

NEW LAW JOURNAL

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13 September 1996

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Vol 146 No 6759 p 1310

**LENGTH:** 1777 words**SECTION:** COURTS**TITLE:** Interpreters and the legal process**AUTHOR:** Ruth Morris**TEXT:**

Last year, Panorama (BBC1, July 10, 1995) looked at the predicament of a number of British citizens who had fallen foul of the legal authorities of certain European countries. An English building worker arrested in Germany on a relatively minor charge complained that he had been remanded in custody because, in his opinion, as a foreigner, he did not have the same access to bail as local residents. In Portugal, two British men accused of attempting to murder a German found it hard to follow the legal proceedings against them. There was no reference to the provision of English-language interpreting services so that they could follow the proceedings. The German-Portuguese interpreter who relayed the testimony of the victim was shown searching for the German word for moustache, the implication being that she was not providing a high-quality, accurate version of what he was saying -- the main evidence against the English defendants.

The message of the Panorama programme was that other countries' legal systems are different from our own, and that Britons abroad should not expect to encounter British standards of justice elsewhere. Some of the media coverage in the recent case of an English schoolgirl murdered in France similarly implied that not only attitudes, but also police investigations, abroad fail to match up to British expectations.

Although language issues were not the main focus of the Panorama programme, the message was clear: apart from a defence lawyer who, hopefully, will speak some English, do not expect the other people with whom you will come into contact to speak English, nor even to communicate with you through an interpreter. And if you have dealings with an interpreter, do not expect that person to be competent. The British national who comes into contact with a European criminal justice system is likely to be isolated linguistically and culturally.

For many viewers watching the programme in the comfort of their living room, the message was deeply disturbing. Yet many European countries could probably make similar programmes about the experiences of their nationals abroad in any other European Union country -- including Britain. The unfamiliar and probably incomprehensible legal system; the difficulty of obtaining bail as a non-resident; the language barrier; the difficulty of obtaining competent interpreters - all these factors apply just as forcefully to non-Britons in this country as they do to the British abroad. Indeed, one of the few differences will probably be that an English-speaker abroad will have a better chance of finding a lawyer who speaks some English than a **non-English speaker** in Britain will have of finding a lawyer who speaks his own language.

Three years ago, when the Nuffield Interpreter Project was already attracting some attention from practitioners, it was argued in these pages (NLJ, July 23, 1993, pp 1059-1060) that the use of appropriate interpreting techniques by competent interpreters can put the language-handicapped participant on a nearly identical footing with the native speaker of the language of the legal proceedings. The point was made that, on the whole, there was room for improvement in lawyers' and judges' awareness of how to best work with interpreters to achieve maximum efficiency. By all accounts, in the intervening period, remarkably little has changed in this area.

As a recent report has shown (NLJ, July 5, 1996, p 978), even the procedure for "warning" an interpreter is not properly established: the CPS has apparently decided that it no longer intends to warn interpreters through its Criminal Justice Units, "believing that the courts should fulfil the task since the courts provide the funds". The courts, however,

are apparently not amenable to this argument, and ultimately defence solicitors may be called upon to make the necessary arrangements. His Honour Judge Waller has commented that this would not be a satisfactory system.

Practitioners are not always clear in their own minds what they expect of an interpreter. Thus in some public-service (for example, health) settings, the role of the interpreter may include drawing attention to cultural issues. In other contexts, the definition of the interpreter's role may be so narrow as to exclude all but the linguistic aspects of communication. The problem with this approach, which legal figures often seek to impose, is that language cannot be artificially separated from culture in its broadest sense.

At the opposite end of the scale, even within the legal system interpreters are sometimes considered to have duties that go far beyond the role of a linguistic (and perhaps cultural) mediator. Some judges seem to expect them to play an active or investigating role, while certain police guidelines imply that they should carry out not just secretarial, but also editorial duties, such as summarising tapes of police interviews, and barristers may even try to use interpreters as part-time secretaries or messengers.

