
By 'Trial and Error': a Report on a National Survey on the Situation and Perceptions of Court Interpreters in Malaysia

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Introduction

This paper is derived from a lengthier report (Zubaidah 1999) submitted to the Chief Registrar of the Federal Court and to the University of Malaya Research and Development Unit in 1999, whose assistance which is gratefully acknowledged enabled the research to be conducted. It presents the results of a survey of the Malaysian Court Interpreter Service, based on a 54-item postal questionnaire which supplies information on the interpreters – as individuals and as a group - set in the career context of the bilingual service provider: a kind of snapshot of all 566 serving Court Interpreters in Malaysia in mid-1998.

Up to now research interest in interpreting in the legal system has tended to focus on the micro, face-to-face, interactive issues of *what* the interpreter does, *how* and *why* (s)he does it as (s)he acts as a communication link between participants in the legal process (Wadensjö 1996, Gibbons & Hale 1999). This survey, in contrast, is oriented towards the macro issues of *who* the interpreters are, *when* and *where* they provide their service, the perceptions of their function and place in society and their hopes for the future. It is focused on the interpreter in a judicial and legal context as an element in a system, and in Malaysia, it is a first step in placing the provision of legal interpreting services within a larger theory of language and political planning.

Background

Malaysia is a multi-ethnic, multilingual Commonwealth country with a legal system based on English Common Law. The Federal Constitution and the Criminal Procedure Code both enshrine the right of an individual involved in a court appearance – whether as litigant, defendant or witness – who is not competent in the national language (Bahasa Melayu. BM. Malay) to the services of an interpreter. It is recognised – as it is in the UK – that justice, in a multilingual society, can only be provided through interpreters (Corsellis 1995). In contrast with the UK, where Public Service Interpreters – including Court Interpreters – are hired on a sessional basis (Corsellis 1995: 23), the Malaysian Court Interpreters are (with very few exceptions) all ‘in-house’ interpreters who are public servants employed on a permanent basis by the Public Service Department.

Court interpreting in Malaysia has long been beset by the problem of shortage of interpreters. At least this is the perception of the court administrators and the general public (*New Sunday Times*, 1997). Matters came to a critical stage when, in March 2000, it was reported in the press that close to 800,000 cases were still awaiting trial (*Mingguan Malaysia* 2000). One of the reasons was, and still is, the shortage of interpreters (*The Sun* 2000). There is, so far, substantial anecdotal evidence of dissatisfaction from all sides – personal comments by interpreters, the police, court registrars, lawyers, the judiciary and the general public – but no hard statistically reliable support for such an impression. Who are the interpreters and why are they in such short supply in Malaysia?

Answering these questions requires not only the fundamental *demographic* facts (how old are they? how many years have they been in service? which courts do they operate in? which languages do they use?) but also indications of the *attitudes* and *opinions* of interpreters (what do interpreters feel about their work? how do they see their role in the system?). None of this is available in a collated form which would allow the two key questions underlying the investigation to be addressed:

What do court interpreters feel about the service they are in and what hopes do they have for the future?

What can be done to improve the court interpreter service?

Methodology and design

The research employed a triangular multi-method design. In the first stage, the qualitative approach was adopted. A number of short informal interviews were conducted with twenty key individuals in Malaysia and in the UK: Court Registrars, Deputy Public Prosecutors, Interpreters, Magistrates and Judges, officers of the Court Interpreters' Union, legal officers in the Police Force.

In the next stage, following, and to a degree, deriving from the interviews, a quantitative approach was decided upon and a 54 item-questionnaire (in BM and English) was devised, based on the concerns voiced in the interviews. The questionnaire was piloted among student interpreters at the University of Malaya, selected court interpreters and individuals who were previously senior assistant registrars of courts. It was modified to some degree and then distributed by the administrative office of the Federal Court in June 1998 to 566 serving court interpreters.

Of the 566 questionnaires sent out, a useable return (and without follow-ups) of 83.2% was obtained between July and August 1998: 471 were returned completed and in a form which permitted processing and analysis, using the SPSS 7.7 for Windows. Of the remainder, three were received partially completed and 92 not returned at all.

