

**EFFETIVENESS OF LANGUAGE INTERPRETATION
IN CASE MANAGEMENT
AT THE CHIEF MAGISTRATE'S COURT AT KISUMU**

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DECLARATION

I hereby declare that this Management Research Project is my original work and has not been presented at any other University for a Degree or any other academic award.

This project has been submitted with my approval as University Supervisor.

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ABSTRACT

Language is the most basic tool of management of cases by the courts. Lack of interpreting and or interpretation services prevents parties, victims, and witnesses from using the courts to meet their obligations and resolve their disputes. Without a skilled interpreter, a party who speaks or hears no English or has limitations in the use of English cannot listen to the testimony, challenge the evidence, or consult with an attorney. A person who cannot communicate with the judge faces a barrier as significant as a lock on the courthouse door.

Kenya is becoming increasingly diverse and multicultural. People who do not speak, hear, or understand either English or Kiswahili, the statutory languages of the court, are appearing more and more often in court as litigants and witnesses. Their need to communicate with the courts can be met through the use of qualified interpreters, but finding such interpreters is difficult. Interpreter problems are becoming an urgent management issue for many Kenyan courts, falling into four broad groupings: firstly, determining the qualifications of interpreter candidates, then expanding the pool of qualified interpreters, to improving distribution of interpreters to make them available and affordable, and finally providing proper oversight of interpreter work in court.

The research established that whereas most consumers of the services of the judiciary appreciate the role played by interpreters in court, most of them (consumers are not satisfied with the quality of interpretation as is being done currently. Courtroom work is a particularly difficult kind of interpreting, since it is highly procedural, moves quickly, and employs its own specialized vocabulary. From the interaction with the Respondents, it was established that the results often turn on the nuances of a written document, an exchange of words, or a party's intent. At the same time, testimony often involves street talk and slang in two languages, and a great deal of emotion may be conveyed in a few words. Even professional interpreters who perform well in community settings may be unqualified for the rigors of legal interpreting.

When a court uses an unqualified interpreter or no interpreter at all, the result is denial of access to court proceedings. The Kenyan Court of appeal has said that "the right to an interpreter is fundamentally a right which safeguards the fairness of the process," holding that interpreters must be appointed for criminal defendants in the interests of fair treatment and effective

assistance of counsel. Fairness is equally important in civil cases such as divorce and property division, child custody and support, eviction, debt collection, or loss of a driver's license. Such cases can have a profound impact on people's lives. When immigrants and deaf persons are forced to proceed with an inadequate interpreter or no interpreter at all, they are left with the impression that the government is indifferent to their participation. There is also a serious loss of accountability from proceeding with an unqualified interpreter.

There are too few qualified interpreters at the Chief Magistrate's Court at Kisumu with the result that instead of the activity being a positive management tool in case management, the same has turned out to be an hindrance and a bottleneck. There are no interpreters who can accurately, easily, and impartially convey a legal proceeding from English or Kiswahili to another language and back. At the same time, there are too many unqualified interpreters assisting the courts, people who should not be used in court if the goals are accuracy, completeness, and impartiality are compromised. Some courts are mistakenly content with whichever interpreter is most easily available; the untrained court clerk, or a friend or relative of the party. Unfortunately, many of these interpreters are woefully under-qualified for the job in ways that are not apparent to a person who does not speak both languages.

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CHAPTER ONE: INTRODUCTION

1.1.0. Background of the Study.

According to Arieu (2007), "there is strategic consistency when the actions of an organization are consistent with the expectations of management, and these in turn are with the market and the context." Hay (1990), says that administrators and directors of non-profit organizations (NPOs) face most of the same challenges and problems that confront their counterparts in profit making organizations. And while there are certain concepts of administration that are fairly universal in nature, they have to be applied sensitively to the unique situations facing every NPO. Hay suggests that there is a body of knowledge that can be mastered by NPO managers that can transform a hit-or-miss approach into a professional method for achieving professional results within the context of each NPO's own unique environment, strengths and weaknesses, and managerial philosophy.

Bryce (2000) states that managerial success in the nonprofit sector comes from a commitment to a core range of unique competencies grounded in the legal, financial, and environmental constraints in which nonprofit organizations are required to operate. Accordingly, courts are nonprofit making organizations which in their practice and provision of judicial services must adhere to the principles of strategic management in the same way that profit making organizations do.

According to Walker (1980), a court is a form of tribunal, often governmental institution, with the authority to adjudicate legal disputes between parties and carry out the administration of justice in civil, criminal, and administrative matters in accordance with the rule of law. In both common law and civil law legal systems, courts are the central means for dispute resolution and it is generally understood that all persons have an ability to bring their claims before a court.

Similarly, the rights of those accused of a crime include the right to present a defense before a court. Courts must be result oriented in their provision of services.

The courts must deal with the issues before them justly. In dealing with a case justly includes, so far as is practicable, ensuring that it is dealt with expeditiously and fairly; dealing with the case in ways which are proportionate to the nature, importance and complexity of the issues; ensuring that the parties are on an equal footing; saving expense; and allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases. The provision of the services of an interpreter is one of such resources. Interpreters in courts form part of the human resource to which strategic management applies.

The practice of interpreting dates back at least as far as the dawn of recorded history. According to Harris (1997), interpreting has been "documented in stone since the time of the Pharaohs." With specific reference to judiciary interpreting, Colin and Morris (1996) cite interpreted trials in 1682 and 1820 that were landmarks in English jurisprudence. A series of interpreted trials, the prosecution of the Nazi war criminals at Nuremburg in 1945-46, was a watershed for the interpreting profession because it was the first instance of the use of equipment to provide simultaneous interpretation. As observed by Seleskovitch (1978), conference interpreters cite these trials as a key stage in the development of their own profession.

An interpreter is a person who converts an expression of a source language into an equivalent expression in a target language (Black's Law Dictionary, 1999). The interpreter's work is to convey every semantic element and feeling of the message that the source-language speaker is directing to the target-language audience. Interpretation is the practice of oral and sign-language communication, simultaneously and consecutively, between two different languages. Interpreting and interpretation provide a description for this process.

1.1.1. The Concept of Interpretation

Professionally, interpreting depicts the act of facilitating communication from one language form into its equivalent, in another language. Interpretation denotes the message rendered into speech, sign language, writing and non manual signals. A big amount of people confuse translation with interpretation. The main difference is that translation is written, while interpretation is verbal. In order to interpret a text the interpreter must be able to receive and understand the incoming message and then express it's meaning in the target language. Interpretation is also held to a different standard of accuracy than translation. While interpreters try to achieve total accuracy at all times, details of the original speech can be omitted from the interpretation into the target language, without a pause.

Interpreting occurs in real time, in the presence of the parties for whom the interpreter renders an interpretation. In order to accomplish this task, the interpreter must go through an overlapping series of cognitive processing activities. These include: attending to the message, concentrating on the task at hand, remembering the message, comprehending the meaning of the message, analyzing the message for meaning, visualizing the message nonverbally, and finally reformulating the message in the target language.

Just as in any other jurisdiction, if a court uses an unqualified interpreter or no interpreter at all, the result is **denial of access** to court proceedings. The Kenya Court of Appeal has said that “**the right to an interpreter is fundamentally a right which safeguards the fairness of the process,**” holding that interpreters must be appointed for criminal defendants in the interests of fair treatment and effective assistance of counsel.