The recently published *Interpreters and the Legal Process* (Interpreters and the Legal Process Joan Colin and Ruth Morris, Waterside Press, Winchester.) focuses on practice in England and Wales (including up-to-date references to the use of the Welsh language in the legal system in Wales), but it also has an international dimension, presenting and discussing best practice and codes of professional conduct from a number of other English-speaking jurisdictions. Historically, there has been little contact between interpreters and those who work in the courts in this country. Although there may be no panacea for this situation, a consideration of some of the options practised elsewhere, as reviewed in the book, may save practitioners from having to re-invent the wheel.

When it comes to the duties and behaviour of interpreters in the legal process -- indeed, even their precise status and standing -- there are no cut-and-dried definitions. Interpreters may well have to adapt their approach to suit different settings and specific situations. One practical recommendation that deserves consideration is that before a trial begins, a short "conferencing" session should be held, attended by the main professional "players" -- magistrates or judges, lawyers and interpreters. At this briefing session interpreting issues can be addressed, and procedural matters referred to in order that agreement can be reached about what behaviour and performance standards are expected of the interpreters, and what they in turn can expect (and ask) of speakers and others involved in the proceedings. Specific matters could be addressed, such as providing documents, not only during proceedings but where possible in advance; dealing with interpreter queries during the course of the trial (when and how); interpreting issues related to legal argument; and the judge's explanation to the jury about the interpreter's presence and role.

Such a conferencing session could well result in more efficient communication during a trial and greater understanding on the part of both the legal profession and interpreters of their respective roles in the court proceedings. Such a procedure would also enable the legal system and its members to learn more about interpreting than is often the case at the moment.

In *Interpreters and the Legal Process*, key areas of the legal system (including entering the country, police procedures, the courts system and the probation service) are presented and discussed in conjunction with relevant interpreting issues. This combined approach enables linguists and non-linguists alike to understand how closely the performance of their own roles depends on the attitudes and professionalism of their opposite numbers. As the book shows, where **non-English speakers** or deaf people come into contact with the law, the interpreter -- who has traditionally been viewed as a mere mechanical component -- is actually a vital member of the "team" administering justice.

No less eminent a figure than Lord Justice Watkins has made the point that proceedings involving a language-handicapped person which are conducted without assistance from an interpreter may be considered to be "contrary to natural justice" (*Iqbal Begum* (1991) 93 Cr App R 96, and see also *Corsellis and Polack*, NLJ, July 23 and 30, pp 1634-36 and 1676-77). Merely engaging an individual who claims to be able to speak the two languages in question -- as in *Iqbal Begum* -- is not enough. Providing an interpreter who is in any way not up to the job -- "below par" -- may also put justice in jeopardy. This applies with equal force to spoken-language and sign-language interpreting. Several cases involving deaf defendants have failed in the last year because of mistakes in the interpreting provided either at the police station or in court.

Everybody who needs to communicate with **non-English speakers** or deaf people in various parts of the legal system should develop an awareness of the complex issues that are inevitably bound up with the process of interpreting

in legal settings. This would help improve the quality of the public debate slowly developing in this country, as elsewhere, about the implications of the provision and quality of interpreting services for the administration of justice.

Competent interpreting can make a major contribution to an efficient and effective legal system. Conversely, incompetent interpreting can result in miscarriages of justice. A greater understanding is needed in this country of the close link between the quality of interpreting and that of justice. Otherwise, as I wrote three years ago, "whether blind or not, justice will certainly be very hard of hearing in the case of the language-handicapped participant". A letter in these pages (NLJ, July 19, 1996, p 1070) depicts the current situation in respect of arrangements for court interpreters. A recent article in *The Big Issue* (No 185, June 10-16, 1996, pp 7&9) reports that some asylum seekers' applications are failing because of biased and incompetent interpreting. Little, if anything, appears to have improved since the introduction of the National Register. No further studies are needed. It is attitudes which must change. All members of the court "team" (judges, magistrates, clerks, lawyers, administrators, and so on and interpreters) need to move forward together in order to develop a mutual understanding of the role and responsibilities that each member has in striving for higher standards in interpreting in the judicial system. When it comes to the vital link of interpreting, does it always have to be a case of *plus ca change*...?