Panou, 2013: 1). In 1988, Holmes drew a map of the 'territory' which was divided into two main areas, which are, 'pure' and 'applied'. There is a dual objective of pure and applied translation studies, firstly, to provide a description of the various translation phenomena as these occur; and secondly, to develop a general principle through which these phenomena can be adequately explained. According to Panou (2013), 'the former objective falls under the rubric of descriptive translation studies (DTS) and the later falls under the rubric of translation theory, and both are subsections of pure translation studies'.

Furthermore, the descriptive translation studies focuses on three different areas of research, namely, the product-oriented DTS (a text study which centred studies that aim at investigating existing translations, process-oriented DTS ( a study that is primarily interested in the mental processes that occur in translation) and function-oriented DST( studies which seek to describe the function of translation in the target sociocultural situation).The applied subdivision of Holme's map is concerned with training (referring to teaching methods, testing techniques and curriculum planning); translation aids (referring to IT applications , dictionaries, translation software on-line databases and the use of internet); translation policy (the drawing on the role of both translators and translation society); translation criticism (addressing issues of revision and evaluation of translations). Panou (2013) advocates that 'the theoretical, descriptive and applied areas of translation studies influence one another and are didactical in nature. However, Panou's idea is opposed by Toury (1995) who believes that the poles of theoretical and descriptive translation studies have an undirected relationship. Pym (1998) and Vandepitte (2008) have also criticised Holme's map, arguing that his divisions cause flexible separation of the areas of translation studies. On the other hand, James Holmes explained his theory in a disciplinary map for translation studies distinguishing between 'pure' research-oriented areas of translation theory and description from 'applied' areas like translation training. This distinction between '*pure*' and '*applied*' showed that translation studies was taking over the scientific model from linguistic. Holmes theory

of translation depicts the '*Pure*' and '*applied*' theory of translation. He puts forward an overall framework, describing what translation studies covers.

Holmes's explanation of this framework's 'pure' objectives are, (1) the description of the phenomena of translation, the descriptive translation theory, and (2) the establishment of general principles to explain and predict such phenomena (Holmes, 1988b/2000:176-181; cited in Munday, 2001). The theoretical branch is divided into general and partial theories, where general refers to those writings that seek to describe every type of translation and to make generalisation that would be relevant for translation as a whole whereas partial theoretical studies are restricted according to (a) the product, (b) the process, and (c) function (Munday, 2001:11). The 'applied' branch of Holmes's framework concerns (1) the translator's training, (2) translation aids, such as dictionaries, grammars and information technology, and (3) the translation criticism, which includes evaluation of student' translation and the review of published translations.

George Stainer (1975) contradicts modern linguist with a literary and philosophical approach, imposing that the German Romanticism and the hermeneutic tradition views 'translation as an interpretation of foreign text that is at once profoundly sympathetic and violent, exploitive and ethically restorative' (Venuti 2000: 124). For Stainer, language is not very instrumental in communicating meaning but constitutive in individual usage, 'that resists interpretation and escape the universalizing concept that reconstructs it' (Stainer, 1975: 205). Stainer also argues that 'a great translation must carry with it the most precise sense possible of the resistant of the barrier intact at the heart of understanding' (Abid...:378). Moreover, linguists like Mounin (1963) and Catford (1965) assume that universals bridge linguistic and cultural differences. Catford also asserts that 'translation equivalence occurs when the SL and a TL text or item are relatable to the same features of substances, where only the substance can signify a relatively fixed range of linguistic features, levels and categories' (Catford ,1965: 50).

In contrast to Catford, Stainer's discussions of translated text focuses on the theoretical concept he wants to analyse and evaluate a translator's handling of stylistic features. On the other hand, Henri Meschonnic (1978) mounts another criticism on the matter and by saying that 'this current proposition to which a

translator should not give an impression of being translated, masks a process of annexation, wherein the translated text transposes the so called 'dominant ideology' under illusion of 'transparency' (Meschonnic, 1978:308). This however shows that Meschonnic is acutely aware of the 'imperialism' of any translating trends to forget its history (Abid...:310), he then proposed for a more theoretically sophisticated translation practice that questions the main pragmatic, functional and the communicative (Venuti, 2000:125).

#### 2.2.4 *The 1980s (Functional theory)*

This decade opens with the publication of Susan Bassnett's *Translation Studies Book* that consolidated various strands of translation research and filled the need for introductory text in the translation classroom (Venuti 2000: 216). In her writing, Bassnett concentrated much on the historical approach to theoretical concepts, understanding practical strategies in relation to specific cultural and social situations. Although Bassnett emphasised much on literary translation, her book focused much attention on most common theoretical assumption during this decade. Contributing on equivalence, William Frawley (1984) questioned this Bassnett's argument of equivalence as an identity between foreign texts and translation asking whether such identity is construed as empirical, biological or linguistic. William remarks that if translation is a form of communication 'there is information only in difference to make a translation a code in its own right, setting its own standards and structural presuppositions and entailment (Frawley 1984: 216). The notion of a third code subjects Frawley distinguishes among translations according to their degree of semiotic distinction quantitatively, a matter of how much new knowledge is produced. In this instant, Frawley evaluates the translator's production of that knowledge or its impact on the cultural tradition within which the translation signifies.

Frawley's perception of the third code is further explored by Shoshaba Blum-Kulka (1986), who studied translation shifts and defined the third code as a type of discourse specific to translation explication. Blum-Kulka also made speculations saying translation has a tendency of increasing the semantic relations among the parts of the translated text, establishing a greater cohesion through explicitness, repetition, redundancy, explanation and other discursive strategy. However, Blum-Kulka, somehow thinks that in contrast to shifts of coherence, deviation from an

underlying semantic pattern in the foreign text depends on reception, that is, on reader and translator interpretation and she further recommends empirical research in reading patterns psycholinguistic studies of text processing to achieve this. Kitty van Leuven-Zwart (1989-1990) described shifts by elaborating analytical methods based on the notion saying 'it is an *architranseme* essentially a lexicographical equivalence between source and target language, identified with the help of a good description dictionary in each in each of two languages involved (Leuven-Zwart 1989-158). In Leuven-Zwart's view, *architransemes* enables translators to establish a relationship between 'microstructural' shifts of a semantic, stylistic or pragmatic varieties and 'macrostructural' shifts in narrative form of discourse (Venuti 2000:217). Nonetheless, when applied to Dutch translation of Spanish and Spanish-American prose fiction between 1960 and 1985, this method has produced similar findings to those produced by Blum-Kulka.

Theorists like Holz-Mantari (1984) understood the anatomy of the translated text functionally as a consequent of the social factors that guides the translator's activity. Instead of using the term translation, Holz-Mantari preferred to use the broader neologism 'translational action' to signify various forms of cross-cultural communication, not just translation, paraphrasing or adapting but editing and consulting. In Mantari's opinion, a translator is seen as an expert who designs a product specification in consultations with the client and produces a message transmitter to serve a particular purpose in the receiving culture. In-line with Mantari's perception of translator being an expert to produce a message that serves the purpose, this research investigates whether court interpreters do really produce interpreting as suggested here above.

In support of Holz-Mantari, Vermeer (1989) highlights the translator's *Skopos* or aim as a decisive factor in translation project is conceived as an intention whose textual realisation may diverge from source text so as to reach a set of addressees in the target culture ( Venuti, 2000:218). Vermeer also asserts that the success of a translation is dependent to its coherence with the addressees' situation. His approach bears resemblance to contemporary trends in literary history and criticism where the reader-response theory and aesthetics of perception and meaning of the literary texts are affiliated with particular audiences or in Stanley Fish's words 'interpretive communities (Fish, 1980). Within the translation studies, Skopos theory

most resembles the target orientation associated with polysystem theory which became very influential during the 1980s (Venuti, 2000: 217).

Making another contribution to this period, Andre Lefevere (1982) took up the seminar work of Even-Zohar and Toury redefining their concepts of literary systems and norms. He saw translation, criticism, editing and historiography as forms of 'refraction and rewriting'. Lefevere wrote that refraction carries out a work of literature over one system into another, and is determined by factors like 'patronage', 'poetics', and 'ideology'. His interpretive framework gave legitimacy to the study of literary translation, illuminating their creation canons and traditions in the target culture. Lefevere also thought that the notion of authorial originality had marginalised translation studies especially in the English speaking communities. This pushed him to approach the translated text with the kind of analytical sophistication that is usually reserved for original composition.

In support of the target oriented translation, a team of scholars at Gottingen University studied German translation from the eighteenth century exploring topics for intermediate translation focusing on anthologies of translated literature, which over two centuries had proved to reveal representative historical patterns underlying German translation culture (Kittel, 1995: 277; see also Essman and Frank, 1990). However, theorists like Derrida (1973) and Paul de Man were very careful not to elevate translations into another authority. They inquisitively questioned the concept of semantic unity, authorial originality and copyright that continued to subordinate the translation of foreign text. Derrida and Paul argued that both texts are a derivative and heterogeneous consisting of linguistics and cultural materials which destabilise the work of signification, making meaning ambiguous and divided, exceeding and conflicting with the intention of the foreign writer and the translator (Venuti 2000:218). In this way, translation was viewed to be doomed to inadequacy irreducible differences between language and culture but also within them.

During this decade, Philip E. Lewis (1985), made a contribution that somewhat addressed these issues through English versions of Derrida's inventive texts. Lewis sets out from the findings of comparative discourse and analysing and submitting translation to the poststructuralist critique of presentation. He points out that translation involves a double interpretation whereby the foreign text rewritten in the

associative chains and structures of reference and enunciation in the translating language. Countering these claims Lewis proposed a new '*axiomatics of fidelity*', which distinguished between translating that domesticates or familiarises a message and translating that tampers with usage, seeking to align polyvalences or '*plurivocities*' or expressive stresses of the original (Venuti 2000: 219).

Antoine Berman (1984) presents a similar distinction to that of Lewis based on ethics. He questioned the ethnocentric translating that deforms the foreign text by assimilating it to the target language and culture. Berman argued that bad translation does not only domesticate but mystifies under the cloak of translatability and performs a systematic negation of foreignness of the foreign work (Berman 1984:17). For Berman, every translation focuses on a trial of the foreign and textual analysis that can measure the degree to which the translating language admits into its own structures. In his (1985) essay, Berman describes in detail the performing tendencies by which translation pre-empts that trial, comparing it with the Vinay and Darbelnet's influential methodology who viewed translation methods to be instrumental and effective in communicating the foreign text regardless of how oblique or deductive they might be. Meanwhile, Berman's hermeneutic paradigm methods reconstitute the text where the *polylogic* discourse of the novel is concerned and raises the ethical issues. Therefore, Berman shows great effectiveness on how the textual analysis of translation could be enriched through a psychoanalytic approach. He also observed the performing tendencies at work in contemporary translation are largely unconscious (see Mahony, 1980).

The impact of post structuralism on psychoanalysis, Marxism and feminism made theorists more aware of the hierarchies and exclusions in language use. Lori Chamberlain (1988) contributed to the history of translation by planting his focus on gender metaphors that have recurred in leading translation theories since the seventeenth century. Chamberlain demonstrated enormous extent to which a patriarchal model of authority has underwritten the subordinate status of translation. Here, Chamberlain suggests how a feminist concerned with gender identities might be productive for translation studies, particularly in historical research that recovers forgotten translating women, but also in translation projects that are sensitive to ideologically coded foreign writing whether feminist or masculinist. However, the experimental strategies devised by translators like Suzanne Jill Levine (1991) and

Barbara Godard (1986) aimed to challenge the process by which translation complied with gender constructs (Venuti, 2000, 220).

This decade also witnessed emergence of postcolonial reflections on translation anthropology. Surprisingly, Talal Asad (1986) questioned the widespread use of cultural translation in ethnographical enterprise might be vitiated by the fact that there are asymmetrical tendencies and pressures in the languages of dominated and dominant societies (Asad 1986: 164). During this period, translation theory was remarkably fertile and wide-ranging, as Venuti (2000) puts it, and have taken up in a variety of discourses, fields and disciplines yet the sceptical trends that are most characteristic of literary and cultural approaches to translation had little impact on the more technical and pragmatic projects informed by linguistics and vice versa. Joseph Melone closed this period by formulating a set of linguistic tools for analysis and practice which exceeded those of Vinay and Darbelnet's complexity. Here, relations between source and target language text fell into categories like zigzagging (divergence and convergence), recrescence (amplification and reduction) and repackaging (defusing and condensation). Melone's descriptive approach did not avoid value judgements entirely because he constantly explained his preferences for particular versions by referring to audience (Melone, 1989:47, 49). However, Venuti (2000) saw the judgements as unsystematic and far from the ethical politics of translations imagined by culturally oriented theorists like Berman or Chamberlain.

#### *2.2.5 1990s- The Theory of Translatability or Relevance Theory*

This is the decade from which translation studies achieved institutional authority by a worldwide proliferation and translator programmes of scholarly publishing. Venuti (2000) asserts that publications that were made available during this period, such as commercial and university presses were academic in a sense that training manuals, encyclopaedias, journals, conference proceedings, collections of research articles, primers of theory and readers gather a variety of theoretical statements, such as the present ones (see also Lefevere, 1992; Schulte and Biguenet, 2002; Robinson 1997b). Having conceptualised the paradigm that animated translation research of the previous decade theoretical concepts of translation multiplied and research fragmented into subspecialties within the growing discipline of translation studies. At the same point, other interdisciplines, literary theory, criticism, film and anthropology

bringing a renewed functionalism to translation theory concerned itself with social effects of translation and other ethical and political consequences.

This decade established provocative assessments competing paradigms and productive syntheses where theoretical and methodological differences were shown to be complementary, and precise descriptions of translated text and translation processes were linked to cultural and political issues. However, at the beginning of the millennium translation studies became an international network of scholarly communities who conduct research and debates across conceptual and disciplinary divisions (Venuti 2000:334). Many linguists dominated this field of study because of their usefulness in the training of translators where theoretical projects reflected training by applying the findings of linguistics to articulate and solve translational problems, leading theorists drew on text linguistics, discourse analysis and pragmatics to conceptualise translation on the model of Grecian conversation (see Hatim and Mason, 1990; Baker, 1992; Neubert and Shreve, 1992). During these times, translation meant communicating the foreign text by cooperating with the target reader in for conversational maxims, which are: quantity of information, quality of truthfulness, relevance or consistency of context, and manner or clarity (Grice, 1975). This means that translation was seen to be conveying a foreign message with its implicature by exploiting the maxims of the target linguistic community.

Ernest Gutt (1991) took a cognitive approach by modelling translation on relevance theory. According to Gutt, ostensive or deliberate communication depends much on the interplay between psychological context and cognitive environment of an utterance. He extrapolated this from the basic theory and argues that faithfulness in translation is a matter of communicating an intended interpretation of the foreign text through adequate contextual effects (Venuti, 2000: 335). Gutt, also claims that relevance ultimately does away with the need for independent theory of translation by submitting it under more abstract category of verbal communication. He also indicated that many principles, rules and guidelines for translation handed down by centuries of commentators are in fact applications of the principle of relevance (Gutt, 1991:188). Venuti (2000) thinks that his emphasis on cognition is admittedly reductive because it effects linguistic and cultural practices, its special forms, situations and audience, meanwhile Gutt, maintains that relevance theory assumes universal principle that is believed to represent a psychological characteristic of

human nature (Abid.) and therefore, offers an extremely complex but abstract formalisation that highlighted individual psychology without figuring in social factors (Venuti, 2000:335).

However, other linguistic-oriented theorists like Basil Hatim and Ian Mason did not aim to explain the success or failure of a translation like Gutt, but described translated texts in finely discriminated analysis. The works of Hatim and Mason brought together an ambitious array of analytical concepts from different areas of linguistic and according to Venuti, their examples embraced a wide variety of text types, literary and religious journalistic and political, legal and commercial. Their works indicated how far linguistic approaches had advanced in the past three decades. Although Catford applied Hallidayan linguistic theory to translation problems at the level of word and sentence using manufactured examples, Hatim and Mason formed nuanced analyses of actual translations in terms of style, genre, discourse, pragmatics, and ideology; taking into account the differences between literary and non-literary translation. Moreover, in 1997, Hatim and Mason turned into interpersonal pragmatics to examine patterns of politeness and film subtitling, joining scholar like (Dalabastita, 1981; Lambert, 1990; Danan, 1991; Gambier, 1996; and Nornes, 1999). Surprisingly, this theoretical account received little attention because it offered partial communication to foreign meanings which were re-established according to concepts of coherence.

Hatim and Mason's theory was found to be unique in analysing translated dialogue with politeness theory, a formalisation of speech acts by when a speaker maintains or threatens an addressee's 'face', where face is defined as 'the want to be unimpeded and want to be approved of in certain respects' (Brown and Levinson, 1987: 58). Their analysis of subtitling shows that foreign dialogue experienced a 'systematic loss' of politeness phenomena. In the 1990s corpus linguistics, the study of language through vast computer-stored collections of text provided translation studies with powerful analytical tools. Mona Baker and Sara Laviosa were among the theorists who created the first computerised corpora of translations and formulated particular concepts to analyse them. Baker and Laviosa' intentions were to isolate the distinctive feature of the language used in translations, that are not the result of interference from the source language or simple lack of competence in the target

language (Baker, 1997:17-67, 183; Kenny, 1998: 515; see also Baker, 1993 and 1995).

Scholars engaged in corpus-based studies pointed to theoretical problems raised by the search for universals of translated language because they believed that the computerised analysis was governed by abstract global notions (Baker 1997:179, 185). Here, computerised translation analysis was focused on text production to the exclusion of the reception except by the computer programme to identify and quantify the abstract textual categories can nonetheless, according to Venuti (2000) elucidate translation patterns in a parallel corpus of foreign text and their translations, especially if the patterns are evaluated against large reference corpora in the source and target languages. Venuti gives the following example: unusual collocations of words can be uncovered in a foreign text so as to evaluate their handling in a translation. He also think that this kind of description might be brought to bear on cultural and social consideration.

Interestingly, Dorothy Kenny suggested that 'a careful study of collocational patterns in translation text could shed some light on the cultural forces at play in the literary marketplace, and vice versa (Kenny 1998: 519). Kenny adds that computer-discovered irregularities in translation strategies could support historical studies and confirm or questions a hypothesis about translation in specific periods and locales. Annie Brisset (1990/ 1996) contributed in this historical development of translation during this decade by studying the Quebecois Gama translation that was designed to form a cultural identity in the service of a nationalist agenda. Although Henri Gobard's concept of linguistic functions to describe the ideological force of Quebecois French as a translating language. Brisset then demonstrated nationalist writers fashioning Quebecois French into what Gobard calls a 'vernacular', a native or mother tongue, or a language of community.

Between 1968 and 1988 Quebecois translators changed this vernacular into a referential language by using it to render canonical world dramatists, notably Shakespeare, Strindberg, Chekhov and Brenht. In such translation, Quebecois French acquired a cultural authority and challenged its subordination to North American English and Parisian French. Sharing Antoine Berman's concern, Brisset points out that the Quebecoin versions ultimately cultivated sameness and

homogenous identity in the mirror of foreign texts and cultures whose differences were thereby reduced. Her work illuminated the cultural and political risks taken by minor languages and cultures who resorted to translation for self-preservation and development. The 1990s witnessed a series of historical studies that explored the identity forming power of translation in a way that created representations of the foreign text that answered to the intelligibilities and interests of the translating culture. Eric Cheyfitz (1991) strongly argued that ethnocentric translating has underwritten Anglo-American imperialism from the English colonisation of the new world in the early modern period of US expansion into Indian lands during the nineteenth and twentieth centuries to current US foreign policy in the Third World and elsewhere. In a case of the American Indian natives, social relations based on kinship and communal ownership were routinely translated into 'European identity of property'(Cheyfitz, 1991:43).

Cheyfitz's idea was echoed by Tejaswini Ninanjana (1992) who maintained that the British colonial project in India was strengthened by translation inscribed with the coloniser's image of the colonised ethnic or racial stereotype that rationalised domination. After English education was introduced in India, Indians came to study orientalist translations of Indian language texts acceding the cultural authority of those translations and their discriminatory images of Indian cultures. Glen Robyns (1994) made his own contribution to this decade and asserted that 'the instruction of alien, convention-violating elements was a potential threat to the common norms that defined the identity of the target language community' (Robyns 1994: 405-407). He further presented a taxonomy of the relationships between the translating and foreign cultures that might be embodied in the translated text. Robyns' idea was supported by Spivak (1992) when indicating that translation is frequently theorised as a political change.

Spivak outlined a poststructuralist conception of language use where rhetoric continually subvert meanings constructed by logic and grammar. She further argued that translations of Third World literatures need that linguistic model. Spivak also criticised the western translation strategies that rendered Third World literatures and advocates literalism as in-between discourse that disrupts the effect of social realism in translation, giving the reader a tough sense of specific retain of the original. Kwame Anthony Appiah (1993) differs from Spivak's ideology of Third World. He

began his argument by critiquing the analytical philosophy of language. Appiah restated the argument against translatability by questioning the use of the Grecean mechanism. Appiah also maintains that literary translation does not communicate the foreign author's intention but tries to create a relationship to the linguistic and literary conventions of the translating culture that matches the relationship between the foreign text and its own culture. Although the match was never perfect or faithful to the literal intentions of the foreign text so as to preserve formal features. Therefore a translation, like any other interpretation, can proliferate meanings and values, which, however, remained indeterminate in their relation to the foreign text.

Moreover, Appiah stated that interdeterminacy is usually resolved in academic institutions, in pedagogical contexts. He says what counts there as a fine translation of a literary text...is that it should preserve the features that makes it worth teaching. Appiah cited a translation project that evoked the asymmetries in the global cultural and political economy, that is, an English version of an African oral literature and proverbs in the Twi language. He also acknowledged that the political significance of such translation would not be the same in American academy as in the English-speaking academy in Africa. However, he thinks that a political pedagogy would be best served by what he called a 'thick translation' which sought to locate the text in a rich cultural and linguistic context. This kind of translation used an ethnographic approach to the foreign text and was designed to perform an ideological function in the target language.

During this decade (1990s), increasing attention was given to process-oriented research, as Holms termed it. Empirical data was collected through think-aloud protocol and translators were asked to verbalise their thinking during or immediately after the translation process (see Lorsch, 1991 and 1996; Fraser, 1996). These studies observed translators at various expertise, both trainees and professionals. Some researchers put more emphasis on psycholinguistic while other chose to put more attention on improving training by giving it a stronger vocational slant, approximating current trends in the profession. Venuti (2000) asserts that the think-aloud protocols were beset by a number of theoretical problems that could be figured into any use of their data and could change mental activities instead of reporting it. Here, Venuti adds that, subjects would sometimes be instructed to provide distinct information or description without any justification where the data would be affected

by how articulate and self-conscious a subject might be (Venuti 2000:330). Arguing on think-aloud protocols, Venuti contends that 'think-aloud protocols as well as interviews and questionnaires could be used to document the practices that translators currently perform'. He thinks that the quality of data that inevitably depends on the theoretical and methodological sophistication of the experimental design.

After Fraser (1993) had observed community translators rendering an English public information leaflet into several minority languages in the UK, Sequinot wrote that 'if observational studies could produce few regularities to construct a model of the translation process, they are nonetheless useful to can test theories in the light of concrete data (1996: 77). Sequinot indicates that these theories could not be just abstract mental processes, but specific intercultural dimensions of translation.

Some of the most compelling translation research in the 1990s sought to combine linguistic attention to textual details with cultural historian's awareness of social political trends. Rachel May (1994) analyses textual features of English language translation in Russian literature as deities expressions, register shifts and implicature to expose the revisionary impact of translating on narrative forms. May is perceived by Venuti as someone who represents a history of the British and American reception of such literature and shows that English translation tend to omit the rich textual play that complicate the narrative point of view in Russian fiction. She also explains the tendency by situating it in the Anglo-American translation tradition. May concludes that 'the dominance of fluent strategies led to clashing attitudes towards narrative and style in the original and target languages; and that clash was manifested in translation as a struggle between translator and narrator for control of the text language (May, 1994:59).

Making his contribution to this decade, Keith Harvey (1998) calls on the explanatory power of linguistic to analyse a particular literary discourse called 'camp' and its homosexual coding in recent French and Anglo-American fiction. Harvey considers various issues raised by translating discourse in to English and French, shedding some light on the interrelationship between translation, culture difference and sexual identity. He takes a tool-kit approach to analytical concepts using what might be proved to be useful in describing a specific translation strategy regardless of whether

a concept originated in linguistics or literary criticism or cultural studies. Most interestingly however, this stress on specific languages and discourses, cultures and sexualities forces a revision of the universalising impulse in certain types of languages. Thus, politeness theory assumed 'Model Person motivated by rationality' (i.e. means-to-end reasoning) and the desire to satisfy 'face-want' (Brown and Levinson 1987:58). Nonetheless, Harvey's use of this theory revealed how gay fictional characters may deviate from the model because they address face-threatening acts and include self-mockery. He further advances linguistic approaches to translation making specific cultural and political differences between France and two English speaking countries, Britain and the United States. Lawrence Venuti's work typifies key trends in cultural oriented research during the 1990s.

Venuti theorises translation according to poststructuralist concepts of language, discourse and subjectivity in order to articulate their relations to cultural difference, ideological contradiction and social change (Venuti, 2000:341). His point of departure is the current situation of the English-language translating on one hand, marginality and exploitation on the other hand, and the prevalence of fluent strategies that makes it easy rendering and produce the illusion of transparency, enabling a translated text to pass for the original and as a result rendering the translator invisible. Fluency on the other hand masks a domestication of the foreign text that is appropriative and potentially imperialistic putting the foreign to domestic use. It can be countered by foreignizing translation that by deviating from the values and benefits and representations that currently holds sway in the target language.