In Bernard Wachira Kamonye –vs. Republic, [2008] eKLR, at page 3 the court quoted extensively from a decision in Abdalla vs. Republic [1989] KLR saying; “Because of the complaint alleging failure to interpret the proceedings...This court has recently held that it is a fundamental right of an accused person charged with a criminal offence to have the assistance of an interpreter through whom the proceedings shall be interpreted to him in a language which he understands.... “in the circumstances there was a breach of the Appellant’s constitutional and fundamental right which is fatal to the proceedings....” In Livingstone John Muthike Wanagru –vs. Republic, [2008] eKLR, the High court sitting at Nyeri said; “The requirement of the provision of an interpreter during criminal trials in a language in which the accused understands is a mandatory requirement and its compliance ought to be reflected in the record of the court proceedings. It cannot be a matter for conjecture...”

Fairness is equally important in civil cases such as divorce and property division, child custody and support, eviction, debt collection, or loss of a driver’s license. Such cases can have a profound impact on people’s lives. When immigrants and deaf persons are forced to proceed with an inadequate interpreter or no interpreter at all, they are left with the impression that the government is indifferent to their participation. There is also a serious loss of accountability from proceeding with an unqualified interpreter.

Seleskovitch (1978) compresses these tasks into three steps, noting that the second step includes the, Immediate and deliberate discarding of the wording and retention of the mental representation of the message. In the words of Seleskovitch (1978), interpreters often refer to this as “dropping form.” By discarding words, structure or the source text the interpreter is free to concentrate on extracting and analyzing the meaning of the text, and conceiving strategies for reformulating the message into the target language. Consecutive and simultaneous interpreting

employ the same cognitive processing skills, with the only difference being the amount of time that elapses between the delivery of the source utterance and the delivery of the interpretation.

1.1.2. Challenges of Interpretation.

At Section 86 (1) of the Civil Procedure Act, chapter 21 Laws of Kenya; “The language of the High Court and the Court of Appeal shall be English, and the language of the subordinate courts shall be English or Kiswahili.”

Section 198 (4) of the Criminal Procedure Code, chapter 75 of the Laws of Kenya; “The language of the High Court shall be English, and the language of the subordinate court shall be English or Kiswahili.”

Rule 4 (1) of the Evidence (Out of Court Confessions) Rules, 2009. states that an accused person must be allowed to state his preferred language and should be provided with an interpreter, free of charge, where he does not speak either Kiswahili or English.

Shuttleworth and Cowie (1997), state that Court Interpreting is a term that refers to all kinds of legal interpreting; either it takes place in a courtroom or in other legal settings, such as police departments, prisons, immigration authorities . Its basic purpose is to enable the client to participate in proceedings and provide communicative links between claimants, who usually belong to immigrant communities, and the adjudicating body thus ensuring the effective exchange of messages and the success of legal processes. Court interpreters cover virtually all kinds of legal cases involving people of different age groups, cultural backgrounds, social status and literacy competence.

Therefore they need to have general knowledge of various cultural elements and extensive command of vocabulary, ranging from formal legal language to slang and colloquialisms. Unclear material is another critical issue and a major dilemma for interpreters in legal settings. According to Ruth Morris (1995), rules imposed by the court usually forbid the court interpreter to address questions directly to a witness. This is a severe flaw that creates deficiencies in the rendering of a speaker's words and affects the quality of interpreting.

Brennan (1999) states that the burden of interpreters' responsibilities and the moral dilemmas they face are much more severe when they concern bridging cultural and linguistic gaps in legal contexts where deaf claimants are concerned. Deaf people often view the interpreter as an advocate or an ally, since he/she is the only communicative link between them and the adjudicating body. In these settings it is very difficult for the interpreter to be an invisible presence by performing simple translation tasks and often becomes obtrusive by trying to fill in information gaps, since there are inherent differences between sign and spoken language and concepts that need to be clarified.

Therefore, interpreters face dilemmas concerning lexical modifications, when they believe that use of certain signs will be difficult for deaf persons to understand or when there is no clear correspondence between specific elements of the two languages. Brennan (1999) compares the English language and British Sign Language (BSL) in courtroom settings and states that an ongoing problem for interpreters is the fact that speakers often use English generic terms for which BSL has no direct equivalents. For example, while the English word *hit* does not clarify how or where someone was hit, the BSL tends to be more specific. In this case, the interpreter has to act as mediator and make additions, so as to transmit concrete and eligible information.

It is evident that interpretation in judicial contexts is problematic, since it is restricted to an inflexible and transparent translation process. Therefore, the vital goal of achieving ultimate

accuracy through the interplay of culture becomes complex and often unachievable. (Seleskovitch, 1978). The future of legal interpreting seems ambiguous. The role of court interpreters as agents of culture and negotiators of alien elements and meaningful information is underestimated and reduced to that of a translation device. The deficiencies of the legal norms in this field places emphasis on the need for a formal system that will establish clearer patterns of interpreting behaviour and allow legal interpreters to play an active role in court interactions, so as to translate flexibly, express concepts and meanings and finally draw attention to speakers' foreignness.

As Gamal (1998) puts it, education for proficient court interpreting has to be ameliorated. Academic institutions should provide courses and training, seminars and workshops and finally professional certificates for court interpreters 'in an attempt to bridge the gap between "generalist" academic training in interpreting and the specific standards and skills required in the professional world'

1.1.3. Case Management

Time and effort have to be invested in case management so that the progress of litigation is effectively monitored. Apart from anything else, the investment enables a judge (rather than the lawyer or litigant) to take control of the case. A judge can, thereby, optimally utilize his time for performing core judicial functions for effective dispute resolution, rather than spend it on peripheral issues, which can be dealt with by others.

Management of cases involves the use and or optimal utilization of resources for purposes of processing cases by way of expeditious and meaningful trials. A trial in a court of law begins with the taking of a plea; reading out and explaining the charges or accusations to the person

accused of committing an offence. It is the work of the judicial officer before who this accused appears who must ensure that the charges are read and explained to the accused in a language he (accused) is conversant in. Section 274 of the Criminal Procedure Code requires that an accused person must be placed before the court and the information (charge sheet) shall be read over to him by the Registrar or other officer of the court, and "... explained if need be by that officer or interpreted by the interpreter of the court...". This is followed by the actual hearing of the case during which activity witnesses are called and are lead in their testimony. The person accused is then invited to question the witness in such a way that his questions are focused on weakening the accusations against him. The presiding officer (a magistrate or a judge) sits as the non-partisan umpire during the trial.

Article 50 of the Constitution of Kenya, 2010, provides for the rights to a fair hearing of a person accused of any offence before a court of law or any other tribunal. These right include the right to have adequate time and facilities to prepare a defence, the right to have the trial begin and conclude without unreasonable delay, to have the assistance of an interpreter without payment if the accused person cannot understand the language used at the trial and many more others. The provision of an interpreter and the attendant services are tools for case management. The availability, the training, the efficiency and effectiveness of the interpreter and the services of interpretation positively or negatively affect the speed as well as the quality of a trial.

