



**EXPLORING THE ROLE OF COURT INTERPRETERS IN  
KWAZULU-NATAL PROVINCE OF SOUTH AFRICA**

**By**

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**EXPLORING THE ROLE OF COURT INTERPRETERS IN  
KWAZULU-NATAL PROVINCE OF SOUTH AFRICA**

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## DECLARATION

I, Bhekizenzo Ben Simelane hereby declare that this dissertation submitted for the Master of Language Practice at Durban University of Technology is my original work and has not been previously submitted to any other university. Any sources that have been used or quoted were acknowledged and indicated by means of complete reference.

22 March 2023

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Signature of student

Date

## **DEDICATION**

I dedicate this project to God Almighty, my creator, my source of strength, knowledge, and inspiration. He allowed me to complete my Master's degree and strengthened me even through my most challenging times. I also dedicate this work to my lovely mother, Nomkhosi Saraphine Simelane and my beautiful queen, Noxolo Cikwayo who always had confidence in me and offering endless support in all my endeavours.

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## ABSTRACT

In South Africa, court interpreters are guided by the professional ethics (Code of Ethics). This has resulted in magistrates and judges not forming their own opinions as to what the role of court interpreters is but to make it easier for both parties to understand each other's role. As such, court interpreters do not find themselves performing tasks that are outside their scope of duties.

This study employs a qualitative research methodology. To provide answers, one on one interviews, participant observation and document analysis were used to collect data in the Durban Magistrate Court. Durban, the location of the research, is an urban area situated in Southern KwaZulu-Natal.

The aim of the present study is to explore how court interpreters enact their roles based on professional ethics (code of ethics) in KwaZulu-Natal Province of South Africa. The researcher followed the interpretivism approach. In the top-down approach, two legislations, namely, "The court interpreters code of conduct" and "The Constitution of the Republic of South Africa, Act 93 of 1996 (as amended)", were examined to determine if court interpreters understand their role and to what extent? In the bottom-up approach, examples of court proceedings were studied in order to determine specific roles that are played by court interpreters during trials.

Extracts from transcripts of mechanically recorded court interpreter's interviews were also analysed. This study will shed light on the role of court interpreters which could lead to improved interpreting.

**Key terms:** interpreter, interpreting, constitution, court interpreter, court proceedings, magistrate, role, translate.

## **LIST OF ABBREVIATIONS**

SL – Source Language

TL – Target Language

JCI – Junior Court Interpreters

SCI – Senior Court Interpreters

CM – Court Managers

DoJ & CD – Department of Justice & Constitutional Development

# **1. INTRODUCTION AND BACKGROUND TO THE STUDY**

## **1.1. Introduction**

This chapter looks at the background of the study and describes the environment in which it was conducted. It also looks at the research questions and how the researcher answers the main question and the sub-questions. The researcher begins by providing a background to the study, research problem, aim and objectives of the study, research questions, rationale the study, limitations and delimitations and summary of chapters. The chapter ends by presenting the limitations of the study and the overview of the study.

## **1.2. Research background**

The research was conducted in the Durban Magistrate Court in KwaZulu-Natal province. This is the lower court which deals with the less severe criminal and civil cases with the aid of interpreters who assist criminals and victims with interpreting services.

In South Africa, Lebesse (2011:127) noticed the unclear role that court interpreters fulfil in the course of their duties. He highlighted the value of researching the role of the interpreter in various settings, thus affirming Moeketsi's (2008:222) study on the undefined role of court interpreters in South Africa. In support of these previous studies, this study explores how court interpreters enact their roles based on professional ethics in KwaZulu-Natal Province, South Africa. The background of this study is provided and explained in Chapter two.

## **1.3. Research Problem**

Court interpreters are expected to follow general principles such as- accuracy and faithfulness during interpreting, confidentiality, competence, and impartiality. Such expectations become a challenge when as part of their duty, court interpreters are expected to execute unexpected assignments which puts them in a compromising role. For example, interpreters may be assigned to administer oaths to witnesses, or to explain

the accused's rights to cross-examination, or explaining the accused's rights to mitigation of sentence and appeal, among other things. Such a scenario implies a conflict of roles because on the one hand they are expected to enact their role in maintaining professional ethics, while on the other hand they are required to act as court officials. Sometimes, the interpreters do the opposite of what the general principles required. For example; the court interpreter might add or omit what is said by the magistrate because he/ she wants to simplify the statement for the accused, thereby resulting in a wrong interpretation.

#### **1.4. Aims and objectives of the study**

The aim of the study is to explore how court interpreters enact their roles based on professional ethics (code of ethics) in KwaZulu-Natal province of South Africa. The study focuses on the Durban Magistrate Court, Durban, KwaZulu-Natal.

#### **1.5. The research objectives are as follows:**

The study has the following objectives:

- To examine the court interpreter's awareness of their professional ethics.
- To investigate the extent to which interpreters comply to professional ethics.
- To explore the perceptions of the court interpreters on doing their work based on professional ethics.

#### **1.6. Research questions**

The following research questions will be addressed:

##### **1.6.1. Main Research Question:**

- How do court interpreters enact their roles based on professional ethics in KwaZulu-Natal province of South Africa?

### **1.6.2. Sub-questions**

- Are court interpreters aware of their professional ethics?
- Do court interpreters adhere to professional ethics when they do their work?
- What are court interpreters' perceptions about their role as court interpreters?

### **1.7. Rationale of the Study**

The study will assist the Department of Justice and Constitutional Development to be able to identify gaps to improve their system. It will also make the department aware of the roles of their interpreters as they will also be interviewed in this study.

### **1.8. Limitations and Delimitations**

The extracts of mechanically recorded cases used for this study were obtained from one of the Magistrates' Court in the KwaZulu-Natal Province in South Africa. The study, therefore, relies on the data collected from one court and one province only. If data was collected from other courts in all provinces of South Africa, this would have provided a wider perspective of the role played by court interpreters in those provinces during court proceedings, and whether these court interpreters understand their function. It would have also revealed whether most magistrates know and understand the role of court interpreters and what their attitudes are towards interpreters during trials.

### **1.9. Summary of Chapters**

The study consists of six (6) chapters:

**Chapter One:** Introduces the study and looks at the background of the study detailing on where and how the research is to be conducted. The chapter presents the research questions, hypothesis as well as the aims and objectives of the study that created a desire for the researcher to embark on this study. The researcher outlines the importance of the

study and the people who might benefit from it. The limitations and delimitations are delineated in this chapter.

**Chapter Two:** Background information on South African courts and the languages used during court proceedings.

**Chapter Three:** Is reviewing local and international literature on interpreting. In the chapter, various definitions from different scholars will be explored to determine how court interpreters are generally viewed.

**Chapter Four:** Explains the methodology used in the study and the research procedures, data collection and methods of analysis.

**Chapter Five:** Analyses and interprets collected data. Extracts of mechanically recorded interviews will be analysed with the aim of exploring the role played by court interpreters during trials. The interviews were conducted in English.

**Chapter Six:** In the closing chapter, where conclusions will be drawn from discussion of the research results. Recommendations on the importance of exploring the role of court interpreters will be given. These will include suggestions of what the exploration of the role of court interpreters should include.

## **1.10. Conclusion**

This introductory chapter has laid the foundation for this study. The research problem and questions were highlighted and the manner in which the study goes about in attempting to answer these questions was described. This chapter had given the research problem of the study. The research aims, objectives and rationale of the study were stated as well as the limitations and the delimitations of the study. Chapter 2 discusses the context of the study.



## **2. BACKGROUND INFORMATION ON SOUTH AFRICAN COURTS AND THE LANGUAGES USED DURING COURT PROCEEDINGS**

### **2.1. Introduction**

The previous chapter introduced the study, by providing a background, research problem, aims and methodology of the study. This chapter goes further to provide the general information on South African courts and the languages used during court proceedings.

South Africa is positioned at the southern tip of the African continent; it is no wonder South Africa is often dismissed as another African country. In fact, South Africa is out of Africa, viewed as the golden dream country, not only for its reputed natural gold deposits but also for its history and liberation struggles lead first by Gandhi and then later by Nelson Mandela. As a highly modernised and developed state, with an exceptional quality of life, rule of law based on the supremacy of a constitution and a bill of rights, natural beauty, endless coastline, and Louis Vuitton or Christian Lacroix (South Africa.infor:2018).

The new South Africa shows little of the vestiges of the apartheid regime, which can now be found neatly archived in museums, old law reports and government gazettes or in the memoirs of former political prisoners. Perhaps the greatest and foremost change was dismantling the legal edifice that enabled the apartheid regime to work so well. Through a dramatic overhaul in 1994, an apartheid state was instantaneously transformed into a constitutional democracy (South Africa.infor:2018).

### **2.2. South African Courts**

Below are the Courts of the Republic of South Africa: constitutional court, supreme court of appeal, high courts, circuit courts, and special income tax courts. (Department of Justice and Constitutional Development, 2022).

### **2.2.1. Constitutional Court**

The Constitutional Court is the highest court in South Africa on constitutional matters. It was born out of the country's first democratic Constitution in 1994. In an acclaimed building at Constitution Hill, the 11 judges stand guard over the constitution and protect everyone's human rights.

The Constitutional Court only makes decisions about constitutional issues. It is also the highest court in the land since its decisions cannot be changed by any other court. If one is not satisfied with what the High Court has decided, one can go to the Constitutional Court only if it has to do with constitutional issues.

### **2.2.2. Supreme Court of Appeal**

The Supreme Court of Appeal is based in Bloemfontein in the Free State and ranks second highest after the Constitutional Court, this court attends to cases escalated from the High Court.

The Supreme Court's decision can only be changed by the Constitutional Court. Three to five judges listen and decide on all cases of the Supreme Court of Appeal. The final decision of the Supreme Court of Appeal is the one supported by most of the judges listening to the case.

### **2.2.3. High Courts**

There are High Courts, formally known as "The Supreme Courts" listen to any case which is beyond the decisions of the Magistrate's Court or when a person, or organisation goes to the court to change a decision of a Magistrate's Court, which means appealing a case.

The High Court divisions have "jurisdiction" – the right to hear a case – over defined provincial areas in which they are situated, and the decisions of the High Courts are binding on Magistrate's Courts within their areas of authority. They usually only hear civil matters involving more than hundred thousand rand, and serious criminal cases. They also hear any appeals or reviews from Magistrates' courts which fall in their geographical

authority. The High Court usually hears matter involving a person's status, for example, matters of adoption and insolvency.

### **2.2.3.1. Important officers in a High Court Division:**

- The Registrar of the High Court: The functions of a registrar are administrative. The registrar also has semi-judicial duties, for example, issuing civil process such as summonses, warrants, subpoenas. Other important duties of the registrar are that of taxing-master for that High Court division. Registrars also compile case lists, arrange available courts, help judges in general and keep records.
- The Family Advocate: The Family Advocate assists the parties to reach an agreement on disputed issues, namely custody, access, and guardianship of children. If the parties are unable to reach an agreement, the Family Advocate evaluates the parties' circumstances considering the best interests of the child and makes a recommendation to the Court with regard to custody, access, or guardianship.
- The Master of the High Court: The Master's Branch is there to serve the public in respect of: Deceased Estates, Liquidations (Insolvent Estates), Registration of Trusts, Tutors, and Curators; and Administration of the Guardian's Fund (minors and mentally challenged persons).
- The Sheriff of the court: The Sheriff is an impartial and independent official of the Court appointed by the Minister of Justice and Constitutional Development who must serve or execute all documents issued by our courts. These include summonses, notices, warrants and court orders.
- The Directors of Public Prosecutions: Are responsible for all the criminal cases in their provinces, so all the prosecutors are under their control. The police bring information about a criminal case to the Director of Public Prosecutions or the representative prosecutors. The Director of Public Prosecutions or the representative prosecutor then decides whether there is a good reason to have

a trial and whether there is enough information to prove in court that the person is guilty.

- **The State Attorney:** The State Attorney's Division of the Department of Justice functions like an ordinary firm of attorneys, except that its clients are the different departments of government and not private individuals. The state attorney's major function is to protect the interests of the State by acting for all government departments and administrations in civil cases, and for officials sued in their official capacity.

There are fourteen provincial divisions of the High Court in nine provinces of South Africa.

#### **2.2.4. Circuit Courts**

Circuit Courts are also part of the High Court. They seat at least twice a year, moving around to serve more rural areas. They can be contacted through the High Court.

#### **2.2.5. Special Income Tax Courts**

The Special Income Tax Courts sit within provincial divisions of the High Court and consists of a judge of the High Court assisted by an accountant of not less than 10 years' standing, and a representative of the business community.

This court attends to disputes between a taxpayer and the South African Revenue Service, where the dispute involves an income tax assessment of more than hundred thousand rand. Appeals against its decisions are made directly to the Supreme Court of Appeal.

Tax disputes involving an assessment of less than hundred thousand rand go to the Tax Board. The Tax Board is chaired by an attorney, advocate or accountant who works in the private sector and is specifically appointed by the president to assist as chairperson of the Board. You can contact the Special Income Tax Court through the High Court and the Tax Board through the South African Revenue Service.

### **2.2.6. Labour Courts and Labour Appeal Courts**

The Labour Courts have the same status as a High Court. They adjudicate matters relating to labour disputes between an employer and employee. The Court is guided by the Labour Relations Act which deals with matters such as unfair labour practices. The Labour Appeal Court hears appeals against decisions in the Labour Court and this is the highest court for labour appeals.

### **2.2.7. Divorce Courts**

The previously three stand-alone Divorce Courts were integrated into the Regional Civil Jurisdiction by the Jurisdiction of Regional Courts Amendment Act, 2008 (Act 31 of 2008) to facilitate concurrent authority between with the 63 Regional seats and their relevant High Courts. This initiative facilitates greater access to courts to hear divorce matters and the parties can now choose the court that is closest to the area where they live to initiate divorce related matters.

### **2.2.8. Land Claims Court**

The Land Claims Court specialises in dealing with disputes that arise out of laws that underpin South Africa's land reform initiative. These are the Restitution of Land Rights Act, 1994, the Land Reform (Labour Tenants) Act, 1996 and the Extension of Security of Tenure Act, 1997.

The Land Claims Court has the same status as the High Courts. Any appeal against a decision of the Land Claims Court lies with the Supreme Court of Appeal, and if appropriate, to the Constitutional Court. The Land Claims Court can hold hearings in any part of the country, to facilitate -accessible by more people. Furthermore, this court can conduct its proceedings in an informal way if this is appropriate.

### **2.2.9. Magistrate Courts**

The Magistrates' Courts are the lower courts which deal with the less serious criminal and civil cases. They are divided into regional courts and district courts. In Criminal Courts,

the state prosecutes people for breaking the law. Criminal Courts can be divided into two groups: Regional and Ordinary magistrate courts.

### **2.2.9.1. Regional Magistrate's Courts**

The Regional Magistrates' Courts at present only deal with criminal cases whereas the district Magistrates' Courts deal with criminal and civil cases. The magistrate make decisions, sometimes with the support of lay assessors. Magistrate's Courts can be divided into either criminal courts or civil courts. The Regional Magistrates' Courts deal with more serious cases than the ordinary Magistrates' Courts - for example, murder, rape, armed robbery, and serious assault. In terms of the Criminal Law (Sentencing) Amendment Act (No 38 of 2007) a Regional Magistrate's Court can sentence a person who has been found guilty of offences that include murder or rape to imprisonment for life. The Court can also sentence people who have been found guilty of certain offences such as armed robbery or stealing a motor vehicle.

### **2.2.9.2. Ordinary Magistrate's Courts (also called District Courts)**

The ordinary Magistrates' Courts deals with civil cases when the claims are for less than hundred thousand rand. They cannot deal with certain matters, such as: Divorce; Arguments about a person's will; Matters where it is asked if a person is mentally sane or not.

The most serious criminal matters are heard in the High Court. There are also a number of magistrates' courts that are specialised to be better able to deal with certain types of matters, such as the children's courts, sexual offences courts.

### **2.2.10. Traditional Courts**

Traditional courts, also referred to as chiefs' courts still form an important part of the administration of justice in much of rural Africa, including South Africa. Some critics see them as conservative and unable to deliver justice in the modern social economic and

political climate while others see them as prototypes of the kind of dispute resolution mechanisms that are desirable in modern society.

There are several reasons why traditional courts or courts of traditional leaders should be retained in a modern democratic country like South Africa. Firstly, traditional leaders and some academics argue that customary law, as the law of the majority of African people and the traditional courts that administer justice according to this law, are part of the cultural heritage of African people. Secondly, traditional courts are a useful and desirable mechanism for the speedy resolution of disputes given their nature as an easily accessible, inexpensive free, simple system of justice. Thirdly, argued that although there are shortcomings in the system, they are not beyond repair but may be made to adapt to changing needs and to the requirements of the Bill of Rights.

This study explores the role of court interpreters in KwaZulu-Natal Province of South Africa at the Durban magistrate court.

### **2.3. Languages used in South African Courts**

The Constitution is regarded as the supreme law of the country and contains the Bill of Rights, a cornerstone of democracy in South Africa which the state must respect, protect, promote, and fulfil. Section 6 of the constitution embraces multilingualism through the promotion of all eleven (11) official languages. Thus, it protects and promotes the use of the Indigenous languages in Government and other spheres of the state. The Bill of Rights provides for language rights for arrested, detained, and accused persons. Section 34 of the constitution deals with access to courts, and states that everyone has the right to have any dispute, which can be resolved by the application of law, decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum. Regarding to the issue of language rights in South Africa, there is the demand for language facilitators who can facilitate communication between individuals who do not share the same language.

This situation also applies to proceedings in a court of law as English and Afrikaans are the only languages still used as languages of the record. Hlophe (2004) observes that the

position explained above poses a challenge for those South Africans whose home language is neither English nor Afrikaans, meaning that there will be a risk of injustice in the South African courts. Hlophe (2004) further states that the continued existence of these linguistic and cultural barriers represents a genuine threat to the effective dispensation of justice in our South African courts. Therefore, interpreters and translators play a crucial role in bridging the communication gap between courtroom participants who do not share the same language. In a courtroom setting, court interpreters have to deal with sociolinguistic issues because of the involvement of the different languages, Hlophe (2004).

