

## APPENDIX A: Characteristics of Survey Respondents

### Type of Court you serve in

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	High Court	51	33.6	33.6	33.6
	Sessions Court	23	15.1	15.1	48.7
	Magistrates' Court	74	48.7	48.7	97.4
	Other	4	2.6	2.6	100.0
	Total	152	100.0	100.0	

### Present Post

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Registrar (Deputy Registrar, S.A.Registr	71	46.7	46.7	46.7
	Lower Courts Reg Magistrate/Judge	81	53.3	53.3	100.0
	Total	152	100.0	100.0	

### Age Group

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	25 and below	1	.7	.7	.7
	26-35	93	61.2	61.2	61.8
	36-45	39	25.7	25.7	87.5
	46-55	19	12.5	12.5	100.0
	Total	152	100.0	100.0	

### Gender

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Male	83	54.6	54.6	54.6
	Female	69	45.4	45.4	100.0
	Total	152	100.0	100.0	

### Ethnic Group

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Malay	125	82.2	82.2	82.2
	Chinese	10	6.6	6.6	88.8
	Indian	8	5.3	5.3	94.1
	East Malaysian	6	3.9	3.9	98.0
	Other	3	2.0	2.0	100.0
	Total	152	100.0	100.0	

### Qualification

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	University degree	131	86.2	86.2	86.2
	Diploma	12	7.9	7.9	94.1
	School Certificate	6	3.9	3.9	98.0
	Other	3	2.0	2.0	100.0
	Total	152	100.0	100.0	

### Location

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Central	48	31.6	31.6	31.6
	Northern	54	35.5	35.5	67.1
	Southern	11	7.2	7.2	74.3
	Eastern	20	13.2	13.2	87.5
	East Malaysia	19	12.5	12.5	100.0
	Total	152	100.0	100.0	

**Years in present post**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Less than a year	15	9.9	9.9	9.9
	1-5	74	48.7	48.7	58.6
	6-10	56	36.8	36.8	95.4
	11-15	4	2.6	2.6	98.0
	16-20	2	1.3	1.3	99.3
	21 and more	1	.7	.7	100.0
	Total	152	100.0	100.0	

**Knowledge of court interpreting service in other Commonwealth countries**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	9	5.9	5.9	5.9
	None	143	94.1	94.1	100.0
	Total	152	100.0	100.0	

**Present Post \* Qualification Crosstabulation**

Count

		Qualification				
		University degree	Diploma	School Certificate	Other	Total
Present Post	Registrar (Deputy Registrar, S.A.Reg Lower Courts Reg Magistrate/Judge	53	12	6		71
		78			3	81
Total		131	12	6	3	152

## APPENDIX B: Questionnaire

### Malaysian Court Interpreting Service : Perception of Court Judicial and Administrative Officers

This is a questionnaire to obtain information on the Malaysian court interpreting service for research purposes. In June 1998, the results of an earlier survey on the perception of interpreters, (available on request), were submitted to the Chief Registrar's office. To give an objective and comprehensive view, your response as the immediate judicial officers is needed and would be most valuable.

Section 1 : Your Background			
No		Please underline or indicate your response	Leave blank
1	The type of court you serve in:	(1) High Court (2) Sessions Court (3) Magistrates' Court (4) Other _____ (specify)	
2	City/Town/State :		
3	Present Post:	(1) Deputy Registrar (2) Senior assistant Registrar (3) Registrar-Lower Courts (4) Magistrate (5) Other _____	
4	Post held before the present one:		
5	Gender:	(1) Male (2) Female	
6	Age group:	(1) 25 and below (2) 26 – 35 (3) 36 – 45 (4) 45 – 55 (6) 55 and above	
7	Ethnic group:	(1) Malay (2) Chinese (3) Indian (4) East Malaysian (7) Other _____ (specify)	
8	Highest educational qualification:	(1) University degree (2) Diploma (3) School Certificate (4) Other _____	



## Section 2: Duties and Administrative Matters

9.	How long have you been in this post?	_____ year(s)/month(s)	
10.	What is/are the main problem/s in the administration of your courts?	1. Insufficient space; 2. Unsystematic daily administration; 3. Too many cases; 4. Shortage of interpreters; 5. Shortage of support staff; 6. Other (specify)	
11.	How many cases are postponed <u>at present</u> due to a shortage of interpreters?	(1) _____ (2) Information unavailable	
12.	Are there any cases which have gone to the Appellate Court in the past 2 years due to incorrect interpreting?	(1) None (2) A few (3) Several (4) Information unavailable	
13.	In your experience were there any re-trials due to errors in interpreting on the part of the court interpreter?	(1) None (2) A few (3) Several (4) Information unavailable	
14.	For which language is there the greatest shortage of interpreters?	_____	
15.	How many interpreters are there under your administration (based on language, not ethnicity)?	Malay: Chinese: Indian: Other: (specify)	
16.	How often do foreign languages (non-Malaysian languages including Indonesian dialects) have to be interpreted in your court(s)?	(1) Very often (2) Sometimes (3) Often (4) Seldom (5) Never	
17.	What are the foreign languages needed in your court(s) in the past 2 years for which interpreters are not available?	1. _____ 2. _____ 3. _____ 4. _____	

18.	If there is no interpreter for a language in your court, how do you obtain one?	(1) From another court; (2) From embassies; (3) From private agencies; (4) From individuals; (5) Lawyers' arrangements; (6) By other means: _____	
19.	Interpreters called from outside to interpret in courts are required to take oaths as to their competence. In practice how does the court ensure it is satisfied that they are competent? _____ _____		
20.	If interpreters are called from another court, are they paid for the extra work?	(1) Yes (2) No	
21.	Who should be responsible for the annual assessment of the performance of the interpreters in your court?	(1) Registrar (2) Judge/Magistrate	
22.	The reason for your answer: _____ _____		
23.	Do you receive feedback on whether the performance of the interpreters is satisfactory or not?	(1) Yes (2) No	
24.	If the answer is (Yes) How do you obtain the feedback?	(1) Official report (2) Unofficial report	
25.	Would you agree that the Malaysian interpreting service would be significantly improved if, in addition, there were a pool of available free-lance interpreters?	(1) Yes (2) No (3) No opinion	
26.	Would you agree that this pool must consist of free-lance interpreters certified by a government/semi-government accreditation body?	(1) Yes (2) No (3) No opinion	
27.	Would you agree that an efficient and reliable system would be achieved if the two types of interpreters - free-lance and in-house, exist side by side?	(1) Yes (2) No (3) No opinion	

28.	Please make other suggestions you might have for improving the interpreting system. _____ _____ _____ _____		
<b>Section 3 : Your Perceptions of Interpreters</b>			
29	Did you work as an interpreter before you took on the present job?	(1) Yes (2) Never	
30	If the answer is (Yes) how long did you work as an interpreter?	_____ year(s)/month(s)	
<b>For items 32 – 38 please indicate: (1) Agree (2) Disagree (3) No Opinion</b>			
31.	A court interpreter's main duties are :  1. Being a communicative intermediary for two parties who do not speak the same language; 2. Translating documents; 3. Being assistant to the judge/magistrate; 4. Performing clerical duties;	_____ _____ _____ _____	
32.	The interpreter is like a conduit-pipe and only conveys to the Bench what the witness/defendant/accused says, without adding to or subtracting from the content.	_____	
33.	An interpreter must be alert of mind, sight and hearing to convey information accurately from one language to another in an open court. Hence, the job of the interpreter is much more responsible than that of a clerk.	_____	
34.	Trials cannot proceed without the interpreter.	_____	
35.	Court interpreters should only interpret and/or translate.	_____	
36.	The courts need more (1) Interpreters (2) Clerks (3) Both the above (Interpreters/Clerks) (4) Trials assistants	_____ _____ _____ _____	
37.	Anyone who can speak two languages can be a court interpreter.	_____	

38.	What do you say the ratio is between interpreting and clerical work performed by the interpreters in your court(s)?	10:90 20:80 30:70 50:50 70:30 80:20 90:10	
39.	In your opinion, is the division of work between the interpreters and the clerks in court clear to the staff concerned?	(1) Clear (2) Not clear (3) No opinion	
40.	Please indicate which of these correspond(s) with your own perception of the interpreters in your courts:	1. Competent 2. Dedicated 3. Reliable 4. Incompetent 5. Indifferent 6. Unreliable 7. No opinion	
41.	Have you ever witnessed any court interpreter who shows some partiality in any trials in the past?	(1) Yes (2) Never	

#### Section 4 : Requirements to be a Court Interpreter

**For items 42 – 49 please indicate :**

**(1) strongly agree (2) agree (3) no opinion (4) disagree (5) strongly disagree**

42.	The criteria for a competent interpreter are		
	1. Proficiency in two or more languages;	_____	
	2. Possessing communication skills;	_____	
	3. Possessing interpreting skills;	_____	
	4. Possessing a relaxed manner;	_____	
	5. Being knowledgeable on culture and conventions of the language interpreted for;	_____	
	6. Being knowledgeable in court procedures;	_____	
	7. Being specialist in a particular subject or subjects;	_____	
	8. Having wide general knowledge.	_____	
43.	To be a competent court interpreter, <b>training is necessary.</b>	_____	
44.	Training should be organised in the following way:		
	1. Full-time course	_____	
	2. Part-time course (weekends).	_____	
	3. On the job training.	_____	
	4. Other ways (specify)	_____	

45.	The duration for a full time course should be : 1. 6 months – awarded a Professional Certificate. 2. 3 months x 2 – awarded a Professional Certificate. 3. Other duration : (specify) _____	_____ _____ _____	
46.	Training for court interpreters should be given by 1. A higher learning institute (e.g. a university). 2. ILKAP ( <i>Institut Latihan Kehakiman dan Perundangan</i> : Legal and Judicial Training Institute). 3. Combination of both the above. 4. Other _____(specify)	_____ _____ _____ _____	
47.	Content of the course :  1. Knowledge of language; 2. Intensive language training; 3. Communicational skills; 4. Interpreting skills; 5. Knowledge of culture and conventions; 6. Knowledge of court procedures; 7. Knowledge and terminology of specialist areas; 8. Knowledge of basic laws; 9. Other _____(specify)	_____ _____ _____ _____ _____ _____ _____ _____	
48.	Planned and systematic on-the-job-training embodies the following good practice:  1. A mentor system exists between a senior interpreter and a student interpreter; 2. The senior interpreter receives prior training on training and assessing student interpreters; 3. Resource facilities exist for training and reading materials; 4. Training period is pre-determined to ensure efficient planning for manpower; 5. There is an Assessment Panel consisting of specially chosen individuals; 6. An award of certificates is given at the end of successful completion of training.	_____ _____ _____ _____ _____ _____	
49.	Is there such on-the-job-training in your court?	(1) Yes (2) None	
50.	If the answer is (Yes), is the way the system is being practised:	(1) Satisfactory (2) Rather satisfactory (3) Not Satisfactory	

**Section 5 : Your Opinion on Malaysian Court Interpreter Scheme of Service**

51	The present scheme of service for court interpreters:	(1) Is satisfactory (2) Can be improved (3) Is not satisfactory (4) No opinion	
52	If the scheme can be improved, please state how. _____ _____ _____		
53	If the scheme is not satisfactory what is the alternative? Please state: _____ _____ _____ _____		
<p><b>For items 55 – 59 please indicate :</b>  <b>(1) strongly agree (2) agree (3) no opinion (4) disagree (5) strongly disagree</b></p>			
54.	In view of the tasks and responsibilities of the interpreters, they deserve a better scheme than the present one.	_____	
55.	The interpreters scheme has to be distinct and separate from the existing one (i.e. L6 & L7):	_____	
56.	The service loses skilled interpreters when they are promoted to L5. Therefore, in order to retain them in the service, the interpreter scheme needs to include opportunities to upgrade their skills and reward system, as interpreters, without having to leave the job.	_____	
57.	Interpreters are surrounded by professionals i.e. the Bench, the prosecution and the defence, in their daily work. In order to be confident and competent in their job, they must also be of a professional level.	_____	
58.	The only way to elevate their level to a professional one is through: 1. Increased entry qualifications for the post; 2. Better salary scheme commensurate with the post; 3. Allowances given for each language proficiency; 4. Professional training.	_____ _____ _____ _____	
59.	Do you have any information or knowledge about court interpreter services in other commonwealth countries? (E.g. Singapore and Australia)?	(1) Yes (2) No	