1.1.4. The Chief Magistrate's Court at Kisumu

The Chief Magistrate's court at Kisumu serves all and singular persons seeking legal, administrative as well as quasi-legal services within and some times from outside its geographical jurisdiction. The Chief Magistrate's court has a wider administrative jurisdiction

than the boundaries of the Municipality of Kisumu. Administratively, the Senior Principal Magistrate's court at Siaya, the Senior Resident Magistrate's court at Nyando, the Principal Magistrate's court at Maseno, the Resident magistrate's court at Tamu and the Senior Resident Magistrate's court at Winam fall under the Chief Magistrate's court although to some extent these stations enjoy limited autonomy based on the fact that their decisions are independent of the head station.

The Chief Magistrate's court at Kisumu falls within the courts described as subordinate courts as set out in the Constitution of the Republic of Kenya, 2010 at Article 169 (a). These courts deal with and make decisions in regard to commercial, criminal, civil, and personal issues such as divorce, maintenance, inheritance as well as administrative matters. The Chief Magistrate has the highest monetary jurisdiction, currently at Kenya Shillings Three Million, while those courts below, i.e. the Senior Principal Magistrate, the Principal Magistrate, the Senior Resident Magistrate, the Resident Magistrate and the District Magistrate (Professional) have varying monetary jurisdictions depending on their gazetted limits. In addition to the limitations based on the monetary value of the issues to be decided on, there are other limitations as to the nature of the issues themselves. There are courts (read magistrates) which are given special powers to listen to specific types of case.

Under 73 (d) (ii) of the Children Act (Act No.8 of 2001), section 47 of the Law of Succession Act (Chapter 160 Laws of Kenya) and Section 3 (1) of the Anti-Corruption and Economic Crimes Act (Chapter 65 Laws of Kenya) specific magistrates have to be gazetted in the Kenya Gazette for them to preside over cases relating to children, corruption and succession of the estates of deceased persons. In all the cases, courts under the Chief Magistrate's court at Kisumu, as are those in other regions within the country deal with persons drawn from the entire population spectrum of the Republic of Kenya.

The single issue on interpretation, the interpreters' competence, accuracy and availability affect the efficiency of the efficiency in the provision of judicial services and hence case management at the Chief Magistrate's Court at Kisumu.

1.2.1. Statement of the Problem.

In the case of court interpreting, such battles are fought by people who cannot speak and understand the legal setting language and the presence of an interpreter is considered essential as a mediator and a necessary contributor in overcoming language barriers and ensuring communication.

According to Mikkelson (2000), interpretation in such contexts is bound with ethical standards and considerations that interpreters have to uphold in order to operate effectively and avoid jeopardizing a case's outcome. Such ethical principles involve fidelity, confidentiality, impartiality and professional conduct.

Accuracy, in legal contexts stands for total equivalence of a claimant's utterances, including dialectal correspondence, stylistic features of speech . However, interpreters often have the tendency to either eliminate a speaker's foreignness, by raising the level of formality when interpreting into the courtroom language, or lowering it, when interpreting into the language of the claimant, in order to establish mutual comprehension.

Several authors, González et al. (1991), Berk-Seligson, (1990); Mikkelson. (1993), and Mikkelson, (1998), have examined the function of the interpreter in criminal proceedings in other jurisdiction. They agree that interpreting in courts is complex than in other arenas of human affairs because of the intersection of different cultures and languages in a system that has always

proven to be rather inflexible and slow to adapt to new developments in the surrounding society. Accordingly, it is crucial that the courts not apply a mechanical model to the role of legal interpreters. They are more than instruments for communicating across linguistic boundaries. They are professionals who cannot function well unless judges, lawyers and other courtroom personnel have some appreciation of what interpreting involves and are prepared to collaborate fully in the process of making justice available to those who are language handicapped.

As Berk-Seligson (1990) has pointed out, the interpreter has a great deal of influence on the jury's perception of a witness whose testimony must be interpreted for them. However, interpretation in such contexts is bound with ethical standards and considerations that interpreters have to uphold in order to operate effectively and avoid jeopardizing a case's outcome. Mikkelsen (2000) has condensed these into ethical principles which involve fidelity, confidentiality, impartiality and professional conduct.

According to Musau, (2003), English remains the language of power and elitism in Kenyan society. This situation reflects in the real life situation in Kenya particularly, the proceedings in courts. Gatitu (2009), states that the role of court interpreters in Kenya needs to be defined so that it is clear what their duties are in relation to other actors in the courtroom and in the administration of justice. Coupled with this, a code of ethics governing court interpreters would guide interpreters in the many professional dilemmas and challenges they face on a day-to-day basis. A code of ethics would assist court interpreters in using the enormous power they wield in a responsible manner and would promote the public's confidence in them and in the judicial process as a whole.

This study is going to answer the following question; what is effectiveness of language interpretation in the management of cases at the Chief Magistrate's Court at Kisumu?

1.3. The Research Objective

To establish the effectiveness of language interpretation at the Chief Magistrate's Court at Kisumu.

1.4. The Importance of the Study

The research will seek to highlight the need and necessity as well as identify the gap in the phenomenon of interpretation in courts with a view to making suggestions for the betterment of management of cases in courts. The research will identify the challenges in the task of interpretation in courts and come up with possible solutions to the same.

To the judiciary, this will increase staff efficiencies by streamlining the overall communication process in courts, introduce economies of scale by providing interpretation services through pooling of trained language interpreters, reduce legal errors by enabling effective communication between all the stakeholders, and improve court users satisfaction with services provided in a native language.

To the parties, the applications of the findings will be a basis on which to seek for enhanced and improved interpretation in court for purposes of accessing justice for those who have limited knowledge and understanding in either English or Kiswahili.

On the overall, the results of the case study shall be used to establish and maintain the institutional infrastructure necessary for the proper administration of justice and promulgate and implement laws and regulations guaranteeing that the proceedings themselves are fair and equitable. In practical terms, this means that governments and judiciaries must take steps to

promote the training, testing, and certification of court interpreters, and to ensure proper working conditions for those interpreters so that litigants who do not speak the language of court proceedings can receive fair trials.

CHAPTER TWO: LITERATURE REVIEW

2.1. Court Interpretation

A court interpreter is an important official in the trial of cases in a court of law. As the pivot of the Court, he bears a heavy responsibility in the administration of justice, and upon him depends to a great degree the proper elucidation of the issues as well as the avoidance of miscarriage of justice. This is especially the case where the Bench, the Public Prosecutor and the Side Bar are not conversant with both the languages used in the proceedings.

In cases where the rest of the court does not understand the language of the accused the interpreter plays a semi-autonomous role. Aiola and Montsi (1999) claim that the interpreters often play a subservient role in relation to the administrators of the courts and frequently internalize the values and attitudes of their court superiors. They refer to a study by Steytler (1993) from what was then Zululand showing the unsatisfactory nature of the quality of interpretation exacerbated by the fact that the rest of the court members were not conversant in Zulu. There was no effective means for checking the veracity of the actual interpretation, given that only the English and Afrikaans languages are recorded.

Several writers, Driesen (1988, 1989); Colin and Morris (1996); Nicholson and Martinsen (1997) and Gale (1998) have commented on the need for better training of court interpreters in Europe. This is especially true of the so-called "minority languages," that is, those spoken by indigenous or immigrant minority groups, and "languages of limited diffusion" (LLDs), the national languages of smaller countries.