Processing of raw data was carried out from September to October, and the final analysis in December, with the assistance of a co-researcher (R.T.

Bell, who is largely responsible for the questionnaire design) and a research assistant (Siti Hajar Tahir), who keyed in the raw data.

At the third stage, the preliminary findings were produced. One of the steps taken was to present these findings to the interpreters' representatives (the committee members of the Interpreters' Union) for further discussion and clarification. The final report was produced in Malay and submitted in January-February 1999.

The Questionnaire

All but nine of the 54 questions in the questionnaire were closed choice in form (yes-no, 3-point and 5-point commitment scales) and included the option 'Other' This option and the nine open-ended questions were processed manually and provide valuable additional information. The questionnaire covered six major areas:

1. *Background* (demographic information: type of court, state, age, gender, level of education, ethnic group),
2. *Background to the job* (professional information: years of service, civil service grade, training courses attended),
3. *Opinion on training for court interpreters* (skills and knowledge required, the types and the organisation of training courses preferred),
4. *The languages used in courts* (mother tongue, languages qualified in, languages used officially),
5. *Feelings about the court interpreter service* (job satisfaction, ways of improving the service, responses to the idea of a semi- or quasi-governmental agency employing trained and accredited freelance interpreters) and
6. *The Malaysian Court Interpreters Union* (membership, expectations, future role).

Findings

The information obtained is rich and substantial. Certainly several other details about the court interpreter can be extracted from it, for example, the correlation between age or gender with degree of job satisfaction or education etc.

In this article, however, a summary of the more pertinent responses is given, which provides an overall picture of the interpreters i.e. who they are, their qualifications and training background, perceptions and expectations. For some of the more significant items, tables are presented to give a quick and informed impression of the picture.

Section 1: Demographic information

The majority of interpreters serve in Magistrates Courts (54%), the remainder being equally divided between Sessions and High Courts (22.5%). A very small number (four) serve in the Federal Court.

The interpreters are concentrated in two areas in Peninsular Malaysia - the Federal Territory of Kuala Lumpur (13%) and the state of Perak (16%) - and more thinly distributed in other states, including East Malaysia (on the island of Borneo): Sabah and Sarawak.

However, the results for age and gender were surprising: the majority being women (who outnumber men by 7:3) in their mid to late 30s and the bulk of the profession (80%) falling into the 25-44 age group with very few individuals in the younger group (20-24) or the older 45-55 group.

Another surprise was highest educational qualification: the vast majority of interpreters (close to 65%) possess only the SPM (the Malaysian school leaving certificate roughly equivalent in level to the CSE or GCE 'O' level in the UK). Less than a quarter has the STPM (the Malaysian higher school certificate equivalent to 'A' level) and only 9% have their education in English (the MCE and HSC). There is the odd Diploma in Law (external), Diploma in Translation and even a Diploma in Applied Linguistics but such qualifications are very rare indeed.

Table 1. Interpreter academic qualifications

Qualifications	Count	Percentage
SPM (Malay)	305	64.8
STPM (Malay)	107	22.7
MCE/HSC (English)	43	9.1
Diploma in Law (External)	5	1.0
Diploma in Translation	4	0.8
Other	7	1.5
	471	100.0

Section 2: Background to job

The interpreter's service is made up of two main groups: those in their late twenties to early thirties, who have no more than 5 years' experience (36.6%), and those in their late thirties to early forties, who have 16-20 years' service (26.5%). If we take into account interpreters in their early twenties and those in their thirties who have no more than five years' experience, the percentage of the relatively inexperienced reaches almost one third. The implications for training and professionalisation appear self-evident, especially since about 12% of the more experienced senior interpreters will have already retired or chosen optional retirement by the year 2000 (Table 2).

Table 2: Age and years of service

AGE GROUP	1-5	6-10	11-15	16-20	21-25	Above 25	Total
20-24	36	-	-	-	-	-	36 (7.6)
25-29	75	11	-	-	-	-	86 (18.3)
30-34	26	33	27	-	-	-	86 (18.3)
35-39	11	6	35	73	-	-	125 (26.5)
40-44	10	-	6	43	22	1	82 (17.4)
45-49	3	2	6	6	17	11	40 (8.5)
above 50	1	-	1	1	2	12	16 (3.4)
Total:	162	52	69	123	41	24	471
Percentage:	(34.0)	(11.0)	(14.6)	(26.1)	(8.7)	(5.1)	(100.0)

The vast majority of interpreters (over 80%) are at grade L7, with a starting salary of RM 532 per month. The remainder are at the next higher grade L6, to which they are eligible after a series of government examinations (which do not test interpreting skills), with a salary rising to a maximum of RM 2198.

