

## Organizational Factors Influencing Foreign African Court Interpreting in South Africa

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### ABSTRACT

Employee performance is influenced by organizational factors that require careful management by the human resource divisions of organizations. The involvement of human resources divisions is essential for managing court interpreters who require specific skills, such as understanding court hierarchies, proceedings, and discourse, remaining neutral concerning their language choices, and coping with hearing about sometimes horrific events without succumbing to secondary trauma. The organizational factors in the South African courtrooms were examined by interviewing foreign African court interpreters, magistrates, prosecutors, and attorneys. Observations of courtroom proceedings complement data collected through interview methods. The data analyzed show that the majority of foreign African court interpreters have employment on a casual rather than permanent basis, and organizational issues such as standardized employment procedures, in-service training, monitoring, induction, and orientation, amongst other factors, still require significant improvement to ensure quality foreign African court interpreting in South African courtrooms. The research contributes to the literature on human resources management of court interpreting. The implications of the findings and the limitations of the study are discussed.



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## 1. Introduction

South Africa is an attractive destination for immigrants because it is one of the leading economic giants in Africa, with modern cities and infrastructures. Its attractiveness may help explain the upsurge of immigrants from Africa and worldwide since the 1994 elections that resulted in a new democratic order. Mid-year population estimates in 2021 by Statistics South Africa (2021) state that there are 3.95 million immigrants in South Africa, comprising approximately 6.5% of the South African population of over 60 million. Among the immigrants from Africa with a higher percentage of representation across South Africa are Kenyans, Nigerians, Zimbabweans, Ghanaians, Tanzanians, Zambians, and Malawians (Usadolo & Kotzé, 2014). Many immigrants have low proficiency in South African languages, such as English and Afrikaans, which are commonly used in official settings such as courtrooms.

The South African Constitution initially recognized 11 official languages, but this number has recently increased to 12 with the inclusion of sign language, underscoring the nation's commitment to inclusivity. In addition to these official languages, South Africa is home to many foreign African residents who speak languages such as Shona, Chisena, Igbo, Yoruba, Edo, KiSwahili, Chichewa, and Nyanja. The Bill of Rights, as outlined in sections 6, 30, and 31 of the Constitution of The Republic of South Africa (1996), affirms the use of official languages, and section 35 (3(k)) mandates the provision of interpreters in courtrooms. To uphold linguistic human rights and ensure fair justice, it is also essential to provide interpreters for these African languages. This will ensure that individuals who do not speak the commonly used languages (English and Afrikaans) have a communicative presence in the courtroom, promoting equitable access to justice and a courtroom environment where everyone has a voice.

While South Africa boasts 12 official languages recognized by the Constitution, the reality for court interpreters who handle languages spoken by foreign African residents paints a less inclusive picture. This group of interpreters operates under a system with substantially weaker regulations and working conditions compared to their counterparts handling the official languages. This lack of regulation creates a breeding ground for systemic bias that can hinder the efficiency and competency of foreign African court interpreters. Several studies by Moyo (2016) and Usadolo and Kotzé (2014) highlight the challenges faced by court interpreters in South Africa, including those handling foreign African languages. One recurring challenge identified within the Department of Justice and Constitutional Development (DoJCD) is the overreliance on ad-hoc and casual interpreters for cases involving foreign African languages (Usadolo, 2016; Usadolo & Kotzé, 2014). This practice, often driven by resource limitations (Howes, 2019) can compromise the quality of interpretation and potentially disadvantage defendants who rely on clear communication for a fair trial as uncertified interpreters are used instead. As revealed in our findings below, these factors within the organizations where foreign African court interpreters work significantly impact their ability to deliver efficient and accurate interpretations.

Therefore, there is a need to discuss the situation of court interpreting as it applies to how organizational factors are likely to affect foreign African court interpreters in South Africa. Previous studies on court interpreting have primarily focused on intralingual and interlingual factors (Moeketsi, 1999; Usadolo, 2016; Usadolo & Kotzé, 2015). However, none have considered the organizational factors that can significantly impact these interpreters, such as the vetting process upon hire. This gap in research is concerning, especially given the dire shortage of court interpreters. Due to this shortage, the South African Department of Justice and Constitutional Development (DoJCD) often hire foreign African court interpreters without adequately vetting their suitability beyond their reported bilingualism or multilingualism. Monnakgotla (2012) stated that at least 235 cases require interpreters for foreign languages spoken in South Africa. The inability to get foreign interpreters has led to an ad hoc approach

to filling these positions (Moyo, 2016), which often delays cases in courtrooms, thus hindering access to justice for foreign African immigrants. In addition, the former Chief Justice of South Africa, Mogoeng Mogoeng, stated that there are frequent cases that have been lost in the courtrooms due to incompetent interpreters who do not have the appropriate qualifications (Moyo, 2016), rendering the promotion of access to justice to all who appear before the court a joke.

Promoting equal access to justice, especially in multilingual societies, is central to bridging communication barriers between diverse language groups in the courtroom. This need makes it crucial for court interpreters to assist many foreign African immigrants who appear before the courts and cannot speak or write the main languages used during court proceedings. Adequately qualified court interpreters are crucial to guarantee equal access to justice because "Every accused person has a 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 proceedings interpreted in that language" (South African Constitution, 1996). The South African Constitution highlights the significance of the court interpreter in bridging the communication barrier for both South Africans and immigrant communities whose languages are not used in the proceedings of the court. Access to interpreters is essential for immigrants who have little or no proficiency in the use of the *de facto* languages (English and Afrikaans) used in the court (Usadolo & Kotze, 2014), and this has added more challenges to the thinking about language issues and the administration of justice in South Africa.