2.2. Constraints in Court Interpretation.

Nicholson and Martinsen (1997), writing about Denmark, describe a problem that plagues many countries, not just in Europe, but all over the world: "...trained and/or authorized interpreters are needed only rarely. Courtroom personnel generally express frustration at the fact that it is impossible for them to know just what the witness/defendant says when a less used language is involved. However, some did mention that they feel much more comfortable when interpretation services are required for an English-speaker because they can monitor the input and output. As a result, they have at least a chance of discovering incompetent interpreting".

Thus, the due process rights of certain defendants are seriously jeopardized. It appears that only those who are fortunate enough to be arrested in countries where simultaneous interpretation of the proceedings is the norm, and where interpreters in the relevant language combination are trained to perform simultaneous interpretation and are familiar with the ethical obligations of court interpreters, are guaranteed the right to understand the proceedings and participate actively in their own defense. All other defendants are left wholly or partially in the dark.

Seleskovitch (1978) solidifies the correlation between the cognitive processes involved in consecutive and simultaneous interpreting when she states, simultaneous interpretation can be learned quite rapidly, assuming one has already learned the art of analysis in consecutive interpretation. Consecutive and simultaneous interpreting employ the same cognitive processing skills, with the only difference being the amount of time that elapses between the delivery of the source utterance and the delivery of the interpretation.

In consecutive interpretation while the speaker delivers his speech, the interpreter takes notes and structures his interpretation by abbreviating it opportunely. It reproduces the original speech with an often superior clarity the interpreter do not hesitate much, do not use filler sentences, and non-intentional repetitions. Consecutive interpretation requires additional execution time, which can go from one-tenth to three quarters of the original time. It may be rendered when the interpreter does not have a text in its entirety, that is, the person delivering the source utterance may have more to say, but the interpreter has enough information to deliver a message that could stand alone if need be. As Seleskovitch (1978) points out, in consecutive interpretation the interpreter has the advantage of knowing line of the argument before he interprets.

Simultaneous interpretation takes place during and even in the same time period as the original speech, the interpreter renders their interpretation while still receiving the source utterance, consecutive interpretation has distinct advantages in certain interpreting situations, not the least of which is that consecutive interpretations render more accurate, equivalent and complete target texts. Seleskovitch (1978) states that in the simultaneous mode the interpreter continues to receive and process new information while rendering, and monitoring the target for equivalence.

Kabelska (1990) has done a thorough search of case law on the right to an interpreter under the European Convention on Human Rights, and has concluded that there is no requirement that the entire court file be translated into the defendant's language, or that a simultaneous interpretation of the proceedings be provided. Whereas in many countries it is the practice to provide such an interpretation, assuming there are interpreters available in the appropriate language combination who are capable of performing simultaneous interpretation, in other countries a consecutive summary interpretation is the norm.

It is obvious that even memorizing a half dozen words would distract the interpreter, whose attention is already divided between listening to his own words, and those of the speaker... his memory does not store the words of the sentence delivered by the speaker, but only the meaning those words convey.

Many interpreters regard consecutive as the most difficult mode of interpreting because it is so hard to retain all of these aspects of the source language message, particularly when a question or answer is very lengthy or is not entirely coherent like an unfortunate fact of life in court interpreting. Memory is such an important language and oral communication problem in interpreting specially in consecutive. Some experts like Seleskovitch (1978) mention a sort of strategies which help improve memory skills before beginning to practice consecutive interpretation. Most of them have logical sequence so that the interpreter can work on the individual components of consecutive interpretation and gradually put them together to form a whole.

First, in listening activities, errors often occur in consecutive interpretation because the interpreter was not using good listening skills. For example, if one becomes bogged down in details and fail to grasp the overall meaning of a passage, that one will not be able to recall it correctly. If one is distracted by an unfamiliar word, or an emotional reaction to vulgar language or incorrect usage, that one may stop listening to the rest of the passage and will not be able to recall it accurately.

Second it contains controversial passages that help become aware of how personal prejudices can impede retention and recall, and how identification with the speaker can enhance these skills.

Third, illustrates the value of focusing on key words as an aid to memory. Whether y the

interpreter writes down these words or make a mental note of them, they help organize the ideas into a meaningful structure that is easier to recall than a mere string of disjointed words.

Fourth, it is designed to show how much the interpreter can remember without taking any notes, provided that the original message is clear and logical; it also helps if the content lends itself to visualization. The more coherent the original message, the more you can retain. If the interpreter is unfamiliar with the subject matter, he has more trouble remembering the message.

Fifth, the interpreter has an opportunity to try note-taking again. Some interpreters take very few notes, writing down only names and numbers, while other interpreters take copious notes. The interpreter will find that with some speakers and some subject matter, he can make more notes than with others. Lastly, it contains questions and answers that are typical of the length and detail of the testimony the interpreter is expected to interpret in court.

Bühler (1984, 1986), Kurz (1989, 1993), Gile (1990), Kopczyński (1994) have said that interpretation quality implies the fidelity of the target-language speech, the quality of the interpreter's linguistic output, the quality of his or her voice, the prosodic characteristics of his or her delivery. According to Carroll (1978), Lambert (1978), Varantola (1980), and Cartellieri (1983), fidelity cannot be assessed with any degree of precision without referring to the source-language speech. This makes fidelity assessment difficult in simultaneous interpreting given that it is practically impossible to monitor all of the original speech and all of its interpretation on site.

There are several challenges facing the task of interpreting. Likewise there are several ways of meeting these challenges. First, judiciary interpreters must forge alliances with the stakeholders (court systems, government agencies, and legislative bodies), clients (the legal profession and advocacy groups for non-English speakers), and institutions of learning to raise standards and

enforce them without sacrificing its autonomy. Interpreters must also understand how the law of supply and demand works. At present, there is little demand (in the economic sense) for interpreting services because those who perceive themselves as the interpreter's clients, litigants who do not speak English, have no purchasing power to back up their desire for competent interpreting.

Secondly, the multiplicity of languages involved in judiciary interpreting poses an especially difficult challenge to a profession that is trying to consolidate its strength. The fact that interpreters of different languages face vastly different linguistic and cultural problems is only part of the problem.

There are many skills that interpreters are required to possess. These skills reflect on the challenges faced by court interpreters. Language skills; interpreters need to have a good command of their working languages to interpret accurately. (Seleskovitch, (1978) Jones, (1998), (Gonzalez et al, (1991) as well as Fishberg, (1986) emphasize the breadth and depth of linguistic proficiency required. They are also unanimous in making the point that language is just a prerequisite for mastering the techniques of interpreting.

2.3. The Practice of Language Interpretation.

Gonzalez et al (1991) states that analysis is "foremost" among the strategies employed by court interpreters, "so essential to [simultaneous interpreting] that it can be considered an intrinsic part of the process rather than an ancillary tactic." Writing about conference interpreting, Jones (1998) also stresses how important it is to analyze a speech before interpreting it.

Gentile et al (1996) note, "Effective interpreting requires effective listening skills." Many authors define the specific kind of listening that interpreters perform as "active listening," and further point out that "[t]his active, attentive listening is quite different from other forms of listening, and has to be learned by the interpreter" (Jones, 1998). Memory or recall is also identified as essential by virtually all experts on interpreting, regardless of the type: Seleskovitch (1978) goes as far as asserting that "in interpretation, memory and understanding are inseparable; the one is a function of the other." Having a good memory is especially important for a judiciary interpreter, who must retain and include in the target language message even paralinguistic elements.