### **2.3.1. Defining the language of record**

From the outset, it must be noted that the language of record in South African courts currently is English only. The discussion that follows refers to a bilingual language of record policy, given that the monolingual language policy is being contested on a constitutional basis. A further discussion of the monolingual language of record directive is contained in further sections of this chapter in addition to chapters six and seven of this thesis. According to Malan (2009: 141), there is official and unofficial use of language in South African courts. Language used in official capacity concerns the language of record. In this instance the language of record is the language in which the court proceedings are recorded and in which the judgment is written and delivered by presiding officers (Malan, 2009: 141).

The unofficial use of language is the language(s) used by accused persons, litigants, and witnesses (Malan, 2009: 141). Official and unofficial usage are related to each other. If there is a monolingual language of record policy in place and an accused person is for example isiXhosa speaking with no proficiency in English, they are then solely reliant on an interpreter and will not understand the proceedings as presented in English. Gibbons (2003: 202) expresses this point in the following excerpt:

*“A second language speaker who does not speak the language of the court, and who is provided with interpreting services may receive the same treatment as*



*native speakers, but such a process is clearly unjust, in that s/he can neither understand the proceedings, nor make a case.”*

This quotation highlights the significant role of the language of record and the effect it can have on the administration of justice and the Section 35(3) constitutional right to a fair trial, part of which is reinforced by an accused person's right to be tried in a language they fully understand. This part of the discussion pertaining to language rights of accused persons is housed in chapters six and seven of this thesis. At this stage of the discussion, the question arises as to the determination of which of the two official languages of record to use in criminal proceedings. Malan (2001: 144) identified two factors used in determining which of the two (English or Afrikaans) languages of record would be used in criminal cases:

- If the accused were a native language speaker of either of the two languages of record, the case would be recorded in the language of the accused. The preference of the magistrate or judge ordinarily did not play a substantive role in exercising a choice between English and Afrikaans. In line with this, judge presidents of the high courts also assigned cases by the relative language proficiency of the judges of the court concerned. Afrikaans cases, that is, cases where the accused was Afrikaans speaking, were not assigned to judges with a poor proficiency in Afrikaans but to judges who were proficient in Afrikaans. In principle, the same applied in English cases, where the accused was English speaking.
- If the accused was a mother-tongue speaker of an African language, the language of record was to a greater or lesser extent determined by the preferences and language proficiency of the presiding judge or magistrate. If the magistrate were English speaking and less fluent in Afrikaans, the proceedings would ordinarily have been in English, while the presence of Afrikaans speaking presiding officers usually meant that the proceedings were recorded in Afrikaans. The linguistic trends in the area in which courts were situated also exerted an influence in this regard, however. Criminal cases in the Eastern Cape and KwaZulu-Natal, where

English aside from the African languages concerned has always been dominant, were therefore conducted in English rather than Afrikaans regardless of the personal preferences of the presiding officer.

In applying the criteria above, native language speakers of English and Afrikaans were at an advantage in the legal system, given that the language of record policy to conduct proceedings in was English and Afrikaans. Speakers of the nine official African languages would then be placed at a disadvantage in comparison to English and Afrikaans native language speakers who have a choice of which language to proceed in.

There are four points of discussion arising from the excerpt above, these include but not limited to a determination of whether this constitutes fair or unfair discrimination against persons on grounds of language as protected by Section 9 of the Constitution in addition to the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000. Secondly, whether an accused person's Section 35(3) (k) constitutional right to be tried in a language they fully understand is unfairly limited through the application of the limitations analysis in Section 36 of the Constitution and the sliding scale formula (Currie and de Waal, 2005). Thirdly, to discuss the use of language demographics in formulating practical language policies for the courts. Fourthly, to engage with the language requirements for legal practitioners to ensure linguistic competency in the official languages.

For current purposes, the language of record can be understood to be the language in which the court records the proceedings and delivers judgment. The following section of this chapter traces the history of the language of record in South Africa.

### **2.3.2. Historical development of the language of record in South African courts**

With a definition of the language of record advanced in the preceding section of this chapter, this section provides an historical overview of the language of record in South African courts. This section provides a thorough discussion of the legislative and policy enactments concerning the language of record.

The language of record was determined by the political dispensation in 1700. Evidence of this dates back to the arrival of the missionaries in South Africa, who imposed their language on the natives of South Africa. Dutch as a language was imposed in all facets of society upon the arrival of Jan Van Riebeck in the Cape, as an official of the Dutch-East India Company (Van Niekerk, 2015: 373). At that stage, deep legal pluralism together with multilingualism was introduced into the territory (Van Niekerk, 2015: 373). The Dutch rule of the Cape saw Dutch being implemented in the courts. This language decision was reinforced through the Dutch East India Company's instruction on 16 April 1657, that the language of court would be Dutch only (Van Niekerk, 2015: 373).

The political influence on the language of record continued with the insurgence of the British occupation in the late 18th century and early 19th century, with English introduced alongside Dutch. According to Van Niekerk (2015: 373- 375) there are several questions arising as to why English was introduced as a legal language. It is argued that it was not introduced for practical reasons, but for political purposes and that of power. During the introduction of both Dutch and English as legal languages, the South African people had no power in determining the legal language. In fact, there was a blatant disregard of the "indigenous African cultural institutions, including languages..." (Van Niekerk, 2015: 375).

This was the case not only for the Cape, but also for all provinces across South Africa during this period. On 24 July 1797, a Proclamation was issued establishing a Court of Appeals for civil cases. The proclamation prescribed that all appellants and respondents were to translate their documentation into English. During the period of 1803 to 1806, Dutch was once again the language of record in courts and returned to English only in 1806. The 1797 Proclamation was repeated to entrench the position of English for the use of all documentation in the court proceedings for litigants (Van Niekerk, 2015: 375).

An important development in the history of the language of record took place in 1811 with the establishment of circuit courts which were not only founded on the English legal model, but saw officers being appointed on a preferential basis if they were conversant in English (Van Niekerk, 2015: 377). English proficiency for presiding officers became a benchmark requirement. To this end the governor at the time, Sir John Cradock publicised

his sentiments concerning the importance of English in the legal system and for presiding officers (Van Niekerk, 2015: 377). He stated his reasons were underpinned by the practical need to be conversant in English:

*... commerce had suffered because of the lack of proper translators and because the use of translators was an imperfect and limited way of communicating and contrary to the spirit and effect of government (Van Niekerk, 2015: 377).*

Sir John Cradock's sentiments on the importance of English proficiency for presiding officers must be borne in mind when I discuss the 2017 monolingual language of record of directive in chapters five and six. Furthermore, this point is of relevance to the discussion concerning the language usage for legal practitioners and presiding officers. The study explores how court interpreters enact their roles based on professional ethics at Durban Magistrate court in KwaZulu-Natal province. The language that is used in the court is English as the main language of records.

#### **2.4. Conclusion**

This chapter highlighted all aspects that were mentioned in the introduction. It gave a broader understanding of what this study is about explaining the context by quoting other authors. The following chapter is the literature review. It will entail details of different paradigms and linking the study to the most appropriate one.

## **3. LITERATURE REVIEW**

### **3.1. Introduction**

This chapter presents literature that has served as a background to and justification for the study. Both international and national literature relating to the study will be discussed with an aim to create an insightful argument which will later identify the shortcomings related to the interpreting services provided in South African Courts, specifically in KwaZulu-Natal province. There are also considerations on the current status of the court interpreting services provided in courts in the South African context; this is further compared to other countries which seem to have a very well-established good practice. Furthermore, literature will be discussed in the following chapters such as the methodology, findings, and recommendations where it will be more relevant and specific.

### **3.2. Defining Interpreting**

Interpreting began as a profession in the twentieth century and individuals define interpreting in diverse ways. Scott as cited in (Napier and Barker 2004:370) states that interpreting is more than just the conception of the message, but the re-expression of thoughts from one language into another, integrating the same meaning and style as a native speaker of the second language would use. Mikkelson (2000:67) briefly defines interpreting as an oral transference of message from one language to another. Baker (1998:40) concurs with the definition of Mikkelson, he states that interpreting is an oral translation of oral discourse and is different from an oral translation of written texts. Pöchhacker and Schlesinger (2002:3) break it down by defining interpreting as an interlingual, intercultural, oral, or signed mediation, enabling communication between individuals or groups who do not choose to use the same language. "Interpreting should re-express the thoughts of one language into another, incorporating the same intent and style as a native speaker of the second language would use. By adopting a sociolinguistic approach to interpreting, the focus is not on the decoding and re-encoding of information

in different languages, but rather on the message that is delivered and the meaning it conveys” (Mikkelson 2000:67).

### **3.3. Interpreting Explored**

Gaiba (1998: 49) cited in (Mnyandu 2016: 19) argues that interpreters at Nuremberg were selected because they could speak two languages or had a language degree but, once at Nuremberg, they were unable to perform simultaneous interpreting. Some of those interpreters were then employed to perform written translation. Gaiba’s statement implies that even if one is bilingual or possesses a language degree that does not necessarily guarantee that one will be able to render quality interpreting services if one does not have interpreting skills which will be discussed later on in this chapter. In order to prove the difficulties and stress involved in interpreting, (Bochum 2006: 26 cited in Ntuli 2012:20) quotes Gravier (1978:4) saying “interpretation requires the one that have nerves of steel”.

Longley (1989: 106) claims that interpreters must have the ability to work under pressure and for long hours. Bochum (2006: 27) cited in (Ntuli 2012:20) further quotes Roland (1999: 13) who states that interpreters must possess a quality of coolness and calmness under pressure. These statements precisely describe the personality of an interpreter.

It is important that this be brought to the attention of those practising interpreting for them to be aware that interpreters are not just expected to provide some or other kind of interpreting, but that it is crucial for them to provide a high-quality interpreting services to meet the client’s expectations. Similarly, managers of interpreting staff need to understand clearly that interpreters should be adequately trained in order to deliver an interpreting service of excellent quality.

### **3.4. Roles of a Court Interpreter**

According to Moeketsi (1999:31), the key role of the court interpreter is to facilitate communication in a responsible manner, bearing in mind that any language misunderstanding in the courtroom may have potentially tragic consequences especially on the rights, freedom, and the life of the accused person. Lebesse (2013:26) emphasises

that the interpreter's role is thus to facilitate communication where one party is not familiar with the language of the record used in the court.

The court interpreter's role is to put the non-English speaking witness or defendant on the same position as the English-speaking defendant or witness. It is not the interpreter's role to simplify language or arguments used in the courtroom to ensure that the non-English speaker understands them, but the court interpreter's role is to deliver the message as it is in the TL. It is a major misconception that an interpreter should assist the non-English speaker by reducing a complicated argument to a simple one. If the original message is not clear, the interpretation should remain unclear (Hale 2004:10).

Mikkelson (2000:2) states that court interpreters must not only master the techniques of interpreting and a wide range of registers in all their working languages, but also, master the densities of terminology used by the judges and attorneys in those languages. Court interpreters must be familiar with the legal system in which they operate. They must understand the importance of language in the courtroom; its strategic use, the rules of evidence and other legal procedures which are fundamental to the delivery of a court case (Hale 2004:2).

Interpreters need to draw on their metalinguistic cognisance to enhance their ability to produce successful and equivalent interpretations (Napier and Barker 2004:371). Hale (2004:10) further elaborates that, court interpreters have a duty to conserve not only the exact meaning of the source language message, but also the register, style, and tone of that SL.

This research aims to verify what the above scholars have said by questioning all the court interpreters and court managers using themes that were extracted on code of ethics.

### **3.5. Previous Research on Court Interpreting**

The following section explores previous research into court interpreting in both South Africa and internationally. The aim is to observe the approach followed and the results obtained in the particular research.

### **3.5.1. International studies on court interpreting**

Lipkin (2008) cited in (Lebese 2013: 30), examined the activities of military interpreters at the Yehuda Military Court near Jerusalem over a period of one year. The aim of the study was to explore the norms and ethical rules guiding the interpreter's work. In this study, in-depth interviews were conducted with eleven interpreters and officers, and court sessions were observed. The questions asked related to the interpreters' powers and duties, the nature of their work, their personal preferences, the rules that guided their work, and the training they had receive.

The findings show that the interpreters' powers and duties covered a range of areas over and above interpreting per se, including translating documents, acting as ushers in the courtroom, and handling logistical matters. The study also pointed to the lack of a clear set of rules in relation to the interpreters' work and revealed that training was provided only after they had begun working. The study therefore suggested the need for a code of ethics defining and providing a framework for the interpreters' powers and duties, which should be limited to interpreting, and should not encompass administrative tasks. The situation at the time of the study caused confusion over the ethical boundaries of the interpreters' work.

This study used a qualitative approach to a dataset derived from fieldwork (primarily observations and interviews) conducted between February and December 2005. Semi-structured interviews were conducted with Hebrew-Arabic interpreters. Questions related to their powers and duties, the nature of their work, their personal preferences, the rules that guided their work, and the training they received.

When asked about their role, their status, their duties and powers, and the nature of their work, some of the interviewees had very clearly defined opinions, others less so. A particularly surprising finding was one related to the interviewees' perception of their day-to-day duties: the role that they themselves considered most important was that of ushers. In fact, when asked about their standing in the court and their job definition, every single one of the interpreters referred first to their administrative aspects of their



job, stating that the work they did was extremely important because they were in charge of maintaining order in the courtroom.

When speaking of the effort they had to invest in their various duties, the interpreters referred first to the administrative aspects of their job, and not the interpreting itself. Some of the interpreters reported that when they sat and interpreted, they felt as though they were resting. When interpreters were asked specifically about their role as interpreters, they introduced terms such as “connector”, “conduit” and “mediator” and expressed a variety of views regarding the boundaries and definition of the job. One of the interpreters, when asked to describe his status as an interpreter, replied, “I connect the two sides”. Another said: “In my opinion the interpreter is a mediator, a connector, the spine of the courtroom.”

...You see, the detainees don't know Hebrew, and it is the right of the detainee, by law, to be tried in his language” (Lipkin 2008:90).

The main conclusion Lipkin (2008) reached from this study was that the Yehuda Military Court worked according to accepted but unwritten rules, performing its duties in keeping with norms that have been handed down through “generations” of interpreters. Such norms were in fact an alternative to a code of ethics which, as many have claimed, is necessary to ensure that court interpreters will act properly in performing their duties during legal proceedings. These norms provide interpreters with some sort of framework within which to function, but since the norms are handed down by word of mouth, there are many grey areas, Lipkin (2008). Another conclusion arising from this study was that the context in which the court functions have a great impact on the way the work is done.

These findings underline the desirability of drawing up a code of ethics suitable for the Yehuda Military Court – or for all military courts in Israel if they work along similar lines. Such a code would have a clear definition of the interpreter's status and duties, as well as guidelines for dealing with exceptional situations that arise during interpreting, such as, problematic terminology, failure to hear or to understand, excessive speed on the part of the speakers, acoustic problems and so on, Lipkin (2008). When it came to the

multiple duties performed by interpreters at Yehuda Military Court, most of them showed that they did not mind these and in fact preferred the diversity and the responsibility. Yet it seems obvious that interpreters should not be required to perform additional administrative duties in the courtroom setting, since they need to concentrate on interpreting in order to guarantee the best interpretation possible.

Zimányi (2009), revisited the subject of the interpreter's role in community interpreting by examining a case study within a forensic psychology setting. The aim of the study was not to redefine the role of the interpreter, but to offer a simple representational tool. Such tool could aid the understanding and explanation of abstract notions such as neutrality and impartiality to practising or trainee interpreters. The interaction he investigated took place between a child, aged nine, a forensic psychologist and an interpreter. This scenario was chosen because the professional service provider was a forensic psychologist working in a field which lies at the crossroads of the psychological and legal domains.

Jacobsen (2009) studied the role perception and expectations among users of interpreting services and interpreting practitioners in community interpreting which included court interpreting. He compared community interpreting to conference interpreting. He believes that studies of conference interpreting have traditionally focused on cognitive, neurophysiological and neurolinguistics issues as well as "performance phenomena," such as the interpreter's memory span, the time lag (ear-voice span) between input and output, chunking and anticipation. Research in community interpreting has traditionally focused on role perceptions and expectations among users of interpreting services and interpreting practitioners.

The findings of this study revealed that there was an increased focus on quality in interpreting. Jacobson states that the topic of role perceptions and expectations still dominates the field.

The above present studies show that the problem of defining interpreter's role is unique to South Africa, and that in some instances interpreters themselves are clear about their roles, which are codes of professional conduct written by Moeketsi (2008). The next

sections explore research into court interpreting in South Africa.

### **3.5.2. Previous research on court interpreting in South Africa**

Du Plessis (1997) cited in (Lebese 2013:33) investigated the definition of interpreting in South Africa. He states that “interpreting is a clearly defined, well-established profession operating within a structured context in many countries of the world, but in South Africa the profession still has a long way to go to attain the same status” (1997:1).

Du Plessis goes further to look at the misconceptions harboured by the general public regarding the skills required for interpreting and the profession itself. One example is that the public believes that any bilingual or multilingual speaker can automatically be an interpreter. He clarifies this misconception by mentioning that apart from knowledge of at least two languages, other specialised skills and techniques are essential to be a successful interpreter. He notes that one cannot merely take any mother-tongue speaker off the street and expect him/her to interpret.

In defining interpreting, Du Plessis (1997:2) mentions that “interpreting is a complex phenomenon, the complexities of which have to be understood if one wishes to discuss it without misunderstandings arising”. He then discusses two interpreting modes namely, consecutive, and simultaneous. He also discusses types of interpreting namely, conference interpreting, court interpreting and community interpreting.