60.	If (Yes), please state what the information is:	
	_____	
	_____	
	_____	
61.	If you had the authority, what change(s) would you introduce to improve court administration?	
	_____	
	_____	
	_____	
	_____	
	_____	

### Section 6 : The Use of the National Language In Your Court(s)

**For items 63 – 67 please indicate :**

**(1) strongly agree (2) agree (3) no opinion (4) disagree (5) strongly disagree**

63	It is a fact that not all Malaysians are proficient in the national language.	_____	
64	Not every visitor or migrant to this country is able to speak and understand the national language.	_____	
65	A court in a multi-lingual and multi-ethnic society like Malaysia, will always have a need for interpreters.	_____	
66	Court interpreters must still be given professional training even if the frequency of interpreting becomes less due to increasing use of the national language.	_____	
67	In a court of law in a multi-lingual society, the right to justice is synonymous with the right to a competent interpreter.	_____	

*Thank you for your time and attention in responding to this questionnaire.*

Zubaidah Ibrahim  
Faculty of Languages and Linguistics  
University of Malaya  
Mei 2000

Feedback/Information:  
[zubaidah@um.edu.my](mailto:zubaidah@um.edu.my)



## **APPENDIX C: Sample Interview Questions**

### **Lawyers**

1. How often do you require the service of an interpreter in the last 5 or 6 years?
2. For what language/s?
3. For what kind of cases?
4. How do you obtain an interpreter's service?
5. How satisfied are you with the services of the in-house interpreter?
6. In your own observation and work experience, what sort of jobs do they do?
7. Should they be doing jobs other than interpreting and translating?
8. Why (to either yes/no answer)?
9. Do you know how much they are paid?
10. How and how much is an interpreter engaged by a lawyer paid?
11. Do you think there should be a standard rate stipulated and agreed by the lawyers' association?
12. Do you know when the present court interpreting system in the Msian court started ?
13. Do you know personally how other countries organised their court procedure when 2 different languages are involved?
14. Are you aware of any kind of training interpreters go through before doing the job?
15. Do you think the Bar Council has any say in determining the kind of service they get from the interpreters?
16. How long have you been in the profession?
17. Do you undertake civil or criminal cases?
18. Do you think the national language policy affects the legal system?
19. In what way?
20. Do you think this may in some way undermine the right to justice of some accused person?

### **The Police**

- 1 How often do the police require the service of an interpreter?
- 2 In the police station?
- 3 For what languages?
- 4 For what sort of cases?
- 5 Is the need for interpreters an increasing trend ?
- 6 How do you obtain an interpreter?
- 7 Are you satisfied with the performance of your interpreters?
- 8 In court – what's your perception of the work that they do?
- 9 Do you think that's what they should do?
- 10 Do you think they should only interpret and translate?
- 11 Why do you think so?
- 12 Do you know what they are paid?
- 13 Is there any system in the police department of supplying your own interpreters?
- 14 How do you pay them?
- 15 Do you have any information on any interpreter service in other countries for the police?
- 16 Do you know if there is any training provided for the interpreters before they serve in court?
- 17 Do you have any say in asking for the court interpreting system to be more efficient?



- 18 Do you think the use of the national language affects in anyway the work in court?
- 19 How do foreign prisoners cope with communication in the national language?
- 20 Do you think the compulsory use of the national language in court affects the quality of justice for individuals who don't speak the language?
- 21 How is the implementation of the national language in the police department?

#### Judges and Registrars

1. Most opinions reveal that the courts are in need of more interpreters and support staff. What gave rise to the situation? Is it true here?
2. Would you say the system is efficient? Are there instances where parties often fail to turn up, or parties not knowing their cases are called?
3. What is the best method of employing and utilising interpreter service?
4. How often is an interpreter required? What language is frequently required?
5. Who should explain the nature and consequences of a plea?
6. How do you ensure the accused understand his rights?
7. How much interpreting standards do you demand?
8. How much training you do you require for your Court interpreter?
9. Can judges advance the case for interpreters since it affects their work as well?
10. What of National Language Policy? Does it affect the work of the Court now?
11. Could you, first of all, describe your duties and responsibilities as the Deputy Registrar.
12. What are the most pressing problems in the administration of your Courts?
13. How many dialects occur in court?
14. If there is a request for Interpreters, what will be the normal procedures?
15. Do you only know on the day of trial?
16. What are the problems in general, related to interpreting?
17. Are you happy with their performance as CI? As clerks?
18. Do you think CI should only do interpreting?
19. Do you think they should be employed at a higher level? At least 'A' level?
20. Can you comment on their language proficiency.
21. Is the interpreter allowed to assist/ coach an accused on how to testify?
22. Do you normally explain the nature and consequence of a charge? Who provides, who interprets? How often?
23. Do you see a day, when the national language policy is strictly implemented in all courts in Malaysia?

## **APPENDIX D: Sample Transcript of Interview**

A. What's your background, sir.

B. Years in the courts, started as an interpreter retired as a senior registrar.

A. Oh really!

B. So that has given me all the experience. You can put it down. I started as an interpreter, I retired as a senior registrar and in between I have been an examiner for the interpreters for the prescribed government examinations and I am also involved in the training of interpreters through ILKAP, so this has given me some knowledge of the scheme, the service. The weaknesses and the drawbacks, of course the questions always is what to do to improve, is one of the opinion. I may have some ideas, they, the big bosses may have their own view.

A. What is the main drawback, how does one improve the service, in your opinion?

B. They never had any form or medium for training these interpreters. Many years ago, about 20 years ago, a Chinese interpreter upon being appointed was sent to the language institute for one year to study additional dialect and once a week they were sent to the lower court in Kuala Lumpur to observe and study court procedures.

A. And when did that stop?

B. About 20 years ago they stopped that.

A. They must have started, just after Independence?

B. That training was there for many years. In fact, was, yes, after the war right until after 20 years ago. Even when I joined service, that was 35 years ago the interpreters were still going, Chinese interpreters were sent for this training. Maybe that was because Chinese they got so many dialects they come in with 2 dialects, they go there and study another dialect or two. After one year when they come back to the service they have basic Mandarin, plus at least 3 to 4 dialects and they will be rewarded well because as soon as they come back they can sit for some exam and get allowances on those additional dialects.

A. But it is no longer the case,

B. Stopped 20 years ago. Now allowance is still being given.

A. But no training ...

B. You study on your own and go for the exam. For some reason the Malay and Tamil interpreters did not have this privilege of any form of training or any form of studying the second or third language.

A. Is it because they feel that the difficulties in these 2 languages are not as great as Chinese?

B. Perhaps because Chinese people were of different dialects and therefore they felt that the need for Chinese interpreters was greater compared to the others.

A. And none was provided for other languages in those days.

B. Of course this practice started during the colonial rule. So why the colonial masters introduced that training only for the Chinese? Maybe because of the communist problem, because they wanted the Chinese interpreters in the police also, not only in the courts, police, information department and so on. So they felt give them this training in various dialects when they were in the information department they can go those days into the new village, one fellow can speak five dialects, you see. That saves a lot of money and time. Could be it was a necessity at that time. Now if they had continued that or introduced some kind of a training either in INTAN or ILKAP where training goes on for at least a year, a continuous affair for all categories of interpreters whether Chinese, Malay or Tamil so that the Indian, the Tamil interpreters can study Tamil additional languages the Malay interpreters too nowadays we have problems with the Indonesian coming here to work, we have problems getting people who speak in Madura, Achehnese, Boyanese, Javanese, so many languages or dialects in Indonesia, problems exist. So many times we have to contact embassies. Embassy once or twice they obliged but every week we start ringing up I need one in Kuala Lumpur, the whole country ring up the same embassy, they have to employ people to work in our court because Indonesians are all over the country. When they are involved in some litigation every court need interpreters for that particular language. What do we do?

A. But Mr. Rama, a note on the question of dialect, it is not something that you can learn in a classroom, is it? You have to mix with the people who speak that dialect, then only you learn it, isn't it?

B. Ok, how is it that it is in the scheme of the interpreters. For Malay interpreters they can draw allowances if they pass exam in all these dialects.

A. Ada ke exam in the first place? For Boyanese or Javanese, ada?

B. Yes, yes, they get people from the university, some of them can manage, they get from the embassies, yes, anyone can apply to go for an exam in Javanese or Boyanese, the department must provide an examiner and they get them from the embassies.

A. It's not a problem?

B. No, its not a problem at all. Same thing right now, take the Tamil interpreter, he comes in with his Malay, English and Tamil and before he can be confirmed in his appointment he must pass at least in oral one Indian language, oral. They're all on their own, they look for people, those who can teach the languages, study, I did that 35 years ago. I employed tutors, those days cheaper, three or four of us joined together looked for Malayali, to teach us Malailam, looked for a Telegu fellow to teach us Telegu. Looked for a Sinhalese fellow, you know a lot of Sinhalese fellow those days, Sinhalese bakeries, the Ceylonese are the Sinhalese fellow, got them to teach us Sinhalese, so like that we had to spend our own money.

A. That's a lot of initiatives on your part.

B. Yes, what they can do is have a continuous training system or scheme whereby they can employ these people to teach these languages and dialects. Now within a few years almost everybody in courts would have learned these languages, that is one way. Another way is encourage Malay and Indian to teach them Chinese, the Chinese if they want to study Tamil and Malay. That system can go on. Now you see Chinese don't want to apply. Now INTAN is doing, they do give courses for Malay and Indian some of our interpreters have gone to. *Ok lah* they can manage. That is one of the problem *lah*, discontinued this thing. Secondly they are keeping this post still at the SPM level.

A. That's right. It is a major problem.

B. I don't see why they cannot upgrade it to STPM or graduates, money...is the problem. Perhaps government is worried if people with HSC or this thing you have to pay more but they have allowed STPM to come in. The starting pay is higher than SPM but maximum is the same. In that way they can even absorb graduates into the thing. Chinese graduates may come in. Employment, if the pay is there they will come.

A. But even so Mr. Rama, if they come in with SPM and while working, manage to sit for the STPM, is the salary still pitched at SPM level, is that so?

B. That is if you come in now with the SPM, subsequently with the STPM you can get your salary revised upwards. But if you were here under SPM before the scheme came and then you upgrade and ask your salary upgraded and back dated, they won't. for some reason I don't know why they don't give. Some how the government doesn't want to. But if you join now with SPM, two years later you pass with your STPM and you can ask the salary to be revised to go on that scale, yes.

A. Another thing that I observed which I think is also the problem with the day to day work that effect their ability, efficiency, is that, all interpreters are also court clerks. Is there any way of.. I don't know, your point of view, the government would make the court clerk and interpreters as separate posts?

B. There are talks about that, even now I understand they are trying to make the interpreters and the clerks within our department into a pool service so that, as you said, interpreters do only interpretation and keep them in a pool. They are not attached to any court and there may be a supervisor assigning interpreters from the pool to the various court everyday depending on the type of case. If that way there'll be enough interpreters to go around, you don't have to have a formula three times the number of courts you can even have two times the number of courts or one time the number of courts all in a pool you can send them there. The court must be able to manage with just the interpreters who will be known as clerks of courts, call the cases and inform the supervisor what category of interpreters required and so on. This idea was mooted long ago and it was discussed at length but to date, I don't know.