Most interpreters (over 80%) have had some kind of temporary employment before entering the service: typically short-term posts (temporary teacher, semi- or unskilled worker, clerk-typist/receptionist), few of which developed any transferable skills appropriate for interpreting.

More than half of the interpreters, at the time of the survey, had not attended any of the one-week workshops provided by ILKAP (the Training Institute for the Judicial Department) and virtually none of them had attended any of the training courses (Certificate, or Diploma) provided by the University of Malaya since 1989 and 1974 respectively. Small numbers had attended other relevant courses (one, for example, on Sign Language). However, since ILKAP has been running a one week workshop twice a year since 1995, it is most likely that, by now, more than half the total number of interpreters have had the opportunity of at least receiving this amount of training (Table 3).

Table 3: Specialised interpreter training

Training	Count	Percentage
ILKAP	222	47.0
University of Malaya	21	4.5
Other	23	4.9
None	205	43.6
	471	100.0

Section 3. Knowledge, skills and training

In this section informants were asked to commit themselves to a number of assertions using a rating scale. This allows the results to be ranked from most to least accepted.

69% of the interpreters feel that Knowledge of Court Procedures is crucial in their work, 19% indicate it is important, whereas for Language Proficiency, 65% perceive it to be crucial and 25 % say it is important.

In terms of interpreting skills, 78% of the interpreters state that it is crucial, while 17% say it is important. Speech fluency and clarity are seen as being almost as important as interpreting skill: crucial (63%) and important (30%).

As to the training of interpreters at a Diploma level, there is an overwhelming agreement that it is crucial (87%). This is very much tied to the question of pay and conditions of service of the Malaysian Public Service Department and to the feelings of inadequacy as a court interpreter prevalent among the interpreters. This will be addressed in a separate section. However, for some reason, 4% prefer to remain neutral on the issue (Table 4).

Table 4: Interpreters' views on training

	Crucial	Important	Neutral	Total
Court Interpreter training should be at Diploma level	409 (86.8)	41 (8.7)	21 (4.5)	471 (100.0)
Knowledge of Court Procedures	325 (69.00)	91 (19.3)	55 (11.7)	471 (100.0)
Language Proficiency	306 (65.0)	119 (25.3)	46 (9.8)	471 (100.0)
Interpreting Skills	365 (77.5)	80 (17.0)	26 (5.5)	471 (100.0)
Speech Fluency and Clarity	297 (63.1)	137 (29.1)	37 (7.9)	471 (100.0)

Organisation of courses

Full-time pre-service courses receive an overwhelming endorsement and the part-time mode is strongly rejected. However, full- and part-time are seen as being equally appropriate for in-service courses. Six months and one year receive almost equal votes (there are some also for three months) for the duration of initial training. While three-month in-service courses receive strong support, the single week option (the current provision by ILKAP) is rejected

outright. However, in each case, there is a large 'other' vote which suggests that there is no strong consensus on mode or duration other than a commitment to full-time initial training.

Section 4: Languages and ethnic composition

The official language of trial and record in the Malaysian court is the national language (Malay: Bahasa Melayu). The use of English is only permitted when it can be demonstrated that this will serve the interests of justice and with the consent of all parties (see Section 8 of the Language Act (revised) 1990). However, the Malaysian court is necessarily a multilingual one, with all three major languages of the country being spoken. Malay is cited by almost all interpreters (over 90%) as a language they use in court, followed by English with more than 70%. Equal claims of 25% each, are made for Chinese (mainly Cantonese, Mandarin and Hokkien) and the Indian languages (dominated by Tamil). Other varieties of Malay (Achenese, Javanese, Madurese etc), the East Malaysian languages (Iban, Kadazan, Bajau, Bidayuh etc) together with Thai and Bangla complete the picture.