Du Plessis (1997) used a comparative approach comparing court interpreting to other types of interpreting such as conference interpreting, telephonic interpreting, South African Sign Language interpreting and media interpreting, as well as the training involved in these types of interpreting. He concluded that interpreting is still a young profession in South Africa and that in order for it to grow into a fully developed activity and a provider of work for language practitioners, real commitment was required, not least from state institutions.

Hertog and Lotriet (1997), conducted a survey of Belgian and South African law to gain a better understanding of the legal status and provisions made for court interpreters interpreting. The problems faced by interpreters in these two countries during

interpretation were investigated against the background of a comparison with international - European - law precedents. The aim of this study was to take a closer look at the operational training models for court interpreters in South Africa and to compare them to those of other international countries such as the Netherlands, the United States, and the United Kingdom. The findings revealed that every interpreter, simply by the very act of interpreting, by code, language and culture switching, affects the transfer of meaning.

Hertog and Lotriet (1997), noted that in South Africa, apart from a short six weeks' course provided by the Department of Justice and Constitutional Development, there was no formal training available in the field of legal interpreting. Discussion around the issue of court interpreters led to the realisation that a coordinated training initiative was needed. The union of court interpreters together with representatives of the Department of Justice consulted with several academic institutions about the possibility of a more comprehensive training program. This led to some universities in South Africa introducing training programs for court interpreters. The University of North West (former Potchefstroom University for Christian Higher Education) started to offer a University Diploma in Legal Interpreting in 1998. This program was discontinued in 2006. In the same year, WITS University started to offer a Diploma in Legal Interpreting. This diploma is still offered at WITS. The University of Port Elizabeth also introduced an undergraduate Diploma in Legal Interpreting. The researcher contacted the university and spoke to Dr Hilda Israel who is the head of the Linguistics Department. Dr Israel said that she joined the department 10 years ago and that no one in her department seems to remember as to when this diploma discontinued. In 2000, the University of South Africa (UNISA) began offering the BA in Court Interpreting which was discontinued in 2009 because of poor response from court interpreters to register for this program.

There are other academic institutions in South Africa who began offering in programs to train court interpreters and translators, such as the Durban University of Technology, Tshwane University of Technology, University of the Free State, University of Pretoria and many more. These institutions offer different programs from National Diploma up

to Doctorate level. These programs still exist.

Moeketsi and Wallmach (2005) conducted a study on the profile of the court interpreter and the quality of the services rendered. In this study, the communications made by magistrates were analysed to determine whether the court interpreters had correctly interpreted these communications. The findings reveal that African languages lack linguistic equivalents of crucial words used in the court room. In instances like these, interpreters are obliged to go beyond the surface meaning of what has been said, to the values embedded in the language and culture of the discourse participants. The interpreter becomes a “cultural broker” whose participation involves “mediating ideas, laws, customs and symbolism” (Moeketsi 1999b:4). The study concluded that there is no need the role of the South African court interpreter to be explained because the court interpreters understood their professional code of conduct. The reviewed studies show that in South Africa there is no problem of defining court interpreters.

### **3.6. Codes of Professional Conduct for Court Interpreters**

The legislation of court interpreting gave rise to the codes of professional conduct and professional ethics for court interpreters. According to Moeketsi (1999a:133- 140), research has shown that the South African courts have always relied on interpreting services rendered by bilingual and multilingual individuals who have received extraordinarily little or no training in interpreting and who neither know the roles nor responsibilities of a court interpreter. Research has also shown that court personnel, such as, judges, magistrates, prosecutors, and lawyers also need to be acquainted with the professional responsibilities of the interpreters and the impacts it has on the quality of the service provided. The purpose of the codes of professional conducts adapted from Moeketsi (2008:225-226) are as follows:

- To provide a set of core principles which will guide the court interpreter in conducting their duties, as well as give guidance to all court personnel who require the services of court interpreters. This code is intended to assist the court interpreter to remain impartial at all times.

- To ensure that the constitutional rights of all those who do not speak the languages of the court are protected. The Bill of Rights enshrined in the Constitution states that "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 the proceedings interpreted in that language". This also includes the rights of hearing-impaired individuals (Republic of South Africa 1996:17).
- To increase the competency and consistency of interpreting services in all proceedings and to ensure that court interpreting services rendered are of a professional quality in all proceedings before trial, during trial, and in any following proceedings.
- To serve as a foundation for the education and training of court interpreters, and to encourage the continued professional development of court interpreters.
- To serve as a reference which may be accessed or quoted by all court personnel including court interpreters where no other authoritative standards have been adopted.

**Other features include: -**

- To accept full responsibility for their interpretations and to bring unresolved problems to the attention of their clients/employers.
- To accept no work that is beyond them except with the knowledge of their clients/employers, and to keep to agreed deadlines and forms of delivery.
- To constantly pursue self-improvement in order to improve the quality of their work.
- Not to accept any work that is intended for unlawful or dishonest purposes or is contrary to the public interest.

- To be guided in negotiating remuneration by the principle of equitability, and in particular to refrain from charging excessive rates.
- Always to uphold the highest ethical and moral standards in their dealings with their clients and in the practice of their occupation as interpreters.
- To take part in the activities of the Institute and always to conduct themselves in such a way that their conduct and the quality of their work will be to the credit of the Institute (Code of ethics adapted from SATI 2007).

### **3.6.1. Professional ethics for court interpreters**

In Spanish courts, there is no official code of ethics or protocol for court interpreters to follow, and court interpreting is not fully recognised as a profession (Hunt-Gómez and Moreno 2015:190). Interpreters conduct themselves in a manner consistent with the dignity of the court and shall be discreet as possible. Interpreters are also to observe the protocol of the court where they are working, which includes using the proper forms of address for courtroom personnel - i.e. “Your Honor”, “My Lord”, Mikkelson (2000:49).

According to Mikkelson (2000:49), codes of ethics do not offer a foundation for morality nor offer a comprehensive theory of social justice, but they are the moral philosophy of practice in the professional life. The following are the main codes of professional ethics that court interpreters should constantly strive to adhere to:

#### **a) Accuracy**

Moeketsi (2008:235) states that court interpreters should conserve every element of information contained in the SL. By accurate interpreting, Wallmach and Kruger (2000:145) articulate that it means that the interpretation shall be complete, particular and in exact conformity with the source. The court interpreter should not omit, add or modify the source utterances. This means court interpreter should not be tempted to refine obscenities or other forms of obscene language. Nonstandard forms of the language,

such as *Tsotsitaal* and *Isicamtho*, should be produced in an equivalent non-standard target register. According to Mikkelson (2000:49), court interpreters should convey complete and accurate meaning of the speaker's message; including decisive or vulgar remarks.

#### **b) Confidentiality**

Interpreters are to maintain confidentiality at all times and never take advantage of any information disclosed during the course of their work. They must refrain from revealing information of the cases they interpret in and must also not disclose the identity of the parties they interpret for (Mikkelson 2000:49). Moeketsi (2008:239) articulates that those conversations between attorneys and their clients contain private information and such information should be protected. Court interpreters shall not derive personal profit or take advantage of such confidential information acquired while acting in a professional capacity.

#### **c) Impartiality**

Interpreters should always be neutral and impartial at all times and should not allow their personal attitudes or opinions to intrude upon the performance of their duties (Mikkelson 2000:49). Court interpreters should refrain from any form of behaviour that may be seen as favouritism. They may not serve in a case where close friends and relatives are involved as the accused, witness, or where they have a financial interest or any other interest that would be affected by the outcome of the case. They should not accept money or favours for the performance of their duty from any individual other than the salary received from their employer. Before court interpreters begin their task, they should unveil to the court any prior involvement, whether personal or professional, that could be understood as a conflict of interest (Moeketsi 2008:238).

#### **d) Competence**

Competence refers to all the skills and knowledge available to the court interpreter; as well as the capabilities that make the court interpreter suitable and qualified to render



interpreting services in court. This includes knowing and observing the established protocol, rules, and procedures for delivering interpretations in court. The following are the aspects that distinguish a competent court interpreter:

**i. Proficiency**

Moeketsi (2008:236) articulates that court interpreters should provide professional services only in matters in which they believe they can perform accurately. When they doubt their abilities, the magistrate should be informed. Interpreters may also withdraw from any case in which their professional performance will be affected due to lack of proficiency. Court interpreters intentionally who omit difficult parts of the SL are regarded as incompetent and unprofessional and do not deserve to serve as court interpreters.

**ii. Scope of practice**

Moeketsi (2008: 237) states that court interpreters should refrain from performing duties of other court officials. They should limit themselves to interpreting and should neither give legal advice to individuals for whom they are interpreting for, nor explain court procedure to lay-participants. Geldenhuys and Joubert (1994:159) emphasise that court interpreters must not express opinions to the accused and witnesses, make themselves specialists in cultural matters, engage in any other activities which may be seen as rendering another service other than interpreting, or start any communication with the other participants unless that communication is meant to assure an accurate and faithful interpretation.

**iii. Dress code**

The court interpreter's style of dress should be consistent with the dignity of court proceedings. It should be of reasonable and acceptable standards, clean and decent (Moeketsi 2008:237).

#### **iv. Self-improvement**

Court interpreters should maintain elevated levels of competence by increasing their knowledge of evolving terminology, their interpreting skills, as well as their knowledge of the law and court procedure. Court interpreters should interact with colleagues and specialists in related fields; attend workshops, seminars, and conferences on related topics. They should keep up to date with all rules of courts and legal policies that have to do with the performance and duties of court interpreters (Moeketsi 2008:237).

#### **v. Unethical behaviour**

Competent court interpreters have a moral and legal duty to report to the presiding officer any effort by anybody that makes it difficult or impossible for them to perform their duties (Moeketsi 2008:238).

#### **vi. Accountability**

The court interpreter should not use the court's time or facilities for private or personal gain. They should be guaranteed to give account for their behaviour while on duty (Moeketsi 2008:238).

### **3.7. Conclusion**

This chapter gave a broader understanding of the study by reviewing literature. The following chapter is the methodology. It will entail details of different paradigms and linking the study to the most appropriate one. The research method, data collection techniques, and permission of obtaining data are all also going to be detailed in the next chapter.

## **4. RESEARCH METHODOLOGY**

### **4.1. Introduction**

This chapter discusses the methodology employed to collect, analyse, and interpret data. A research methodology is a general approach employed to carry out the research, as well as the tools used for data collection (Flick 2018:124). This study focuses on how court interpreters enact their roles based on professional ethics in KwaZulu-Natal province of South Africa. This chapter further motivates the methodological choices made and discusses the target population, research design, sampling data collection and analysis methods, as well as ethical considerations.

### **4.2. Research Paradigm**

For the purpose of this study, a research paradigm is defined according to Gibbons and Sanderson (2002) as a framework of thinking which can be used by researchers when conducting their research. This means that researchers need to have a guiding philosophy for principles that systematically lead to valid steps towards examining a phenomenon. The selected research paradigm served as a guiding philosophy for conducting the research (Craib, 2011). In this study, it would be of significant importance to the researcher to have a good understanding of the role of court interpreters in KwaZulu-Natal province of South Africa. Therefore, this paradigm guided the researcher to be able to interpret experiences court interpreters' experiences. Mwiri and Wamuhlu (1995:114) define paradigm as "a set of interrelated assumptions about the social world that provide a philosophical and conceptual framework for the organised study of the world". This definition provides an anchorage that underpins a researcher's underlying logic and channels one's views to take on systematically well thought ways of viewing reality. According to Mertens (2005:07), a paradigm is a way of looking at the world, it is composed of philosophical assumptions that guide or direct thinking and action. Becker

and Bryman (2004) state that a paradigm is a collection of beliefs which are associated with a worldview about how scientific practice should take place.

The researcher adopted an interpretivist paradigm, which according to Benton and Craib (2011) is an alternative view to the positivist view of knowledge developed about social worlds as only obtainable through objectivity. Interpretivism is more interested in people and the way they interrelate. It further attempts to understand phenomena through the meanings that people assign to them. This is to argue that the researcher attempts to retell the story of the participants the way he/she understands it based on the subjective evidence given by the participants.

The researcher selected interpretivism as the paradigm because it enabled immersion in the research context, talking to participants, observing them in their natural life world setting, and interrelating face to face with them while taking notes of their thoughts, feelings and ideas so as avoiding miscues and constructed information. In view of this, the researcher provided the court interpreters with non-leading precise and relevant questions. Creswell (2003: 09) argues that the interpretivist research tends to rely on the participants' views of the situation being studied and recognises the impact of the research of their own background and experiences. Therefore, meaning or interpretation is perspectival, and a form of negotiation required to reach consensus. Thus, meaning is socially constructed within a given context.

So, the interpretivist research paradigm relied on the court interpreters. This allowed the researcher to dig deeper into their experiences on the role of the court interpreters in KwaZulu-Natal province of South Africa. The researcher's intention for using this paradigm was to gather detail about exploring the role of the court interpreters in KwaZulu-Natal province of South Africa. Moreover, the interpretivist paradigm allows investigation of the subject matter by the social sciences where human beings can interpret the environment, their experiences and themselves (Hammersley, 1992). This paradigm stresses the way the people shape society.

### **4.3. Qualitative Research**

According to Wills (2007), interpretivists favour qualitative methods of data collection like interviews and observations because they are better ways of getting how humans interpret the world around them. Qualitative research is an approach useful for understanding experiences drawing from personal reflections and the past research (Creswell 2005). A similar view is shared by Babbie and Mouton (2005), as they noted that qualitative research aims to produce factual descriptions based on face-to-face knowledge of individuals and social groups in their natural settings. By natural setting, the researcher is referring to a situation where the participant is not placed under any kind of pressure, but these participants should feel that they have total control over their contributions. In line with the above, the researcher in saw it necessary to spend time in the natural setting going to the selected court and talking to the court interpreters and managers, to be able to understand the context in which the experiences happen. In addition to that, court interpreters' views were heard and taken as factual as they were explored from the relevant participants in the natural setting.

The study was conducted through a qualitative research approach to gain a complete understanding of the context in which the court interpreters interpret in courts and the conditions, they find themselves in. Patton (2002) asserts that qualitative approach provides a chance to get close enough to the people and the circumstances so as to capture what is happening.

According to Litchman (2010:12), "Qualitative research attempts to provide a thorough understanding of the human experience". This is agrees with the view of Nieuwenhuis (2007b:79), who suggests that qualitative research takes place in some real-life contexts.

Creswell (2008:46) defines qualitative research as a type of educational research in which the researcher relies on the views of the participants, asks broad and general questions, collects data consisting of words or text from the participants, then describes, analyses, and conducts an enquiry in a subjective, biased manner. The researcher adopted a qualitative approach for the study as defined by McMillan and Schumacher (2006:315) as

“an inquiry in which researchers collect data in face-to-face situations by interacting with selected persons in their setting”. Qualitative research often employs inductive reasoning and an interpretive understanding that looks at deconstructing meanings of a particular occurrence (Thorne, 2000). This re-echoes the constructivist view of life where meaning is a co-construction of knowledge. In addition to the explanation above, Denscombe (2005) argues that qualitative research is distinctive in data collection approach compared to quantitative approaches. In other words, the quantitative approach relies on numbers and measurements which cannot describe exactly how lived experiences but relies on statistical analysis that are not true to life. According to Finch (1985: 114), qualitative methods are theoretically grounded and gives analytical accounts of what happens in reality in ways which statistical methods cannot accomplish. Qualitative studies therefore reflect the subjective reality of the people being studied. In this case study, the researcher was not concerned with the number of court interpreters and managers but their experiences and challenges about the role of court interpreters in KwaZulu-Natal province of South Africa and the employment of qualitative research approach was therefore necessary.

The researcher opted to use the qualitative approach because of the following advantages:

- a) It is exploratory, in the sense that it involves in depth interviews. It also gives the researcher the chance to use different instruments to follow up on issues that were not clear from the onset. Additionally, the use of other tools helps to authenticate other instruments.
- b) It allows the researcher to be flexible throughout the research process. That is, the researcher may use a variety of tools and have the liberty to probe further to get to the depth of the story.
- c) It emphasises people’s lived experiences so that their perceptions can be discovered and explained. The researcher interacts with the participants and get first-hand information.

However, it is needful to say that despite the advantages that the qualitative method enjoys, there are also several disadvantages. Based on this, one of the major disadvantages of qualitative research is that the subjectivity of the inquiry leads to difficulties in establishing the reliability and validity of the approach and information (Adam,2005). To ensure validity and avoid subjectivity, Stenbacka (2001) suggests that the researcher must remain non-judgmental throughout the study process so that the report may be constructed in a balanced way. So, the researcher in this study considered the following terms which are useful for assessing the quality of qualitative research: Credibility, Transferability, Dependability and Confirmability.

#### **4.4. Case Study**

The present project is a case study. A case study is an in-depth investigation of an individual, group, or institution (Gay, 1992: 225). Gillham (2000) defines a case study as a unit of human activity embedded in the real world which can only be studied or understood in context. This study focused on cases that were tried in the Durban Magistrate Court. A case study is a specific instant that is designed to illustrate a more general principle. It is the study of an instance in action. It provides a unique example of real people in real situations, therefore enabling readers to understand ideas more clearly than simply presenting them with abstract theories or principles (Cohen et al., 2006).

Thomas (2011) claims that the case study method is a research that concentrates on one thing, looking at it in detail not seeking to generalise from it. When doing a case study, one is interested in one subject or object in-depth. This study qualified as a case study since it focused on a solitary group or unit which were isiZulu court interpreters in the Durban magistrate court. This researcher made use of the case study design in which he collected data from the court interpreters on their roles through interviews and participants' observations. It was the researcher's belief that the findings of this study would help court interpreters, managers to understand their roles. The researcher chose the Durban Magistrate Court of KwaZulu-Natal province. This court was appropriate for the study since most of the interpreters provide their services for isiZulu speaking people.