A. Why, is it because the set up to launch the thing wasn't there or the expertise to get this thing going wasn't there?

B. What is the expertise, any expertise is necessary? To employ clerks? They do that, it is an ongoing exercise round the year.

A. No, for you to have this pool of interpreters specially interpreters translators.

B. Once you employ the clerks for the courts.

A. I mean the separate deal,

B. But what will happen is only in major town like Kuala Lumpur, Penang, Ipoh you can have that pool system working. If you going into a district, the district of Banting, you employ three interpreters there because you must have three, you also employ clerks to look after the court carry on with the clerical work. What will the three interpreters do? Nothing, because those courts are known as circuit court. The magistrate may go on circuit another court. They have nothing to do there.

A. I have a suggestion to that but, anyway, later.

B. Circuit courts system, this pool system may not work in circuit courts. There will be a lot of idling *lah* - under employment.

A. What I've seen in UK is that interpreters are not employed just for the courts but for the whole legal system that would include police station, probation officers even hospitals, so they are not under employed at all. They go round and they are under the, for example, the one that I saw was in Manchester, so they are employed by the Manchester City Council so they would go to the courts if they are needed. There were 11 of them just in one office, in a pool. They could go to even interviews in the town councils itself. Immigrants for example who don't speak, if they only speak Urdu and they went to the police station or if they had an accident on the road, and they don't speak English, they call the interpreters.

B. In other words the department supervisor keeps them. Whoever needs make a request for them.

A. The service is not under the courts it is under the city councils.

B. Correct, can be done. You see, places like England or Singapore, this can be done. This is Malaysia, if you do it in Kuala Lumpur, what do you do for Banting, Kuala Selangor? If they are going to keep them all in KL and ask them to travel everyday to Banting and Kuala Selangor, you know the amount of mileage, transport travelling, the time factor, the fella will leave early in the morning won't reach Sungai Besar till ten eleven o'clock. The lawyers and magistrate will have to hang around waiting for the interpreters to arrive.

A. Perhaps for the smaller towns they ought to have someone there.

B. All right, that's what I'm saying. Major towns like Kuala Lumpur, keep them under the court, confine them to a room under a senior interpreter who can be a supervisor. whoever needs them in Kuala Lumpur whether high courts, session courts or lower courts contact the supervisor, I need so many interpreters. In fact they must give them the requirement a week or two earlier otherwise they may simply approve leave and then problem. Then the supervisor can control. Yes, it can be done in major towns like Penang, KL, Ipoh, Johor in major town it can work.

A. I suppose smaller towns won't have that much requirement but what sort of cases go on in places like Banting for example?



B. You see Banting has only one court. In Kuala Lumpur there will be 15. In KL we have one court for civil cases, we have one court for traffic case, we have one court for criminal case, one court for juvenile case, one court for traffic summonses, you see 5 courts already. In the district that one man hears all the five six types everyday. He may have one or two civil cases, one or two arrest cases, he will have 10 or 20 traffic summonses, he will have 1 juvenile case, he may have one maintenance case, all make up will keep him busy for the whole day. So he is the jack of all trades in the district unlike Kuala Lumpur. Kuala Lumpur you are appointed as a traffic magistrate for a year or two you only hear traffic cases everyday. If you are appointed to the juvenile court, you only hear juvenile cases everyday. Here we have to do that way because of the volume of work flowing in. In the district we cannot afford to have five magistrate, the volume of work is slow, all put together is enough to put one man busy. Even if it's not what they do, they tell him three days you sit in town A, three days you go to town B. So, he's kept busy. He looks after two districts.

A. New magistrates go to places like that?

B. That's what they do.

A. That's what they do?

B. Tanjung Datuk and Sepang. Kuala Selangor and Sungai Besar. they work that way. Kuala Kubu and Rawang. They combine two courts it keeps his hand full. So as far as magistrate's work is concern enough work but you got to have three interpreters there, Indian, Chinese, Malay. They may not be a Punjabi in the main town for Selangor let's say Klang, Klang can send a Punjabi interpreter there if and when he is required. But the basic three interpreters must be there because there is not a single case without Chinese, Malay or Indian everyday. Secondly, knowing this need, those days they allowed one or two Indian languages to be taken as subject for SPM level. 5 or 6 years ago they stopped Punjabi and Telugu.

A. Why?

B. I don't know. they say the number taking it is very small. But it is that small number which is required in the judiciary, Punjabis.

A. That's right but I mean who makes this kind of decisions?

B. Bright sparks up there *lah*.

A. I mean even if there is one case, in the interest of justice, you just have to have the interpreter.

B. Yes, you see Punjabi, every court has one Punjabi interpreter. Now Punjabis not offered at school certificate level, nowadays.

A. So what if, if somebody wants to have a Punjabi qualification at that level, what does he do about it?

B. They simply said you're going to read and write some departmental exam to sit and pass after the interview or before the interview. They tried that method but that won't

work. The best deciding factor is the SPM results because it is more academic. Telegu was used to be a subject for those in Perak because for some historical reasons, the Telegu settled in Perak those days. The bulk of them there, so the bulk of them there will take but that does not mean other areas they were not, they were. They say oh its only regional. Whoever decides that should have found out why they are doing Telegu, Malayam is not a subject, that's school certificate. Ok you don't have to *lah*, that's fair enough. This department, what they should do is to solve this problem, it should be an ongoing exercise every year select about 20 Chinese, 20 Indians, 20 Malays 60 of them, trained them for a year. By the end of the year, there'll be resignations, death, retirements, promotions, this four categories can contribute to vacancies whereby this 60 can go in. The JPA should be able to know by now on the average number of vacancies created every year caused by death, promotion, resignation, there are four categories. from my experience and knowledge easily 30 to 40. Take 10 or 12 from each categories train them. By the end of the year they are ready to take over from those guys. Now during the training, for four working days train them, one day Saturday attach them to the nearest court. During the year they are learning the court work as well. So if he joins service January this year, next January he is ready and able to take over work in any court. Why can't they go on that average, maintain, or if you think it is only 30 vacancies every year, train 30. INTAN is doing languages, ILKAP is doing. Train them in both these places send them to courts more often. And make it compulsory by the end of the year they must pass an exam in English, in Malay and the basic language, say Tamil and one dialect oral by the end of the year. Make it compulsory and keep him busy and by the end of the year he will pass. Who to tell, who to tie the bell around the cat, who to tell the JPA to do this.

A. I think something has to be done.

B. Yes, something has to be done. Now you see in the papers, publicity, courts are terrible, they are in dire needs, only last week I went to Jalan Raja, 3 more interpreters, Chinese interpreters have resigned. One resigned because she passed her law another one because he wants to further study and the other one resigned because can't stand being sent around to so many courts in one day, pressure.

A. That is the main thing actually, that is not keeping the court interpreters.

B. Tension, work pressure, work load, low salary, every interpreter is doing a full time clerk job and interpreters job. Whereas the clerk is also doing a full time clerks job paid the same salary whereas that interpreter is doing a dual job that as a full time clerk as well as interpreter.

A. So what is the key issue?

B. So what they can do is those who come in as interpreter, they are required to have additional languages compare to a clerk, they are required to do a full time clerks job plus interpreter job all right the moment you are appoint as an interpreter give them at least another 50 percent of the salary nobody else is going to grumble because additional qualification, additional training and additional job and therefore they pay as an interpreter is the same as a clerk. now why should I became an interpreter doing interpretation plus clerical work and take all this risk and pressure and I can very well get the same pay work as a clerk less tension, this are the argument. as a registrar I have a lot of this problem getting interpreters to go, they get mad with me.

A. But what is it that's preventing the government to be convinced to separate the two?

B. A few years ago one salary commission said the interpreter service is a diminishing service.

A. Its not!

B. On the contrary it has doubled, the so-called diminishing service, it is said by somebody who was the number one in the judiciary, Tun Suffian himself.

A. Really

B. So when he said this, of course when it came from a man of his caliber. ..

A. I think that is very sad.

B. Mind you, our own boss says diminishing in the court. So now what happens in the exams. The number of tutors has double trouble four times already.

A. You got to be oblivious to the surroundings to say that.

B. Yes, the service diminishes when everybody in the country can speak bahasa fluently, then you don't need interpreters. How long will it take? We can, my children the second generation can, but what about those early settlers who are still alive? They can't even speak their own mother tongue properly you expect them to speak some other. How can they manage in court without interpreters?

A. There must have been some idealistic notion about Bahasa Malaysia being universal.

B. If I go to court or my children go to court, the court can say speak *bahasa*, no worry we know *bahasa* as well as our mother tongue we have studied for so many years. My children speak better *bahasa* than their own mother tongue.

A. But there are those who don't.

B. Then how can you say it is diminishing? He said it!

A. When was this?

B. Oh, you go through any of the library, the Suffian scheme.

A. Probably about 20 years ago, outdated.

B. This kind of thing is not.

A. Or shortsighted.

B. We had Harun scheme, Harun salary scheme, Suffian salary scheme, cabinet salary scheme. under Suffian you will find under for interpreter there is one passage or



two he has said that is a diminishing service. Since then there are two or three revision already. Scheme is there, but his comments still there. So perhaps this must have told those people in responsible for.

A. And they hold on to those remarks?

B. If it is diminishing, why are we employing more people. They don't realise if it is in fact diminishing the time comes and there are still this old cronies hanging around as interpreters. You can always deploy them in something else because of their experience in the court by the time so many of them have been promoted you don't recruit anymore after that, those few fellas they either die or retire or be promoted.

A. Somebody ought to see him now and ask do you still stand by your what you said 20 years ago, now.

B. That's where you come in. Your book will, when you do a book or thesis or whatever it is from the university, of course it is on an intellectual, academic level, you do your research and if you think this will be useful, send a copy to the department concerned. To my Chief Registrar, send it to the JPA, let them go through it.

A. I would like to do that.

B. You see, when we do something its not just doing it for our achievement. It must also serve a useful purpose. At my level we can't because we are subordinates and we can only explain in the interest of the department, because in the 36 years, you develop an attachment to the department, you want it to function well. No sooner when I retired, I went back to my old department, hey! what happened to so and so? Retired. What happened to so and so? Resigned. What happened to so and so? Don't want this job. I say, what has got into this thing. I don't blame them. While I was there, being diplomatic, talk to them nicely ask them to go to the various courts, so they will do because they are doing me a favour. It can be a torture sometimes lawyers can accuse you of so many things. Never mind that we have bosses who sit on the bench who embarrass the interpreters. Take them to task for some little errors in English. Come on, English is not my mother tongue. I studied that for 12 years, I use that language to earn my daily bread for 36 years, still even today I'm sure I'm making a lot of mistakes. The Englishmen himself can't even speak proper English, when we make simultaneous interpretation there's bound to be some mistakes on the tenses, singular plural somewhere down the line you still make some mistakes, you can't help it. I know of your university lecturers using the word "*did you went there*", "*when did you became*" I said university eh! Then fortunately he is teaching Mathematics and Science ok we can understand. Lawyers in the open court "*did you not went there*", "*when did you became the owner*", "I put it to you that *you did murdered* the accused" - in open court (!). Just because this is so glaring, some of these judges, "Interpreter! what language are you speaking, don't you know this is that, this is that?" You go through that particular judge, that magistrate's notes, your red pen will be everywhere. Just because of this one mistake. They don't realise interpreter listens to the questions in English or in *bahasa* mentally, he must translate it quickly, understand it, tell this to the witness and that witness will take "*Hikayat Hang Tuah*" [a famous Malay saga, a long story] he will beat around the bush, interpreter just takes the gist, translates it and puts it across. What about your English grammar. Just let fly, that's what I told the interpreters, don't worry about English, that's not your mother tongue. People can laugh at you when you make a mistake in your mother tongue,

nobody can laugh at you when you make a mistake in English language, when the Englishman himself cannot speak the English language properly, what are we, its only to earn a living.