In light of this, the need for an efficient interpreting service in foreign African languages will be a good measure to ensure that persons whose mother tongue is neither English nor Afrikaans receive an equal opportunity to participate in the courtroom proceedings verbally. As it is very likely that some of the participants in the courtroom will be individuals from different linguistic and cultural backgrounds other than those found in South Africa (Usadolo & Kotze, 2015), there is thus a need to have efficient court interpreters in place. Considering this, the main objective of this study is to comprehensively investigate the organizational influences affecting the provision of court interpreting services to immigrant communities, with a specific focus on foreign African immigrants. Previous studies have only focused on the linguistic challenges affecting court interpreters in South Africa (Moeketsi, 1999; Lotriet 2001; Usadolo & Kotze, 2015), but none have considered the role played by factors within the organization that may make it onerous for interpreters, including foreign African court interpreters, to carry out their duties in the courtrooms efficiently.

In the context of this study, "foreign African court interpreters" refers to court interpreters who are not South African citizens and are native speakers of the same languages as the accused persons or plaintiffs they are representing, who are themselves immigrants in South Africa. Similarly, foreign African court interpreters perform tasks equivalent to those of South African court interpreters, primarily assisting accused individuals and plaintiffs who communicate in languages spoken by immigrants from African countries. However, there is a disparity in their recruitment and compensation. For instance, a recent job posting from the DoJCD for a South African court interpreter specifies a minimum annual salary of R173,703, along with the essential educational requirement of a tertiary qualification or Diploma in Legal Interpreting and demonstrated proficiency by way of a language test in more than one indigenous language. In contrast, a recent similar posting for foreign African court interpreters stipulates an annual salary of R132,399, with an essential educational prerequisite of a Grade 12 or high school certificate and no language test.

It is equally important to emphasize that advertisements for foreign African interpreters have been infrequent and, in most cases, still need to be made available. As previously highlighted by Monnakgotla (2012), the need for foreign African interpreters often compels the DoJCD to resort to an *ad hoc* approach when recruiting interpreters. In court settings, where the need to uphold linguistic human rights and ensure justice for both the plaintiff and

the accused is paramount, it becomes necessary to provide court interpreters, especially foreign Africans who do not understand the languages used in the courtrooms. The primary aim of this study is to discuss how factors within organizations affect the practice of court interpreters as it applies to foreign Africans in South Africa. This study is necessary because it will advance knowledge in the field of linguistic human rights and provide rich information for language practitioners practicing in South Africa. The following section discusses the relevant literature on organizational behaviors and factors likely to impact foreign African court interpreters' practices. The following sections will be structured as follows: first, a review of the relevant literature; second, a description of the methodology used in the study; third, a presentation of the findings; and finally, a discussion of the implications of these findings.

### 1.1. Literature Review

Foreign African immigrants requiring court interpreters are common in South African courtrooms (Moyo, 2016; Usadolo & Kotzé, 2014) as their languages are of limited diffusion (LLD). Despite the need, training court interpreters for efficient interpreting of these languages has attracted less attention. The same can be said of many African languaged countries (Moyo, 2016; Sello, 2020), causing a "shortage of trained interpreters for the rarer languages" and resulting in the employment of "interpreters with little or no training at all ."Although the literature is silent about the efforts that have been made to train foreign African interpreters, such efforts, although necessary, would require the marshaling of training skills to handle the disparate and varied backgrounds of interpreters. One of the problems cited for the lack of training for LLD interpreters is the high cost of training (Bergunde & Pollabauer, 2019) and too few qualified trainers (Jourdenais, 2015) with the required teaching methods and group dynamics skills (Hale & Ozolins, 2014; Hlavac et al., 2012).

The acknowledgment of training challenges in several countries has forced court authorities to hire untrained interpreters whose only skill is that they are bilingual; hence, for the most part, they do not provide reliable interpreting services (Berk-Seligson, 1999). Moreover, untrained interpreters may not have adequate coping strategies to deal with the traumatic stories of victims of torture and rape or what (Tipton & Furmanek, 2016) call "trauma-informed interpreting", which characterizes some cases of court interpreting.

While employers of court interpreters must employ trained court interpreters and ensure they have on-the-job training, it is also incumbent upon the interpreters to prepare themselves for the job they aspire to do by equipping themselves with the required training. Interpreters have not enthusiastically embraced this latter requirement because of challenges such as the lack of available training opportunities, the cost of training, and the fact that court interpreters' remuneration is often low, resulting in less drive and motivation to undertake pre-employment training (Bancroft, 2015). Other challenges cited in the literature are that most interpreters may need to have the basic requirements to participate in such training (Hlavac et al., 2012) and lack of suitable content and teaching methodologies for LLD (Mikkelson, 2014). In South Africa, even though there is an acknowledgment of the need to have qualified interpreters representing clients in the courts, the need has not resulted in what (Morris, 2008) refers to as rigorous pre-employment in higher education training, appropriate working conditions, and payment of salaries that are commensurate with the difficulties associated with court interpreting.