Merriam- Webster's dictionary (2009) defines a case study as an intensive analysis of an individual unit (as a person or community) stressing developmental factors in relation to environment. Abercrombie and Turner (1984:34) define case study as "the detailed examination of a single example of a class of phenomena, a case study cannot provide reliable information about the broader class".

The above quotation states that a case study cannot be generalised with other cases but can help as a starting point for other researchers to verify other cases. In view of this, Yin (2009: 18) defines a case study "as an empirical inquiry that investigates a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident."

According to Yin (2003:59), a good case study investigator should be able;

- a) To ask good questions- and interpret the answers.
- b) To be a good "listener" and not to be trapped by her own ideologies or preconceptions.
- c) To be adaptive and flexible, so that newly encountered situations can be seen as opportunities, not threats.

The case study explored the extent court interpreters do their work according to the professional ethics. In this case, the study looked specifically at exploring the perceptions of the court interpreters on doing their work based on the professional ethics.

#### **4.5. Target Population**

Population refers to the community a researcher finds appropriate for the study. According to Porta (2014:279), the term population refers to the primary population to which a study is directed. Asiamah, Mensah and Oteng-Abayie (2017:1607) discuss three levels when deciding on the population of the study. These include the general population, target population and accessible population. They argue that for a researcher to decide on their target population, he/she needs to first identify the general population, which refers to the larger group of people who have a potential of being a part of the study.



The second stage is the target population, which according to Asiamah et al. (2017:1612), refers to the group of people who meet the researcher's criteria for the study. This means this group is intentionally selected based on the study's aim, objectives, and context because inclusion of people identified in the first level, which is the general population, may not align with the desired outcomes of the study. Therefore, from the large population of the Durban Magistrate Court, isiZulu speaking court interpreters and court managers in the workplace (court) were targeted for this study because their attributes align with the aim, objectives, and purpose of the study.

Interviews with the rest of targeted participants were conducted until the point of saturation is reached. The study was not about all interpreters of the court since it focused on interpreting services provided to only isiZulu speakers.

#### **4.6. Sampling Method**

De Vos et al. (2011: 321), defines sampling as taking a section of units of a population as representative of the total population. According to Chadwick et al. (1984:52), scientific sampling makes it possible for the researcher to describe a population or to test a hypothesis on a few research subjects and yet generalize the findings to the larger population. The researcher targeted those isiZulu court interpreters and court managers. It is for this reason that the researcher concurs with Vijayalakshmi and Sivapragasam (2008: 85) when they hold that sampling is a selection of study units from a defined study population. Fraenkel and Wallen (2006:02) argue that sampling is a process of selecting participants for research.

For the purpose for this study, research sampling will be defined according to Uys and Basson (1991:86) who maintain that the basic purpose of sampling is to enable the researcher to obtain the desired information in a reliable manner, without necessarily involving the entire population. According to De Wet's "inductive reasoning" (1981:110), the researcher wishes to make observations of the sample in a more practical economical manner and to generalise the findings to the population. However, the present study was

not aimed at generalising the findings to the population, since it was a case of the Durban Magistrate Court.

Therefore, the researcher made use of the non-probability sampling techniques through purposive sampling since it dealt specifically with a chosen case study wherein it illustrated a process that is of interest for the study (De Vos, 2003:374). The researcher employed the purposive sampling since the participants selected relate to the research problem i.e., they are all isiZulu court interpreters in the Durban Magistrate Court.

#### **4.6.1. Purposive Sampling**

Sampling or what Mason (1997:75), calls “selection” was necessary, since a complete census of the wider population or universe in which the research is focused on, would be impractical to achieve. Sampling enables one to study a portion of the population rather than the entire population (Slavin, 1992).

The aim of sampling is to save time and effort, but also to be consistent and unbiased estimates of the population status in terms of whatever is being researched (Sapsford, and Jupp, 2006). Cohen et al. (2011), defines purposive sampling as a strategy of selecting participants that are referred to be representative of the population under investigation.

In agreement, Creswell (2008), explains that purposeful sampling involves the researchers purposefully selected entities to be incorporated in the sample on basis of their judgement. According to Datallo (2010), purposive sampling can be used to achieve one of the following goals;

- a) To study a separate population.
- b) To collect primary data that are suitable for the study.
- c) To collect secondary data, which entails selecting a sample from an existing set of data.
- d) To select a small and closely observe typical and unusual or extreme elements.

Hence, in this study, purposive sampling was employed to collect primary data that are suitable for the study.

Tashakhori and Teddlie (2003), add that a researcher purposely selects certain groups of people or individuals for their relevance to the issue being studied. According to Ball (1990), purposive sampling is used to obtain people with in-depth knowledge about the particular issue or may have experience about what is being investigated.

Court interpreters who speak isiZulu at the Durban Magistrate Court were purposively selected as participants in this study. The participants volunteered to be included based on their experience and knowledge about court interpreting.

#### **4.7. Data Collection**

In collection of data, the researcher started by visiting the court in July 2021 with an aim of observing the court setting until February 2022, then in March 2022 he started to do the formal collection process until August 2022 after collecting the entire data. Data were collected from twenty junior court interpreters, five senior court interpreters and five court managers from the selected court. The data sets were collected from all the above-mentioned interviewees using qualitative one-on one interviews.

The court is located in an urban area, where I spend five days working on the data collection and interviewing process. I visited the court consecutively. The first two days' visits were to observe the court interpreters on duty. The following three days were for interviews.

To recruit the participants, the researcher visited the court manager and request email addresses and contact numbers of the isiZulu court interpreters and their managers. The researcher then used the email addresses and contact numbers to recruit the participants.

Appointments were made in advance with the court managers to discuss the convenient time and place to conduct research. The data collection process occurred between 08h00 and 15h00, which enabled the researcher to have enough time to run the interviews smoothly.

On day 3 arrival in court, the researcher began by conducting one-on-one interviews with fifteen junior court interpreters. On day 4, one-on-one interviews were conducted with five junior court interpreters and five senior court interpreters. On day 5, which is the last day of collecting data, one-on-one interviews were conducted with five court managers. Appointments were made in advance with the court manager to discuss the convenient time and place to conduct research. The data collection process occurred between 08h00 and 14h00. The researcher chose the Durban Magistrate Court because it the only court that has many isiZulu interpreters.

#### **4.7.1. Interviews**

Mnyandu (2016: 65) defines an interview as a purposeful interaction whereby one person obtains information from another. Johnson and Christensen (2012:198) highlight that the interviewer gathers data from the interviewee who provides data. Punch (2009:144) emphasises that the interview is the most crucial data collection tool. It is an incredibly effective way of accessing people's perceptions, connotations, definitions of situations and construction of certainty.

Kvale (2007:52) as cited by Khumalo (2015:53), about the aim of conducting interviews, states: I want to understand the world from your point of view. I want to know what you know in the way you know it. I want to understand the meaning of your experience, to walk in your shoes, to feel things as you feel them, to explain things as you explain them. Will you become my teacher and help me understand? Indeed, this explains the exact feelings or aims of social researchers. This is because, we see things happening and become fascinated about how and why such things do happen and then embark on the research journey to bring a detailed meaning to the actual situation, rather than basing it on the commonly known assumptions. Khumalo (2015) refers to Kvale's guidelines which should be used when conducting interviews in order to get the maximum responses:

- Interview briefing: The interview is introduced by a briefing in which the interviewer defines the situation for the subject, briefly tells them about the purpose of the interview, the use of a tape recorder if applicable and other technical or non-

technical tools if applicable and so on and asks if the interviewee has any questions before the commencement of the interview.

- Debriefing after the interview: Due to the emotions involved in most social research interviews Khumalo (2015) suggests that a debriefing after the interview should be done. He says the reason for this is because it might happen that after the interview there may be tensions or anxiety because the was personal and emotional experiences and wondering about the purpose and later use of the interview. However, he recommends that this must be done off record as some participants might become more comfortable and at ease to raise subjects which they were not comfortable with during the live recorded interview. The researcher must also take a minimum break reflecting on the responses given before engaging in another interview.

These guidelines were employed in the present study. The interview questions used in this study were one on one interviews as they depended on the interviewer's judgement and probing questions were used where necessary.

Interviews were conducted with twenty junior court interpreters, five senior court interpreters, as well as five court managers as mentioned in the introduction.

The interview questions are attached as Appendix D and E.

#### **4.7.2. Participant observation**

Creswell (2008:221), defines observation as a process of gathering open-ended first-hand information through observing people and places at the research site. According to Leedy and Ormrod (2005:145), observations in a qualitative study are intentionally unstructured and free flowing. The researcher shifts focus from one thing to another as new significant objects and events present themselves.

Participant's observation is a technique for verifying and nullifying information provided in face-to-face encounters (Jorgensen, 2010). The researcher used this tool to observe the

participant's behaviour during the interviews. This is more reliable since it is possible to see the actual behaviour of the participants. Jorgensen (2010), further states that it is ideal to use this type of an instrument since it is a method of data collection done in the qualitative research model.

The researcher adopted this tool simply because the data that were gathered were exceptionally reliable in the sense that the analyst was able to see what had been done and the observation was less expensive compared to other techniques since it allowed the systems analyst to do work measurement.

The participants that were observed were those who volunteered to be the part of the study. Observations were used to see how court interpreters enact their roles based on professional ethics (code of ethics) in KwaZulu-Natal province of South Africa. The researcher observed the language used by the court interpreters when they were interpreting in court. The researcher will discuss his observations with the participants to confirm their accuracy.

#### **4.7.3. Field notes**

Lichtman (2010), define field notes as often informal notes made by the researcher during and after observations. According to Koopman (2012), field notes can be used as part of data structure procedure and as part of the enquiry section, because they involve the researcher's clarification based on observation.

To see how court interpreters, enact their roles based on professional ethics in KwaZulu-Natal province of South Africa, the researcher made field notes about the courtroom proceedings. This was done to be accurate with the data that were collected and analysis. The researcher read all the notes after the interviews and after the observations while the information was still fresh in his mind to remember and jot all the important points about the data based on the research questions as well as the observation instrument.

In order to achieve this, an observational tool was used containing two columns: descriptive notes and reflective notes (Creswell,2009). Using this protocol, the researcher

wrote down what he observed and the meaning of it thereof. The use of field notes has several advantages since the observer cannot remember everything that was observed. There is a need to aid memory by taking notes of important things observed in relation to what is being looked for in the study. These notes taken during the observations functioned as the basis for the follow up interview to seek clarification on certain aspects of the lesson. Apart from this, field notes may be quite friendly to the court interpreters being observed in comparison to a video which may make the interpreter feel uncomfortable. These field notes were also helpful in data analysis and discussion.

#### **4.8. Data Analysis and Interpretation**

Qualitative data involves analysing collected data and identifying themes, patterns by grouping them into categories. The interview questions were linked to research questions and objectives. Data collected through the one-on-one interviews were analysed and interpreted using the qualitative thematic analysis method.

Flick (2018:125) defines thematic analysis as a means to identify themes and patterns in the collected data. The themes identified were accuracy, impartiality, competence, and confidentiality.

#### **4.9. Pilot Study**

A pilot study was successfully used. Ismail et al. (2018:02) postulate that a pilot study updates and offers responses to the final study and with these responses, the researcher can create changes to and enhance the research approach before doing the final study.

The researcher distributed interview questions personally to three respondents who were not part of the target population. This was done so that the errors identified could be corrected before actual data collection in order to provide clarity to respondents and improve the questions.

#### **4.10. Trustworthiness of the Study**

According to Gill, and Roulet (2014:2), trustworthiness refers to the responsibility researchers have for ensuring that their study is accessible, assessable, and transparent to others, including participants, readers and the research community, and that others can gain insight into how the study's findings were generated. This responsibility encourages a researcher not to attach themselves to the study so that they produce findings that are unbiased. Gill et al. (2014:4) states that when evaluating trustworthiness, there are no rigid protocols and fixed sets of principles followed; judgement depends on the conceptual, spatial, or historical boundaries of the concept under scrutiny. Gill et al. discuss four subcategories of trustworthiness relevant to qualitative paradigms, which include credibility, transferability, confirmability, and dependability.

##### **4.10.1. Credibility**

Credibility, according to De Vos et al. (2005:346), is the alternative to internal validity in which the goal is to demonstrate that the enquiry is conducted in such a way that the subjects are accurately identified and described. As explained by Gill et al. (2014: 4), a research is credible when individuals sampled agree with the researcher's interpretations after the findings have been presented. Authors like Rudolf, Penz and Ghauri (2008) and Shenton (2004), agree with this conception, for instance, the content of the study should align with research questions of the study.

Shenton (2004), present the following different strategies to confirm credibility in the current study:

- Iterative questions.
- Probing questions.
- Observations.
- Previous research findings.

To ensure credibility, as posited by Shenton (2004), the above-mentioned strategies were employed in the current study to ensure the respondents provided honest responses.



Firstly, the use of iterative questions to uncover dishonesties was employed. Secondly, interviewees were asked further probing questions in relation to the information they had earlier provided to ensure their answers did not contradict each other and they said what they actually meant. Thirdly, to further ensure credibility, the current researcher went to court to observe the proceedings. Lastly, previous research findings provide a point of reference to ensure that the findings of the current study are compatible with the previous works on a similar topic. Another element of trustworthiness in transferability.

#### **4.10.2. Transferability**

Another element of trustworthiness is transferability. According to Shenton (2004), transferability refers to the degree to which the results of qualitative research can be generalised or transferred to other contexts or settings. Shenton (2004:70), denotes transferability as a crucial component in ensuring trustworthiness because it deals with providing the reader with accurate contextual information regarding the boundaries and additional information pertaining to the study. Such information includes types of organisations targeted for the study, criteria for individuals sampled, data collection methods as well as information on data collection sessions. Furthermore, if readers think their situations are like the circumstances discussed in the study, it is possible they transmit findings of the study to their situations (Shenton 2004:70).

This means a study is trustworthy if results make an impact on the individual who is in the analogous situation that is under investigation based on the contextual information provided. To ensure transferability, information regarding the types of organisations, individuals, population, and additional information was provided so that readers can relate to the focus of the current study. For instance, in the previous research by Lebesse (2011) court interpreters did indicate that they add or omit if there is a necessity and in the present study court interpreters did mention the same thing of adding or omitting. This confirms the transferability.

#### **4.10.3. Confirmability**

Another dimension of trustworthiness is confirmability. Confirmability refers to the degree to which the results could be confirmed or corroborated by others (Shenton 2004:70). According to Rudolf et al. (2008:699), confirmability is concerned with aligning the research with the reality being investigated. Researchers need to combine different methods in their studies so that results from one method confirm those of the supplementary one. It is an element that ensures that the data provided by a researcher is not just a product of imagination (Gill et al. 2014:4). Interviews were used to collect data from individuals whose experiences and opinions align with the focus of the study. Similarly, secondary data were employed to accord with perceptions on the current topic. This was done to ensure that the perspectives gathered were not just the product of the participants or researchers' imaginations but verified theories. The integration of literature and responses from respondents ensured that the data collected from individuals sampled for this study complimented those extracted from literature.

#### **4.10.4. Dependability**

According to Shenton (2004), dependability is the stability of data over time and over conditions. Shenton (2004:7) posits that to address the issue of dependability in research, a strategy needs to be employed to make sure that if the work were repeated in the same context with the same respondents, similar outcomes would be achieved. In the context of this study, the method used, and all other aspects involved in conducting the study were reported clearly and in detail so that future researchers can repeat the work. More specifically, the research design, implementation, and operational details of data gathering, and analysing data were discussed to ensure dependability.

#### **4.11. Ethical considerations**

In research, ethical considerations focus on anonymity and confidentiality to ensure that subjects' identities are kept anonymous and cannot be shared with anyone without their consent. According to Porta (2014:55), anonymity and confidentiality refers to the commitment not to reveal information against the participants' wishes. Therefore, if the

subjects prefer to remain anonymous, it is the researcher's responsibility to make sure the information shared remains confidential.

Drew et al. (2008) maintain that the two concepts anonymity and confidentiality are closely related but different. Anonymity means respondents' identities should be kept secret even to the researcher, whereas confidentiality means that although the researcher knows the respondents' identities, they should be kept secret from any other person and shielded from any possible exposure. In this study, to ensure participants' confidentiality and anonymity, the researcher used pseudonyms and codes to create a good relationship and to hide the participants' identities. The researcher also avoided statements that could be linked to any individual.

Legal institutions such as magistrate courts are very crucial and critical; therefore, one must follow the prescribed protocol at all times when conducting any kind of research in such institutions so as not to tarnish the image or the reputations of the participating institutions. A gatekeeper letter was obtained from the court manager (**see Appendix F**). On the day of conducting interviews, consent letters were issued to participants, clearly explaining the purpose of the study, as well as what would be expected from the participants to obtain informed consent (**see Appendix B**). Interviews lasted approximately 15 to 30 minutes each. The data collected were only accessible to the researcher and supervisors to protect the participants' right to confidentiality, and their details were not disclosed.

Anonymity was granted to interviewees, electronic data was password protected, and hard data were kept under lock and key, as per DUT policies and procedures. All data collected in written format or voice recorder would be disposed of at the department for safekeeping for a period of five years, as stipulated by the university, before being destroyed. Hard copies would be shredded, and electronic copies were deleted.

#### **4.12. Conclusion**

This chapter provided a detailed description of the research design as well as various methods employed by the study, using qualitative research methods. The primary data

was collected through one-on-one interviews, participant observation and documents analysis. In the following chapter, the researcher discusses the findings on exploring the role of court interpreters, using the data collected from interviews and secondary literature.

## **5. DATA ANALYSIS AND INTERPRETATION**

### **5.1. Introduction**

The previous chapter covered the process of accessing data from the participants. The current chapter will analyse the data gathered and provide interim conclusions based on the findings. Data were collected using one-on-one interviews and participant observation. Those interviews were conducted with twenty junior court interpreters, five senior court interpreters and five court managers. Data were collected to answer the research questions. This chapter aims to present the findings re-grouped under four broad themes, which are:

1. Accuracy.
2. Competence.
3. Impartiality.
4. Confidentiality.

To maintain anonymity court interpreters were given the following codes: Junior court interpreters (JCI: 1-20); senior court interpreters (SCI:21-25) and court managers (CM:1-5)

The researcher managed to interview all the court interpreters and managers, and the senior court interpreters who have several years of experience in interpreting. In other words, their observations and perceptions are more likely to be accurate, given their vast experience.