(end of tape: side 1)

## APPENDIX E: Sample Notations in Court

Acc. Accused  
C.I. Court Interpreter  
J. Judge  
P.O. Prosecuting Officer  
W. Witness

Type of Court: Sessions Criminal
Location: Kota Kinabalu, Sabah, East Malaysia
Date: July 25 <sup>th</sup> , 2001
Time proceedings start and end: 9.35 a.m. – 4.05
Case Observed: Rape

### Researcher's Observations:

Arrived 8.50 am

Court opened a little after 9.00. Interpreter switched on all lights, unlocked front entrance. Judge has hearing in Chamber.

The police came in. The accused too. Interviewed the Inspector who's acting as Prosecuting officer (P.O.), related that he only had 3 weeks training to be a P.O. Admitted it's grossly insufficient. Didn't want his name recorded.

9.35 am : The Interpreter came in with bundles of files. Proceeded to speak with accused, in Sabah Malay, explanation given to accused: If you plead not guilty, there will be a trial, witnesses will be called, defense is called, if you don't have a lawyer, you defend yourself, plead guilty, because evidence is overwhelmingly against you, there might be lighter sentence and will be given right away. (Is this acceptable practice?)

This practice of negotiating with accused. The focus shifted from the crime in question to the process of bargaining; and in a bargain – you normally want to win. This explains his stubborn stance. The case has been mentioned before, trial pending report from Chemistry Department. DNA test.

10.30: Case called by the interpreter. Accused brought in by the Police.

### **Role Player                      Action/Exchanges**

P.O. : Submit his case  
C.I. : (Confirms identity of accused. Reads out charge. Records plea).  
Acc: (Pleads not guilty).  
P.O. : (Informs the Court that he will bring 7 witnesses).  
C.I. : (Explains this to the accused).  
P.O. : (Announces 1<sup>st</sup> witness).

Witness enters witness box.

C.I. proceeds to administer oath. Establishes identity: name first, age, job, address.

P.O.: Inspector Rusdi, sejak bila anda bertugas di Balai Polis Kota Kinabalu?  
Answer: Sejak tahun 2001

P.O.: Inspector Rusdi, sebelum tarikh itu, di mana bertugas?  
 Answer: Sebelum itu saya bertugas di Balai Polis Penampang.  
 P.O.: Inspector Rusdi, pada 27 November 1998, di mana bertugas dan sebagai apa?  
 W: Saya bertugas sebagai Pegawai Penyiasat (10) pada hari tersebut.  
 P.O.: Inspector Rusdi, adakah pada tarikh tersebut anda telah menerima laporan melibatkan kes rogol?  
 W: Benar Yang Arif. (reports)

(It is noticed that witnesses (government officers or laymen alike) are usually not aware that the right terms of address for a magistrate and session court judge is not *Yang Arif* (Your Honour/Lordship) but *Puan* (Madam) or *Tuan* (Sir). The term *Yang Arif* is only for a Judge in the High Court).

P.O.: (to the Judge – I have to show the report to the witness)  
 Betulkah ini laporan? Adakah ini laporan polis yang telah kamu terima?  
 W: Benar, Yang Arif. Itulah yang saya terima.  
 P.O.: Siapa membuat laporan tersebut?  
 W: Laporan itu dibuat oleh Tungup Bagangon  
 P.O.: Kes tersebut ada telah siasat?  
 W: Belum, Yang Arif.  
 P.O.: Your Honour, I'd like to mark the report and Id.  
 P.O.: Inspector Rusdi, berdasarkan laporan, siapa yang menerima laporan?  
 W: Kpl Zainuddin b. Hamid.  
 P.O.: Tadi kamu sebut Tungup Bagangon, di mana dia sekarang berada?  
 W: Dalam kandang orang salah.  
 P.O.: (to Judge) Accused identified Your Honour.  
 (to witness ) Siapa lagi yang datang?  
 W: Yang datang adalah mangsa dan mertua tertuduh.  
 P.O.: Siapa nama mangsa dan mertua ?  
 W: Nama mangsa Dina, mertuanya nama Stella Francis  
 P.O.: Adakah masih cam mangsa?  
 W: Masih

(P.O. to policeman) Sila panggil mangsa. (Victim is 16 years old) walked into the court and tried to shake hands with P.O.)

P.O.: Adakah itu Dina?  
 W: Inilah Dina, Yang Arif.  
 P.O.: Adakah satu siasatan telah dijalankan?  
 W: Saya telah jalankan siasatan terperinci tentang kes ini.  
 P.O.: Terdahulu, siapakah yang ditangkap kerana disyaki?  
 W: Marcelas Bozo Edward.  
 Judge: Is he one of the witnesses? (She confirmed spelling).  
 P.O.: Yes, Your Honour.  
 P.O.: Adakah laporan tangkapan dibuat.  
 W: Yang Arif, saya ada buat laporan tangkapan.  
 P.O.: (To judge) I've to show the witness, Penampang Report 58/98  
 Judge: Can the accused read the Report ? Or is he illiterate?  
 P.O.: (Prosecution's Exhibit confirmed)

C.I.: (showed the report to the accused and asked if he agreed that it be tendered as evidence)

Acc: Setuju

C.I. to Judge: Setuju, Puan

P.O.: Inspector Rusdi, adakah Bozo hadir di mahkamah?

W: Ada, Yang Arif.

P.O.: I 'd like to call the witness. Adakah ini Bozo?

W: Ya, Yang Arif.

P.O.: Inspector Rusdi, adakah soal selidik dijalankan ke atas Marcelas?

W: Ada Yang Arif

P.O.: Untuk kes itu, berapa lama Bozo direman?

W: Selama 1 minggu Yang Arif.

P.O.: Kemudian, daripada siasatan siapakah yang sebenarnya merogol?

W: Dari siasatan saya, orang yang merogol ialah Tungup Bagangon

P.O.: Adakah kamu berpuas hati dari siasatan yang Bozo tidak terlibat dalam kes itu?

W: Saya amat berpuas hati bahawa Bozo tidak terlibat.

P.O.: Inspector Rusdi, dari mana maklumat yang kamu dapat bahawa tertuduh yang merogol.

W: Maklumat saya dapat daripada bapa kepada Marcelas Bozo Edward.

P.O.: Siapa nama bapa kepada Marcelas Bozo Edward?

W: Edward Bozo, Yang Arif.

P.O.: I wish to call Edward Bozo (Witness comes in)

P.O.: Adakah itu Edward Bozo?

W: Ya (witness also responded).

P.O.: Inspector Rusdi, adakah kamu sebagai Pegawai Penyiasat satu laporan telah di terima daripa Edward Bozo?

W: Ada Yang Arif.

P.O.: Yang Arif, I'd like to show to the witness, the report 8/98.

P.O.: Adakah itu laporan yang dibuat oleh Encik Edward Bozo?

W: Benar Yang Arif.

P.O.: Please tender as exhibit.

C.I. (Files the report and confirms report)

P.O.: Adakah kamu telah mendengar dan merakam percakapan dengan Dina?

W: Ada,

P.O.: Pada awalnya siapa yang dia kata merogolnya.

W: Pada awalnya Dina berkata Marcelas Bozo telah merogolnya.

P.O.: Kemudian, siasatan lanjut dijalankan, betul atau tidak?

W: Benar Yang Arif.

P.O.: Siapa pula yang telah dikatakan oleh mangsa merogolnya?

W: Selepas siasatan, mangsa mengatakan Tungup telah merogolnya.

P.O.: Adakah kamu tanya Dina, mengapa dia beri laporan sebelumnya?

W: Saya ada tanya kepada Dina.

P.O.: Apa jawapnya.

W: Kerana Tungup ugut akan memukulnya jika beritahu perkara yang sebenar.

P.O.: Apakah hubungan antara tertuduh dengan Dina.

W: Hubungannya, ialah bapa tiri Yang Arif.

P.O.: Semasa kamu siasat, adakah mangsa sedang mengandung?

W: Benar Yang Arif  
P.O.: Apakah selepas itu, mangsa telah melahirkan anak?  
W: Benar, Yang Arif  
P.O.: Di mana?  
W: Di Hospital Queen Elizabeth  
P.O.: Apakah nama bayi tersebut?  
W: Namanya Freddie Michael.  
P.O.: Adakah telah melihat bayi itu?  
W: Ada Yang Arif.  
P.O.: Yang Arif, I'd like to call in Freddie Michael?  
P.O.: Adakah itu Freddie Michael?  
W: Ya, Yang Arif  
P.O.: Adakah satu ujian DNA dijalankan?  
W: Ada Yang Arif  
P.O.: Adakah anda pasti pihak hospital mengambil darah?  
W: Ya, yang Arif.  
Judge: Whose darah are you talking about?  
P.O.: Siapa yang diambil darah?  
W: Dina, Tungup, Bayi dan Marselas Bozo Edward.  
P.O.: Adakah kamu telah buat surat untuk tujuan mengambil darah keempat-empat mereka?  
W: Ada, Yang Arif.  
P.O.: (Showing to the witness the letters) Adakah itu surat untuk mengambil darah?  
W: Ya, Yang Arif.  
P.O.: To mark this letter, as evidence /exhibit.  
C.I.: Exhibit P4  
P.O.: Berapa banyak tabung darah yang kamu terima.  
W: Empat tabung, Yang Arif.  
P.O.: Apa yang kamu buat dengan tabung itu?  
W: Saya telah masukkan dalam sampul surat dan seal 504.  
P.O.: Ke mana kamu hantar tabung darah itu?  
W: Saya hantar ke Makmal Kimia, Petaling Jaya Yang Arif.  
P.O.: Untuk apa?  
W: Untuk menjalankan ujian DNA.  
P.O.: Adakah gunakan borang kimia?  
W: Ya, Yang Arif.  
P.O.: Apakah tujuan atau matlamat ujian DNA.  
W: Untuk memastikan siapa punya bayi yang dilahirkan oleh mangsa.  
P.O.: (Yang Arif, I'd like to show this to the witness) Adakah itu laporan yang anda bawa ke Jabatan Kimia Petaling Jaya?  
W: Benar Yang Arif.  
P.O.: Please mark as exhibit. (Submits to the Bench)

(C.I. takes it and confirms and announces exhibit P5)

P.O.: Adakah kamu sendiri yang hantar ke Petaling jaya?  
W: Benar, saya sendiri hantar.  
P.O.: Adakah laporan Jabatan Kimia Petaling Jaya telah diperolehi.  
W: Benar, Yang Arif.  
P.O.: Adakah anda sendiri ambil laporan tersebut?