This line of thought is revives Schleiermacher and Berman, German Romantic translators and one of the late twentieth-century avatars. But, following the poststructuralist, Phillip E. Lewis and modernists poet theorists like Pound, go far beyond literalism to advocate experimentalism. In the 1995 *Translator's Invisibility*, these ideas drives an oppositional history of the present English-language translation, recovering decisive moments in the British American traditions, interrogating the long dominance of fluency and its various literary and ideological effects. Moreover, the 1998 scandals of translation raise ideological critique which widened to examine the categories, practices and institutions that needed and marginalised translation from authorship and copyright law to the academy and

publishing industry. The identity forming power of translation poses an ethical choice between sameness and ethnocentric translation that supports the smooth functioning of cultural and functional institutions. Consequently, this is an ethic of location where the values of the translational project or strategy shifts according to the position of the translating culture in various social hierarchies whether local, national or global (Venuti, 2000:342).

Zakhir (2008) points out that nowadays translation has taken another path, which is more automatic. The invention of internet, together with the new technological development in communication and digital materials, has increased cultural exchanges between nations. This development has caused translators to seek for better ways to cope with these changes and to utilise practical techniques that enable them to translate more and waste less. Translators also see a need of entering the world of cinematographic translation, hence the birth of audio-visual translation. Audio-visual translation, which is also called screen translation, is concerned with translation of all kinds of TV programs, including films, series and documentaries. This field is based on computers and translation software programs, and it is composed of two methods, that is, dubbing and subtitling. In actual fact, the audio-visual translation marks a turning point in the field of translation although since its birth, translation has been the subject of controversy among theorists where each theorist approached it from his own ideology and field of study, the fact which gives its history a changing quality.

The increased globalization, migration and other forms of mobility encountered between representatives of institutions and ordinary citizens, evoke robust services which in turn need the mediation of translators and interpreters. Interpreters interacting for asylum seekers and political refugees are expected to align themselves with the interactional goals of their respective institutions. Despite the ongoing efforts to limit the interpreter's latitude, work on institutional interpreting has shown that even interpreters bound with the strictest codes of ethics, often fail to provide straightforward word, unedited renditions which their organizational co-interactants expertise (Berk-Seligson 1999; Angelelli, 2004). Interpreters and translators' individual identity and contribution is diluted through the enforcement of collective workflow processes which serves to strengthen the public perception of organizational voice (Baker & Perez-Gonzalez, 2011). On the other hand,

translators' and interpreters' ability to exercise their professional discretion is restricted by means of guidelines which seek to effect a gradual routinization and mechanization behaviour and ensure that the language they produce 'functions' seamlessly as part of the discourse of the institution in question (Kang, 2009: 144).

This has been attributed to mismatches between institutional doctrine and 'interpreting habituses' (Marzocchi, 2005). Mason ([2003], 2004: 481) has also reported on uniformity of practice influenced by the institutional guidelines. Mason suggests that these institutional translators are responsible for numerous discourse shifts. He further contends that such discursal shifts display traces of ideologies that reinforces translator's interactional status as agents who are actively engaged in the production of institutional discourses rather than simple mouthpieces whose role is to consolidate mediation (Baker & Perez-Gonzalez, 2011:44). Recent technological development have overcome spatial barriers and speed up circulation of information. This is seen by Cronin (2003) as de-materialization of space, and is responsible for the creation of supraterritorial readership and audience. Cronin adds that this development also makes an account for the growing instantaneity in the translation profession. Baker & Perez-Gonzalez (2011: 46) points out that these development have strengthened the translation and interpreting industries in economic terms, but the current literature on globalization has failed to engage meaningfully with the role that these forms of mediation play within the global deterritorialized space.

According to Cronin (1999, cited in Baker & Perez-Gonzalez, 2011), technology-driven instantaneity generates pressure on translation to become uniform, consequently these professionals struggle to translate more and faster. However, the effect of technology can be more specific, particularly in the context of machine translation, systems and translation tools. Raley (2003) suggests that machine translation technologies place particular emphasis on functionality and utilitarianism, that is, reasonably accurate and functional drafts are only feasible when the input is basic, and when both the input and output are restricted in terms of style, vocabulary, figurative expression and content. Technological advances have also stimulated interest in the diversity of resources that can be used to create texts. In addition to spoken and written words, different modalities such as gestures, visuals and music are often co-deployed within a multimodal text to create meaning. Although the study of multimodal translational behaviour has traditionally focused on

the subtitling and dubbing of films and other audio-visual broadcasts, attention is increasingly shifting towards new areas of multimodal mediation, often involving the transfer of meaning across semiotic modes (Perez-Gonzalez, 2009).

### 2.3 Equivalence in translation

Vinay and Darbernet (1958: 84) distinguishes between ‘*direct*’ and ‘*oblique*’ translation. According to Vinay and Darbernet, direct translation refers to *literal translation* and oblique translation refers to *free translation*. They propose seven procedures of transition where the ‘first three are covered by ‘direct’ translation and the remaining four by ‘oblique’ translation’ (1995: 32). These procedures are: borrowing, calque, literal translation, transposition, modulation, equivalence and adaptation. However, ‘equivalence is perceived as a procedure in which the same situation is replicated as in the original, but using different wording’ (Vinay and Darbelnet, 1995:32). Panou (2013:2) claims that ‘the stylistic impact of the source-language text must be maintained in the target language text, but when dealing with proverbs, idioms and clichés, equivalence for them is sought at the level sense not image’. For example, the idiom *comme un chien dans un jeu de quills* meaning literally *like a dog in a set of skittles* could be translated to *like a bull in china shop* (cited in Munday, 2001: 58). Furthermore, Vinay and Darbelnet (1995: 255) maintain that ‘it is crucial for equivalent expressions between language pairs to be acceptably listed in a bilingual dictionary as full equivalence’

Consequently, they realized the impact of their statement and admit that ‘glossaries and collections of idiomatic expressions are non-exhaustive’ (Vinay and Darbelnet, 1995: 256). This means that the rendering of an equivalent as an equivalent on an expression in a source text in a dictionary or glossary does not guarantee a successful translation since the context surrounding the term in question plays an important role in determining the translation strategy employed. Vinay and Darbelnet conclude by stating that ‘the most important issue in this situation is what determines the need for creating equivalence and that the translators are encouraged to first address the situation of the SL in order to come up with an acceptable solution’ (p. 255).

The structuralist, Roman Jakobson, advocates that there are three kinds of translations, that is, *intra-lingual* (rewording or paraphrasing within one language),

*interlingual* (rewording or paraphrasing between two languages), and *intersemiotic* (rewording or paraphrasing between sign systems, this study however, places its focus on *interlingual* translation. Jakobson goes on to stress the fact that 'there could be no full equivalence between two words' (Jakobson, 1959/2000: 114). He cites the example of 'cheese' in English and argue that 'it is not identical to the Russian syr. However, Jakobson does not in his argument proposes that that translation is impossible but rather points out the difference in the structure and terminology of languages. Jakobson's view on translation is more similar to that of Vinay and Darbelnet's theory of translation. These theorists, argue that translation is possible despite cultural or grammatical differences between the SL and the TL. They also attests to the fact that the role of the translator must not be neglected and acknowledge some limitations of the linguistics approach and consequently cautions the translator to rely on procedures that would ensure a more effective and understandably rendering of the ST message in the target text (Panou, 2013:2).

Eugene Nida's contribution in the field of translation studies is enormous. His enormous books in in the 1960s: *Towards a science of translation* (1964) and the co-authors: *The Theory and Practice of Translation* (Nida and Taber (1969), gave a more scientific sense to translation. Borrowing some theoretical concept from semantics and pragmatics, and being influenced by Chomsky's generative-transformational grammar (1965), he adopts a more clear meaning in the field of translation studies (2013: 2). Looking at equivalence, Nida highlights two basic types: (1) formal equivalence and dynamic equivalence. He says in formal equivalence, the TT resembles closely the ST in both form and content, whereas in dynamic equivalence an effort to convey the ST message in the TT as natural as possible is made. It can be evidently observed that Nida favours dynamic equivalence since he considers it to be a more effective translation procedure. His preference is highlighted in Nida and Taber's edition 'where he argues that dynamic equivalence in translation goes far beyond correct communication' (1969: 25). 'Nida is credited for introducing a receptor-based directed to the task of translation' (Munday, 2001:25). However, Nida's theory has also been severely criticized for a number of reasons. Lefevere (1993:7) argues that 'it focuses on the word-level' whereas Broeck (1978:40) wonders 'how is it possible to measure the equivalence

effect since no text could have the same effect or elicit the same response in two different cultures in different periods of time’.

The worst critic of Nida’s work is Edwin Gentzler, who in his contemporary translation theory (2001), dedicated the whole chapter using quotation marks around the word ‘science’ to prove his sceptical views on the scientific state of translation methods. ‘Gentzler critically accuses Nida for using his concept of dynamic equivalence in order to convert or change readers regardless of their culture, to endorse the idea of Protestant Christianity’ (Panou, 2013:3). However, despite all these criticisms, Nida was still able to produce systematic and analytical procedures of translation for translators working with different kinds of texts. Another contributing theorist in the field of translation is Catford (1965), who introduced his idea of ‘*shift*’ and ‘*types*’. Catford says that shifts are the changes that occur during the process of translation. He describes types of translation in three criteria, firstly, the *full translation*, which is contrasted with *partial translation* which differs according to the levels of language involved in translation. Secondly, *total translation* which differs from *restricted translation* according to the levels of language in translation and thirdly, Catford ‘distinguishes between *rank-bound translation* and *unbounded translation*, depending on the grammatical or phonological rank at which equivalence is established’ (Panou, 2013: 3)

With regards to translation shifts, Catford defines them ‘as departures from formal correspondence when translating from SL to TL’ (Catford, 1965:73). Catford advocates two main types of translation shifts, the *level shifts* ( where the SL item at one linguistic level has a TL equivalent at a different level) and, *category shifts*, which are divided into (a) structure-shift involving change in grammatical structure, (b) *unit-shifts* involving change in the rank, (c) *class-shift* involving changes in class, and (d) *intra-system* shift which occur internally when the SL and the TL systems share the same condition but a corresponding term in translating’ (Catford ,1969: 80).

Snell-Hornby (1988: 19-20) severely criticises Catford for holding such a linguistic theory. She argues that ‘linguistics should not be considered as the only discipline which enables translation to take place but also cultural, structural and historical factors must be taken into consideration’. She goes on to say ‘Catford’s definition of

textual equivalence is circular and his reliance on bilingual informants are hopelessly inadequate and his example sentences isolated and even absurdly simplistic' (cited in Leonardi, 2007: 87). Snell-Hornby (1988: 81) defines the concept of translation as 'an interaction process between the author and, the translator and the reader', and further mentions their complexities saying 'translation is a complex act of communication in which the SL-author, the reader as the translator and the translator as the TL-reader interact. The translator starts from the present frame (the text and its linguistic components); this produced by an author who drew from his own repertoire of partly prototypical scene depending on his own level of experience and his materialized knowledge of material concerned' (1988:81). However, Malmkjaer comments that 'one should bear in mind that when Catford (1968:20) defines translation as the replacement of SL textual material by TL equivalent textual material, does not mean equivalent in meaning' (cited in Malmkjaer, 2005:24).

House (1997) adopts the pragmatic theory and language use and came up with a translation model in which the requirement for equivalence of SL and TL is that the original and the translation should complement each other's function. These functions that House is talking about should be achieved by employing equivalent pragmatic means. In this case, Panou (2013:3) considers translation to be 'adequate in quality if it matches the textual profile and function of the material'. House (1997) added to his pragmatic theory by distinguishing between *overt translation* and *covert translation*. 'Overt translation points out to a TT that has elements which betray a translation whereas covert translation is a TT that has the same function with the SL when the translation has alleviated cultural differences' (Panou, 2013:3). In other words, one can argue that House's theory seems to be more flexible than those of Catford because he incorporates his pragmatic aspect of translation.

Koller (1979), one of the prominent German scholars in the field of translation studies, provides a detailed examination of the concept of equivalence and its linked term *correspondence*. According to Koller, 'correspondence involves the comparison of two language systems where differences and similarities are described contrastively whereas equivalence deals with equivalent items in specific ST-TT pairs and contents' (Panou, 2013:3). When responding to the question of equivalence, Koller (1979) distinguishes five different types of equivalence, which are, '(a) denotative equivalence which involves the extra-linguistic content of a text,

(b) connotative equivalence relating to lexical choices, (c) text-normative equivalence, relating to text types, (d) pragmatic equivalence involving receiver of the text or message, and (e) formal equivalence relating to form and aesthetics of the text' (Koller, 1979:186-191). Koller goes on to argue that 'a hierarchy of values could be preserved in translation only if the translator comes up with requirement for the target language' (1979:89). His contribution to the field is acknowledged by other theorists for his effort to bring into the translator's attention different types and ways in which the then old fashionable desideratum of equivalence could be achieved.

Peter Newmark, one of the founders of the *Institute of Linguistics* and a fervent advocate for the professionalization of translators, (1981; 1988), does not promote monolithic translation but rather makes an attempt to describe the bases for dealing with the problems encountered during the translation process. Newmark (1981) replaces Nida's terms of formal and dynamic equivalence with semantic and communicative translation respectively. Panou (2013:4) states that 'the major difference between the two types of translations proposed by Newmark is that semantic translation focuses on meaning whereas communicative translation concentrates on effects'. In other words what Newmark says is that, 'semantic translation looks back at the ST and tries to retain its possible characteristics as much as possible tending to over translate' (1981:39). On the other hand, 'communicative translation looks at the need of the addressees thus trying to satisfy them as much as possible' (Panou, 2013: 4), and tends to under translate more directly and easier to read.

In semantic translation, a great emphasis is placed on the author of the original text whereas communicative translation is meant to serve a larger readership. Nonetheless, Newmark (1981:39) strongly believes that 'literal translation is the best approach in both semantic and communicative translation'. He further notes that 'the two forms of translation and then advocates that 'communicative translation should be favoured in order to avoid producing an abnormal, odd-sounding or semantically inaccurate results' (1981:39). In illustrating his points, Newmark uses the example of a common sign *bissiger Hund* and *chien mechant* which should be translated communicatively as *beware the dog!* Instead of semantically as *dogs that bite!* and *bad dogs!* so that the message is communicated effectively (p: 39). Although Newmark has been criticised for his prescriptivism, 'the wealth of his practical

examples in his books, *Approaches to Translation* (1981) and *A Textbook of Translation* (1988), constituted a good advisory guide to both trainees and established translators' (Munday, 2000:46).

In addition to contemporary theories of the time, Mona Baker, in her influential book '*In Other Words*' (1992), irritably addresses the issues of equivalence by adopting a more neutral approach and argues that 'equivalence is a relative notion because it is influenced by a variety of linguistic and cultural factors' (Baker, 1992:6). Writing on equivalence, Baker discusses different kinds of equivalence at the level of word, phrase, grammar and pragmatic, hence the introduction of terms such as grammatical, textual and pragmatic equivalence. Adopting a top-bottom approach, she acknowledges the importance of individual work during the translation process. She points out that 'the translator looks firstly at the words as single units in order to find their equivalence in the TL' (1992:6). Baker goes on to provide a definition of the term 'word' referring to its complex nature since a single word can sometimes be assigned different meanings in different languages' (1992:11-12). Consequently, she adds, 'parameters such as gender and tense should be taken into consideration' (Baker, 1992:12).

In her argument, Baker alludes that 'grammatical equivalence refers to the diversity of grammatical categories across language and the difficulty of finding an equivalent terms in the TT due to the variety of grammatical rules across languages' (1992:12). Baker stresses the fact that differences in grammatical structures may significantly change the way information or intended message is carried across. Consequently, she says, 'the translation may be forced to add or delete information in the because of the lack of specific grammatical categories' (Baker, 1992:12). Some of the major categories that often pose problems for translators are voice, person, gender, tense and aspect.

Elaborating on textual equivalence, Baker says 'it refers to equivalence that may be achieved between the ST and the TT in terms of cohesion and information' (Baker, 1992: 12). Here she argues that the features of the text is of an utmost importance for the translators because it facilitates their comprehension and analysis of the ST and assist them to produce a coherent text in the TL. Concluding her argument on equivalence, Baker points out that pragmatic equivalence deals mainly with

implicature. Drawing from Grice (1975), Baker argues that 'the implicature is used to refer to what is implied and not the literal meaning'. In other words, 'the focus of interest is not what is explicitly said but what is intended or implied in a given context' (Panou, 2013:4). According to Baker, 'the role of the translator is to work out the meaning of implicature if these exist in the ST and transfer them to the extent that is possible (Panou, 2013:5). He maintains that the primary aim of translator should be in this case to recreate the intended message of the SL in such a way that it becomes accessible and comprehensible to the target language audience. 'Baker's contribution to the field of translation studied is widely acknowledge for her provision of systematic approach in training translation through the elaboration of specific strategies that could be used to deal with the numerous translation problems translators encounter daily' (Panou , 2013:5).

Lastly, Pym (2010: 37) makes his contribution to the concept of equivalence by highlighting that 'there is no such thing as perfect equivalence between language as has always been assumed'. In Pym's view, 'equivalence is a relationship of equal values between the ST segment and could established on any linguistic level from to function to' (Pym, 2010: 7). In the same page, Pym goes on to distinguish between *natural* and *directional* equivalence. He is of the opinion that 'natural equivalence exist between languages prior to the act of translating and it is not affected by directionality' (2010: 7). Furthermore, he adds that 'theorists of directional equivalence give the translator the freedom to choose between several translation strategies for directional equivalence are reduced into two opposing poles where one adheres to SL norms and the other to the TL norms' (p:7).

For to contemporary theories, one may argue that many translation theories are based the two opposing poles of translation. For example, Nida distinguishes between formal and dynamic equivalence, Newmark between semantics and communicative translation, Catford between, House between overt and covert translation, and Pym between natural and directional equivalence. However, 'these bipolar views of equivalence in time faded away and an attractive translation paradigms came to the forefront' (Panou, 2013:5). Contrary to linguistic-oriented approaches to translation which assumes that the source text occupies a supreme position and that is considered to be most crucial in determining not only translation processes but also the extent to which it has been successful, while the target-

oriented approach views the source text as a point of departure for the for the translation. Thus, on the cultural, historical and socio-political factors surrounding translation, looking at it as a culture-bound phenomenon (Panou, 2013:5). Despite its shortcomings, it should be emphasised that equivalence is still one of the important and crucial determining factor of translation because it functions as a reminder of the central problem that translators encounter during the translation process.

## **2.4. Interpreting development**

Benjamins (2008) states that many scholars have taken sociolinguistic approach to interpreting and studied the impact the interpreter's presence has on the communicative events, particularly dialogues and negotiations. Cokely (1992) was one of the first theorists to develop a sociolinguistic model of interpreting.

### *2.4.1 Conceptual Roots and Background of Interpreting*

'Interpreting is an oral transfer of messages between speakers of different languages (Gentile et al, 1996:5). It is thus one of the oldest human activity, and the role of the interpreter is arguably one of the latest professions (Gentile et al, 1996:5). Cokely (2001:4) defines interpreting 'as the competent and coherent use of one naturally evolved language to express the meanings and the intentions conveyed in another naturally evolved language for the purpose of negotiating an opportunity for a successful communicative interaction in real time with a triad involving two principal individuals or groups who are incapable of using, or who prefer not to use the language of the other individual or group', Pochhacker regards 'interpreting as a translational activity', he argues that 'it is an ancient human practice which predates the invention of writing and written translation' (2004:9). The first written proof of interpretation dates back 3000 BC, at which time the ancient Egyptians had a hieroglyphic, signifying interpreter. Pochhacker points out that 'in many Indo-European languages, the concept of interpreting is expressed by words whose etymology is largely autonomous from that of the written translation' (2004:9). 'In Germanic Scandinavian and Slavic language, denoting a person performing the activity of interpreting could be traced back to Akkadian, the ancient Semitic language of Assyria and Babylonia around 1900 BC' (Vermeer, 1992:59).

Another widely known use of interpreting occurred in the Ancient Greece and Rome, for both the Greeks and Romans, learning the language of the people that they

concurrent was considered undignified. Furthermore, during this era, and until the 17<sup>th</sup> century, Latin was the lingua-franca, or the language of the diplomacy in Europe, and therefore, all nations had some citizens who spoke Latin in order to carry on the diplomatic relation. According to Pochhacker, the word '*interpreter*' is derived from the Latin word *interpres* meaning *expounder*, a person explaining what is obscure', (2004:9). However, Hermann (1956/2002) argues that the word *interpreter* is derived from '*partes*' or '*pretium*', which fits the meaning of a 'middleman', 'intermediary' or 'commercial go-between'. Here, the term 'interpret' denotes someone 'explaining the meaning', that is, making sense of what others have difficulty understanding'. Pochhacker (2004:10) 'indicates that the etymological roots of the verb '*to interpret*' have a semantical relationship with the terms '*translation*' and '*translate*'. However, Palma (2013) thinks that most people confuse interpreters with translators where as these two are two distinct professions which are just related. Palma distinguishes translators from interpreters and say 'interpreters work with the spoken words orally converting a message in one language [source language] into a message in another language [target language] whereas, translators on the other hand, convert a message in another language [source language] into a message in another language [target language] using a written format. Kade (1968) cited in Pochhacker (2004:10) agrees with Palma's distinction between translators and interpreters by highlighting that 'interpreting is a form of translation in which the source language text is presented only once and cannot be viewed or replayed and the target language text is produced under time pressure, with little chance for corrections and revision. The following different scholars (cited in Pochhacker (2004:11-12), have made an account on interpreting as a form of translation:

- (a) Robin (1959) says 'translation is a process by which spoken or written utterances take place in one language which is intended or presumed to convey the same meaning as the previously existing utterance in another language'.
- (b) Brislin (1976a) says 'it is the transfer of thoughts and ideas from one language (source) to another language (target), whether the languages are in written or oral form...or whether one or both are bases on sign'.

(c) Salevsky (1993) states that 'translation is a situation-related and function-orientated complex series of acts for the production of a target text intended for addresses in another culture/language on the basis of a given source text'.

(d) Toury (1995) says 'any form of utterance which is presented or regarded as a translation within a culture on no matter what grounds'.

When analysing the above definitions, Pochhacker says 'definition (a) lays down the relationship between the source and the target language utterances and highlights 'sameness' in meaning in both languages. Definition (b) describes translation as a process of transfer acting on ideas in the medium of language. Definition (c) introduces a number descriptive features such as situation, function, text and culture, and stresses the target orientation of the translational products. Pochhacker feels that in such instance, the orientation is carried to the extreme, whereas, definition (d) is where the theorist relinquishes any prescriptive authority and accepts as translation whatever is treated as such in a given community' (2004:11-12).

Looking at all the above definitions, Pochhacker comes up with his own definition indicating that all the above definitions of translation contain in them the following ingredience' an activity consisting of the production of utterances (text) which are presumed to have similar meaning and /or effect as the previously existed utterances in another language and culture' (2004:12). His definition of translation seem to be more concerned about the production of utterances (spoken words) which pre-existed in another language, hence termed interpreting because interpreters provide verbal communications between cultures and languages. Palma (2013) claims that 'these interpreters should be able to speak at least two languages whereas translators need not speak the language from and into which they work. Palma declares that in order to get the message across effectively, interpreters should have proven language skills, personally suited to verbal communication, respect speakers and audiences' (2013:4). This implies that interpreters should be seen as other people' mouthpieces who keeps their thoughts to themselves but speak those of their clients. The focal point of this study is interpreting rather than translation. Interpreting profession could be sub-classified into four broad specialisations, that is,

community interpreting, medical interpreting, conference interpreting and judiciary interpreting. These interpreting professions can be discussed as follows:

#### \* Community interpreting

Palma (2013:6) says that, 'community interpreting involves direct contact with the parties for whom the interpreter mediates, such as parents and teachers, social worker, government services agencies and members of the public, etc.' this kind of interpreting can be found to involve two people, for example, doctor and patient, police and suspect. In this instance, the clients are seen as public authorities who are responsible for putting constituting principles of interpreting into practice such as police social services. The client may decide on the contract conditions and settings and could also be in a position to recruit interpreters. Pochhacker, supports Palma by pointing out that 'community interpreting could be referred to as public service interpreting and can be utilised in fields like health-care or medical interpreting or hospital interpreting , legal interpreting and media/broadcast interpreting' (2004:15).

In support of Palma (2013) and Pochacker (2004), Inggs (2011f) adds that community interpreting is the kind of interpreting occurring in fields such as legal, health and local government, social, housing, environmental health, education sectors and welfare services. He further indicates that 'in community interpreting there are factors that exist and affect language and communication production, such as speech emotional contents, hostile or polarized social surroundings, created stress, the power relationship among participants and the interpreter's degree of responsibility may in many cases be more than extreme, and in some instances even the life of the other person depends upon the interpreter's work' (2011f:7).

#### \* Medical interpreting

'it requires specialised knowledge of medical terms and concepts, and it is done in hospitals, doctors offices and anywhere mediation is needed between a health professional and a patients when they do not speak the same language', (Palma, 2013:7) Pochkacker adds that 'this kind of interpreting emerged mostly between the 1980s and 1990s as a result of a mounting communication problem in the public sectors like health care and social services'. In Pochhacker's view, 'there is a slight, if any difference, between medical and public service interpreting' (2004:15). Inggs suggests that medical interpreters should have knowledge of medicine, common

medical procedures, the medical processes, ethics, and the daily working knowledge of hospital or clinic where he or she works, in order to effectively serve both the patient and the medical practitioner.

#### \* Conference interpreting

Palma (2013: 8) states that 'conference interpreting requires a broad knowledge of related subject matters and their specialised terminologies'. Palma indicates that 'conference interpreting should be done in a sound-proof booth, generally, interpreters work from their second and third language into their mother tongues. On the other hand, Inggs (2011f) suggests that interpreters of conference interpreting must have a complete mastery of their working language and an excellent command of their native language in order to express themselves accurately. Growing from this perspective, Bruce and Anderson (1956/2002) modelled the prototypical constellation of interpreting as three-party interaction where bilingual interpreters assume the mediating role between two monolingual clients. 'Such actions are termed 'bilateral interpreting' or 'dialogue interpreting'. 'Each of these terms is closely related or synonymous to what was previously introduced as 'liaison interpreting' (Pochhacker (2004:16). Nonetheless, Henri Van Hoof (1962) maintains that liaison interpreting is a form of interpreting practiced mainly in commercial negotiations for the purposes of trade. Gentile et al (1996) took advantage of the term 'liaison' and denote the idea of 'connecting' or 'linking-up', further extending it to a variety of interpreting settings across the inter vs intra-social dimensions (cited in Pochhacker, 2004:14).

