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UNIVERSITY OF WITWATERSRAND

FACULTY OF HUMANITIES

SCHOOL OF LITERATURE, LANGUAGE AND MEDIA STUDIES

THE GROWING NEED FOR FOREIGN LANGUAGE COURT INTERPRETERS IN SOUTH AFRICAN COURTS.

Research Report

By

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Submitted in partial fulfillment of the requirements of the Master's Degree in Translation (in the field of Interpreting) in the Faculty of Humanities at the University of Witwatersrand

Supervisors: Dr Olivier Fléchais and Professor Judith Inggs

MARCH 2016

DECLARATION

I, Candy Sizakele MOYO hereby declare that the research report submitted in the partial fulfillment of my Master's Degree in Interpreting is my own work and it has never been produced before in any other institution. Moreover, the sources that I have used or quoted have been indicated and acknowledged by means of a complete bibliography.

…….

Signature

Candy Sizakele Moyo

March 2016

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God! The works of Your hands have been made manifest in my life. Thank you for giving enough strength to run this race with perseverance until the very end.

Myeni wami, Mkhululi, your love was revealed to me anew through your patience, endurance, understanding and belief in me to start and ultimately complete this research. I couldn't have asked for a better husband. Ngiyabonga.

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ABSTRACT

The purpose of this study is to examine the factors that lead to the scarcity of foreign language court interpreters in South African courts. The study seeks to unpack the history of court interpreting in South Africa, the importance and the use of indigenous languages and foreign languages in South African courts and clearly explain the underlying message found in the Section 35 (k) of the Constitution of South Africa which states that all citizens have the right to be tried in the language of their choice. South Africa has witnessed its population being ravaged by heinous crimes and atrocities committed by south Africans and foreign nationals alike. This certainly poses a challenge to the entire legal system in South Africa and particularly the execution of language skills particularly foreign language interpreting in the various courts of law.

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CHAPTER 1: INTRODUCTION

1.1 INTRODUCTION

Joburg courts face foreign languages problems

Each day the Johannesburg district courts deal with at least 235 cases that need foreign interpreters. The country does not have enough foreign language interpreters to deal with all the cases, leading to delays. The Johannesburg courts handle about 819 foreign language cases a day. A pilot project was initiated in July last year to deal with the shortage of foreign interpreters. For the project, the court has appointed Mangope Motaung, the principal court interpreter at the Johannesburg Magistrate's Court, to manage all the foreign interpreters and their schedules.

Motaung says: "When the department implemented this system, it was for an element of control. Before, interpreters would arrange their own court dates, but not pitch on the day of the hearings."

It has been discovered that courts struggle with languages such as Italian, Bangali, Chinese, Cantonese and Tai. With African languages, the challenge arises mostly in the minority dialects exclusive to certain villages.

"In cases where a village language is used, we use pidgin English, which is equivalent to the mine talk, fanakalo," says Motaung.

"My duty is to supply all courts with efficient interpreters, but we struggle to meet the demand."

He says interpreters are required to attend more than three cases a day, depending on the number of languages they know. (Monnakgotla 2012)

A junior interpreter is required to have at least a high school qualification from his or her home country, while a senior interpreter needs experience and a driver's license. Before they are employed, they undergo a language test conducted by the University of the Witwatersrand. If they pass the test, they attend a crash course in which they are taught the Constitution and the law. (Monnakgotla, 2012)

South Africa handles many foreign language cases. In Johannesburg alone, the courts deal with more than eight hundred (800) foreign language cases daily. Statistically there are very few qualified foreign language court interpreters. The problem therefore is a shortage of qualified foreign language interpreters in South Africa. Chief Justice Mogoeng Mogoeng mentioned that the State is losing many court cases because of poor interpreting in courts and the lack of qualified interpreters.

This, therefore, poses a problem in the trust of South Africa's legal system which is severely compromised because of language related issues including the scarcity of language skills in South Africa.

There is no doubt that South Africa is a popular destination for a wide variety of visitors and goods, and as such, its borders and ports of entry are a constant hive of activity. In addition to the high volumes of movement coming into South Africa conversely there are numerous goods and people leaving the country. The country shares borders with six countries namely: Botswana, Lesotho, Mozambique, Namibia, Swaziland and Zimbabwe. In addition to the borders are South African harbours in the following cities: Cape Town, Durban, East London, Mossel Bay, Port Elizabeth, Port Ngqura, Richards Bay and Saldhana Bay. Over and above the borders and harbours are the airports which also give access to many international tourists, investors as well as the African diaspora. In the following airports : Bloemfontein International, Cape Town, Durban, Gateway International, OR Tambo International, Lanseria, Kruger Mpumalanga International, Pilanesburg, Port Elizabeth, Upington and East London.

These ports of entry give access to many foreigners who view South Africa as a good place to do business and also make a living as opposed to their respective native countries. Such information explains why In the light of such information, South African courts are flooded with cases that require foreign language court interpreting.

Kempton Park in the Gauteng region is a port of entry. The OR Tambo International Airport is situated in the surroundings of Kempton Park. It is in this cluster where most criminal cases are found. The Magistrate's Court deals many criminal cases of which many relate to drug smuggling, fraud, illegal passports and rhino poaching. In short, Kempton Park is where the importing and exporting of drugs takes place while Johannesburg deals with the peddling thereof.

While the Kempton Park cluster handles mostly drug related cases, the Johannesburg cluster also handles drug related cases which however are not limited to theft, fraud, robbery, car hijacking, rape and other white collar crimes. Regardless of the type of crime committed, foreign language interpreting in courts is required because crime is committed by both South African nationals as well as foreign nationals. The research is conducted in the Kempton Park and Johannesburg clusters.

1.2 AIMS AND RATIONALE

There is no one instrument in international law which focuses on language rights. The language rights recognized internationally have been included in a variety of conventions and documents. One of the most widely accepted is article 14(3) (f) of the International Covenant on Civil and Political Rights (ICCPR) which makes provision for "the free assistance of an interpreter if he cannot understand or speak the language used in court."

The Department of Justice lists several courts that exist in South Africa; these are the constitutional court, the supreme court of appeal, High Courts, circuit courts, special income tax courts, labour courts and labour appeal courts, divorce courts, land claim court, the water tribunal, truth and reconciliation commission, magistrates courts, small claims courts, community courts, equality courts, child justice courts, maintenance courts, sexual offences courts, children's courts, courts for chiefs and headmen and finally legal aid South Africa.

The variety above makes it quite clear that there is no standardization of norms in Court Interpreting. As Toledano Buendia comments (2010): “Norms are normally acquired through repetitive behavior, not through the imposition of laws and their enforcement; as such norms depend on deductive activity to take place when experiencing behavior patterns.” (Toledano Buendía, 2010)

After gaining independence in 1994, South Africa became even more diverse. Numerous foreign nationals found temporary or permanent residence in the country. In order to highlight the language challenges experienced in South African Courts today, I will begin with a brief explanation of the use of language in South African Courts.

Secondly, I will continue by exploring the subject of court interpreting pre-1994 and post 1994 in South African courts. Here, I will look at a brief history of court interpreting in South African courts, the challenges in court interpreting experiences by interpreters themselves as well as court officials.

Thirdly, I will conclude by addressing the growing need for foreign language interpreters in South African courts, the training of foreign language court interpreters, the challenges experienced by foreign language court interpreters and finally I will offer a few recommendations on how to curb

the lack of foreign language court interpreters in a bid to professionalize court interpreting in the south African courtroom.

The paper will include the following research questions:

- How may courts deal with foreign language cases in South Africa?
- How many foreign language interpreters are employed by the state?
- How is the job of a foreign language court interpreter evaluated?
- How can the state reduce the number of cases being lost due to the poor quality of interpreting in courts?
- What are the best practices of court interpreting in South Africa?

1.3 LITERATURE REVIEW

Since the transition in April 1994, the new government led by the African National Congress has confronted a number of challenges not least the problems involved in moving from two (2) to eleven (11) official languages in an attempt to empower previously disadvantaged linguistic communities. (Wallmach & Moeketsi, 2005)

According to Inggs (Inggs, 1998): "This historical and social background peculiar to South Africa has also meant that court interpreters do not only serve as interpreters but often also as mediators between the accused, the witnesses and those in a position of authority in the courts. This may involve simple things such as thanking witnesses and asking them to step down, or explaining court procedure. Court interpreters themselves freely admit their role of advocacy in the courtroom and consider this an important part of their work, however controversial it may be."

Since 1994, an increasing number of international conferences have taken place in South Africa. This offers work opportunities to freelance interpreters in languages such as English, Afrikaans, French, German, Spanish and Portuguese. Political Organizations such as the United Nations and

the European Union are the main employers of interpreters worldwide. (South African Translators Institute, 2016)

The research therefore confirms that there is a growing demand for interpreters in Southern Africa. Interpreters in African languages are required for courts, parliament, provincial legislatures and metropolitan councils. Currently, freelance interpreters are often used for ad hoc assignments such as meetings, international conferences and accompanying foreign business people and tourists.

To this day, the situation has become even more complex because of the number of foreign nationals living in South Africa thus requiring more foreign language interpreters. Chief Justice Mogoeng-Mogoeng mentioned that the State is losing court cases because of the poor quality of court interpreters.

In her article "Redefining the role of court interpreters in South Africa", Moeketsi (Moeketsi, 1999) mentions that court interpreters are employed full time by the Department of Justice and Constitutional Development; however, foreign language interpreters are employed on a contract basis. Interpreters work through all phases of a criminal trial. What is rather sad is that there is no law that protects them and there is very limited training. Moeketsi further mentions certain functions that go against the accepted norms and ethical professional standards.

In the United States, (Repositori Universitat Jaume I, n.d.) “Interpreters assist the judges, magistrates, attorneys, Court employees, and others in communicating with Spanish-speaking defendants, victims, witnesses, family members, and others having business before the Court. Eleven specifications for the position of court interpreter are specified in an advertisement, as follow:

1. Perform three types of court interpreting: sight interpreting, consecutive interpreting, and simultaneous interpreting.

2. Provide spoken language Spanish interpretation services to the Court.

3. Sight interpret Spanish or English documents as required during Court proceedings, interviews, and other Court-related communicative events.

4. Assist the Court with communication with Spanish speaking defendants, victims, witnesses, and other individuals as necessary.

5. Produce written translations of documents, such as official Court forms, public signs, notices, posters, and Court correspondence.

6. Maintain the confidentiality of conversations that are of a confidential nature and serve impartially as required by court interpreter ethics.

7. Perform interpreter duties according to established standards and in an accurate, impartial manner, and abide by any applicable rules or standards for interpreters adopted by the Supreme Court of Ohio.

8. Interpret in a manner that includes everything that is said, preserves the tone and level of language, and neither changes nor adds anything to what is said.

9. Attend on-going training to improve and maintain Spanish interpreter skills, as well as ongoing training regarding court interpreter standards of ethics and conduct, including any applicable rules or standards for interpreters adopted by the Supreme Court of Ohio.

10. Perform other duties as assigned.

11. May be assigned to other positions in other departments of the Court if needed.

The advertisement stated that candidates "must have a combination of education, experience, skills, and personal characteristics that demonstrate the candidate's ability to perform the duties of the position". The successful candidate was expected to have at least the following qualifications and meet the following requirements:

1. A high school diploma or equivalent.

2. Ability to read, write, speak, understand, and communicate fluently in both Spanish and English.

3. Two years of full-time experience in Spanish interpreting and translating in a public setting.

4. Basic understanding of legal terminology and procedures.

5. Ability to render precise, accurate interpretations from English into Spanish and Spanish into English without omissions or additions.

6. Ability to render interpretations promptly without hesitation.

7. Thorough knowledge of the methods, techniques and procedures used in interpreting in consecutive and simultaneous modes.

8. Ability to interpret both simultaneously and consecutively.

9. Ability to sight interpret Spanish and English documents.

10. Knowledge of the ethical codes of interpreters and protocol of interpreting, including any applicable rules or standards for interpreters adopted by the Supreme Court of Ohio.

11. Knowledge of common office practices, procedures, and equipment.

12. Proficiency in operating a personal computer and using, or being able to learn, Microsoft Office products including Word, Outlook, and Excel.

13. Have good time management skills; be highly organized and detail-oriented.

14. Ability to prioritize work, work independently without daily supervision, perform a variety of duties, and manage a variety of projects simultaneously in a high pressure atmosphere under sometimes severe time constraints.

15. Ability to effectively and professionally communicate verbally and in writing in English to diverse audiences.

16. Pleasant personality; ability to interact and maintain effective working relationships with judges, other elected officials, employees, law enforcement officers, lawyers, and other conducting business with the Court.

17. Conscious of and sensitive to the diversity within the Court's jurisdiction and able to interact professionally with this diverse population of people from many different geographic, socioeconomic, religious, racial, and ethnic backgrounds on a regular basis.

18. Professional appearance and demeanor appropriate for the position and expected of a representative of elected officials.

19. Demonstrated dependability, reliability, and excellent attendance record.

20. Patience, objectivity, maturity, effectiveness under stress, initiative, adaptability, leadership, and sound judgment.

The above standards of practice clearly define the role of court interpreters in the American courtroom. In so far as South Africa is concerned, there are no adopted standards of practice. However, there is a code of conduct for all foreign language court interpreters that is defined in the Foreign Language Interpreter Policy of the Department of Justice and Constitutional Development (Department of Justice and Constitutional Development, 2015):

Code of conduct

a) The foreign language interpreter, as an employee of the Department shall be subject to the established code of conduct applicable to public service officials and includes the following. He/ she shall at all times:
    - exercise professionalism, impartiality and remain neutral in proceedings where he/she render service
    - Bring to the attention of the court any incidents or attempts to influence his/her impartiality.
    - Dress appropriately in terms of the Dress Code policy and observe the decorum of the court.
    - Abstain from comment on cases in which they serve.
    - Abstain from any contact or interaction with the media.
    - Immediately disclose any real or potential threat to the Department or conflict of interest as soon as he/she becomes aware of such threat or conflict of interest.
    - not disclose privileged information on any matter before the court
    - Not provide information that is not relevant to the matter during the course of interpreting.

- Avoid advising parties or otherwise engaging in any activities that can be construed as practicing the law.
- Has a responsibility to disclose criminal conduct and malpractice(s) in the workplace.

b) The Code of Conduct, as set out in the Public Service Regulations, 2001, provides that an employee in the Public Service, in the course of his or her official duties, shall report to the appropriate authorities, any and all incidents of fraud, corruption, nepotism, maladministration and/or any other act which constitutes an offence which is prejudicial to public interest.

c) A contravention of any prescribed Code of Conduct for the Public Service constitutes misconduct.

In the light of the above, it is clear that the role of an interpreter in the South African courtroom has no clear definition; as a result the setting of norms and standards of practice may take longer than intended.

Additionally, the question of Education plays a key role in the quality of service offered by Foreign Language Interpreters. "Interpreters receive minimum training, and may be called upon to work in languages beyond their competence. Because court interpreters were often seen in the past as an unfortunate and undesirable necessity, their status has been extremely low. Interpreters are recruited by the State, occasionally straight from school, the only prerequisites being a Senior Certificate (which requires twelve years of schooling) and the ability to speak more than one language— not difficult in a country where the vast majority of people are bilingual and more often multilingual." (Inggs, 1998)

1.4 RESEARCH METHODOLOGY

Research is the process of collecting, analyzing, and interpreting data in order to understand a phenomenon. The research process is systematic because when defining the objective, managing the data, and communicating the findings, it occurs within an established framework and in accordance with existing guidelines. The frameworks and guidelines provide researchers with an indication of what to include in the research, how to perform the research and what types of inferences are possible based on the data collected (Leedy & Ormrod, 2001).

The three common approaches to conducting research are quantitative, qualitative and mixed methods. As a researcher I have to anticipate the type of data that I need in response to the research question: is it numerical, textural or both numerical and textural? Based on this assessment I should select one of the three approaches to conduct my research. As a researcher I would select the quantitative approach in order to respond to research questions requiring numerical data, the qualitative approach for research questions requiring textural data, and the mixed methods approach for research questions that require both numerical and textural data.

Methods are the tools that researchers use to collect data. These techniques for learning about social reality allow us to gather data from individuals, groups and texts in any medium. Sandra Harding (Harding, 1987) defines research methods as a technique for gathering evidence. She continues to say that one could reasonably argue that all evidence gathering techniques fall into one of the three categories. These categories are listening to (or interrogating) informants, observing behavior, or examining historical traces and records.

The basic hypothesis behind using a mixed methods research design is that the combination of both approaches provides a better understanding of a research problem than either approach could alone. Creswell and Plano (Creswell & Plano Clark, 2011) argue that integrating methodological approaches strengthens the overall research design. This is because the strengths of one approach offset the weakness of the other and can provide more comprehensive and convincing evidence than mono-method studies. Another more practical benefit is that mixed method research can encourage interdisciplinary collaboration and the use of multiple patterns.

Both qualitative and quantitative research methods will be used in this study. According to Brikci and Green (Brikci, 2007), "qualitative research is characterized by its aims which relate to understanding some aspect of social life, and its methods which in general generate words rather than numbers as data for analysis."

The decision of whether or not to integrate multiple approaches depends on a combination of the research objectives. That decision depends also on the resources, the time available and the audience for the research findings.

Statistical data was used to determine the number of South African courts dealing with foreign language cases and how many foreign language court interpreters there are in South Africa. Quantitative research methodology is concerned with measuring something in numeral format to ascertain the efficacy of it based on the participants perceptions as well as the various motives for the frequency of the practice. In-depth interviews were conducted to explore the experiences and perceptions of Interpreters, lawyers, witnesses and judges in understanding the role of Interpreting in Courts. The study is concerned with the richness and depth of the data. The researcher aims at understanding the experiences and perceptions of court staff who deal with foreign cases on a day to day basis.

This study used a purposively selected sample of five to six (5-6) foreign language court interpreters, two (2)court interpreter coordinators (cluster managers) in the Department of Justice and Constitutional Development, two (2) attorneys, one (1) judge/ magistrate, and a director responsible for court efficiency in the office of the Chief Justice and the Department of constitutional Development.

The research was conducted by means of interviews and questionnaires. The interviews were transcribed. The study adopts an interpretive approach and the researcher makes use of two case studies. Data is analysed by using two methods: identifying themes and coding the data. According to Taylor and Gibbs (Gibbs & Taylor, 2010) "Coding is the process of combing the data for themes, ideas and categories and then marking similar passages of text with a code label so that they can easily be retrieved at a later stage for further comparison and analysis". When the data has been collected, an analysis of the research was carried out and is then followed by recommendations and the conclusion.

1.5 ETHICS APPRAISAL

The researcher has maintained the anonymity and confidentiality of all participants at all times. This is because while researchers need to collect data, the researcher is aware that this should not be done in any way that may harm the research subject or compromise his or her right to privacy and confidentiality. The key informants in this study participated on a voluntary basis. They were informed about the purpose and intended use of the data. The researcher further acknowledges all sources used to avoid plagiarism.

1.5 ORGANISATION OF STUDY

Chapter 1: Introduction

Chapter 2: Literature Review

Chapter 3: Context and background

Chapter 4: Research Methodology

Chapter 5: Analysis

Chapter 6: Conclusion, Summary and Recommendations

CHAPTER 2: LITERATURE REVIEW

2.1 INTRODUCTION

Before there is a foreign language court interpreter, there is a foreign language interpreter, before there is a foreign language interpreter, there is an interpreter.

This chapter highlights the importance of interpreting which therefore provides the reason for my study. It is important to understand interpreting more broadly before zooming into the actual study of foreign language court interpreters. This chapter seeks to explain interpreting as a skill, modes of interpreting, interpreting in a legal background including language rights as well as the role that is played by court interpreters in a courtroom.

2.2 INTERPRETING: A SPECIALIZED ABILITY

Interpreting is viewed as a highly specialised skill. However, many people do not understand in depth what interpreting requires and the amount of work and effort that is required to convey a certain message. To interpret may be understood as conveying a message from one to another in a language that the sender does not understand. Yet, the process of reaching the final message is not as simple as the message may sound. Daniel Gile (Gile, 1995) explains this process in his Effort Models of Interpreting. He mentions that interpretation requires some sort of mental 'energy' that is only available in limited supply. Furthermore, interpretation takes up almost all of this mental energy, and sometimes requires more than is available, at which times performance deteriorates. Gile suggests that there are three main aspects of interpreting which are:

a) Listening and Analysis
b) Memory

c) Production

In addition to the above-mentioned efforts, general knowledge also helps tremendously in understanding content making re-expression into another language easier. Gile refers to two phases, namely the listening phase and the reformulation phase. During the listening phase, the interpreter has to capture the information by listening to the speech, analyse it, understand the content and context and be able to retain the information. This is when note taking becomes critical so that the interpreter may retain accurate information. In the listening phase, the interpreter also needs to accept that he or she will not know all the information including idiomatic expressions that may be communicated by the speaker. In the case where the interpreter does not know, it is safer not to guess but to verify and clarify the information with the speaker. In the reformulation phase, the information that has been retained now needs to be communicated accurately and clearly into the target language. This means that the interpreter now needs to make a speech based on the information that they have retained from the memory or notes. In order for this phase to be done well, the interpreter needs to have a substantial amount of vocabulary in the target language so that he/she can articulate him/herself with ease. Memory effort also plays a vital role in this phase and an interpreter should have excellent short term memory as well as long term memory. The difference between the two is that short term is required to be used immediately or within a short period of time without having to recall the information at a later stage whereas long term memory is required for a learning process and to retain information for a longer period of time. When producing in the target language, the way in which the delivery is done is very important. Interpreters have to be clear, audible, not have a hoarse, high-pitched, irritating and squeaky voice. There are possible problems that the interpreter may encounter when interpreting. These are:

- Noise in the background
- Speaker not being audible as a result of mumbling
- Heavy accent of speaker
- Speaker speaking too fast
- Speaker using a lot of technical terms such as scientific or medical terms
- Speaker speaking for too long without pausing
- The interpreter may also experience certain problems related to him/her. There are:

- Insufficient command of the source language
- Not being able to analyse the message properly
- Tiredness
- Not being able to remember notes
- Not being able to understand written documents presented
- Nervousness
- Too much concentration on speech instead of also paying attention to the delivery
- Accent in target language may be difficult to remember
- Mumbling
- Interpreting and not finishing sentences
- No eye contact with listeners
- Interpreter being intimidated by one of the participants
- Inadequate possession of necessary terminology in the target language
- Language proficiency not being sufficient.