W: Ya, Yang Arif. Kami telah ambil 4 bungkus Yang Arif.  
P.O.: Ada tanda?  
W: Ada.  
P.O.: Apa tanda?  
W: X 1 hingga X 4 Yang Arif.  
P.O.: Tabung uji itu disimpan dalam keadaan bagaimana?  
W: Dalam keadaan begitu (pointing)  
P.O.: Bagaimana?  
W: Keadaan paket, bertanda.  
P.O.: Ada apa-apa seal?  
W: Ada.  
P.O.: Seal apa?  
W: PJ 1  
P.O.: (Yang Arif, I'd like to show this to the witness, laporan JK, tarikh 31/7/99, nombor makmal PJFOR2431/99/0. Adakah itu laporan yang kamu terima dari Petaling Jaya?)  
P.O.: With permission of the Court, I'd like to ask witness to read the last paragraph. Inspector Rusdi, cuba baca perenggan akhir.  
W: (Baca – Tungup is the father 99.6%)  
P.O.: Tadi kamu beritahu mahkamah, kamu telah terima 4 sampul dari Jabatan Kimia di Petaling Jaya. Cuba kamu buka sampul surat.  
(proceeds to open each envelop)  
P.O.: Pada sampul surat itu, ada nombor makmal tak?  
W: Ada Yang Arif.  
P.O.: Cuba tenguk pada setiap sampul, apa yang tertulis?  
W: (Read it out) Ada tertulis rujukan Makmal PJFOR2431/99/0.  
P.O.: Ok. Tadi kamu beritahu telah tandakan EX 1 – EX 4. Cuba buka.  
(Buka)  
P.O.: Repeat : EX 1 – Dina Tumut.  
P.O.: EX 2?  
W: Ada tertulis : Marcelas Bozo Edward.  
P.O.: EX 3?  
W: Ada tertulis nama Tungup Bagangon.  
P.O.: EX 4 ?  
W: Tertulis nama Freddy Michael.  
P.O.: I'd like to tender these packets as exhibits. (took them to the Bench)  
C.I. collects them,  
Judge: Tunjuk pada accused dulu.  
(C.I. showed the accused, confirms. C.I. Announces to Judge).  
P.O.: Inspector Rusdi, Adakah kamu telah sahkan laporan kepada  
Judge: (What?) Did he hand out copies of the chemist report to the accused?  
P.O.: Ada kamu selidik borang serah – terima?  
W: Ada  
P.O.: Selain dari itu ?  
W: Satu salinan lain.  
P.O.: Berapa laporan.  
W: 2, Yang Arif  
P.O.: I'd like to show to the witness. Satu laporan kepada tertuduh - Adakah kamu beri laporan kepada tertuduh?  
W: Ya, Yang Arif.  
P.O.: I'd like to tanda laporan as exhibit pendakwaan dan surat akuan terima.



(C.I. Shows the accused and confirms agreement).

(C.I. Announces to the Court.)

P.O.: Inspector Rusdi, Adakah kamu telah menangkap tertuduh kerana terlibat dalam kes rogol itu?

W: Ada, Yang Arif.

P.O.: (To Judge) I've to show to the witness the Penampang Report) He gave one to the accused.

P.O.: Siapa yang kamu arah menangkap tertuduh.

W: Lance Corporal Hamdak Hj. Kasim.

P.O.: Please to mark as exhibit (ID and Exhibit) Lepas itu adakah laporan kes dibuat terhadap Tungup?

W: Ada

P.O.: Laporan itu untuk apa?

Judge: Laporan bahawa OKT telah membuat laporan palsu, ingat?

P.O.: I've to show xxx 51/2000 Penampang Report. Adakah itu bersifat laporan palsu dibuat oleh Tungup.

W: Ya, Yang Arif.

P.O.: Please to mark the Report as exhibit.

C.I. (xxx one to accused)

Acc: Laporan yang dibuat itu bukan palsu.

Judge: (Confirm)

P.O.: OKT mengatakan laporan yang dibuat itu bukan palsu.

J: Accused is objectify to the exhibit. He can xxx – examined later.

P.O.: Your Honor, the 1.0. is .....

J: You are saying the objective has no basic?

P.O.: Yes, it has no basic xxx

(Judge silence for a while) Objective dismissed.

P.O.: Adakah tertuduh di bawa ke mahkamah kerana membuat tuduhan palsu?

W: Ada Yang Arif.

P.O.: Mahkamah mana?

W: Mahkamah Majistret Kota Kinabalu.

P.O.: Bawah Seksyen apa?

W: Section 128 Kanun Keseksaan.

P.O.: Adakah kes itu telah selesai?

W: Belum, masih dalam perbicaraan.

P.O.: Adakah kamu masih ingat, apa nombor kes?

W: Nombor Kes 83/650/2020.

(J asked for confirmation)

P.O.: I have no more question, Your Honor.

C.I. Explains to the accused that he can cross-examine the witness.

Acc -Stands up.

Acc: Yang Arif, saya minta masa.

J: Kamu sekarang tanya saksi yang lain-lain, jika ada yang tidak setuju tanya sekarang, kalau tidak, tiada lagi peluang.

Acc doesn't seem to understand procedures at all.

C.I. – explains again.



Acc: Yang Arif, masa kejadian itu, kalau benar saya lakukan apa bukti-buktinya.  
 J: Bukti-bukti telah ditunjukkan.  
 Acc: Laporan pertama bukan saya.  
 J: Apa yang dia cuba katakan.  
 C.I. (Tries to explain. Accused's defense is 'Why am I accused now when in the beginning someone else was accused').  
 J: Kamu dituduh berdasarkan laporan kimia bahawa bayi itu adalah kepunyaan kamu.

C.I. (Re-explains to the Acc)  
 (Acc is detached for reality)

Acc: Laporan Section 182 bukan saya buat sendiri, laporan itu dapat dari mangsa.  
 J: Jadi, apa yang kamu mahu cakap dengan saksi.  
 Acc: Saya bantah laporan itu, bukan saya buat.

C.I. reinterprets,

J: (To P.O.) I put it to you bahawa laporan itu palsu, polis yang sendiri buat, berdasarkan keterangan mangsa.

(J code switches, speaks to P.O. as accused would have spoken)

P.O.: Tidak benar, Yang Arif. Semasa OKT datang, dia yang beriya-iyanya membuat laporan tersebut.

(P.O. replies as if Judge's question comes from accused)

Acc: Yang Arif, apakah bukti-bukti yang menuduh saya.  
 (Clearly doesn't understand method of questioning)

P.O.: Tiada yang lain, Yang Arif, berdasarkan DNA ujian.

(P.O. replies as if accused spoke in the correct discourse, i.e. I put it to you that there is no proof to implicate me)

(C.I. explains again to accused – the charge is not due to victim but due to chemist DNA report – clearly not the interpreter's duty to interrupt here)

Acc: Tiada soalan lagi.

(C.I. informs J the same i.e. No more question).

P.O.: Inspector Rusdi – Laporan yang dibuat pada 27/11/98 4142 (ID : I)

J: (Interrupt to confirm) Siapa yang buat?

P.O. laporan dibuat oleh OKT, Yang Arif.

P.O.: Kamu setuju dengan saya, bahawa bukan sekadar laporan DNA, malah siasatan menunjukkan bahawa Marselas Bozo tidak pernah merogol Dina.

W: Setuju

P.O.: Your Honor, I may want to re-call the victim, if we can continue in the afternoon.

J: Is the accused on bail?

P.O. On remand.

2.30 P.m. Trial Continues

3.10 Acc led into dock.

C.I. PP v Bagangon

P.O. Accused indicated to us that he's changing his plea.

C.I. Reads out charge and explains consequences.  
Confirms plea to the J.  
P.O. Reads out charge the charge.  
Confirmation - Facts of the Case correct. Explicit language in parts to describe the rape.  
P.O.; Tenders report made by accused.  
Fact of the Case tendered.

(J asks for documents in sequence, clarification)

(P.O. clarifies – Dina Phillip's birth certificate was changed to Dina Tungup).

(P.O. tenders medical report).

(J confirms details aloud and writes it down).

(P.O. tenders all other documents)

(J confirms the documents aloud)

P.O.: (Blood samples tendered to the court) That is all, thank you.

J: Does the accused have anything to say?

C.I: (Spoke to accused)

(The accused, in mitigation, said in Sabah Malay, he has 5 children, promised not to do it again [sic], will continue to co-operate with the police (I).

J: P.O. to submit.

P.O.: The accused was arrested on 8<sup>th</sup> July 2000, It is a serious offence. Mohon hukuman setimpal. Hasil dari siasatan, Pendakwa mendapati keluarga mangsa datang dari keluarga susah. Sepatutnya OKT membela nasib, tapi sayangnya OKT telah memusnahkan kepercayaan tersebut. Pihak Pendakwa menganggap tindakan tertuduh sebagai tidak berperikemanusiaan dan tidak bertanggungjawab, mangsa terpaksa berhadapan dengan stigma bahawa beliau telah dirogol oleh bapa tirinya sendiri dan juga terpaksa menanggung seorang anak. Sekali lagi, Pihak Pendakwa mohon hukuman yang setimpal. That is all.

(P.O. opens and closes in English, but main argument in Malay)

J: Court stand down for ½ hour to decide.

#### 4.05 session resumed

J: In passing the sentence, the Court takes into consideration that the accused pleads guilty and saves the court's time. However, this case involves public interest and must be taken seriously. It involves a young girl who should be enjoying her childhood, instead of giving birth. The accused is in the place of trust, but behaved in a despicable manner. Based on the evidence and on the above, I sentence the accused to 14 years and 4 strokes. Sentence to begin from date of arrest.

(J speaks very fast, interpreter barely able to catch up, accused looks confused).

## APPENDIX F: Registrar's Circular 1946

### THE SUPREME COURT OF THE MALAYAN UNION

#### REGISTRAR'S CIRCULAR NO. 15 OF 1946

To : Asst. Registrar, Supreme Court.  
District Judge

I am directed to draw your attention to the provisions in the various Interpreters' Schemes which provide that Interpreters must render assistance in work other than in interpretation in Court and doing translation. You are no doubt aware that the Chief Justice is doing all he can to improve the efficiency of and conditions of service in this Department.

2. There have been or will be posted to various Registries and Courts, Student Interpreters, and His Lordship desires that you should occupy them in their spare time in office work, doing all you can to give them a thorough training in all branches of Court work. It is the intention in so far as the Department is concerned to recommend for promotion only those men who have exerted themselves in their work and their studies. His Lordship has laid down the general principle that no officer of the department will be considered for promotion if his work and enthusiasm does not so justify.

3. Shorthand and typewriting are great assets these days and the younger men should be encouraged to study these subjects. His Lordship, therefore, hopes that you will take an active and personal interest in all the young men attached to your Court, giving them such advice as may induce them to look to their future.

Sd.

REGISTRAR

*The Registry*  
Supreme Court

Kuala Lumpur, 13<sup>th</sup> August, 1946.

(RSC.111/46)

## **APPENDIX G: Registrar's Circular 1981**

JABATAN KEHAKIMAN  
MAHKAMAH PERSEKUTUAN,  
KUALA LUMPUR

Tel : 924155

Bil : (56) dlm. JK/IP 39/54-U  
Tarikh : 21 Sept. 1981

Semua Y.A. Hakim-hakim Mahkamah Persekutuan,  
Kuala Lumpur

Semua Y.A. Hakim-hakim Mahkamah Tinggi, Tanah Melayu.

Semua Y.B. Pesuruhjaya Kehakiman, Mahkamah Tinggi, Tanah Melayu.

Semua Penolong Kanan Pendaftar/Penolong Pendaftar,  
Mahkamah Tinggi, Tanah Melayu.

Tan Sri/Datuk/Tuan/Puan,

*Pekeliling Pendaftar (U) Bil. 13 tahun 1981*

### **Penggunaan Bahasa Malaysia Di Mahkamah**

Adalah saya diarah oleh Pemangku Ketua Hakim Negara, Malaysia untuk perhatian Tan Sri/Datuk/Tuan/Puan kepada soal penggunaan Bahasa Malaysia di mahkamah yang pada masa ini menjadi satu isu yang sering diperkatakan di Parlimen dan di akhbar-akhbar. Pekeliling ini adalah bertujuan untuk meletakkan garis-garis panduan dalam perkara ini.

2. Pemangku Ketua Hakim Negara, Malaysia sedar bahawa penggunaan Bahasa Malaysia tidak akan menimbulkan apa-apa masalah dalam bidang pentadbiran dan boleh digunakan sepenuhnya. Tetapi kita masih belum sampai ke tahap di mana Bahasa Malaysia boleh digunakan sepenuhnya dalam perbicaraan. Walau bagaimanapun, usaha-usaha yang positif hendaklah dibuat walaupun secara beransur-ansur untuk mencapai matlamat penggunaan Bahasa Malaysia sepenuhnya di mahkamah. Beliau juga sedar bahawa matlamat paling penting dalam pentadbiran keadilan ialah mencapai keadilan. Oleh itu usaha untuk mencapai matlamat penggunaan Bahasa Malaysia sepenuhnya dalam pentadbiran keadilan tidak seharusnya menjejaskan pencapaian keadilan. Sebaliknya "keadilan" tidak seharusnya menjadi dalih untuk tidak melaksanakan penggunaan Bahasa Malaysia.