Accounting on conference interpreting, Inggs (2011f) mentions that it is performed at international summits, professional seminars, and bilateral or multilateral meetings of heads of States and Governments (p2). She further suggests that these interpreter must be willing to travel since their work often takes them far away from their homes. Another essential requirement for conference interpreting suggested by Inggs is 'good mind, good level of general education, analytic capacity, and the ability to put themselves in the minds of the people for whom they are interpreting. They also need to be able to concentrate, have a good memory, have a pleasant voice and good diction, and be physically and mentally robust' (2011f:3).

#### \* Escort Interpreting

It is an interpreting that is performed between a small group of people who speak two different languages relaying what was said into and out of the source language.' (Inggs 2011f:5). Inggs adds that 'this type of interpreting could be used during business meetings, negotiations, tours of facilities or other similar events. He also indicate that 'often, escort interpreting can be required for days or weeks where interpreters would accompany their clients on business trips or tours; or during the course of their daily work. Liaison interpreters can also be used to accompany personnel on a trip to foreign company to help them interact with their foreign counterparts' (2011f:6).

#### \* Sign Language interpreting

This is the kind of interpreting mostly, used for deaf and hearing-impaired people. Sign interpreting, which is at times called visual or sight interpreting, allows a great deal of distinction between interpreting from or into a sign language proper, such as American Sign Language, British Sign Language, French Sign Language, etc.' (Pochhaker, 2004:18). Sign language system is, according to Pochhacker referred to as transliteration, and sign language interpreters are called *transliterators*. Inggs mentions that 'this kind of interpreting occurs when a hearing person speaks, and an interpreter renders the speaker's meaning into a sign language or other forms used by deaf parties' (2011f:9). Inggs also points out that this type of interpreting can happen in reverse, that is, when a deaf person signs and an interpreter renders the meaning expressed in the sign or oral language for the hearing party. Inggs' argument is supported by Pochhaker who purports that 'interpreting into a sign language is sometimes referred to as 'signing' (voice-to-sign-language), or 'voicing' (sign-to-voice interpreting). He also indicates that there is a special modality for the deaf-blind, who monitor a signed message, including fingerspelling, by resting their hands on the signer's hands (tactile interpreting)' (2004:18).

#### \* Judiciary interpreting

Judicial interpreting is defined by Inggs (2011f:4) as 'the process of interpreting and applying the correct meaning of legal documents as engaged in a judge in a court of law'. He argues that judicial interpretation is a theory or mode of thoughts that explains how the judiciary should interpret the law, particularly the constitutional documents and legislation. Palma (2004:10) asserts that 'the most complex and

demanding of the interpreting fields is the judiciary interpreting'. Palma argues that this kind of interpreting requires one to interpret equally well in two different languages. She also maintains that the interpreter cannot do without the encyclopaedic knowledge of many subject matters relating to legal terminology in this field of study. The NAJIT sees judiciary interpreters as highly skilled professionals who must fulfil an essential role in the administration of justice by providing a complete, unbiased, and accurate interpreting between English speakers and non-English or limited-English proficient defendants, victims, or witnesses. The judiciary interpreter's role is to help remove the linguistic barriers that impede a limited-English proficient individual from full and equal access to justice under law.

The question here would be 'do judicial interpreters or rather as known 'courtroom interpreters' in the study, really remove the linguistic barriers to assist limited-English proficient individuals receive access to fair justice? This will be answered by the findings of the study in chapter four thereafter. Notably, this field of judiciary interpreting was established for the purposes of enforcement of the laws and the administration of justice in the colonial territories. 'Interpreters were enlisted to ensure that even those who do not speak the language of the authorities could be held accountable, hence court interpreting, for which in many jurisdictions court interpreting includes tasks like certified translation documents as well as interpreting in quasi-judicial and administrative hearings' (Pochheker, 2004:14). It is thus important for one to distinguish between the broader notion of legal interpreting or judicial interpreting and courtroom interpreting in its specific prototypical setting, and this study is more concerned with the courtroom interpreting.

#### *2.4.2 The Education and Qualification Status for Interpreters*

Because of political reasons in South Africa, English and Afrikaans had been the only official languages for many decades. These two languages found themselves used as the official languages of the courts, even though the majority of the South African population did not use them as their first language. Judith Inggs (1998:1) mentions that 'in all these years, the provision of interpreters for all the languages of South Africa, the other nine adopted as official languages, were never found to be necessary'. However, after the 1994 democratic elections, linguistic rights were enshrined in the constitution; and not only are court interpreters a necessity, but is

now emphasised that their provision is a vital means of ensuring the linguistic and legal rights of the whole population'. Inggs further indicates that as most of the cases taken to court involve a court interpreter, the South African Department of Justice employs full-time interpreters to serve in courts. She continues to say that these interpreters are normally assigned to a particular court with the same magistrate or the same judge presiding. This means that without the presence of the interpreter the courts cannot function.

In her argument, Inggs (1998: 1-2 ) contends that court interpreters do not only serve as interpreters but also as mediators between the accused, the witness and those in a position of authority in the court. Since court interpreters were historically regarded as unfortunate and undesirable, their status has been extremely low. She adds that 'they are recruited by the State, mostly straight after matric, the only prerequisite is a Senior Certificate and the ability to speak more than one language'. Interpreters receive minimum training by the Department of Justice via Justice College and 'they may be called to work upon languages beyond their competence', (Inggs, 1998:2). In her argument, Inggs (1998) indicates that interpreters receives minimum training by the Department of Justice College. She emphasizes that in court structures and procedures, interpreters may be required and called upon to switch between number of languages without being competent in those languages. In many instances, interpreters claim to speak three or four languages but have only a limited understanding of the less common languages, which in turn result in faulty interpreting and serious miscarriages in justice system.

Benjamin (2008) purports that 'without competent qualification and experienced legal interpreters, there cannot be an effective and a fair legal process across languages and cultures. Hertog (2001) shares Benjamin's point of view pointing out that 'reliable standards of communication across languages are an essential prerequisite to deal effectively with the increasing number of occasions where there is no adequate shared language or mutual understanding of legal system and procedures' (p:11-12). However, at the beginning of 1997, an initiative aimed at improving the status of the interpreters' profession and those dependent on the court interpreter was established. The Department of Justice College, the two court interpreters unions and different academic institutions formed a committee that developed a nationally recognised course which interpreters would take while remaining under the employ of

the Department of Justice (Inggs, 1998:2). At the beginning of 1998, four universities took in over 200 student interpreters' countrywide offering them courses which followed the similar core curriculum consisting of Interpreting and Translation, Interpreting Practice, Introduction to Law, and Language Enhancement. The language pre-requisites were that each interpreter took a course in English plus two other language of their choice, those normally included their first language and any other language habitually used in court. The institutions organised their courses differently to cater for students in full-time employment. Other students attended classes in the evening while others universities would bring students together on campus four time a year with assignments to be completed between sessions. The contact between students and lecture had proved fruitful and beneficial for both (Inggs, 1998).

Nonetheless, Benjamin (2008:9) conveys that 'guidance from professional associations is important for practitioners striving to follow the best practices'. Benjamin also thinks that it is essential that student interpreters learn about the complexities of the role they will be playing when they embark on their career. Witter-Merithew (1999) points out 'that interpreters should self-confidence and adequate bilingual-bicultural competence' (p59), and laments that 'the degree competence required exceeds the amount of time available in the interpreter education programs' (p62). This sentiment is shared by Moeketsi and Wallmach (2005). Who emphasised the importance of establishing a solid educational foundation for court interpreters to be able to exercise the judgement required in this complex role they play. Moeketsi and Wallmach argue that this level of expertise can only be acquired in a full-fledged university degree program. Others contend that it is only post-graduate programs that can help interpreters develop sufficient professional competence (Benjamin, 1999; Hertog, 2001).

Many scholars writing about court interpreter education, agree that no matter how comprehensive or superficial the training instruction in standards of conduct is, good practice is essential (Mikkelson and Mints, 1997; Hertog, 2001; Moeketsi and Wallach, 2005). Benjamin (1998) observes that many of the basic textbooks on interpreting contains chapters on ethics that could be used in teaching student interpreters to apply critical thinking (cited in Mikkelson, 2000/2001), and excellent articles, such as the ones written by Hoza (2003), could help instructors flesh out

their ideas about ethical decision-making with the view to developing appropriate teaching materials. Apart from the full time education for student interpreters, Benjamin contends that 'the most effective way to help them acquire critical thinking and decision-making skills, instructors need to allow these student interpreters to interpret interactions in the legal settings and create realistic scenarios in which they should act out the roles of the different parties and the discuss the issues raised thereafter' (Benjamin, 1998:10).

#### *2.4.3 Standards of Practice and Ethics of Court Interpreters*

Camayad-Freixan (2011) points out that many countries have laid down standards of practice for court interpreters or a code of ethics stipulated by law, by which all court interpreters employed in those countries must abide. In the US, interpreter's code known as the Court Interpreters Act of 1978 was introduced at the time when ad hoc interpreters were the norm and administrators sought to suppress non-professional behaviour. Meulenbergs, Verpeet, Schotsmans and Gastman (2004) define standards of practice as a set of professional guidelines grounded in a code of ethics which encompasses related values and principles. These principles, they say, are mostly used to identify desired qualifications, specify expectations and evaluate the execution of required skills within a given profession. However, these standards of practice function only externally as guiding principles for interpreters, unlike norms which function externally, for example, during the interpreting process. In agreement with the above statement, Tseng (1992), in his model of professionalization of court interpreting, refer to standards of practice as a code of ethics. He adds that the enforcement of code of ethics is crucial because they function externally as one of the ways to win the public interest and internally as an indispensable tool for internal control (cited in Lebesse, 2014: 190).

In Denmark, the Danish Administration of Justice Act xi of 1994, as amended by Legal Notice 425 of 2007, was proclaimed in 1994. Section 149(1) of this Act stipulates among other things that the language of courts, the provision of court interpreters for those who cannot speak the language the language of the courts, and the requirements that court interpreters must meet in order to interpret in court. (Cited in Lebesse, 2014: 190). However, in the US, the most evolved code in the profession of court interpreting is the Mossachusetts Code of Professional Conduct

Interpreters of the Trial Court. The key to success of this code is that it begins by precisely setting out its guiding principles. These standards serve to assure meaning access, protects constitutional rights, and ensure due process as well as equal protection of the law for non- English speakers (Gonzalez, Vasquez and Mikkelson 1991).

However, Lebese (2014) highlights that the National Association of Judiciary Interpreters and Translators (NAJIT), a well-known association of interpreters and translators in the US which was born out of legislation, has a code of ethics and professional responsibilities with which all its members are bound to comply. According to Lebese, this code came into existence due to the trust placed in court interpreters and the magnitude of their responsibility necessitates a high, uniform ethical standards that would guide and protect court interpreters in the course of their duties as well as uphold the standards of the profession as a whole. He adds that this code deals with issues of accuracy, impartiality and conflict of interests, confidentiality, limitations of practice, protocol and demeanour, maintenance and improvement of skills and knowledge, accurate representation of credentials, and impediments to compliance (Mikkelson, 2008). Standards of practice for court interpreters have concurrently been re- examined with the view of making reflect more accurately on what interpreters are actually doing or should be doing or doing in the field, and to provide more a more meaningful guidance for practitioners (Mikkelson, 2008).

The National Accreditation Authority for Translators and Interpreters Ltd Canberra (2013) version (NAATI), states that interpreters and translators encounter a variety of ethical issues when performing their duties. However, 'many countries have develop provisions that govern norms and standards of practice (NSPs) for court interpreters' (Lebese, 2014:1). For example, the ethical standards for interpreting and translating professionals in Australian are set out by the Institute of Interpreters and Translators (AUSIT), and for Auslan interpreters, the Australian Sign Language Interpreters Association (ASLIA). Although translators and interpreters' work may cover and go beyond their ethical responsibilities, the NAATI does not prescribe any code of ethics for the profession. Speaking about matters relating to interpreting in South African courts, Judge Williamson in the case of *The State versus Naidoo* (1962: 631) cited in (Hoexter et al. 1962:2) stated that 'in relation to the Courts of this country, there

appears to be no statutory provision, Rule of court or regulation governing the position of interpreters'. Commenting about Judge Williamson statement, Lebesse (2014) laments that 'if this statement is true, court interpreters could be perceived as working without proper guidance...' Such condition may influence interpreters to work according to their free will, which may result in poor interpreting practices.

Writing about fair justice in court, Lebesse (2014) points out that 'a fair justice system would ensure that both the accused and the witness understand the courtroom proceedings' (p: 1). He maintains that this fairness could not be achieved in cases where court interpreters cannot be provided for court participants who do not speak or understand the language during the proceedings. Keratsa (2005) sees trial in the court of law as a battle fought with words, and that such battles are fought by people who cannot speak or understand the legal language of the setting. According to Keratsa, this means that the presence of an interpreter as a mediator and a necessary contributor to overcoming language barriers and ensuring communication is considered (cited in Lebesse, 2014: 1-2). Therefore, interpreters should be guided by some sort of legislation that deals with any issue relating to court interpreting and that would define the norms and standards of practice (NSPs) that must be followed by all court interpreters in their duty during trials.

Different countries have developed their own Norms and Standards of Practice (NSPs) to guide court interpreters while carrying out their tasks. These NSPs do vary as per country but all have a common goal, which is, to regulate and guide the function of court interpreters. Hewitt (1995:199) agrees with the above statement by stating that in the US, the Model Code of Professional Responsibility for Interpreters in the Judiciary was developed by the National Center for States Court, and prescribes the role of court interpreter as follows: 'Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency or a speech impairment. It is essential that the resulting communication barrier be removed as far as possible so that these persons are placed in the same position, as similarly situated persons for whom there is no such barrier'. As officers of the court, interpreters help to ensure that such persons enjoy equal access to justice, and that court proceedings and court support services function effectively and efficiently.

Toury (1980) shares his observation about the important role played by norms in Descriptive Translation Studies. Toury thinks that norms determine the type and extent of equivalence manifested by the actual translations. Malmkjaer (2005) points that deviation from norms can incur various kinds of sanctions and result in negative criticism. However, in the case of *State versus Naidoo* (1962:631 cited in Lebesse (2014)), Judge Williamson purports that 'in relation to the courts of this country, there appears to be no statutory provision, Rule of court or regulation governing the position of interpreters'. Lebesse (2014) argues that 'if Judge Williamson's statement is true, court interpreters of this country would then in essence be working without proper guidance from a statute of containing NSPs for court interpreters' (p: 184-185). Lebesse thinks that this situation might lead to court interpreters working according to their own personal preferences. Where each would create and abide by his own NSPs. This could however result in poor interpreting practices. Lebesse's point of view is echoed by Mikkelsen (1996) who observes that interpreting in South Africa is characterised by lack of standards for training and practise, among other things. Du Plessis (1997:1) shares the same thought and mentions that 'interpreting may be a clearly defined, well-established profession operating within a structured context in many countries of the world, but in South Africa the profession still has a long way to go to attain the same status'.

Lebesse (2014) adds that if NSPs do not exist, court interpreters themselves have to deal with the controversies surrounding their duties and position. Mikkelsen (2008:2) fears that if this is what is happening as interpreters perform their day-to-day task, 'they are constantly making decisions and solving problems by navigating between the Scylla of slavish, which is the literal interpretation, and the Charybdis of free translation that distorted meaning and thereby perverted justice'. The aim of this study is to evaluate whether meaning of message does get lost during the process of interpreting due to inaccuracies of interpreters when performing their duties. The study further investigates the consequences caused by loss of meaning during the court interpreted testimony, and if so, to which extent can this malpractice be improved.

#### *2.4.4 Modes of Interpreting*

According to the National Association of Judiciary Interpreting (NAJIT) Position Paper (2006) issue, 'modes are the techniques used when interpreting is done' (p: 1). There are different types of modes in which interpreting can be performed, e.g. simultaneous, consecutive, liaison, escort, media, relay, whispering and sight interpreting. According to the NAJIT paper (2006 issue), each mode fits particular needs and circumstances in the judicial process and in legal and quasi-judiciary settings. These mode can be explained as follows:

\* Simultaneous Interpreting

Inggis (2011f) says 'in simultaneous interpreting, the interpreter renders the message as quickly as he or she could formulate it from the source language to the target language, while the speaker continuously speaks. The setting might be in a sound- proof booth, speaking in a microphone while clearly seeing and hearing the source speaker via earphones' (p :3). The NAJIT paper states that 'simultaneous interpreting is the rendering of one spoken language into another when running renditions are needed at the same time as the English language communication'' (2006:1). Here, the interpreter speaks virtually at the same time as the Limited English proficiency (LEP) person. The NAJIT paper also points out that 'when done properly, simultaneous interpreting should provide a true and accurate interpretation of one language to another, done without omissions or embellishments so that the parties can understand one another quickly', (2006:1). Simultaneous mode could be used in situations where the participants, most often the defendants are playing a passive role in court proceedings such as hearings, arraignments or trials. This means that the LEP speaker needs to hear what is being said but is not required at that stage of the proceedings to speak for herself. In order to preserve the defendant's due rights, everything spoken in court must be interpreted to her simultaneously to enable the defendant to be truly represented and take an active part in her defence. According to the NAJIT paper. Consecutive interpreters should be able to at the same time:

- listen intently to the speaker;
- accurately interpret from source language to the target language; and

- be prepared to switch languages rapidly whenever the LEP party is directly engaged in the procedure.

#### \* Consecutive Interpreting

The NAJIT Position Paper (2006) issue states that consecutive interpreting performed when the interpreter waits until the speaker has finished before rendering the speech into another language. Consecutive interpreting is a true and accurate interpretation of one language to another, spoken in brief bites sound successfully without omission or embellishments, so that the parties can understand each other slowly and deliberately. This view is echoed by Jorge Carrasco Arroyo of the University of Los Angeles, who writes about the types and mode on interpreting, and mentions that in consecutive interpreting the speech is divided into segments and the interpreter may sit or stand beside the speaker while listening and taking notes. According to the NAJIT Position Paper, the consecutive mode is used when the LEP participants are playing an active role, that is, when they must speak or respond during examinations, cross-examinations. And other proceedings. The NAJIT paper also points out that consecutive interpreting is often used when parties are addressing a witness or defendant on the witness stand. In legal settings such as attorney/client or prosecutor/witness/victim interviews, the consecutive mode is the preferred mode of interpreting because it is a question answer session. The NAJIT Position Paper thus recommends that consecutive interpreting should be used during police interviews of suspects and/or witnesses or victims, especially during interviews. Because the gaps in speech between the parties gives room to a clear and accurate transcript to be prepared if necessary for further court proceedings. According to NAJIT (2006) issue (p: 2), consecutive interpreters should be able to:

- listen attentively to whatever party is speaking;
- be prepared to take notes to assist recollection; and
- accurately interpret after the party has completed his statement.

### \*Sight Interpreting

It is stated in the NAJIT Position Paper (2006) issue (p: 2) that sight interpreting is the rendering of material written in one language into spoken speech in another language. This means that it is a true and accurate verbal translation of written materials into spoken form so that the parties can understand messages that are documented in foreign languages. According to the NAJIT Position Paper (2006: 2), "sight translation is often used when the LEP defendants are given forms in court that are written in English, such as rights forms, plea forms ,and probation orders'. In other cases, sight translation could be used when foreign language documents such as birth certificate, personal letters and personal are presented in court. When performing sight translation, the interpreter must:

- possess a wide range of vocabulary and extensive knowledge of specific type of document presented;
- have the ability to quickly scan and understand the main points of the documents;
- accurately interpret the document into its equivalent meaning in the target language.

### \* Whispering interpreting

It is like whispering simultaneous, where the interpreter sits or stands next to the person or people requiring interpretation. This method can only be used in a maximum of two people and cannot be used in crowd.

### \* Relay interpreting

Relay interpreting is usually used when there are several target language. The source-language interpreter interprets the text to a language common to every interpreter who then renders the message their respective target languages. For example, a Chinese message that is first rendered to English to a group of interpreters who listens to the English and interpret the message into Greek.

In all the above discussed modes of interpreting, simultaneous and consecutive are the most relevant to the study at hand because these mode are interchangeably

used in courtroom proceedings. Comparing the modes of interpreting, Russell (2005:1) states that that 'consecutive interpreting result in greater accuracy in the transmission of messages' (Alexieva, 1991; Bruton, 1985; Cokely, 1992; Mikkelson, 1995). However, in his findings, Alexieva (1991) showed that the practice of simultaneous interpreting proved that not all types of texts types could be interpreted under the difficult conditions (cited in Russell, 2005:1). In support of this argument, Bornwell (1989) concurs that simultaneous interpreting offers little time to reflect on linguistic choices needed for precise rendition. This means that it should be correct the first time it is performed. On the other hand, Bruton (1995) maintains that for interpreting to be successful, it must include formulating and transmitting of concepts into the target language. Furthermore, there is a profound agreement within the literature in that consecutive interpreters working from memory to notes, finds it easier to break down the interpreting process and employ skills needed to cope successfully (Alexieva, 1991; Bornwell, 1989; Bruton, 1985; Mikkelson, 1995) cited in (Russell, 2005:1).

Simultaneous interpreting had been used concurrently after the Word War II at the Nuremberg Trials, meanwhile it is only recently that consecutive interpreting began to receive attention in court proceedings. Contrasting simultaneous and consecutive interpreting, Mikkelson (1995) says that the interpreter waits until a complete thought has been spoken and then begins to interpret. This form of interpreting is according to Mikkelson often used in medical situations. He contends that consecutive interpreting allows the conveyance of the content of the source language message and the critical information conveyed by the structural elements of that message that are not expressed in the spoken words e.g. Pauses, tone of voice, stress, etc. Russell (2005:2) continues to argue that 'on the surface, the use of simultaneous interpreting could occur more easily when performing sign language interpreting because of the two different modalities, which are, visual-spatial language and auditory-temporal language'. According to Russell, 'this performance requires no technology or any equipment because there, the interpreter could sign while someone is signing without the modality of each language overlapping' (2005:2).

Furthermore, the importance of accurate interpreting has been clearly documented in the (AVLIC, 1996; Cokely, 1992; Berk-Selgson, 1990; Collin & Morris, 1996). These scholars agree with each other that in order for a deaf person to be able to access

equitable legal experience in the courtroom, interpreters must possess the prerequisite skills and knowledge in order to perform perfectly. However, several difficulties do arise in courtroom interpreting especially when interpreters find it difficult to use lexical equivalences for legal terminologies since there is no extra time in court proceedings. This study however does not put any concern on sign-language interpreting but rests much on spoken interpreting.

## **2.5 Challenges faced with cultural specific words**

In this increasingly cross-cultural world we live in, translators and interpreters are seen as mediators between cultures. In this mediation task, they are most likely to come across words that have specific meaning in each culture therefore, biculturalism is an important asset for translators and interpreters (Nord 1991). One of the greatest challenge for translators and interpreters is the rendering of culture-specific items, which is regarded as a potential source of untranslatability (Zambrana 2014:71).

Hongwei (1999: 121) asserts that languages are a portrait of culture. He also suggests that languages mirrors other parts of culture, supports them, and helps them to develop others. This means that this unique feature of language differentiates it from other aspects of culture and mark it remarkably significant for the transference of culture. Shokri and Ketaba (2015) point out that language and culture are two closely related concepts that deals with the act of translation. Toury (2000:200) defines translation as '*a kind of activity which inevitably involves at least two languages and two cultural traditions*'. This definition, suggests that the involvement of culture in the act of translation and interpreting is unavoidable. Therefore, it is imperative for translators and interpreters to know how to treat the linguistic and cultural gaps that exist in the languages they translate to and from. These cultural gaps may come in a form of lexicon, syntax, or in broader forms of ideology and the way of life. Katan (2009:74) claims that as long as time passes and new fields of studies come to existence, the concept of culture changes. However, Katan (2009:16) cites Edward Burnett Tylor's (1871) most quoted definition of culture and say that '*it is the complex whole which includes knowledge, belief art, morals, law, customs and any other habits acquired by men as a member of society*'.

However, Vermeer, believes that culture consist everything one needs to know, master and feel, in order to assess where members of the society behave acceptably or defiantly in their various roles. In his Iceberg model called the Triad of culture, Edward Hall divides aspect of culture into 3 levels: what is visible (above the waterline), semi-visible and Invisible (both below the waterline). Hall adds that translators must interpret cultural items regarding the extent to which frames of culture affects our translation in the process of translation. However, Hall points out that translation scholars put their focus on semi-visible and invisible levels while practitioners are more concerned with the visible levels. According to Pym (2010:149) cultural translation occurs as a result of cultural turn. Pym explains cultural turn as a term proposed by Snell-Hornby and legitimated by Lefevere and Bassnett, whereby translation studies should focus on the cultural effects of translation. He then states that the unit of translation, for each analysis should move from text to culture yet the trace of culture in language is translation is depicted as the culture specific item (shokri and Ketabi (2015:5).