2.3 MODES OF INTERPRETING IN THE COURTROOM

Mikkelson (Mikkelson, 1999) states that in California, interpreters certified for criminal court proceedings set themselves apart from those who are "merely" certified for administrative hearings. Moreover she mentions that several court interpreter colleagues, upon hearing that she had established a centre on community interpreting, expressed the fervent hope that she would not include court interpreting as a species of "community interpreting." "After all our hard work for professional recognition, we don't want to be lumped together with that bunch," was the message she got. It is important to understand the modes of interpreting lest certain modes are confused with others that may have similar norms. Mikkelson further explains that that there are several types of interpreting. These are simultaneous interpreting, consecutive interpreting, whispered interpreting, conference interpreting, seminar interpreting, escort interpreting, media interpreting, court interpreting, legal interpreting, business interpreting, medical interpreting, educational interpreting, over-the-phone interpreting and community interpreting.

Court Interpreting forms part of Legal Interpreting. Mikkelson refers to Legal Interpreting as

> …interpreting that takes place in a legal setting such as a courtroom or an attorney's office, wherein some proceeding or activity related to law is conducted. Legal interpretation is subdivided according to the legal setting into (1) quasi-judicial and (2) judicial interpreting or what is normally referred to as court interpreting. In some jurisdictions, such as the State of California, a further distinction is made between court interpreters, who work in criminal and civil proceedings in courts of law, and administrative hearing interpreters, who provide services in hearings conducted by administrative law judges under the auspices of state government agencies. In the United States, most interpreting in legal settings is done in the simultaneous mode, although consecutive is the mode of choice for witness testimony; but in other countries, interpreted court proceedings are most likely to use the consecutive mode. (Mikkelson, 1999).

She continues by saying: "The real crux of the matter is how those interpretation services are provided. There is quite a difference between a simultaneous interpretation of the entire proceedings and a consecutive summary interpretation of selected parts of the proceedings. Simultaneous interpretation enables the accused to participate actively in his defence by listening to all evidence as it comes in and conferring with counsel when necessary". (Mikkelson, 1998) This therefore explains that simultaneous interpreting may be used as and when necessary during the court proceeding. In some courts, there is no obligation on the interpreter to use one mode of interpreting.

Similarly, some courts find it easier to use consecutive interpreting. "Consecutive summary interpretation relegates the defendant to a more passive role, merely watching the events, often without understanding a word of what is being said, and waiting for the attorney to explain afterwards what happened. The passive role of the defendant is apparently accepted in many countries, to the extent that he may not even appear in court when his case is heard" (Mikkelson, 1998).

Now that the interpreting modes have been clearly defined, it is important to understand the modes of interpreting that a court requires. The National Association of Judiciary Interpreters and Translators affirm that modes of interpreting have evolved through time. There are now three modes of interpreting that are now recognized by the interpreting profession and have been adopted in federal and state statutes and court rules. These are simultaneous interpreting, consecutive

interpreting, and sight translation. The chosen mode should fit the specific needs and circumstances in the judicial process and quasi-legal settings of that country (NAJIT, 2006).

2.3.1 Simultaneous Interpreting

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. The interpreter speaks virtually at the same time as the speaker. When simultaneous interpreting is properly practiced, the interpreting of one language to another provides an accurate interpretation without omissions or embellishments so that the parties can understand each other swiftly.

According to the National Association of Judiciary Interpreters and Translators, the simultaneous mode is used whenever participants, most often defendants, are playing a passive role in court proceedings such as arraignments, hearings, or trials. The speaker needs to hear what is being said but is not required, at that particular stage of the proceedings, to speak himself/herself. In order to preserve the defendant's due process rights everything spoken in open court must be interpreted to him/her simultaneously. This enables the defendant to be truly present and take an active part in his/her defence. In the simultaneous interpreting mode, the interpreter must do several things at once:

- listen intently to whatever party is speaking
- accurately interpret from the source language to the target language
- be prepared to switch languages rapidly whenever the Limited English Proficiency (LEP) party is directly engaged in the procedure and consecutive interpreting is required. (NAJIT, 2006)

2.3.2 Consecutive Interpreting

"In consecutive interpreting, the interpreter waits until the speaker has finished before rendering speech into another language. Consecutive interpreting is a true and accurate interpretation of one language to another, spoken in brief sound bites successively, without omissions or embellishments, so that the parties can understand each other slowly and deliberately". (NAJIT, 2006). In most cases

if not all situations, note taking is very important in the process of consecutive interpreting. Consecutive interpreting is used whenever Limited English Proficiency participants are required to speak or respond. This happens during examinations, cross-examinations, and other proceedings. According to NAJIT:

> 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, as it is in a question and answer session. Consecutive interpreting should be used during police interviews of suspects and/or witnesses or victims, especially during recorded interviews. The gaps in speech between the parties allow for a clear and accurate transcript to be prepared if necessary for further court proceedings. In the consecutive interpreting mode, the interpreter must:
>
> • listen intently to whatever party is speaking
>
> • be prepared to take notes to aid in recollection
>
> • accurately interpret after the party has completed her statement. (NAJIT, 2006)

2.3.3 Sight Translation

Sight translation appears to be simple and this is not the case. Sight translation is when an interpreter interprets into the target language while visually translating a text from the source language. Sight translation is as difficult as simultaneous interpretation as it involves some of the same mental processes. “In the case of sight translation, the input is visual (the written word) rather than oral (the spoken word), but the interpreter still has to process a thought in the source language and generate the target language version of that thought while simultaneously processing the next source language thought” (The Interpreter's Edge, 2016).

The National Association of Judiciary Interpreters and Translators defines sight translation as the rendering of material written in one language into spoken speech in another language: “It is a true and accurate verbal translation of written material into the spoken form so that the parties can

understand what documents written in foreign languages say". Sight translation can be used during a court proceeding when a defendant is given forms that are written in a language that he/she does not know or understand well. Examples of such forms are; plea forms, rights form and probation orders. Sight translation is also used when documents such as birth certificates, personal letters, and identity documents are presented in a foreign language. It is recommended that court interpreters should be given enough time to review the contents of the documents before the interpreting service is rendered.

"When performing sight translation, the interpreter must:

• possess a wide vocabulary and knowledge of the specific type of document presented

• have the ability to quickly scan and understand the main points of the document

• accurately interpret the document into its equivalent meaning in the target language." (NAJIT, 2006)

2.3.4 Norms in Interpreting

In order to better understand the role of interpreters, it is important to understand what norms are and what the norms are in the specific field of work. Norms answer the question "what is expected of me in this particular field of work". Norms contribute to the stability and uncertainty that spring from an inability to control time and predict the actions of fellow human beings. "The reduction of contingency brought about by norms is a matter of generalising from past experience, and making reasonably reliable, more-or-less prescriptive projections concerning similar types of situations in the future" (Hermans, 1996).

Toury (Toury, 1995) defines norms as "the translation of general values or ideas shared by a community – as to what is right and wrong, adequate and inadequate – into performance instructions appropriate for and applicable to particular situations". He add that the term "norm" is used as a descriptive analytical category to be studied through the behaviour selected on a regular basis by translators in a given sociohistorical context.

Institutions vary in the way in which interpreters are given work and also in the way they are expected to carry their duties. In the African Union Summit which took place from 07-17 June 2015 in Johannesburg, South Africa, there were no clear regulations given the protocol officers on how to deal with African Union interpreters and how they were expected to present themselves during the summit. When all accreditations of delegates were being captured, officials were often uncertain about the role played by interpreters and whether they were entitled to receive the same courtesies as other delegates from other member states. This was therefore a clear indication that there was no clear cut regulation specifically meant for interpreters in the African Union. These regulations would be for interpreters themselves as well as the people that work with the interpreters. The issue of norms cuts across all spheres when it comes to interpreting in general. Interpreters should know their boundaries in any working environment.

In his research, Lebese (2014) emphasises the importance of having norms in Interpreting as "Interpreting is a process of interaction between people and must be regulated in one way or another". Introducing norms is a good way of regulating interaction by means of interpreting. In Court interpreting, norms can be used to regulate the process of interpreting itself, and also to regulate the conduct of practitioners who offer the service. Lebese cites Schäffner (1998) who stresses that the concept of 'norms' plays an important role in linguistic approaches to translation because it is concerned with the linguistic norms of the two languages. "Firstly, norms relate to how utterances and texts, that are correct according to the respective rules and norms, are produced. Secondly, they relate to the relations and regularities between the two linguistic systems that were discovered on the basis of contrastive analyses, which were then translated into guidelines or rules for the translator, mostly with prescriptive" (Lebese, 2014).

In some countries, norms in court interpreting are clearly defined, however in South Africa, this issue still leaves a grey area especially with foreign language Court Interpreters. This statement is justified by Marzocchi (Marzocchi, 2015) when he states that a wider significance of the notion of norms lies in the fact that it evokes the issue of ethics. In the case of the South African court interpreters, there are no standard norms that regulate the interpreting process however, a code of

conduct is issued to all court interpreters by which they should abide. According to Marzocchi, this brings a realization of the potential conflict of norms that are shaped by the institutions and should ultimately be adhered to.

2.3.5 Accuracy in Simultaneous, Consecutive Interpreting and Sight Translation

One common word appears in all three modes of interpreting used in the courtroom: accuracy. Accurate interpretation in legal proceedings requires a certain level of language proficiency often underestimated by judges, lawyers and court officials involved in the judicial process. "Despite major differences among the world's legal traditions, there are certain universal crimes that are recognized as such by every culture on earth: taking the life of another human being, stealing the property of another, committing violent acts against others. The difficulty faced by the translator/interpreter is that these crimes are defined and categorized differently in the various legal systems" (Australian Institute of Interpreters and Translators, 2012). The understanding of the country's legal system and the legal terms used therein is essential. The knowledge of legal terms enhances one's vocabulary and better equips interpreters to give an accurate rendition of interpreting. Inaccurate interpretation results in a lack of integrity of the judicial process. Russell (Russell, n.d.), gives an example cited by Burger as he examined the importance of interpretation accuracy in the context of deaf people and allegations of sexual abuse. In his findings, Russell revealed that more than fifty deaf people experienced inaccurate interpretation during legal investigations and succeeding trials. This resulted in criminal charges being dropped, mistrials and false acquittals.

2.3.6 Interpreting Style when using simultaneous, consecutive interpreting and sight translation

The style of interpreting is equally important when using simultaneous, consecutive and sight translation. According to Berk-Seligson (Berk-Seligson, 1988), listeners react subjectively to numerous aspects of a person's speech: "Listeners attribute different sorts of social/psychological

attributes to a speaker depending on the speaker's dialect, delivery style and voice quality." In her study, Berk-Seligson sets out to determine how important verbal politeness is for the mock jurors listening to the interpreted testimony. A bossy and arrogant tone from the interpreter may suggest to the mock juror that the accused is arrogant whereas it is the interpreter who interprets the message in an arrogant voice. The major hypothesis of her study is that the politeness in the testimony of a witness makes a difference that has an impact on the impression that jurors form of that witness. Politeness in the testimony of the witness can be controlled through the interpreter's delivery. This confirms an important role of an interpreter and that he/she is a powerful filter through which a speaker's intended meaning is mediated.

2.3.7 Modes of interpreting in the District Court of Western Australia- an example

The District Court of Western Australia gives five main modes of interpreting that are used in the Court:

(a) Consecutive interpreting

(b) Simultaneous whispered interpreting

(c) Simultaneous audio interpreting

(d) Simultaneous AUSLAN interpreting; and

(e) Language assistance where the accused or witness does not need interpretation assistance at all times, but may have difficulty from time to time with particular words, phrases or concepts and requires interpretation assistance to fully understand what is being said and to accurately convey their response in spoken English.

Therefore based on the modes of interpreting use in the District Court of Western Australia, where an interpreter is interpreting the evidence of a witness, the consecutive interpreting method is used. Where an interpreter is interpreting at the hearing for an accused, whispered simultaneous interpreting is used; and or hearing impaired people, simultaneous AUSLAN interpretation is used (District Court of Western Australia, 2011).

2.4 THE RIGHT TO A COURT INTERPRETER

2.4.1 Human Rights

Everyone in the world has rights and it is important for each one to know their rights. The United Nations defines rights as follows:

Human rights are rights essential to all human beings, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. Everyone is entitled to human rights without judgement. These rights are all interrelated, interdependent and amalgamated.

> Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups. (UNHR Office of the High Commissioner, 1996)

2.4.2 Language Rights

Language is an important issue. Language is a means of communicating information to others. In South Africa's Constitution, Section VI states that everyone has the right to use the language and participate in the cultural life of his or her choice. This should not be done in a manner inconsistent with any provision of the Bill of Rights. Eleven official languages are provided for in the Constitution namely Afrikaans, English, isiNdebele, isiXhosa, isiZulu, Sepedi, Sesotho, Setswana, siSwati, Tshivenda and Xitsonga. "Not only are the eleven official languages named and their uses and right to promotion specified, but specific attention is also paid to the Khoi, Nama and San languages and to sign language". (South Africa.info, 2016). The Constitution of South Africa covers all people and all nations.

Language can be termed as the "window to a soul". According to Hlophe, the importance of language rights is grounded in the essential role that language plays in human existence, development and dignity. Language enables one to form concepts; to structure and order the world around us. Language bridges the gap between isolation and community and allows humans to

delineate the rights and duties they hold in respect of one another. By speaking to someone in a language that they understand, you are allowing the person to open up their world to you. Language Rights in South Africa are complex as there are eleven official languages to be provided for. In terms of the justice system, it is ideal that all court officials should be able to speak all official languages. The reality, however, is that presently, and for some time to come, this will not be possible. Hlophe suggests that the answer to this problem lies in the provision of a professional interpreting service. Failure to provide such a service will render the constitutional provisions meaningless and do great damage to the delivery of justice by the courts (Hlophe, 2004).

"Language rights are mentioned explicitly in several sections of the Constitution of the Republic of South Africa Act 108 of 1996 (the Constitution). General protection is afforded by section 30 which provides that 'everyone has the right to use the language and participate in the cultural life of their choice', provided that they do not exercise these rights in a manner inconsistent with any provision of the Bill of Rights" (Hlophe 2004). Section VI of the Constitution embraces multilingualism through the promotion of eleven official languages, and also recognises the historically diminished use and status of South Africa's indigenous languages. Some languages have been deemed "endangered" as they are no longer used as they used to be. "In addition, the section places an obligation on the state to ensure that 'practical and positive measures' are adopted to elevate the status and advance the use of these languages" (Hlophe, 2004).

2.4.3 Language Rights in the Bill of Rights

The Bill of Rights also specifically provides for language rights as one of the procedural rights of arrested, accused and detained persons. Subsection (3) (k) of section 35 mentions that every accused person has the right to a fair trial. This includes the right to be tried in a language that the accused person understands or, if that is not possible, to have the proceedings interpreted in that language. (Constitution of South Africa, 1996)

According to du Preez, this Right is essential and will enable those charged with crimes to defend themselves adequately and answer properly to any charges levied against them by the State. Du Preez further outlines that South Africa's Constitution also goes further in keeping with

international legal and human rights standards. This means that if those who are charged with crimes do not understand the language in which their case is being tried, they have the right to have the proceedings interpreted into a language that they understand. It is thus the obligation of the judicial authorities in South Africa to provide adequate interpreters and translators throughout the hierarchy of the South African court system in order to give effect to this right.

> All those involved in the multicultural administration of criminal justice in South Africa - from the Department of Justice and Constitutional Development, which is responsible for the provision of interpreters, to the judges and magistrates who preside over our courts - should afford this important principle the respect it deserves. (du Preez, 2013)

2.5 THE ROLE OF A COURT INTERPRETER

2.5.1 The making of interpreters

It is important to note a few misconceptions that need to be demystified before the role of the interpreter is discussed. According to an article found in *The Interpreter Diaries*, not just anyone is meant to be an interpreter. Here are three myths that are mentioned in the article:

a) Many believe that all you need to become an interpreter is to speak more than one language. This is not true. Interpreting is a skill that needs to be acquired and developed within the profession. Proper training is necessary in the making of good interpreters.
b) While some may believe that interpreting is an in born ability, that does not make one an interpreter. The traits may make the process of acquiring the skill of interpreting easier. The following abilities would help in acquiring the skill of interpreting; however they will not automatically make you a "born interpreter".

- be a good communicator
- have a quick and well-organised mind
- have the ability to concentrate and focus, especially in stressful situations
- have strong nerves

- have intellectual curiosity
- be adaptable to new situations
- be a people person (although not all interpreters are extroverts)
- be a team player
- show personal integrity

c) The notion that interpreters cannot be taught is incorrect. Everything in life develops over time. Therefore one needs to learn and understand current issues in order to remain relevant at all times. The idea behind the myth that interpreting cannot be taught would appear to be that since the whole interpreting process happens so quickly inside the head of the interpreter, there is no way to accurately identify what happens in the process and then teach the techniques required. Decades of theoretical research into interpreting have led to well-developed theories of interpretation which show that interpreting is not just an instinctive activity that can only be "learned by doing". Many academic articles and books have been published which have led to to a theoretical and practical understanding of just how the interpreting is accomplished – and this is what is taught to aspiring interpreters. (The Interpreter Diaries, 2011)

2.5.2 The importance of interpreter training

Michelle Hof, the author behind *The Interpreter Diaries*, explains the process of learning the skill of interpreting. In an interpreter training course, the interpreting process is broken down into different phases and skill sets. Each is first dealt with separately and then they are joined together to create the final product. She then likens the process to learning how to juggle:

> It's a matter of first learning to throw the balls separately, and then gradually managing to keep them all up in the air. Inevitably, a lot of balls will end up on the floor as the learning takes place, but the end result will be students who are able to do all of these skills "at once" and perform the act of interpreting. (The Interpreter Diaries, 2011)

Interpreting requires training and continuous training even when you are already working as an interpreter. According to Inggs, (Inggs, 1998) interpreters receive minimum training, and may be

called upon to work in languages beyond their competence. The calling upon interpreters to work in languages beyond their competence may explain the significant role that is played by court interpreters in South African courts. In the case of court interpreting, one example is that of understanding legal terms therefore prior training is required.

In his article, the tribulations of a chief interpreter, Sergio Viaggio (Viaggo, 2009) refers to three main criteria: quality, versatility, and overall professionalism.

Quality - interpreters "professionals who are prone to talk less and say what really counts, idiomatically, with elegance, precision, natural intonation and poise".

Versatility - interpreters should be comfortable interpreting into more than one language.

Professionalism - this involves several factors which relate to the interpreter's attitude towards his audience and his colleagues.

The same applies to Court Interpreters. Court interpreters must often gain specialized training and knowledge in legal interpretation and translation. This education can be obtained through institutions of higher learning as well as through the Justice College of the Department of Justice and Constitutional Development. The understanding of law is essential in order to provide a broad understanding of legal terms that court interpreters encounter on a daily basis.

The above all require some level of training to be done in order to produce good court interpreters and interpreters in general.

2.5.3 Court interpreters: Role "defined"

Well trained court interpreters play multiple roles in the court room. In principle, their service is offered to the accused- who is the reason for requesting a court interpreter, all persons who are in a court hearing, namely the judge, the parties, the prosecutor, the lawyers, the jury, the court reporter and the courtroom clerk. All these people benefit in some way from the presence of a court interpreter. To this day, the role of a court interpreter has not been clearly defined because there is a notion of a variation of roles.

The Court interpreter is indispensable in multilingual judicial settings where he is typically the only participant who speaks all languages used as well as all their varieties. His mental agility, and all other required skills allow him to move back and forth between different linguistic, cultural, social, and educational environments to ensure communication between two parties who are different in more respects than simply their linguistic backgrounds. The demands are, indeed, enormous. In the final analysis, the court interpreter is expected to conduct himself professionally and produce high-quality work. (Moeketsi, 1997).