## **5.2. Thematic data analysis**

**The following section analyses data that was collected from the participants.**

In qualitative research, data analysis aims to explore how participants make meaning in the context of a given social phenomenon, Ntshangase (2011). This case study sought to respond to the following main research question:

*How do court interpreters enact their roles based on professional ethics in KwaZulu-Natal province of South Africa?*

In response to the main question, the participants were requested to answer research sub-questions (Appendices D and E).

### **5.2.1. Data analysis of isiZulu speaking junior and senior court interpreters and court managers**

#### **5.2.1.1. Interview Responses of the isiZulu speaking junior court interpreters**

The following are thematically responses to the sub-questions which were given by the junior court interpreters (JCIs);

#### **Theme 1: Accuracy**

According to Moeketsi (2008:235), court interpreters should conserve every element of information contained in the source language (SL). By accurate interpreting, Wallmach and Kruger (2000:145) state that it means that the interpretation shall be complete, particular and in exact conformity with the source text, which entails that court interpreters should not omit, add, or modify the utterances.

#### **A) Do you add information when you are interpreting?**

All the junior court interpreters responded by saying, “Yes”. JCI 2 elaborated as follows: “Since the languages we are using are structurally different, I do sometimes add information in order to send an accurate message.” For example, there was a case where

the accused was the elderly male person and the judge's question was, "How do you plead to your charges?". My interpretation was as follows, '*Baba ngabe uyawavuma noma uyawaphika yini amacala obekwe wona?*'. By doing so, the interpreter added some information ('*Baba*' which means Father). In isiZulu culture you cannot call an elderly person by name, whereas in English you are allowed to do so.

**B) Do you sometimes omit information that you think is not necessary for the court participants?**

All the 20 junior court interpreters responded by saying that they do omit unnecessary information when they interpret for their clients. They argued that they usually omit words from the source language that seem not to distort the meaning of the target language, when omitted, in order to avoid long explanations. For example, JCI 2 argued that Durban Metro Municipality would be translated as "*uMasipala WeTheku*", and thereby omit the word metropolitan, which would be referring to the same Municipality, for the isiZulu-speaking person.

**C) As an interpreter, do you make efforts to maintain the style, tone and register of the speaker when you are interpreting?**

Five junior court interpreters (1, 3, 4, 5 and 6) reported that registers of language vary among speakers of different professions, ages, and status, which is why sometimes we omit words. JCI 4 noted that it is important for the rendition which reflect the register used by the speaker, because of language choices which reflect the speaker's background and demonstrate fidelity maintenance beyond just content.

According to JCI 1, the interpreter should be exact and convey all the nuances. The tone of voice as much as possible: educational level can indicate the level of words he might choose; their professions also decide what kind of jargon they might use.

Another junior court interpreter (JCI 3) commented on lawyers' use of registers:

“The lawyers tend to speak in their different level of English, which makes it difficult to interpret.”

Despite these comments, interview data suggested that most of the participants were not fully aware of discourse issues in interpreting. However, JCI 3 and 5 admitted that they would change the speech style of the original utterance to better suit the listener’s educational background. They reported that they would choose to explain concepts in detail to the client rather than use the equivalent legal terminology if they thought that the client would not understand the high register of the source text. Yet Hale (2004: 478) argues that maintaining the speech style of speakers is important.

JCI 3 explained as follows;

“If I am in the court, I don’t need to literally provide the isiZulu equivalent of legal terminology because the client would not understand it anyway because they would find it difficult to understand. In that case I explain the terms used in isiZulu.”

JCI 4 also commented as follows;

“Sometimes clients would say that they understand isiZulu even if it is not their mother tongue. Translating for such clients using technical language will create more problems for them.”

JCI 5 stated that it should be noted that register alterations happen not only in the case of translating into a language other than English, but also in the case of translating into English. The comment made by JCI 4 suggests that the interpreter would see the altering of a legal lay person’s word into a legal jargon in English as evidence of her being professional.

From the comments of the five JCIs above, register alteration in interpreter-mediated court cases occurs in both language directions, with interpreters believing that they could sacrifice the speaker’s speech style for the listener’s better understanding. Apart from speech styles, pragmatics is of paramount for court interpreting at the discourse level.



#### **D) Do you correct interpreting errors during or after the interpreting session?**

In response to this question, the JCI 1-19 said that they do correct errors during the session to make sure that the message is efficiently and effectively disseminated to the participant. By contrast, JCI 20 seems to differ because he said that he preferred to rectify his mistakes made at the end of the session.

He explained as follows;

“In December 2020, I was tasked and requested to interpret sentences for murder. I made a silly mistake of forgetting the right meaning of a word and opted to give an antonym of that word, which distorted the meaning of the sentence slightly.”

In support of his explanation, he said;

“The reason is that when you correct yourself while you are interpreting or during the session, you may end up with a message that is not cohesively delivered.”

#### **E) As an interpreter, do you think you are interpreting in the mode that enables the greatest clarity and accuracy with the least distractions?**

In response to the above question, all the 20 JCIs responded by saying, “Yes”. They argued that in most of the cases they are using consecutive mode, but in some cases, they are forced to use the simultaneous mode of interpreting. According to their responses consecutive mode is mostly used on first appearances cases while the simultaneous mode is used in serious cases, like in court “Z” where they are dealing with murder cases most of the time.

During court visits the researcher observed that in court rooms Z and W interpreters were forced to use a simultaneous mode because of the pace used by the magistrates and prosecutors working in those courts.

## **Theme 2: Competence**

According to Moeketsi (2008:248), competence refers to all the skills and knowledge available to the court interpreter; as well as the capabilities, namely; knowing and observing the established protocol, rules and procedures for delivering interpretations in court.

The following are the aspects that distinguish a competent court interpreter from an incompetent one;

- **Proficiency**

Moeketsi (2008:236), noted the following: “court interpreters should provide professional services only in matters in which they believe they can perform accurately. When they doubt their abilities, the magistrate should be informed. Interpreters may also withdraw from any case in which their professional performance will be affected due to lack of proficiency. Court interpreters who intentionally omit difficult parts of the SL are regarded as incompetent and unprofessional and do not deserve to serve as court interpreters.”

- **Scope of practice**

Moeketsi (2008:237) states that, “court interpreters should refrain from performing duties of other court officials. They should limit themselves to interpreting and should neither give legal advice to individuals for whom they are interpreting, nor explain court procedures to lay-participants.” Similarly, Geldenhuys and Joubert (1994:159) emphasize that “court interpreters must not express personal opinions to the accused and witnesses, make themselves specialists in cultural matters, engage in any other activities which may be seen as rendering another service other than interpreting, or start any communication with the other participants unless that communication is meant to assure an accurate and faithful interpretation.”

- **Dress code**

The court interpreter's style of dress should be consistent with the dignity of court proceedings; it should be of reasonable and acceptable standards, clean and decent (Moeketsi 2008:237).

- **Self-improvement**

Moeketsi (2008:237) states that, "Court interpreters should maintain high levels of competence by increasing their knowledge of evolving terminology, their interpreting skills, as well as their knowledge of the law and court procedure. Court interpreters should interact with colleagues and specialists in related fields; attend workshops, seminars, and conferences on related topics. They should keep to date with all rules of courts and legal policies that have to do with the performance and duties of court interpreters."

- **Unethical behaviour**

Competent court interpreters have a moral and legal duty to report to the presiding officer any effort by anybody that makes it difficult or impossible for them to carry out their duties (Moeketsi 2008:238).

- **Accountability**

The court interpreter should not use the court's time or facilities for private or personal gain. They should be guaranteed to give account for their behaviour while on duty (Moeketsi 2008:238).

**A) Are you sometimes required to provide professional services in matters in which you cannot perform accurately?**

In response to this question, all the 20 JCI's responded by saying, "Yes." JCI 8 elaborated as follows; "Due to shortage of isiZulu court interpreters it is a must to provide professional services even in a matter where you cannot perform accurately."

JCI 10 added;

“It is not our will to perform in such matters but since we understand the situation of the shortage that the court has, we do as our superiors pleases.” This is contrary to what was echoed by Mnyandu (2016:75) who states that interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.

**B) Do you sometimes withdraw from a case in which your professional performance is affected by lack of skills?**

All the 20 JCIs, said, “Yes”. JCI 1 argued that because of the shortage of isiZulu court interpreters we are left with no choice but to perform.

JCI 3 added;

“There is a shortage of isiZulu court interpreters in this court, we are left with no choice but to render our services to all cases assigned to us.”

During court visits the researcher observed that all isiZulu court interpreters vacate the canteen room everyday compared to other court interpreters of other languages due to the high demand of services in that court.

**C) Do you think it is important for all South African court interpreters to have an interpreting qualification?**

In response to this question, all the 20 isiZulu junior court interpreters responded by saying, “Yes”.

JCI 4 elaborated as follows;

“It is important for all court interpreters to have an interpreting qualification because you gain excellent language skills and fluency from one language to another language, knowledge of the culture, practices, institutions and current affairs of the country or

countries where the foreign language is spoken and knowledge of the subject area you are interpreting.”

By listening to their responses, it appeared that the system that the courts were using then, had drastically changed; there were more interpreters with qualifications compared to the findings of Mnyandu (2010) which revealed that during that time, courts were using unqualified interpreters to render the services.

**D) Do court interpreters perform acts that are the official responsibility of court officials?**

All the 20 junior court interpreters responded by saying, “No.” They maintained that all the duties they were expected to perform were written on the appointment letters and oath of office that they had signed. This is contrary to the statement that was echoed by Lebesse (2011: 3) where he stated that, in South Africa court interpreters in many instances find themselves performing tasks of other court officials such as administering oaths to witnesses, explaining the accused’s rights to cross-examination of the state witnesses, and explaining the accused’s rights to mitigation of sentence and appeal among other things.

**E) Do you think the dress code is important when you are a court interpreter?**

All the 20 JCI’s responses can be summarized as follows: legal interpreters working in courtrooms are expected to wear professional courtroom attire, comparable to what an attorney would wear. JCI 1 elaborated as follows; “Interpreters are expected to dress in a conservative, professional and dignified way as a sign of respect for the judicial system. Casual clothing in court is not acceptable.” This statement is also supported by Moeketsi (2008:237), who states that “the court interpreter’s style of dress should be consistent with the dignity of court proceedings; it should be of reasonable and acceptable standards, clean and decent.”

During court visits the researcher observed that all the court interpreters were wearing formal clothes when they were on duty. For example, male's interpreters wearing long-sleeve shirts with long trousers and a tie, while females wore long dresses with a coat.

**F) Do you think court interpreters should be bound to give account for their behaviour while on duty?**

According to all the responses given by the 20 JCI's, court interpreters should be held accountable if they misbehave or when they are not doing their work as expected. This statement was supported by (Moeketsi 2008:238) when she observed that a court interpreter should not use the court's time or facilities for private or personal gain. She further stated that they should be guaranteed to give account for their behaviour while on duty.

JCI 5 added;

"As court interpreters we are supposed to do the right thing in order to respect our profession, as for us to do so we need to be accountable for our behaviour more especially when we are on duty."

**Theme 3: Impartiality**

Mikkelson (2000: 49) commented; "Court interpreters should be neutral and impartial at all times and should not allow their personal attitudes or opinions to intrude upon the performance of their duties. Court interpreters should refrain from any form of behaviour that may be seen as favouritism. They may not serve in a case where close friends and relatives are involved as accused, witness or where they have a financial interest or any other interest that would be affected by the outcome of the case."

**A) Do you think an interpreter should offer an advice or opinions when he/ she is requested to do so?**

All the 20 JCI's agreed that an interpreter should not offer an advice or opinions even if they are requested to do so. According to the JCI's, during the proceedings, interpreters

should not converse with parties, witnesses, jurors, attorneys, or friends or relatives of any party, except in the discharge of their official functions.

JCI 11 elaborated as follows;

“It is especially important that interpreters, who are often familiar with attorneys, courtroom staff, and law enforcement officers, refrain from casual and personal conversations with anyone in court that may convey an appearance of a special relationship or partiality to any of the court participants. The interpreter should strive for professional detachment. Verbal and non-verbal displays of personal attitudes, prejudices, emotions, or opinions should be avoided at all times.”

During court visits the researcher also observed that all court interpreters did not offer advises unless they are told by the magistrates to do so. For example, there was a case in court 12 where the accused did not have a lawyer to represent him, the magistrate told the interpreter to offer advice to the accused and the interpreter did as he was instructed.

**B) Do you think an interpreter should let his or her tone of voice, body language and demeanour reflect the speaker’s feelings, not the interpreter’s?**

All 20 interviewed JCIs responded to the above question by saying “Yes”, because their ability to communicate well is the key to success in business and personal relationships; it is about more than just the words you use. Their body language speaks the loudest, bar none.

JCI 10 added;

“Body language comprises physical behaviour, your expressions, and mannerisms to communicate nonverbally, something which often occurs instinctively. While you’re talking to others, the gestures you make, the tone of your voice, the amount of eye contact you make, all of those behavioural aspects can send a strong message. They can either help people build trust in you, or they can offend or confuse others. In essence, body

language is a natural and unconscious language that broadcasts your true feelings and intentions, making it critical in interpreting.”

**C) Do you declare all the actual and potential conflicts of interest?**

According to the 20 JCIs, the primary duty of a court interpreter is to be a neutral facilitator of accurate communication between an isiZulu-speaking person and the other English-speaking participants in a legal proceeding.

JCI 15 added;

“An interpreter must not solicit or accept any payment, gift, or gratuities in addition to the interpreter's customary fees. Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and must be disclosed to the judicial officer, or if the legal proceeding is outside of court, to all attorneys involved in the proceeding.”

JCI 17 elaborated as follows;

“An interpreter should only divulge necessary information when disclosing the conflict of interest. The disclosure must not include privileged or confidential information.”

**D) Do you take sides during the interpreting session?**

In response to the above question, the 20 JCIs responded by saying, “No.” JCI 18 elaborated as follows: “We are not allowed to take sides. According to the principles we are using, interpreters should be neutral when they are doing their work.”

JCI 19 added;

“Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias or favouritism. Interpreters shall disclose any real or perceived conflict of interest.”

During court visits the researcher observed that there was a case in court 9, where the interpreter found out that the accused was her old friend and because of the shortage of



isiZulu court interpreters she was forced to take the case of which it was against the code of ethics for interpreters, but he opted to show professionalism by taking the case. In that case the interpreter acted professional in a way that you might think she did not know the accused.

#### **Theme 4: Confidentiality**

Interpreters are to maintain confidentiality at all times and never take advantage of any information disclosed during the course of their work. They must refrain from revealing information of the cases they interpret in and must also not disclose the identity of the parties they interpret for (Mikkelson 2000:49). Moeketsi (2008:239) states: “Conversations between attorneys and their clients contain private information and such information should be protected. Court interpreters shall not derive personal profit or take advantage of such confidential information acquired while acting in a professional capacity.”

#### **A) Do you think court interpreters are often exposed to highly confidential and sensitive information through interpretation?**

In response to the above question, all 20 JCI's responded by saying, “Yes.” JCI 20 elaborated as follows: “Interpreters’ duty is to maintain confidentiality at all times and never take advantage of any information disclosed during the course of their work.” The rest of the 20 JCI's, stated that court interpreters shall not derive personal profit or take advantage of such confidential information acquired while acting in a professional capacity. Moeketsi (2008:239) maintains that conversations between attorneys and their clients contain private information and such information should be protected.

During court visits the researcher also observed that the court interpreters are exposed to highly sensitive and confidential cases but what I noticed was that magistrates reminded them the importance of maintaining confidentiality at all times.

**B) Do you avoid unnecessary contact with all parties?**

According to the responses given by the 20 JCI's the answer was, "Yes." The gist of their responses is that court interpreters shall limit their participation in those matters in which they serve to interpreting and shall not give advice to the parties or otherwise engage in activities that can be construed as the practice of law.

JCI 13 elaborated as follows;

"The interpreter must remain detached from the content of the conversations to be able to keep the original tone and context. It is extremely important for the interpreter to remain unbiased. Therefore, contact with any parties involved in the case should be strictly kept professional. Private conversations must also be kept to a minimum to avoid the risk of bias."

**C) Do you think court interpreters respect confidentiality and privacy of all parties under all circumstances, unless otherwise required by law?**

In response to the above question, all the 20 JCI's responded by saying, "Yes." JCI 13 elaborated as follows; "Interpreters must protect and uphold the confidentiality of all privileged information obtained during the discharge of their duties."

JCI 7 added;

"We as court interpreters must be familiar with and understand the rules applicable to the handling of privileged and confidential information. It is especially important that interpreters understand and uphold the attorney-client privilege, which requires confidentiality with respect to any communication between attorney and client."

JCI 9 also added;

"Interpreters must also refrain from repeating or disclosing information obtained in the course of their employment that may be relevant to the legal proceeding."

**What are the official documents that you use to provide interpreting services?**

The following resources were given as answers by the interviewed isiZulu junior court interpreters collectively. We use the following documents; “Note pad, Pen, and Dictionaries.”

#### **5.2.1.2. Interview Responses for the isiZulu speaking senior court interpreters.**

##### **Theme 1: Accuracy**

##### **A) Do you add information when you are interpreting?**

In response to the above question, SCI 1 and 3 responded by saying, “Yes” while SCI 2,4 and 5 said, “No.”

SCI 3 elaborated as follows;

“Working with two different languages sometimes requires an interpreter to add or omit information which they think it is unnecessary, so I also add information that I see as relevant when I interpret for the client in order to make it flow fluently.”