3. Menyedari hakikat ini, Pemangku Ketua Hakim Negara mengarahkan seperti berikut:

#### **(A) URUSAN PENTADBIRAN**

4. Semua surat menyurat berhubung dengan urusan pentadbiran hendaklah ditulis dalam Bahasa Malaysia sepenuhnya. Surat-surat yang diterima yang tidak

menggunakan Bahasa Malaysia hendaklah dilayan tetapi semua jawapan hendaklah dibuat dalam Bahasa Malaysia.

(B) URUSAN KEHAKIMAN

(a) Surat menyurat

5. Semua surat menyurat berhubung dengan urusan kehakiman hendaklah ditulis dalam Bahasa Malaysia sepenuhnya. Berhubung dengan layanan kepada surat-surat yang diterima yang tidak menggunakan Bahasa Malaysia, arahan yang tersebut dalam bahagian (A) di atas hendaklah dipakai.

(b) Dokumen-dokumen

6. Bagi dokumen-dokumen yang di peruntukkan dalam mana-mana undang-undang atau kaedah-kaedah bahasa sah undang-undang atau kaedah-kaedah itu hendaklah digunakan. Bagi dokumen-dokumen untuk digunakan dalam pembicaraan sivil, peruntukan 0.92, r.1 Rules of the High Court, 1980 dan ).1, 4.9 dan 0.53, r.5 Subordinate Courts Rules, 1980 hendaklah dipakai. Tetapi oleh sebab naskah Bahasa Malaysia bagi kaedah-kaedah tersebut masih belum ada, Bahasa Inggeris bolehlah digunakan untuk sementara waktu untuk mengelakkan terjemahan yang berlainan yang akan menimbulkan berbagai kesulitan.

(c) Pembicaraan (proceedings)

7. Penggunaan bahasa dalam sesuatu perbicaraan adalah tertakluk kepada seksyen 8 Akta bahasa Malaysia 1973-67 (disemak - 1971) yang berbunyi:

" Segala pembicaraan (melainkan keterangan yang diberi oleh seseorang saksi) dalam Mahkamah Persekutuan, Mahkamah Tinggi atau mana-mana Mahkamah Rendah hendaklah dalam Bahasa Kebangsaan atau Bahasa Inggeris, atau sebahagiannya dalam Bahasa Kebangsaan dan sebahagiannya dalam Bahasa Inggeris.

Dengan syarat mahkamah boleh, sama ada atas kehendaknya sendiri atau atas permintaan mana-mana pihak dalam pembicaraan dan selepas menimbangkan kepentingan keadilan bagi pembicaraan itu, memerintah bahawa pembicaraan itu (melainkan keterangan yang diberi oleh seseorang saksi) hendaklah sama ada kesemuanya dalam Bahasa Kebangsaan atau kesemuanya dalam Bahasa Inggeris".

8. Walaupun seksyen tersebut tidak membezakan pembicaraan di Mahkamah Persekutuan, Mahkamah Tinggi atau Mahkamah Rendah, adalah disedari bahawa penggunaan bahasa Malaysia dalam pembicaraan-pembicaraan di Mahkamah-mahkamah Rendah adalah lebih mudah dilakukan daripada di Mahkamah Persekutuan dan Mahkamah Tinggi. Menyedari hakikat ini maka Pemangku Ketua Hakim Negara mengarahkan seperti berikut :

(i) Mahkamah Rendah

(aa) Pertuduhan (charge)

9. Bagi kes-kes jenayah, pertuduhan hendaklah dibuat dalam bahasa sah sesuatu undang-undang yang di bawahnya sesuatu pertuduhan itu



dibuat. Terjemahannya dalam Bahasa Malaysia atau Bahasa Inggeris perlulah dikembalikan.

(bb) Sebutan (mention)

10. Semua sebutan hendaklah dijalankan dalam Bahasa Malaysia. Tetapi untuk pengetahuan mana-mana pihak yang tidak memahami Bahasa Malaysia terjemahan bolehlah dibuat ke dalam mana-mana bahasa yang difahami oleh pihak itu.

(cc) Keterangan saksi-saksi

11. Saksi-saksi boleh memberi keterangan dalam bahasa apa juga yang dipilihnya. Tetapi keterangan-keterangan tersebut hendaklah diterjemahkan terus ke Bahasa Malaysia dan catitan mahkamah hendaklah dibuat dalam Bahasa Malaysia. Tetapi mahkamah bolehlah sama ada di atas kehendaknya sendiri atau di atas permintaan mana-mana pihak dalam sesuatu pembicaraan dan selepas menimbangkan kepentingan bagi pembicaraan itu, memerintah keterangan tersebut diterjemahkan ke bahasa Inggeris sama ada kesemuanya atau sebahagian daripadanya.

(dd) Pemeriksaan, Pemeriksaan Balas dan Pemeriksaan Semula Saksi-saksi (Examination, Cross-Examination and Re-Examination of Witnesses)

12. Seberapa yang boleh pemeriksaan balas dan pemeriksaan semula saksi-saksi hendaklah dijalankan di dalam Bahasa Malaysia. Soalan-soalan itu diterjemahkan ke bahasa saksi berkenaan memberi keterangan sekiranya ia tidak memberi keterangan di dalam Bahasa Malaysia. Tetapi mahkamah bolehlah, sama ada di atas kehendaknya sendiri atau di atas permintaan mana-mana pihak dan selepas menimbangkan kepentingan keadilan bagi pembicaraan itu, memerintahkan pemeriksaan, pemeriksaan balas dan pemeriksaan semula saksi-saksi dijalankan dalam Bahasa Inggeris sama ada kesemuanya atau sebahagian daripadanya.

(ee) Hujjah-Hujjah (submissions)

13. Seberapa yang boleh hujjah-hujjah hendaklah dibuat dalam Bahasa Malaysia dan catitannya dibuat dalam Bahasa Malaysia. Tetapi mahkamah bolehlah, di atas kehendaknya sendiri atas permintaan mana-mana pihak dan selepas menimbangkan kepentingan keadilan bagi pembicaraan itu memerintahkan hujjah-hujjah itu dibuat dan membuat catitannya dalam Bahasa Inggeris sama ada kesemuanya atau sebahagian daripadanya.

(ff) Alasan-alasan Keputusan (Grounds of Judgment)

14. Semua Yang Dipertua dan Majistret adalah digalakkan menulis alasan-alasan keputusan dalam Bahasa Malaysia. Petikan-petikan daripada mana-mana undang-undang yang naskah sahinya dalam Bahasa Inggeris atau daripada mana-mana laporan undang-undang (law reports) dan lain-lain dalam Bahasa Inggeris tidaklah perlu diterjemahkan ke Bahasa Malaysia. Dalam lain perkataan Bahasa Malaysia dan Bahasa Inggeris bolehlah digunakan serentak. Tetapi sekiranya oleh sebab-sebab yang tidak dapat dielakkan dan demi kepentingan keadilan, alasan-alasan keputusan bolehlah ditulis di dalam Bahasa Inggeris sepenuhnya.

(gg) Rujukan

15. Rujukan hendaklah dibuat kepada naskah sah sesuatu undang-undang itu dan sebarang penafsiran, jika perlu, hendaklah dibuat terhadap naskah tersebut.

(hh) Penyata-penyata Rayuan (Records of Appeal)

16. Dalam menyediakan Penyata-penyata Rayuan catitan-catitan asal tidaklah perlu diterjemahkan sama ada ke Bahasa Malaysia atau Bahasa Inggeris.

(ii) Penyata-penyata Rayuan (Records of Appeal)

17. Sehingga satu tarikh yang akan ditetapkan, seberapa yang boleh arahan berkenaan pembicaraan di Mahkamah-mahkamah Rendah hendaklah dipatuhi.

(C) MAJLIS-MAJLIS KERAIAN

18. Semua ucapan-ucapan di majlis-majlis keraian seperti upacara-upacara menaiki (elevation ceremony) dan upacara mengenang kematian seseorang (reference) hendaklah dibuat dalam Bahasa Malaysia.

(D) PENGISYTIHARAN PERSIDANGAN (PROCLAMATION)

19. Sebagai menggantikan pengisytiharan-pengisytiharan yang pada masa ini dibuat dalam Bahasa Inggeris, salah satu daripada pengisytiharan-pengisytiharan yang tersebut di bawah, atau diubahsuai, jika perlu, hendaklah digunakan :

(a) Mahkamah Persekutuan

- (i) "Ketua Hakim Negara Malaysia, Hakim Besar Tanah Melayu, Hakim Besar Borneo dan Hakim-Hakim Mahkamah Persekutuan".
- (ii) "Hakim Besar Tanah Melayu dan Hakim-Hakim Mahkamah Persekutuan".
- (iii) "Hakim Besar Borneo dan Hakim-Hakim Mahkamah Persekutuan".
- (iv) "Hakim-hakim Mahkamah Persekutuan".

(b) Mahkamah Tinggi

- (i) "Hakim Mahkamah Tinggi".
- (ii) "Pesuruhjaya Kehakiman".

(E) PENJELASAN

20. Untuk mengelak sebarang keraguan adalah dijelaskan bahawa Pekeliling ini adalah tertakluk kepada peruntukan-peruntukan Akta Bahasa Kebangsaan 1963-67 (disemak - 1971).

21. Pekeliling ini hendaklah dipakai di Semenanjung Malaysia sahaja.

22. Akhir sekali Pemangku Ketua hakim Negara menyeru semua pihak yang terlibat dalam pentadbiran keadilan memberi kerjasama sepenuhnya kepada badan Kehakiman dalam perkara ini. Tanpa kerjasama semua pihak matlamat negara berhubung dengan pelaksanaan Bahasa Kebangsaan, terutama sekali di mahkamah, tidak mungkin dicapai.

t.t.

(SITI NORMA YAAKOB)  
Ketua Pendaftar.

(56)dlm. JK/IP 39/54-U

s.k.:

- 1) Y.A.A. Ketua Hakim Negara, Malaysia,  
Mahkamah Persekutuan, Kuala Lumpur
- 2) Y.A. Pemangku Hakim Besar, Mahkamah Tinggi,  
Kuala Lumpur.
- 3) Y.A. Hakim Besar, Borneo.
- 4) Y.B. Peguam Negara, Malaysia, Jabatan Peguam Negara,  
Bangunan Bank Rakyat, Jalan Tangsi, Kuala Lumpur.
- 5) Y.A. Hakim-hakim Mahkamah Tinggi, Borneo.
- 6) Y.B. Peguamcara Negara, Jabatan Peguam Negara,  
Bangunan Bank Rakyat, Jalan Tangsi, Kuala Lumpur.
- 7) Ketua Bahagian Sibil, Jabatan Peguam Negara,  
Bangunan Bank Rakyat, Jalan Tangsi, Kuala Lumpur.
- 8) Ketua Bahagian Jenayah, Jabatan Peguam Negara,  
Bangunan Bank Rakyat, Jalan Tangsi, Kuala Lumpur.
- 9) Pendaftar, Mahkamah Tinggi, Borneo.
- 10) Timbalan Pendaftar, Mahkamah Tinggi Borneo.
- 11) Semua Penasihat Undang-Undang Negeri Tanah Melayu.
- 12) Semua Timbalan Pendakwa Raya, Negeri-negeri Tanah Melayu.
- 13) Yang Di pertua Majlis Peguam Malaysia, Lot 5.55, 5<sup>th</sup>. Floor, Wisma Central,  
Jalan Ampang, Kuala Lumpur.
- 14) Setiausaha Majlis Peguam Malaysia, Lot 5.55, 5<sup>th</sup>. Floor, Wisma Central, Jalan  
Ampang, Kuala Lumpur.
- 15) Setiausaha, Jawatankuasa Peguam Tempatan, Negeri-negeri Tanah Melayu.
- 16) Managing Editor, Malayan Law Journal (Pte) Ltd., Lot 4001, Shenton House,  
Shenton Way, Singapore 0106.
- 17) Editor, INSAF  
C/o bar Council, Malaysia, Lot 5.55,  
5<sup>th</sup>. Floor, Jalan Ampang, Wisma Central,  
Kuala Lumpur.
- 18) Malaysian Law Publishers (M) Sdn. Bhd.,  
201, 2<sup>nd</sup> Floor, Lee Yan Lian Building,  
Jalan Tun Perak, Kuala Lumpur.
- 19) Ahli-ahli Jawatankuasa Pelaksanaan Bahasa Malaysia di Mahkamah.