Lebese (Lebese, 2014) cites Anderson (2002) who was among the first to consider the unclear role that interpreters fulfil in the course of their duties. He highlights the value of researching the role of the interpreter in various settings, thus affirming Moeketsi's study on the undefined role of court interpreters in South Africa. Lebese further gives a general definition of the role of the interpreter. He discussed the multiple roles that they play, namely, conduits, communication facilitators, language experts, replicators, court orderlies, channels/bridges and lawyers as well as magistrates or judges. Because of the number of people that need to be serviced in a court trial, the interpreter then assumes the roles of all these court personnel.

2.6 CONCLUSION

Interpreting in general is not as easy as some people think it is. When one is on the receiving end, it is easy to correct the mistakes of the interpreter at work. However being the interpreter at work requires skill, patience and training as the role is more than just being an interpreter who conveys a message clearly from the speaker to the recipient. This study argues that this profession can be considered a critical skill which is greatly needed in South Africa today. The need for this scarce linguistic skill is further compounded by the rapidly increasing immigrant population who do not speak South African languages. Moeketsi (Moeketsi, 1997) remarks that in cases involving such immigrants, the court often has to use two interpreters: one for the languages of common use in South Africa and the other for foreign languages. In one such case, an immigrant from Rwanda faced a charge of illegal entry into South Africa. The charge against him was drawn and presented in Afrikaans. He addressed the court in French and a special court interpreter transferred the evidence into Afrikaans. The witness, in this case the policeman who had carried out the arrest, spoke Sesotho, which was then interpreted by a regular court interpreter into Afrikaans. Notwithstanding the important role played by court interpreters, the court nonetheless tends to undermine the court interpreters' professional status. The training provided is a bare minimum. The next chapter addresses the urgent need to take the court interpreting profession seriously.

CHAPTER 3: CONTEXT AND BACKGROUND

3.1 INTRODUCTION

As earlier stated, South Africa has eleven (11) official languages. English is one of them. English is also the business language in South Africa and the medium of instruction in most South African schools. English is viewed as the language of the colonial past; however in present day South Africa, it is the language most widely spoken in the country. South Africans speak English to one another outside the home where the home language is spoken. Although many South Africans are multilingual, English still dominates most communication.

On the subject of the Constitution of South Africa, Section 35 (k) states that every accused person has the right to a fair trial. This "includes the right to be tried in a language that the accused person understands or, if that is not practicable, to have the proceedings interpreted in that language" (RSA, 1996). This implies that whenever information is to be conveyed to a person, it must be relayed in the language that the person understands.

Even during the apartheid years, South Africa had many foreign nationals coming in and out of the country, notably from the neighbouring African countries of Zimbabwe, Mozambique, Ghana, and the Democratic Republic of Congo. There are also foreign nationals who come from Europe and Asia and the Middle East. With South Africa being a melting pot of diverse, nationalities and cultures Section 35 (k) of the Constitution of South Africa also includes all foreign nationals.

In his pilot study on the undefined role of court interpreters in South Africa, Samuel Lebese (Lebese, 2011) highlights eight roles that Court Interpreters in South Africa play. These are: as conduit, facilitator, language expert, channel or bridge, replicator, lawyer, court orderly and magistrate. This clearly explains the critical role of court interpreters in South African courts. If their role is deemed important, the need for qualified foreign language court interpreters becomes even more pertinent in South African courts.

3.2 COURT INTERPRETING IN SOUTH AFRICA- THE HISTORY

3.2.1 Prior to the 17th Century

According to Kotzé (Kotzé, 2004) the exposure of indigenous South Africans to colonial Languages (with the exception of infrequent contact with Portuguese mariners from the 15th century onwards) dates back to the 17th century. Sustained exposure started with the first encounters between the Dutch-speaking crews of ships belonging to the Dutch East India Company and the local Khoikhoi and San communities at the Cape of Good Hope. Furthermore, Kotzé mentions that the arrival of 17th century European settlers in the Cape resulted in what he refers to as "language-related consequences which altered the linguistic landscape of the whole continent, from Cairo to Cape Town". One of these consequences was the possibility that settlers communicated with the local people, the Khoikhoi. In his doctoral thesis, Usadolo (Usadolo, 2010) quotes Mwpeu who suggested that the communication between the settlers and the Khoikhoi could have been through "mimes and signs". Although it is not clear exactly how communication took place during the early contact between the Europeans and the local ethnic groups, or how frequently these interlingual encounters occurred, the emergence of free burghers later in the early colonial history of South Africa provides a picture of interlingual communication between European settlers and local ethnic groups. Usadolo (Usadolo, 2010) further explains with reference Wilson and Thompson that when the European Settlers moved into the interior, their contacts with the local ethnic groups became more frequent and was sometimes harsh in nature. Moeketsi and Thom (cited in Usadolo, 2010) give an example of these early interlingual contacts with documented proof of interpreter involvement as in the case of two (2) notable Khoisan interpreters – Autshumao and Krotoa, who were renamed by the Dutch (Jan van Riebeeck) as Harry and Eva respectively.

Autshumao was a Khoikhoi tribal leader who acquired Dutch very early during the interpersonal encounters between his people and the Dutch. This language skill counted in his favour and as a result he was used as the first interpreter by the Dutch (Mwepu, 2005). Besides Autshumao and Krotoa, other early interpreters were Kaik Ana Ma Koukoa (renamed Claes Das), Otegno (renamed Pieter) and Doman (renamed Anthony) (Mwepu, 2005). Autshumao was a Chief as well as an interpreter of the Gorinhaikonas. In 1630 The English took him to Batam from where he returned to the Cape after a year, during which time he became fluent in both Dutch and English. This meant that he was very useful to both his people and the Europeans, who were trading with each other. As

a result of his position as Chief and interpreter of the Gorinhaikonas, he became a rich man. Krotoa was the niece of Autshumao, a Khoi leader and interpreter to the Dutch. At the age of about 10 or 11 years, she was taken in by Jan van Riebeeck during the first few days of Dutch settlement in the Cape. She worked as a servant to the Commander's wife, Maria van Riebeek and is first mentioned in Van Riebeeck's diary in January 1654 as 'a girl who had lived with us'. She learned both Dutch and Portuguese and as her command of the Dutch language and her familiarity with Dutch culture grew, so did her usefulness as an interpreter. Krotoa became a friend of the Dutch and succeeded in negotiating a mutually beneficial relationship between the fort and the followers of her rich relative Oedasoa. She later played an important role in ending the First Dutch-Khoikhoi War (History, 2015) making Krotoa highly influential in South African history.

3.2.2 Beyond the 17th Century

South African law is:

> an amalgam of different legal systems, with its origins derived from both the Continent and in Great Britain. The foundation of South African law is Roman-Dutch law, which is itself a blend of indigenous Dutch customary law and Roman law. It was this legal system that prevailed in Holland during the 17th and 18th centuries and was introduced into and applied in South Africa after the southernmost tip of the Cape was settled by the Dutch in 1653. (Department of Justice, 2015)

Prior to the arrival of the British in South Africa, the Cape was governed, as noted above, by the Dutch East India Company (1652 - 1795). This period, according to Venter (1989:21), marks the "start of what could be described as the political and constitutional development of a White, Western-oriented state in South Africa". The Cape was governed by a council whose head was a Governor, assisted in the administration of justice by a court system known as *landdrosts and heemraden* (Venter 1989:25 and Walker 1947:52). The *landdrost*, according to Venter (1989:25) "was a local magistrate and the *heemraden* were burghers nominated to assist the *landdrost* in the performance of his duties". The Roman-Dutch law was central to the administration of justice (Venter 1989:25), and as Mwepu (2005) noted because all court proceedings took place in Dutch, interpreters were needed in cases involving other ethnic groups who did not understand Dutch. This

state of affairs in the administration of justice continued during the first occupation of the Cape by the British, which began after the defeat of the Dutch East India Company in 1795 (Venter 1989:26; Usadolo 2010).

The first occupation of the Cape by the British did not erase the Dutch language; however there were some changes that were made which were the introduction of circuit courts and courts for matrimonial affairs and petty cases in the judicial system in 1811 and 1817 respectively. The circuit court was an innovation designed to take the administration of justice to the rural areas but this was met with language-related challenges. One of the major challenges that the effective running of the courts of matrimonial affairs and petty cases faced was language. In the report by Campbell (1897:70), cited in Usadolo, it shows that the language challenge was timeously acknowledged: The Acting Governor did not overlook the difference of language, which could be of considerable embarrassment in cases where the British settlers were concerned. He therefore decided to appoint two additional "heimraden[1]" for the Graham's Town jurisdiction in addition to the heimraden already considered as belonging to the sub-drostdy. Another change was the introduction of the English language as the official language. This, as reported in Campbell (1897:106), was one of several ordinances made to change existing language policy, and to bring about reform in the Cape Colony. According to Campbell, the ordinance specifically addressing language issues in the judiciary was dated 28 May 1825 and it was "for introducing the use of English language in the judicial transaction of the court of magistracy".
The introduction of the ordinance addressing language issues marks the beginning of the departure from the Roman Dutch law system to the British system (Mwepu 2005:39).

In his article, Mahlangu (Mahlangu, 2008) adds that the law that is being interpreted in our Courts actually originates from a different culture of the Romans. It evolved into Roman-Dutch Law and subsequently became the common law of South Africa. In addition, it is influenced by English Law which is mostly applied in Criminal, Civil procedural laws and law of evidence.

According to the Department of Justice:

[1] Heimraden:- ancient form of "heemraden" which means persons who form the court or tribunal with a president to determine minor civil cases.

> When, at the end of the 18th century, the Cape was occupied by the British, Roman-Dutch law was retained as the common law of the country. English, however, became the language of the courts and English legal procedures and the English law of evidence in both criminal and civil matters were introduced. The influence of English private and public law also soon became apparent, often simply because its sources were more readily available to practitioners than the Latin and High Dutch of the Roman-Dutch old authorities. Occasionally it is still necessary for a modern judge to delve into these old authorities to search for the origin and scope of an otherwise obscure legal rule or doctrine. (Department of Justice, 2015)

In Sol Plaatje's time, the dominant (and *de facto* official) languages were English and Dutch, with German as a foreign language. A few years later, after unification, Dutch was replaced by Afrikaans. However, the *status quo* remained in terms of the interpreting scenario, even with successive apartheid laws that resulted in the creation of nominal independent states within South Africa. Consequently various indigenous languages got an official status of some kind in these states. This, according to Kotzéé, led to a practice where "ethnic communities within the so-called homelands were given the right to use the predominant language of that region as an official language in addition to both English and Afrikaans". (Kotzé, 2004) This, to a great extent, still characterises the language requirement in the employment of interpreters for local languages in South Africa.

3.2.3 South Africa as a Republic

Moeketsi and Wallmach describe the courtroom in South Africa as follows:

> "The South African courtroom constitutes a very complex linguistic environment. Languages spoken during court proceedings include the eleven official languages, their non-standard varieties, plus a multitude of "heritage languages" of Africa, Asia and Europe (cf. Moeketsi, 1999:126-127). Unlike in other countries, where a similar number of languages might be used in the courtroom, but where interpreting is needed only in a tiny number of court cases, South Africa is unusual in that the

> majority of court cases require interpreting. In the Magistrates' Courts, where the bulk of the criminal cases occur, about 90% of cases require interpreting, at least in Gauteng, the most multilingual province. One might well ask about the reasons for this linguistic mayhem. Simply put, unlike most courtrooms, where the language of the court is the language of the majority of the people, as is English in the United States or Britain, with some interpreting for the minority of cases where the participants speak other languages, South African court cases are conducted in the languages of the minority, namely English and/or Afrikaans, with interpreting services provided for speakers of the indigenous African languages, who form 76,5% of the population. This is a legacy of South Africa's apartheid past, where English and Afrikaans were selected as the official languages of the country, despite the fact that they were the languages of the minority." (Wallmach & Moeketsi, 2005, pp. 1-2)

Through an Act of Parliament, South Africa became a Republic in 1961, effectively confirming the country as a sovereign state. The comfortable position that Afrikaans occupied from its adoption as the official language in 1925 and the subsequent fierce Afrikaner nationalism, culminating in a landslide victory for the National Party in 1948, showed in no uncertain terms that the use of Afrikaans was not going to take a back seat in the Republic of South Africa. The language situation in the Republic of South Africa was a semblance of the situation at the Union of South Africa, except that Afrikaans had gained more prominence as additional resources were committed to develop it "to the same level of functional utility as English". This means that in the Republic of South Africa, interpreting- especially court interpreting- remained an unresolved issue in South Africa's history for many who did not understand Afrikaans and English (Usadolo, 2010).

The status of South African languages during the transition period made a drastic turn. Although it would have been wise at that time to similarly look into the status of foreign languages, the indigenous languages took priority. By prioritizing the indigenous languages, the injustices of the past would be dealt with in some way or another.

3.2.4 Beyond 1994

Zongezile Baloyi, when discussing the situation of court interpreters, stated in a speech in 2010:

> Historically, court interpreters were largely marginalized by the justice system dispensation which systematically denied them access to a formal education implying that theirs was not an important function within the court system. In February 1929 Professor Jabavu, when addressing delegates attending the National European – Bantu Conference, lamented the treatment meted out to Natives accused in Courts. Professor Jabavu cited striking examples of how the faults and errors of court interpreters were the causes of serious grievance and miscarriage of Justice. He advocated for the employment of Natives as interpreters in the place of Europeans. Looking back, 63 years after the quoted plea of Professor Jabavu, Stephan Du Toit who was then based in Namibia, in his analysis of status of Court Interpreting in South Africa makes an assertion that; "The need for a properly trained and skilled interpreting service is therefore obvious" and goes further to say that "Far too little seems to be done in South Africa to ensure availability of skilled interpreters, there should be a special College for training Interpreters so that the requirements of Justice can be served in a polyglot country." (Baloyi, 2010)

Inggs (Inggs, 1998) mentions that for obvious historical reasons, the only two official languages in the country for many years were English and Afrikaans. She writes:

> These two languages were therefore also the official languages of the courts. As the majority of the South African population has neither English nor Afrikaans as a first language, the need for court interpreters continues. Previously, the provision of court interpreters for all of the other languages of South Africa (another nine have been adopted as official languages) was seen as an unfortunate necessity. Since 1994 linguistic rights have been enshrined in the constitution and not only are court interpreters a necessity, but it is now recognised that their provision is a vital means of ensuring the linguistic and legal rights of the whole population.

> Because almost all cases involve a court interpreter, the South African Department of Justice employs full-time interpreters to serve in the courts. These interpreters are therefore public service employees. Interpreters are normally assigned to a particular court, often with the same magistrate or judge presiding. Without their presence, the majority of courts cannot function. Today however there are cases where all those in the courtroom, including the lawyers and the judges, are speakers of a language other than English or Afrikaans, for example, Zulu. Because the language of record has to be uniform, interpreters still find themselves interpreting to no real purpose. This is a complex issue, currently being negotiated by the Department of Justice. One solution would be to record proceedings in Zulu and then have them translated into English, although this could lead to obvious legal problems and has so far meant that interpreting in such a case has continued, however cumbersome and time-consuming. The particular historical and social background peculiar to South Africa has also meant that court interpreters do not only serve as interpreters but often also as mediators between the accused, the witnesses and those in a position of authority in the courts. This may involve simple things such as thanking witnesses and asking them to step down, or explaining court procedure. Court interpreters themselves freely admit their role of advocacy in the courtroom and consider this an important part of their work, however controversial it may be. (Inggs 1998)

Unlike the situation prior to 1996, when the presence of a Court Interpreter was determined by the Magistrate's opinion, Section 6 (2) (b) of the Magistrates Court Act 32 of 1994 stated that: "if the Magistrate was of the opinion that the person appearing before him was not sufficiently conversant with the language of record, an Interpreter will be provided to interpret to the best of his ability, just and correct. "In terms of various choices made by our High Courts thereafter, emphasis is on proficiency and contextual court interpreting.
(Inggs, 1998)

3.2.5 South African Judiciary: The Courts

The judicial authority of the Republic of South Africa is vested in the courts (Department of Justice and Constitutional Development, 2016). The Constitutional Court, which is the highest in South

Africa was born out of the country's first democratic constitution in 1994. It only makes decisions about issues that have to do with the constitution. It is also the highest court in the land since its decisions cannot be changed by any other court. Second to the Constitutional Court is the Supreme Court of Appeal which is based in Bloemfontein. This court deals with cases sent to it from the High Court. Except for the Constitutional Court, no other court can change a decision of the Supreme Court of Appeal. It is only the Supreme Court that can change its own decision. Below the Supreme Court of Appeal is the High Court. High Courts deal with cases which are too serious for the Magistrate's Court. This means that the cases are appeal cases. The decisions of the High Courts are binding on the magistrates within their areas of jurisdiction. The Magistrates' Courts are the lower courts which deal with the less serious criminal and civil cases. They are divided into regional courts and district courts. In Criminal Courts the state prosecutes people for breaking the law. Criminal Courts can be divided into two groups, Regional Magistrate's court and district courts. Magistrate's Courts can also be divided into either criminal courts or civil courts. It is mostly in the Magistrates Courts where the foreign language interpreters are needed followed by the High Court as most cases from the High Courts are referred by the Magistrate's court. There are always cases that require foreign language court interpreters in Magistrates courts and High Courts, in particular.

3.2.6 Court Interpreting in the South African Courtroom

3.2.6.1 Language

In order to understand the debates about language in court, it is necessary to understand the context of language in law and the role it has played and continues to play in the shaping of the South African political and historical culture. Before the arrival of European settlers, the indigenous African populations lived under complex, though unwritten, bodies of law. People identified themselves through various traits, one of the most important being language. When the first settlers of the Dutch East India Company known as V.O.C arrived at the Cape in 1652, they imported a written body of law as well as the Dutch language. Throughout the V.O.C. rule, Dutch and its local

derivative, the pidgin Afrikaans, became the dominant language in the execution and administration of that law. The exclusive use of these languages was threatened by the British conquest of the Cape and its subsequent annexation in 1806. British administrators brought not only their law, but imposed their language on the administration of the colony, including the courts. This was to set the stage for the linguistic "bellum juridicum[2]" that would dominate South African legal history until the early 1990s. The Anglo-Boer War brought an end to the independence of these states, but the people, who now referred to themselves as Afrikaners, retained a sense of nationalism that would lead them to take great measures to protect and develop their identity, especially with regard to their language. In the negotiations that led to the Union of South Africa Act of 1910, a joint submission was introduced and accepted by the British government making both English and Dutch official languages of the country. The subsequent Official Languages of the Union Act 8 of 1925 included Dutch as part of the Afrikaans language while the 1983 Republic of South Africa Constitution Act 110 of 1983 made no mention of Dutch at all. The importance of the protection of the Afrikaans language is revealed by the special procedures set in place for repealing these language provisions. Throughout the twentieth century, considerable efforts on the part of the Afrikaans speaking community fuelled by an anti-imperialist sentiment led to a concerted development of the Afrikaans language. This was especially true in the area of law. The election of the Nationalist Party in 1948 saw the increase in the use of Afrikaans in the public sector. As the state grew, so did the use and support of the language to the point where it had developed into a fully-fledged legal language. Unfortunately, the African languages of South Africa did not receive the same attention. It was not until the 1993 "Interim Constitution" (Constitution of the Republic of South Africa Act 200 of 1993) that African indigenous languages were given any official recognition as languages of the state. The realities of a multilingual South Africa could not be ignored, even by former euro-centric colonial and post-colonial regimes. Statutes such as the Magistrates' Courts Act of 1944 created obligations for courts to find appropriate interpretation for accused persons who appeared to not understand the language of the Court. Rules of the High Court as well as the Criminal Procedure Act 51 of 1977 both contain dispositions for the use and translation of testimony and documents in indigenous languages in courts. Normally, these provisions ensure that evidence and testimony is translated into what were the two official languages of the Republic, English and Afrikaans. But there was no

[2] Bellum Juridicum: two approaches to South African law.

interest in developing these languages for use in government until the 1950s. It was at this time that the government began to implement its "Homelands" scheme in which areas of the country would become "independent" and self-governing. It was expected that the indigenous languages of each tribal group would become the language of government for each homeland area. By the time the struggle against apartheid had reached the point of negotiations in the early 1990s, language had played an extremely important part in the development of the liberation movement's struggle towards democracy.

One of the pinnacle moments of the struggle was the Soweto uprisings which put the situation in South Africa in the eye of the international community and saw a violent turn in the various movements. The constitutional negotiations and the subsequent draft Constitutions that were created were governed by a set of Constitutional Principles which were to be respected before the Constitutional Court would accept a final draft. Principle XI sought the protection and promotion of language and culture. This principle influenced the provisions of the Constitution today, both those provisions within as well as those outside the gambit of the Bill of Rights (Cote, 2005).