SCI 1 added;

“Sometimes we as interpreters are forced to add information because these two languages are differing culturally. For example, in English you are allowed to call an adult person with his or her name while in isiZulu culture you should show respect.”

These statements support what was echoed by the JCI's where they stated that they add information when interpreting for their clients.

In support of this response, SCI 5 elaborated as follows;

“Even though the language that I am working with are structurally different, I prefer to interpret the message as it is to avoid distortion of the meaning. Sometimes I use literal interpretation.”

SCI 2 added;

“I don’t believe in adding information because it makes the message lose its original meaning of which that can mislead the client that I am assisting. So, I would be lying if I said to you, I do add but pass the message as it is so the client can get the gist of what was said in the SL.”

This is contrary to the junior court interpreters and senior court interpreters 1 and 3 above who said they add information when they interpret for their clients.

**B) Do you sometimes omit information that you think is not necessary for the participant?**

In response to this question, all the 5 senior court interpreters responded by saying, “No.”

SCI 4 elaborated as follows;

“When we started our jobs five years ago, we were told that the interpreters duty is to pass the message as it without adding or omitting any information, so we usually interpret the message as it is, no matter how long the message is.”

SCI 3 added;

“My mentor from the previous company I used to work for told me that each and every time I must try by all means to avoid omission on my interpretation services.”

This is contrary to what was said by the junior court interpreters, where they argued that they usually omit words from the source language that seem not to distort the meaning of the target language, when omitted, to avoid long explanations.

**C) As an interpreter, do you make effort to maintain the style, tone and register of the speaker when you are interpreting?**

In response to the above question, all the 5 SCIs said, “Yes,” interpreters should maintain the style, tone, and register of the SL when they are interpreting.

SCI 5 elaborated as follows;

“The interpreter should be very accurate and convey all the nuances, and the tone of voice as much as possible. Educational level can indicate the level of words he might choose. Additionally, their professions also decide what kind of jargon they might use.”

SCI 3 added;

“It is important for the rendition which reflect the register used by the speaker, because language choices which reflects the speaker’s background and culture.”

SCI 3 explained as follows;

“If we are in courts, sometimes we don’t need to literally provide the equivalent of legal terminology in language because the client won’t understand it easily. In that case we explain the terms used in isiZulu.”

This is similar to the responses given by the junior court interpreters where they stressed the importance of maintaining the style, tone and register of the SL.

**D) Do you correct interpreting errors during or after the interpreting session?**

In response to this question, the SCIs 1, 2,3 and 4 said that they do correct during the session to make sure that the message is correctly delivered. Contrary to these interpreters, SCI 5 seemed to differ because he said, “it depends on the court I am placed at, like court 9 (minor court), where you need to make sure that you correct the errors, but I prefer to rectify mistakes made at the end of the session if I am working in other courts.”

Like junior court interpreter 20, SCI 5 explained as follows;

“Sometimes we make mistakes by forgetting the equivalent of the words and we opt to antonyms which is very different from the equivalent. By doing that we are forced to rectify the errors during the interpreting session for the sake of the client.”

**E) As an interpreter, do you think you are interpreting in the mode that enables the greatest clarity and accuracy with the least distractions?**

In response to the above question, SCIs 1 and 4 responded by saying, “Yes”, while SCIs 2, 3 and 5 responded by saying “No.”

SCI 1 elaborated as follows;

“In most of the cases we use consecutive mode, but in some cases, we are forced to use the simultaneous mode of interpreting. However, because of the experience that I have as an interpreter I personally use the consecutive mode.”

SCI 4 added;

“Consecutive mode is mostly used on first appearances cases while the simultaneous mode is used in serious cases, like in court “J” where they are dealing with murder cases. However, because of the experience we use one mode which is the consecutive mode.

This supports what was said by the junior court interpreters who said they are sometimes forced to use simultaneous mode because of the experience they have.

SCI 5 elaborated as follows;

“In the court that I’m working in we are forced to use the simultaneous mode which I think it does not enable us to offer much clarity and accuracy with the least distractions because we are dealing with the first appearances only which are the clients who need the consecutive mode.”

This is contrary to now- the junior court interpreters and senior court interpreters responded. Thus, the JCI stated that they are sometimes forced to use simultaneous mode because of the experience they have. Additionally, SCI 1 and 4 said consecutive mode is mostly used on first appearances cases while the simultaneous mode is used in serious cases, like in court “J” where they are dealing with murder cases most of the time. Due their experience, interpreters stick to the consecutive mode.

## **Theme 2: Competence**

### **A) Are you sometimes required to provide professional services in matters in which you cannot perform accurately?**

In response to this question, all 5 SCIs responded by saying, “No.” This is contrary to the junior court interpreters’ response who said they were in high demand and would be expected to provide services even in matters which they were not confident to deal with. By contrast, the senior court interpreters were allocated more serious cases such as murder or rape sentencing. SCI 1 elaborated as follows; “As an interpreter you should act professional so that you can provide professional services in all matters you perform.”

SCI 2 also added;

“As a court interpreter you should not be forced to perform in matters where you cannot perform accurately.”

### **B) Do you sometimes withdraw from a case in which your professional performance is affected by lack of skills?**

Two SCIs who did not have an interpreting qualification (some of the senior long-serving court interpreters were not in possession of a qualification because it was not required when they were appointed) said, “No.”

### **C) Do you think it is important for all South African court interpreters to have an interpreting qualification?**

Like the junior court interpreters, in response to this question, all the 5 isiZulu senior court interpreters responded by saying, “Yes,” it is vital for all court interpreters to have a qualification.

SCI 4 elaborated as follows;

“It is important for all court interpreters to have an interpreting qualification. By looking at the results reflecting on the department of justice states, interpreting qualification is a vital that all isiZulu court interpreters should have.”

This statement supports the responses that were given by the junior court interpreters, where they said, “qualified interpreters apply all the interpreting techniques when they interpret while the unqualified just interpret without applying all these techniques.”

**D) Do court interpreters perform acts that are the official responsibility of court officials?**

All the 5 isiZulu senior court interpreters responded by saying, “No.” SCI 3 elaborated as follows; “All the work or duties that we perform are written on our appointment letters and the oath of office we signed.”

This statement supports the responses that were given by the junior court interpreters, where they mentioned that the duties they are performing are written down on their appointment contract.

Like the junior interpreters this statement is contrary to the one that was echoed by Lebeso (2011:3) where he stated that, in South Africa court interpreters in many instances find themselves performing tasks of other court officials such as administering oaths to witnesses, explaining the accused’s rights to cross-examination of the state witnesses, and explaining the accused’s rights to mitigation of sentence and appeal among other things.

**E) Do you think the dress code is important when you are a court interpreter?**

Like the junior court interpreters, in response to the above question, all the 5 senior court interpreters responded by saying, “Yes”, legal interpreters working in courtrooms are expected to wear professional courtroom attire, comparable to what an attorney would wear.



SCI 5 elaborated as follows;

“Interpreters are expected to dress in a conservative, professional and dignified way as a sign of respect for the judicial system. Casual clothing in court is not acceptable.” This statement is also supported by Moeketsi (2008:237), when she states that the court interpreter's style of dress should be consistent with the dignity of court proceedings; it should be of reasonable and acceptable standards, clean and decent.

This confirms the response that was given by the junior court interpreters where they mentioned that dress code is important and compulsory for all court interpreters. In support to their statements, they said the following:

“All court interpreter wears formal clothes when they are on duty. For example, male’s interpreters wearing long-shirt sleeves with long-trousers and tie while female wear long dresses with a coat.”

**F) Do you think court interpreters should be bound to give account for their behaviour while on duty?**

According to all the responses given by all the 5 SCIs, court interpreters should be held accountable if they misbehave or not doing their work as expected.

SCI 4 elaborated as follows;

“As an interpreter you should respect your professional so if you fail to do so, you must be accountable for your misconduct.”

This statement is supported by Moeketsi (2008:238) when she says, “the court interpreter should not use the court's time or facilities for private or personal gain. They should be guaranteed to give account for their behaviour while on duty.”

During court visits, February 2022, the researcher observed that in court 12 the interpreter was found of omitting important information on purpose by the magistrate just because

he disliked the accused, and that interpreter was called to attend a disciplinary hearing.” This shows that court interpreters are held accountable for their behaviour.

### **Theme 3: Impartiality**

#### **A) Do you think an interpreter should offer an advice or opinions when he/ she is requested to do so?**

All the 5 SCIs responded by saying an interpreter should not offer an advice or opinions even if he/she is requested to do so.

SCI 2 elaborated as follows; “Interpreters should not converse with parties, witnesses, jurors, attorneys, or friends or relatives of any party, except in the discharge of their official functions.”

SCI 3 added;

“It is important that interpreters, who are often familiar with attorneys, courtroom staff, and law enforcement officers, refrain from casual and personal conversations with anyone in court that may convey an appearance of a special relationship or partiality to any of the court participants.”

SCI 3, also added;

“The interpreter should strive for professional detachment. Verbal and non-verbal displays of personal attitudes, prejudices, emotions, or opinions should be avoided at all times.”

Responses of SCIs 2 and 3 is consistent with the junior court interpreters’ that the interpreter should strive for professional detachment.

#### **B) Do you think an interpreter should let his or her tone of voice, body language and demeanour reflect the speaker’s feelings, not the interpreter’s?**

In response to the above question, all the 5 SCIs responded by saying “Yes.”

SCI 3 elaborated as follows; “Our main aim as court interpreters is communicating well in order to succeed in delivering the correct message.”

This statement supports the junior court interpreter’s response, who echoed that body language comprises physical behaviour, your expressions, and mannerisms to communicate nonverbally, something which often occurs instinctively. While you are talking to others, the gestures you make, the tone of your voice, the amount of eye contact you make, all of those behavioural aspects can send a strong message and they can either help people build trust in you, or they can offend or confuse others.

### **C) Do you declare all the actual and potential conflicts of interest?**

In response to the question all the 5 SCIs responded by “Yes.” Like the junior court interpreters, SCI 2 elaborated as follows; “The primary duty of a court interpreter is to be a neutral facilitator of accurate communication between an isiZulu speaking person and the other English-speaking participants in a legal proceeding.”

SCI 4 further elaborated as follows;

“An interpreter must not solicit or accept any payment, gift, or gratuities in addition to the interpreter’s customary fees, any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and must be disclosed to the judicial officer, or if the legal proceeding is outside of court, to all attorneys involved in the proceeding.”

These responses support what was given by the junior court interpreters.

### **D) Do you take sides during the interpreting session?**

In response to the above question, all the 5 SCIs responded by saying, “No”, we are not allowed to take any sides. SCI 4 elaborated as follows: “Interpreters should be neutral when they are doing their work.”

SCI 2 added;

“Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias or favouritism. Interpreters shall disclose any real or perceived conflict of interest.”

This also confirms what was said by the junior court interpreters on their responses and what was observed by the researcher, where they stated that court interpreters do not take sides during the interpreting session.

#### **Theme 4: Confidentiality**

##### **A) Do you think court interpreters are often exposed to highly confidential and sensitive information through interpretation?**

In response to the above question, all the 5 SCIs responded by saying, “Yes”, the interpreter’s duty is to maintain confidentiality at all times and never to take advantage of any information disclosed during the course of their work.

SCI 1 elaborated as follows;

“Court interpreters shall not derive personal profit or take advantage of such confidential information acquired while acting in a professional capacity.” Moeketsi (2008:239) articulates that conversations between attorneys and their clients contain private information and such information should be protected.

During court visits the researcher observed that the senior court interpreters are exposed to highly sensitive and confidential cases. However, he noticed that magistrates did not remind them to maintain confidentiality at all times.

The reason the magistrate did not remind them seems to be their experience that they have in the industry, as the court trusts them.

This statement is contrary to what happens during the junior court interpreters’ sessions since the magistrate always reminds them the importance of maintaining confidentiality at all times.

**B) Do you avoid unnecessary contact with all parties?**

In response to the above question, all the 5 SCIs responded by saying, court interpreters shall limit their participation in those matters in which they serve to interpreting. Additionally, they shall not give advice to the parties or otherwise engage in activities that can be construed as the practice of law.

Like the junior court interpreters, SCI 2 elaborated as follows; “Interpreter must remain detached from the content of the conversations to be able to keep the original tone and context.”

SCI 5 added;

“It is extremely important for the interpreter to remain unbiased. This is why contact with any parties involved in the case should be strictly kept professional. Private conversations must also be kept to a minimum to avoid the risk of bias.”

These responses agree with what was said by the junior court interpreters, who stated that it is important for all court interpreters to remain unbiased.

**C) Do you think court interpreters respect confidentiality and privacy of all parties under all circumstances, unless otherwise required by law?**

Like the junior court interpreters, in response to the above question, all the 5 SCIs responded by saying, “Yes,” interpreters must protect and uphold the confidentiality of all privileged information obtained during the discharge of their duties.

SCI 3 elaborated as follows;

“We as court interpreters must be familiar with and understand the rules applicable to the handling of privileged and confidential information. Thus, interpreters must understand and uphold the attorney-client privilege, which requires confidentiality with respect to any communication between attorney and client.”

SCI 5 also added by saying that;

“Interpreters must also refrain from repeating or disclosing information obtained in the course of their employment that may be relevant to the legal proceeding.”

This statement complements reports by junior court interpreters.

### **What are the official documents that you use to provide interpreting services?**

The following resources were given as answers by the interviewed isiZulu senior court interpreters collectively. We use the following documents; “Note pad, pen and dictionaries.”

#### **5.2.1.3. Interview Responses for court managers**

The following are thematically responses that will lead to the major findings of the study on the court manager’s questions.

#### **Theme 1: Accuracy**

##### **A) How long have you worked as a manager in this court?**

According to the responses given by the 5 court managers (CMs), three of them had been in the industry for more than five years. There was a tie in two categories; it showed that two of the managers had been in the court interpreting industry for not more than five years while the other three had been interpreting for more than twenty years.

##### **B) Do you think court interpreters add information when they are interpreting?**

According to the responses given by all the 5 CMs, a court interpreter's best skills and judgment should be used to interpret accurately without embellishing, omitting, or editing.

CM 1 elaborated as follows;

“In my view, court interpreters do add information when they deliver their interpretation. For example, Thabani Zwane, the court found you guilty of stealing clothes at one of the well-known shops in town. Stote- *“Babu Zwane, inkantolo ikuthola unecala lokweba*

*izimpahla kwesinye sezitolo ezaziwayo edolobheni.*” In the statement the interpreter added the information in his interpretation, the reason is that in isiZulu culture we respect adults only to find that in English we do not.

This statement complements the reports by junior and senior court interpreters.

**C) Do interpreters sometimes omit information that you think is not necessary for the witness?**

The five court managers responded by saying that court interpreters did omit unnecessary information for the parties. CM 4 elaborated as follows; “They usually omit words from source language that seems not to distort the meaning of the target language in order to avoid a long explanation on their interpretation, for example; to be poverty stricken-we would say, *“Ukudla imbuya ngothi,”* which would in fact a self-generated expression (isiZulu idiom), which accurately replaces the whole SL expression.

CM 5 also added:

“There are also some instances where you will find that one omits some words in an interpretation in order to make it easy for the target listener understand the meaning of the SL expression.”

This statement confirms what was said by the junior court interpreters, who maintained that they would omit information during their interpretation.

During interviews with the court interpreters, it was observed that court managers often visited the court in order to monitor the sessions on how court interpreters do their work. This suggested that court managers understood the work of the interpreters.

**D) As a manager, do you think court interpreters make effort to maintain the style, tone and register of the speaker when you are interpreting?**

The 5 CMs said, “Yes.” CM 3 elaborated as follows; “When the court interpreter interpreting testimony for the record, he or she is expected to retain every single element

of information that was contained in the original message, in as close to a verbatim form as English style, syntax, and grammar will allow."

CM 2 added;

"The interpreted version should include all of the pauses, hedges, self-corrections, hesitations, and emotion as they are conveyed through tone of voice, word choice, and intonation."

**E) Do you think court interpreters should correct interpreting errors during or after the interpreting session?**

In response to the above question, all the 5 CMs responded by saying, "Yes/ No." CM 1 elaborated as follows; "If at any point you realize that you have previously made an error in interpretation, as an interpreter it up to you whether you correct the record as soon as the error becomes apparent to you or after because it depends on the mode of interpreting you are using on the day."

CM 4 also added;

"Other people would say the court interpreters should correct interpreting errors during the session because their duty is to pass the message correctly, because if they do it after the message will be distorted but to us who has been in the industry for quite some time, we would say, it is up to the court interpreter on how he/ she wants to do it."

This statement is neutral to what was said by both junior and senior court interpreters, where they said it depends on the cases or courts they are working on.

**F) As a manager, do you think court interpreters are interpreting in the mode that enables the greatest clarity and accuracy with the least distractions?**

In response to the above question, all 5 CMs responded by saying, "Yes". CM 2 elaborated as follows: "Most of the cases court interpreters are using consecutive mode, but in some cases, they are forced to use the simultaneous mode of interpreting."



CM 4 added;

“Consecutive mode is mostly used on first appearances cases while the simultaneous mode is used in serious cases, like in courts where they are dealing with murder cases most of the time.”

This statement supports what was said by both senior and junior court interpreters on their responses.

## **Theme 2: Competence**

### **A) Are court interpreters sometimes required to provide professional services in matters in which they cannot perform accurately?**

In response to this question, all the 5 CMs said, “No.” CM 3 elaborated as follows; “If you are an interpreter, you should be professional so that you can provide professional services in all matters you perform, therefore court interpreters are not forced to perform in matters they cannot perform accurately.”

Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible (Moeketsi 2008: 236).

This is supported by the junior and senior court interpreters’ responses.

This is further supported by Mnyandu (2016:75) where he states interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.

### **B) Do court interpreters sometimes withdraw from a case in which their professional performance is affected by lack of skills?**

In response to the above question all the 5 CMs responded by saying “Yes”, court interpreters do withdraw from cases that affect their professional performance but depending on how serious the case is.