The ethnic composition of the country according to the latest census is Malay: 54.8, Chinese: 25.3 Indian: 7.4, and other indigenous groups: 11.3 (Department of Statistics 2000). This, however, is not reflected in the ethnic composition of the interpreter service: mother tongue (and ethnic membership) does not correlate one-to-one with the languages used in court (Table 5).

Malay is the normal language of trial and of record, and so all interpreters, irrespective of whether they are non-Malays or native speakers of BM, have to be able to work between BM and at least one other language (in Sabah and Sarawak, however, English is still accepted as the language of the court, and interpreters operate in English, Malay and the indigenous languages).

There are four times as many Indians in the service than would be expected from their numbers in the overall population. This is explained by the fact that Indian interpreters frequently combine such pairs as BM – English, Tamil (and/or another Indian language) –BM/English. It is the linguistic flexibility of the Indian interpreter, typically operating with several language pairs rather than one, which explains the apparent over-representation of the Indian community.

Here, an important distinction has to be made between mother tongue and primary language (Whiteley 1964: 184). For the Malay interpreters, the first language they acquire – the mother tongue – is also the language they use at work, but for non-Malay interpreters, the role of the mother tongue as primary medium of communication is narrowed to personal relationships, and in public exchanges, including the work place, the national language takes over.

Table 5: Ethnic Composition

Ethnic Group	Total	Percentage
Malay	186	39.5
Chinese	100	21.0
Indian	145	31.0
Punjabi	19	4.0
East Malaysian	18	4.0
Thai	3	0.5
	471	100.0

Section 5: Feelings about the court interpreter service

The responses in this section of the questionnaire go a good way to explain the worsening of the situation (see earlier article Zubaidah 1998). For example, there are 18 magistrates' courts (criminal and civil) in the Federal Territory of Kuala Lumpur but they are served by only one Chinese interpreter. This is not an isolated instance. There is still a shortage of 170 Chinese interpreters throughout the country, not including other languages and dialects (*the Star* March 2000), and one assumes, that, if a case requiring a Chinese interpreter comes up for hearing, most likely it will be postponed. The reason for the difficulty in finding replacements for interpreters who have resigned and have been resigning over the years (Interpreters' Union 1992) are indicated below in the views of the interpreters themselves.

Like the job but dissatisfied with service conditions:

Although 50% of the interpreters indicate that *they like their job*, 82% agree to the assertion that most of them are very *dissatisfied with the conditions of*

service, and 73% state that they *personally* are very dissatisfied. The difference noted is indicative of a common feature of the responses to such questions; individuals are often far more willing to commit others than to commit themselves (Table 6).

Table 6: Responses to Statements about Feelings

	Strongly Agree	Agree	Non-committal	Disagree	Strongly disagree
Most of us feel very dissatisfied with our conditions of service	198 (42.0)	189 (40.1)	57 (12.1)	20 (4.3)	7 (1.5)
I feel very dissatisfied with my conditions of service	157 (33.3)	190 (40.3)	72 (15.3)	41 (8.7)	11 (2.3)
There are many occasions when interpreters fall short of being an adequate interpreter	56 (11.9)	240 (51.0)	103 (21.9)	53 (11.3)	19 (4.0)
There are many occasions when I fall short of being an adequate interpreter	40 (8.5)	253 (53.7)	58 (12.3)	84 (17.8)	36 (7.6)
Most of us would leave the service if we were offered a better job	256 (54.4)	170 (36.0)	36 (8.0)	3 (0.6)	6 (1.0)
I would leave the service if I were offered a better job	214 (45.4)	161 (34.2)	55 (11.7)	31 (6.6)	10 (2.1)

Feel inadequate in doing the job:

A good majority (over 60%) admit that they fall short of doing an adequate job as interpreters. There is also a sizeable minority which is uncommitted (over

20%) and 15% who do not agree. It is unfortunate and worrying that such a large number perceive themselves to be inadequate interpreters in a multilingual court. At least two implications can be deduced, one, that they must have low self-confidence in carrying out their interpreting duties; and two, that mistakes may have occurred in the course of their interpreting work and therefore a possibility of miscarriage of justice cannot be ruled out. On the other hand, it is admirable that the interpreters are so frank on this issue because it indicates a sense of professional concern on their part. Feelings of inadequacy are to be expected in any serious professional, especially in the new practitioner because (s)he is, in fact, still learning. In the established member of the profession, it is a sign of continuing concern for standards and of self-monitoring to assure them.