3.2.6.2 Interpreting in South African courts

Interpreters have played an important role in South African courtrooms for a long time as is proven by the 1944 Magistrate's Courts Act requiring magistrates to find competent interpreters for accused persons who do not understand the language of the court. This role, however, has been the subject of study and some criticism by researchers and court officers. The interpreter often finds their position as communicator between the two contesting parties who, by duty, has to serve the two impartially, compromised as such by their position in the court hierarchy as their position as the cultural link between speakers of African indigenous languages speakers and a system that often feels overwhelming and beyond touch. Interpreters are employed by the Department of Justice on a full-time or part-time basis and on average speak seven languages, including the two de facto languages of record, English and Afrikaans. There is normally one interpreter assigned to a court who will interpret for the prosecution, defence, the magistrate and, of course, the record. Despite their constant place in the courtroom, they are generally considered low in the courtroom's hierarchy, perhaps due to their historically imposed view as an "unfortunate and undesirable

necessity." Interpreters often find themselves in a difficult position as not only an interpreter of words, but also of cultural differences. The difficulties with relying on interpreters were highlighted by the judge in the case discussed by Cote (Cote 2005), -S vs Pienaar, who found that interpretation in the courtroom increases delays, increases costs, and can lead to a decrease in the quality of testimony of witnesses. A criticism of the role of interpretation in a courtroom should not be seen as a negative reflection on interpreters themselves. Interpreters work under very difficult conditions, as does much of the criminal justice system, balancing between the fundamentals of their position and the realities of the courtroom. Courtroom interpretation will always remain an essential part of the South African justice system. But it must be noted that the difficulties arising in the case-law examined above often stem from systemic problems outside the control of the interpreters themselves. The two cases involving the use of indigenous languages as the language of record both involved a lack of interpreters and the courts' unwillingness to postpone an accused's matter any later due to delays that had already been incurred. An increasing problem, was seen in the case also discussed by Cote, Mponda v S where the accused could not understand any local language sufficiently. In addition to the problem of finding interpreters who speak these languages, the procedural difficulties in the courtroom itself may exacerbate the situation requiring a translation from the foreign language into the language of record then into an indigenous language, for those who cannot speak the language of record, and then back again. Those are problems that other jurisdictions have already experienced and cause long delays during the hearings themselves. Interpretation is an essential part of any courtroom in a multilingual society (Cote, 2005).

3.3 FOREIGN COURT INTERPRETING IN SOUTH AFRICA

3.3.1 Immigration in South Africa

> Other African nations were responsible for the influx of foreign nationals to South Africa and their criticism of the government over the recent wave of deadly xenophobic unrest was misplaced, President Jacob Zuma said on Monday. (Maroma 2015).

In his response to the xenophobic attacks that took place early in 2015, President Jacob Zuma in his freedom day speech delivered on 27 April 2015 at the Union Buildings in Pretoria, said that other nations were responsible for the influx of foreign nationals in South Africa. Although the reasons

people choose to immigrate to South Africa can be as diverse as people themselves, generally people immigrate for the following: religious freedom, economic opportunity and political stability. Other reasons include escaping areas damaged by natural disasters such as floods, earthquakes, or volcanoes and reuniting with family members who emigrated at an earlier time. The immigration policy in South Africa is closely tied to European colonisation of the country. The arrival of Europeans, while slow to start, rapidly expanded with the discovery of diamonds and gold in South Africa in 1867 and 1886 respectively. The immigration of white Europeans during those early years was encouraged while the immigration by black Africans was discouraged and prohibited. During the apartheid years, the practice of segregation led to further discrimination against immigrants, specifically black Africans, Indians, Chinese and Jews, while immigration by whites from Africa and other countries continued to be encouraged. The official end of apartheid did not end the segregationist sentiments that influenced the country's restrictive immigration laws. Xenophobia, high unemployment, and anti-immigration sentiment led to a decline in immigration to South Africa during the 1990s and therefore fuelled illegal immigration mostly by black Africans seeking refuge from poverty and wars in neighbouring countries. The amendments to South Africa's policies in the early 2000s were designed to encourage immigration, especially by highly skilled workers and entrepreneurs who could benefit the country's economy. In response to the changes in policy, immigration and cross border migration by unskilled workers increased. However emigration[3] and brain-drain[4], or loss of highly skilled and educated citizens also increased during this time. Due to the distrust of foreigners, and anti-immigrant sentiment, immigration to the country stalled beginning in 1990 and the downturn continued for about 10 years. Immigrants granted permanent residence status dropped from about 14000 per year at the beginning of the 1990s to fewer than 4000 annually in 2000, and in the first 10 months of 2001 only 3053 people moved to South Africa (Bailey, 2008).

A new immigration Act took effect in 2002. Although it was bogged down in anti-immigrant based challenges to its constitutionality in the courts, South Africa's declining immigration began to shift. A rapid influx of hundreds of thousands of people would be treated by most countries as serious crises requiring immediate intervention. Yet, South Africa's official reaction to this movement has

[3] Emigration: the act of leaving one's own country to settle permanently in another; moving abroad.
[4] Brain drain: the emigration of highly trained or qualified people from a particular country.

been characterised by a studied determination not to acknowledge that anything is out of the ordinary (Crush & Tevera, 2010). While South Africa continued to review its immigration policies, certain problems occurred with regards to immigration. There were several factors which affected illegal immigration to South Africa. These were the country's enforcement of restrictive immigration policies, political instability, wars, poverty and joblessness or low wages in the neighbouring countries. Xenophobia increased proportionately with the increase in illegal immigrants from other African nations, Asia, Eastern Europe and China. There were nationals who established legitimate businesses but others were implicated in crimes such as false marriage scams, financial crimes, extortion, importing counterfeit products and the smuggling of illegal aliens and drugs into South Africa.

To make this more practical, here is an example of a case of Radovan Krejcir. Krejcir is a foreign national born in the Czech Republic. On August 24 2015, he was convicted of attempted murder, kidnapping and dealing in drugs. During one of his trials, Krejcir said that he would like to call his psychologist, psychiatrist and social worker, and needed an interpreter. If there was no foreign language court interpreter present at that time, then the case would have to be postponed (Eye Witness News, 2016). Considering the current influx of foreign nationals, South Africa is likely to deal with such cases on a more frequent basis. Conversely, according to Crush and Tevera (Crush & Tevera, 2010), it was evident that South Africa's then policy and institutional framework was not set up to deal with large scale migration flows. South Africa has to constantly find ways of dealing with these problems which often result in serious court cases that then require the services of a foreign language interpreter.

3.3.2 Immigration Regulations in South Africa

When the Department of Justice and Constitutional Development employs a non-South African citizen, one of the requirements is the possession of a valid work permit[5]. There are foreign nationals who come into South Africa for various reasons. Some for purposes of work; these are called immigrants and migrants. There are others who come into South African to seek asylum and refugee

[5] See Annexure A as an example of a full job advert of a Foreign Language Court interpreter.

status because of the unliveable conditions, death threats and unsafe environment in their respective countries. The Immigration Act (No 13 of 2002) as amended on 22 May 2014, (Government Printing Works: Gazette, 2014) deals with immigration and migration. It repeals the Aliens Control Act of 1991 as well as the Aliens Control Amendment Act (No76 of 1995) and regulates the admission of people to South Africa and their right to live and work in South Africa. The Act uses a licensing fee to manage the process of allowing foreigners to work and live in South Africa. It also regulates the movement of migrant workers in certain sectors such as mine working and agricultural work.

In December 2015, the Parliament submitted an amendment to the Immigration Act which states the following rules:

a) Illegal foreigners who have overstayed, as prescribed, do not qualify for a port of entry visa, a visa, admission into the Republic or a permanent residence permit during the prescribed period.
b) Any foreigner who leaves the Republic after the expiry of his or her visa shall be dealt with in terms of section [30(1) (h)] 32(1A).

In view of the immigration bill, it is clear that the immigration Act of South Africa continues to be reinforced. For this reason, all South African employers including the Department of Justice and Constitutional Development as well as all foreign employees need to take note of amendments to the Act and adhere to them (Government Printing Works: Gazettes, 2015).

The immigration laws have undoubtedly had several unintended consequences for many foreign nationals which may include foreign language court interpreters.

3.3.3 The need for Foreign Language Court Interpreters

A foreign language is known to be a language that is spoken in another country that is not one's own. For example, in South Africa, Shona would be known as a foreign language as it is only spoken in Zimbabwe. It is a language not spoken by native South Africans but by foreign nationals who reside in South Africa.

News 24 (Ahmed, 2015) published an article in September 2015 entitled *Foreigners from 13 countries nabbed by SA cops:*

> *Cape Town - Foreign nationals from 13 countries have been tracked down by police for committing crimes in South Africa, National Police Commissioner General Riah Phiyega said on Tuesday.*
>
> *"The SAPS crime intelligence has tracked foreign nationals from 13 countries that have contributed to various types of crimes," she told Parliament's portfolio committee on police, during the release of the 2014/15 crime statistics.*
>
> *She said these countries were Nigeria, Zimbabwe, Mozambique, Somalia, Pakistan, Bangladesh, Ethiopia, Lesotho, Congo, Tanzania, Bulgaria, Malawi and China.*
>
> *"When you look at the statistics' performances of Limpopo, Gauteng, Mpumalanga and partly Western Cape and KwaZulu-Natal, you understand pressures on policing," she said.*

While there is a large number of foreign nationals who positively contribute towards strengthening South Africa's economy, it cannot be concluded that most foreigners who come into country commit criminal offences. The article above is evidence, however, that crime committed by foreign nationals in South Africa cannot be overlooked. This simply means that even foreign nationals that are accused and tried have the right to fair trial which includes the right to be tried in the language that they understand. While some accused persons may be exploiting Section 35(k) of the Constitution, others may have a genuine need to have a foreign language interpreter in place. Either way, the Constitution accommodates both groups.

The ubiquity of nationals with foreign languages requiring assistance with interpreting in South African courts stems from South Africa's unique economic advantages. These advantages have encouraged foreign African migrant workers from other Southern African countries, such as Zimbabwe, Botswana, Malawi, Lesotho, Malawi, Zambia and Mozambique to look for greener pastures. These economic advantages have also provided the floodgate that has led to the unprecedented influx of immigrants from different parts of the world to South Africa following the April 1994 democratic elections that ushered in a new political dispensation. The immigrants often experience grave socio-economic problems; and some have been involved in questionable deeds that have socio-economic consequences for the country. Nowhere are these socio-economic

consequences clearer than in the criminal justice system. On a daily basis, news of the occurrence of crimes committed by foreign immigrants in South Africa is reported in the media. For many reasons, these growing immigrant populations of diverse backgrounds have daily encounters with government institutions, such as hospitals, schools, and other government departments – to take care of their specific needs. Many of these immigrants do not understand the two main official languages used in formal settings, such as government departments and courtrooms. This has aggravated the existing complicated issues regarding linguistic and cultural rights that have been contentious issues both in the pre- and post-apartheid dispensations. As Usadolo states:

> Also, while the judiciary is struggling with the mammoth task of levelling the playing field in terms of the linguistic human rights of the diverse indigenous linguistic communities of South Africa, the presence of foreign immigrants in the picture has added more challenges regarding the thinking about language issues and the administration of justice. (Usadolo, 2010)

Court interpreting in foreign languages has become one of the most critical support services in the courts. The Department of Justice and Constitutional Development within its permanent establishment does not have the required set of skills and competencies to provide the interpreted services in foreign languages. This function has been managed through the sourcing of casual foreign language interpreters as and when the need arises (Department of Justice and Constitutional Development, 2015).

Figure 1 below gives the statistics provided by the Department of Justice and Constitutional Development as at 2013.

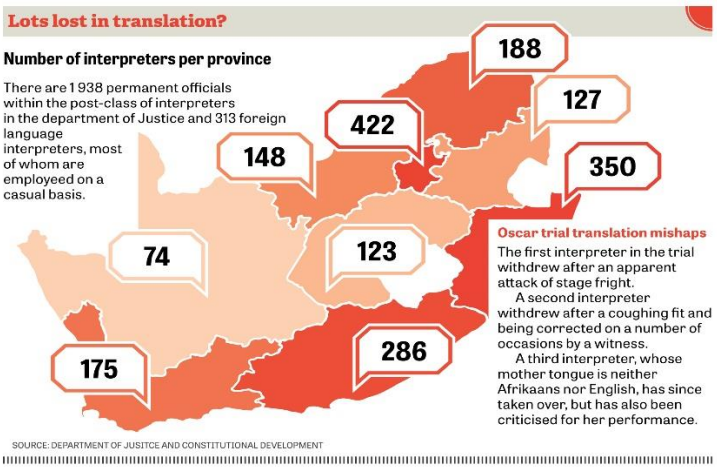


Figure 1

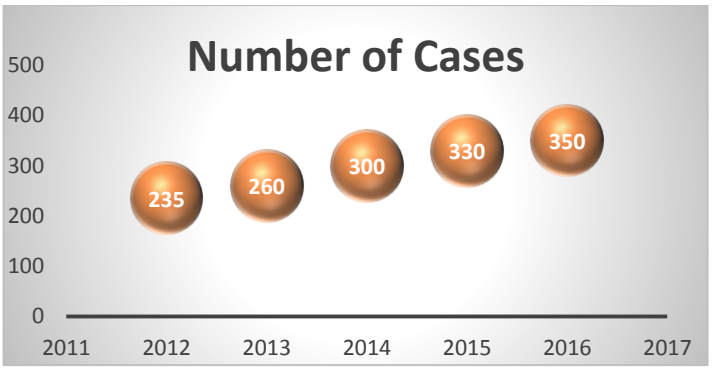
However, due to the growing number of foreign nationals within the South African borders in recent years the need for interpreting services in foreign languages in our courts has become a prerequisite and a daily requirement. The demand for interpreting services is high and cannot be done without if the founding value of the Constitution is to be upheld. It is only the Gauteng region that has conducted a pilot study and subsequently appointed foreign language interpreters on a fixed term contract after resorting to stringent recruitment and accreditation processes. The following foreign languages are frequently required in the courts on daily basis: Urdu, Arabic, Mandarin, Somali, Shona, Swahili, French, Ibo, and Portuguese (Department of Justice and Constitutional Development, 2015).

3.4 CONCLUSION

This chapter sought to bring about an awareness of the importance of foreign language court interpreters. In a fast changing society where knowledge is on the rise, the globalization and policy revision, it is important to note that the Constitution of South Africa accommodates those of other nationalities in terms of the law and trial.

The type of cases dealt with on a daily basis vary from drug smuggling, theft, fraud, rhino poaching and hijackings. On average, the Johannesburg cluster handles about three hundred and fifty (350) cases per year that require foreign language interpreting. These statistics emphasize the how important foreign language interpreting has become in courts. The number of foreign language cases

presented here far exceeds the number of employed foreign language court interpreters. According to an article published in the *Sowetan live* in 2012 (Anon., 2012), the average number of cases that required foreign languages was two hundred and thirty five (235). In 2016, this number has increased by 115 cases. This sharp rise emphasizes on the great need to have the wide gap of demand and supply narrowed. Graph 1 below further provides estimates on the average increase of cases per annum.



Graph 1

With the rising need for foreign language court interpreters, this study will review the reasons for this shortage. The next chapter will further discuss the methods that will be followed by the researcher in compiling the research.

CHAPTER 4: RESEARCH METHODOLOGY

4.1 INTRODUCTION

Data Collection has been identified as one of the critical and time consuming exercises of a research project. This must be done because without data it is not be possible to broaden one's understanding, neither to explain the unknown nor add new knowledge to existing knowledge (Brynard & Hanekom, 1997).

4.1.1 Quantitative Research

Quantitative research is the collecting of data so that information can be quantified and subjected to statistical treatment in order to support or refute "alternate knowledge claims" (Creswell, 2003). Creswell further states that quantitative research originated in physical sciences, particularly in chemistry and physics. There are three historical trends for quantitative research and these are: research design, test and measurement procedures and statistical analysis.

4.1.2 Qualitative Research

Qualitative research encourages a particular way of asking questions and a particular way of thinking through problems. Qualitative researchers are after meaning. The social meaning that people attribute to their experiences, circumstances and situations, is the focus of qualitative research.. More than a concept or a series of techniques that can simply be employed to obtain results, qualitative research is an intellectual, creative and rigorous craft that the researcher not only learns but also develops through practice. The process of Qualitative research is referred to in *The Practice of Qualitative Research* (Hesse-Biber & Leavy, 2010) as a knowledge-building process.

In more technical terms, the table presented below gives a comparison of qualitative and quantitative research methods.

Table 1.1 A Comparison of Qualitative and Quantitative Models of Research

Qualitative "Inductive" Methods Model	Quantitative "Deductive" Methods Model
Topical area	Formulate a research question
Analyze subset of data	Develop a hypothesis
Generate codes (literal to abstract)	Define variables
Reanalyze data; analyze additional data	Construct measurement instrument
Memo notes	Coding
Analyze additional data	Sampling (random sampling)
Refine codes; generate meta-codes	Reliability and validity checks
Analyze additional data	Statistical check (if necessary)
Embodied interpretation	Calculate results
Representation	Represent results (typically on charts or graphs)

Source: (Hesse-Biber & Leavy, 2010)

4.1.3 Mixed Methods

The basic hypothesis behind using a mixed methods research design is that the combination of both approaches provides a better understanding of a research problem than either approach could alone. Creswell (2003) argues that integrating methodological approaches strengthens the overall research design. This is because the strengths of one approach offset the weakness of the other and can provide more comprehensive and convincing evidence than mono-method studies. Another more practical benefit is that mixed method research can encourage interdisciplinary collaboration and the use of multiple patterns. The decision of whether or not to integrate multiple approaches depends on a combination of the research objectives. That decision depends also on the resources, the time available and the audience for the research findings.

Occasionally, research also uses the mixed methods approach or triangulation. This chapter primarily outlines the overall research design or methodology of the study which deals with the relationship between the Department of Justice and Constitutional Development and its employees. It also includes a list of sequential steps taken in conducting the study from data collection, through

data analyses and packaging of the information for presentation in the form of a discussion in the next chapter. It is important to mention that all research is based on some underlying philosophical assumptions about what constitutes valid research and which research methods are appropriate for the development of knowledge in a given study. The research design and specific procedures used in conducting this study are outlined below.

The data collection method was done in three ways: qualitatively, empirically qualitative and quantitatively. Most of the qualitative data were obtained from written sources (books, journal articles, newspapers, Department of Justice Policy documents on Foreign Language Court interpreters etc.) while some was obtained empirically. Empirical qualitative data was sourced using purposive nonprobability sampling in selecting informants considered knowledgeable on the theme of the study. In other words, information was obtained from purposively selected informants based on their understanding of the issue at hand. Information from these purposively selected informants was solicited through interviews. Quantitative data was also obtained through means of statistics and figures.

Due to the fact that there is not much research available on the field of foreign language court interpreting in South Africa, it was important for me to follow these methods of research. I had to place myself in the interpreting environment in order to understand the nature of work done by interpreters and see them in action. Questionnaires were used to obtain information from lawyers since I was not able to reach them physically for interviews.

4.2 RESEARCH DESIGN

Research design can be thought of as the logic or master plan of a research that throws light on how the study is to be conducted. It shows how all of the major parts of the research study, samples or groups, measures, treatment or progress work together in an attempt to address the research questions. According to Mouton (Mouton , 2001) the research design serves to plan, structure and execute the research to maximize the validity of the findings. It gives direction from the underlying philosophical assumptions to research design and data collection. The research design refers to the

overall strategy that you as a researcher choose to integrate the different components of the study in a coherent and logical manner, ensuring that you will effectively address the research problem. It constitutes the blueprint for the collection, measurement, and analysis of data.

4.3 MIXED METHOD RESEARCH DESIGN

The aim of this study is to investigate the growing need of Foreign Language court interpreters in South African courts. The purpose is to identify why there is a need for foreign language court interpreters and also to develop ways and strategies to fill the gap or need. In order to gain an in-depth understanding of how foreign language court interpreters' work and why there is a need in South Africa today, a mixed methodology of qualitative and quantitative approaches was used for this study. The rationale for using mixed methods is to enable the researcher to use more integrated approach with the potential to yield better research outcomes by tapping on the strengths of each research paradigm. Moreover, the researcher sought to demystify or dispel the existing myth that the qualitative and the quantitative approaches are mutually exclusive and may never be used simultaneously. According to Osborne (2008), the nature of the research conducted required a collection of statistical data in order to understand the situation at hand with regard to Foreign Language Court Interpreters. To validate the researcher's choice of mixed methods of research, one can therefore argue that the development of the mixed methods research paradigm may not be a solution for all research problems. It however does provide a bridge between the traditional stand-alone qualitative and quantitative research method.

4.4 REASONS FOR CHOOSING QUALITATIVE AND QUANTITATIVE APPROACH

4.4.1 Qualitative design

The main reason for choosing a qualitative approach was because it is descriptive, explorative and it investigates the natural setting of court interpreting in general. The qualitative approach clarifies uncertainties in the specified field, and there are new insights that are acquired thus the researcher

is able to contextualise the findings. Strauss and Cobin (Strauss & Corbin, 1992) argue that qualitative research allows researchers to identify the inner experience of participants to determine how meanings are formed and to discover rather than test variables. A qualitative research paradigm was preferred and considered appropriate as part of collecting data for this study because the researcher desired to elicit the passionate actions, beliefs, thoughts and experiences of the participants at their varied levels of participation in the study.

4.4.2 Quantitative design

With the quantitative research design approach, reality is viewed as singular, objective and independent of the researcher. Houser corroborates this statement when he elucidates that the quantitative positivism is rooted in a realist ontology, that is, the belief that there exists a reality out there, driven by immutable natural laws. Since quantitative research design data collection methods often employ measuring instruments, de Vos (de Vos, 2002) is of the opinion that such methods could be categorised into questionnaires, checklists, indexes and scales. Furthermore, according to Foxcroft and Roodt cited in Magolego (2011) quantitative research refers to counts and measures of things. Numbers form a coding system by which different cases and different variables may be compared. On the basis of the argument above, the researcher can conclude that the primary focus of quantitative research is to explain the relationships between the variables.