Court manager 5 added; “We are doing this in order to protect the image of the interpreters and the department.”

**C) Do you think it is important for all South African court interpreters to have an interpreting qualification?**

In response to this question, all the 5 court managers responded by saying “Yes,” it is important for all court interpreters to have a qualification because qualified interpreters seem to have better skills than those who do not. CM 5 elaborated as follows; “A qualified interpreter is necessary more is especially when the information being communicated is complex or is exchanged for a lengthy period of time.”

CM 3 also added;

“It is important for all court interpreters to have an interpreting qualification because you gain excellent language skills and fluency from one language to another language, knowledge of the culture, practices, institutions and current affairs of the country or countries where the foreign language is spoken and knowledge of the subject area you are interpreting.”

**D) Do you think court interpreters perform acts that are the official responsibility of court officials?**

In response to this question, all 5 court managers responded by saying “No”, whatever work court interpreters are doing is written down on their job description.

CM 1 elaborated as follows;

“As a former court interpreter, I would be lying to God if I would say court interpreters are performing duties that are outside their job description. All I know is that there is a job description and code of conduct given to all the interpreters before starting to work, those documents state clearly on how court interpreters should operate.”

This is contrary to what was echoed by Lebesse (2013:55) where he stated that, court interpreters find themselves performing the tasks that are outside their scope of duties, for example acting as magistrates in turn compromising their own tasks in the process.

This statement confirms what was said by both junior and senior court interpreters.

**E) As a manager, do you think the dress code is important when you are a court interpreter?**

In response to the above question all the 5 CMs said, “Yes”, dress code is important. Interpreters must always look representable or dress well. CM 1 elaborated as follows; “According to the code of conduct book, court interpreters working in courtrooms are expected to wear professional courtroom attire, comparable to what an attorney would wear.”

CM 4 added;

“Interpreters are expected to dress in a conservative, professional and dignified way as a sign of respect for the judicial system. Casual clothing in court is not acceptable.”

**F) Do you think court interpreters should be bound to give account for their behaviour while on duty?**

In response to the above question all the 5 CMs said, “Yes”, court interpreters should be held accountable for behaviour but not while they are on duty. CM 2 elaborated as follows: “It is wise to wait for the interpreter to finish his or her duty then call them aside to discipline them or to hold them accountable.”

CM 3, stated;

“All the court interpreters who misbehave or go against their code of conduct are held accountable for their deeds.”

### **Theme 3: Impartiality**

#### **A) Do you think an interpreter should offer an advice or opinions when he/ she is requested to do so?**

In response to the above question all the 5 CMs said, “No.” CM 3 elaborated as follows: court interpreters are not allowed to offer advice unless if it is stated on their job description or requested by the court of law to do so.”

CM 4 added; “Court interpreters are not there to give advice or opinion but are required to be objective, impartial and to provide interpreting services.”

CM 2 further elaborated as follows;

“The interpreter will interpret only what is said by the service provider or the patient/client, without adding or subtracting information.”

#### **B) Do you think an interpreter should let his or her tone of voice, body language and demeanour reflect the speaker’s feelings, not the interpreter’s?**

In response to the above question, all CMs said, “Yes.” CM 3 elaborated as follows; “Body language or speaker’s feelings reflection is important so that both parties will understand each other well.

CM 2 added;

“Court interpreters who use other visual modes of communication, however, must employ all of the visual cues of the language they are interpreting, including facial expressions, body language, and hand gestures.”

This statement confirms the responses that were given by the court interpreters, where they stressed the importance of body language during the interpretation process.

#### **C) Do you think court interpreters should declare all the actual and potential conflicts of interest?**

In response to the above question, all the 5 CMs responded by saying, “Yes.” CM 2, stated that; “The Interpreter’s code of ethics instructs the interpreter to uphold attorney-client privilege and keep their information confidential and a good interpreter always keeps client information private and confidential no matter in which industry they are operating.”

CM 4 elaborated as follows; “Interpreters take responsibility for their work and conduct; they are committed to providing quality service in a respectful and culturally sensitive manner, dealing honestly and fairly with other parties and colleagues, and dealing honestly in all business practices.”

This statement confirms the responses provided by the court interpreters, stating that there is no need for court interpreters to declare all the actual and potential conflicts of interest.

#### **D) Do court interpreters take sides during the interpreting session?**

In response to the above question, all the 5 CMs responded by saying “No”. CM 4 elaborated as follows; “Court interpreters shall be impartial and unbiased in their interpretation and shall refrain from conduct that may give an appearance of bias and court interpreters shall disclose any real or perceived conflict of interest.”

#### **Theme 4: Confidentiality**

##### **A) Do you think court interpreters are often exposed to highly confidential and sensitive information through interpretation?**

In response to the above question all the 5 CMs said, “Yes”, court interpreters are exposed to highly confidential information. CM 1 elaborated as follows; “Court interpreters are informed about confidentiality and respect of their job before they start working on their job description.”

CM 3 added;

“The court interpreters are exposed to highly sensitive and confidential cases, but they are always reminded by the court of law not to forget the importance of maintaining confidentiality at all times.”

During court visits the researcher observed that the court interpreters are exposed to highly sensitive and confidential cases but what he noticed when he was observing is that magistrates remind them the importance of maintaining confidentiality at all times.

**B) Do you think court interpreters should avoid unnecessary contact with all parties?**

In response to the above question, all the 5 CMs responded “Yes”, court interpreters must be neutral as possible. CM 5 elaborated as follows; “Court interpreters must always avoid unnecessary contact with all the parties unless they are told to do so.”

CM 3 added;

“Court interpreters shall limit their participation in those matters in which they serve to interpreting and shall not give advice to the parties or otherwise engage in activities that can be construed as the practice of law.”

This confirms the statement made by JCI 13, where he elaborated as follows;

“Interpreter must remain detached from the content of the conversations to be able to keep the original tone and context. It is extremely important for the interpreter to remain unbiased. This is why contact with any parties involved in the case should be strictly kept professional. Private conversations must also be kept to a minimum to avoid the risk of bias.”

**C) Do you think court interpreters respect confidentiality and privacy of all parties under all circumstances, unless otherwise required by law?**

In response to the question above, all the 5 CMs said, “Yes”, court interpreters should respect confidentiality and privacy of all parties. CM 1 elaborated as follows; “Court

interpreters are often exposed to highly confidential and sensitive information through interpretation and because they have access to documents or other written materials related to the cases they work on.”

CM 3 also added;

“It’s important clients and courtroom workers are able to trust the court interpreters they work with not to repeat or share information learned while on the job and the only reason in which a court interpreter would have a need to divulge private information is if it’s required by law or for safety related issues.”

This statement confirms response given by JCI 9, where she stated that;

“Interpreters must also refrain from repeating or disclosing information obtained in the course of their employment that may be relevant to the legal proceeding.”

**What are the official documents that your interpreters use to provide interpreting services?**

The following resources were given as answers by the interviewed court managers collectively. They use the following documents; “Note pad, pen, and dictionaries.”

**On the theme of accuracy, the three cohorts (junior court interpreters, senior court interpreters and court managers) responded as follows;**

- The junior and senior court interpreters agreed that they add information when they are interpreting for their clients, however the court manager said they do not add information.
- The junior court interpreters said they omit information; senior court interpreters and court managers strongly believed that they do not omit.
- The Court managers, junior and senior court managers agreed that they do maintain style, tone, and register of the speaker when they are interpreting. Junior court interpreters further said that even though they agreed that maintaining style,

tone and register is important, but they are sometimes persuaded to change style, tone, and registers of SL for the benefit of their clients.

- Four junior and nineteen senior court interpreters said that they correct errors during the session. However, one junior and one senior court interpreter believed in correcting the errors at the of the session. The court managers were neutral; they supported both interpreters who correct the errors during or after.
- The court managers, junior and senior court interpreters agreed that they were interpreting in the mode that enables them to interpret accurately which is the consecutive. However, sometimes senior court interpreters are forced to use the simultaneous mode because of the experience they have in the industry.

**On impartiality, they responded as follows;**

- Junior court interpreters agreed that sometimes are required to professional services in matters in which they cannot perform accurately. Contrary to what junior court interpreters said, court managers and senior court interpreters said they are not required.
- The Court managers and junior court interpreters agreed that they withdraw from cases in which their professional performance will be affected by lack of skills, while the senior court managers said no, they do not withdraw.
- All the junior and senior, court managers agreed that it is important for all court interpreters to have a qualification.
- All the three cohorts agreed that they do not perform duties of other court officials.
- All the three cohorts agreed that the dress code is very important when you are a court interpreter.
- The junior and senior court interpreters said that court interpreters should be accountable for their behaviour while on duty. By contrast to what junior and senior court interpreters said, the court managers said no, they should not be accountable for their behaviour while on duty.



### **On impartiality, they responded as follows;**

- The three cohorts agreed that interpreters should not offer an advice or opinion even if they are requested to do so.
- The court managers, junior and senior court interpreters agreed that the interpreter let the voice, tone, body language reflect the speakers' feelings not theirs.
- All the three cohorts agreed that court interpreters declare all the conflicts of interest.
- The court managers, junior and senior court interpreters said court interpreters do not take sides, they are neutral.

### **On the competence, they responded as follows;**

- The three cohorts agreed that court interpreters are often exposed to highly confidential and sensitive information through interpretation.
- The court managers, junior and senior court interpreters agreed that court interpreters avoid unnecessary contact with all parties.
- The three cohorts agreed that court interpreter respect confidentiality and privacy of all parties under all circumstances, unless otherwise required by law.

The resources used by the junior and senior court interpreters are; Note pad, pen, and dictionaries.

According to the responses given above the cohorts seems to be aware of the interpreters' code of ethics and make an attempt to enact their roles according to the code.

### **5.3. Conclusion**

It appears from the experience and perception of both court interpreters and court managers that there is a role that is played by the court interpreters, and it is understood by both parties involved, which are the court managers and interpreters. This concludes the chapter on findings and analysis. This chapter focused on analysing the data received

through interviews conducted. The researcher analysed the data obtained via question-and-answer format, and responses were also interpreted where necessary. The recommendations and the summary of the findings will be presented in the following Chapter Six. Also, future research areas will be suggested in the next chapter.

## **6. CONCLUSIONS AND RECOMMENDATIONS**

### **6.1. Introduction**

The previous chapter focused on data analysis and interpretation of the findings. This chapter will provide an overview of the study and its conclusions. Further to this, it will summarise the research findings and will provide recommendations for improving court interpreters' practice of the professional code of conduct. Finally, suggestions for future research will be provided.

The aim of the present study was to explore how court interpreters enact their roles based on professional ethics (code of ethics) in KwaZulu-Natal Province of South Africa and the following objectives informed the research undertaken:

- To examine the court interpreter's awareness of their professional ethics.
- To investigate the extent, they do their work according to the professional ethics.
- To explore the perceptions of the court interpreters on doing their work based on the professional ethics.

To achieve these aims, the understanding of the roles for the court interpreters between the court interpreters and the court managers were investigated. The report commenced with the introduction chapter, followed by literature review, methodology, data analysis and interpretation and the final chapter, which concludes the study. These chapters are summarised below.

### **6.2. Summary and discussion of salient points**

The current study sought to explore how court interpreters enact their roles based on professional ethics (code of ethics) in KwaZulu-Natal province of South Africa, using a qualitative methodology within the interpretivism paradigm as an analytic lens, the data

that were collected through one- on-one interviews were analysed and discussed in line with the objectives of the study. The research questions were as follows:

- Are court interpreters aware of their professional ethics?
- Do court interpreters follow the professional ethics when they do their work?
- What are their perceptions about their role as court interpreters?

Findings from the current study highlight the significance of understanding the role of the court interpreter by both court interpreters and court managers by applying their code of ethics. These findings are based on the analysis of the responses of the junior court interpreters, senior court interpreters and court managers, recorded cases and courtroom observations based on the four themes provided above.

This study found that court interpreters and managers have similar views on the nature of court interpreters' professional code of ethics, which makes it easy for other court officials to understand the role of court interpreters. For example, in each theme, all the cohorts understood the professional code of ethics in a way that they tried every time to apply it during their interpreting sessions. Some scholars such as Lebesse (2011), mentioned that the question of the role of court interpreters was still a debatable issue around the world, but the findings of this study were contrary to that point of view because they revealed that court interpreters and other court officials understood the role of court interpreters, when they were responding to the questions asked. The study revealed that court interpreters were not forced or even instructed to perform duties belonging to other court officials because all the duties they were expected to perform were written on their appointment contracts.

The study further revealed that court interpreters in interpreting the SL utterances, omitted words which were in the SL. In other cases, they added expressions which were not in the original SL because the languages that they were working with were structurally different and cultures of the SL and TL speakers were different. The responses of the court managers indicated that they were aware of these aspects of language and culture.

This study further showed that these cohorts love and respect their profession as, for example, their dress code demonstrated.

### **6.3. Recommendations**

No study can cover all aspects of a given phenomenon. Therefore, the following suggestions are offered for future investigation.

Recommendations are provided in the following sections:

- Junior court interpreters
- Senior court interpreters
- Court managers
- The Department of Justice (DoJ)

#### **6.3.1. Recommendation for junior court interpreters**

1. Junior court interpreters ought to work closely with senior court interpreters to alleviate fear of working in murder trials. Court manager's involvement can play a vital role in ensuring that junior court interpreters produce a quality and satisfactory results in their interpretation.

#### **6.3.2. Recommendation for Senior court interpreters**

1. Senior court interpreters should teach junior court interpreters to instil confidence in their work.

#### **6.3.3. Recommendation for Court managers**

1. Court managers should continue to attend all court cases rather than assuming that they know what court interpreters do.

#### **6.3.4. Recommendation for the Department of Justice (DoJ)**

1. The Department of Justice (DoJ) should employ qualified court interpreters only.

2. The department should compile a professional code of ethics for the court interpreters and make it available to court interpreters, magistrates, and court managers.
3. DoJ should make sure that the court interpreter is a member of an accredited professional body.

#### **6.4. Suggestion for future research**

Although this study focused on understanding how court interpreters enact their roles based on professional code of ethics in KwaZulu-Natal province, there is still room for future studies as this study was limited only in one Magistrate Court from one province. The researcher suggests that a similar research study be conducted in other provinces or across the country.

#### **6.5. Concluding Remarks**

The aim of the study was to explore how court interpreters enact their roles based on professional ethics (code of ethics) in KwaZulu-Natal province of South Africa. The study further aimed at exploring the perceptions of the court interpreters in doing their work based on the professional ethics. Some recommendations have been made to mitigate the shortcomings identified in the study. The achievements of the aims of this study shed light on the role of court interpreters and this improve quality interpreting in South Africa.

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## APPENDICES

### Appendix A: Permission to Conduct Research



Department of Media, Language & Communication

Language and Translation

Miriam Bee Building

ML Sultan Campus

PO Box 1334

Durban

4000

Tel: (031) 373 6804

**Dear Court Manager.**

My name is **Bhekizenzo Ben Simelane (Student no. 21104718)**. I am studying towards the **Master of Technology in Language Practice in the Media Language and Communication department at the Durban University of Technology.**

As an M-Tech student, I am required to present dissertation on an area of interest in our field of study. My topic is **“Exploring the role of court interpreters in KwaZulu-Natal**

**province of South Africa**". I hereby request permission to conduct my research in your department in order for me to compile an accurate research report.

Should you require a final dissertation or to gain access to have a look at the final dissertation, please contact the Head of Department, Dr. S.P. Zulu at [zulus@dut.ac.za](mailto:zulus@dut.ac.za)

I would appreciate your permission and cooperation in this matter.

Yours Sincerely

---

Mr. B.B. Simelane

***Researcher***

## Appendix B: Letter of information



**Title of the Research Study:** Exploring the role of court interpreters in KwaZulu-Natal province of South Africa.

**Principal Investigator/s/researcher:** Bhekizenzo Ben Simelane, Master's Degree in Language Practice.

**Co-Investigator/s/supervisor/s:** Dr. M.V. Ndlovu and Dr. S.P. Zulu, D.Litt. and D.Litt.

### **Brief Introduction and Purpose of the Study:**

I am Bhekizenzo Ben Simelane. I am conducting a research project on the above - mentioned topic. I would like to invite you to participate in this research project. The aim of the proposed study is to explore how court interpreters enact their roles based on professional ethics in KwaZulu-Natal province of South Africa.

**Outline of the Procedures:** I will conduct the interviews following the interviewing process. You are one of the thirty-five (35) court interpreters that I will interview for the purpose of the study. If you feel uncomfortable to be interviewed, you will be given (not more than five days' prior) the structured questions that will guide interviews. The interviews will be expected to vary in length from 30 minutes to 1 h00.

**Risks or Discomforts to the Participant:** If you have access to Ms Teams or Zoom (because of COVID 19) we will be recording our interviews and your name will remain confidential. Therefore, there won't be any risk or discomfort.

**Benefits:** All participants will gain from this research indirectly since the purpose of this study is to explore the role of court interpreters in KwaZulu-Natal province.

**Reason/s why the Participant May Be Withdrawn from the Study:** Your

participation in this project is voluntary. You may withdraw at any time from this research project with no negative consequence.

**Remuneration:** Though your contribution towards this research would be very important, please note that there will be no monetary gain from participating in this research project.

**Costs of the Study:** Please note that you will not pay or lose anything for participating in this project.

**Confidentiality:** To protect the participants' confidentiality, pseudonyms will be used. Collected data will only be accessible to the researcher and supervisors to protect respondents' right to confidentiality. Electronic data will be password protected and hard copies will be locked in a safe cabinet which is accessible only to the researcher and supervisors. After the completion of the study, the collected data will be kept for five years and thereafter deleted from the computer and hard copies destroyed.

**Research-related Injury:** Since you are going to participate using Ms Teams or Zoom and telephone, therefore we do not expect any injuries in this research.