As regards effective speaking, Gentile et al (1996) point out, however, that even liaison or community interpreters, who generally interpret in more intimate settings, need to be able to express ideas well: "Effective speaking skills range from quality of voice to choice of idiom, vocabulary, and phrasing. So both what comes out of the mouth of the interpreter and the way it comes out are important in the overall effectiveness of the interpretation "

On culture, Gonzalez et al, (1991) point out that cultural knowledge is also important for court interpreters. Court interpreters are also expected to take culture into account, although they are much more restricted in their ability to educate their clients about cultural differences. Jones (1998) states that "in all of their work, (conference) interpreters must bridge the cultural and conceptual gaps separating the participants in a meeting." Equally, subject knowledge is necessary in court interpretation. It is required in order for the interpreter to interpret accurately. There is a need to acquire technical terminology and content knowledge in relevant fields (Seleskovitch, 1978). All the skills required translate to challenges which must be addressed in circumstances of court interpretation.

CHAPTER THREE: RESEARCH METHODOLOGY.

3.1. Research Design.

The research was undertaken in the format of a case study. According to Fowler (1998), with a good sample, one can have confidence that the results can be generalized to the population under study. Case study research excels at bringing one to an understanding of a complex issue or object and can extend experience or emphasize on what is already known through previous research. It emphasizes detailed contextual analysis of a limited number of events or conditions and their relationships. Social scientists, in particular, have made wide use of this qualitative research method to examine contemporary real-life situations and provide the basis for the application of ideas and extension of methods.

3.2. The Population

The population for purposes of this study was the Judges, Magistrates (the officers of the court who preside over court proceedings) as well as the Advocates, clerks and the litigants within the Chief Magistrate's Court at Kisumu. The focus of the study was at the Chief Magistrate's court at Kisumu. The case study focused on the use and effectiveness of language interpretation in court proceedings at the Chief Magistrate's Court at Kisumu. Although the project lay more emphasis and focus on interpretation in criminal cases, it is appreciated that interpretation applies with equal force in civil as well as quasi-judicial proceedings.

3.3. The Sample Design

The population mentioned above was stratified and classified based on their interests in the processing, case management as well as the outcome of court cases. In a court process, there are

presiding officers, litigants (both in criminal and civil cases), advocates (for the litigants in whatever capacity), prosecutors, court clerks, registry clerks, administrators and listeners of all sorts.

Based on the Central Limit Theorem (Rice 1995) that the conditions under which the mean of a sufficiently large number of independent random variables, each with finite mean and variance, are approximately normally distributed, forty (40) questionnaires were found to be ideal as a representative sample in the study. Accordingly, forty questionnaires were drawn and administered. The questionnaires were administered by pre-trained individuals. These research assistants received prior training on the purpose of the research, the data required and the necessity for accuracy of the data, the importance of the research and the usefulness of the findings from the research. The population under study was determined to be the judges and magistrates who preside over court proceedings, the Advocates and court clerks within the Chief Magistrate's court at Kisumu.

3.4. Data Collection.

Both primary and secondary data was be collected. Odum et al (1929) observed, "the form of study as the one to be undertaken involves a qualitative analysis". Stake (1995), and Yin (1994) identified at least six sources of evidence in case studies, i.e. documents, archival records, interviews, direct observation, participant-observation, and physical artifacts. The study shall employ as many of these methods as possible.

Two main methods were utilized in the collection of data; communication with the mentioned court-user's within the Chief Magistrate's Court at Kisumu such as the judges, magistrates,

advocates, parties to civil suits, accused persons, prosecutors, relatives to accused persons or parties, clerks at the courts, representatives of special interest groups, and evaluation of past and current levels of participation in the issues of interpretation in courts, their ideas/goals and secondly, structured interviews with the sample.

During the research, the data collected was mainly the format of descriptive statistics. The questionnaires were drawn and crafted based on the rating scales with emphasis on the itemized rating scales. The summated (Likert-type) scale was used to design the instrument to measure the reliability of the sample to which the questionnaire was administered.

3.5. Data Analysis

This study was a descriptive research. The data that was collected was analyzed. The measures of central tendencies as well as measures of dispersion were used to analyze the quantitative data collected. On the other hand, qualitative data was analyzed with the help of content analysis technique. Holsti (1969) groups 15 uses of content analysis into three basic categories; make inferences about the antecedents of a communication, describe and make inferences about characteristics of a communication, and make inferences about the effects of a communication.

The analysis utilized the SPSS data analysis software. The findings are illustrated by the use of graphs, and tables.

CHAPTER FOUR: DATA ANALYSIS, CONCLUSIONS AND RECOMMENDATIONS

4.1. Introduction

This chapter presents the findings of the study according to the research data collected and analyzed using the SPSS data analysis software. The main emphasis on data analysis was on the issues of the effectiveness of language interpretation in case management at the Chief Magistrate's Court at Kisumu. Effectiveness was established to be a function of the availability of the interpreter, the qualifications of the interpreter, the training of the interpreter as well as the parties to the trial.

4.2. Data Analysis

The study revealed that most court users at the Chief Magistrate Court in Kisumu are male as supported by the findings (Table 1) which showed that 90% of the Respondents were males while 10% were females. The study also sought to find out the age characteristics of Respondents. Data revealed that 2.5% of Respondents were between the ages of 15 years and 25 years; 32.5% were between 26 years and 35 years; 35% were between 36 years and 45 years; 15% were between 46 years and 55 years and 15% were above 56 years. It may therefore safely be argued that most court users at the Chief Magistrate's Court in Kisumu fall between 26 and 45 years as represented by 67.5%.

As relates to the Respondents' characteristics by language, the data collected revealed and observed that 70% of Respondents were fluent in three languages, 17.5% were fluent in two languages while 12.5% were fluent in more than three languages.

Data collected on language proficiency in languages such as Dholuo, English, Kiswahili, Ekegusii, Luhya and Gujarat shows that 55% of Respondents were proficient in Dholuo as opposed to 45 %; 10% were proficient in Ekegusii as opposed to 90%; 17.5% were proficient in Luhya as opposed to 82.5%, 97.5% were proficient in Kiswahili as opposed to 2.5%; 100% were proficient in English while non was proficient in Gujarat. Data showed that 22.5% of Respondents were proficient in other languages while 77.5% were not. The languages that proficiency was shown include Giriama (0.025%), Kamba (0.075%), French (0.025%), Tugen (0.025%), Gikuyu (0.05%), Meru (0.025%) and Luganda (0.025%).

4.3. The Population

The capacities ranged from judges, magistrates, court clerks to litigants and relatives of the litigants and or accused persons. In regard to these capacities, the data collected showed that Magistrates were 15%; Advocates were 12.5%; Court clerks were 15.0%; Complainants were 15.0%; Accused persons were 25%; Court prosecutors were 5%; Witnesses were 2.5%; State council were 2.5% while other court attendants comprised of 7.5%. These attendants were in the categories of a process server, father to the accused person and a friend to the accused person.

According to the statutes set out hereinabove, it was established that the languages of the court are English and Kiswahili. The data collected showed that 92.5% of the Respondents indicated that the court had used English while 7.5 % of Respondents indicated Kiswahili. It can therefore be deduced that the primary language used by the Chief Magistrate's court in Kisumu is English.