At the international level, interpreters are generally required to have more training and evidence of competence, while there is less stringency in individual nations or regions of nations. Against this backdrop, the literature describes how interpreters with Bosnian/Croatian/Serbian, Macedonian, and Kosovar Albanian language combinations were mandatorily required to have higher education qualifications at the International Criminal Tribunal for the Former Yugoslavia before they were allowed to interpret for perpetrators

(Stern & Liu, 2019a). However, interpreters, especially court interpreters at the national level, are not well-trained for their jobs (Sello, 2020). Hence, they are poorly remunerated and have poor working conditions (Chang, 2010; Matende et al., 2022; Mikkelsen, 2014) and these factors contribute to low levels of motivation that affect court interpreters' personal growth and sense of self-achievement.

When working conditions are good in any organization, the effects are shown in employees' relationships with themselves and their organizations. Concerning court interpreters, the effects are shown in how they interpret and perform other duties necessary to accomplish the stated objectives of their job. In other words, adequate working conditions engender a culture in organizations characterized by healthy relationships between employees, supervisors, and the organization (Al-thrashed et al., 2018). Because court interpreters are principal members of the court system that ensures fair dispensation of justice, their working activities should be monitored to improve their skills and motivate them where necessary. In this regard, there is a need for constant service evaluation to provide court authorities with information to render services based on the prevailing needs of the court and the court's users (National Center for State Courts, n.d.), also one of the monitoring and assessment strategies is relying on direct feedback from court users, such as the accused or plaintiff, and holding regular meetings to track court interpreters' progress, challenges and identify issues at the personal and organizational level that impact on their performances that need to be addressed.

At the International Criminal Court, accredited interpreters are monitored, which helps in early error identification for court interpreters (Stern, 2011). Although Australia lacks legislation, the federal, state, and territory authorities are central in setting standards and guidelines enforced through the National Accrediting Authority for Translators and Interpreters (NAATI) (Ozolins, 2007). The same can be said of South Africa as the South African Translators' Institute (SATI), with its code of ethics, ensures its members adhere to reasonable standards. However, SATI lacks legislative strength to monitor malfeasance by court interpreters. Moreover, many court interpreters (foreign African and other court interpreters) are not members of SATI. In Australia, language service providers (LSPs), especially those servicing Indigenous Australians (the Aboriginals), observe newly employed interpreters for their first few assignments in courts as a way of monitoring them so that problems encountered among new interpreters can be addressed (Stern & Liu, 2019). In addition, LSPs rely on their clients' feedback about court interpreters to monitor and improve their performance (Stern & Liu, 2019).

Previous related work experience is a requirement for employment in many jobs. The primacy of previous work experience was revealed by LSPs in Australia, who stated that previous work experience was one of their recruitment criteria. However, it appears that this does not pertain to all LSPs because their websites do not list previous employment as a requirement (Stern & Liu, 2019). An important consideration about court interpreters, especially casual, ad hoc interpreters, which includes foreign African interpreters in South Africa, is the question of induction. Induction is a vital human resource management requirement for all categories of new employees because it eases new employees' entry to their workplaces. Induction is vital because "[s]tarting a new job is considered to be one of the most stressful life experiences, and a proper induction process that is sensitive to the anxieties, uncertainties, and needs of a new employee is of the utmost importance" (Nel et al., 2005). Induction is conducted differently in the South African court system. South African court interpreters who interpret one or more South African Indigenous languages' induction process involve being given verbal, detailed explanations of the different aspects of the court and issues about employee wellness. The induction focuses on the principal authorities of the court, their functions, how to address them, and the different crimes heard in different courts. The induction takes place for at least three days. However, the process is different when the court interpreter is a foreign African court interpreter who, when being inducted, would be assigned

to other interpreters with the same working language to observe them as they interpret (Mpahlwa, 2015).

Transient induction processes are prevalent in other countries, such as Australia. The interview conducted amongst LSPs in Australia by Stern and Liu (2019) revealed that the induction length varies significantly, ranging from one hour to a full-day induction. While a full-day induction of court interpreters is commendable, even if it should have run for more days given the complexity of court interpreting, it is better than the South African induction for foreign African court interpreters. However, Stern and Liu (2019) point out that the induction by LSPs in Australia focuses more on generic content that covers employment conditions and information about employers; information about the workplace needs to be revised. According to Stern and Liu, this depends on the LSP because only some focus on interpreting requirements, professional conduct, and the setting where the interpreters work.

Besides Stern and Liu's (2019) observations of court interpreters in Australia and the lack of induction for South African court interpreters described above, Miyanda's (2009) study corroborates the lack of proper induction for court interpreters in Botswana. Miyanda (2009) bemoans the sorry state of interpreting in Botswana, which involves many challenges, including inadequate induction and knowledge of work conditions. In contrast to the induction given in Australia and for foreign African court interpreters in South Africa and Botswana, the induction in Zimbabwe considers the complexity of courtroom interpreting. In this respect, Svongoro (2016) states that newly employed interpreters are acquainted with various courts and their procedures and make the interpreters observe actual courtroom proceedings or mock courts in which senior interpreters act as magistrates, defense counsel, and prosecutors. It remains to be seen whether the induction situation Svongoro (2016) mentioned can be extrapolated to foreign African court interpreters in Zimbabwe.