The reasons

Although nearly 15% feel no sense of inadequacy, most do and trace that to a recognition of a wide range of issues expressed in open-ended responses.

- 1) a lack of training, either at induction or in-service,
- 2) their haphazard learning on the job ('No proper training was given to Court Interpreters. Court interpreters have to learn through mistakes'),
- 3) lack of knowledge of specialised areas (medicine is particularly singled out) and their associated terminology,
- 4) lack of adequate remuneration, incentives and promotion opportunities,
- 5) vagueness and overlap of their job description. particularly the requirement on interpreters to carry out – in addition to their interpreting responsibilities – onerous clerical duties,
- 6) stress, staff shortages and
- 7) perceived unsympathetic management.

Interpreters' prospects for the future

Throughout the research investigation, almost all the interpreters interviewed, indicated that they, personally, have no hope for their future nor the future of the profession. This is reflected in the survey, in which not only does the overwhelming majority believe that interpreters, in general, would leave the service if they had the opportunity but that they would do so themselves, if there were an attractive alternative.

The next part of this section is the interpreters' views concerning ways in which the service might be improved, expressed by their commitment to a range of proposals.

Adequate training: there is a very enthusiastic response with more than 90% expressing agreement, very few disagreeing or remaining uncommitted.

Increase interpreters' salaries: there is, not unexpectedly, overwhelming support (nearly 94%), with hardly any disagreeing or remaining uncommitted.

A requirement that interpreters have a recognised qualification for entry to the service, for example a Diploma in Court Interpreting: there is strong support (85%) for this proposal with a small number uncommitted or expressing dissent.

Court interpreting should be taken out of the Public Service and placed under a separate semi- or quasi- governmental agency: there is support (48%) but not majority support. A substantial minority (30%) is neutral and almost 20% are against the idea. However, the views change considerably after more details were given later in the questionnaire as to what this entails.

An overwhelming majority (74%) responding to this open-ended question agrees with the proposals and gives reasons for their agreement. They feel that the accreditation suggested would 1) remove the present situation which they see as one of exploitation and 2) lead to greater professionalism by ensuring standards of service and ethics. This would, they believe, lead to (or at least help to justify) an upgrading of the service in terms of rewards and enhanced self-esteem and this, in turn, would attract good interpreters into the service.

However, there is the contrary position: a substantial minority (11.6%) disagrees and argues 1) that the present system is satisfactory and 2) that interpreters should remain in the Civil Service. They cite a number of perceived disadvantages which would be entailed in the suggested change: 1) loss of job security (competition from freelancers), 2) a potential for favouritism in assigning cases and/or harassment, 3) abuse of position (particularly where

impartiality is compromised by fee arrangements) and 4) the danger of increased costs for litigants making justice available only to the rich.

Between these two are the uncommitted and the confused. Those who are uncommitted consider the proposals to be worthy of further discussion but insist that any changes must ensure that the position of existing interpreters is not jeopardised and, if the change is made and implemented, adequate compensation is provided. The confused consist of those who admit to being unclear about the proposals or (even if they approve) are unconvinced and distrustful of the motivation behind them.

Section 6: The Malaysian Court Interpreters Union: Kesatuan Jurubahasa Malaysia (KJM)

60% of the interpreters responding to the survey claimed that they are members of the Union, but only 15% say they are active members. In an open-ended response, they indicate expectations congruent with a union's role: promoting the welfare of members, fighting for their rights, solving their problems, upgrading the service, acting as a spokesman for members, fostering ties between members and acting as a channel of new information on the service.

The interpreters set themselves up as an association in 1937 and, in order to increase their bargaining power with their employers, became a trade union in 1948. The researcher is interested to discover the extent to which the interpreters are aware of the distinction between a *trade union* and a *professional association*, since this has important implications for future professionalisation.