There is a high likelihood that existing theory generated by either the qualitative or quantitative research design may be biased or inadequate for this study. It is against this backdrop that the researcher has opted to use the mixed method research design for this study.

4.5 SAMPLE DESCRIPTION

Mc Millan and Schumacher cited in Mogale (2014) argue that one of the first steps in designing quantitative and qualitative research is to choose a sample. “Sampling” denotes extracting systematically from a large group. It is then clear to the researcher that sampling means systematic choice of the individuals who participate in the study and from whom data are collected. This research is confined to the responses of the following participants: Court interpreters in both local languages and foreign languages, court interpreter coordinators from the Department of Justice and

Constitutional development, one attorney and one advocate, one magistrate as well as a director working in the office of the Chief Justice. The research was conducted in two clusters: Johannesburg and Kempton Park within the Gauteng Province. A structured questionnaire was given to both the attorney and the advocate because of their busy schedules. Interviews were conducted with all court interpreters, court interpreter coordinators, the magistrate as well the director in the office of the Chief Justice. The reason for choosing these participants was because they are knowledgeable could be relied upon to provide balanced perspectives.

The researcher purposefully conducted research at two Magistrate Courts- Johannesburg and Kempton Park because these two magistrate courts handle the most cases requiring foreign language interpreting services. Therefore, foreign language court interpreters are employed in these courts. The researcher assumed that the selected participants had first-hand experience of the challenges faced in the field of foreign language court interpreting.

4.6 DATA COLLECTION AND ETHICAL PROCEDURES

Qualitative and quantitative research data can be obtained from various sources since the methods of data collection are guided by the purposes of the study. These sources include among others: books, journals, government policy documents, articles, dissertations, interviews and questionnaires. For the purposes of this study, the data gathered is categorised as primary and secondary data. Primary data is any data which has been collected through the focus group interviews with all Department of Justice and Constitutional development officials as well as the structured questionnaire which was distributed to lawyers. Secondary data on the other hand was collected through the analysis of relevant research which relates to the research topic. As said, the study employs both primary and secondary data.

Prior to the collection of data, ethical clearance was sought from the Ethics Committee of the Faculty of Humanities in the University of Witwatersrand. Upon receipt of the clearance, data was collected at the Johannesburg and Kempton Park Magistrate Courts. The participants were assured that the information would be used solely for the purpose of the study. The aims and objectives were clearly outlined to the participants. As such, the participants were informed that their answers

may be provided anonymously which is in line with ethical practice. The responses were transcribed verbatim to capture the verbal data for use during later analysis.

4.6.1 Structured Interviews

As a primary data collecting technique, face-to-face interviews were conducted with the Court Manager of the Gauteng Courts at the Department of Justice and Constitutional Development, two (2) indigenous language court interpreters, four (4) foreign language court interpreters, two (2) cluster managers – one from Johannesburg and one from Kempton Park, the acting chief magistrate of the Kempton Park Magistrate Court. The face-to-face interviews consisted of both males and females. The interviews were conducted during the week in the mornings when the officials were not busy and also to minimise disruptions to working hours and any inconvenience that might be caused. According to Mouton, the one-on-one interview provides access to the respondents' level of meaning, in addition to clarifying arguments and revealing diversity in views and opinions. It can also serve to assist the respondent to re-evaluate a previous position or statement that is in need of "amplification, qualification, amendment or contradiction. In other words, the interview is proposed as a source of validation (Mouton , 2001).

While all interviews were equally important, the most striking were with the cluster managers on the ground. The following questions were asked:

1. Where is the court interpreter's first point of call and how do they grow in the profession?
2. What type of cases do the court interpreters have to interpret on a daily basis?
3. How many cases in the Johannesburg Cluster require foreign language interpreting on a daily basis?
4. What is the average increase of cases requiring foreign languages?
5. What are some of the challenges you deal with when coordinating Foreign Language Court Interpreters?
6. How many Foreign Language Court Interpreters are employed in the Kempton Park?
7. How is the performance of a foreign language court interpreter evaluated?
8. Does the High Court have its own pool of Foreign Language Interpreters?
9. Do you have a glossary of legal terms that foreign language court interpreters may use when they report to work for the first time?

These questions were asked on the basis of obtaining statistics and receiving more accurate answers. Coordinators know more than most personnel in the field of interpreting. Thus they were able to make a valuable contribution to this study. The questions above sought to understand:

- The everyday life of a court interpreter
- How many times they interpret each day
- To see if there is a genuine need to have more foreign language court interpreters in the South Africa courtroom.
- To understand if the foreign language court interpreters are competent in the work that they do.

4.6.2 Structured questionnaire

The researcher used a structured questionnaire as a primary data collection technique to glean relevant information from the participants. The use of a questionnaire allowed the respondents to enjoy a high degree of freedom in completing the questionnaire without any fear of being biased. The questions posed were mostly close-ended requiring a specific response and ensuring that the respondent did not respond out of context. As a researcher, I tried to comply with the following principles in formulating the questionnaires:

- Keeping questions kept simple and clear
- Refraining from using negatives in the statements
- Avoiding ambiguity
- Ensuring that questions are relevant and are in line with possible choices

The following questionnaire was given to a lawyer to respond:

1. In which type of law do you practise?

2. Do the cases require the services of foreign language court interpreters?

3. On average, how many cases require the services of foreign language interpreters? Can you give a ratio

4. What has your experience been with foreign language interpreters? Positive or negative?

5. Was the interpreting service rendered accurate and satisfactory

6. Do you know of any case lost due to poor interpreting?

7. Have you witnessed or do you know of any attorney who has witnessed poor interpreting in a court proceeding?

8. In a case where technical language is used for example explaining a post mortem report, are the medical specialist required to assist the interpreters with technical terms or do the interpreters do all the interpreting?

9. Do you know of any case in which the judge may have intervened as an "interpreter" for a moment in a court proceeding

10. What are the reasons for postponement of cases?

11. Is the lack of court interpreters one of the reasons why cases are being postponed?

By asking the above questions of lawyers, the researcher sought to understand whether the delivery of an interpreter contributed positively or negatively to the decision taken in a trial.

4.6.3 Secondary data

Secondary sources are a prerequisite in order to conduct effective research. As the researcher, I read numerous sources related to the topic under this study. The sources included books, journals, newspapers, articles the internet, dissertations and government policy documents. According to Potter cited in (Mogale, 2014), documents are important to researchers because such documents may provide confirmatory evidence and strengthen the credibility of interviews. All data, both primary and secondary will be collated to ultimately conclude the data collection stage.

4.7 DATA ANALYSIS

Data analysis is the process of bringing order, structure and meaning to the collected data. In simple terms, data analysis refers to organising, integrating and examining collected data while searching for relationships and patterns which emerge among specific details. Data analysis also allows for improvement of understanding, expansion of theory as well as the advancement of knowledge. Subsequent to the process of data collection; the collected data is expected to be analysed and conclusions drawn that should respond to the research question. Strauss and Corbin (Strauss & Corbin, 1992) propose the following method to analyse data:

- Each transcript should be read once and all preconceived answers ignored.
- Relevant words, sentences or phrases should be underlined and names according to conceptual themes.
- Themes should be sorted into categories and sub-categories.
- Interview protocol and transcriptions should be given to an independent decoder or expert of analysis
- The researcher and the expert of analysis should discuss the results of the analysis and the interview document.

As a researcher, while I attempted to follow the method given by Strauss and Corbin, I did not limit myself to the one method in its entirety. In this particular study, qualitative and quantitative data analysis was used. To ensure that this study compiled with the ethical code of research, the names of the participants were not revealed.

Over and above the approaches used, an interpretative approach was also used. The aim of the interpretative approach is to explore in detail how the participants are making sense of their personal and social world. In essence, the interpretative analysis emphasises meanings and particular experiences for the participants. This approach involves a detailed examination of the participant's world. In this study, the researcher visited the Johannesburg Magistrates court as well as the Kempton Park Magistrates court simply to observe the foreign language court interpreters at work and see them in action in that particular environment.

4.8 CHAPTER SUMMARY

This chapter described and discussed the experiential investigation for the research design and method of collection in attempt to validate the choice of the research process for this study. Structured interviews were conducted with all Department of Justice and Constitutional Development officials and questionnaires were distributed. This study used documents, interviews and questionnaires to reach a conclusion. The next chapter will allow for presentations of analysed data and research results. That is; the findings of the research will be presented and this will not deviate from the current general emphasis of the study.

CHAPTER 5: ANALYSIS OF THE STUDY

5.1 INTRODUCTION

Data analysis is an important stage of research. According to Sharp and Howard as cited in Mogale (2014) until a feasible outline of the type of analysis to be undertaken has been determined, the research plan must be considered incomplete. According to these two authors, one key function of analysis is to communicate the value of the findings. This particular chapter presents, analyses and discusses the results obtained from sources as outlined in chapter four (4). The chapter will present empirical data blended with secondary information obtained from books, journal articles, newspapers and other sources. The data comes from highly skilled respondents, both male and female between the ages of thirty-two (32) and sixty (60). Most respondents hold important positions in the offices of the Chief Justice as well as the Department of Justice and Constitutional Development in South Africa.

In the article "Joburg courts face foreign languages problems", Mamodima Monnakgotla explains the challenges faced by the Department of Justice and Constitutional Development due to the lack of foreign language court interpreters:

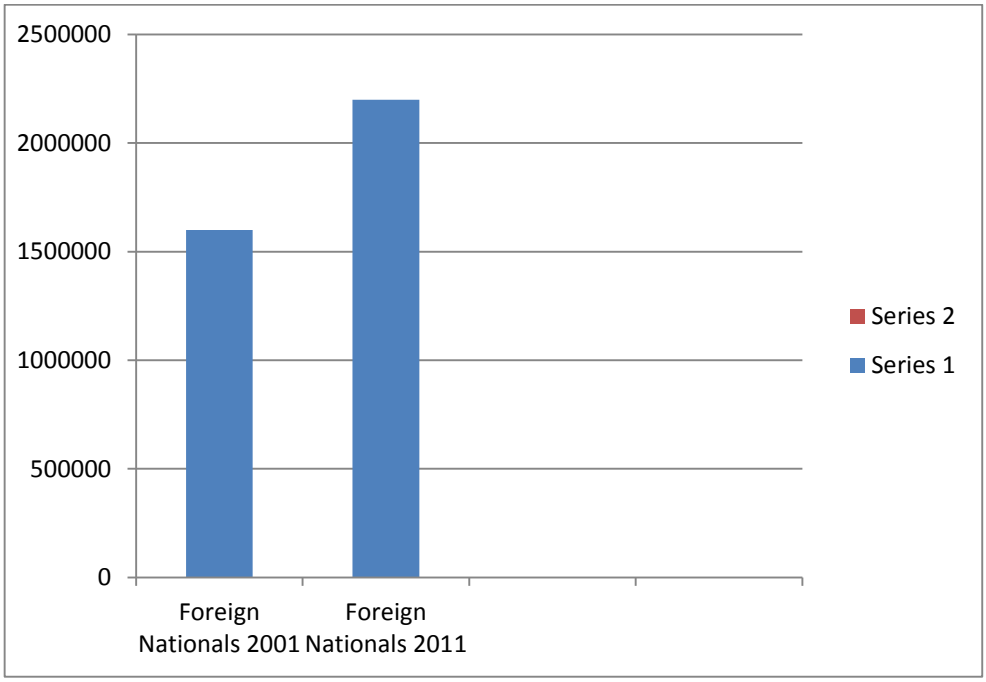
> Each day the Johannesburg district courts deal with at least 235 cases that need foreign interpreters. The country does not have enough foreign language interpreters to deal with all the cases which lead to delays. The Johannesburg courts handle about 819 foreign language cases a day.

A pilot project was initiated in July last year to deal with the shortage of foreign interpreters. For the project, the court appointed Mangope Motaung, the principal court interpreter at the Johannesburg Magistrate's Court, to manage all the foreign interpreters and their schedules. Motaung says: "When the department implemented this system, it was for an element of control. Before, interpreters would arrange their own court dates but not pitch on the day of the hearings."

It has been discovered that courts struggle with languages such as Italian, Bangali, Mandarin, Cantonese and Thai. With African languages, the challenge arises mostly in the minority dialects exclusive to certain villages. “In cases where a village language is used, we use pidgin English, which is equivalent to the mine talk, fanakalo,” says Motaung. “My duty is to supply all courts with efficient interpreters, but we struggle to meet the demand.” He says interpreters are required to attend more than three cases a day, depending on the number of languages they know” (Monnakgotla, 2012).

5.2 WHY IS THERE A GROWING NEED OF FOREIGN LANGUAGE COURT INTERPRETERS?

5.2.1 A growing population of Foreign Nationals



Graph 2

Graph 2: South Africa has a growing population in foreign nationals, both documented and undocumented. The 2011 Census data reflects that a total of 2 199 871 (4.4% of the total SA Population) people counted were categorized under the section "migrated into South Africa", i.e. they indicated that they were not born in SA. This figure undoubtedly will not include those who

are undocumented and did not submit themselves to be counted. From 2001 to the 2011 Census, the population increased by 7 million people, of whom 1 025 077 people (2.3% of the overall population) were not born in South Africa with the majority (687679) coming from SADC countries and 228, 314 arriving from Europe. (These figures may be interpreted differently but nevertheless provide data on people who migrated into SA). The right to have an interpreter is grounded in Section 35 (3) (k) of the Constitution which provides the right for an accused person to be tried in the language that he/she understands and, where that is not practicable, to have the proceedings interpreted for the benefit of the accused person's understanding. This provision is ideal but it is difficult to implement on the ground and thus requires the review of the Constitution. This situation has placed increased pressure on the Department to source foreign language interpreters for the benefit of the accused persons and witnesses. In the process the Department has been faced with serious challenges resulting in case delays and/or being forced to contract with free-lance foreign language interpreters

Chart 1 presents statistics on the number of foreign language cases handled in the year 2015 at the Kempton Park Magistrate's Court.

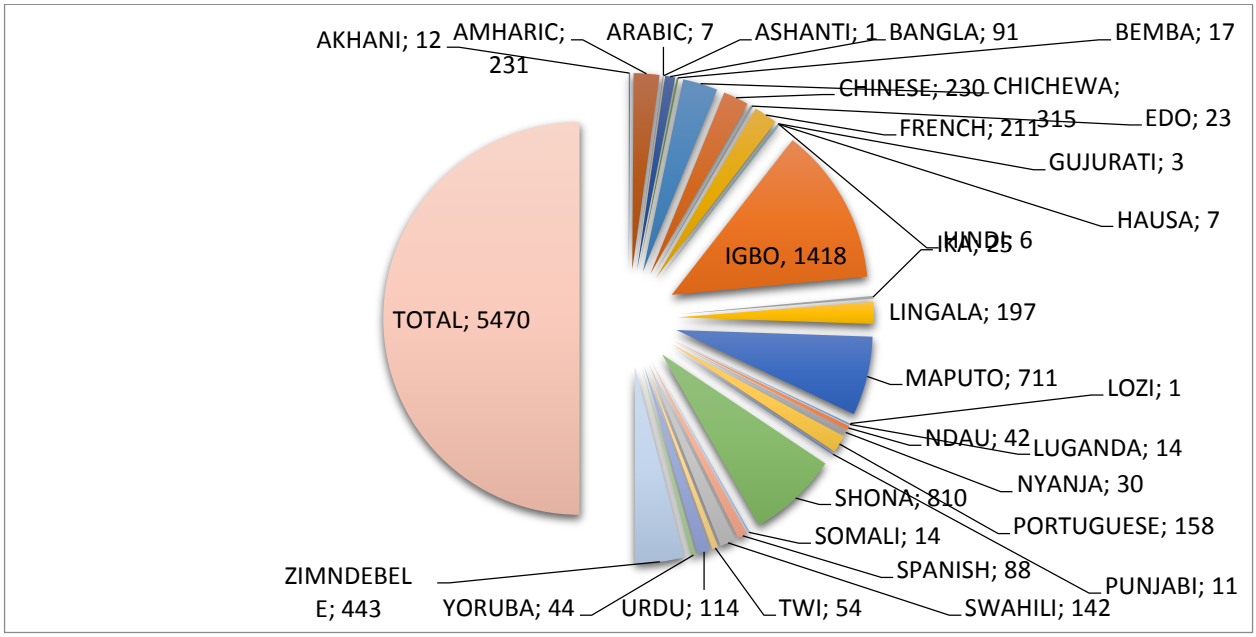


Chart 1

These statistics show that there are thirty-two (32) foreign languages. Depending on how many cases there are in a specific language, the number of foreign language interpreters per language may vary. Based on the data presented in graph 3 above, the five most needed languages are the following:

1. Igbo
2. Shona
3. Maputo Shangaan
4. Zim Nbebele
5. Chichewa

In the case where Igbo is the most required language, the number of interpreters should speak to the demand. The fact that Igbo is the most needed language does not only speak to court proceedings but also addresses the migration problem which affects bilateral relations between South Africa and Nigeria.

5.2.2 Low remuneration breeds lack of motivation

Another reason for the lack of foreign language court interpreters is that the remuneration has been at the same level for more than ten (10) years. Court Interpreters' entry salary level in terms of the approved Job Evaluation is level 5. This salary scale may not be lucrative enough to make foreign language interpreters stay for a long period making it difficult to retain them. Based on the responsibilities given to the foreign language court interpreters and also considering the number of hours they work per week, earning a level 5 salary may be somewhat demoralising and discouraging. Here are some skills, competencies as well as responsibilities expected from a foreign language court interpreter:

Skills and Competencies:

- Communication skills
- Listening skills
- Interpersonal skills

- Time management,
- Computer literacy
- Analytical thinking
- Problem solving
- Planning and organizing
- Confidentiality
- Ability to work under pressure.

Duties/ responsibilities:

- Render interpreting services
- Translate legal document and exhibits
- Coin words
- Assist with reconstruction of Court Records,
- Perform specific line and administrative support functions

The cases under discussion are criminal cases. The Kempton Park Magistrate Court deals with export and import cases whereas Johannesburg deals mainly with drug paddlers.

5.2.3 The dearth of growth opportunities within the Department of Justice and Constitutional Development

The base for the employment of court interpreters is the magistrate's court. To acclimatise, the interpreter starts with so called "petty" cases. Then they swiftly move to more complicated cases. This can be easily done with indigenous languages but it is extremely difficult to do with foreign languages because foreign language interpreters are not readily available. Moreover, the foreign language court interpreter may not have sufficient competencies to interpret in random cases.
Cases dealt with are:

a) Drug smuggling
b) Fraud (monetary, credit card, internet)

c) Illegal passports

d) Rhino poaching

Justice College currently offers four (4) courses in interpreting. These are: Course For Newly Appointed Court Interpreters, Advanced Course for Court Interpreters, Civil, Family and Labour Court Training Course for Court Interpreters and Expert Evidence and Course for Court Interpreters. These courses are offered over a period of 2-4 weeks at the most, which is not enough for interpreters who are often under much pressure in a stressful environment such as the courtroom. All these factors may demotivate foreign language court interpreter regarding studies.

Promotion opportunities for court interpreters are scarce. Based on the research done, growth opportunities for court interpreters limit court interpreters to assume administrative duties. A senior court interpreter assumes a more administrative role rather than a professional role. While a senior court interpreter may not interpret as often as court interpreters do, it is clear that the current system promotes upward mobility in administrative roles than academic roles. This is a problem that exists not only in the Department of Justice and Constitutional Development but in the entire public service. Because of this, when better opportunities avail themselves, interpreters will pursue them and ultimately leave. This creates an even greater shortage of foreign language court interpreters.

5.2.4 Where is the greatest need?

Most cases that require foreign language interpreting are dealt with in a magistrate's court. Before a matter can be dealt with in the high court, it has to go through a magistrate. Two (2) legal experts were interviewed regarding how often they require the services of a foreign language court interpreter.

Respondent 1: Admitted attorney in a magistrate's court responded that s/he needed the services of an interpreter 5/10 times.

Respondent 2: Advocate in the high court responded that s/he needed the services of a foreign language interpreter 1/10 times.

This therefore clearly emphasises the fact that most cases which require the services of foreign language court interpreters are found in the magistrates court thus making the Magistrate's court the greatest point of need.

5.2.5 Postponement of cases

An attorney, advocate and magistrate were asked to give reasons for the postponement of cases. These are the reasons they gave:

1. Unavailability of a stenographer
2. Unavailability of a special language interpreter
3. Insufficient gathered evidence
4. Parties not ready to proceed
5. Court machinery not functional

The same respondents were recorded as 1, 2 and 3 respectively in table 2 below were then asked to list the reasons in order of common importance.

	Respondent 1	Respondent 2	Respondent 3
1.	Stenographer	parities not ready to proceed	*No foreign language interpreter*
2.	*No foreign language interpreter*	*No foreign language interpreter*	parties not ready to proceed
3.	Insufficient evidence	court machinery not functional	
4.	Parties not ready to proceed		
5.	Court machinery not functional		

Table 2

Based on the order of importance, it is evident that the lack of a foreign language court interpreter appears in the first two legs in order of priority. This shows that one of the main reasons for the postponement of cases is the lack of foreign language court interpreters. Postponement of cases is

not based on prior notification of non-availability. If there is no interpreter available at that particular moment, then the case will have to be postponed even when not planned. Subsequently that creates a backlog of cases to be heard.