Induction and other issues reviewed thus far are human resource management-related and are linked to employee work conditions, which are linked to employees' level of job security. The feeling of job security has been cited in the literature as a factor that increases employee performance and many other positive workplace outcomes. For foreign African court interpreters employed as casual employees and who remain casual employees for several years in South Africa, it remains to be seen what they would feel about their job security. In their case, it is easy to terminate their work as no contractual agreement binds them to the organization. For court authorities to perform optimally, everything necessary for court interpreters to perform effectively must be made available, from employing the right employees and affording them the relevant training to continuing to meet the evolving work situations. Hence, knowledge, skills, and innovation are required for employees to do their work (Muda et al., 2014) and are the sum of the organization's investment in employees' training and the enablement of appropriate working conditions. It would be in their interests for court authorities to prioritize appropriate recruitment, career enhancement, and the training and professional development of staff members employed by the courts (Vatnøy et al., 2022).

## 2. Methods

This study adopted a predominantly qualitative approach for collecting, analyzing, and presenting the data. The study included 60 participants from the Johannesburg, Germiston, and Hillbrow magistrates' courts. The participants' breakdown consisted of 30 foreign African court interpreters (20 female and 10 male), eight magistrates (six male and two female), ten male prosecutors, ten attorneys (8 male and two female), and two male chief interpreters, whose responsibilities span the magistrate courts within those above South African jurisdictions. Notably, several participants mentioned interpreting across South African courtrooms nationally. The sampled foreign African interpreters have accumulated between six and ten years of experience, typically working an average of three days a week in the South

African magistrates' courts. The majority of the interviewed foreign African court interpreters hold a Matric or high school certificate, while five possess a degree unrelated to court interpreting, and three have diploma qualifications in fields unrelated to court interpreting.

To ensure transparency and cooperation, the chief interpreters in the courts where the foreign African interpreters worked were informed of the study and consented to their interpreters being interviewed. Importantly, these chief interpreters were not aware of which specific interpreters participated. This anonymity helped maintain a neutral environment and prevent potential pressure on who was chosen. The foreign African court interpreters were informed about this process. They were assured that the chief interpreters had consented to their participation but would not know which of them would be interviewed. Finally, the magistrates and prosecutors interviewed were purposefully selected from the same courts as the foreign African interpreter sample. This approach ensured a shared context between the participants, allowing for more focused and relevant insights. The magistrates, chief interpreters, and prosecutors were interviewed in semi-structured interviews that lasted 30 minutes, and the court interpreters were interviewed in unstructured interviews that lasted approximately 40 minutes.

This research employed a semi-structured interview guide developed by the researcher. A pilot study was conducted. Ten court interpreters, not part of the final sample, participated in piloting the interview. Their understanding of the questions and responses were then analyzed to refine the final interview guide used in the main study. However, the development of the questions was influenced by an approach used in organizational behavior and human resource management that posits that positive organization-employee relationships influence employees' workplace outcomes, as discussed above. Observation of the proceedings was non-participatory and took place in open sessions in courtrooms. The aim was to corroborate information provided by the participants, such as interpreters, magistrates, prosecutors, and attorneys, based on a set of checklists. Another reason for non-participatory observation was to observe court activities to establish how interpreters' actions contributed to the interpreting process in court.

Both types of interviews used were audio-recorded and transcribed. In this study, semi-structured and unstructured interviews were used to conversationally engage participants to gain a comprehensive picture of their views in line with the purpose of the study. The participants' demographic information was collected in preliminary meetings before interviewing. Interviews were audio-recorded, and consent forms were given to the participants to read and sign after the purpose of the study was explained, in addition to what the participants were told in preliminary meetings. Participants were told that the study was anonymous and that they could withdraw from the study at any time. In addition, participants were asked to seek clarity about any questions that were unclear to them. Following the unstructured and semi-structured interviews, participants were offered the opportunity to provide additional information beyond their initial responses. This allowed them to delve deeper into what they felt were the most pertinent issues.

First, transcripts of the recorded interviews were read back to the interviewees, with some opting to read them themselves. This ensured that their words were accurately captured. Second, member checking was implemented. The researcher submitted the findings to the participants to verify if they accurately reflected their experiences (Holloway & Galvin, 2023; Koch, 1994; Saldaña, 2021). Furthermore, leading questions were avoided throughout the interviews to prevent responses from being influenced by the interviewer's expectations. Mitigating bias was further addressed by employing multiple data analysis methods. According to Elo et al. (2014), this triangulation provided a more balanced interpretation of the collected information. A research assistant with extensive experience was involved in the analysis alongside the researcher. Interestingly, despite using different wording, both

researchers identified similar themes within the data. This convergence strengthens the credibility of the findings, suggesting that they are not merely a product of individual biases.

To further ensure the trustworthiness of this study, the four dimensions proposed by Lincoln (1985) were employed: credibility, dependability, confirmability, and transferability. In addressing the study's credibility, detailed information about participant involvement and recruitment was provided to establish transparency. A pilot study was also conducted to assess the interview questions' suitability for gathering the required data. Furthermore, the researcher and participants critically examined the transcribed interviews to minimize researcher bias (Steurer et al., 2023). Dependability refers to the stability of data over time and under different conditions. To address this, Shenton (2004) recommends detailed reporting of research procedures. This study described the methods comprehensively to allow other researchers to replicate the study and achieve similar results. It is important to note that establishing credibility often strengthens dependability to a certain extent. As Lincoln (1985) argues, a credible study fosters confidence in the stability of its findings.