A Trade Union refers to a body of organised unskilled or semi-skilled workers which concentrates on fighting for improved pay and conditions of service. A Professional Association, in contrast, is not only concerned with pay and conditions but also with acting as a regulating body which monitors, advises, trains and improves the service (see Mikkelson 1997).

The findings of this survey indicate that, although the interpreters are officially organised as a union, the attitudes and values that they express in their responses are those that one would expect from a profession (i.e. concerns for standards and training) that would lead to the creation of a

professional association. Interpreters are, therefore, proto-professionals – on the verge of becoming a true profession – who are regarded as para-professional ancillary staff (Bell 2000).

Conclusion

The Malaysian court interpreter comes across in this study as a committed individual, determined to do a good job but undervalued and so frustrated on all sides by an inappropriate job description, poor reward system, unreasonable demands on her abilities and lack of access to professional development facilities that she would certainly leave the service if a better job presented itself. It is a bleak outlook indeed and hardly a comforting thought for those who depend on the interpreter to ensure the efficiency and effectiveness of the multilingual court.

In the Malaysian Public Service scheme, the interpreter post exists almost in name only, as the interpreters are expected to do the job of the clerk as well, which can take up more of their working time than being an interpreter (Zubaidah 1998; Teo 1984). In order to become an interpreter, an individual needs only a school-leaving certificate at the SPM or STPM level. This qualification assumes no job-related training and attracts the same pay scale across the board in the government sector. There are no promotion prospects for the interpreter, except from Grade L7 to L6 (see Section 2) and an interpreter cannot go beyond L6 (and be paid more) without moving out of the interpreting service into an administrative post (i.e. L5).

It is logical to assume that in order for interpreters to receive a higher salary and the opportunity to advance in their career, a higher level of education and training is required, for example a recognised Diploma from any of the public educational institutions in the country. However, this only becomes possible if the post itself is redefined as requiring diploma level entry and specialised training. The unwillingness to accept that the interpreting job demands higher educational qualifications and specialised training continues to block change and progress in the service.

It appears very likely that the root of the problem lies in the official perception of the interpreter as merely a clerical officer who, coincidentally, happens to speak two or more languages and knows something about how courts operate rather than as a professional specialist communicator. The

interpreter, defined as a clerical assistant (legal) is, from such a perspective, being appropriately treated and rewarded and, as if to confirm that the two are identical, the distinction between the interpreter and the non-interpreter (the clerks), was effectively abolished by the Public Service Department under the terms of the revised remuneration system in 1992 (the SSB) when the language allowances previously given to those who are qualified in languages other than Malay were removed.

In contrast, the interpreters in Singapore, who share with their Malaysian counterparts a common origin more than a century ago in colonial times, and are also civil servants dealing with largely similar languages (Malay, Chinese and Indian), have a scheme which, in terms of promotional opportunity, is far more encouraging. The Singapore scheme provides for five levels: the Student Interpreter (with the same qualifications as the present L6 and L7 in Malaysia), who is then required to pursue a two year course of study prescribed by the Examining Board, the Interpreter (who must have a university degree), Higher Interpreter, Senior Interpreter and Chief Interpreter, who draws a maximum salary of S\$4350 (Supreme Court, Singapore 1995). Such a scheme clearly allows mobility in the same profession, in which an interpreter can acquire greater skill, recognition and reward in his or her own field of specialisation.

The court interpreting situation in Malaysia is a complex and complicated one as it involves the interests, expectations and perceptions of several groups each with its own opinions and priorities.

In the final analysis, it is hard to see how the situation can improve unless and until those with the power to bring about change come to fully understand the role the interpreter actually plays: the multilingual mediator without whom, in a multilingual society, justice cannot be provided.

This paper has presented the problem from the point of view of the interpreters but a fuller picture can only be obtained by discovering the perceptions of the other individuals and groups involved in the administration of justice. Further study is being undertaken by the writer to probe into the reasons behind the continuous decline of the status of the interpreter in Malaysia, by bringing together the perceptions of the court administrators and those of the magistrates and judges. This is a crucial step before informed suggestions for improving the system can be made, but, even at this point, it

seems clear that professional training is one of the keys, and that the country's higher learning institutions will have to participate in the process.

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