5.2.6 The most needed languages

A group interview was conducted with seven (7) Foreign Language Court Interpreters between the ages of 30-55 who had been employed in the Department of Justice and Constitutional Development for more than six (6) years. They were asked to identify the most needed foreign languages in order of priority:

1. Igbo
2. Shona
3. Zim-Ndebele
4. Chichewa
5. Maputo-Shangaan

There are currently more than fifty 50 Foreign Language Court Interpreters that service the entire province of Gauteng. It is therefore important that the Department of Justice and Constitutional Development prioritise these needed languages by procuring more foreign language court interpreters who speak one or more of the above mentioned languages. This is currently not the case. Having considered the language and the needs above, it is equally important to know that sometimes foreign language court interpreters have to be sourced from outside the country, for example a Sri Lanka national would require interpretation into Tamil which cannot be found in the country.

5.2.7 The permit challenge

Foreign Language interpreters would like to be employed permanently to create stability in the work they do. However they experience problems with renewing expired permits. The Department of

Home Affairs does not consider the work done by a foreign language court interpreter as a critical skill and therefore the application is not prioritised or treated as urgent when they need to renew their work permits. Moreover, the salary is determined by the permit and if there is no permit, there will be no salary. There is no interpreter who will work for no pay which leaves the Department with a shortage and a more urgent need for interpreters.

5.3 FINDING A SOLUTION TO THE PROBLEM

Due to the growing population of foreign nationals, there is a greater need for language court interpreters in South African courts. To address this problem, it is important to understand the role of the Chief Justice. The Chief Justice oversees all courts. He is the head of the judiciary who is responsible for all courts. His role is independent of the judiciary. He deals with the judicial function, that is, the adjudication of cases. The office of the Chief Justice was established in 2010 and was given an added role of administering the High Courts as at October 2015.

"Chief Justice Mogoeng Mogoeng says South Africans are losing court cases because of the poor quality of court interpreters. If only the judiciary could take over language services, because we know what it takes to be a good interpreter he said" (City Press, 2014).

Formation of the NEEC

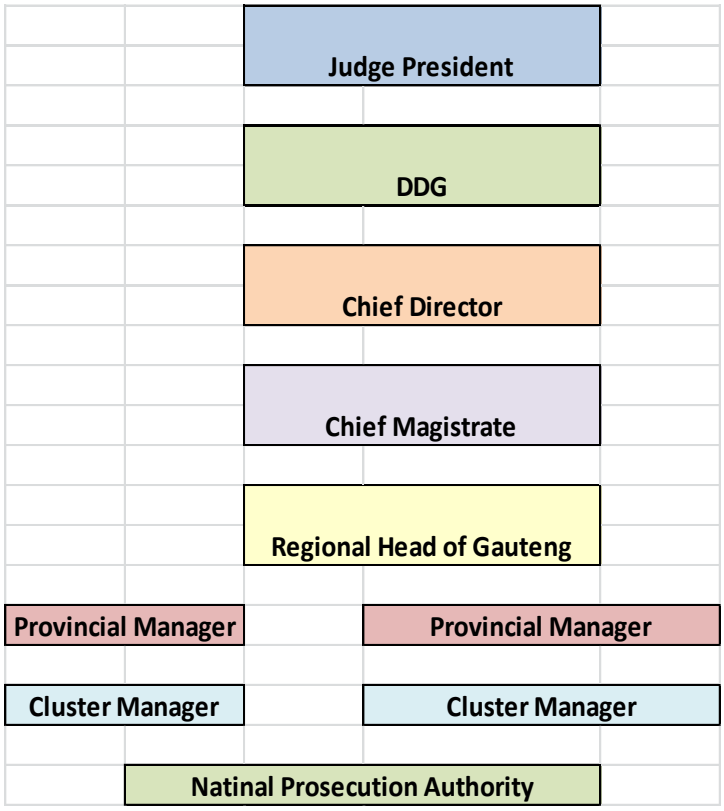
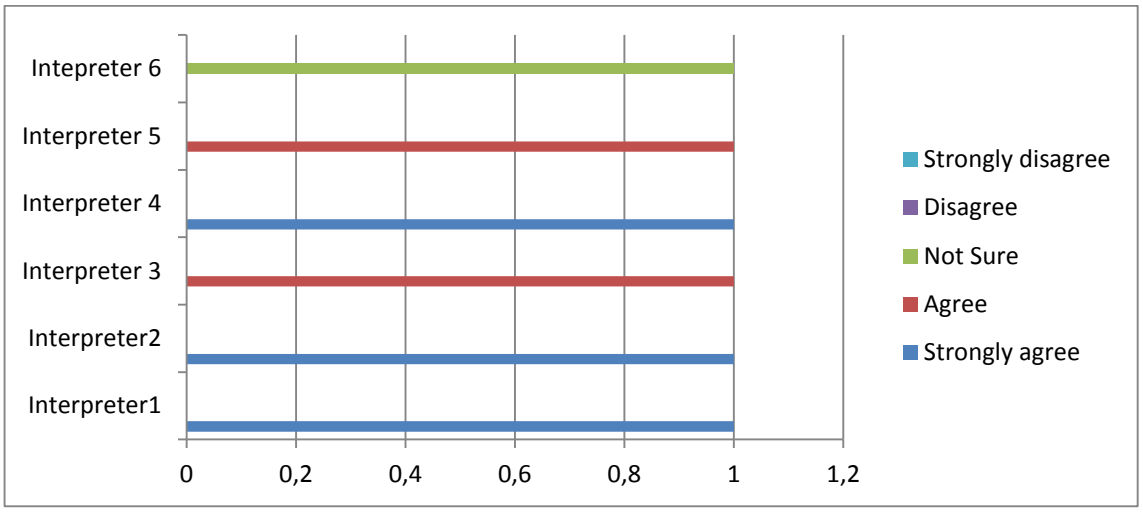


Figure 2: Members of the NEEC Committee

The concerns in poor court interpreting that were raised by the Chief Justice have given rise to the National Efficiency Enhancement Committee (NEEC) which was established in 2013. This means that the matter is dealt with at the highest level. The NEEC is chaired by the judge president, Mr Mlambo. The members of the committee include the DDG, Chief Director Court performance, the Chief Magistrate, the regional head of Gauteng, two provincial managers, two cluster managers and a representative from the National Prosecutions Authority (See figure 2 above). By seeing a representation of such a diverse committee which includes people on the ground, it is evident that the Office of the Chief Justice takes the matter of court interpreting in South African courts very seriously. From this Committee another committee was established,– namely the Court Interpretation Capacitation Committee. This committee deals with court interpreting at a deeper level. It is in the CICC that the competency levels of all interpreters are discussed. This is where it has been identified that there is a need to regulate Foreign Language Interpreters. This means that the Department of Justice and Constitutional Development and Office of the Chief Justice have no

control over foreign language court interpreters because they are employed on a casual basis. There is no expertise required for foreign language court interpreters. The fact that foreign language court interpreters are not regulated is rather problematic. On the contrary, because indigenous language interpreters are employed on permanent bases, they are regulated and are therefore justified to be on the establishment of Office of the Chief Justice and the Department of Justice and Constitutional Development. The Department of Justice and Constitutional Development and the Office of the Chief Justice have something called "shared services". While the Office of the Chief Justice has its own line-up of indigenous language interpreters, the Department of Justice and Constitutional Development also has its own group of indigenous language interpreters. However, the foreign language court interpreters are shared because of the shortage and the scarcity of this capacity. This analysis explains the extent of the seriousness of the need for foreign language court interpreting is in the office of the Chief Justice.

Can South Africa afford to have more foreign language Court Interpreters?



Graph 3

Based on the information reflected in the graph 3, the researcher asked six (6) foreign language court interpreters. if, based on the current status of the country as well as its economic conditions, they thought that South Africa has the capacity to secure more foreign language court interpreters. Three (3) foreign language court interpreters strongly affirmed their response while two (2) simply agreed and one (1) was uncertain. The common reason given was that even though South Africa's

economic growth has decreased, South Africa still has the strongest economy in Africa and is therefore more than capable of increasing the number of foreign language court interpreters in the local courts. The same question was posed to the official working in the office of the Chief Justice and the response was affirmative. South Africa can acquire more foreign language court interpreters. South Africa needs to focus on the challenges that are in the system which hinder the process of the procuring foreign language court interpreters. Economically, the system may also be burdened but South Africa needs to find a way of relieving the financial burden. This can be done over time if proven to be important. It is important to prioritise certain deliverables like buying bread vis-à-vis ice-cream. One would buy bread as it is essential to have it while ice cream may be needed to refresh when needed but it is a luxury. With help from academic scholars who continue to carry out research on the topic, a solution may be reached.

5.4 OBSERVING THE FOREIGN LANGUAGE INTERPRETERS IN A COURT PROCEEDING

5.4.1 Case 1 - Kempton Park Magistrate's Court

As a researcher, I observed a case at the Kempton Park Magistrates Court that required a foreign language interpreter on 03 February 2016. This case required the services of a French speaking foreign language interpreter. This was an existing case where the accused was arrested for drug smuggling. The case was at a point where the prosecutor was asking the accused questions to prove that he was guilty. These were my observations:

a) The interpreter looked relaxed and in control
b) He moved his chair close to the accused so that he could hear the accused well as the accused spoke very softly.
c) The accused responded to the interpreter using 3rd person instead of second person. This means that the accused may have had confidence in the interpreter who may be more sympathetic towards the accused as he may come from the same country as him.

d) The interpreter seemed to have a dialogue with the accused because he kept on asking further questions to get clarity. The additional questions asked by the interpreter were not asked by the prosecutor or the magistrate.
e) There was a point where the interpreter said "écoutez ma question demandée" meaning "listen to the question that I have asked you" which the prosecutor did not say.
f) New information was introduced in the form of documents. The document was in three languages: English, French and Spanish. In this case, there was no need for the interpreter to interpret. However, had the document been written in French only, the interpreter would have had to do a sight translation to explain the contents of the document.
g) In this case, it seemed as though the interpreter was taking the role of a mediator which could strongly influence the decision made by the magistrate.

5.4.2 Case 2 - Johannesburg Magistrate's Court

The researcher observed this particular case which took place at the Johannesburg Magistrate's Court. The trial was in its final stages which entailed the reading of the charges to 5 accused persons. The language interpreted was Chichewa.

a) In this particular case, one (1) interpreter had to interpret for (five) 5 accused persons. This required the interpreter to have maximum concentration as the magistrate would be addressing more than 1 accused person. There was no limit in terms of for whom the interpreter interprets.
b) The interpreter was handed a charge (document) while the attorney was reading it. This means that the interpreter would have had to do a sight translation to interpret the charge document as he received at that moment and there was no opportunity to prepare.
c) It is easy to fall in the trap of believing that the magistrate is addressing you while actually he is addressing the attorneys or the prosecutor or even the accused. The magistrate asked "do you understand the contents of this statement?" and the interpreter responded "yes" while the magistrate was waiting for the accused to respond. To clarify this process, the

magistrate simply repeated the question so that the interpreter could interpret it and allow the accused to respond.

d) In this case, it was also interesting to note that the prosecutor needs to report accurately so that the interpreter may also relay accurate information. For example, the prosecutor proposed to the magistrate that the accused persons be "sentenced to deportation". The magistrate then questioned the statement and further ordered the prosecutor to rephrase to say that they propose a "suspended sentence with a deportation order". This emphasises the importance of accuracy for both the legal expert and the accused.

5.5 DISCUSSION

From time to time the South African courtroom experiences challenges with the quality of interpreting delivered by indigenous language court interpreters. The concern of quality may be addressed by means of feedback forms from witnesses as well as court staff. In the same light, foreign language court interpreters may encounter similar challenges as those of indigenous language court interpreters. However, in the case of foreign languages, it would be even more difficult to have the quality of interpreting evaluated. This would be because foreign languages are not understood and spoken by most South Africans and finding court interpreters who speak foreign languages may not be as easy.

Du Preez (2013) explains a case that occurred in the Eastern Cape High Court in Port Elizabeth. The following is his account of the issues involved:

> At least 16 State witnesses who testified in a murder trial will have to be recalled because the interpretation of their original evidence in court was not up to standard. Reports indicate that during the course of the trial the three accused in the matter - all isiXhosa speakers - raised their concern over the quality of the interpretation of certain evidence given by State witnesses. After the complaint the chief interpreter of the court (acting as inspector of interpreters) confirmed that not only was the translation of the evidence not up to standard, the witnesses were also not properly

sworn in by the interpreter. Quite apart from the quality of the evidence, the fact that the witnesses were not properly sworn in has the legal effect that the testimony they gave in court does not constitute evidence. In terms of Rule 68 of the Rules of the Magistrates Courts, every interpreter takes the following oath of office: *"I, do hereby swear - or truly affirm - that whenever I may be called upon to perform the functions of an interpreter in any proceedings in any magistrate's court I shall truly and correctly to the best of my knowledge and ability interpret from the language I may be called upon to interpret into an official language of the Republic of South Africa and vice versa."* Similarly, this conduct by the interpreter possibly renders the matter reviewable in terms of the Criminal Procedure Act 51 of 1977 and the Magistrates Court Rules.

This problem in our courts has been further highlighted by recent reports from the South African Translator's Union confirming that "we are sitting with overburdened court rolls and inadequate interpretive services [that] aggravate the situation and lead to poorer judgments." The Law Society of the Northern Provinces has also stressed that the problem lies with the quality of the interpretations, especially in criminal cases where evidence of a technical nature is not interpreted correctly. Where a trial is conducted in a language an accused does not understand, the need for an interpreter is obvious. In the matter of *S v Ndala* the Cape Provincial Division (as it then was) reiterated that "the provision for an interpreter required a sound and faithful ('juis en getrou') translation" and that "the very necessity for an interpreter arose because the linguistic competence of the court and the accused did not coincide." (du Preez, 2013)

The case presented above leads to the conclusion that the need for foreign language court interpreters is great and should not be overlooked. Two main issues stand out: the Administration of foreign language court Interpreters and the training of these interpreters.

First, on the administrative side, there is a general feeling that many challenges arise from the fact that the Department of Justice and Constitutional Development has no control over foreign language

interpreters as they do with indigenous language interpreters. The greatest challenge is that the foreign language court interpreters are not regulated. This means that as long as they are not regulated, they will always be on contract or employed on a freelance basis. According to the research conducted, there seem to be more disadvantages of having freelance and contract based foreign language interpreters. Although contract interpreters are better controlled than the freelance interpreters, a lot of money is spent on the traveling expenses of the foreign language interpreters. This means that the Department may be spending more money on travel expenses than the actual salaries of the foreign language interpreters. With the current cost cutting measures that are put in place within the public sector, the Department of Justice needs to look into this matter seriously to find a solution.

Second, due to the fact that foreign language court interpreters are not regulated, it will not be easy for the Department of Justice and Constitutional Development to assist foreign language court interpreters obtain work permits. This means that, because the foreign language interpreters are not controlled, they may "do as they please" to the extent of deciding that they will not go to work. In the case when a foreign language interpreter does not report to work, the Department may have to incur further costs to get an interpreter for that time or day or they risk having a case being postponed which then affects many other people.

Third, on the pedagogical front, the training of interpreters is needed and the issue cannot be ignored. A judge should not be allowed to interpret when the interpreter assigned is present to do the work. This simply shows that the interpreter may not be competent enough to perform his or her duties effectively. The interpreter requires training and continuous training in order to improve the skill of interpreting foreign language Interpreters should learn different techniques of how to condense information in such a way that the magistrate does not feel that the information relayed to him or her is inaccurate. Interpreters should be taught how to reformulate sentences and keep them short without losing the original language. This is a specialised skill that has to be learned. This can only be done at a higher institution of learning where skilled and seasoned interpreters are ready to train the interpreters.

Fourth and last, it is through training that an interpreter can improve his/her skill in interpreting and not be deemed as an incompetent interpreter who delivers a poor message.

5.6 CHAPTER SUMMARY

The chapter has presented the results of the study from the empirical data collected through interviews and questionnaire with foreign language court interpreters, an attorney, an advocate, a magistrate, cluster managers, the Director responsible for Court Services in the Office of the Chief Justice and the responsible official for District Court Efficiency .In presenting the results, the chapter considered the common answers in all the categories of people who have been interviewed. All the questions were clearly written together with the responses that followed. Some responses required further explanation. Due to the fact that there were many respondents who participated in the research, it was easier to address a common answer or issue that arose from the questions posed.

The next chapter summarises the research paper with emphasis on the results obtained from the field. The contribution of the study is articulated after which recommendations and suggestions for further research are presented.

CHAPTER 6: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

6.1 INTRODUCTION

Chapter five above marked the end of this dissertation in terms of presenting and analyzing the results. The chapter presented and analyzed empirical data obtained from the field. Once this aim was achieved an attempt was made to discuss and analyze the findings with the view to giving them context and meaning. Now that the goal of finding answers to the research questions has been achieved we can safely move on to pull the results together and map the way forward. This will be the focus of the present chapter which presents a summary of the key points, draws some overall conclusions and makes a few recommendations on the way forward in as far as the theme of this study is concerned.

The study set out to examine the factors that lead to the scarcity of foreign language court interpreters in South African courts. The study sought to unpack the history of court interpreting in South Africa, the importance and the use of indigenous languages and foreign languages in South African courts and clearly explain the underlying message found in the Section 35 (k) of the Constitution of South Africa which states that all citizens have the right to be tried in their preferred language. South Africa has witnessed its population being ravaged by heinous crimes and atrocities committed by South Africans and foreign nationals alike. This certainly poses a challenge to the entire legal system in South Africa and particularly the execution of foreign language interpreting in the various courts of law.

The debate considered in this study is very important as it seeks to emphasize the globalizing world through migration of foreign nationals and the impact this has on South Africa in particular with matters related to law and how communication in the legal system is executed thus using language as a vehicle. In this respect, I can conclude that the debate will go on indefinitely unless it receives urgent attention by all parties involved. This attention could lead to a decision taken by the Department of Justice and Constitutional Development and South Africa as a country.

6.2 SUMMARY

The information provided in this study indicates that there is still a gap that needs to be narrowed in terms of foreign language interpreting in South African courtrooms. The lack of foreign language interpreters poses a grave problem which affects not only all officials working in the -South African legal system and the accused persons, but the entire nation. There is a general feeling that the issue of languages and foreign languages in particular is not taken as seriously as it should be. However there is acknowledgement that language skills are increasingly becoming more important in society especially in the globalizing world that we live in. Apart from uncoordinated comments by different individuals and institutions, there is still a huge paucity in the literature on the issue of foreign language court interpreting in South Africa. Perhaps this is partly because the debate has not been looked into with much interest and scrutiny by academic scholars because of the low interest in the subject matter. This study is one of the initial attempts to broaden the debate and give it an academic angle. It will therefore serve to contribute to the literature on this particular topic and hopefully encourage more detailed studies to be conducted so that South Africans can be better educated about interpreting in general and particularly in the legal fraternity.

Again, the views of different authors and commentators discussed in this dissertation have demonstrated how critical thinking which goes beyond the obvious could assist in illuminating our understanding of the need for better qualified foreign language court interpreters in the field. The information they shared confirms that indeed South Africa needs to look into better professionalizing the skill by improving the education and training of foreign language court interpreters.

The case studies discussed in this research show that crimes against humanity in South Africa African have been rampant. This reality is evident in the increased number of crimes committed by foreign nationals and clearly highlights the need for South Africa to seriously look into finding ways of adjusting to these conditions. The conduct and behavior of foreign language court interpreters in courts is a study to be further discussed. This will address the question of ethics and norms in court interpreting. This issue continues to leave a grey area in South Africa's legal system.

The methodology chapter addressed procedures followed to obtain empirical data, described participants and their professions, data collection and analysis methods and data credibility issues.

The research design was reported to have been descriptive and the analysis to have been interpretive. The results were presented in a narrative and interpretive format. While some concerns raised by foreign language court interpreters were found to be plausible given their current position, these could not stand when tested against hard evidence.

Although an effort was made to ensure that the study remained objective and empirically justifiable, I acknowledge that there might have been some factors which posed limitation.

Here are some of the limitations:

- The findings of this study may not be generalized to all magistrates' court in South Africa. The sample size was too limited to warrant such generalization. A bigger sample should be used to reflect the greater representation of the findings.
- The questionnaires were distributed in time. The limitation lay in the fact that the legal experts responded very late even after several follow-ups.
- Despite the significance and relevance of the topic to the South African context, there seems to be a dearth of current literature on the topic. The literature that is available is likely to be euro-centric rather than afro-centric.

6.3 CONCLUSION

In conclusion, South Africa needs more foreign language court interpreters. The current policies that are in place make it difficult to address this essential need for foreign language court interpreters which leaves South Africa no option but to take the issue of foreign language training very seriously. The initial and continuous training of foreign language court interpreters will assist in producing qualified foreign language court interpreters. This will ease the burden of poor interpreting in the courtroom. I can safely say that the Department of Justice and Constitutional Development has noted with concern that there is a great need for South Africa to train gifted and capable native South Africans to become foreign language court interpreters. In that way, the foreign language gap can be narrowed.