Confirmability, which refers to the objectivity of the study (Schurink et al., 2011), was addressed by discussing the findings with colleagues in the field of court interpreting, including practicing senior court interpreters. Their insights helped ensure that the interpretations of the data aligned with the perspectives of those with relevant experience. This process aligns with the concept of confirmability, described by Elo et al. (2014) as the "potential for congruence between two or more independent people about the data's accuracy, relevance, or meaning." By incorporating these external perspectives, the study aimed to strengthen the objectivity of its findings. Transferability refers to the possibility of generalizing the findings beyond the specific community studied. While researchers have argued that ensuring transferability in qualitative research can be challenging due to typically smaller sample sizes (Shenton, 2004), this study employed strategies to enhance it. One of these strategies involved providing sufficient contextual information, as suggested by Firestone (1993). This included details about the methodology, findings, participant recruitment, and participant characteristics. Rich contextual details can help readers assess the applicability of the study's findings to their own contexts (Elo et al., 2014).

A rigorous data analysis process was employed to strengthen the study's trustworthiness further and ensure its accuracy. The transcripts created from the audio recordings by the researcher were checked for accuracy. Framework analysis, as explained by SB (2009) and Krueger (2014), was chosen as the most suitable approach. This method's strength lies in its ability to analyze data iteratively, meaning analysis can begin during data collection and continue throughout. The framework analysis process itself follows a five-step approach. Following this, the data is charted with the creation of headings and subheadings within a table or matrix. This graphical representation showcases the correlation between codes and the data they have been ascribed to. This approach facilitates identifying relationships among the codes and recognizing patterns and themes inherent in the data. Ultimately, the data is mapped and interpreted based on the recognized patterns and themes, formulating a theoretical explanation. This process aids in comprehending the data and drawing informed conclusions from it. Data pertinent to foreign African court interpreters' situations as they apply to their employment, training, and practices is discussed in what follows.

### **3. Results and Discussion**

#### **3.1. Employment and Training of Foreign African Court Interpreters**

In public, private, and non-profit organizations (NPOs), the standard practice of recruiting new employees is to advertise a vacant position to attract the best-qualified persons for the advertised position. Unfortunately, in the DoJCD, in most cases, there are no formal advertisements for foreign African court interpreters; news is passed by word-of-mouth to



interpreters to help look for an interpreter in a particular language. According to one of the chief interpreters' interview:

Currently, foreign African placements do not go through the normal selection process ... I guess they don't because they are engaged in the DoJCD as casual employees. Hence, the department decides not to spend money on recruitment.

The networks of practicing interpreters are relied upon to employ new foreign African interpreters *"as the foreign African court interpreters can reliably help us to recommend a suitable candidate,"* according to a chief interpreter at the Germiston Magistrates Court. As stated by the chief interpreters, having identified a foreign African interpreter for the vacant position, an ad hoc oral interview is arranged with the principal interpreter or chief interpreter, who may not even be familiar with the language for which the aspiring foreign African interpreter is being sought. As several foreign African interpreters in the DoJCD explained, the ad hoc oral interview usually involves presenting educational qualifications and other relevant documents by aspiring foreign African interpreters. The ad hoc oral interview has nothing to do with linguistic or related qualifications that would prove knowledge about legal interpreting, translation, or cognate disciplines. In this regard, one of the foreign African court interpreters said:

The chief interpreters rely on the recommendation provided by the court interpreters to ascertain our fitness. Sometimes, we just exchange a few sentences in our languages in the presence of the chief interpreters. This has worked, as I have not really encountered a colleague found wanting in their competency.

Past studies have condemned the oral interview as a method of hiring potential applicants, especially in determining a court interpreter's suitability, because it lacks thoroughness and substantive oral translation (Stander, 1990). Oral interviews have been the system since Sol Plaatje, an interpreter in the 19th century (Moeketsi, 1999). With respect to foreign court interpreters, especially foreign-language African interpreters interviewed for this study, it emerged that most of them were employed without formal interviews. The interview focused on their abilities to speak English and proficiency in the language that they would be required to interpret into English. The lack of formal interviews means that the employment process in the DoJCD is not rigorous, and it is likely to result in the employment of mediocre court interpreters, which will impact the quality of interpreting.

For example, in one of the courtroom observations, the interpreter used the third person instead of the first person. According to Angermeyer (2009), "When using first-person translation, court interpreters display their professional neutrality by behaving as if they were not true participants of the interaction". Thus, to avoid the interpreter's impropriety, the court interpreter must use the same grammatical person (Moeketsi & Mollema, 2007) or first person. In contrast, when court interpreters use the third-person, they signal their "non-involvement with a source-speaker's message in a particular interactional situation and for a particular recipient of their target utterance, while bringing in their own voice at the same time" (Angermeyer, 2009). It is particularly striking that some foreign African court interpreters used third-person and no one alerted them to desist from such interpreting practices after that.

### 3.2. Induction and Orientation Processes

The data analyzed in the present study shows that the induction given to foreign African court interpreters in South Africa is done in a hurry as they are immediately thrust into the reality of interpreting assignments. The only form of induction and orientation, as explained by foreign African court interpreters who participated in this study, was a brief moment with their chief interpreters, who assigned them to interpreters from the same country or the same

working language, and they would be told to observe them as they interpret. What they are told to observe varied from interpreter to interpreter, according to the data collected, but it generally revolved around the procedures, functions, and addresses of the different role players and phases of trials. In addition, foreign-language African court interpreters also mentioned that they were always told to take note of legal terms and concepts in their working languages while interpreting in the courtrooms. In this regard, one of the chief interpreters declared:

I tell them about the glossary, give them a copy of the glossary, for example, in shoplifting, and tell them to learn words commonly used in the discussion of shoplifting discourse. I also do this for cases common in court, such as housebreaking, assault, and armed robbery.