When translating culture-specific items, translators encounter issues of untranslatability. Catford (1965: 94-99) states that ‘...if the TL has no formally corresponding feature, the text or the item, is relatively untranslatable. He says ‘for the problem arises when a situational feature, functionally relevant for the SL text is completely absent in the culture of which the TL is a part’. To translate these culture specific items, Newmark (1988) indicates that the translation problem could exist throughout unless there is a cultural overlap between the source language and the target language and its readership. What Newmark is saying here is that the translation problem happens due to the cultural gap or distance. Newmark (1988:103) categorises the culture-specific items in five different groups: ‘ecology’, ‘material culture’, ‘social culture’, ‘organisations, customs and ideas’, as well as ‘gestures and habits’. According to Newmark, the category of ‘ecology’ comprises of animals, plants, local winds, mountains, and plains among others. Such examples are *bush* and *tundra* (ibid.96)

Concepts like food, clothes, housing, transport and communications all belong to category of ‘material culture’ (ibid.:103). In this case Newmark presents *palazzo* and *kimono* (ibid.:96). ‘Social culture’ refers for example, work and leisure, and is exemplified by *patisserie* and *boule* (ibid.:98-99, 103). However, political, social,

legal, religious, and artistic aspects all belong to the category 'organisations, customs and ideas', referring to the institutional term of the political and social life of a country, for example *Riksdag*, *Ramadaan* (ibid.:99). Also historical term, such as *le Grand Siecle*, falls under this category (ibid.: 102). As for the category 'gestures and habits' refers to people of different cultures behave differently in certain situations as well as when greeting each other with a hand shake or a kiss (ibid.:102). For example, to show respect, Venda women always sleep on their right hand side, with the waist and elbow down, and both hands put together next to the cheek when greeting elderly men. Baker (1992) argued that the most common non-equivalence that the translator come across while translation from SL to TL is:

- a) culture specific concept
- b) the SL concept which is not lexicalised in TL
- c) the SL word which is semantically complex
- d) the SL and TL languages make different distinctions in meaning
- e) The SL lacks a superordinate
- f) The SL lacks a specific term
- g) Different in physical or interpersonal perspective
- h) Different in expressive meaning

Different procedures and strategies for translators to adopt when translating culture specific concepts have since been discussed by different scholars: Graedier (2003:3) points out that a translator should translate by (a) making up a new word, (b) explaining the meaning of the SL expression in lieu of translating it (c) preserving the SL term intact, and (d) opting for the word in the TL which seems to have similar to or has same relevance as the SL. Harvey (2002:2-6) also puts forward four major techniques for translating culture specific concepts:

- a) Functional Equivalence: using a referent in the TL culture whose function is similar to that of the SL referent. For example, Xitsonga 'xihahampfuka' or the isiZulu 'indiza' referring to an 'aeroplane'. As Harvey (2000:2) puts it, 'authors are divided over the merits of this technique explanation'. Weston (1991:23) describes it as 'the ideal method of translation', while Sarcevic (1985:131) asserts that 'it is misleading and should be avoided.'

- b) Formal Equivalence or 'linguistic equivalence': the word-for word translation.
- c) Transcription or 'borrowing': it happens when the term is formally transparent or is explained in the context, especially where no knowledge of the SL by the reader is presumed, transcription should be accompanied by an explanation or a translator's note (Bracaj, 2015:478).
- d) Descriptive or self-explanatory translation: it uses generic terms to convey the meaning, and mostly appropriate in a wide variety of contexts where formal equivalence is considered insufficiently clear. It could be helpful to add the original SL term to avoid ambiguity.

Newmark (1988b:103) proposed twelve different translation procedures to be applied when dealing with the cultural items, namely 'transference', cultural equivalent', 'neutralisation', (known as functional and descriptive equivalent), 'literal translation', 'label', 'naturalisation', 'conceptual analysis', 'deletion', 'couplet', 'recognised translation', 'paraphrase, gloss, notes etc,' and classifier. However, neutralisation is relevant to this study. According to Newmark 'the neutralisation procedure generalises a cultural word (1988b:83). In his opinion, two types of neutralisation procedure exist, that is, 'functional equivalent' and 'descriptive equivalent' (ibid.: 103). Newmark states that functional equivalent means that the procedure involves the use of a culture-free word or a new specific term in the TT. In his examples he uses, *French secondary school leaving exam* as a neutralisation of the French *baccalaureat*, and *Polish parliament* as a neutralisation of *Sejm* (ibid.) Such neutralisation is also evident in the Biblical English Lord's prayer, 'give us these days our daily bread' which is translated to Xitsonga as *hi he namuntla vuswa bya hina bya siku rin'wana na rin'wana*. In the English culture *bread* is known to be the staple food while *vuswa* is the staple food in the Xitsonga culture.

On the other hand, the 'descriptive equivalent' is when the culture specific item is described in words (ibid.: 83-84). Newmark gives the example of *the Japanese aristocracy from the eleventh to the nineteenth century* being used as a descriptive equivalent of *samurai* (ibid.84). However, Persson (2015:9) argues that not all translation scholars would use the term 'descriptive equivalent' for such type of rephrasing. He purports that scholars like Ingo (2007: 298) would label it

'paraphrase' instead of descriptive equivalent. Furthermore, Newmark (1988: 98) claims that for the category 'social culture' difficulties arise when a literal translation exist but might cause negative connotations for the reader of the TT (ibid.). In such cases, Newmark adds, the neutralisation procedure is necessary (Persson, 2015: 9).

## **2.6 Legal interpretation**

Cao (2013) states that Legal translation is a complex and special type of linguistic activity that involves mediation between different language cultures. Cao argues that legal translation could be classified according to different criteria. For instance, classifying legal translation according to subject matter of the SL texts into the following categories: (a) translating domestic statutes and international treaties; (b) translating private legal documents; (c) translating legal scholarly works; and (d) translating case law.

Legal translation can also be categorised according to the status of the SL texts: (a) translating enforceable law, e.g., statutes; and translating non-enforceable law, e.g., legal scholarly work. Furthermore, legal translation could be classified according to the functions of the legal texts in the SL: (a) primarily prescriptive, e.g., laws, regulations, codes, contracts, treaties and conventions; (b) primarily descriptive and prescriptive, e.g. judicial decision and legal instruments that are used to carry out judicial and administrative proceedings such as actions, pleadings, briefs, appeals, requests, petitions, etc.; and (c) purely descriptive, e.g., academic works written by legal scholars, for example: legal opinions, law textbooks, and articles, the authority of which varies in different legal systems (Sarcevic, 1997:11).

However, these aforementioned classifications do not include certain court documents. It is therefore in this regard that Cao (2007) suggests that legal translation could be better classified in the light of the purposes of the texts. i.e. (a) normative purpose (the production of equally authentic legal texts in bilingual and multilingual jurisdictions of domestic laws and international legal instruments and other laws); (b) informative purpose (the translation of statutes, court decisions, scholarly works and other types of legal documents where the purpose of translation is to provide information to the target readers) and (c) legal or judicial purpose (documents used in court proceedings) including statements of claims or pleadings, summons, contracts, and agreements, and ordinary texts such as business or

personal correspondence, records, certificates, witness statements, and experts reports among others (Cao, 2013:1). In short, legal translation could be used as a general term to cover both the translation of law and other communications in legal settings. In this study however, the researcher, is interested in the judicial or legal purpose of the legal translation i.e., courtroom interpreting, because it investigates whether witnesses and accused persons' testimonies are interpreted purposefully in order to retain the intended message from the source language.

In her article, *Legal translation and translation Theory: a Receiver-oriented Approach*, Susan Sarcevic points out that because of the age of globalisation we live in, the need for competent legal translators grown bigger than ever hence, the growing interest in legal translation not only by linguists but by lawyers too (Bereteloot, 1999:101). Sarcevic maintains that linguists and lawyers have since attempted to apply theories of general translation to legal texts, such as Catford's concept of situation equivalence (Kierlar, 1977:33), Nida's theory of formal correspondence (Weisflog, 1987:187); also in Weisflog (1996:35); and most recently Vermeer's *Skopos* theory (see Madsen's, 1997: 17-26) however, others dispute the usefulness of translation theory for legal translation (Weston, 1991:1).

Susan Sarcevic, indicates that like other areas of translation, the translation of legal text ought to be receiver oriented. She maintains that one of the main tasks of translation theorists is to identify criteria to assist translators to select adequate translation strategies. In 1971 Katherine Reiss proposed a translation theory by that took into account the function of the pragmatic aspects of texts, consequently causing a shift away from linguistic theory of translation (1971:32). This shift from interlingual to cultural transfer made (Vermeer, Holz- Manttari, Nord, Honig and Kussmaul) to view translation as a cross-cultural event embedded in an act of communication (Snell-Hornby, 1988:43). Here, the translator is seen as a text producer who creates a new text on the basis of the communicative factors of reception in each situation. The main emphasis here is the communicative function or purpose of the translation. As in Hans Vermeer's *Skopos* theory, the functional approach requires the translator to produce a new text that satisfies the cultural expectations of the target receivers for text with intended *Skopos* (198:41-45).

Sarcevic also mentions that the *Skopos* theory has standardised translation theory by offering an alternative to traditional translation where the translator is expected to reconstruct the form and substances of ST in the TL the function of the TT is always similar to that of the SL. Furthermore, Vermeer purports that the *Skopos* theory also apply to traditional translation without a shift in the function *Funktionskonstanz*, and focuses clearly on translations whose function differs from that of the ST *Funktionsanderung*. Vermeer's claim that the *Skopos* theory applies to all texts has been criticised by (Sarcevic, 1997:18-19, 65-66, 71, 104-106; Madsen, 1997:17-26); Nord, 1997:109-122). Although Vermeer admits that the *skopos* theory is a sub theory of Holz-Manttari's more general theory of translation *translatolisches Handeln* (Vermeer, 1996:65; cf. 1998, 49), he insists that it is a general theory, meaning that there are no exceptions known (1996:23).

Concluding his argument of functional *Skopos* Vermeer attempts to show that contracts could be translated in different ways depending on their communicative functions. In other words, when selecting a translation strategy for legal texts, legal considerations must prevail. In regard to contracts, the decision whether and to what extent target language formulae are adequate is determined primarily by the law governing the particular contract, not function (Sarcevic, 1997:18-19, 68) Madsen (1997:17) also agrees with Sarcevic on this matter. Sarcevic also clears out that although the presumption of equal meaning is codified in her Article 33(3) of Convention on the Law of Treaties, she says that lawyers are the first to admit that there can rarely be achieved in parallel texts of legal instrument (Hardy, 1962:82; Kuner, 1991:958; also Gemar, 1995:11-154). It could generally be accepted that translators could not expected to produce parallel texts that equal in meaning but expected to produce texts that are equal in legal effect (cf. Didier, 1990:221).

This implies that for the translator to produce a text that produces the same results in practice, he must be able to understand not only what the word or sentence mean, but also the legal effect it is expected to have and how to achieve in the target language (Schroth, 1986:56, cf. Sarcevic, 1989:286-297 and 1997:71-72; Gemar, 1995b:148-154).

## **2.7 Conclusion**

This chapter has reviewed different literatures concerning translation and interpreting. Different translation theories by different scholars, linguists and theorists have also been outlined herein by dividing their works in decades as they took place throughout the nineteenth till now, i.e 1900s-1930s; 1940s-1950; 1960s-1970s; 1980s; 1990s-current. Relationship between translation and interpreting, and different modes of interpreting were also detailed; and different ways of interpreting were discussed. The researcher has also discussed the issue of culture-specific items and their state of 'untranslatably'. In order to relate link between translation and court interpreting, legal translation and translation strategies were discussed and Vermeer's *Skopos* theory of functionalism was adopted as the most relevant theory for this study.

## **CHAPTER THREE: RESEARCH METHODOLOGY**

### **3.1 Introduction**

This chapter discusses the research methodology followed in this study and relevance of the study. The study uses both quantitative and qualitative investigative methods to collect and analyse data. The chapter also discusses research design, sampling and population, data collection strategies.

### **3.2 Research methodology**

Research methodology refers to 'a general approach to studying research topic or hypothesis (Silverman, 2000: 88). A researcher chooses a research method that he or she will facilitate in the gathering and analysis of data in order to provide answers to the research questions. This study employed qualitative research methods which Denzil and Lincoln (1998:3) describe as 'multidimensional in its focus'. This method allowed the researcher to investigate and evaluate courtroom interpreters in their courtroom settings with the aim of finding and explaining the factors contributing to their incompetence and inaccuracy when rendering the interpreting job. The study is guided by the theory of translational action (Holz-Mantarri, 1984) and the Skopos theory (Vermeer, 1989/2000).

However, the study was qualitative in nature because it warrants analysis of court cases observed during court proceedings as they occurred in their natural environment. Wray *et al.* (1998) mentions that a qualitative approach entails a description of and an analysis performed in words in order to present the experiences of the research participants. The same notion is shared by Creswell (1998) who maintains that qualitative research is an enquiry process of understanding that is based on distinct methodological traditions that explores social

human problem. This implies that participants are studied in their natural environment in order to understand a particular phenomenon. In this case, courtroom interpreters are observed during their interpreting sessions to learn and understand how they play their role as transporters of the message. Hillinger and Leu (1994) think that qualitative research method in interpreting studies explores how language, power and history shape human views on reality, truth and knowledge, aiming to uncover multiple realities ( see also Meulenberg-Buskens, 1993). Gall *et al* (1996) highlight that individuals construct social reality of meaning and these constructions tend to be transitory and situational. Shank (2002) holds a similar thought and uses two metaphors to describe qualitative research methods that involves observation of cases.

The first metaphor is '*window*' where a researcher must look through to get accurate views of the subject. The second metaphor is '*lantern*' which implies that the method is like a lantern, that provides light at the dark corners. Creswell (1998) categorizes five traditions of qualitative research. They are, biography, phenomenology, grounded theory, ethnography and case study. According to Creswell, in biography, the life of an individual is explored. This category is most relevant to the study because the researcher will introspect expertise and qualifications of Mpumalanga court interpreters to weigh their level of competence. Defining phenomenology, Creswell says it is about understanding the essence of experience of the phenomenon. In this study, court cases were observed in order to form a clear understanding of the extent to which court interpreters in Mpumalanga magistrate courts lose meaning of the courtroom interpreted testimony, causing miscarriage of justice.

However, the researcher discovered that there is a need for SPSS analysis that will quantitatively analyse part (i) of the questionnaires.

### **3.3 Research design**

Polit and Hungler (1999:155) describe research design as a blueprint, or outline for conducting research in such a way that maximum control is exercised over factors that could interfere with validity of the research results, the research design is the researcher's overall plan for obtaining answers to the research question guiding the study. Bums and Grove (2001:223) indicate that designing a study helps researchers

to plan and implement the study in a way that help them obtain intended results. This study used a case study design because is a type of research enquiry tool that examines a real life contemporary phenomenon, and highly usual for it to used multiple sources of evidence (Yin, 2000).

### *3.3.1 Population and Sampling*

Polit and Hungler (1999: 43,232) define population as the totality of all subject that conform to a set of specifications, comprising the entire group of persons that is of interest to the research and to whom the research results can be generalised. LoBiondo-Wood and Haber (1998:250) describe a sample as a portion or a subset of the research population selected to participate in a study.

The research population of this study comprises of courtroom interpreters in Mpumalanga province district courts, South Africa. Here, different speakers of Xitsonga, SiSwati, Sepedi, isiNdebele, isiZulu and even isiXhosa, with their dialects are habitat e.g. Sepulana and Xinhlanguana, dialects of Xitsonga. Purposive or strategic sampling is used in the study to assist the researcher to account for the differences within the population selected, maximise diversity in the sample to get the widest range of views possible and justify the cases selected for the study. Out of the thirty-one (31) magisterial district courts in Mpumalanga, five (5) towns hosting district courts for civil cases in the province were sampled: Mbombela, Evander, Eesternhoek, Middleburg and Kwa-Mhlanga. In the remaining 26 sub-districts, 2 courts per-region were sampled: Bohlabela, Ehlanzeni, Gert-Sibande and Nkangala. This means that in each hosting town, one interpreter, one magistrate and one court manager responded to one questionnaire each, bringing a total of number of fifteen (15) questionnaires used for the five town. Meanwhile, in each of the sampled sub-regions, one interpreter, one magistrate and one court manager also responded to one questionnaire each. In total, forty-five questionnaires were used for collection of data for the study.

In these courts, focus was put on the courtrooms where the magistrates, prosecutors and lawyers are White Afrikaans or English natives while the interpreter, accused and witnesses/ defendants are Blacks, speaking the same language, and courts where magistrates, prosecutors and lawyers are Blacks but speak different languages from those of the interpreter, accused, witnesses/ defendants

### **3.4 Data collection**

Polit and Hungler (1999:267) define data as 'information obtained during the course of an investigation' meanwhile, Brainerd et al say that data collection is the process of gathering and measuring information on variables of interest in an established fashion, and it enables the researcher to answer questions, test the hypothesis and evaluate outcomes. This study utilised three methods in the collection of data: attaining legal documents, court observation of trials proceedings and questionnaires.

#### *3.4.1 Data Collection Approach*

Before data was collect, the researcher sought the ethical clearance from the University of Limpopo Research Ethics Committee (TREC), an Ethical Clearance Certificate was issued on the and then, the researcher secured permission from the Department of Justice in Mpumalanga to conduct research in their selected District courts of Mpumalanga Province. Permission was granted. The researcher also requested permission to use' the Magistrate's Court Act 44 of 1944 5<sup>th</sup> Edition (as amended), the Constitution of the Republic of South Africa, Act 93 of 1996 (as amended) and the Code of Professional Conduct for Court Interpreters, the documents were obtained. Secondly, the researcher approached the office of the Director of Department of Justice in Mpumalanga Province to request permission to sit and observe court trials proceedings in the sampled courts of the province, permission was also granted. The researcher observed the trial proceedings in all the sampled magistrate courts. During the observation, the researcher completing an observation sheet and notes were also jotted down. The languages used during court observations were English and Xitsonga, and other native languages habitat in the province, which are Sepedi, isiZulu, SiSwati and Sepulana. The English source language utterances were transcribed as speakers' were engaged in the proceedings, and: (1) the interpretations from and to which the court interpreter offered were transcribed, (2) verbal and non-verbal replies uttered by speaker for whom the interpreter is interpreting was transcribed, and (3) the interpretations from the source language (English) to the target language by the court interpreters were also transcribed.

This means that utterances of participants were transcribed in their language respectively. The observations were non-participatory because the researcher's role was that of an observer only, she did not take part in any activities of the courtroom during observations. As Wray et al (1998) put it that the most interesting thing about an observation, whether participatory or non-participatory, is that, it takes place in the natural setting of the activity being observed, and can thus provide data that is rich in details and subtlety. The cases observed dealt with criminal offences which took place between 2013 and 2016.

#### *3.4.2 Data collection instruments*

Seaman (1991, cited in Mlambo, 2009: 41) defines data collection instruments as devices used to collect data. For example, questionnaires, tests, structured interviews, scheduled and checklists, observation sheets etc. The study used observation sheets, questionnaires and official documents such as the Code of Professional Conduct for Court Interpreters, the Magistrate's Court Act 44 of 1944 (as amended), and the Oath of Office of Rule 68 (1) of the Magistrate's Court Act 44 of 1944 (as amended), and the Constitution of the Republic of South Africa, Act 108 of 1944 (as amended) to collect data. Three different questionnaires with similar questions were designed for interpreters, magistrates and court managers to gather relevant information pertaining to the interpreters' qualifications and expertise, period of engagement and the extent to which meaning is lost during the interpreting sessions.

The questionnaires were labelled *annexure 1* (addressing interpreters), *annexure 2* addressing magistrates and *annexure 3*, addressing court managers. All three annexure had the same questions directed to achieve the objectives of the study, that is, to investigate the qualifications and expertise of court interpreters of Mpumalanga province, to investigate the period of engagement for court interpreters before they can take a break, evaluate the extent to which meaning is lost during courtroom interpreting process. In order to allow participants to express their opinions in a free-flowing manner, open-ended format questions, were design by the researcher. As Leedy and Ormrod (2001) suggest, anonymity of the study was

ensured by using magisterial code names to guarantee that all respondents respond truthfully. In the case of this study, no individual's name was used in the questionnaires.

### *3.4.3 Characteristics of Data Collection instruments*

Brink and Wood (1998:293- 298) gives the following aspects as characteristics of questionnaire

- Each participant enters his/her responses on the questionnaire, saving the researcher's time compared to the time require to conduct interviews,
- It is less expensive than conducting personal interviews,
- Respondents feel that they will remain anonymous and can express themselves in their own words
- Data on the broader range of topics may be collected within a limitation of time.

Quality characteristics of data collection instrument include among other things; clear questions with sing focus on each question. Questions her must be appropriate for the intended respondents, and be appropriately broad or narrow. These questionnaires were narrowed to an extent that participants completed by themselves. Each question had a single focus.

### *3.4.4 Structure of the Questionnaires*

The three questionnaires all consisted of two parts:

Part (i)                      Respondents 'personal details

Part (ii)                     Respondents' answers

In part (i) of all respondents participants were told not to use the real names but rather code created by the researcher. This part only required identification name/code. This was designed for anonymity. The age, race and gender was also required in part (i). Language proficiency in terms of home, second and third language were also required. Part (ii) contained respondents' answers that would assist the researcher to be able to facilitate, presents, discuss correctly interpreted findings. Open-ended questions were compiled in the questionnaires. Where an answer demanded a yes or no, participants were supposed to give more

explanation. Seventeen questions were formulated for interpreters' questionnaires, sixteen questions for magistrates' questionnaires and twelve questions for court managers' questionnaires.

These questions and answers in part (ii) of the questionnaires were clustered and analysed qualitatively in terms of similarities using Nvivo. Part (i) of all questionnaires were analysed quantitatively using the SPSS provided by the University of Limpopo.

#### *3.4.5 Structure of the courtroom observation sheet*

The observation sheets were aimed at addressing the objectives of the study. Questions from the observation sheets were analysed based on four themes derived from the study. However, any developing theme established by the researcher will also be discussed under developing theme.

- Accuracy and competency of interpreted questions /renditions by court interpreters, were addressed in question 1.
- Type of questions asked (*direct or indirect, ambiguity of questions and lengthiness/shortness of questions*) were addressed in questions 2, 5 and 7
- Standard of language used by interpreter during sessions was addressed in question 6
- The manner of questioning was addressed in question 3, 4 and 8 (*tone of interpreter, repetition of question and interference*)

#### *3.4.6 Ethical Considerations Related to Data Collection*

For the permission to contact research, the student applied from the TREC office of the University of Limpopo. Permission was granted on 7 March 2018 with the reference number FHDC2017/3424. Interpreters and magistrates face ethical dilemmas in their daily duties, so as researchers, when people like these are used as participants in an investigation serious ethical consideration must be observed. This means that researcher needs to exercise care so that the rights of individuals and those of their organisations are safeguarded (Polit and Hungler, 1999 132-134). Consequently, the researcher also approached the Mpumalanga Department of

Justice head office in Mbombela to request permission to conduct the research in the sampled courts. Permission was granted. However, in each of the courts sampled, court managers also granted permission to sit in court and observe. For ethical reason explained by court managers, recording of trial proceedings and attainment of transcripts was denied.

More so, in order to protect the rights of individuals and of their institutions, participants were informed of the purpose of the study and made aware of their rights not to answer questions they consider to be personal. They were also informed that their participation in the study is voluntary and that they could withdraw at any point without explanation. The participants were assured that confidentiality and anonymity will be maintained at all times and that their answers could not be traced back to them. All participants signed a consent form (annexure 4) which meant that they understood the purpose of the study and their participation is voluntary.

### **3.5 Data analysis**

This study has two kinds of data, one collected through questionnaires and the other collected through observation sheets. All questionnaire were subjected to the SPSS provided by the university and the transcribed court interpretations from the observation sheets were analysed through Descriptive Translation Studies, using comparative and contrastive approach, as mentioned in the methodology. This kind of comparison is recommended by James (1980:169), who suggests that two or more entities are compared by using the comparison word '*like*', showing similarities and dissimilarities respectively in certain attributes. This kind of comparison requirement proves to be the most important in showing differences, as it is with the background of sameness that differentiates significant (Salimbene: 2013:47). In the study, this sameness is known as the constant and contrast variables. Salimbene adds that 'in the theory of contrastive analysis (CA), the constant has traditionally been known as the *tertium comparationis* or (TC)' (2013:47).

All sampled interpretations are compared at a micro-textual level, meaning that the source language words, terms, phrases and sentences are compared with the corresponding target language utterances. In the observations, the researcher observed the different roles played by the court interpreters and the constraints they

pose during interpreting sessions, leading to a loss of meaning. In the study, the contrastive analysis that looks at the source language and weighs its target language utterance is used in order to determine whether the court interpreter interpreted what was actually said originally by the source language speaker. More-so, notes transcribed by the researcher during court proceedings were reviewed under specific themes to determine the use of language by the interpreters in courts.

The language combinations involved in this study are Xitsonga and English, however, because of the cultural diversity and proliferation between native languages in Mpumalanga, the researcher had observed and noted down trial proceedings from other frequently spoken languages, which are SiSwati and English, isiZulu and English and Sepedi and English. Extracts of notes from cases which were observed by researcher during courts proceedings will be analysed after the analysis of questionnaires in order to determine the actual role played by court interpreters on language use during trials with the intention of finding out whether interpreters do contribute to loss of meaning during their interpreting sessions.

In instances where this loss of meaning occurred, the study would clarify why and how it happened. In the three types of questionnaires, the one for magistrates consisted of sixteen (16) questions. The one for interpreters consisted of seventeen (17) questions while the one's for court managers consisted of twelve (12) questions. At the beginning of the research, only two questionnaires were designed, one for magistrates and one for interpreters. However, when magistrates seemed reluctant to provide more information pertaining qualifications and expertise for interpreters, and how they are recruited into the system, the researcher saw a need to design the third questionnaire for court managers (human resource personnel) shed the light because they are the one's dealing with the recruitment and appointment of court interpreters. Most magistrates did not answer all questions. They deliberately provided incorrect information.

All questions were designed to respond and provide answers to the objectives of the study stated in chapter 1. The objectives are hereunder presented as themes to enable the researcher to arrive at the aim of the study. This is called Thematic Content Analysis. Braun and Clarke (2006: 79) define thematic analysis as a qualitative method for 'identifying, analysing and reporting patterns (themes) within

data'. Braun and Clark add that thematic analysis minimally organises and describes data and sets it in rich detail. The following are themes of data analysis;

- Assessment of qualifications and expertise for court interpreters.
- Time-on-contact/ period of engagement for court interpreters before taking a break.
- Linguistic gaps posing interpreting challenges, and
- Non- equivalence and cultural untranslatability.