I would now like to make some recommendations drawn from the study. These recommendations are divided into two sub-sections. The first focuses on the content while the second focuses primarily on the possibilities for further research.

6.4 RECOMMENDATIONS

6.4.1 Recommendations on the content of the study

Firstly, what is clear from this study is that there is an evident lack of knowledge in understanding the role that the interpreter plays in the courtroom. The role of an interpreter may be taken seriously; however with an understanding of what interpreting in general entails, South Africa will begin to understand how important the role of foreign language interpreters is. There is also an evident lack of understanding of the nature of critical skills. It is important for government departments to sit together and unpack certain issues that overlap between departments. In this case, the Department of Home Affairs should commune with the Department of Justice and Constitutional Development to address the issue of employing foreign nationals under the new immigration law. The two Departments should also address the work permit related queries which are of grave concern to current foreign language court interpreters. Similarly, it is equally important to ascertain whether foreign language interpreting is deemed a critical skill or not in South Africa. This too may be discussed in an interdepartmental meeting.

Secondly, while it is true that foreign language court interpreters are competent in their delivery, it is of paramount importance to have qualified foreign language court interpreters. Furthermore, it would also be for South Africa's benefit to offer all the Court personnel foreign language training. A magistrate who was interviewed mentioned that at times she felt that the foreign language court interpreter was not accurate in his delivery. The interpreter and the accused engaged in a lengthy dialogue. When the interpreter interpreted into English, the message sounded much shorter than the dialogue between the interpreter and the accused. To avoid such situations in future, it would be recommended that the Department of Justice and Constitutional Development invest in the thorough training of court personnel in foreign languages. In addition, foreign language court interpreters themselves should be trained in order to enhance the skill they already have. Continuous training in the field and professional language enhancement courses would undoubtedly prove to be useful in

terms of the quality of service provided by foreign language court interpreters. Furthermore, the Department of Justice and Constitutional Development may look into offering bursaries to students who would be interested in foreign language court interpreting. These students may be trained through an institution of higher learning in collaboration with the Justice College. Upon reaching a certain level, the students may then enter the field of interpreting given a minimum amount of years to plough back into the government. This recommendation may provide long terms results and it would address the need to deal with the shortage of foreign language interpreters.

Thirdly, is has been noted that in modern day South Africa, the salary level for foreign language interpreters does not equate to the level of skill required to perform interpreting duties in courts. It is thus recommended that the Department of Justice and Constitutional Development should look into regulating foreign language court interpreters and reevaluate their job profile. This will address the shortage and perhaps give more attention to retaining foreign language court interpreters for a longer period.

6.4.2 Recommendations on further research

The study has offered an evaluative perspective on an important Section in the Constitution of South Africa. This issue needs to be addressed assiduously especially given that South Africa's economy is has regressed. Whether South Africa is able to uphold this section in the constitution in the current depressing economic conditions is a matter to be further researched. The provision stated in Section 35 (k) of the constitution is ideal; however, based on the research, it is difficult to implement on the ground. This situation has placed increased pressure on the Department of Justice and Constitutional Development to source foreign language court interpreters for the benefit of the accused persons and witnesses. In the process the Department has been faced with serious challenges resulting in case delays and/or being forced to contract with free-lance foreign language court interpreters. On the basis of such findings, this may require the review of Section 35 (k) of the Constitution of South Africa as it may appear to have been rather optimistic. Perhaps if and when the study is pursued in the near future, that could be the first port-of-call to take the discussion forward. A one-on-one interview with relevant stakeholders in the discussion would be recommended as this would enrich the discussion.

In summary, I would recommend that for future research of this kind, such a study should include people from different continents and be diversified in terms of gender and race. Furthermore a study may be done on how other countries who have a similar section in their constitution have dealt with the issue of the growing need of foreign language court interpreters in the courtroom. The sample size could also be expanded as a means to pushing forward the diversification agenda. If taken seriously and adhered to, these recommendations would assist in bringing about much better results. But to do all of this and do it well, more time and resources would be needed. Moreover, for these recommendations to succeed more human power would also be needed in order to ease the growing demand.

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ANNEXURES

ANNEXURE A- PERMISSION LETTER



the doj & cd

Department
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

REGIONAL OFFICE: GAUTENG

Private Bag X 6, JOHANNESBURG, 2000 • Floor 10, Schreiner Chamber, JOHANNESBURG 2000
Tel (011) 332 9069, Fax (011) 333 0656

Ref: 1/1
Enq: Mr.T Ramathikithi
E-mail: TRamathikithi@justice.gov.za

29 JULY 2015

For Attention: Candy Sizakele Moyo
Per Email: moyoc@dirco.gov.za

RE: RESEARCH PROPOSAL FOR A MASTERS PROGRAMME DESIGNED FOR FOREIGN LANGUAGE INTERPRETING IN SOUTH AFRICAN COURTS.

The above matter bears reference.

1. The Department of Justice and Constitutional Development Regional Office-Gauteng received a proposal from Candy Sizakele Moyo to conduct a research for her Masters program designed for the foreign language Interpreters.

2. Our office has considered such a request and wishes to inform you that the Department is granting access to the relevant courts and also wish to indicate that we should be afforded an opportunity to engage with you in the process of introducing you to the relevant courts.

3. Please note that engagement with the NPA would require you to engage with them directly through the office of the National Director for Public Prosecutions.

4. The Department wants to engage with the findings prior to same being made public to avoid any misinformation that may occur.

Yours in services

MRS ES DHLAMINI
REGIONAL HEAD
GAUTENG

ANNEXURE B: EXAMPLE OF CONSENT FORM AND QUESTIONNAIRES

Participant Consent Form

Attorney

Research Title: The growing need of Foreign Language interpreters in South African Courts.

I, THANDOKAZI THANDAZANI BIXA (name of participant) acknowledge to have read the Information sheet on the above-mentioned research study and I understand that:

- My participation is voluntarily and I am under no obligation to take part in the research study.
- Participation involves individual interviews, which will be recorded if I consent
- My personal information will remain confidential and protected, and my name will not be revealed in the final report without any negative consequences.
- I don't have to answer any questions I am not comfortable with

I agree to be interviewed for this study

I do / ~~do not~~ agree that the interview can be recorded

Signed: _____

Name: THANDOKAZI T. BIXA

Post level: ATTORNEY

Date: 14 OCT 2015

QUESTIONNAIRE FOR ATTORNEYS/LAWYERS/ADVOCATE

1. In which type of law do you practise? CIVIL, COMMERCIAL, LABOUR, CONTRACTS.
2. Do the cases require the services of foreign language court interpreters? AT TIMES, YES
3. On average, how many cases require the services of foreign language interpreters? Can you give a ratio? SO, NO
4. What has your experience been with foreign language interpreters? Positive or negative? POSITIVE
5. Was the interpreting service rendered accurate and satisfactory? YES.
6. Do you know of any case lost due to poor interpreting? NO.
7. Have you witnessed or do you know of any attorney who has witnessed poor interpreting in a court proceeding? YES
8. In a case where technical language is used for example explaining a post mortem report, are the medical specialist required to assist the interpreters with technical terms or do the interpreters do all the interpreting? MEDICAL SPECIALISTS OFTEN EXPLAIN FURTHER
9. Do you know of any case in which the judge may have intervened as an "interpreter" for a moment in a court proceeding? YES
10. What are the reasons for postponement of cases? STENOGRAPHERS, SPECIAL LANGUAGE INTERPRET INSUFFICIENT GATHERED EVIDENCE PARTIES NOT READY TO PROCEED.
11. Is the lack of court interpreters one of the reasons why cases are being postponed? YES, ESPECIALLY FOREIGN LANGUAGE INTERPRETERS.

QUESTIONNAIRE FOR ATTORNEYS/LAWYERS/ADVOCATE

1. In which type of law do you practise?

- Civil, commercial, labour, contracts, municipal law, divorces, child maintenance etc.

2. Do the cases require the services of foreign language court interpreters?

-sometimes

3. On average, how many cases require the services of foreign language interpreters? Can you give a ratio?

- Those that I do 1 /10

4. What has your experience been with foreign language interpreters? Positive or negative?

- Good

5. Was the interpreting service rendered accurate and satisfactory?

-satisfactory

6. Do you know of any case lost due to poor interpreting?

-No

7. Have you witnessed or do you know of any attorney who has witnessed poor interpreting in a court proceeding?

-No

8. In a case where technical language is used for example explaining a post mortem report, are the medical specialist required to assist the interpreters with technical terms or do the interpreters do all the interpreting?

-No

9. Do you know of any case in which the judge may have intervened as an “interpreter” for a moment in a court proceeding?

-yes

10. What are the reasons for postponement of cases?

Agreement by parties, awaiting to secure interpreters, court machinery not functional etc.

11. Is the lack of court interpreters one of the reasons why cases are being postponed?

- Yes, at times

ANNEXURE C: INTERVIEW QUESTIONS AND ANSWERS

Interview Questions

1. The need for foreign language court interpreters in the eyes of the Chief Justice

The following questions were posed to the respondent:

a. What is the role of the Chief Justice?

The Chief Justice oversees all courts. He is the head of the judiciary who is responsible for all courts. It is a role that is independent of judiciary. He deals with the judicial function therefore; the adjudication of cases. The office of the Chief Justice was established in 2010 and was given an added role of administering the High Courts as at October 2015.

2. How serious does South Africa take the issue of Court interpreting in general? The Chief Justice once mentioned that the state is losing many cases because of poor interpreting. How is the South Africa addressing that statement?

The concerns in poor court interpreting that were raised by the Chief Justice gave rise to the National Efficiency Enhancement Committee (NEEC) which was established in 2013. This means that the matter is dealt with at the highest level. The NEEC is chaired by the judge president, Mr Mlambo. The members of the committee include the DDG, Chief Director Court performance, the Chief Magistrate, the regional head of Gauteng, two provincial managers, two cluster managers and a representative from the National Prosecutions Authority. By seeing a representation of such a diverse committee which includes people on the ground, it is evident that the Office of the Chief Justice takes the matter of court interpreting in South African courts very seriously. From this Committee another one was established namely the Court Interpretation Capacitation Committee. This committee deals with court interpreting at a deeper level. It is in the CICC that the competency levels of all interpreters are discussed. This is where it has been identified that there is a need to have Foreign Language Interpreters regulated. This means that the Department of Justice and Constitutional Development and Office of the Chief Justice have no control over Foreign Language Court interpreters simply because they are employed on a casual and contract bases. There is no expertise for Foreign Language Court interpreters on the establishment. The difficulty of not having regulated foreign language court interpreters is rather problematic. On the contrary, because the indigenous language interpreters are employed on permanent bases, they are regulated and therefore justify them to be on the establishment of Office of the Chief Justice and the Department of Justice and Constitutional Development. The Department of Justice and Constitutional development and the Office of the Chief Justice have something called "shared services". While the Office of the Chief Justice has its own line-up of indigenous language interpreters, the Department of Justice and constitutional Development also has its own group of indigenous language interpreters however the foreign language court interpreters are shared because of the shortage and the scarce capacity thereof.

3. Does the Constitutional Court require interpreting services?

The Office of the Chief Justice rarely requires foreign language court interpreting services. Because the matter has been dealt with at lower level courts, there is barely a need to have interpreters unless there is a constitutional matter that has been raised by the accused the subsequently the matter is taken up to the constitutional court. However, the Constitutional court does liaise directly with DEAF SA, an accredited institution on issues related to sign language interpreting.

4. Section 35 of the Constitution. How did this statement come about?

Section 35 stems from the fact that every person has rights. The importance of language rights is grounded in the essential role that language plays in human existence, development and dignity. It is

through language that we are able to form concepts; to structure and order the world around us. Language bridges the gap between isolation and community, allowing humans to delineate the rights and duties they hold in respect of one another; and thus to live in society. The issue of language rights becomes infinitely more complex when there are eleven official languages to be provided for, as has been set out very clearly by our Constitution. How is the justice system to respond? Ideally, all court officials should be able to speak all official languages. The reality, however, is that presently, and for some time to come, this will not be possible. Part of the answer, it would seem, lies in the provision of a professional interpreting

service. Failure to provide such a service will render the constitutional provisions meaningless and do great damage to the delivery of justice by the courts. (Hlophe, 2004)

The Bill of Rights also specifically provides for language rights as one of the procedural rights of arrested accused and detained persons. Subsection (3)(k) of section 35 provides that every accused person has the right to a fair trial, which includes the right 'to be tried in a language that the accused person understands or, if that is not practicable, to have the proceedings interpreted in that language'. Certainly one positive measure being taken by the state to ensure that the official languages are protected and their use promoted can be found in the drafting of the South African Languages Bill. Section 2 of the Bill makes it very clear that it is intended: (a) to give effect to the letter and spirit of section six of the Constitution; (b) to promote the equitable use of the official languages of South Africa; (c) to enable all South Africans to use the official languages of their choice as a matter of right within the range of contexts contemplated in this Bill, with a view to ensuring equal access to government services and programmes, to education, and to knowledge and information; and (d) to provide for a regulatory framework to facilitate the effective implementation of the constitutional obligations concerning multilingualism.' (Hlophe, 2004)

5. Based on the current status of the country now as well as the economic conditions, do you think that SA is capable of meeting the requirements of that statement?

Yes, South Africa can meet the requirement of the statement in the constitution. The act is great however what South Africa needs to focus on is the challenges that are in the system which hinders the process of the statement being properly fulfilled. South Africa needs to deal with those challenges so that the statement is realised. Economically, the system may also be burdened but South African needs to find a way of relieving the financial burden. This can be done over time if proven to be important. It is important to prioritise certain deliverables. Eg buying bread vis a vis Ice-cream. One would buy bread as it is essential to have it while ice cream may be needed to refresh when needed but it is luxury. With help from academic scholars who continue to research on the topic, a solution may be reached.

6. Do you think that South Africa can control the influx of foreigners coming into South Africa?

It cannot be predicted for what reasons foreigners come in the country. Crime can never be predicted either. It takes time for a case to reach the court. There must first be evidence, and

then an investigation must take place, then the prosecution process and ultimately brought to the court. Therefore the influx of foreigners may not be the only reason why there should be more foreign language court interpreters.

7. Do you think that South Africa needs more Foreign Language Court Interpreters today?

Yes.

2. The need for foreign language court interpreters in the eyes of the Department of Justice and Constitutional Development

The following questions were posed to the responsible official for District Court Efficiency:

1. Are the norms and standards of practice/ ethics/code of conduct made known to all court interpreters and Department of Justice and Constitutional Development officials? If so how?

Court interpreters are being appointed in terms of the Public Service Act and the Code of Conduct applicable to public servant also applies to them, however the guidelines for effective service delivery have been developed by the Court Interpreting Capacitation Committee (Appendix…)

2. Can you please explain to be what could be the reason of the continued growing need of Foreign Language Court interpreters and do you think that South Africa can afford to have foreign language court interpreters based on how many foreigners are in the country today?

South Africa has a growing population in Foreign Nationals, both documented and undocumented. In the 2011 Census data reflect that a total of 2 199 871 (4.4% of the total SA Population) people were counted were categorized under the section "migrated into South Africa", i.e. who indicated that they were not born in SA. This figure undoubtedly will not

include those who are undocumented and did not submit themselves to be counted. The population since 2001 to 2011 Census increased by 7million people, of which 1 025 077 people (2.3% of the overall population) were not born in South Africa, with the majority (687679) coming from SADC countries and 228314 arriving from Europe. (These figures may be interpreted differently but nevertheless provides data on people who migrated into SA). The right to have an interpreter is grounded in sec 35 (3) (k) of the Constitution which provides the right for an accused person to be tried in the language that he/she understands and, where that is not practicable, to have the proceedings interpreted for the benefit of the accused persons understanding. This provision is ideal and it is difficult to implement on the ground thus require the review of the Constitution. This situation has placed increased pressure on the Department to source FL interpreters for the benefit of the accused persons and witnesses. In the process the Department has been faced with serious challenges resulting in case delays and/or being forced to contract with free lancing foreign language interpreters.

3. Why is the salary scale of foreign language court interpreters pitched at level 5, making the skill equal to all other languages?

The principle equal pay for equal work has been applied. Court Interpreters entry salary level in terms of the approved Job Evaluation is level 5.

4. Please send me the Oath that the Court Interpreters take and when exactly do they take the oath?

There are two approaches when dealing with the taking of Oath for court interpreters. Firstly a permanently appointed court interpreters takes Oath of Office once before a judicial officer before he starts with the interpretation. Secondly a casual interpreter takes Oath of Office for specific cases. (Appendix…)

3. From an Administrator's point of view in the Department of the Justice and Constitutional Development

The Interview with the cluster manager for the Kempton Park Magistrates Court was as follows:

1. Where is the court interpreter's first point of call and how do they grow in the profession?

The base for employment of court interpreters is the magistrate's court. When the interpreter starts, they begin with so called "petty" cases in order for them to acclimatise then swiftly move to more complicated cases. This can be easily done with the indigenous language but it is extremely difficult to do with foreign languages because they are not readily available.

2. **What type of cases do the court interpreters have to interpret on a daily basis?**

Cases dealt with are:

a) Drug smuggling

b) Fraud (monetary, credit card, internet)

c) Illegal passports

d) Rhino poaching

These cases are criminal cases: Kempton Park is a port of entry then they are dispatched. The Kempton Park Magistrate Court deals with export and import cases whereas Johannesburg deals mainly with drug paddlers.

3. What are some of the challenges you deal with when coordinating Foreign Language Court Interpreters?

Foreign language court interpreters are not controlled. They may not have a legal interpreting background. Just as they arrive, they are obliged to go straight into the job, with no orientation or prior training. Therefore the interpreter may lack certain skills that can be acquired in a formal institution of higher education.

Freelance interpreters earn an amount of +- 300 per day. The profession was never taken seriously. Courts are not properly serviced because of the scarce capacity. Some cases end up

being postponed because of the lack of interpreters and that means that the accused will be held in custody for a longer duration.

4. How many Foreign Language Court Interpreters are employed in the Kempton Park?

There are 26 Foreign Language Interpreters.

5. How is the performance of a foreign language court interpreter evaluated?

There are no feedback measures in place to check accuracy in their interpreting in both ways.

6. Does the High Court have its own pool of Foreign Language Interpreters?

In the High Court, they make use of freelance interpreters. There is no pool of foreign language interpreters. They therefore have to source from the magistrate court.

7. Do you have a glossary of legal terms that foreign language court interpreters may use when they report to work for the first time?

No. Terminology cannot be taught as foreign language court interpreters have on the job training. Eg: There is no time to teach an interpreter that in magistrate's court the term "your worship" is used while in the High Court the term "your honour" is used. They have to figure it out on their own.

4. From a legal expert's point of view

Below are the questions that were given to an Attorney who appears at the magistrate's court:

1. In which type of law do you practise?

Civil, commercial, labour, contracts

2. Do the cases require the services of foreign language court interpreters?

At times, yes

3. On average, how many cases require the services of foreign language interpreters? Can you give a ratio?

5:10

4. What has your experience been with foreign language interpreters? Positive or negative?

Positive

5. Was the interpreting service rendered accurate and satisfactory?

Yes

6. Do you know of any case lost due to poor interpreting?

No

7. Have you witnessed or do you know of any attorney who has witnessed poor interpreting in a court proceeding?

Yes

8. In a case where technical language is used for example explaining a post mortem report, are the medical specialist required to assist the interpreters with technical terms or do the interpreters do all the interpreting?

Medical specialists often explain further.

9. Do you know of any case in which the judge may have intervened as an "interpreter" for a moment in a court proceeding?

Yes

10. What are the reasons for postponement of cases?

- Stenographer
- Special language interpreter

 Insufficient gathered evidence

 Parties not ready to proceed

11. Is the lack of court interpreters one of the reasons why cases are being postponed?

Yes, especially foreign language court interpreters.

The same questions were posed to an Advocate who works in the High Court

1. In which type of law do you practise?

2. Do the cases require the services of foreign language court interpreters?

Sometimes?

3. On average, how many cases require the services of foreign language interpreters? Can you give a ratio?

1/10

4. What has your experience been with foreign language interpreters? Positive or negative?

Positive

5. Was the interpreting service rendered accurate and satisfactory?

Satisfactory

6. Do you know of any case lost due to poor interpreting?

No

7. Have you witnessed or do you know of any attorney who has witnessed poor interpreting in a court proceeding?

No

8. In a case where technical language is used for example explaining a post mortem report, are the medical specialist required to assist the interpreters with technical terms or do the interpreters do all the interpreting?

No

9. Do you know of any case in which the judge may have intervened as an "interpreter" for a moment in a court proceeding?

Yes

10. What are the reasons for postponement of cases?

Agreement by parties, awaiting to secure interpreters, court machinery not functional e.t.c

11. Is the lack of court interpreters one of the reasons why cases are being postponed?

At times yes.

5. From a magistrate's point of view

Due to the busy schedule of the Magistrate, the researcher was limited to time and could only ask three questions:

a. When do you know that you have to postpone a case?