Induction and orientation are two processes that are considered necessary because "Starting a new job is considered to be one of the most stressful life experiences and a proper induction process that is sensitive to the anxieties, uncertainties, and needs of a new employee is of the utmost importance" (Nel et al., 2005). Induction and orientation would allow the court interpreting authority to provide information to the court interpreters about the limitations or boundaries of their role concerning other role players in the courtroom. Organizations also use the induction and orientation process to familiarise new employees with the systems of organizations in terms of the reporting structures in the organization. With a job description during the recruitment, induction, and orientation for foreign African court interpreters, the result would be aware of their specific duties and the duties of other role players they would encounter in their practice as court interpreters. The lack of a proper induction process for foreign African court interpreters amounts to throwing them in at the deep end, and the apparent casualty is quality interpreting. Thus, the need for more organizational support for foreign African court interpreters starts manifesting from the commencement of their duties as casual employees in the DoJCD.

### **3.3. Prior Training**

Prior training in the context of this study refers to previous relevant training the court interpreters might have had before being employed. All the foreign African court interpreters interviewed for this study said they were not trained for the job by the DoJCD and had yet to be trained elsewhere before they began to work as court interpreters. According to an interpreter who reported that he had a one-year experience as a foreign African court interpreter:

I did not have prior training, going by your definition of prior training, as a court interpreter, but I have had to study some documents on two occasions to serve as an hoc interpreter to foreign journalists for a few years in my country before I migrated to South Africa. To me, this may be regarded as training .In response to your question whether I know of colleagues who have previous training as interpreters, I do not know of one.

However, prior training only applies specifically to court interpreting, as some, even if few, reported that they had studied some of the languages they are interpreting at tertiary institutions. A few had bachelor's degrees in English and diplomas in French and an African language. The lack of proper training for African court interpreters reflects a broader issue: the undervaluing of interpreters' specialized skills in many countries. Hlavac (2013) and De Boe (2015) highlight this by noting that several countries prioritize a generalist approach to interpreter training and certification. This approach equips interpreters for everyday situations, neglecting the unique demands of legal settings like courtrooms. This finding is consistent

with the views of Tipton and Furmanek (2016), who stated that several countries need to have relevant training and accreditation processes to ensure quality interpreting.

### 3.4. Prior Experience and In-service Training After Employment

Besides foreign African court interpreters needing to gain relevant qualifications and experience, virtually all the interpreters had not had experience as court interpreters before they were employed. In a few instances, the experience mentioned by them was related to job experience in interpreting in their churches for more than one year, on average, by two of the respondents, while three respondents had worked as interpreters for non-profit organizations and journalists or media practitioners who were undertaking rural development activities. According to one of the foreign African interpreters: *“As stated previously, I worked previously as an ad hoc interpreter for some journalists back then in my country”*. However, the interpreters pointed out that their experiences were short-term work contracts. Five foreign African court interpreters stated that they had to interpret experience, from refugee to healthcare interpreting, and they still occasionally worked for the Department of Home Affairs' refugee receiving centers.

Working as a court interpreter requires specialized interdisciplinary knowledge, that is, knowledge in different subjects or areas of knowledge grounded in interlingual and cross-cultural competence, contemporary social issues, law, forensic science, information, computer technology, etcetera. None of the foreign African interpreters has these specialized skills except those with language-related qualifications. In this regard, one interpreter reported:

I have a degree majoring in English and Yoruba, but yes, I may lack the proper application of educational training. Long practice makes you an expert, and I will get there.

The interpreter's response above is critical because the legal system is built on an interdisciplinary knowledge system, and issues encountered in the courtroom often require interdisciplinary competence. Any country's legal system has judges, lawyers, police officers, prison personnel, and court interpreters, each ensuring that justice is dispensed through a fair process. Being a court interpreter, therefore, requires more than just speaking more than one language; it requires other specialized skills that can only be acquired through training, prior experience, and experience on the job. Hence, a magistrate in the Johannesburg magistrate court bemoaned the state of court interpreting and stated that:

I see that most foreign African interpreters struggle to render quality interpreting services. Do not get me wrong; this also applies to South African interpreters who interpret South African languages. This is a big problem that needs to be addressed now. We are talking about fairness to everyone.

Concerning in-service training, foreign African court interpreters work without in-service training in their interpreting practice, and this is because "they are casual employees," according to a chief interpreter in the Germiston magistrate court. Experience matters in any work situation, which can be gained through previous work in the same job or through on-the-job experience and training. In the case of court interpreting, an aspiring court interpreter requires solid training in court interpreting before venturing into a courtroom to practice. Training is necessary to expose an aspiring court interpreter to the ethical standards required to uphold the integrity of the court interpreting profession. Specialized training is also essential for aspiring court interpreters to have the skills that will enable them to achieve necessary interlingual and cross-cultural equivalence in interpreting. With experience and relevant in-service training, an interpreter can deal with difficult interpreting situations, such as rendering uncommon words and terms from the source language (SL) into the target language (TL) in a

way that is understandable to the court and the participants. This ensures that the court interpreter does not have to struggle to find equivalent words.