Braun and Clark further mention that 'a theme captures something important about the data in relation to the research question and presents some level of patterned response of meaning within the data set' (2006: 82). Thematic content analysis follows six step that which the study has employed in the analysis of data:

#### 1. Familiarization

The researcher familiarised herself to the data through intensive reading, transcribing and note-to-self. She has done so parallel to data collection.

#### 1. Coding

Saldana (2016) defines coding as a word or phrase that symbolically assigns a summative, salient and essence capturing or evocative attribute for language-based data. Boyatzis (1998) adds that a good code is one that captures the qualitative richness of phenomenon. A code should be clear and concise, clearly stating what it is, its boundaries and how to know it when it occurs. Codes become the foundation for the themes that are going to be used by the researcher. In this study, the researcher has processed the data into chunks that are alike.

#### 2. Validation

More than one person read the data and validated it to ensure the integrity of the codes that the researcher did not misinterpret them or showed biasness.

#### 3. Identification of themes

Here, themes have been described in a manner that captures the essence of the study.

#### 4. Reviewing themes

The researcher reviewed the themes and removed candidate themes which may not have enough data to support them. She also merged and separated some of the developing themes.

#### 5. Transcribing

Finally, the researcher made an analytic narrative in descriptive manner. Similarities and differences of themes emanating from the literature.

### **3.6 Conclusion**

This chapter discussed the methodology used and steps followed to collect data. The population and sampling methods have been discussed and reasons for using them was also discussed. The chapter outlined details of data collection instruments in term of characteristic and how they were used to collect data. This chapter also explained the manner in which data will be analysed in the next chapter.

## **CHAPTER 4: DATA PRESENTATION OF FINDINGS**

### **4.1 Introduction**

This chapter presents the findings from the SPSS of the demographics of participants who responded to questionnaires and emerged from the coding using the Nvivo software. These questionnaires were formulated by the researcher contained open-ended-questions and handed over to 15 (37.5%) interpreters, 15 (37.5) magistrates and 10 (25 %) court managers counting to 40 (100%) participants. The questionnaires completed by participants were considered necessary as the researcher is of an opinion that there is a huge loss of meaning that leads to the miscarriage of law during court proceedings. It is hoped that a more holistic view of the contributing factors to loss of meaning during court proceedings by interpreters will be arrived at by combining different methods of data collection.

The descriptive analysis of the questionnaires for interpreters, magistrates and court managers using the SPSS will provide background information of the participants on the study. The study adopts quasi statistics for the presentation of background of participants. Baker (1970) cited in Maxwell (2010: 476; Fawole 2014: 90) points out that quasi statistics involves simple counts of things to support terms like some, usually, often and most. Baker argues that these numbers help to make claims

made by qualitative researcher more precise by giving specific figures in the analysis. The study also compares the answers provided in the questionnaires using the constant and contrast analysis.

The comparison is based on the sameness of the questions asked, number of people answered similarly or differently. The study later compares and contrast the answers provided in the questionnaires using the comparative and contrast model and provide an overview of the qualitative findings, make contextual and observation analysis. Emerging themes shall also be discussed. The findings are hoped to either agree or refute the research hypothesis.

## 4.2 Findings from the questionnaires

This section seeks to provide different perspectives of results from the three different categories of participants provided in the questionnaires. These questionnaires are divided into two parts. The first part of the questionnaires contains the background information of the participants in regard of race, gender, age, first language, second language and third language proficiency and work experience. The second part of the questionnaires focuses on providing answers for the four themes identified in the study. Please refer to the annexure for questionnaires guide.

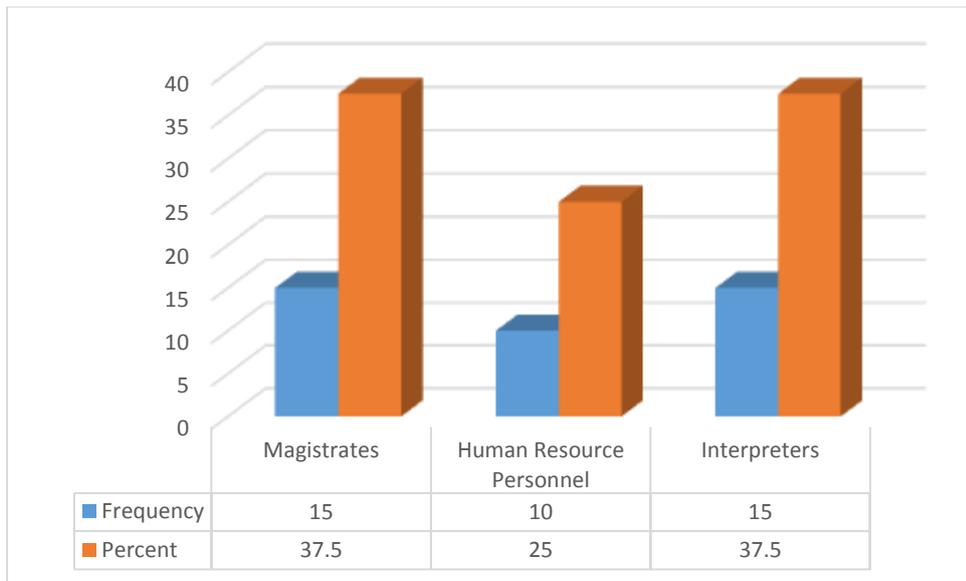
### 4.2.1 Background Information of Participants

This information was to determine the kind of professionals involved in the data collection of the study. Magistrate answered 15 (37.5%) questionnaires. Court interpreters answered 15 (37.5%) and human Resource personnel answered 10 (20%). Bringing a total number of 40 questionnaires answered by the participants of this study.

Table 4.2.1 Occupation of participants

Figure 4.2.1 Profession of the participants

	Frequency	Percent
Magistrates	15	37.5
Human Resource Personnel	10	25
Interpreters	15	37.5
Total	40	100

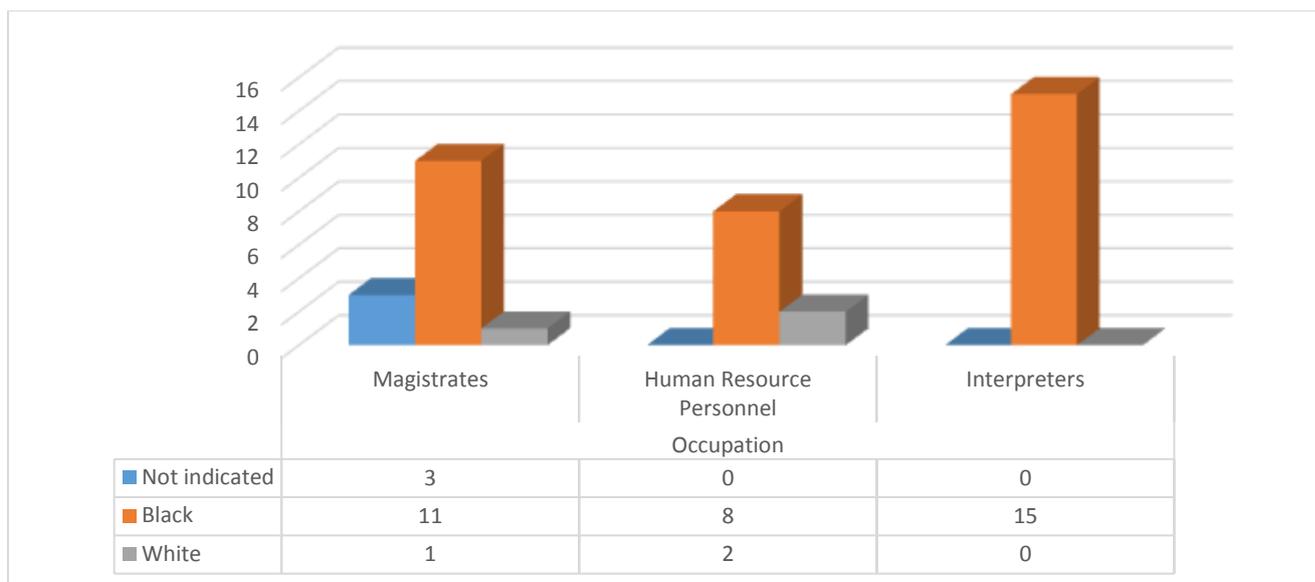


The table and the graph above is set to indicate the categories of participants based on their professions, that is fifteen magistrates counting (32.7%), Ten Human Resource Personnel (court managers) counting (25%) and fifteen interpreters counting (37.5%).

**Table 4.2.2 Race of participants**

Figure 4.2.2 Occupation by Race

		Race			
Occupation	Occupation	Not indicated	Black	White	Total
	Magistrates	3	11	1	15
	Human Resource Personnel	0	8	2	10
	Interpreters	0	15	0	15
	Total	3	34	3	40

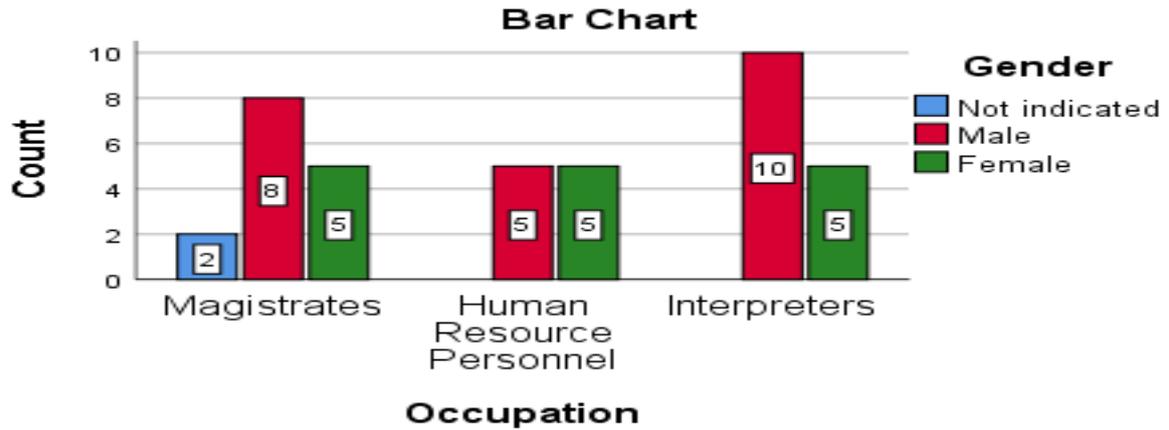


In the answered questionnaires, three Magistrates counting (20%) did not indicate their race; eleven counting (73%) registered as Blacks and one counting (6.6) white person. Human Resource Personnel no one did not indicate his or her race. Eight (80%) personnel indicated to be Black and two (20%) registered as Whites. Counting to a total number of ten. On the other hand, fifteen interpreters (100%) registered as Blacks and no White interpreter was indicated. The table and bar-graph above explains the numbers.

Table 4.2.3 **Gender of Participants**

Figure 4.2.3 Occupation by Gender

		Gender			
Occupation	Occupation	Not indicated	Male	Female	Total
	Magistrates	2	8	5	15
	Human Resource Personnel	0	5	5	10
	Interpreters	0	10	5	15
	Total	2	23	15	40



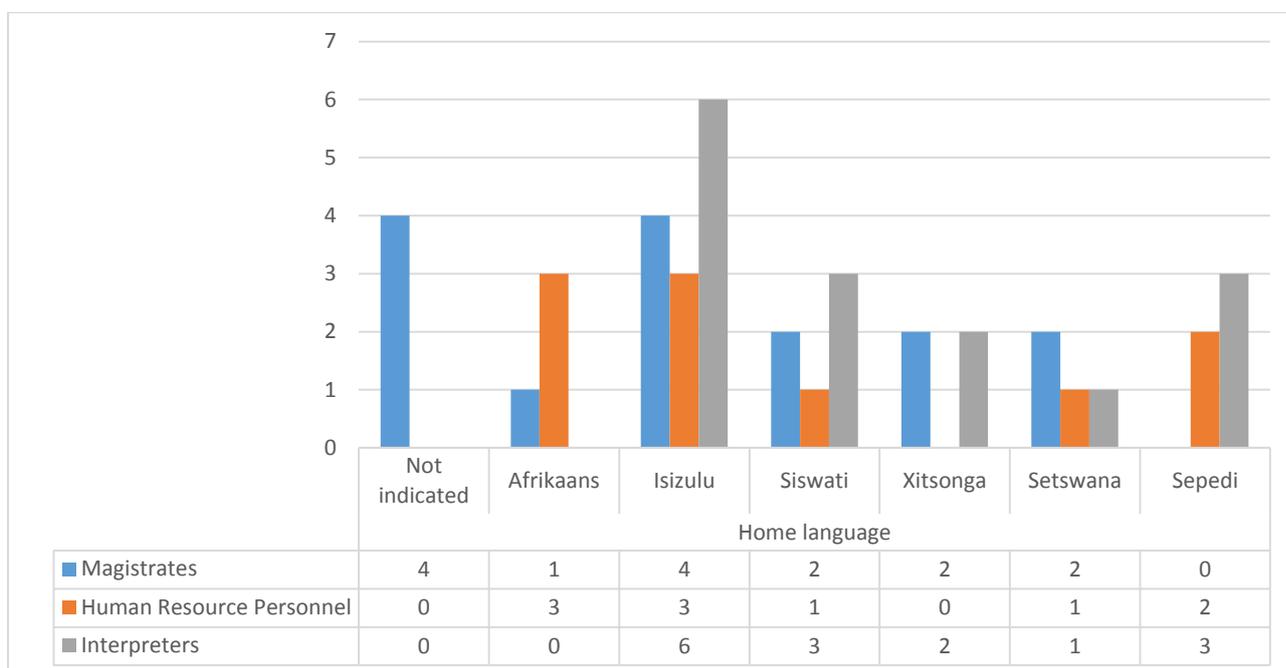
The table and the bar chart above indicate that two counting (5%) of Magistrates did not indicate their gender whereas, eight counting (20%) registered as males and five (12.5%) as females, bringing the number to a total of fifteen. The Human Resource Personnel indicated five (12.5%) females and five (12.5%) males, counting to a total of ten and interpreters registered ten (25%) males and five (12.5%) females counting to a total of fifteen.

Table 4.2.4 **Home language of participants**

Figure 4.4 .Occupation by Home languages

		Occupation			
Home language		Magistrates	Human Resource Personnel	Interpreters	Total
	Not indicated		4	0	0
Afrikaans		1	3	0	4
Isizulu		4	3	6	13
Siswati		2	1	3	6
Xitsonga		2	0	2	4

	Setswana	2	1	1	4
	Sepedi	0	2	3	5
	Total	15	10	15	40



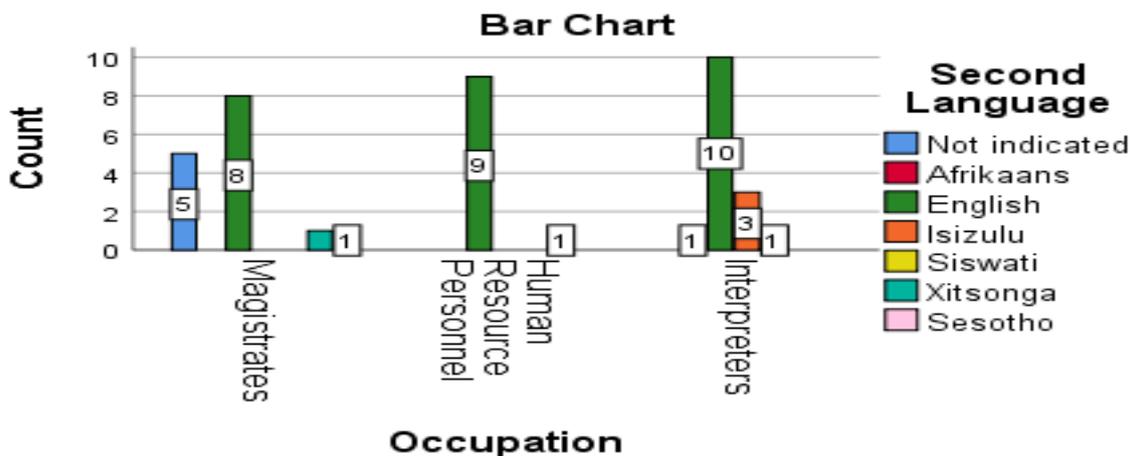
Four magistrates counting 10% did not indicate their home languages. Four of them counting (10%) indicated to speak IsiZulu as home language while two comprising 5% use Siswati as home a home language, two (5%) use Xitsonga and another two (5%) use Setswana as their home language. Three (7.5%) of Human Resource personnel participants speak IsiZulu as home language and three (7.5%) of them are Afrikaans speakers while six interpreters counting 15%, use IsiZulu as their home language making it the most used home language in the district courts of Mpumalanga. The table and the bar chart above also reflect three (7.5%) speaking Sepedi as their home language while two interpreters (5%) use Xitsonga as home language.

Table 4.2.5 **Second language of participants**

Figure 4.5 Occupation by second Language

		Occupation			Total
			Human Resource Personnel		
		Magistrates	Interpreters		
Second Language	Not indicated	5	0	0	5

	Afrikaans	0	0	1	1
	English	8	9	10	27
	Isizulu	0	0	3	3
	Siswati	0	0	1	1
	Xitsonga	1	1	0	2
	Sesotho	1	0	0	1
Total		15	10	15	40



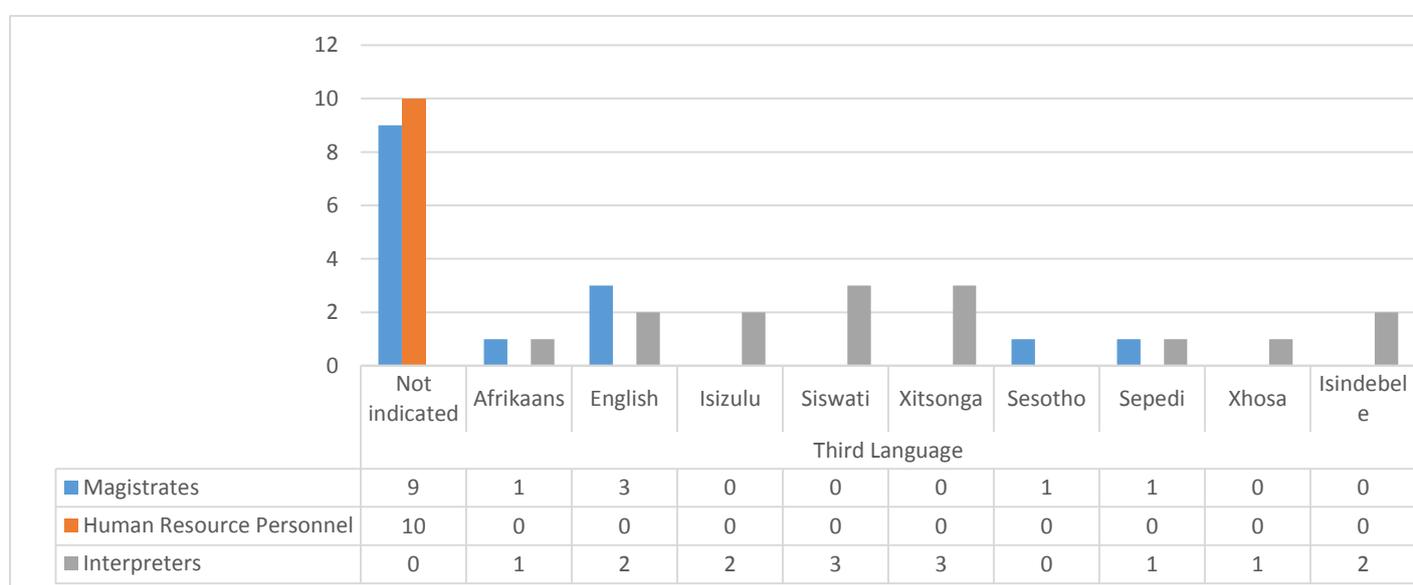
When participants asked to indicate their second languages, 5 (10%) magistrates did not indicate and 8 (20%) magistrates indicated English as their second language. One magistrate (2.5%) uses Xitsonga as second language and another one magistrate (2.5%) uses Sesotho, Nine (22.5) Human Resource Personnel said that English is their second language while one (2.5%) uses Xitsonga as a second language. Ten interpreters counting (25%) indicated English as their second language. Three of them constituting 7.5% indicated IsiZulu as their second language. One interpreter counting (2.5%) uses Siswati as her second language and the last one (2.5%) uses Afrikaans as second language .English is seen as the most used second language by court officials in the Mpumalanga Province but remains the main official language of records in court.

Table 4.2.6 **Third language of participants**

Figure 4.6 Occupation by Third language

Occupation				
	Magistrates	Human	Interpreters	Total

			Resource Personnel		
Third Language	Not indicated	9	10	0	19
	Afrikaans	1	0	1	2
	English	3	0	2	5
	Isizulu	0	0	2	2
	Siswati	0	0	3	3
	Xitsonga	0	0	3	3
	Sesotho	1	0	0	1
	Sepedi	1	0	1	2
	Xhosa	0	0	1	1
	Isindebele	0	0	2	2
	Total	15	10	15	40

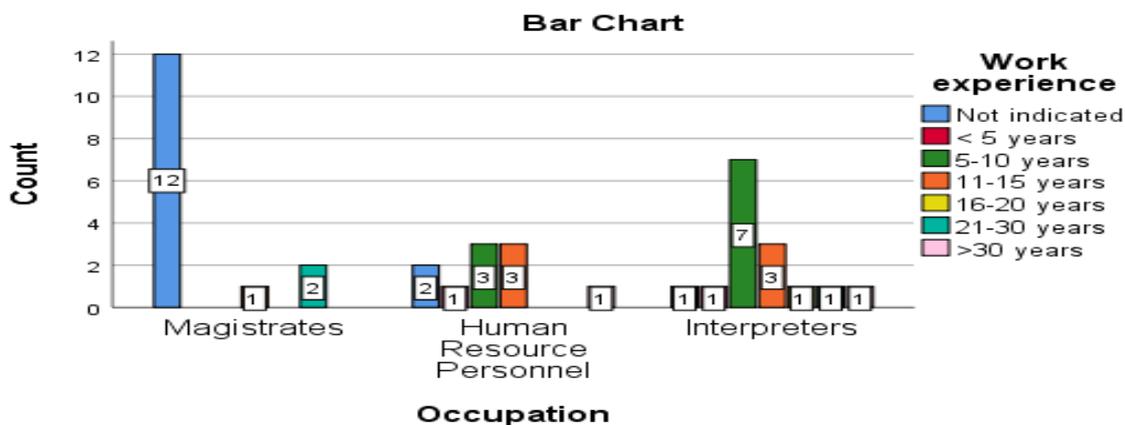


Nineteen participants comprising 47.5% did not answer the question. Two participants (5%) use Afrikaans as their third language. Other five participants counting (12.5%) indicated English as their third language. Those who use IsiZulu as a third language are two counting 5%, three (7.5%) using Siswati as their third language, three (7.5%) using Xitsonga as third language. One counting 2.5% uses Sesotho and one participant (2.5%) speaks Xhosa as his third language meanwhile two participants speak IsiNdebele as their third language.

Table 4.2.7 **Work experience of Participants**

Figure 4.7 Occupation by experience

		Work experience							
Occupation		Not indicated	< 5 years	5-10 years	11-15 years	16-20 years	21-30 years	>30 years	Total
	Magistrates	12	0	0	1	0	2	0	15
	Human Resource Personnel	2	1	3	3	0	0	1	10
	Interpreters	1	1	7	3	1	1	1	15
	Total	15	2	10	7	1	3	2	40



This section was meant to determine the working experience of all participants in their different occupations. 12 magistrates did not indicate their work experience. One magistrate indicated to have between 11-15 years of experience and 2 of them have between 21-30 years of experience. For Human Resource Personnel, 2 did not indicate work experience but 1 indicated less than five years, 3 have more than 5-10 years, 3 have 10 - 15, and 1 has over 30 years working experience. For interpreters however, 1 did not indicate his years of experience while 1 has less than 5 years working experience, 7 interpreters have more than 5-10 years working experience, 3 have more than 11-15 with 1 interpreter has more than 16-20, 1 more than 21-30 and also another 1 who has more than 30 years' work experience.

### 4.3 Research questions

All categories of participants were asked to respond to similar open-ended questions. This was purposefully done to validate the authenticity of the participants' responses because some categories concealed information and did not respond to some of the questions. Human Personnel answered question 1-12, Magistrates

answered 1-16 while interpreters answered 1-17. The responses were coded using the Nvivo software. Four themes emerged from the analysis, namely: interpreter' lack of standard qualification, insufficient skills for court interpreters, improper training for court interpreter and lack of knowledge on period of engagement for interpreters.