Postponement of cases is not based on prior notification of non-availability. If there is no interpreter available at that particular moment, then the case will have to be postponed even when not planned. Subsequently that creates a back log of cases which still need to be dealt with in the initial stages.

b. Are there any cases where you felt that the information was not accurately relayed?

Yes, The Interpreter and accused have has lengthy dialogues and when the interpreter relays the information, it is just one sentence. Therefore I feel that the information is not accurate. That alone can influence the decision making of the case.

c. Do you think it is an easy task to source foreign language court interpreters?

No. Sometimes foreign language court interpreters have to be sourced from outside the country Eg. Sri Lanka national would require interpretation in Tamil which cannot be found in the country. Thus, there are additional costs which will have to be incurred.

6. From a Foreign Language court interpreter's point of view

A group interview was conducted with 5 Foreign Language Court Interpreters as they were all pressed for time and could not be interviewed individually.

1. Based on your experience as a foreign language court interpreter do you think that South Africa needs to employ more foreign language interpreters? Why?

Yes, there is a great shortage of foreign language interpreters particularly in Igbo, Shona, Zim-Ndebele, Maputo-shangaan and Chichewa

2. Do you think South Africa has the capacity to employ more foreign language court interpreters?

Yes, because it has a stronger economy in Africa.

3. How many cases on average do you interpret per week?

Thirty (30) cases.

4. **How many hours do you work a day?**

From 07h45-16h15.

5. Are there any guidelines that were given to you when you started to work as court interpreters?

Yes, there was a code of conduct given.

6. Have you interpreted the same case more the once?

Occasionally.

7. How many of you interpret the same language?

There are 5 Shona interpreters, 5 Igbo interpreters, 1 Bemba and there have been no replacements in other languages for the past 2 years.

8. For how long have you been employed in the Department of Justice and Constitutional Development?

We have been employed on contract since 2011, prior to that we were casual interpreters.

9. What challenges have you experienced since you have been employed at the Department of Justice and Constitutional Development?

We would like to be employed permanently because we would like stability in the work we do here. We are having problems with getting work permits when they have expired. The Department of Home Affairs does not consider our work as a critical skill therefore the application will not be prioritised or treated as urgent when we need to renew our work permits. Moreover, the salary is determined by the permit therefore no permit, no salary therefore there is no interpreter that will work which leaves the Department with a shortage and a more urgent need for interpreters.

ANNEXURE D: COURT INTERPRETERS' JOB PROFILE AND ADVERT

ADVERT

REGIONAL OFFICE, GAUTENG

Private Bag X6, Johannesburg, 2000 • 7th Floor Schreiner Chambers, Corner Pritchard and Kruis Street, JOHANNESBURG

Sub-Office File 2/1/5

26 November 2014

REFERENCE: 2014/FTC/75/GP

POST: CONTRACT FOREIGN LANGUAGE COURT INTERPRETER

(1 POST) UNTIL 31 MARCH 2015

CENTRE: MAGISTRATE KEMPTON PARK

SALARY: R123 738 per annum + 37 % in lieu of benefits. The successful candidate will be required to sign a performance agreement.

REQUIREMENTS:

• NQF level 4/ Grade 12 (A SAQA evaluation report must accompany foreign qualifications),

• One year valid work permit,

 Applicants will be required to submit a language competence certificate obtained from an accredited institution (details will be provided on the day of the interview).

Language requirements:

 English,Somali and knowledge of Swahili will serve as an added advantage.

Skills and Competencies:

• Comminacation skills,

• Listening skills,

• Interpersonal skills,

• Time management,

• Computer literacy,

• Analytical Thinking,

• Problem Solving,

• Planning and organizing,

• Confidentiality,

• Ability to work under pressure.

DUTIES:

• Render interpreting services,

• Translate legal document and exhibits,

• Coin Words,

• Assist with reconstruction of Court Records,

• Perform Specific line and Administrative support Functions,

ENQUIRIES: Ms R Moabelo (011) 332 9000

APPLICATIONS: Quoting the relevant reference number, direct your application

to:The Regional Head, Private Bag X6, Johannesburg, 2000

OR

Physical address: 7th floor; Regional Office Gauteng; Department of Justice and Constitutional Development; Schreiner Chambers; Cnr. Pritchard and Kruis Street; Johannesburg

CLOSING DATE: 10 December 2014

NOTE: Applications must be submitted on Form Z83, obtainable from any Public Service Department. A Z83 & CV must be accompanied by certified copies of qualifications, identity document and driver's license. A SAQA evaluation report must accompany foreign qualifications. Applications that do not comply with the above mentioned requirements will not be considered.

The Department of Justice is an equal opportunity employer. In the filling of vacant posts the objectives of section 195 (1)(i) of the Constitution of SA, 1996 (Act 108 of 1996), the EE imperatives as defined by the Employment Equity Act, 1998 (Act 55 of 1998) and relevant HR policies of the Department will be taken into consideration. Successful candidates will be subjected to a personnel vetting process.

Please Note: No facsimile and incomplete applications will be accepted.

NB: Non- adherence to these conditions will render your application nul and void.

Correspondence will be limited to short-listed candidates only. If you do not hear from us within 3 months of this advertisement, please accept that your application has been unsuccessful. The department reserves the right not to fill this position.

Please refer to the Recruitment Policy in terms of relocation and resettlement enquiries.

People with disability are encouraged to apply.

DIRECTOR: HUMAN RESOURCES

PROFILE

Post Description	2011 (JE) to 9 July 2014		Revised JE requirements at 8 December 2015	
	Qualifications	Experience	Qualifications	Experience
Interpreter	NQF level 4/ Grade 12 Proficiency in two or more indigenous languages Proficiency in English	Three months practical experience will be an added advantage.	NQF level 4/ Grade 12 Proficiency in English Proficiency in one or more indigenous languages Drivers licence will be an added advantage	No Experience Three months practical experience will be an added advantage.

Senior	Diploma Proficiency in two or more indigenous languages Proficiency in English.	Three years practical experience	NQF level 4/ Grade 12 National Diploma: Legal Interpreting at NQF level 5 or any other relevant tertiary qualification at NQF level 5. Proficiency in English Proficiency in two or more indigenous languages Drivers licence will be an added advantage.	Three years practical experience.
Principal	NQF level 4/ Grade 12 National Diploma in Legal Interpreting (NQF Level 6) Proficiency in two or more indigenous languages Proficiency in English Driver's license	Five years practical experience as court interpreter	NQF level 4/ Grade 12 National Diploma: Legal Interpreting at NQF level 5 or any other relevant tertiary qualification at NQF level 5. Proficiency in English Proficiency in two or more indigenous languages Driver's license	Five years of practical experience as a Court Interpreter with minimum two years supervisors experience
Cluster Manager	NQF level 4/ Grade 12 National Diploma in Legal Interpreting (NQF Level 6) Proficiency in two or more indigenous languages Proficiency in English Driver's license	Five years practical experience as court interpreter	NQF level 4/ Grade 12 National Diploma: Legal Interpreting at NQF level 5 or any other relevant tertiary qualification at NQF level 5. Proficiency in English Proficiency in two or more indigenous languages Driver's license	Six years of practical experience as a Court Interpreter with minimum three years supervisors experience

ANNEXURE E: REQUSITION FORM OF A FOREIGN LANGUAGE COURT INTERPRETER



FROM: **THE [JUDICIAL OFFICER] [PROSECUTOR / STATE ADVOCATE]**

TO: CLUSTER MANAGER: COURT INTERPRETING/PRINCIPAL
INTERPRETER / SENIOR COURT INTERPRETER /COURT MANAGER/
[COURT CLERK]

DATE: _____

REQUISITION OF A FOREIGN LANGUAGE INTERPRETER

STATE VS : _____

CASE NUMBER : _____

CHARGE : _____

The abovementioned matter has been set down for bail application / further investigations / trial in the

DISTRICT / REGIONAL COURT / HIGH COURT

COURT NUMBER:_____

NAME OF COURT_____

The appointement of a Foreign Language Court Interpreter is needed.

LANGUAGE REQUIRED:_____

CASE POSTPONED TO:_____

REMARKS :_____

_____

SIGNATURE:_____ **DATE :** _____
JUDICIAL OFFICER **[PROSECUTOR/STATE ADVOCATE]**

I acknowledge receipt
hereof:_____
CLUSTER MANAGER / PRINCIPAL COURT INTERPRETER / SENIOR COURT INTERPRETER
[COURT CLERK]

General Remarks on the services rendered (provide any information that will assist with the determination of the quality of services rendered by the official)

_____
_____
_____
_____
_____
_____
_____

ANNEXURE F: FOREIGN LANGUAGE CASES FOR 2015 IN THE KEMPTON PARK MAGISTRATE'S COURT

					MONTHLY STATISTICS FOR 2015 FOR ALL FOREIGN LANGU								
	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	JANUARY	FEBRUARY	TOTALS
AKHANI							2	1		2	7		12
AMHARIC	23	17	17	27	24	26	26	21	22	11		17	231
ARABIC	2	1				1					1	2	7
ASHANTI						1							1
BANGLA	15	21	7	6	11	3	6	3	7	5	6	1	91
BEMBA		0	2			1	2	4	2		1	5	17
CHICHEWA	33	23	34	10	24	34	22	32	26	21	29	27	315
CHINESE	30	23	20	21	30	21	2	27	20	15	5	16	230
EDO	1	4	0	0	1	1	1		10	4	1		23
FRENCH	19	30	29	14	30	20	20	14	5	11	9	10	211
GUJURATI		1							1			1	3
HAUSA		3		1	1					2			7
HINDI		0		0	1		2	2	1				6
IGBU	190	166	155	142	143	120	98	96	96	64	61	87	1418
IKA		1	4	2	5	3		1		3	2	4	25
LINGALA	26	15	12	27	31	18	25	18	10	10		5	197
MAPUTO	72	58	75	69	72	66	48	47	76	42	40	46	711
LOZI	1												1
LUGANDA		4	4	4	0		2						14
NDAU	1	2	6	2	3	6	5	6	4	2	4	1	42
NYANJA	5	3	2	4	1		3	7	1	3		1	30
PORTUGUESE	15	11	16	26	16	19	2	16	17	9	4	7	158
PUNJABI	1	2	1					4	2			1	11
SHONA	77	64	68	56	44	63	73	81	71	60	74	79	810
SOMALI	1	1	1	3	2	1	2		3				14
SPANISH	8	10	3	10	6	18	11		8	3	5	6	88
SWAHILI	26	20	11	17	15		9		12	12	8	12	142
TWI	8	2	6	8	10	7	9		1	1	1	1	54
URDU	16	17	16	16	4	7	8		4	5	9	12	114
YORUBA	2		1	4	8	7	6		2	5	4	5	44
ZIMNDEBELE	59	43	26	34	33	35	60	4	30	41	45	33	443
													5470

ANNEXURE G: FIGURES, GRAPHS, CHARTS AND TABLES

LIST OF FIGURES

Figure 1: Number of Foreign language interpreters in South Africa

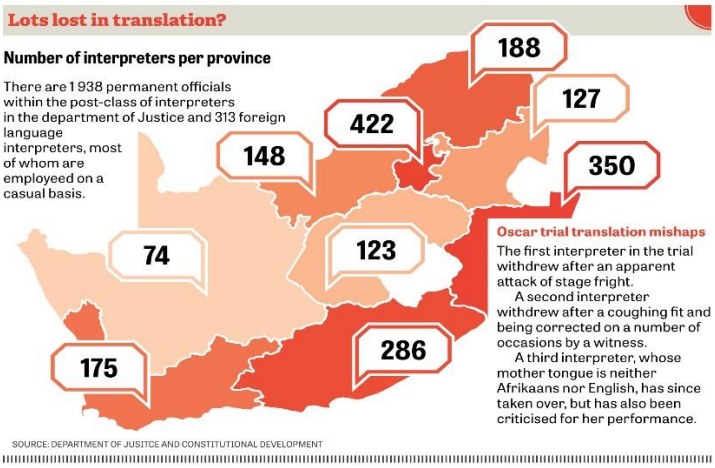
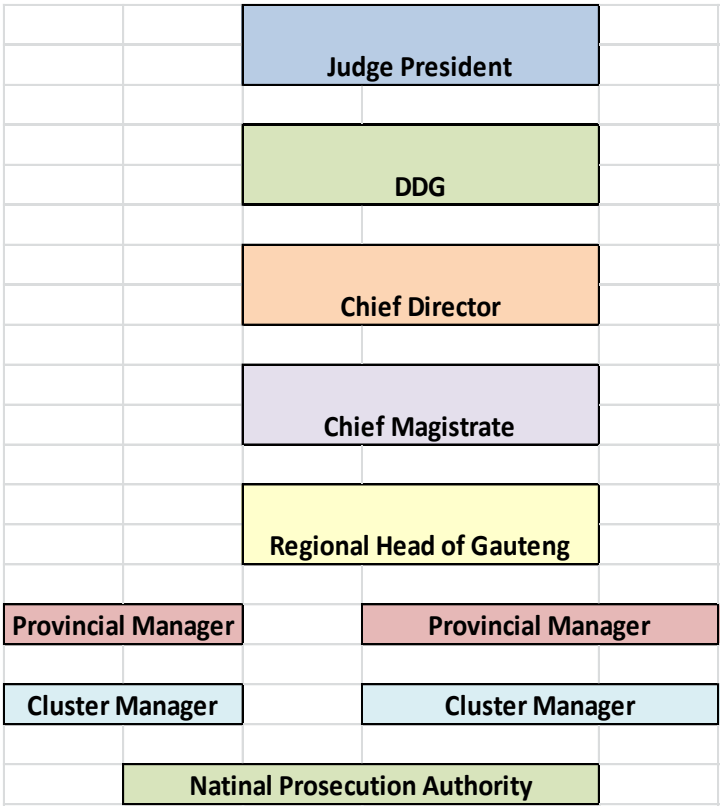
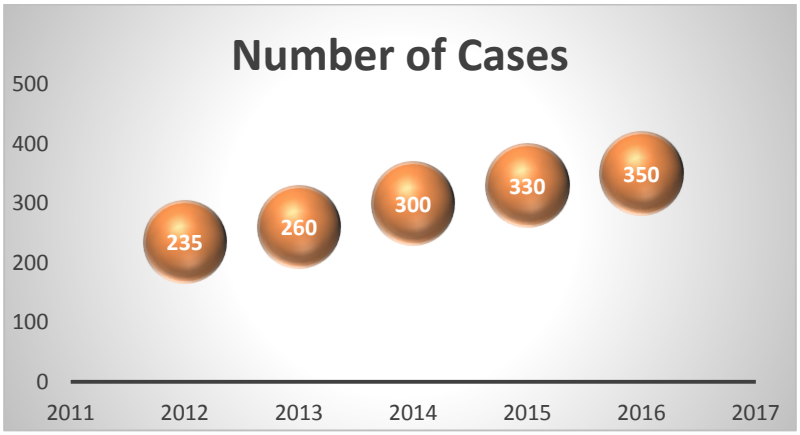


Figure 2: The structure of the NEEC

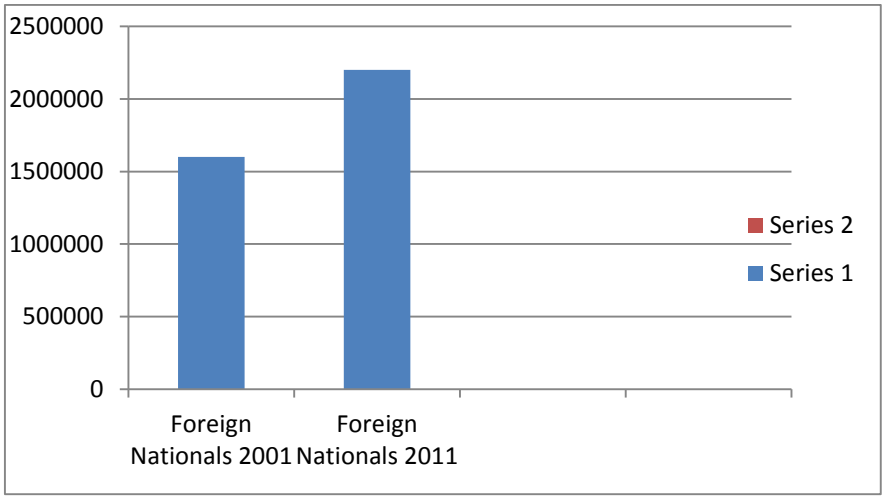


LIST OF GRAPHS

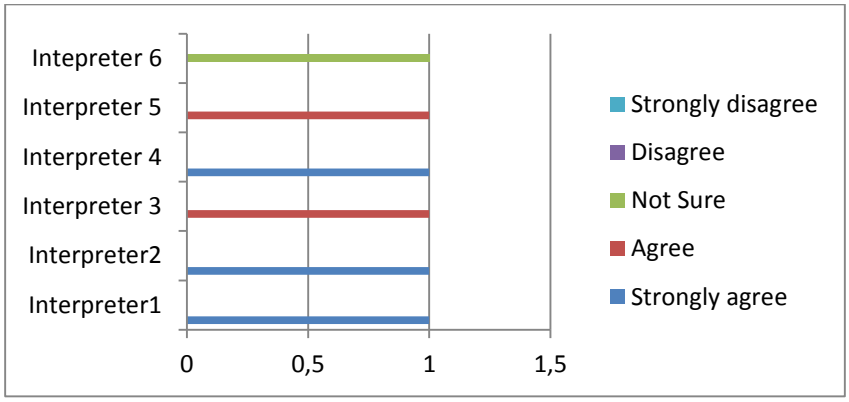
Graph 1: An increase in the number of foreign language



Graph 2: An increase in number of foreign nationals

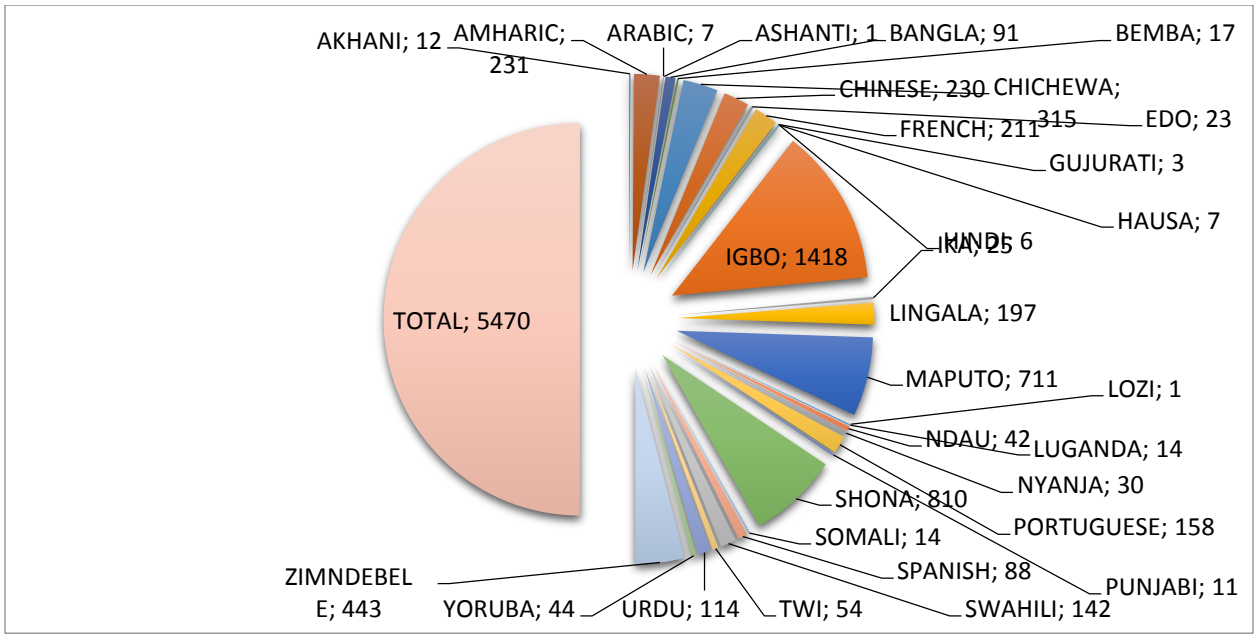


Graph 3: Answers from the group interview that took place



LIST OF CHARTS

Chart 1: Chart explaining the number of cases for each language



LIST OF TABLES

Table 1: Comparison of qualitative and quantitative methods of research

Table 1.1 A Comparison of Qualitative and Quantitative Models of Research

Qualitative "Inductive" Methods Model	Quantitative "Deductive" Methods Model
Topical area	Formulate a research question
Analyze subset of data	Develop a hypothesis
Generate codes (literal to abstract)	Define variables
Reanalyze data; analyze additional data	Construct measurement instrument
Memo notes	Coding
Analyze additional data	Sampling (random sampling)
Refine codes; generate meta-codes	Reliability and validity checks
Analyze additional data	Statistical check (if necessary)
Embodied interpretation	Calculate results
Representation	Represent results (typically on charts or graphs)

Table 2: Reponses from legal experts: primary reasons for the postponement of cases

	Respondent 1	Respondent 2	Respondent 3
1.	Stenographer	parities not ready to proceed	*No foreign language interpreter*
2.	*No foreign language interpreter*	*No foreign language interpreter*	parties not ready to proceed
3.	Insufficient evidence	court machinery not functional	
4.	Parties not ready to proceed		
5.	Court machinery not functional		