In-service training is given to South African court interpreters who are sent to Justice College, Pretoria, to train as court interpreters having worked for six months or more without training and upon a satisfactory report from their principal or supervisors. However, the same does not apply to foreign African interpreters, and this is consistent with Boe's (2015) observation, which points out that underqualified interpreters are used for interpreting services that involve asylum seekers. The reason given in this respect by Principal Court Interpreters is because of a lack of resources to train foreign-language interpreters and the need to quickly fill up a foreign African interpreter's position, a need that "*comes suddenly, and you have to make one available in the court at the expense of quality,*" according to one of the chief interpreters interviewed.

### 3.5. Employment Conditions

Foreign African court interpreters are casual employees even though most have been interpreting assignments for over five years. As casual interpreters, they lack job security, a pension, and other benefits enjoyed by permanent employees of the DoJCD, which supports the perception that the DoJCD does not care for their well-being. According to a chief interpreter:

Before the 1994 election, there were few foreign African cases compared to nowadays. Thus, the policy then was to engage the service of foreign African interpreters on an ad hoc basis. Unfortunately, the policy has not changed even when cases requiring foreign African court interpreters are in numbers daily. Yes, I also know some foreign African interpreters have been working for several years, and some 4 to 6 years, unfortunately.

Being casual foreign African interpreters for several years has deleteriously affected their job commitment. Most foreign African court interpreters noted that they have to invest their time in other jobs because of the uncertainty of their court interpreting jobs. According to one of the interpreters whose view is similar to others in this regard, they want to move to other jobs (even if it paid less) as long as, "we are sure we are really working, and not (having to deal with) the interpreting job with the 'perpetual tag' of casual interpreter". The lack of job security was cited as a reason for their unwillingness to finance upgrading their knowledge in court interpreting personally. This would offer them no recognition in the DoJCD.

Most foreign African court interpreters admitted that their interpreting job in the DoJCD was their primary source of income, and 60 percent of them stated that they have had at least six years of employment as court interpreters. Although there is evidence from other jurisdictions, such as in the EU (Morgan, 2005), that court interpreters get far less recognition than they deserve, the situation is worse in South Africa and far worse for foreign African court interpreters who have been working for more than five years without any employment benefits, such as those applicable to their South African counterparts. In this light, there are bound to be cases of dispirited court interpreters whose interpreting service will not reflect an acceptable interpreting quality. Under poor working conditions, employee morale and commitment tend to be low. In the case of the data presented in this study, the foreign African court interpreters' perceptions of fairness are low: they feel "we do not matter to the department because the little focus they have is on the South African court interpreters", according to one of the foreign African court interpreters.

### 3.6. Professional Misconduct

A typical instance of professional misconduct by foreign African court interpreters is their reactions to the development of a case in the courtrooms, which happens when it becomes apparent that in the statement the accused persons have made, there are flaws directly pointing to the fact that the accused is guilty or lying. The magistrates' characteristic interjections during cross-examination or examination sometimes help other courtroom participants to understand what magistrates are thinking about the proceedings of cases. When this is the case, my observation of court proceedings revealed frequent instances where the foreign African court interpreters would laugh, openly displaying their disbelief of what the accused person was saying through facial expressions and other gestural movements. Foreign African court interpreters do this without censure from senior authorities of the courtrooms, such as the magistrate or even attorneys representing the accused or plaintiff whose deposition is being doubted because, according to the response given by a magistrate in Hilbrow magistrate court, *"It is the business of the attorneys to bring this to the open if such behavior impinges on their cases."*

However, such behavior from foreign African court interpreters indicates organizational weakness on the part of the DoJCD in that my observations of court proceedings showed that this is a common occurrence in court proceedings. The ideal professional practice is for court interpreters to keep their opinions to themselves because giving any impression verbally or nonverbally about the merits or demerits of an ongoing case takes the court interpreters out of the neutrality zone they are supposed to hold and, by extension, the neutrality of the court is compromised. The DoJCD, which employs the foreign African court interpreter, the magistrate, and others, should have clear organizational guidelines regarding professional misconduct. The lack of guidelines is an example of organizational principals failing to strengthen instruments for the robust dispensation of justice to all that appear in the courtrooms.

### 3.7. Lack of Proper Monitoring

Much has been said about the professional conduct of foreign African court interpreters, which includes unnecessary contact with the accused and reactions to a case that indicate their views of an ongoing case. These instances are discussed here because of the lack of proactive evaluation mechanisms. Although one of the chief interpreters in the Johannesburg magistrate court said he went around observing interpreters at work, this was not confirmed with observations of courtroom proceedings and by other chief interpreters and senior interpreters interviewed. All the foreign African court interpreters interviewed claimed they had never been monitored or evaluated while doing their work as court interpreters, except for occasional meetings with their superiors where they talked about interpreting or, in the words of one of the foreign African court interpreters, *"We do talk about a few challenges and advice given there, and then, and we mostly talk about interpreting schedules for the days ahead."* In other words, no evidence suggests that the court interpreting authorities monitor or observe the foreign African court interpreters.

In a typical working environment mindful of quality, there will be mechanisms in place that will enable performance to be monitored or assessed by a designated authority. This is not the case in the DoJCD; hence, foreign African court interpreters are not evaluated, and numerous instances of professional misconduct are overlooked. If there are monitoring mechanisms, the senior interpreters or chief interpreters can detect the cases of professional misconduct, as mentioned above, and then find a way to remedy the situation. The solution to this situation finds expression in what Nel et al. (2005) refer to as performance evaluation based on absolute judgment, in that it allows the senior interpreters or chief interpreters to make judgments about the court interpreter's performance based on clear performance

standards. Performance evaluations would enable the senior or chief interpreters to identify areas of weakness and where to direct their feedback to court interpreters.