#### 4.3.1 Research question 1

*What are the minimum requirement for the first time court interpreter?*

Table 4.3.1

	Frequency	Percent
Didn't comment	8	20
An interpreter must be able to interpret from one language to another. Must be conversant in English.	1	2.5
For entry level one requires matric and atleast two indigenous languages and English. The incumbent must be fluent in English.	1	2.5
Grade 12	3	7.5
Grade 12 plus two local languages, proficient in English.	1	2.5

Grade 12, English and local indigenous languages	1	2.5
Grade 12, knowledge of atleast two indigenous languages.	1	2.5
Grade 12/ matric plus two or more indigenous languages.	1	2.5
Have grade 12 and two or more indigenous languages.	1	2.5
Knowledge of language(s)	1	2.5
Knowledge of the languages spoken in the area and English. Knowledge of court proceedings, good voice projection, loud voice and confidence.	1	2.5
Language proficiency and communication skills.	1	2.5
Language proficiency, confidence, potential.	1	2.5
Matric	6	15
Matric plus three months experience	1	2.5
Matric plus three months training.	1	2.5
Matric certificate plus fluency in one of the Nguni languages and one Sotho language plus English and Afrikaans is an advantage.	1	2.5
Matric/ grade 12, two local languages, have knowledge of interpreting skills.	1	2.5
Matric/ NQF 4	1	2.5
Must be able to interpret from one language to another.	1	2.5
NQF level 4/ Grade 12	1	2.5
NQF Level 5	1	2.5
Proficiency in English and two African languages	1	2.5
proficient in one or more indigenous language, proficiency in English, communication skills and listening skill	1	2.5
STD 10/ Matric	1	2.5
To know the court room environment and the role players in court languages, court terms or technology	1	2.5
Total	40	100

Of all categories of participants, 8 participants constituting 20% did not answer this question. 32 participants constituting 80% responded by indicating that newly employed interpreters' minimum requirements ranged from matric/ standard 10/grade 12/NQF level 4/5, must be able to interpret from one language to another. Must be fluent in English and must have three months training/ experience. Some added that the interpreter must be conversant in English and have knowledge of atleast two local languages

#### 4.3.2 Research question 2

*Which criterion is used to recruit willing and interested courtroom interpreters?*

Table 4.3.2

Advertise vacant posts.
Advertisement.
Advertisements: put requirements such as Fluency in English and other two or more African

languages.
Criteria- requirements per advert.
Grade 12, English and Communication.
If there are vacant posts, they are advertised.
It depends on the language that is needed in courtroom.
Language proficiency.
Natural interpreting skills, ethical and professional behaviour, know how to keep secrets.
People with a vast knowledge of languages and the capability of accurate and precise interpreting.
Place Adverts on notice boards to invite people who would like to work as casual interpreters.
Post is advertised
Posts adverts include languages and skills requirements.
Proficient in English, knowledge of local languages.
Requirements are included in an advert when there is a vacant post.
The criteria is used to recruit interpreters through language test
The knowledge of languages, understanding of
The officials must look at the potential and test be conducted. Language examinations is only done at het interviews.
The posts are advertised online, which is the departmental website. External posts are advertised in DPSA website and the media.
The skills are included in the advert.
They advertise
They advertise on media for part-time and contract interpreters
Through advertisement in newspapers.
Through adverts
Vacant posts are advertised and requirements are listed per advert.
Vacant posts are advertised.
We place adverts and list skills requirements.
We use adverts and list all the skills that are required per post. The languages to be used are also indicated in the advert.

Responding to the criterion used to recruit new and willing interpreters, all categories of participants stated that posts are advertised on notice boards, media and websites. Some added that skills and requirements are included per post advertised

#### 4.3.3 Research question 3

*What is the highest qualification for court interpreters?*

*Table 4.3.3*

Diploma
Diploma in credit control
Diploma in Marketing
Diploma in interpreting.
Doctor's degree in interpreting?
Doctor's degree in Interpreting.
Grade 12

Grade 12 and currently studying BA in Unisa but I stopped because of personal problems but willing to continue until I finish it.
Interpreting and Translation Diploma/Degree.
Interpreting Diploma
Interpreting Diploma / Degree
Interpreting Diploma.
LLB degree / NQF level 7 or any other relevant tertiary qualification.
Language Diploma in Interpreting.
Matric
National Diploma in Legal Interpreting.
NQF level 4/ grade 12
Only attended in-service training.
Ph.D. in Translation and Interpreting.
Senior certificate
Senior Certificate
Standard 10
STD 10, currently LLB Unisa
Tertiary qualification or anything relevant to interpreting
The highest qualification for court interpreters is the National Diploma in interpreting, which is offered at the university level. Some have paralegal Diplomas.
Universities offer diplomas and degrees in interpreting.

Asked about the highest qualification for interpreters, all categories' answers ranged from matric/ senior certificate diploma in interpreting, credit control, marketing or any relevant tertiary qualification. Those who wished to be personal, indicated that they are currently registered for LLB. Other participants indicated that interpreters only attend in-service training.

#### 4.3.4 Research question 4

*Do court interpreters undergo any kind of training (Job specification) before they could start interpreting?*

*Table 4.3.4*

In-service training is conducted nationwide by Justice College which has prescribed training programmes running throughout each financial year. The region has its own specific training, where induction courses are offered.
In-service training on the job.
Informal training is done by senior interpreters and interpreters receive short courses training from the Justice college.

Justice college conduct workshops throughout each year. We also offer induction workshops where needed.
No
No.
No. but once they are employed and the need for training arises, they undergo training.
There is Justice College where interpreters are trained.
They have to, but 'no'. They are trained, coached and monitored by principal court interpreters, There are courses available.
They must first do in services training
Trained by cluster interpreters
Yes , skills training is offered to beginners
Yes, after employment.
Yes, beginner's course
Yes, court procedures and language of the court
Yes, Justice college courses and informal training by experienced seniors.
Yes, Justice college is offering training for court interpreters
Yes, They are inducted by senior interpreters
Yes, they are taught the language of the court
Yes, they attend the beginner's course for court interpreting at Justice college also they must attend induction courses.
Yes, through Justice college in the department. Only two courses are offered which are not enough because they don't deal directly with situations in court.
Yes, Training given by Justice College.
Yes.
Yes.
Yes. They receive training in courtroom language

25% of all participants did not respond to the question. 15% answered no and added that interpreters are trained only when the need arises and that they are trained by principal and cluster interpreters. 52.5% answered yes, but their validations to the question shows that senior and principal/ cluster interpreters are the ones facilitating inducting to newly appointed court interpreters after they have started with the job.

#### 4.3.5 Research question 5

*Have you (the interpreter) ever received any training before you could start your job as a court interpreter?*

This research question was meant only for interpreters because some magistrates and court managers concealed and provided incorrect information deliberately.

In response to this question, 11 out of 15 interpreters said 'no' they have not received any training before they could resume with their interpreting job. Two interpreters' answers 'yes' but did not indicate the kind of training they received. Meanwhile, of the two remaining interpreters, one received in-service and the other one was assisted by the senior court interpreter who only exposed him the court setting and procedures.

#### 4.3.6 Research question 6

*Do court interpreters have any qualification towards law? If yes, explain.*

#### 4.3.6

LLB
No, but the experience they have in a courtroom lead them to the study of law as they are familiar with process of law in court room.
No, the qualifications provided by Unisa contain legal courses.
No, they don't.
no.
No.
Not all of them.
Some institutions provide e.g. Unisa.
Some of them who want to be prosecutors.
the interpreter have a bursary offered to all qualifying candidates who wish to peruse LLB degree or a degree in Linguistics which of course as former interpreter, I now hold an LLB degree which I acquired through the bursary.
The interpreter's qualification is no longer offered by institutions which means that there will be no longer guidelines to upgrade the standard of court interpreting.
They do it if they wish to change their career.
They learn the language of the law and they gain experience.
Yes, court procedures and cash flow.
Yes, I am currently studying towards LLB to become a magistrate
Yes, if an interpreter is willing to study Law, he/she is free to do so. This may assist such interpreter to have a clear knowledge of the legal procedures.
Yes, in legal interpreting courses there are modules, should one wish to peruse law, he can.
Yes, some interpreters possess LLB.
Yes, there are terms within law that need one to know
Yes, they do study towards Law.
Yes.
Yes. LLB towards the change of career.

20 % of the participants did not answer the question. 30 % answered 'no', they don't. They added that those who study LLB do so with the intention of becoming magistrates in the future. 47 % answered 'yes' and substantiated that some of the interpreters do it only if they wish to change their career. However, 1 participant,

constituting 2.5 % indicated interpreter's qualification is no longer offered by institutions, which means there will no longer be guidelines to upgrade the standard of court interpreting.

#### 4.3.7 Research question 7

*How often do court interpreters receive in-service training to improve their skills?*

Table 4.3.7

After every one year.
At least once a year, Depends on interpreter's availability
From time to time interpreters attend courses to improve their skills.
If the need arises, there is a programme for a year.
It is only once after you are hired and trainings are for beginner court interpreter's courses and advanced courses only.
More often, we have different types of courses available at Justice College. It depends as to which court you are working at.
Often
Often.
Once a year if need be.
Once a year.
Once.
Personal discretion.
Regularly
regularly, if they are available
Regularly
There is entry level training given during the first months of employment and to those who are already working will go to advanced interpreting courses and training on forensic evidence.
There are courses which are offered by Justice college
There are trainings that are available.
When needs arises.
When there is a need.
Yearly programmes of training are provided for beginners and advanced training for old employees/ interpreters.
Yearly.
Yes.

Of all the participants' categories 13 magistrates did not answer the question. Of the two remaining, one answered 'yes' and the other one just indicated 'if need arises, there is a programme for a year'. In response to the same question, ten interpreters indicated that they receive in-service training once a year. Two interpreters added that the in-service training depends on the availability of interpreters due to the dire

shortage they experience. Meanwhile, three court managers answered 'regularly, often and more respectively. One court manager added that court interpreters' in-service training depends on the court at which the interpreter is working.

Other three court manager indicated that interpreters receive in-service training yearly, and two court manager added that these yearly programmes are only provided for beginners while experienced interpreters are receive advanced training. The last court manager answered only with a 'yes' only without any substantiation.

#### 4.3.8 Research question 8

*Have you ever interrupted court proceedings to correct the interpreter because you think he or she provided an inaccurate equivalent? If yes, explain.*

Table 4.3.8

I always have my dictionary.
I interrupted only to advice the witness to pay attention and listen carefully to the information from the language practitioner
In my personal capacity 'no' but I have heard with others that it has happened for corrections in what was said.
No.
The magistrate is allowed to intervene if irregularity occurs.
Where words are given a literal meaning
Yes to ask the interpreter to interpret correctly.
Yes, at times due to human error and or some reasons an interpreter may interpret inaccurate.
Yes, for corrections
Yes, if he/she understands the language interpreted and is inaccurate.
Yes, if the interpreter did not give the correct interpreting
Yes, only when you understand that the context is wrong and you wish to correct that.
Yes, sometimes meaning is lost during interpreting and often interpreters turn to translate rather than interpret the evidence.
Yes, they do when the magistrate is conversant with the language, he will notice if you don't interpret correct.
Yes, to make the question clear and sometimes for corrections.
Yes, when a witness make any sign or demonstration and the interpreter does not interpret the action
Yes.
Yes.
Yes. Sometimes

This question was meant for interpreters and magistrates only. In response to it, 13 interpreters indicated that magistrates usually interrupt court proceedings for corrections and clarity or to help the witness/ accused persons to understand the question and when interpreters turn to interpreter incorrectly. Of the two remaining, one indicated he always have his dictionary handy during the proceedings, one said

he has never been interrupted. Of the 15 magistrates, 6 did not respond to the question. In the 9 who indicated they do interrupt court sessions, gave the following reasons, namely, when the context interpreted is wrong and wishes to correct it, to advise the witness/accused to pay attention and listen carefully to the information from the language practitioner, where literal meaning is unnecessary given, also interrupt to assist with the rights interpretation and when interpreters render incorrect interpreting.

#### 4.3.9 Research question 9

*What are the causes of inaccurate interpreting by court interpreters?*

Table 4.3.9

At times giving a direct translation instead of interpreting creates problems.
Differences in culture and languages, and even ceremonies.

Differences in language dialects, i.e. Sepedi has different dialects.
Differences in languages, lack of equivalence and cultural gaps.
Doing something while interpreting e.g. cell phones or making signs with someone in the gallery or colleague
Experience and the culture of the language within the jurisdiction of a particular court.
Inaudibility from any part of court proceedings.
Inaudibility of the speaker, lapse of concentration and mental fatigue.
It happens sometimes when you did not hear the witness well, maybe the witness was not audible enough and keep on asking him/her to speak loud.
It ranges from food to traditional activities.
Lack of concentration.
Lack of knowledge of words in English.
Lack of knowledge of terms and language differences.
Lack of translational words in the target language.
Languages does differ.
Language barriers.
Not paying attention and lose focus on and while using other things like cell phones.
Terminology (legal, medical, and other terms).
Words differences from languages.

This question was meant for two participants' categories, interpreters and magistrates. Of the 15 (fifteen) interpreters, one did not respond to the question. Thirteen interpreters' response ranged from language barriers due to dialects, lack of knowledge of medical, scientific and legal terms, fatigue, cultural and linguistic variations, not being conversant with the language of the accused/ witness. The last one indicated that use of cell phone and eying the gallery also can cause inaccurate interpreting. Responding to the same question, ten magistrates did not indicate anything. Meanwhile, the remaining five magistrates gave responses ranging from lack of knowledge English words and translational words in the target language and lack of knowledge of cultural food, cultural sports and ceremonies.

#### 4.3.10 Research question 10

*Do court interpreters find themselves bound to be called on duty to interpret in a language beyond their competence?*

Table 4.3.10

Also work in small claims court.
----------------------------------

It happens but then we outsource to find the necessary interpreter for the said language.
No
No
No Any interpreter not allowed to interpret in a language that he/she does not understand.
No they don't. Interpreters are only used to that specific language which they speak.
No, it is of paramount importance that the interpreter interprets only in the language within his capability. If language is foreign to interpreter, a specialised interpreter is assigned.
No, that might create problems for the case which is being tried.
No.
No. Experience of language is very important in court room
Not all interpreters are fully competent at Kbn court.
Sometimes, due to the lack of the said interpreter.
Sometimes, yes.
They only assist in explaining the rights but not the trial proceedings. The also help with postponement.
yearly
Yes
Yes, depends on the court roll.
yes, for court roll of that day
Yes, I once interpreted in Venda but I mixed it with English during consultation. The required interpreter was not available.
Yes, when there is a shortage of interpreters
Yes.
Yes.

This question was intended for all categories of participants. 10 participants did not respond to the question. 15 participants said 'yes' and added that this is due to the unavailability of said interpreter and that it depends on the court roll for that day, they do it to assist in explaining the rights and postponements. 15 participants indicated that interpreters are not allowed to interpret in a language beyond their competence because it would create problems for the case that is being tried and that not all interpreters are fully competent.

#### 4.3.11 Research question 11

*In your knowledge, do court interpreters have any special language course?*

Table 4.3.11

	Frequency	Percent
Did not indicate	14	35

In the department of justice, they offer different courses for interpreters depending on level of interpreting you are on.	1	2.5
Just English. The interpreter has to be fluent in English language.	1	2.5
Justice college have different courses for court interpreter and also they have leadership of court interpreting with OFS	1	2.5
No	2	5
No, Personal initiative.	1	2.5
No, there is a need for workshops to further teach interpreters of new developments in law and how to interpret these languages.	1	2.5
No.	14	35
Saved for sign language which of course it is specialized, we also send interpreters to be trained in forensic matters, because it requires specialized technology.	1	2.5
There are courses with Justice college.	1	2.5
Yes.	1	2.5
Yes.	2	5
Total	40	100

Of all the participants' categories 14 constituting 35 % did not indicate anything. 18 participants (42.5 %) answered do not have any special language while 4 participants constituting 10 % indicated that court interpreters do have a special language but did not mention it while One, (2.5%) indicated English as a special language. 5 participants making 10% ranged their responses as follows: special language is taught to interpreter who specialised in sign language, the department of Justice offers different course for interpreters depending on the level of interpreting one is at, there is no need to further teach interpreters new developments in Law and how to interpret these languages and that Justice college has different courses for court interpreters and leadership.

#### 4.3.12 Research question 12

*In your knowledge, what is the stipulate time-on-contact/period of engagement for court interpreters?*

Table 4.3.12

1 hour
--------

1 hour in the morning, 2 and half hours after tea time.
10 minutes
3 Months
30 minutes.
8 hours per day or less.
Any working hour where and when the service of a court interpreter is required.
Court hours differ from official hours, if court is not in session, court interpreters do admin duties.
During office hours and administrative work.
Four hours , but three hours for periodical courts
From 09:00-10:00 or 10:30 then 13:45 16: 15.
From 7:15-16 45.
From 7h45 until 16h15
Interpreters need to be available from 7: 45-16:15 from Monday to Friday.
It depends on the court roll for the day, that the maximum is eight hours a day.
No stipulated time, they break during break-off times.
Only rest during break-off times.
Six hours intervals, if state and defence need time to consult, then the court will adjourn.
There is no specific time stipulated as long as you are competed and have the confidence to interpret.
They have to be at work from 7:15 -16 45
They work and interpret during working hours and rest during breaks and tea time.
They work office hours
Those who are permanently employed will work until one decides to resign or passes on, depending on issues like discipline, ill-health, or retirement which may curtail the period.
Two hours tops.
Two times/ Two hours
Until the court roll is finished or where assigned for specific case.
Working hours
Working hours daily.

This question was meant for all categories of participants. 13 participants comprising of 32.5 % did not respond .4 participants constituting 10% indicated that interpreters work during any working time, they do admin work when they are not in court. Another 4 of the participants constituting 10% indicated that interpreters contact time is only two hours per day. Five participants constituting 12.5 % indicated that the stipulated time-on-contact for interpreters is 7: 15 to 16: 45, 7:45 to 16: 15 and 09:00 to 10:30 or 13:45 to 16:15. Other 4 participants constituting 10% responses ranging from 10 minutes, 30 minutes, 3 months. The remaining 25 % are from the 10 participants whose responses ranged from 2 hours, 6 hours with intervals, 1 hour

morning and 2 and a half hours after tea breaks, 4 hours and 3 hours for periodic courts, there is no stipulated time and that interpreters rest only during tea breaks

#### 4.3.13 Research question 13

*Do court interpreters sometimes work beyond the allocated time-on-contact? If yes, briefly explain?*

Table 4.3.13

Depends on the roll and small claim court that start at 16H00
During consultations
If the magistrate keeps the case long.
If they contacted a high profile case, they work beyond the allocated time. They arrange sometimes with stakeholders in court if they want to finalize the trial cases.
Interpreters work during court hours and where they are needed by court officials' e.g. legal aid attorneys needing for consultations.
It depends on the court magistrate some they do not break for tea time or lunch and work throughout to finish the job early.
No
No.
They work office hours.
Yes, during consultations.
Yes, all court hours are four hours but sometimes we sit more than those due to court rolls.
Yes, depends on the case in trial.
Yes, due to staff shortage.
Yes, It depend on the magistrate.
Yes, it happens when there is an urgent need of an interpreter, and you find that that post is not yet funded in the current financial year, then the contract will be renewed on a quarterly basis until a permanent post is established.
Yes, on Wednesday when there is small claim court.
yes, small claim court is after working hours
Yes, small claims courts, consultations with Legal Aid lawyers.
Yes, there is, at times when the court is in the middle of judgment and the court make a request that it finished the case or dispose the matter.
Yes, to finalise a case.
Yes, we have small claim courts which sit beyond working hours.
Yes.
Yes.

13 participants constituting 32.5% did not answer the question and two participants constituting 5% indicated 'no', interpreters do not work beyond allocated time. One participants said that interpreters work office hours only. However, 24 participants constituting 60 % indicated that interpreters 'yes' they do work beyond allocated

time-on-contact when the magistrate keeps them for long to finalise the trial case/ high profile case, court roll of the day and small court claims starting at 16H00 on Wednesdays, during consultations with Legal aid and Attorneys and due to staff shortage or when the available post is not yet funded for advertisement.

#### 4.3.14 Research question 14

*What language problems do court interpreters usually encounter during their interpreting sessions?*

#### 4.3.14

In case of new interpreters who are not well experience may struggle with understanding court language or procedures as well as legal terms.
Lack of in-depth knowledge of the language spoken.
Lack of meaning in target language.
Language borrowing and dialects.
Language dialect.
Language dialects
Language dialects and slang
Legal and medical terms.
Legal terminology.
Most languages are very different from each other. The diversity of languages is a problem e.g. Sepedi differs from place to place.
Names of cultural food and ceremonies.
Names of sporting activities and explanatory words
No equivalent available for the target word.
None availability of interpreters and dialectical problems.
None. Because you only interpret in the language that you understand and you mentioned when applying.
Not knowing legal terms
Not understanding some concepts in English
Not understanding the language of the accused or the witness.
Proverbs, nouns, ceremonies and food.
Some words don't Exist in English
The terminology of the case in a language that is not you will always want you to refer and be sure.
When the interpreter is not aware of the language spoken by the accused or witness

This question was meant for only two categories of participants, interpreters and magistrates. Of the 30 participants, 8 (magistrates) constituting a 26.6% did not answer the question while 21 participants constituting 70% indicated that language problems that court interpreters usually experience is language borrowing, dialectical differences and use of slang. Other participants pointed out lack of knowledge for

Legal terminology, English concepts, or the target language are problematic. More so, proverbs, nouns, sports, name of ceremonies, cultural food are indicated as language problems. However, one participant comprising of 3.3% indicated that there are no language problems because one is employed to interpret based on the language profiled on the advert.

#### 4.3.15 Research question 15

*What other problems do interpreters encounter during interpreting sessions?*

Table 4.3.15

Accurate address of the statement.
Culture.
Dialectical problems.
Different dialects in one language.
Fatigue, language barriers due to dialects. Difficult attorneys and presiding officers.
Fluency and interpreting in more than one language to different parties during the trial.
Inaudibility of speakers, mixture of languages spoken of which some are unknown to the interpreter and medical, scientific and legal terms.
Interpreters are not informed of crucial cases prior to the trial so that they can prepare the terminology of that case and that might cause inaccurate interpreting.
Proverbs, cultural words.
Some words do not exist in English.
Speaker speaks a lot of words at the same time.
When the witness gives evidence and the terms used not conversant to the interpreter.
To switch languages in court. You may find that the accused speaks Zulu, witness speaks Sepedi, and you need to interpret for both parties and again to the magistrate.
Unable to provide for legal terminology
Use of Law terminology, being unfamiliar with law terms.
When the person who first indicated that he/she needs the service of an interpreter and all of a sudden answers without waiting for the interpreter to interpret.
When the accused speaks words you don't understand and switch from one language to another. Sometimes if I can't find a relevant equivalent.
When the witness/ accused persons are reluctant to raise their voices, feeling shameful to speak personal matters.

This question was also meant for interpreters and magistrates. 12 of the participants comprising 40% did not respond to the question. The other 18 participants comprising 60% indicated that other problems interpreters encounter during interpreting sessions are fatigue, witness/accused exceptionally in a low voice or say a lot of words at the same time. They also indicated that when witness/accused first asks for the service of an interpreter and all of a sudden does not wait for the

interpreter to interpret or switching from one language to another in order to serve both parties during the trial.

#### 4.3.16 Research question 16

*Have you ever received any complaint about the standard of interpreting from the public or the accused and witnesses?*

Table 4.3.15

Criticism is always there.
During the procedures, if there is an objection regarding the interpreting, the interpreter is requested to repeat.
Not direct as they don't complain while the trial of case is still on
It happened to my colleague and I was asked to come and work on her place. The accused requested I interpret the whole case. Instead of the sitting interpreter (interpreter on duty)
more often
No
No, they are place according to the experience of language in regard of cases on the roll for the day.
No.
No. they all like my interpretation.
Occasionally. From the accused and witnesses.
sometimes
Yes
Yes in instances where the witness understands English and the interpreter misinterpreted, then the witness corrects the interpreter.
Yes, as interpreters are not expects in languages, some clients are a problem (Sepulane is a dialect of Sepedi) A language spoken in certain areas differ from the other.
Yes, during court proceedings
Yes, lots of times.
Yes.
Yes.

3 participants counting 7.5% did not respond to the question and 55% said that they had never received any complaint from the witness/accused about the standard of interpreting of interpreters while 37.5% of the participants received complaints sometime, occasionally, more often, most of the time.

#### 4.3.17 Research question 17

*Does the department of justice have anything in place to help court interpreters curb any inaccuracy during court sessions? If yes, briefly explain.*

Table 4.3.17

I don't know.
In-service training.

Interpreters advance through Justice college.
Justice College offers the training.
Justice College offers training.
Justice College.
No, if we experience such a problem, a senior interpreter, principal interpreter or cluster manager is called to listen to the records and rectify.
No.
No. What the Dept. does is to assign people who didn't do any interpretation
Not that I know of.
The department does not hold workshops for interpreters and there is a great need for that, just like clerks, prosecutors, magistrates, etc.
The senior interpreter helps newly appointed interpreters.
They do receive training offered by Justice college. Most of them improves after attendance of these trainings.
They get short courses at the Justice college.
They have in each court senior court interpreter, principal court interpreter- cluster and cluster manager for language services to assist if there is any problem in the courthouse training are practiced on monthly bases and else each court has library for them to refer if there is any difficult of language.
They rely on senior interpreters for induction and supervision.
We rely on principal and senior interpreter.
Yes, if there is a problem or uncertainty regarding the interpreter's standard of interpreting the principal or senior interpreter is called to attend the issue which might have been raised by the prosecutor or attorney or magistrate.
Yes, by sending court interpreters to attend courses to improve their skills in interpreting.
Yes, sent to Justice College.
Yes, there are cluster managers and Principal court interpreters who are pre-testing and assisting interpreters from time to time to try and improve the standard of interpreting. One cannot always be in court to curb inaccuracies. Judicial magistrates also help when problem arises.
Yes, we have Justice college is offering training for beginners and advance interpreting.
Yes, we have libraries for research.
Yes.
Yes.

In this question, nine participants counting 22.5% did not respond. Nine counting 22.5% participants said 'no', the department does not have anything in place to help curb inaccuracies during court proceedings while 20 participants comprising 50 % indicated with a 'yes' that the department does assist interpreters improve inaccuracies but mentioned that Justice College assist with short course for beginners, court interpreters rely on principal and cluster interpreters, they have libraries while one participant counting 2.5% indicated that the department does not offer workshop for interpreters and there is a great need for them and another

participants (2.5%) indicated that he does not know of anything put in place by the department of justice intended to curb inaccuracies during court sessions.