On the issue of the fact that owing to the twin issues of migration and immigration, there is more interaction between people of varied extractions, origins, localities and hence an increase in the

population of people with limited proficiency in both English and Kiswahili, it was established that 92.5% of Respondents were affirmative while 7.5% said they were fluent in the language but to a limited extent. A majority of the Respondents indicated that during the hearings or trials, there was interpretation while a few a few respondent in the negative. The data showed that 22.5% of Respondents indicated that translation was not done, 67.5% concurred that translation was done while 10% felt that translation was done but to a limited extent.

The study also investigated on the whether issue of interpretation was raised in court during the hearing. Findings reveals that 5.0% of Respondents did not respond to this question, 62.5% were categorical that the issue of interpretation was not raised while 32.5% concurred that issue on interpretation was raised during the hearing process. Issues raised emanated from the accused persons, advocates and the presiding judge or magistrate. The accused person did not understand the language in which interpretation was being done while those raised by the judge or the presiding magistrate revolved around misinterpretation, incorrect translation and distortion in translation by the court clerk during court proceedings. At times improper translations and distortion came about as a result court clerk's inability to understand equivalents of some English or Kiswahili in most mother tongues.

4.4. Constraints in Language Interpretation

The study sought to establish the quality of interpretation by asking the Respondents to rate their responses. An analysis of the data showed that out of the forty Respondents, one did not respond to this question, 15% believed that the quality of interpretation was low. 42.5% were non committal (i.e. neither high nor low), and 35% believed it was high while 5% opined that it was very high. From the literature review, it was indicated that interpretation in courts faces several challenges. Among the challenges were issues relating to quality of the interpretation through to

the training of the interpreter. There were issues of clarity of the interpretation, cultural diversities, to the technical language used in courts.

It was established that accurate and efficient language interpretation in courts served to increase staff efficiencies by streamlining the judicial service consumer communication process, gain economies of scale by providing interpretation services through pooling of trained legal language interpreters, reduce legal errors by enabling effective communication between the parties and the judiciary, address unique language or communication disabilities which are non-native, improve user satisfaction with care provided in a native language, and eliminate organizational liabilities from using non-legally trained resources for interpretation services.

4.5. The Practice of Language Interpretation

In court room activities, it was established that there were several challenges which created difficulties in language interpretation. These included the parties' understanding of both the source or primary language as well as the language to which the interpretation was being done. A number of the Respondents failed to answer the question as to whether they felt there was distortion during interpretation in courts; 5% of Respondents did not answer the question, 12.5% believed distortion was very low, 40% felt it was low while 22.5% believed it was neither high nor low. Similarly 17.5% of Respondents were of the opinion that distortion was high while just 2.5% thought diction was high.

This is a clear indication that where and when there was interpretation in court, the level of distortion was high and hence there was lack of accuracy. Accuracy is one of the cornerstones of efficient interpretation. The same was the case with clarity. On clarity of interpretation during court proceedings, 7.5% of the Respondents did not answer this question, 20% felt clarity was

low, 40% were non-committal (neither high nor low), and 22.5% believed it was high while 10% believed it was very high.

As to whether Respondents understood the original language used by the court during proceedings, 7.5% did not respond to this question, 10% reported their understanding to be low while 20% were non-committal (neither high nor low). Of those sampled 45% had a high understanding of the original language used while 17.5% had a very high understanding. From these findings, it can be summarized that about 62.5% of respondent had a good understanding of the original language used in court during proceedings.

Further, on whether they understood the second language in which interpretation was done, 7.5% did not respond to this query, 5% had a very low understanding, 10% had a low understanding, 35% believed it was neither high nor low, 40% had a high understanding of the second language used while 2.5% had a very high understanding.

4.6. Qualification of Interpreters

The quality of interpretation is a function of several factors including qualification of the interpreter in the exercise of interpretation. On qualification of the interpreter, 7.5% of the Respondents did not respond to this question, 2.5% believed the qualification was very low, 20% indicated it to be low while 40% said it was neither high nor low. Other Respondents had confidence in the qualification of the interpreter as 27.5% believed their qualification was high while 2.5% felt their qualification was very high. Based on the said findings as well as the findings on the need for training of the interpreter, was established that there was an urgent need to train interpreters. The analysis of the data showed 7.5% of the Respondents did not react to this question, 17.5% did not see the need to train the interpreters as reflected in their responses of

2.5% and 15% for very low and low respectively. Of the Respondents, 7.5% were non committal as they felt that the need to train interpreters was neither high nor low. However, 30% of Respondents felt the need to train interpreters was high while another 37.5% opined that the need for training was very high.

Response category	No. of Respondents	Percentage (%)
Very low	1	2.5
Low	6	15.0
Neither low nor high	3	7.5
High	12	30.0
Very high	15	37.5
No response	3	7.5
Total	40	100.0

Table 1: Need to train the interpreters

As to whether interpreters used in court are not qualified for the work; 2.5% did not respond to the question, 10% strongly disagreed, 20% disagreed while those who were non committal comprised of 20%. Of the Respondents sampled, 47.5% believed that interpreters used in court were not qualified for the work as shown in those who agreed (35%) and those who strongly agreed (12.5%). Given the responses to this question, it was established that the current interpreters or the persons used as interpreters in courts are not qualified for the exercise. They have not been trained for the work of interpretation.

4.7. Importance of Interpretation in courts.

According to the literature reviewed, there was a general consensus that for purposes of effective communication in courts and for purposes of an all inclusive judicial practice, the issue of interpretation was paramount. The research established that interpretation was a crucial component in the delivery of justice in courts. The research established that out of the entire population, 10% of Respondents did not respond to this question while 40% did see interpretation to be a waste of time as reflected in their ratings of very low (15%) and low (25%).

Those who were non committal comprised of 20%. Only 30% of Respondents believed interpretation was a waste of time going by their ratings of high and (20%) very high (10%). Tied in with the issue of the importance of interpretation is one of whether the quality of interpretation had a bearing in the outcome of court cases. Here the research established that only 5% failed to respond, 32.5% believed there was no possibility as reflected in their very low (12.5%) and low (20%) responses. The Respondents who were non-committal on this issue comprised of 25% while those who were categorical of the likelihood of interpretation affecting outcome were 37.5% based on their responses of high (22.5%) and very high (15%). The same question was paraphrased such that it was put in the negative to test the accuracy of the immediate question on the likelihood of interpretation affecting the outcome of court cases based on the Respondents' experience in courts. The findings established that 2.5% did not respond to this question, 5% strongly disagreed with the statement, 10% disagreed while those who were non committal comprised of 12.5%. Those who supported this assertion comprised of 70% as those who agreed were 32.5% while those who strongly agreed were 37.5%. On the utilization of time in interpretation, the research established that there was almost even distribution of Respondents. The data analyzed indicated that 2.5% failed to respond to this query, 27.5% strongly disagreed, 20% disagreed while 15% were non-committal. Those who supported the view were 35% as reflected by those who agreed (20%) and those who strongly agreed (10%)

On the necessity of translation and interpretation of court proceedings, 2.5% did give a response to this question; 5% felt it was not necessary to translate and interpret court proceedings, 5% were non committal while 87.5% were positive on the need to translate and interpret court proceedings. This finding is supported by those who agreed (37.5%) and those who strongly agreed (50%) with the statement.