**Persons to Contact in the Event of Any Problems or Queries:**

Dr. M.V. Ndlovu and [Manqoban1@dut.ac.za](mailto:Manqoban1@dut.ac.za), please contact the researcher (084 35 80006), my supervisor (031 373 6844) or the Institutional Research Ethics Administrator on 031 373 2375. Complaints can be reported to the DVC: Research, Innovation and Engagement Prof S Moyo on 031 373 2577 or [moyos@dut.ac.za](mailto:moyos@dut.ac.za)

## Appendix C: Consent



### CONSENT

#### Statement of Agreement to participate in the research:

- I hereby confirm that the researcher has informed me, Bhekizenzo Simelane researcher, about the nature, conduct, benefits, and risks of the study – Research Ethics Clearance number: \_\_\_\_\_,
- I have also received, read, and understood the above-written information (Participants Letter of information) regarding the study.
- I am aware that the results of the study, including personal details regarding my sex, age, date of birth, initials and diagnosis will be anonymously processed into a study report.
- In view of the requirements of research, I agree that the data collected during this study can be processed in a computerised system by the researcher.
- I may, at any stage, without prejudice, withdraw my consent and participation in the study.
- I have had sufficient opportunity to ask questions and (of my own free will) declare myself prepared to participate in the study.
- I understand that significant new findings developed during the course of this research which may relate to my participation will be made available to me.

\_\_\_\_\_

Full Name of participant	Date	Time	Signature / Right
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## Thumbprint

I, Bhekizenzo Ben Simelane herewith confirm that the above participant has been fully informed about the nature, conduct, and risks of the above study.

\_\_\_\_\_

Full Name of Researcher    Date

Signature

\_\_\_\_\_

Full Name of Witness (if applicable)    Date

Signature

\_\_\_\_\_

Full Name of Legal Guardia

Date

Signature

(If applicable)

## Appendix D: Interview guide- Court Interpreters



How court interpreters enact their roles based on professional ethics (code of ethics) in KwaZulu-Natal province of South Africa.

### Interview guide- Court Interpreters

Date: .....

Study site: Online (MS Teams or Zoom); Video Call

Participant ID: .....

#### 1. Introduction

I would like to first thank you for accepting to participate in this interview. Your participation would help us know your understanding of the role of the court interpreter.

The aim of our interview is to discuss your understanding of the role of the court interpreter. I am interested in your thoughts and opinions as a court interpreter who has experienced it and any other feedback you may have that would be useful to the study. Everything you agree to share with me today, whether positive or negative, in

particular your feelings, thoughts, and concern regarding the role of the court interpreter, will be useful to help understand what the role of the court interpreter is.

Please take your time with your answers and feel free to ask questions any time if there is something you do not understand. You share what you want to share; there are no wrong or right answers. If I ask a question which you feel you are uncomfortable to answer, tell me and I will go to the next question. You are also free to stop the interview at any time.

Our discussion will be strictly confidential, meaning your identity will never be revealed and only what you say will be used to know your understanding. For the purpose of collecting the most accurate data possible, I will record the interview using a tape recorder. The recording will be transcribed to a written document. Your identity will not appear on the written document. The recording and the document will be kept in a secured location.

May we begin?

## **2. *Biographical Details***

**2.1. Gender:** .....

**2.2. Age:** .....

**2.3. Years of experience:** .....

## **3. General Principles of Interpreting**

### **3.1. Theme 1: Accuracy**

- A. Do you add information when you are interpreting?
- B. Do you sometimes omit information that you think is not necessary for the witness?
- C. As an interpreter, do you make effort to maintain the style, tone and register of the speaker when you are interpreting?
- D. Do you correct interpreting errors during or after the interpreting session?
- E. As an interpreter, do you think you are interpreting in the mode that enables the greatest clarity and accuracy with the least distractions?



### **3.2. Theme 2: Competence**

- A. Are you sometimes required to provide professional services in matters in which you cannot perform accurately?
- B. Do you sometimes withdraw from a case in which your professional performance is affected by lack of skills?
- C. Do you think it is important for all South African court interpreters to have an interpreting qualification?
- D. Do court interpreters perform acts that are the official responsibility of court officials?
- E. Do you think the dress code is important when you are a court interpreter?
- F. Do you think court interpreters should be bound to give account for their behaviour while on duty?

### **3.3. Theme 3: Impartiality**

- A. Do you think an interpreter should offer an advice or opinions when he/ she is requested to do so?
- B. Do you think an interpreter should let his or her tone of voice, body language and demeanour reflect the speaker's feelings, not the interpreter's?
- C. Do you declare all the actual and potential conflicts of interest?
- D. Do you take sides during the interpreting session?

### **3.4. Theme 4: Confidentiality**

- A. Do you think court interpreters are often exposed to highly confidential and sensitive information through interpretation?
- B. Do you avoid unnecessary contact with all parties?
- C. Do you think court interpreters respect confidentiality and privacy of all parties under all circumstances, unless otherwise required by law?

### **4. What are the official documents that you use to provide interpreting services?**

## Appendix E: Interview guide- Court Manager(s)



How court interpreters enact their roles based on professional ethics (code of ethics) in KwaZulu-Natal province of South Africa.

### Interview guide- Court Manager(s)

Date: .....

Study site: Online (MS Teams or Zoom); Video Calls

Participant ID: .....

#### 1. Introduction

I would like to first thank you for accepting to participate in this interview. Your participation would help us to know your understanding of the role of the court interpreter.

The aim of our interview is to discuss your understanding of the role of the court interpreter. I am interested in your thoughts and opinions as a court manager who has experienced it and any other feedback you may have that would be useful to the study.

Everything you agree to share with me today, whether positive or negative, in particular your feelings, thoughts, and concern regarding the role of the court interpreter, will be useful to understanding what the role of the court interpreter is.

Please take your time with your answers and feel free to ask questions any time if there is something you do not understand. You share what you want to share; there are no wrong or right answers. If I ask a question which you feel you are uncomfortable to answer, tell me and I will go to the next question. You are also free to stop the interview at any time.

Our discussion will be strictly confidential, meaning your identity will never be revealed and only what you say will be used to know your understanding. For the purpose of collecting the most accurate data possible, I will record the interviews using a tape recorder. The recording will be transcribed to a written document. Your identity will not appear on the written document. The recording and the document will be kept in a secured location.

May we begin?

## **2. *Biographical Information***

**2.1 Gender:** .....

**2.2 Age:** .....

**2.3 Years of experience as a court manager:** .....

## **3 General Principles of Interpreting**

### **3.1 Theme 1: Accuracy**

- A. How long have you worked as a manager in this court?
- B. Do you think court interpreters add information when they are interpreting?
- C. Do interpreters sometimes omit information that you think is not necessary for the witness?
- D. As a manager, do you think court interpreters make effort to maintain the style, tone and register of the speaker when you are interpreting?

- E. Do you think court interpreters should correct interpreting errors during or after the interpreting session?
- F. As a manager, do you think court interpreters are interpreting in the mode that enables the greatest clarity and accuracy with the least distractions?

### **3.2 Theme 2: Competence**

- A. Are court interpreters sometimes required to provide professional services in matters in which they cannot perform accurately?
- B. Do court interpreters sometimes withdraw from a case in which their professional performance is affected by lack of skills?
- C. Do you think it is important for all South African court interpreters to have an interpreting qualification?
- D. Do you think court interpreters perform acts that are the official responsibility of court officials?
- E. As a manager, do you think the dress code is important when you are a court interpreter?
- F. Do you think court interpreters should be bound to give account for their behaviour while on duty?

### **3.3 Theme 3: Impartiality**

- A. Do you think an interpreter should offer an advice or opinions when he/ she is requested to do so?
- B. Do you think an interpreter should let his or her tone of voice, body language and demeanour reflect the speaker's feelings, not the interpreter's?
- C. Do you think court interpreters should declare all the actual and potential conflicts of interest?
- D. Do court interpreters take sides during the interpreting session?

### **3.4 Theme 4: Confidentiality**

- A. Do you think court interpreters are often exposed to highly confidential and sensitive information through interpretation?
- B. Do you think court interpreters should avoid unnecessary contact with all parties?

C. Do you think court interpreters respect confidentiality and privacy of all parties under all circumstances, unless otherwise required by law?

**4 What are the official documents that your interpreters use to provide interpreting services?**

## Appendix F: Letter of approval from the Magistrate Court



**the doj & cd**

Department  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

Private Bag X 54308, DURBAN, 4000 – Corr of Salwart Simelane & Somtea RD, DURBAN.

Tel (031) 3024112.

Enquiries Mr S.L.Mchunu

Tel 0313024128

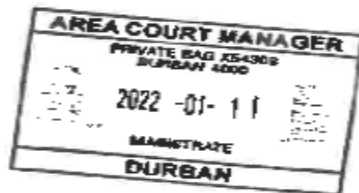
I am pleased to inform you that permission is granted to you Mr BB Simelane to conduct research in our Institution Durban Magistrate court. The permission granted is only limited to only the research to topic: **EXPLORING THE ROLE OF COURT INTERPRETERS IN KWAZULU-NATAL PROVINCE OF SOUTH AFRICA**

Your advised that all the research questions must be seen and approved by our Provincial Manager Language services to avoid questions that might compromise the justice system and the institution.

Regards

Mchunu Sibusiso Lyeds

Area Court Manager; Durban Court



## Appendix G: Ethical training certificate



# Zertifikat Certificat Certificado Certificate

Promouvoir les plus hauts standards éthiques dans la protection des participants à la recherche biomédicale  
Promoting the highest ethical standards in the protection of biomedical research participants



## Certificat de formation - Training Certificate

Ce document atteste que - this document certifies that

### Bhekizenzo Ben Simelane

a complété avec succès - has successfully completed

### Introduction to Research Ethics

du programme de formation TRREE en évaluation éthique de la recherche  
of the TRREE training programme in research ethics evaluation

Release Date: 2021/06/24  
CID : qk2Ntop7U

Professeur Dominique Sprumont  
Coordinateur TRREE Coordinator



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(RUV - 20170310)

## Appendix H: Full approval from IREC



18 February 2022

Mr B B Simelane  
P.O. Box 275  
Paul Pietersburg  
3180

Dear Mr Simelane

**Exploring the role of court interpreters in KwaZulu-Natal province of South Africa**  
**Ethical Clearance number IREC 300/21**

The Institutional Research Ethics Committee acknowledges receipt of your gatekeeper permission letter.

Please note that FULL APPROVAL is granted to your research proposal. You may proceed with data collection.

Any adverse events [serious or minor] which occur in connection with this study and/or which may alter its ethical consideration must be reported to the IREC according to the IREC Standard Operating Procedures (SOP's).

Please note that any deviations from the approved proposal require the approval of the IREC as outlined in the IREC SOP's.

Yours Sincerely

Prof J K Adam  
Chairperson: IREC



## Appendix I: Code of Ethics

### The do's and don'ts in court interpreting: a functional approach to a professional code

Rosemary H. Moeketsi

To cite this article: Rosemary H. Moeketsi (2000) The do's and don'ts in court interpreting: a functional approach to a professional code, 31:1, 222-242, DOI: 10.1080/10228190008566166

To link to this article: <https://doi.org/10.1080/10228190008566166>

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interpreter's task is often complicated by the legal personnel who misunderstand the role of the court interpreter by asking such questions as "What does he (the witness) mean by ...?" expecting the court interpreter to know; by giving such instructions as "Tell him (the witness) to ..." or by expecting the court interpreter to be flawless "*Het jynie gesê jy 's tweetalig nie?*" (lit. Didn't you say you were bilingual?) where the court interpreter struggles for legal and language equivalents.

#### **Professional Ethics**

##### **Principle 7: Accuracy**

The following excerpt is a typical example of an adjacency pair during the arraignment phase of a criminal trial:

- (4) Magistrate: Do you have a lawyer?  
Interpreter: *O na le mmuelli na? Lekgotla lena le o dumella ho ipatelela mmuelli, mme ha o se na tjelete o ka sebedisa diloyara tse leshwang ke mmuso.*  
(Do you have a legal representative? This court allows you to seek your own lawyer. If you don't have money, you can use the lawyers paid for by the State.)

Here the court interpreter not only interprets the magistrate's question as to whether the accused has a lawyer, but adds "vital information" to it because "the accused is entitled to know of his rights to defence counsel of his choice, or those from the Legal Aid Board". This interpreter takes it upon himself to "avoid a miscarriage of justice" by providing "crucial information" that the magistrate had neglected to state. This is the dilemma in which South African court interpreters find themselves by virtue of being employed full-time by the Justice Department as officers of the court.

Court interpreters are often referred to as the voice of the speaker they are interpreting, a "faithful echo" (De Jongh 1992:65; Styler 1993:206; Gile 1995:40) of everything that is communicated in the courtroom, both verbal and otherwise. This label implies that the interpreter should conserve every

element of information contained in the SL communication. Accurate interpreting means that the interpretation shall be complete, precise and in exact conformity with the source. The interpreter should not omit, add or modify the source utterances, however ludicrous it may sound, as exemplified in Wallmach and Kruger (2000:145):

(5) Mrs Tshabalala: *Njengowesifazane ngingathi abesifazane kufanele bazigidlabeze ngamandla.*

(lit. As a woman, I can say that women need to empower themselves.)

Male interpreter: As a woman, I can say that women need to empower themselves.

He/she should not be tempted to purify obscenities or other forms of foul language. Non-standard forms of the language, such as *Tsotsitaal* and *Isicamtho*, should be produced in an equivalent non-standard target register.

### **Principle 8: Competence**

Competence refers to all the skills and knowledge available to the court interpreter; as well as his/her capabilities that make him/her suitable and qualified to carry out duties in the judiciary. This includes knowing and observing the established protocol, rules and procedures for delivering interpretations in court. The following are some of the aspects that distinguish a competent court interpreter:

#### **1. Proficiency**

Court interpreters should provide professional services only in matters in which they can perform accurately. When in doubt as to their ability, the court interpreter should inform the presiding officer. Interpreters may also withdraw from any case in which their professional performance will be affected due to lack of proficiency. Court interpreters who, in their interpreting, intentionally omit “difficult” parts of the SL or guess the meaning of unknown words, are incompetent and unprofessional and do not deserve to serve as court interpreters.

---

## 2. Scope of practice

Court interpreters should not personally try to perform acts that are the official responsibility of other court officials. They should limit themselves to interpreting and should neither give legal advice to individuals for whom they are interpreting, nor explain court procedure to lay-participants. Geldenhuys and Joubert (1994:159) emphasise that the explanation by the court interpreter in situations such as example (4) above, of the accused's rights, is, in fact, the duty of the presiding judicial official. Court interpreters may not express personal opinion to the accused and witnesses, make themselves experts in cultural matters, engage in any other activities which may be construed as constituting a service other than interpreting, or start any communication with the other participants unless that communication is meant to assure an accurate and faithful interpretation.

## 3. Dress code

The court interpreter's style of dress should be consistent with the dignity of court proceedings as well as with reasonable standards of social acceptability, cleanliness and decency.

## 4. Self-improvement

Court interpreters should maintain high levels of competence by increasing their knowledge of their working languages at both the standard and non-standard levels, their interpreting skills, as well as their knowledge of the law and court procedure. Court interpreters should interact with colleagues and specialists in related areas, attend workshops, seminars and conferences on related topics. They should keep informed of all statutes, rules of courts and legal policies that have to do with the performance and duties of court interpreters.

## 5. Unethical behaviour

Competent court interpreters have a moral and legal duty to report to the presiding officer any effort by anybody that makes it difficult or impossible for them to carry out their duties.

## 6. Accountability

The court interpreter should not use the court's time or facilities for private gain or advantage. They should be bound to give account for their behaviour while on duty.

### **Principle 9: Impartiality**

The court interpreter is employed to serve the court and the public to which the court is in fact a servant. This means that court interpreters should be impartial and unbiased. They should refrain from any form of behaviour that may give an impression of favouritism. They should strive for professional detachment by avoiding displaying any personal attitudes or emotions of anger, sorrow, surprise or disbelief while the deponents are on the stand.

Court interpreters should not encourage any of the striving parties to be dependent on them. The lawyers, i.e. magistrates, prosecutors and defence attorneys may not request or instruct the court interpreter to elicit information from witnesses by saying, for instance "Ask this witness whether he saw them or not". The accused and/or witness should also not treat the court interpreter as an "ally, a mentor or a confidant" (Altano 1990:98).

Court interpreters should avoid any conflict of interest between their profession and the case at hand. They may not serve in a case where friends, relatives or associates are involved as the accused, witness, defence attorney, prosecutor or presiding officer, or where they have a financial interest or any other interest that would be affected by the outcome of the case. They should not accept money or favours for the performance of their duty from anyone other than the salary received from their employer. Before court interpreters

begin with their task, they should disclose to the court any prior involvement, whether personal or professional, that could be reasonably understood as a conflict of interest.

### **Principle 10: Confidentiality**

Court interpreters should always remember their moral and legal duty not to disclose information from private documents such as the charge sheet, police records and medical files to which they may have access. Information received during the course of their employment that may be relevant to the proceedings of a particular case should rather be disclosed to an appropriate senior court official who is not involved in that particular case.

Conversations between attorneys and their clients, to which a court interpreter may be privy, comprise privileged information and should be protected. Interpreters shall not derive personal profit or advantage from such confidential information acquired while acting in a professional capacity.

### **CONCLUSION**

It is one thing to have a service regulated by a professional code, but it is another to have it regulated by a professional code with a clear purpose. The suggestions proposed in this article have a two-pronged objective. First, the aim is to eradicate all forms of impediment that contribute to poor performance by the court interpreter. This is done by suggesting a negotiated role of the South African court interpreter and by alerting the other courtroom personnel to the professional responsibilities of the interpreter. Secondly, emphasis is placed on the professional development of court interpreters by encouraging education and training which include the attendance of conferences, seminars and workshops on related topics. A professional code for interpreters which is developed on the basis of the suggestions made in this article could facilitate the production of a corps of court interpreters whose role is well defined and who have been thoroughly