#### **4.4 Data analysis: findings from research questionnaires**

This section presents finding from the questionnaires of participants in relation to the research objective 1 which is to *assess the standard qualification and expertise of court interpreters*, 2 *evaluate court proceedings with regard to period of engagement*; 3 *investigate cultural untranslatable words or expressions between African languages spoken in Mpumalanga and do comparison of linguistic gaps that exist between English and Xitsonga in Mpumalanga*; and 4 *to review of the South African Translation Institute's (SATI) code of ethics*. The responses to questionnaire and findings are presented thematically as follows:

##### *4.4.1 Theme 1: Educational requirements and expertise of court interpreters*

All participants were asked about minimum requirements (table 4.2.1) and the highest qualification for court interpreters (table 4.2.3). On the minimum requirements eight participants (20%) did not indicate while (80%) indicated different responses ranging from matric, knowledge of courtroom environment, be able to interpret from one language to another, knowledge of languages. Mentioning the highest qualification for interpreters, responses ranged from matric/senior certificate; degree/diploma in interpreting, credit control, and marketing or any tertiary qualification. One participant indicated that interpreters only attend in-service training (table 4.2.4) by clusters/senior/principal interpreter, who may not be working in the same court with the interpreter.

Responding to whether interpreters have any qualification towards law (table 4.2.6) 20% did not answer. 30% said 'no' they do not and added that those who pursue LLB do so in order to become magistrates while 47% said 'yes' but only those who wish to change their careers. However, one participant (2.5%) pointed out that interpreter's qualification is no longer offered by institutions which means that there will no longer be guidelines to upgrade the standard of court interpreters. This is an indication that there is no set standard or level of education requirements for court interpreters. It is evident from the range of responses provided in research question 1 (table 4.2.1) no specific qualification is expected as a minimum requirement for court interpreters. It could also be argued that these interpreter are the ones who did

not qualify for higher education and training but they are expected to provide excellent English equivalence and be as much fluent with the language for which they are not expects.

With regard to the expertise of court interpreters research question 4 in (table 4.2.4) the responses to whether interpreters *do undergo any kind of training (job specification) before they could start interpreting?* 20% of participants did not respond to the question. 15% indicated that interpreters do not get any job specification training and added that they are only trained by cluster/senior/principal interpreters when the need arises. It is not very clear what does 'when the need arise' mean? However the research thinks that it is after an interpreters has caused a lot of misconceptions about his/her failure to interpret accurately. However, 52.5% indicated that interpreters undergo training but the training comes once after one has started working and is done by the senior/principal interpreters, which may not guarantee competency.

To verify the authenticity of the above response, the same question was directed to interpreter only as follows: *have you ever received any training before you could start your interpreting job?* Of the fifteen (73.3%) interpreters eleven indicated they never had any job specification training. Three (20%) said they attended training but did not indicate the kind of training they attended while one (6.6%) pointed out that he was only assisted by the senior court interpreter who only exposed him to court setting and procedure. In this case, one can also conclude that being assisted by senior court interpreter to expose the court interpreter to court setting and procedures could guarantee correct interpreting.

Table 4.2.7 also gives highlights of lack of expertise by court interpreters. Here, 32.5% of the participants did not respond to the question which could be seen as an act to hide information. 60% of the participants who responded to *how often do interpreters receive in-service training to improve their skills*, indicated that it only happens when the need arises, and once a year, regularly while 27.5% indicated that these yearly programmes are offered to beginners only. The concealing of information and deliberate provision of incorrect information proves that there are no standard expertise that an interpreter should possess as a professional interpreter.

#### 4.4.2 Theme 2: Evaluation of court proceedings with regard to time-on-contact (period of engagement) for court interpreters

Table 4.2.12 provides answers to the theme above. Here, 13 participants (35.5%) did not respond to the question, *what is the stipulated time-on-contact for court interpreters?* 4 participant counting 10% pointed out that interpreters work during working hours they also admin work when they are not in court. Another 4 (10%) the contact time for interpreters is only 2 hours a day, five participants counting 12.5% indicated that interpreters work from 7:15 to 16:45, 7:45 to 16:15 and from 09:30 to 10:30 or 13:45 to 16:15. Another 10% of participants indicated contact times ranging from 30 minutes and three months while the remaining 25% are from participants whose responses ranged from two hours, six hours with intervals, one hour morning and two and a half hours after tea break, four hours or three for periodic courts. Another participant indicated that there is no stipulated time and added that interpreters only rest during tea breaks. It is clear from the findings above that there is no stipulated time-on-contact/period of engagement for court interpreters.

This could be found to be a contributing factor to misinterpretations and inaccuracies by long hours working interpreters leading to loss of meaning during interpreting sessions and the fact that 35% of participants did not respond to the question is interpreted as deliberate concealing of information. The problem of interpreters working long hours is also evident in table 4.2.13 where they are forced by the magistrates to work for more hours. When participants were asked if interpreters sometimes are asked to work beyond allocated their allocated period of engagement, 35% did not respond to the question. 60% indicated that interpreter do work beyond allocated time when magistrates keep them for long to finalise the case in trial/high profile case. They also added that it depends on the court roll of the day and small court claims starting at 16H00 on Wednesdays. Other reasons highlighted as reasons for letting interpreters work long hours are consultations with Legal Aid Attorneys, shortage of staff or when the available post is not yet funded. The remaining 5% are participants who answered that interpreters do not work beyond stipulated time.

Looking at the responses of participants on the above questions, it could be argued that participants who did not respond were deliberately avoiding or afraid to tell the

truth and protecting the Department of Justice for some reasons to keep the problem unresolved.

#### *4.4.3 Theme 3: Language problems and linguistic gaps that exist between English and African languages spoken in the Mpumalanga magistrate courts*

In wanting to establish language gaps existing between English and African languages spoken in Mpumalanga magistrate court, the researcher designed a question in table 4.2.9 asking two groups of the participants, that is, the magistrates and interpreters: what are the causes of inaccurate interpreting by court interpreters. Here, 1 interpreter (3.3%) did not respond to the question while 14 (46.6%) pointed out that language barriers, lack of knowledge of medical, scientific and Legal terms. Other reasons added are linguistic and cultural variation and that the use of cell phone and eying the gallery can also cause inaccurate interpreting. Responding to the same question, 10 magistrates (33.3%) did not answer the question while 5 of them comprising 16.6% indicated that lack of knowledge of English and translational words in the target language; and lack of knowledge of cultural food, sports and ceremonies.

To find out if there are language problems and linguistic gaps between English and African languages used in the Mpumalanga magistrate courts, the researcher asked *if interpreters do find themselves bound to be called on duty to interpret in a language beyond their competence*. Table 4.2.2.10 showed 25% of participants did not respond to the question, which may be interpreted as a deliberate action to conceal information by certain group of participants. 52.5% indicated that interpreters are sometimes called to interpret in a language beyond their competence due to lack of interpreters. On the other hand, 22.5% pointed out that interpreters are not called to interpret in a language beyond their competence because that may create problems for the case in trial and that experience of language is important in the courtroom. Two of the participants falling in the 52.5% group of participants pointed out that interpreters do find themselves interpreting beyond their language capacity when they assist with explaining rights and postponements and the other one said that he once interpreted in Tshivenda but was mixing it with English because the required interpreter was not available. Interrogating the issue of *language problems encountered during interpreting sessions*, table 4.2.14 presents that the question

was directed to two categories of participants, namely, magistrates and interpreters counting up to thirty (30) participants.

Of the 30 participants, eight constituting 26.6% did not respond to the question while 21 counting to 70% indicated a series of language problems encountered by interpreters during their interpreting session, which are, language borrowing, dialectical problems, slang, and lack of knowledge of Legal terminology, English concepts or target language. More so, proverbs nouns, sports, names of ceremonies, cultural food are also indicated as language problems. However, 3.3% pointed out that there are no language problems because one is employed to interpret on the language profile of the advertised post. The researcher went on to find out *what other problems do interpreters encounter during interpreting sessions table 4.2.15*. The question was also meant for interpreters and magistrates. 12 participants (magistrates) constituting 40% did not respond to the question while 18 constituting 60% indicated that other problems interpreter encounter during interpreting sessions are fatigue and language barriers; witness/accused speaking exceptionally in a low voice and feeling shameful to speak about personal matters or saying a lot of words at the same time.

They also added that when a witness/accused first indicated the services of a language practitioner and all of a sudden does not wait for the interpreter to interpret or switch from one language to another in order to serve both parties during the trial. More problems like inaccurate address of the statement; words which do not exist in English and when the interpreter cannot find a relevant equivalent. There is a tendency of certain group of participants who tended not to respond to some, if not most of the question as requested or deliberately providing incorrect information as a way of withholding information in order to mislead the researcher.

To emphasise the issue of language problems as a contributing factor to inaccurate interpreting by interpreters, the researcher asked, in table 4.2.11, *if interpreters do have any special language course*. Here, 14 participants constituting 35% did not respond to the question while 18 participants (42.5%) pointed out that interpreters do not have a special language course. 4 counting 10% that interpreters do have a special language course but did not indicate its name. Other 4 participants

constituting 10% ranged their responses as follows: the department of justice offers different courses for interpreters depending on the level of interpreting you are on; special language is taught to interpreters who specialise in sign language; there is no need to teach further teach new developments in Law and how to interpret these languages and added that the Justice College has different courses for court interpreters and leadership. However, one participant (2.5%) indicated that English is the language they use and that interpreters have to be fluent in it.

It is evident that interpreters do not really have a special language that they must learn in order to advance their use and understanding of English and the language of the court. The huge percentage of participants who did not respond to the question (35%), is interpreted in the study as an attempt to conceal information and mislead the researcher while 42.5% stated clearly that interpreters do not have a special language course. To prove that inaccurate interpreting does exist due to lack of special language, the study posed a question to all participants asking *if they have ever received complaints about the standard of interpreting from the public or the witnesses/accused persons*. It is found that 7.5% of participants did not respond to the question while 55% indicated that they have never received complaints. In this 55%, one pointed out that the like his interpreting style.

However, 37.5% stated that they receive complaints most of the times, more often, occasionally. This group also indicated that complaints are a result of the fact that interpreters are not language experts. Other participants went on to say that sometimes people do not complain during the trial proceedings but if there is an objection regarding the interpreting of the interpreter, he/she is requested to repeat. The last one said that criticism is always there.

#### **4.5 Conclusion**

The chapter presented results and findings from the questionnaires analysed by the SPSS provided by the University of Limpopo research office. The demographics of participants in terms of their profession, work experience, race, gender, home language, second and third languages of participants were presented. 16 research questions were interrogated and results provided. The study also presented the analysed data from the SPSS thematically as emerged from the results. However, the 17<sup>th</sup> research question was left out from this analysis because the researcher

intends to use it in the next chapter for reason of suggestions and recommendations.  
Data from fifteen court observations is presented in the next chapter.

## CHAPTER FIVE: 5. DATA ANALYSIS: FINDINGS FROM OBSERNATIONS

### 5.1 Introduction

This chapter presents the analysis of fifteen court observations observed in fifteen magistrate courts of Mpumalanga province. Observational analysis was used in examining the court proceedings. The aim of the observations was to observe how court interpreters perform their task in an actual situation. Questions in the observation sheet were designed to address issues that were left out in the questionnaires. The observation sheet contained eight questions which were derived from the themes of the study as follows:

- Accuracy, competence and professionalism of interpreted rendition by court interpreters were addressed in question 1;
- Type and manner of questioning, ( *whether direct, indirect or ambiguous*) were addressed in question 2 and 5;
- Standard of language used by interpreters during proceeding was addressed in question 6;
- The length of questions and interference during proceedings were addressed in questions 3, 4, 7 and 8 (*tone of interpreter, repetition of questions and interference*).

During observations the researcher was hoping to find out if interpreters adhere to their professional standards and code of Ethics. This means that the conversation analysis of the observations will therefore not focus on identifying and describing the strategies and theories discussed in chapter two but rather engage in an examination of what actually occurred during court proceedings.

### 5.2 Are questions asked accurately to enable the accused persons/witnesses to answer promptly?

The researcher observed that in most cases, questioning is not done accurately. Interpreters would add, omit words or replace source language words with target

language renditions that change the content of the source utterance. In this instant, in a statement from the charge sheet read by the prosecutor before the beginning of a trial, this was said:

*Prosecutor. (Reading a statement)* I arranged with Mpho for us to meet outside.

*Interpreter.* ...I arranged with (-Mpho) (+a certain lady) for us to speak outside.

Here, the prosecutor read a statement given and signed by the witness where the witness said it clear that he made arrangements with a lady called 'Mpho' for them to meet outside the tavern and talk. This statement suggests that the lady was known to the witness or that there could be some kind of friendship between them. However, the interpreter, who seemed to be searching for something on top and under the table, omitted and replaced 'Mpho' with 'a certain lady' which gives an impression that there may not have been any kind of friendship between the witness and the lady in question. This kind of rendition could be misleading for the magistrate when making a ruling or could influence an incorrect judgement. In another example, a case of robbery and grievous bodily damage, the following was said:

*Lawyer to complainant.* ... because it was dark, were you concentrating on the people's faces?

*Interpreter to complainant.* nako ela bao tshwara poo, na o ile oa lebelela difahlego tsa bone?

*Complainant.* e-e, keba lebetsi.

The lawyer was interrogating the complainant's ability to identify the robbers due to the fact that when the robbery occurred, it was late at night, there were no streetlights and the complainant had squinty eyes. However, the way the interpreter interpreted the lawyer's question did not imply 'identify' but 'see'. The interpreter render made an explanatory rendition which in-turn misled the complainant to give an irrelevant response. In the two cases above the interpreters failed to uphold their profession standard of accuracy as stated by (Salimbele: 1997)

### **5.3 Are the question asked direct/indirect or ambiguous?**

In most magistrate courts observed, questions are asked indirectly and ambiguous, witnesses/ accused persons and complainants seem confused not knowing how to respond to the questions. In some instances, questions are asked in a form of statements but expecting answers. For example, in a case of assault the following was said:

*Prosecutor to the accused:* the reason the second witness was not arrested is that she did not do anything.

*Interpreter to the accused:* kuze engakaboshwa lomuntu ukuthi nje akenzangalutho.

*Accused:* (silent).

From the example above, it was not clear whether the accused must respond to the statement or not, so she looked at the prosecutor and kept quiet. Her face depicted confusion and a feeling of being pushed to a corner. However, her silent might also be inferred as a sense of contentment. In a similar instant as the case continued, the following was said:

*Prosecutor to the accused:* I put it to you that you and your mother are the ones who injured the state witness.

*Interpreter to the accused:* uthi umshushisi wena nomhawakho inina enishaye nalimaza lomhama

*Accused:* (silent)

This question or statement, interpreted in third person, rendered the accused person to a loss and resorted to silence which may also imply that she agrees with what she is indirectly accused of.

### **5.4 Does the interpreter's voice or tone of questioning allow or prevent the accused/witness to respond freely and honestly?**

In most of the court proceedings observed, interpreters use their voices or tone to show partial judgement to the clients for which they interpret. They tend to be emotional when rendering interpretations and tend to develop a negative attitude intimidating the witnesses/accused persons. In another case of assault with grievous bodily harm and contravention of section 12C/7A, firearm control where two police officers were accused of beating and pointing a firearm to two young men without following the rules the following was observed: The two police officer were Xitsonga speakers while the complainants were IsiZulu and Sepedi speakers.

*Magistrate to accused no.2:* how do you plead?

*Interpreter to accused no.2:* u ti vona nandzu kumbe e-e?

*Accused no2:* a ndi na nandzu?

*Interpreter to Magistrate:* innocent your worship.

*Prosecutor:* as the court pleases your worship, the State calls on the first witness, Mr Louise Malele! (*Not his real name*)

*Interpreter:* Louise Malele (*calling him to the stand*)

*Prosecutor:* Ms Interpreter swear him in.

*Interpreter:* (+nawena wa vulavula) (+ohoo wabulela). Jaanong otle bolela oikanna gotsa go na se sekao thibelang go ikanna. Meaning (+do you also speak Shangaan?) (+oh) (+you speak Sepedi). Will you speak under Oath or is there anything that will prevent you from speaking under Oath?

In the above example, the interpreter' tone was impolite and scornful to the witness their language proficiency was indicated before the trial started. Her impoliteness was shown by the way she moved her upper-right lip toward her nose sending a message that undermines the complainant's language and his audacity to lay a charge against police officers. In Xitsonga culture, the act of moving your upper-lip towards your nose and right eye upwards while bending your neck to your right hand side while speaking to a person could be inferred as a symbol of mockery or patronising that individual. This is found to be a violation of the principle of professionalism to court interpreter that holds them as 'translation machines' (Fanton, 1997; Laster&Taylor, 1994 in Eg, 2011).

In another court where a case of domestic violence, a man who was physically assaulted by a family member sustained head injuries and now suffers from memory loss that he could not exactly remember details of the incident happened on the day in question. When this illiterate man was questioned as to why he didn't disclose in the commissioned statement some of the things he is bringing them out now during court proceedings. The man responded irrelevantly. In this case the following was observed:

*Prosecutor:* why didn't you tell the court about certain events in the chief testimony of the day in question?

*Interpreter:* hikokwalaho ka yini u fihle timhaka tin'wana letinga endleka loko u biwa?

*Complainant:* a ndi ri powerless. (Implying he was sedated and could not remember everything)

*Interpreter:* I was powerless. (With a smile in his face and his voice pitched-up to show excitement)

*Complainant:* va vuye van ndi tima. Meaning (I was sedated and became unconscious...)

The complainant rephrased himself because he could tell by the look on the face of the interpreter that he might have used the English word 'powerless' incorrectly. This made him to feel belittled and intimidated but went on to explain in his home language what he meant by 'powerless'. Continuing with the same case, the following was also said:

*Prosecutor:* are you telling this court that your memory was lost that you could not recall other events?

*Interpreter:* u vula leswaku miehleketo ya wena a yi lahlekile kuze u tsundzuki swin'wana

*Complainant:* ina.

*Interpreter:* correct (*with a laughing voice*)

At this point, the complainant's voice had sunk. He spoke in a very low voice observing the response from the face of the interpreter for more reactions, until he was quiet and did not answer anymore.

### **5.5 How repetition of questions is used during court proceedings and what is its effect?**

Here, the researcher was hoping to observe if there is any use of repetition of words, phrases or sentences during court proceedings and if it is used, why is it used. Repetition of questions was indeed observed to be prevalent in the magistrate courts of Mpumalanga by all court officials. Sometimes it is done to assist the accused/witness to understand the question and respond accordingly. In some instances could be used to notify the interpreter of the inaccurate utterances he or she just made or done to bring back the attention of the interpreter that could be consumed by other things from the gallery or the use of a cell phone while interpreting. More-so, one question can be repeated just to confuse the witness/accused to provide different responses for one question. For example, in a case of assault and possession of drugs where a 21 year old man was charged with assaulting a teenage boy causing him bodily harm. This man was also found in possession of 4kg cocaine powder.

The interpreter here appeared to have a problem with concentration. His mind was pre-occupied and kept of twisting names of court's participants almost throughout the entire session. The following was observed:

*Lawyer:* your worship, the defence would like to call to the stand the second witness to the case, Mr Vusi Zungu (not his real name

*Interpreter:* (long pause) Nkosazana Zungu!

*Magistrate:* Vusi Zungu Mr interpreter!

*Interpreter:* as the court pleases your worship.

After the prosecutor called out Mr Vusi Zungu to the witness stand, the interpreter who was observed to be using his cell phone, made a long pause before he could utter a word, and when he finally did he called out an incorrect name 'Nkosazana Zungu'. Nonetheless, the magistrate called out the correct name of the witness as

was by the prosecutor to make him realise his mistake and correct himself. However, the interpreter did not do so but said 'as the court pleases your worship'. In this instant, the repetition was used to correct the interpreter and prevent what could have been an identification error of the witness.

### **5.6 Are questions asked simple or complex to cause confusion to witnesses/accused persons?**

With this question the researcher hoped to observe types of questions asked during court proceedings, whether they come in simple language, compound or overloaded and complex and difficult to understand sentences. In observation, the researcher noted a prevalent use of simple language that assisted witnesses/accused persons to respond promptly.

### **5.7 Does the standard of language used in court render the interpreter at a loss?**

The intention for making observations under this question was to observe the standard language of the court whether they use pompous language full of legal jargon and terminology. The researcher learnt that truly there is an extreme use of legal terminology that may be difficult for a layman to understand to an extent that interpreters feel pushed to the corner and could not render an accurate equivalent at hand, they opt for any related to it or to keep quiet. For example:

*Magistrate:* your case has been removed from the court matters pending further investigations but be warned, should the court access new information about the case you may be recalled.

*Interpreter:* (silent).

*Accused:* (remained standing)

*Magistrate:* you may step down.

The accused look confused. He did not understand whether he was a free man or not. At the same time, the interpreter did not seem to understand what was meant by 'removing the case from the court matters' and therefore decide to keep quiet without the interpretation of the interpreter there was huge doubt about whether the charges against him were dropped momentarily or he is cleared of the accusations.

### **5.8 How long is one participant exposed to questions on the stand, and what effect do the lengthiness or shortness of questions have on the respondent?**

Observations under this question was that the researcher hoped to find out for how long are respondents subjected to answer questions on the stand. The researcher observed that some respondents spend ten to fifteen minute or less, depending on the case at hand when some could spend more than an hour or so going through cross examination. The lengthiness of questions do not only affect accused/witness persons by confusing them but also interpreters suffer from fatigue because they have to sit and interpret for long hours sometimes without taking a breaks. However the assumption of the accused pertaining the shortness of time during questioning is that they be given suspended sentences, be acquitted or be subjected to a light sentence.

### **5.9 How is interference used during court proceedings?**

Under this question the researcher hoped to find out how interference is done during court proceedings and why is it done. The researcher learnt that interference during court proceedings is prevalent. Lawyers and prosecutors interfere if there is an objection or want to request to approach the magistrate's desk. They sometimes interfere if the accused/witness is asked question leading and irrelevant questions. On the other hand, magistrates interfere to clarify words meanings should court officials differ in perception of accepted terminology in the courtroom. They also interfere when they wish to correct the interpreter when misinterpreting a question or evidence. This interference by magistrates however, only happens if he or she understands the language of the witness/accused persons. In a case of assault, where a twenty year old woman was accused of assaulting a thirty nine year old woman, the following was said:

*Lawyer.* ... so tell this court why did you assault the woman?

*Interpreter.* (+kodwa ke) wena (+sisi) bekade umshayelani lomama?

*Accused no1:* pause (hh...)

*Lawyer.* (*interfering the accused before she could respond*) you assaulted because she was the aggressor.

*Interpreter.* umshaye ngoba be ukwatile?

*Lawyer.* (*looking at the interpreter*) ...she was the aggressor.

*Interpreter:* (pause) (looking at the accused) (+ lalela) wa ukwatekakhulu ukuthi lomfazi ushaye umha wakho, wabese wena uyamshaya, ngabe ku icinisoloko?

*Lawyer:* Mr Interpreter, aggressor.

*Magistrate:* It looks like there is confusion about 'aggressor', let us agree to use 'she started the fight' in this court Mr Interpreter.

*Lawyer:* as the court pleases your worship.

In the above matter, not only did the interpreter portray lack of competence but also showed impartiality by adding 'kodwa ke' and 'sisi' in her rendition. The interpreter shifts the blame to the accused for her own lack of appropriate equivalent by saying 'lalela' to the accused meaning 'listen' as if the accused did not understand what the lawyer just said and is the one who is supposed to render an equivalent. The interference by the lawyer before the accused could respond to the question could be inferred as intimidation so that the accused can see how guilty she is for assaulting someone. More so, the interpreter also failed to provide an accurate equivalent of the word 'aggressor', 'the one who started the fight' as 'kwatile' meaning 'angry'. The interference made by the magistrate was used in order to stop the friction between the interpreter and the lawyer and come up to an understanding how to interpret 'aggressor'. The magistrate suggested that let it be agreed that 'aggressor' be interpreted as 'the one who started the fight'. In the same case, the following was also observed:

*Lawyer:* your worship the defence wish to call to the stand accused no. 2

Nomvula Thabethe (*not her real name*).

*Interpreter:* Nomvula Thabethe!

*Lawyer:* Nomvula, please tell this court what happened on the day of the incident, 18 July 2015.

*Interpreter:(-Nomvula) (+ake) u sitshele ngokuphelele ngalesigameko esenzeka (-18 July 2015) (+ngalelolanga).*

Accused no.2: sasibuya esintweni mina no ma, sadlula kwelinye ikhaya sathola

uMaKhoza (*not her real surname*) nabanganbakhe behlezi becoxa be phuza nocwala. Sathi sidlula, omunyewabo wethi 'hawu, kanti nabathakathi bayaya esontweni'

*Interpreter:* (+ your worship) my mother and I were coming from the church that afternoon. As we went past Mrs Khoza and her friends, drinking and chatting, (+when we came closer) one of them asked if wizards also do attend church.

*Lawyer:* witches Mr Interpreter, not wizards.

*Interpreter:* wizards or witches is just one thing!

*Lawyer:* witches are witches, and wizards are wizards.

*Magistrate:* (after a long deliberation between the lawyer and the interpreter *about witches and wizards*) *Mr interpreter,* let us in this court agree to use witches not wizards.

*Interpreter:* as the court pleases your worship.

In this instant, interference is used by the lawyer to indirectly make the accused find herself guilty for assaulting the complainant. It was also used to make the interpreter find understand that witches and wizards are two different word and that they cannot be used interchangeably. The magistrate interferes to stop what was looking like an argument and make them use a rendition that is accepted by the court. Furthermore, the interpreter adds and omitted crucial information that could assist the record of the case, that is, the dates of the said incident.

## **5.10 Conclusion**

The chapter presented and analysed by data from the fifteen magistrate's court observations conducted by the researcher in the province of Mpumalanga. The analysis was presented thematically. Summary, discussion of findings, conclusions and recommendations are given in the next chapter.

## CHAPTER SIX: SUMMARY, DISCUSSION OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

### 6.1 Introduction

This chapter presents the summary and discussion of the findings based on the results of the two tools used in data collection as cited in the last two chapters. The study adopted a qualitative approach using questionnaires as well as observations. The tools contained semi-structured questions and observations of actual court proceedings in the 15 magistrate courts of Mpumalanga province. Here, 5 hosting towns' magistrate courts were visited; 2 courts per district were also visited. In these courts, 15 magistrates, 15 court interpreters and 10 court managers answered questionnaires, making a total of forty participants. The summary and discussions of the findings are presented below. Recommendations are made based on the findings from the study.