4.8. Interpretation as a Profession.

Further, the study sought to find out if indeed there was a need to have professional interpreters. Findings revealed that 2.5% of Respondents did respond to the question, 2.5% felt there was no need for professional interpreters while 2.5% were non committal. Most Respondents believed there was need for professional interpreters as shown by those who agreed (37.5%) and those who strongly agreed (55%).

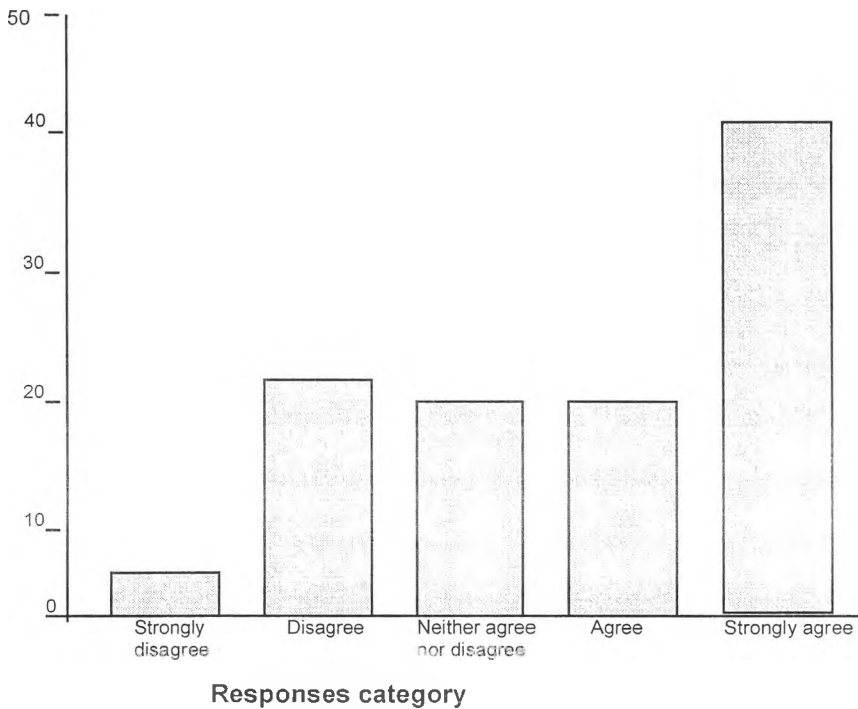
Findings have also shown that distortion and poor interpretation leads to incorrect statement. This view is supported by 87.5% of the Respondents who either agreed (35%) or strongly agreed (52.5%). About 7.5% of Respondents were non-committal while only 5% were of the view that distortion and poor translation does not lead to incorrect statements. On the need for formal training, a large number of the Respondents agreed that it was necessary to train interpreters in order for them to effectively discharge their duties. There was a unanimous concurrence that this should be put into effect as supported by those who agreed (25%) and those who strongly agreed (75%).

Response category	No. of Respondents	Percentage (%)
Agree	10	25.0
Strongly agree	30	75.0
Total	40	100.0

Table 2: Whether interpreters should undergo formal training

Most Respondents also concurred on the need for legislation on interpreters and their qualification. This view (Table 11) was supported by 85% of Respondents who either agreed (30%) or strongly agreed (55%). Of the Respondents sampled, 10% were non-committal on the subject while only 2.5% felt there was no need for legislation. One respondent did not answer this question. The study also revealed that the use of normal court clerks as interpreters does not

effectively serve the purpose. This finding (Figure 1) is supported by 60% of Respondents who concurred with the statement posed to them. Of these, 17.5% agreed while 42.5 % strongly agreed. Of those sampled 17.5% of Respondents was non-committal while 22.5 % did not support this view.



As to whether the introduction of informal languages like sheng had apparently interfered with court proceedings, data shows that 72.5% of Respondents responded in affirmative with those agreeing standing at 30% and those strongly agreeing at 42.5%. Those who had contrary opinion were 22.5%. One respondent was non-committal while another did not react to this question.

Further, the study revealed that there is need for the judiciary to address the issue of interpretation more seriously. This view is supported by the findings. A total of 97.5% of the Respondents sampled supported the need to address interpretation more seriously. Only 2.5% of Respondents were non-committal to this statement.

CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATIONS.

5.1. Summary

At the courtroom level, judges (and others responsible for establishing expectations for the quality of interpreting services, e.g. lawyers, court administrators) are generally unaware that being bilingual is not a sufficient condition for being able to function adequately as a court interpreter. As a consequence, they do not realize how often errors committed by untrained interpreters distort evidence relied on by the court, mislead and threaten the fairness of proceedings and deny non-English speaking people equal access to justice. If and when this shortcoming is addressed by educating judges and other court officials about the skills required for court interpreting, a new problem becomes apparent: how does the now-educated and sensitized judge discern whether the bilingual person standing before her or him is qualified to perform adequately as an interpreter? This leads to the issue of certification of interpreters, their training and formal examination.

It is clear that in the legal arena, interpreting is even more complex than in other arenas of human affairs because of the intersection of different cultures and languages in a system that has always proven to be rather inflexible and slow to adapt to new developments in the surrounding society. To accommodate the presence of non-English speakers, the courts must abandon their rigid approach to language and their mistrust of foreign languages and allow interpreters to exercise some discretion. Court interpreters should be accepted as professionals with recognized expertise. They should be given more latitude to intervene discreetly whenever it is apparent that communication is impeded by cultural misunderstanding, and judicial personnel should heed interpreters' recommendations.

By the same token, interpreters must receive more thorough training to develop the expertise necessary to exercise that professional discretion. Instead of the haphazard approach to interpreter training that now prevails at the Chief Magistrate's Court at Kisumu, where there are no set programs in judiciary interpreting and most interpreters are forced to struggle on their own to gain a rudimentary knowledge of the law and interpreting techniques, a comprehensive effort should be made to establish a nationally recognized curriculum for a formal training in court interpreting that includes instruction in intercultural communication, linguistics and translation theory, criminal and civil procedure, specialized terminology, and interpreting techniques.

In addition, the legal profession needs to develop a greater awareness of other languages and cultures and of the complexity of the interpretation process. It is crucial that the courts not apply a mechanical model to the role of legal interpreters. They are more than instruments for communicating across linguistic boundaries. They are professionals who cannot function well unless judges, lawyers and other courtroom personnel have some appreciation of what interpreting involves and are prepared to collaborate fully in the process of making justice available to those who are language handicapped.

Being a neutral interpreter does not exclude having a sense of responsibility for the people one works with. Well-educated professional court interpreters possess good linguistic knowledge in their working languages, good interpreting technique, adequate communication skills, strong professional ethics, and have considerable knowledge about legal systems, laws, and legal procedures in the societies concerned. They also have knowledge of the various discourse situations and the language use of the various actors in the court.

When hiring interpreters, legal professionals should opt only for the best. The interpreters should be allowed to work as professionals in their own right, as experts on human interaction and intercultural communication. This means that the interpreter must have the right to work in an

optimal way to fulfill his/her task --in other words, to be obtrusive and interrupt proceedings when needed. There are bound to be conflicts ... But in the long run, the emancipation of the interpreter will be favourable to the entire legal system and to the individuals who need language support.

In short, the legal profession should finally realize that interpreters do not function as automatic interpretation machines from one language to another, and that the ideal of verbatim interpretation does not hold up when confronted with real-life interpreted interactions between human beings. Court interpreters should be given the tools required to perform this critical task properly, and then they should be allowed to use their professional judgment as to the best way of carrying out the task.