**JABATAN KEHAKIMAN  
MAHKAMAH PERSEKUTUAN,  
KUALA LUMPUR**

Tel : 924155

Bil : (58) dlm. JK/IP 39/54-U  
Tarikh : 12 hb. Oktober 1981

Semua Y.A. Hakim-hakim Mahkamah Persekutuan,  
Kuala Lumpur

Semua Y.A. Hakim-hakim Mahkamah Tinggi, Tanah Melayu.

Semua Y.B. Pesuruhjaya Kehakiman, Mahkamah Tinggi, Tanah Melayu.

Semua Penolong Kanan Pendaftar/Penolong Pendaftar,  
Mahkamah Tinggi, Tanah Melayu.

Tan Sri/Datuk/Tuan/Puan,

*Pekeliling Pendaftar (U) Bil. 13 tahun 1981*

**Penggunaan Bahasa Malaysia Di Mahkamah**

Adalah saya diarah merujuk kepada Pekeliling Pendaftar No. 12 Tahun 1981 di atas tajuk yang sama dan menjelaskan :

- i) sebagai ganti kepada panggilan "Your Honour", istilah-istilah berikut hendaklah digunakan :
  - (a) "Tuan/Puan yang Dipertua, Mahkamah Sesyen;
  - (b) "Tuan/Puan Majistret" bagi Majistret; dan
  - (c) "Tuan/Puan" bagi kedua-duanya di mana sesuai.
- ii) berhubung dengan "proviso" yang terdapat di dalam paragraf 11 (Keterangan Saksi-saksi), 12 (Pemeriksaan, Pemeriksaan Balas dan Pemeriksaan Semula Saksi-saksi) dan 13 (Hujjah-hujjah) yang memberi budibicara (discretion) kepada mahkamah sama ada hendak membenarkan keterangan saksi-saksi (paragraf) itu diterjemah ke Bahasa Malaysia atau Bahasa Inggeris, pemeriksaan-pemeriksaan (paragraf 12) dan hujjah-hujjah (paragraf 13) itu dibuat dalam Bahasa Malaysia atau Bahasa Inggeris baik kesemuanya atau sebahagian daripadanya, faktor-faktor berikut, antara lain, hendaklah dipertimbangkan:
  - (a) adakah ianya akan menjejaskan keadilan dalam kes itu? Dalam lain perkataan, adakah penggunaan Bahasa Malaysia dalam

- perkara-perkara itu akan menyebabkan sesuatu pihak itu tidak dapat mengemukakan kesnya dengan baik sehingga menyebabkan keputusan mahkamah di dalam kes itu berlainan dari sepatutnya?;
- (b) adakah kes itu satu kes yang sukar baik dari segi kenyataannya atau undang-undang yang terlibat di dalamnya;
  - (c) adakah peguam-peguam yang terlibat di dalam kes itu menguasai Bahasa Malaysia yang cukup untuk mengendalikan kesnya itu? Memanglah sukar untuk mengseimbangkan matlamat negara dengan kepentingan peguam-peguam dan pihak-pihak yang diwakili mereka dalam perkara ini. Tetapi seorang peguam yang telah lanjut umurnya yang tidak berpeluang mempelajari Bahasa Malaysia langsung semasa sekolahnya sepatutnya mendapat simpati yang lebih bagi mengendalikan kes-kesnya dalam Bahasa Inggeris. Ini tidak beerti bahawa beliau tidak perlu mengambil hirau langsung untuk mempelajari bahasa itu. Asalkan semua pihak menunjukkan minat dan usaha yang bersungguh-sungguh untuk menggunakan bahasa Malaysia, asalkan pihak mahkamah sedar bahawa matlamat utamanya ialah untuk mencapai keadilan dan seberapa yang boleh melalui Bahasa Malaysia, maka mereka adalah melakukan suatu yang betul;
  - (d) adakah dengan menggunakan Bahasa Malaysia itu maka kes yang hendak dibicarakan itu terpaksa ditangguhkan, atau kalau dijalankan juga sehingga menjejaskan keadilan?

2. Mungkin ada faktor-faktor lain yang seharusnya dipertimbangkan. Panduan ini tidaklah menyeluruh.

3. Kebijaksanaan dalam menggunakan budibicara Tuan/Puan amatlah penting.

t.t.

(ABDUL HAMID BIN HAJI MOHAMED)  
Timbalan Pendaftar.

s.k:

- 6) Y.A.A. Ketua Hakim Negara, Malaysia,  
Mahkamah Persekutuan, Kuala Lumpur
- 7) Y.A. Pemangku Hakim Besar, Mahkamah Tinggi,  
Kuala Lumpur.
- 8) Y.A. Hakim Besar, Borneo.
- 9) Y.B. Peguam Negara, Malaysia, Jabatan Peguam Negara,  
Bangunan Bank Rakyat, Jalan Tangsi, Kuala Lumpur.

- 10) Y.A. Hakim-hakim Mahkamah Tinggi, Borneo.
- 6) Y.B. Peguamcara Negara, Jabatan Peguam Negara,  
Bangunan Bank Rakyat, Jalan Tangsi, Kuala Lumpur.
- 7) Ketua Bahagian Sibil, Jabatan Peguam Negara,  
Bangunan Bank Rakyat, Jalan Tangsi, Kuala Lumpur.
- 20) Ketua Bahagian Jenayah, Jabatan Peguam Negara,  
Bangunan Bank Rakyat, Jalan Tangsi, Kuala Lumpur.
- 21) Pendaftar, Mahkamah Tinggi, Borneo.
- 22) Timbalan Pendaftar, Mahkamah Tinggi Borneo.
- 23) Semua Penasihat Undang-Undang Negeri Tanah Melayu.
- 24) Semua Timbalan Pendakwa Raya, Negeri-negeri Tanah Melayu.
- 25) Yang Di pertua Majlis Peguam Malaysia, Lot 5.55, 5<sup>th</sup>. Floor, Wisma Central,  
Jalan Ampang, Kuala Lumpur.
- 26) Setiausaha Majlis Peguam Malaysia, Lot 5.55, 5<sup>th</sup>. Floor, Wisma Central, Jalan  
Ampang, Kuala Lumpur.
- 27) Setiausaha, Jawatankuasa Peguam Tempatan, Negeri-negeri Tanah Melayu.
- 28) Managing Editor, Malayan Law Journal (Pte) Ltd., Lot 4001, Shenton House,  
Shenton Way, Singapore 0106.
- 29) Editor, INSAF  
C/o bar Council, Malaysia, Lot 5.55,  
5<sup>th</sup>. Floor, Jalan Ampang, Wisma Central,  
Kuala Lumpur.
- 30) Malaysian Law Publishers (M) Sdn. Bhd.,  
201, 2<sup>nd</sup> Floor, Lee Yan Lian Building,  
Jalan Tun Perak, Kuala Lumpur.
- 31) Ahli-ahli jawatankuasa Pelaksanaan Bahasa Malaysia di Mahkamah.

**JABATAN KEHAKIMAN MALAYSIA,  
MAHKAMAH AGUNG,  
BANGUNAN SULTAN ABDUL SAMAD,  
JALAN RAJA,  
50506 KUALA LUMPUR**

No. Ruj. : JK/MA. 38.Jld.IV  
Tarikh : 25 Jun 1990

Yang Arif Hakim-Hakim dan Pesuruhjaya Kehakiman,  
Mahkamah Tinggi Malaya.  
Semua Hakim Mahkamah Sesyen, Semenanjung Malaysia,  
Semua Majistret, Semenanjung Malaysia.

**PEKELILING HAKIM BESAR MALAYA NO. 3 TAHUN 1990**

*Alasan Penghakiman Dalam Bahasa Malaysia*

Sebagaimana yang dikehendaki oleh Peruntukan seksyen 8 Akta bahasa Kebangsaan 1963/67 melalui Akta Pindaan A765, segala prosiding dalam mahkamah (selain daripada pemberian keterangan oleh seseorang saksi) hendaklah dalam bahasa kebangsaan. Sehubungan dengan itu adalah difikirkan wajar bagi maksud melicinkan pelaksanaan penggunaan bahasa kebangsaan di mahkamah, semua Hakim Mahkamah Tinggi/Pesuruhjaya Kehakiman, Mahkamah Tinggi Malaya, semua Hakim Mahkamah Sesyen dan semua Majistret diminta mengemukakan satu alasan penghakiman dalam bahasa kebangsaan kepada saya setiap bulan. Tujuannya ialah untuk mengenalpasti masalah-masalah yang berkaitan dengan pelaksanaan bahasa kebangsaan pada keseluruhannya supaya langkah-langkah positif untuk mengatasi masalah tersebut dapat diambil oleh Badan Kehakiman.

Kerjasama daripada YA/Tuan/Puan sangat dihargai.

(TAN SRI HASHIM YEOP A. SANI)  
Hakim Besar Malaya

s.k.:

1. Y.A.A. Ketua Hakim Negara.
2. Y.A.A. Hakim Besar Borneo (untuk makluman).
1. Y.A. Hakim-Hakim Mahkamah Agung (untuk makluman).
4. Tuan Ketua Pendaftar Mahkamah Agung.
5. Tuan Pendaftar, Mahkamah Tinggi Malaya.
6. Bahagian Penyelidikan dan Sekretariat Bahasa Malaysia, Mahkamah Agung.

## APPENDIX H: Total Number of Interpreters 2001

### SENARAI PERJAWATAN DAN PENGISIAN BAGI JURUBAHASA MAHKAMAH SELURUH MALAYSIA

<u>BIL</u>	<u>JAWATAN</u>	<u>GRED</u>	<u>BIL JAWATAN</u>	<u>BIL PENGISIAN</u>
1	Jurubahasa	L6	100	78
2	Jurubahasa	L7	795	546

#### Catatan

##### 1. Pengisian Mengikut Bahasa

<u>BIL</u>	<u>JAWATAN</u>	<u>GRED</u>	<u>BIL PENGISIAN</u>
1	Jurubahasa Melayu	L6	37
2	Jurubahasa Cina	L6	22
3	Jurubahasa Tamil/Punjabi	L6	19
4	Jurubahasa Melayu	L7	257
5	Jurubahasa Cina	L7	105
6	Jurubahasa Tamil/Punjabi	L7	184

Source: Federal Court, Kuala Lumpur, April 2002

#### Note

Total number of official interpreters in service in July 2001: 624.

As of June 2002, 12 have left the service, making the latest total 612.