### 6.2 Summary and discussion of findings

*Table 6.2.1: Qualifications and expertise for interpreters*

Focus:	Summary of findings
Qualifications and expertise for court interpreters	<ol style="list-style-type: none"><li>a. Minimum qualifications</li><li>b. Highest qualifications</li><li>c. Casual interpreters</li><li>d. Lack of expertise</li></ol>

## Discussions

The study did not find a single interpreter who had acquired a relevant qualification for their court interpreting job. However, some have diplomas in credit control, marketing diploma, while most did not do any tertiary education. There is also no evidence of having a special language relevant to interpreting. Senior/cluster interpreters help induct newly appointed interpreters but that does not solve the problem of inaccuracies. This proves that the constitution of South Africa does not take this profession seriously. Amalda (2016) stresses that the interpreting profession must be taken seriously and regularly regulated.

Wallace (2015: 223) presents this prolific use of unqualified practitioners in courts as a problem which varies from State to State but which is considered to be a pervasive challenge in the judiciary system. These challenges posed by unqualified practitioners are even more acute for languages other than English (LOE). Although there are no data available to quantify the use of uncertified court interpreter in the country, traditionally judges have the authority to contract any interpreter at their own discretion, and this could be found to trump good judgement in selection of interpreter. Some interpreters are employed as casual court interpreters. Marion Boers, executive director of South African Translators' Institute (SATI), raised concerns regarding unqualified interpreters in courts, saying the use of non-official language and casual interpreters could lead to great travesties of justice.

The fact that the court interpreting profession does not have enough salary scale due to lack of relevant skills and qualifications, recruited qualifying interpreters enrol further education (LLB) to change profession. Persons applying for an appointment as court interpreters are subjected to undergo proficiency test under the supervision of a principal interpreter only at local level. The trainee interpreter has to be put on twelve months' probation and be required to attend an interpreter's course only two weeks. This is echoed by the Namibian Language Researcher, Stephan Du Toit SC in the October 1993 issue of *Consultus*, who proclaimed that the training of court interpreters in the Republic of South Africa receives little if not no attention (page 149). He further adds that the need for properly trained interpreters is too obvious.

### 6.2.2 Period of engagement for interpreters

Focus	Summary of findings
Court proceedings in respect of time-in-contact for interpreters	<ul style="list-style-type: none"> <li>a. Lack of knowledge on time-on-contact for interpreters</li> <li>b. Length of questions</li> <li>c. Fatigue</li> </ul>
<p><b>Discussions</b></p> <p>There is a huge conflict between the court officials as to for how long should the court interpreter be subjected to interpreting a session. The study has shown that neither of the court officials has a clue of when should interpreters rest during proceedings interpretation. Magistrates and presiding officers keep interpreters for long hours in order to finish the court case for some reasons. This leads to reduction in concentration, listening and fatigue. When questioned about what is the stipulated time-on- contact for interpreters, a high percentage of magistrates and court managers did not respond while others indicated working hours, from 7H45 to 16H15 or two to three hours. The assertion that an interpreter should work 30 minutes in and 30 minutes off is overlooked and interpreters themselves do not seem to know either because their responses varied from 7:15 to 16H45, three months six hours etc. As a result of long hours interaction, interpreters begging to feel excessively stress and the need for intense concentration began concentration to rise, lack of clarity and coherence and start to interpret even when the speaker has not yet finished the sentence. All these and more were seen as symptoms of fatigue.</p> <p>Fatigue plays a role in interpreting Pienaar (2015:192), interpreters should, where possible work in pairs. The notion of team interpreting is highlighted by De Kock and Blaauw (2008: 83) who argue that the complexity of the mental process involved in interpreting, as well as the stress associated with this sustained exertion and environmental interferences, makes it essential for interpreters to be relieved after 30 minute, which is in-line with the 2015 version of the Code of Professional Ethics.</p>	

The above notion is echoed by Lebesse (2014: 183-208) who affirms that the best practice is for team interpreters to trade off every 20-30 minutes, thus rotating their respective roles throughout the proceeding. This, Lebesse assures, will not only provide periodic relief to prevent fatigue, but also allows for the presence of a second language expert in the event of challenges to the interpretation.

The study found out that not only are interpreters subjected to long hours of interpreting without taking a break during trial proceedings, they are expected to work after hours interpreting in the small claims court which starts at four and end at seven. Sometimes due to the lack/shortage of interpreters, interpreters are called to interpret in languages beyond their capacity. However, magistrates and court managers hide this information by deliberately not providing a response or provide false information when asked whether interpreters work beyond their allocated time-on-contact. Whereas, some interpreters indicated that they are asked to interpret in other languages beyond their competence. One Sepedi speaking interpreter indicated that he once was requested to interpret in Tshivenda, which he mixed it with English.

One witness/accused person was observed to be subjected to answering questions for more than an hours and a half or so while some faced questioning for few minutes. To people who were question for more hours, the guess was they were likely to be found guilty in some degree and sentenced while those questioned for a short period were likely to be found not guilty, acquitted or get a suspended sentence.

### 6.2.3 In-service training

<p>Focus: In-service trainings</p>	<p>Summary of findings</p> <ul style="list-style-type: none"> <li>a. Before starting interpreting job</li> <li>b. After employment</li> <li>c. Special language for service</li> </ul>
<p>Discussion</p> <p>The study found out that interpreters at the lowest levels (magistrate courts) of</p>	

Mpumalanga are recruited with at least matric certificates and are inducted by senior/ cluster interpreter after securing employment as court interpreters. Although most participants indicated Justice College to be assisting with beginner's course, not every interpreter is afforded opportunity to register because Justice college can only accommodate a limited number of students. It is evident from the variety of responses rendered when questioned whether interpreters do receive training before the start of their interpreting job, and how often do they undergo in-service training.

Hale (2011:241) states that compulsory pre-service training may not guarantee error-free interpretation, just as training may not guarantee error-free lawyering. However, it will guarantee a minimum standard and professional status. Hale maintains that different skills that interpreters need as their everyday tools are acquired through rigorous training and consistent practice. Skills like acquisition of pre-assignment preparation skills, specialised note taking and memory aid skills; competence in interpreting modes and knowing how to use them in order to bear consequences for choosing them, are competencies that can be acquired through adequate training (Hale, 2007).

It has also been found by the study that interpreters do not have a special language for the purpose of interpreting. Languages do differ at all levels of the linguistic hierarchy. Interpreters need to be competent at all levels in each language and be able to make judgements about what aspect of the original utterance to sacrifice in order to achieve a pragmatic rendition when interpreting (Hale, 2011). A number of studies in court interpreting found that even competent and accredited interpreters who had received specialised legal interpreting training, are not aware of the significance of certain linguistic features of courtroom discourse, and consequently tended to unjustifiably omit or disregard them.

#### *6.2.4 Language problems and linguistic gaps*

Focus	Summary of findings
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<p>Language problems and linguistic gaps that exist between English and African languages ( Mpumalanga province)</p>	<ul style="list-style-type: none"> <li>a. Dialectical problems</li> <li>b. Language differences</li> <li>c. Linguistic gaps</li> <li>d. Nouns</li> <li>e. Culture-specific concepts</li> </ul>
<p><b>Discussions</b></p> <p>The fact that South African has many languages with their dialects spoken across the nation, interpreters are met with the challenge of translation. Nouns are untranslatable therefore interpreters must have to borrow from the source language that noun or translate it according to its function. Certain sporting activities and customs do not apply in other languages because they do not have names in that languages. Interpreters were found to be using/interpreting from the source language a wrong concept that does not render a relevant meaning in the target language. They are bound to use transliteration or borrow from the source language. In a case of cultural concepts, explanatory interpretations were used because that concept did not have a referent in the target language. Discourse levels were also found to pose challenges especially when translated at the lexical or semantic levels and end up not portraying the same illocutionary and locutionary acts intended by the source language. Interpreting speech acts such as polite requests in courtroom question can cause difficulties in some languages. However, in English polite requests are normally performed indirectly by the use of modal interrogatives such as ‘could you please tell the court what really happened on the day in question?’ when interpreting these utterances, they should know that it is just an indirect speech act functioning as a polite request and not a question about the witness’s ability to speak or his or her potential lack of the truth. In most in not all court the study was based on, court interpreters were found to be unaware of the significance of such courtroom discourse and consequently tended to unjustifiably omitted or disregarded them.</p> <p>The omission of discourse makers to preface lawyer’s questions, omission of coercive tag question during cross-examination was found to change level of politeness, change the style and register in the witness testimonies leading to different evaluation of character.</p> <p>The standard of language used by court officials was full of legal jargon, pompous</p>	

and course interpreters to fail rendering a translation and the accused got confused as a result answered wrongly.

#### 6.2.5 Accuracy of question by interpreters

Focus	Summary of findings
Are the questions asked by interpreters allow the accused/witness to respond promptly?	<ul style="list-style-type: none"> <li>a. Accuracy, competency and professionalism</li> <li>b. Directedness and ambiguity</li> </ul>
<p><b>Discussions</b></p> <p>In most instances, court interpreters do not interpret the questions asked accurately. They often omit and add from source utterances. This action by interpreters ends up altering the meaning of what is expected as a response by witnesses/accused persons. The omission, addition and alteration of utterances out of the source language conflicts with the standard of practice for interpreters. The most omitted words are words describing distances and the impact on how things happened. Slimbene (1999:650) states that nuances of meaning are critical in a courtroom because any change can alter witnesses/accused recollection of events. In case of assault that was observed at Tonga Magistrate court, the prosecutor read from the statement by the defendant that ‘I arranged with Mpho for us to meet outside’. The interpreter interpreted the statement as ‘I arranged with a certain lady for us to meet outside’. The interpreter replaced ‘Mpho’ by ‘a certain woman’. This omission and replacement, changed the essence of the meaning in a way that sounded like the defendant did not know the woman’s name prior to the arrangement. Accuracy requires that interpreters bring to their work the ability to convey the totality of what was communicated both verbal and non-verbal (Salimbene: 1997). However it was also noticed in this study that interpreters fail to interpret non-verbal communications.</p> <p>Unprofessionalism is another factor contributing to interpreters’ incompetency. Here interpreters are required to avoid conflict of interest maintaining confidentiality and avoid public comments. Showboating to the gallery making the</p>	

gallery happy at the expense of people facing criminal justice was prevalent during observations in the study. Drunkenness, use of cell phones during the proceedings and eying the gallery by interpreters during sessions put South Africa's justice system in jeopardy. Some interpreter were found to be attention seekers from the audience. They would add or say things that makes the gallery laughing and entertained, which shows lack of professionalism because in a court is no place for jokes. For persons to be in court means something serious has happened and seeing people joking and laughing about what is happening in peoples real lives is a disgrace to those persons.

Indirect questions were sked in form of statements but not in all courts observed.

*6.2.6 Repetition, interference and tone of questioning by interpreters.*

Focus	Summary and findings
Repetitions and interference	<ul style="list-style-type: none"> <li>a. How is interference and repetition of questions used during court proceeding?</li> <li>b. Does the tone of interpreter allow the witness/accuse to answer freely.</li> </ul>
<p><b>Discussions</b></p> <p>It was found to be a common thing for magistrates, presiding officers and layers to interfere and make interpreters repeat what he or she said for the reasons of either correcting or rephrasing himself or herself. A magistrate interfered if there was a conflict between the lawyer and the interpreter in order to make them to agree on which correct word must be used in the court house. They also interfere to recall the interpreter to pay attention and listen very carefully if he or she seemed disturbed by something. However when speakers tended to speak in a low voice and the interpreter did no hear or get exactly what was said, they do not interfere the proceedings by asking the court to request the speaker to repeat. They try to interpret what they think they heard, which was found to be incorrect and ended up changing the witness or the accused's testimony.</p> <p>Lawyer use interference during the trial to make witnesses /accused change their responses and lead them to contradict themselves. They use this strategy to make them conflict witnesses to dig out the truth, where the magistrate will interfere and</p>	

request the lawyer to proceed to other questions it is over emphasised.

Interpreters were found to use tone to show impartiality during the trials. An interpreter in one court, who thought the defendant had lost his mind after he was physically assaulted by a family relative, interpreted his testimony in a laughing and sarcastic tone. The defendant felt demoralised and thought he was the joke inside the courtroom. These actions caused the defendant to feel small as the gallery laughed to how he was interpreting; and began to answer in a low voice until he was quiet, not talk anymore. His case was dismissed because of lack of evidence. The person who injured him went scotch free and justice was miscarried.

### **6.3 Recommendations**

As a consequence of the outcomes of this study, the following recommendations are made.

#### *6.3.1 Recommendation for the Department of Justice Pertaining Court Interpreters in South Africa*

The study has concluded that Department of Justice (Doj) ignored and disregarded to take court interpreting as a highly specialised activity despite the fact that too much has been said and written about the incompetent interpreting of court interpreters. Therefore, it is recommended that the Doj consider this profession as serious and complex as it is in order to achieve systematic improvements that would lead to a better administration of justice.

Court interpreters are highly unqualified to do interpreting in courts. They are employed on the basis of grade 12 certificate; and the fact that they are conversant in at least two local languages, perpetuating the idea that a mere knowledge of two local languages, without pre-service training, grants the person ability to interpret between those languages, is not the enough. This selection criterion can hardly be considered adequate interpreting skills required for successful interpreting. Boers (2014) states that not every bilingual is capable of transferring a message accurately. In this case, the Doj needs to send the newly appointed interpreters to the Justice College to learn appropriate skill such as excellent knowledge and

command of both working languages, specialised courtroom terminology, productive, receptive and analytic skills, good conduct and ethical consideration. Attendance of such programmes should be monitored, regulated and made compulsory to all interpreters.

Critical measures to insure quality on court interpreting should be put in place, not only in high profile cases of huge public interest. This means that performance of court interpreters must be tested and evaluated at regular intervals and accreditation should be introduced. For quality assurance, the Department of Justice should change entry levels of court interpreters by introducing pre-verbal /oral testing and written test before recommending a court interpreter for employment. Like other professions, SATI should regulate court interpreting by introducing quality assurance standards.

The study also concluded that prolonged periods on task, lack of familiarity with relevant terminology, excessively fast or incoherent speakers are most applicable in court interpreting than any other setting. Therefore, there must be an introduction of team interpreting, especially in trials that are running for long hours to avoid fatigue and stress. Interpreters should be subjected to learn a language for special purpose as one of their modules in order to improve interpreting skills.

### *6.3.2 Recommendations for Future Research*

With regard to the limitation of this study, it is recommended that video recording be allowed as data collecting tool for the recording of consultations. The use of an unobstructive high-tech video camera will eliminate the affectation of participants when the presence of the researcher is removed.

## **6.4 Conclusion**

This study aimed at evaluating the extent to which meaning of courtroom interpreted testimony is lost during trials. The study looked at the contributing factors of loss of meaning and suggested strategies to improve the miscarriage of justice in South Africa.

Chapter one presented the introduction and the background to the study it put the problems inherent to loss of meaning in court interpreting context and introduced issues that were discussed in the study. Chapter two, the literature relevant to the germane issues of this study were revealed. The review revealed some contributing factors leading to loss of meaning during interpreting testimony in magistrate courts.

The research methodology was discussed in chapter three. The study adopted qualitative research design using questionnaires and observation as tools to collect data from 15 magistrates, 15 court interpreters, and 10 court managers in fifteen magistrate courts of Mpumalanga province. Analysis was done using the SPSS software for participants' background information and the Nvivo to code the research questions from questionnaires.

Findings from questionnaires were presented in chapter four. Participants' background information was presented in tables and graphs. Themes emerging from the objective of the study showing factors contributing to loss of meaning in court interpretation of testimony were identified and discussed. Chapter five presented and analysed findings from the observation sheets. Issues addressing loss of meaning in court interpreted testimony which were left outside questionnaire were also discussed.

In the last chapter, findings were summarised and discussed. In summary the study examined loss of meaning in court interpreted testimony is done and the extent to which people are denied justice in the province of Mpumalanga. Particular suggestions were given and recommendations were made to assist the Department of Justice improve the state of justice in South Africa.

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## ANNEXTURE 1

Enq: Mafuyeka S.S

Cell: 060 644 5140

P. O. BOX 741

Ximhungwe

1281

06 July 2015

TO WHOM IT MAY CONCERN

### RE: LETTER OF CONFIDENTIALITY

This letter serves to guarantee confidentiality to all participants in the research activities and questionnaires utilised during the research period. All information discussed and gathered through this study shall remain confidential until this

research is publicised, and no name of a person shall be mentioned in the outcome of the research.

Thanking you in anticipation.

Yours Faithfully

Mafuyeka S.S.  
Phd Research Student  
University of Limpopo

Student Number  
9436768

## ANNEXURE 2

### CONSENT FORM FOR PARTICIPANTS

EVALUATION OF LOSS OF MWANING IN COURTROOM INTERPRETED  
TESTIMONY: A CASE OF MPUMALANGA

Please tick the box if you agree

I have heard the information on the proposed study and was given opportunity to ask questions and enough time to rethink the issue	<input type="checkbox"/>
I understand that participation in the study is voluntary and I may withdraw from it anytime without providing a reason.	<input type="checkbox"/>
	<input type="checkbox"/>

I agree to take part in responding to questionnaires of the evaluation of loss of meaning in courtroom interpreted testimony for magistrate courts in Mpumalanga province.	
I agree to give in relevant information in the questionnaire to the best of my knowledge and that the information be used in the study.	
I understand that the information received from me will be treated with confidentiality and anonymity.	

Name.....

### ANNEXTURE 3

#### Questionnaire for Courtroom Interpreters

As part of my Phd research thesis at the University of Limpopo (Turfloop Campus), I am conducting a survey that *investigates and evaluate loss of meaning in courtroom interpreted testimony in Mpumalanga magistrate courts*. I will appreciate if you could answer the following questions. **Any information obtained in connection to this study that can be identified with you shall remain confidential:** This questionnaire consist of TWO parts, answer all.

**Part (i):** Respondent's personal details:

Identification name.....Age.....Race.....

Gender.....Home language.....Second language.....

Third language..... Work experience.....

**Part (ii)** Respondent's answers:

Fill in answers on the space given.

1.1 What are the minimum requirements for first time courtroom interpreters?

.....  
.....  
.....  
.....

1.2 Which criterion is used to recruit willing and interested courtroom interpreters?

.....  
.....  
.....

1.3 What is your highest qualification for court interpreters?

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.....  
.....

1.4 Do court interpreters undergo any kind of training (job specification) before they could start interpreting?

.....  
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.....

1.5 Have you received any training before you could start with your job as a court interpreter?

.....  
.....  
.....

1.6 Do court interpreters have any qualification toward Law? If yes, explain.

.....  
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.....

1.7 How often do court interpreters receive in-service training to improve their skills?

.....  
.....  
.....

1.8 Have the magistrate ever interrupted court proceedings due to inaccurate interpreting? If yes explain.

.....  
.....  
.....

1.9 What are the causes of inaccurate interpreting by court interpreters?

.....  
.....  
.....

1.10 Do court interpreters find themselves bound to be called on duty to interpret in a language beyond their competence? If yes, explain.

.....  
.....  
.....

1.11 In your knowledge, do court interpreters have any special language course?

.....  
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.....

1.12 In your knowledge, what is the stipulated time-on-contact/period of engagement for court interpreters?

.....  
.....

1.13 Do interpreters sometimes work beyond the allocated time-on-contact? Briefly explain.

.....  
.....  
.....

1.14 What language problems do the court interpreters usually encounter during their interpreting sessions?

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.....

1.15 What other problems do interpreters encounter during interpreting sessions? Briefly explain.

.....  
.....  
.....

1.16 Have you ever received any complaint about the standards of interpreting from the public or the accused and witnesses?

.....  
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.....

1.17 Does the department of Justice have anything in place to assist court interpreters curb any inaccurate interpreting during court sessions? Briefly explain.

.....  
.....  
.....

*Thank you for your honest participation.*

#### **ANNEXTURE 4**

##### Questionnaire for Magistrates

As part of my Phd research thesis at the University of Limpopo (Turfloop Campus), I am conducting a survey that *investigates and evaluate loss of meaning in courtroom interpreted testimony in Mpumalanga magistrate courts*. I will appreciate if you could answer the following questions. **Any information obtained in connection to this study that can be identified with you shall remain confidential:** This questionnaire consist of TWO parts, answer all.

**Part (i):** Respondent's personal details:

Identification name.....Age.....Race.....

Gender.....Home language.....Second language.....

Third language.....Work  
experience.....

**Part (ii)** Respondent's answers:

Fill in answers on the space given.

1.1 What are the minimum requirements for first time courtroom interpreters?

.....  
.....  
.....

1.2 Which criterion is used to recruit willing and interested courtroom interpreters?

.....  
.....  
.....

1.2 What is your highest qualification for court interpreters?

.....  
.....  
.....

1.3 Do court interpreters undergo any kind of training (job specification) before they could start interpreting?

.....  
.....  
.....

1.4 Do court interpreters have any qualification toward Law? If yes, explain.

.....  
.....  
.....

1.6 How often do court interpreters receive in-service training to improve their skills?

.....  
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.....

1.7 Have the magistrate ever interrupted court proceedings due to inaccurate interpreting? If yes explain.

.....  
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.....

1.8 What are the causes of inaccurate interpreting by court interpreters?

.....  
.....  
.....

1.9 Do court interpreters find themselves bound to be called on duty to interpret in a language beyond their competence? If yes, explain.

.....  
.....  
.....

1.10 In your knowledge, do court interpreters have any special language course?

.....  
.....  
.....

1.11 In your knowledge, what is the stipulated time-on-contact/period of engagement for court interpreters?

.....  
.....  
.....

1.12 Do interpreters sometimes work beyond the allocated time-on-contact? Briefly explain.

.....  
.....  
.....

1.13 What language problems do the court interpreters usually encounter during their interpreting sessions?

.....  
.....  
.....

1.14 What other problems do interpreters encounter during interpreting sessions? Briefly explain.

.....  
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.....

1.15 Have you ever received any complaint about the standards of interpreting from the public or the accused and witnesses?

.....  
.....  
.....

1.16 Does the department of Justice have anything in place to assist court interpreters curb any inaccurate interpreting during court sessions? Briefly explain.

.....  
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.....

*Thank you for your honest participation.*

## **ANNEXTURE 5**

### Questionnaire for Court Managers

As part of my Phd research thesis at the University of Limpopo (Turfloop Campus), I am conducting a survey that *investigates and evaluate loss of meaning in courtroom interpreted testimony in Mpumalanga magistrate courts*. I will appreciate if you could answer the following questions. **Any information obtained in connection to this study that can be identified with you shall remain confidential:** This questionnaire consist of TWO parts, answer all.

**Part (i):** Respondent's personal details:

Identification name.....Age.....Race.....

Gender.....Home language.....Second language.....

Third language..... Work experience.....

**Part (ii)** Respondent's answers:

Fill in answers on the space given.

1.1 What are the minimum requirements for first time courtroom interpreters?

.....  
.....  
.....

1.2 Which criterion is used to recruit willing and interested courtroom interpreters?

.....  
.....  
.....

1.3 What is your highest qualification for court interpreters?

.....  
.....  
.....

1.4 Do court interpreters undergo any kind of training (job specification) before they could start interpreting?

.....  
.....  
.....

1.5 How often do court interpreters receive in-service training to improve their skills?

.....  
.....  
.....

1.6 Do court interpreters find themselves bound to be called on duty to interpret in a language beyond their competence? If yes, explain.

.....  
.....  
.....

1.7 In your knowledge, do court interpreters have any special language course?

.....  
.....  
.....

1.8 In your knowledge, what is the stipulated time-on-contact/period of engagement for court interpreters?

.....  
.....  
.....

1.9 Do interpreters sometimes work beyond the allocated time-on-contact? Briefly explain.

.....  
.....  
.....

1.10 What language problems do the court interpreters usually encounter during their interpreting sessions?

- .....  
 .....  
 .....
- 1.11 Have you ever received any complaint about the standards of interpreting from the public or the accused and witnesses?  
 .....  
 .....  
 .....
- 1.12 Does the department of Justice have anything in place to assist court interpreters curb any inaccurate interpreting during court sessions? Briefly explain.  
 .....  
 .....  
 .....

*Thank you for your honest participation.*

**ANNEXTURE 6**  
**COURTROOM RESEARCH OBSERVATION SHEET**

**Courtroom Proceedings Observation**

Identification Code \_\_\_\_\_

Location \_\_\_\_\_

Date \_\_\_\_\_

The following observation is aimed to address the objectives of the study by providing more information outside the questionnaire.

**1. Accuracy of Questions by the Presiding Officer and Lawyer during the proceedings:**

1.1 Are the questions asked accurately to enable the accused and witness persons to answer promptly?

\_\_\_\_\_

\_\_\_\_\_

**2. Directness and ambiguity of question:**

2.1 Are the questions asked directly or indirectly?

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**3. The tone of questions asked:**

3.1 Does the interpreter' tone of questions allow or prevent the accused or witness to respond freely and honestly?

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3.2 Does the voice of the interpreter influence the response of the accused or the Witness?

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**4. Repetition:**

4.1 How is the repetition of questions used during court proceedings?

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4.2 What is the effect of the interpreter's repetitions during interpreting sessions?

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**5. Complexity:**

5.1 Are the questions simple or complex for the Witness and the accuse persons to clearly understand?

---

---

**6. The standard of language used in court:**

6.1 What is the standard of language used in court?

---

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6.2. Does the standard of language used by the in court render the interpreter at a loss?

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**7. Length of questions:**

7.1 For how long is one participant exposed to questions on the stand?

---

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7.2 What kind of effect does the lengthiness or shortness of questions have of the respondents?

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**8. Interference :**

8.1 How is interference used in court during proceeding?

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