5.2. Conclusion

The multiplicity of languages involved in judiciary interpreting poses an especially difficult challenge to a profession that is trying to consolidate its strength. The fact that interpreters of different languages face vastly different linguistic and cultural problems is only part of the problem.

It is important to establish a task force for purposes of re-examining minimum qualifications for approved interpreters, to develop and maintain multi-language testing and non-specific language skills classes, research on trends in immigration and languages used in the courtroom to anticipate need, develop partnerships with public and private institutions of learning to provide initial and continuing education opportunities.

The issue that can be addressed by the task force include the setting of requirement in initial skills training for certified interpreters, develop continuing skills training opportunities for

certified interpreters, study continuing skills training requirements and opportunities for approved interpreters, develop local training opportunities, develop orientation class for new interpreters, improve continuing education monitoring and recordkeeping.

There should be in place a process by which to develop a process for evaluating interpreters, for making a complaint about an interpreter, evaluate the adequacy of the current discipline process, improve interpreter performance and discipline recordkeeping.

5.3. Recommendations

Four initiatives are needed to improve court interpretation practices: firstly, expansion of testing programs to certify the competence of court interpreters, and to serve as the basis for recruiting and training individuals to become court interpreters; secondly, expansion of short-term basic training for interpreters on procedure and long-term training to improve their interpreting skills; thirdly, development of location and referral systems that are accessible and that maintain appropriate standards regarding interpreter qualification; and lastly, judicial education: sensitizing judges and attorneys to the issues and providing them with information about standards for recruitment and selection to assure that the most qualified interpreters are used.

Finally, in order to facilitate the work of a court interpreter, the following steps are necessary. The local judiciary, i.e. the Chief Magistrate's court at Kisumu should assess its needs and requirements on the issue of interpretation and set a policy on the same. First, to assess language needs by tracking the languages encountered by officers on the job. Study the local population and community to identify LEP populations. Then devise policies and implement strategies to ensure effective communication. Ensure to always validate projections based on demographic

data against program experience, based on the observations of the staff and input from the community. Set up and maintain a written action plan and integrate it into policy academy training. Call for the hiring of officers or staff members who are proficient in foreign languages—particularly those languages reflected in the demographics of the court’s jurisdiction. Impress upon the national judiciary to attract bilingual staff by aggressive recruitment and pay differentials for language abilities. Post open positions in newspapers and employment agencies that target minority populations.

It is strongly advised that the proficiency skills of bilingual staff be tested above and beyond the simple submission of credentials. Investigate available services to test bilingual personnel. Train bilingual staff in basic interpretation and translation protocols. Have vital forms and documents professionally translated into languages commonly spoken in the locality or within the jurisdiction. Encourage officers and other bilingual staff to call in professional interpreters and translators when needed. Equip your officers and staff with effective language tools and language access protocols in order for them to fulfill their duties. Partner with volunteers from community-based and charitable organizations. Conduct periodic in-house training regarding the use of qualified on-staff or contracted interpreters. Hold cultural sensitivity training sessions for officers. Conduct community outreach to strengthen ties and cooperation with law enforcement.

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APPENDIX
QUESTIONNAIRE

A research is being carried out to determine and or establish the effectiveness of language interpretation in case management at the Chief Magistrate’s Court at Kisumu. This questionnaire is aimed at collecting data in relation to the quality and effect of translation in courts of law and to establish if there exists a relationship between such interpretation on the one part and the determination and outcomes of trials on the other.

You have been identified as one of the resourceful persons in this research and hence been selected as a Respondent. Your time and commitment in responding to the questions set out hereunder and hence your contribution in making of this research a success shall be highly appreciated.

All reasonable steps shall be taken to ensure that your response in completing this questionnaire shall be treated in confidence and shall not be published unless with your permission save for instances of legal process or state security.

Kindly complete this questionnaire fully by the use of a tick where applicable.

PART 1.

THE RESPONDENT

1. Your name:.....
2. Your gender (Please tick): Male () Female () Other ()
3. What is your Age? (optional)
 - 15-25 years ()
 - 26-35 years ()
 - 36-45 years ()
 - 46-55 years ()
 - 55 and over ()
4. Contact address.....
5. Telephone no.(s).....
6. How many languages are you fluent in?
 - One () Two () Three () More than three ()

7. Are you proficient in any of the following languages?

- (i) Dholuo Yes () No ()
- (ii) English Yes () No ()
- (iii) Kiswahili Yes () No ()
- (iv) Ekegusii Yes () No ()
- (v) Luhyia Yes () No ()
- (vi) Gujarat Yes () No ()

8. Are proficient in any other language? State.....

9. In what capacity did you attend court?

- (i) as a judge/magistrate ()
- (ii) as an Advocate ()
- (iii) as a clerk ()
- (iv) as complainant ()
- (v) as an accused ()
- (vi) as a litigant ()
- (vii) as a prosecutor ()
- (viii) as a witness ()
- (ix) any other capacity? Explain.....

10. In what language(s) were the proceedings conducted?

- English only ()
- Kiswahili only ()
- Both English and Kiswahili ()
- English and Dholuo ()
- Kiswahili and Dholuo ()
- Any other combination (Specify)

PART 2

COURT ACTIVITIES

- 1. What was the primary language the court using?
- 2. Are you fluent in it?
Yes () No () Yes but to some extent ()
- 3. Was there translation during the hearing of the case?
Yes () No () Yes but to a limited extent. ()

4. Did you understand the language(s) the translation was done to
 Yes () No () Yes but limited ()
5. Did any person raise the issue of interpretation in court during the hearing?
 Yes () No ()
 If yes, who was it? and what was the nature
 of the issue?

PART 3

ASSESSMENT

1. Please rate your response in regard to the use of interpretation in court based on the following issues from the strongest on the left to the weakest on the right.

NO.	Issue	(5) Very High	(4) High	(3) Neither high nor low	(2) Low	(1) Very Low
1	The quality of the interpretation					
2	Distortion in the interpretation					
3	Clarity in interpretation					
4	Understanding of the original language used					
5	Understanding of the second language to which interpretation was done					
6	Qualification of the interpreter					
7	The need to train the interpreter					
8	Waste of time in the interpretation.					
9	Possibility that the interpretation will affect the outcome of the case.					

2. Based on your experience in court, what is your view on the following?

NO.	Issue	(5) Strongly agree	(4) Agree	(3) Neither agree nor disagree	(2) Disagree	(1) Strongly disagree
1	Interpretation has an effect on the outcome of court cases					
2	Translation and interpretation in court wastes time					
3	It is necessary to translate and interpret court proceedings					
4	Translation in court is not well done					
5	Interpreters used in court are not qualified for the work					
6	There is need to have professional interpreters?					
7	Distortion and poor translation leads to incorrect statements					

3. Your Recommendations.

Item	Issue	(5) Strongly agree	(4) Agree	(3) Neither agree nor disagree	(2) Disagree	(1) Strongly disagree
1.	Interpreters should undergo a formal training in order to effectively discharge their duties					
2.	There should be legislation on interpreters and their qualifications					
3.	The use of normal court clerks as interpreters does not effectively serve the purpose					
4.	There are apparent interferences by the introduction of informal languages like sheng					
5.	This judiciary needs to address the issue of interpretation more seriously					

Thank you very much for your participation.