According to one of the chief interpreters, the only existing system of assessment of court interpreters is a reactive type of assessment (if it can be called assessment). Evidence of this emanated from the response of a chief interpreter, who, when asked whether he evaluated or monitored his court interpreters' performances, responded as follows: "*We do go from court to court, and where they have a problem, we call a meeting and discuss it with all the interpreters to share ideas* ." Without proper monitoring, the quality and performance of foreign African court interpreters are questionable, and the losers are the accused persons and plaintiffs who depend on the court for justice". The lack of proper monitoring appears not specific to South Africa's DoJCD only. Boe (2015) states that "the quality of interpreters and translators outside criminal law, immigration, and police interrogations is hardly monitored" in the Netherlands.

### **3.8. The Implications of the Study for the Management of Foreign African Court Interpreters**

The data analyzed in this study are human-resource-related issues that deserve special attention from the human resources department of the DoJCD. As the data have revealed, foreign African court interpreters are employed as casual employees even though some state that they have been working for more than five years. Their status as casual employees denies them certainty about their job status and many employees' benefits. Previous studies have variously stated that one aspect that results in poor employee commitment to their organizations is needing more support by their organizations (Usadolo & Usadolo, 2021) and their supervisors (Usadolo et al., 2020). Although foreign African court interpreters' employment is casual, the nature of their job as interpreters, which guarantees voices to the accused and plaintiffs in court, means that they are critical employees who deserve to be treated with fairness. Thus, to ensure consistent quality and improve access to justice, the DoJCD should formally employ foreign African interpreters with a proven track record of service exceeding three years.

Literature has stated that the absence of interpreters in the courtrooms may result in a miscarriage of justice for the accused (Hewitt, 1995; Usadolo, 2016). Potential miscarriages of justice are why interpreters should be fairly treated so that they develop a sense of belonging to their organization. Like all other types of interpreters, court interpreters are major participants who ensure that interpreted interaction is not flawed (Bergunde & Pöllabauer, 2019). One way to improve the experience of foreign African court interpreters is to ensure their benefits package aligns with that of their South African counterparts who interpret South African indigenous languages. This could include offering medical aid, other financial benefits, and their salaries. The analyzed data show that foreign African court interpreters report they had not received training on the job even when they had constantly been working in the role for more than five years. While there might be a valid excuse for not training foreign African court interpreters whose period of employment may only be a few weeks, the management of DoJCD should ensure that foreign African court interpreters whose tenure of service has been consistent after a few months are trained or supported to receive training to ensure that they are rendering quality service to the DoJCD, the accused persons, and the plaintiffs.

According to Usadolo et al. (2022), respect and fair treatment of employees "does not cost money to implement." However, it will cost organizations money to replace employees who leave an organization because of unfair treatment, such as untimely payment of salaries. Therefore, it is in the interests of the management of foreign African interpreters to ensure that they are treated fairly and supported to perform their roles as court interpreters. Generally,

foreign African court interpreters do not feel a sense of belonging and believe they are not supported or do not matter to the DoJCD. Their lack of belonging requires attention because interpreters are cardinal in dispensing justice in the courtroom. The importance of their role in the courtroom underlines why their managers should show that they care about them. Usadolo and Usadoo (2021) posit that when employees feel that their organization considers their well-being necessary, they are likely to reciprocate with high performance at work and are equally likely to be committed to their organizations. High performance and commitment are two workplace outcomes that require encouragement from managers of foreign African court interpreters. The reason is that interpreting practice requires high-performing and committed individuals to complement other principals in the courtrooms to deal with cases that are sometimes emotionally taxing in the courtroom.

The data analyzed are not generally positive because there is scant social and organizational awareness about the importance of foreign African interpreters. This means it will be challenging to attract professional and qualified interpreters to help bridge the communication divide between the principals and the accused persons in courtrooms.

### **3.9. Limitations of the Study**

The study was conducted with interpreters in Johannesburg, Germiston, and Hillbrow. Although most of the interpreters mentioned that they had worked in other provinces in South Africa, the fact that they work more in Johannesburg and its environs also means that the generalization of the findings to other provinces needs to be treated cautiously as conditions for interpreters in other provinces may not be the same as in Johannesburg. Researchers generally acknowledge the challenge of eliminating interviewer bias entirely in qualitative studies (Abhulimhen-Iyoha, 2020; Warr & Pyett, 1999). However, these biases can be mitigated through various strategies. In this study, while the possibility of bias cannot be entirely eradicated, efforts were made to ensure the trustworthiness of the research by applying several dimensions of trustworthiness. However, the findings discussed are significant and indicate the need for change. Court interpreters are key personnel who complement other professionals to uphold the principle of impartial justice within courtrooms. Therefore, the Department of Justice and Constitutional Development should ensure that foreign African interpreters are treated fairly during their recruitment and employment tenure.

### **4. Conclusion**

This study explores how organizational factors impact foreign African court interpreters in South Africa's judicial system. Organizational factors such as those analyzed in this study are central to the performance of any organization. Standardized employment procedures, prior and on-the-job training, monitoring of employees, etcetera, are all organizational factors that human resource management organizations should effectively handle for organizations to achieve their desired outcomes. However, the data analyzed points to the need for the DoJCD to take the factors identified seriously across its employees, including foreign African court interpreters. The nature of the foreign African court interpreters' work demands healthy organizational environments in which issues affecting them should be addressed if they are to give their best performances.

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