Total number of interpreter posts: 895

## **APPENDIX I: Interpreters' Duties (from 3 different courts)**

The following list of duties are written by three interpreters from three different courts.  
(translated by researcher from Malay)

### **(1) High Court Muar, Johor**

1. Interpret cases before the Judge and Senior Assistant Registrar.
2. Carry out duties of Commissioner for Oaths
3. Carry out duties of Clerk of the Court (by turn)
4. Acting as clerk for mention cases:
  - a) Register cases
  - b) Open files
  - c) Handle related correspondence
  - d) Fix trial dates
  - e) Prepare cause lists (list of trials for the day)
  - f) Dispatch documents
  - g) Assist Senior Assistant Registrar to check draft orders
  - h) Prepare monthly statements
5. Clerk for civil appeals from High Court to Federal Court
  - a) Open files
  - b) Handle related correspondence
  - c) Dispatch documents
6. Clerk for civil cases from Magistrate and Sessions Courts to High Court
  - a) Register cases
  - b) Open files
  - c) Handle related correspondence
  - d) Issue trial notices to parties
  - e) Prepare cause lists
  - f) Dispatch documents
  - g) Assist Senior Assistant Registrar to check draft orders
  - h) Prepare monthly statements
7. Translate documents on request from lawyers or from members of the public

### **(2) Magistrates Court (Juvenile): Kuala Lumpur**

1. Interpret trial cases in court
2. Ensure court is ready for trial
3. Register juvenile cases
4. Prepare list and schedule for advisors
5. Register new cases under Women and Child's Protection Act
6. Prepare Warrant of Remand
7. Prepare Bond of Good Behaviour and Order for admission to Approved School
8. Prepare Bond Bails
9. Prepare daily and monthly report
10. Liase with members of the public
11. Record judgement
12. Register and take care of Exhibits
13. Prepare Warrants of Arrest and Notices to Bailor
14. Handle correspondence



15. Collect fines
16. Make request for additional interpreters as appropriate
17. Prepare Charge Sheet for trial
18. Prepare list of exhibits for disposal

### **(3) Magistrate's Court Kuala Lumpur**

1. Check Charge Sheet
2. Register Charges and open files (obtain them from Registry)
3. Take files to Magistrate for attention and action
4. Send files to appropriate court
5. Prepare Warrant of Arrest and Bond Bail
6. Record details of Bailor and surety
7. Inform appropriate financial institution about surety
8. Record daily and monthly cases
9. Enter details and notes into Principal Register and Charts
10. In the case of an accused being a Public Servant, inform the relevant Department of trial and decision, according to General Order Chapter D.
11. Inform Immigration Department or Foreign Ministry to impound the international or restricted passport of an accused whose movements are restricted.
12. Deal with correspondence
13. Inform related parties of forfeiture of surety
14. Issue order to produce a person in custody
15. Record decisions
16. Record Exhibits
17. Collect fines and issue receipts
18. Issue notices to Bailors and Warrant of Arrest to Accused
19. Write to hospitals to arrange for admission, observation or treatment of accused
20. Prepare subpoenas
21. Check Witness Statement after typing notes of proceedings (for errors made by typist)
22. In a retrial, collect charge sheet, witness statement, exhibits,
23. Dispose of exhibits ordered for destruction e.g drugs
24. Ensure security of documents and exhibits
25. Act as Commissioner for Oaths for the public

### **(1) Mahkamah Tinggi, MUAR, JOHOR**

1. Menterjemahkan kes di hadapan Y.A. Hakim dan Penolong Kanan Pendaftar.
2. Menjalankan tugas-tugas Pesuruhjaya Sumpah.
3. Menjalankan tugas-tugas 'Clerks of Court' (mengikut giliran).
4. Kerani Kes Usul Pemula (O/M).
  - (a) mendaftar kes.
  - (b) membuka fail
  - (c) menaip surat menyurat yang berkaitan.
  - (d) menetapkan kes untuk perbicaraan.
  - (e) menyediakan 'cause list' dan buku rujukan.
  - (f) despatch dokumen.
  - (g) membantu Penolong Kanan Pendaftar menyemak draf perintah.
  - (h) menyediakan penyata bulan.

5. Kerani kes Rayuan Sivil daripada Mahkamah Tinggi ke Mahkamah Agung.
  - (a) membuka fail.
  - (b) surat menyurat.
  - (c) despatch surat-surat.
6. Kerani kes Rayuan Sivil daripada Mahkamah Majistret dan Sesyen ke Mahkamah Tinggi
  - (a) mendaftar kes.
  - (b) membuka fail.
  - (c) surat menyurat
  - (d) mengeluarkan Notis Perbicaraan kepada pihak-pihak.
  - (e) menyedilkan 'cause list' dan buku rujukan.
  - (f) despatch surat-surat.
  - (g) membantu Penolong Kanan Pendaftar menyemak deraf perintah.
  - (h) menyediakan penyata bulanan.
7. Menterjemah dokumen-dokumen atas permintaan Peguam/Orang Awam.

**(2) MAHKAMAH MAJISTRET (BAGI MAHKAMAH JUVANA) KUALA LUMPUR**

1. Menterjemah kes-kes bicara di dalam Mahkamah.
2. Memastikan Mahkamah sedia untuk menjalankan perbicaraan.
3. Mendaftar kes-kes juvana yang baru ke dalam Buku Daftar.
4. Menyediakan senarai dan jadual waktu Penasihat-Penasihat Mahkamah Budak-Budak pada tiap-tiap bulan.
5. Mendaftar kes-kes baru di bawah Akta Perlindungan Gadis dan Wanita.
6. Membuat remand menahan.
7. Menyediakan bon-bon berkelakuan baik dan Perintah-perintah memasukkan penama ke sekolah-sekolah akhlak.
8. Menyediakan bon jamin.
9. Menyediakan laporan harian.
10. Menjawab telefon dan melayan orang-orang awam.
11. Mencatitkan keputusan-keputusan kes dalam buku daftar.
12. Mendaftar dan mengendalikan barang-barang kes.
13. Menyediakan Waran Tangkap dan Notis Kepada Penjamin.
14. Menjawab segala surat menyurat.
15. Menyediakan fail-fail siri akhir.
16. Mengutip denda-denda dimana kes-kes yang dikenakan denda.
17. Membuat permohonan bagi Jurubahasa untuk kes-kes di mana memerlukan Jurubahasa tertentu.
18. Menyediakan kertas-kertas pertuduhan untuk perbicaraan.
19. Mendaftar kes-kes harian ke dalam buku laporan harian
20. Menyediakan senarai-senarai dimana barang-barang kes untuk dimusnahkan.

**(3) MAHKAMAH MAJISTRET, KUALA LUMPUR.**

1. Menyemak kertas pertuduhan.
2. Mendaftarkan pertuduhan dan pembukaan fail (ambil file dari Registry)
3. Membawa kepada Tuan Hakim/Mejistret untuk perhatian dan tindakan.
4. Menghantarnya ke mahkamah yang berkenaan
5. Menyediakan Waran Menahan dan Bon Jamin
6. Membuat catatan butir-butir penjamin dan cagaran.
7. Mendaftarkan jaminan (Security) di dalam Buku Pendaftaran cagaran.
8. Memberitahu Institusi Kewangan berkenaan dengan cagaran.
9. Mencatatkan kes-les dalam Buku Harian.  
Membuat catatan di dalam Carta Utama.
10. Jika orang yang dituduh seorang kakitangan Kerajaan, memberitahu Jabatan berkenaan mengikut Perintah 'Am Bab D'  
Memaklumkan kepada Jabatan berkenaan tentang keputusan kes.
11. Memberitahu Jabatan Imigresen atau Kementerian Luar Negeri tentang Passport Antarabangsa/terhad seseorang yang dituduh yang terpaksa ditahan oleh Mahkamah sebagai syarat jaminan.
12. Mengendalikan surat-menyurat.
13. Memberitahu tentang perlepasan cagaran.
14. Mengeluarkan Perintah bagi mengemukakan orang dalam jagaan.
15. Membuat catatan keputusan di dalam Buku Daftar.
16. Membuat catatan keputusan butir-butir barang kes dan keputusan di dalam buku Barang-barang kes.
17. Mengutip denda dan mengeluarkan resit.
18. Mengeluarkan Notis kepada penjamin dan Waran Tangkap terhadap orang yang dituduh.
19. Menulis kepada Hospital untuk menjalankan pemerhatian/rawatan orang yang dituduh.
20. Menyediakan sapina untuk kes-kes.
21. Menyemak catatan keterangan setelah ditaip.
22. Jika ada kes Ulangbicara, mengambil kertas pertuduhan, catatan keterangan, barang-barang kes, menyerahkan kepada Jurutaip dan mendapatkan pengakuan terima daripadanya.
23. Memusnahkan barang-barang kes. Misalnya dadah.
24. Memastikan keselamatan segala dokumen-dokumen dan barang-barang kes di Mahkamah seseorang Jurubahasa bertugas.
25. Melayan orang awam dan menandatangani borang-borang Sumpah dan dokumen-dokumen sebagai Pesuruhjaya Sumpah.

## APPENDIX J: Retrial Involving Police Incompetence

(A) [1988] 3 MLJ 289  
Public Prosecutor v Kamde bin Raspani  
HIGH COURT (JOHORE BAHRU) — CRIMINAL TRIAL NO 17 OF 1984  
ZAKARIA YATIM J  
10 APRIL 1988

### Summary

The accused was charged under the Dangerous Drugs Act 1952 with the offence of cultivating cannabis. The prosecution relied largely on two cautioned statements made by the accused and the evidence of one Sumari bin Saribu (PW11) who had been arrested near the scene of the crime. In his evidence, Sumari had named the accused.

*The defence objected to the admissibility of the cautioned statements. The police inspector who administered the caution admitted that in the caution he administered, which was translated into simple Malay, there was no comma after the word 'tidak'. The inspector had experienced difficulty in understanding the accused because of the accused's Javanese accent and so he called another inspector to act as interpreter. The statements were recorded in Malay. The recording officer also admitted that he had recorded the words of the interpreter and not the words of the accused. He had read back the statements to the accused but they were not interpreted to the accused.*

In addition, the accused had been subjected to long hours of interrogation. He was once interrogated for 17 1/2 hours until the early hours of the morning in breach of the Police (Lock Up) Rules 1953 which provides that prisoners shall be locked up for the night by 6.30 p.m. and shall rise and be dressed by 6.30 a.m. The accused had also alleged that he had been beaten during interrogation and that he had fabricated his statement to avoid further beating. The police witnesses admitted that there was opportunity to beat the accused. Sumari too alleged that he had been assaulted by the police after his arrest and that the police had uttered threats to him.

### Holdings

Held, acquitting and discharging the accused:

- (1) For the statements to be admissible, the prosecution must prove beyond reasonable doubt that the statements were made voluntarily without any inducement, threat or promise. It is the duty of the prosecution to prove affirmatively to the satisfaction of the court that the statements were made voluntarily and not obtained by any improper means.
- (2) Without the comma, the caution could mean two things. It could mean that what the accused said could be used in evidence or that it could not be used in evidence against him. Therefore, the caution itself was very ambiguous, especially so when the caution had to be translated into simple Malay for the accused.
- (3) It was doubtful whether the statements were recorded in a proper manner. The words in the cautioned statements were not the words of the accused. Furthermore, the statements were not interpreted back to him. For this reason, the cautioned statements were inadmissible.
- (4) The way the accused was interrogated was indeed unfair and the court must regard it as oppressive. In addition, there was a strong probability that the accused was assaulted after which he agreed to make a statement. The court had no hesitation in coming to the conclusion that the accused was put under tremendous physical and mental

pressure in order to compel him to make the statements. The statements were inadmissible because the court was fully satisfied that the statements were not made voluntarily. The court was also satisfied that the statements were not made without coercion or threat.

(5) When the prosecution closed their case, there was no evidence at all to link the accused with the cultivation of the plants or with the exhibits. The only evidence was the evidence of Sumari. Assuming that he was not under pressure to give the evidence, he had been found and arrested at the scene and was therefore an accomplice and his evidence was not corroborated by anyone in the sense that the plants belonged to the accused or the plants were cultivated by the accused. Neither was there circumstantial evidence which pointed to the guilt of the accused.

(6) The prosecution, at the close of their case, need not prove their case beyond reasonable doubt. All that they needed to show was that there was some credible evidence to link the accused with the offence with which he was charged. There must be some evidence, which is not inherently incredible. In this case, there was no evidence at all to link the accused with the cultivation of the plants or with the exhibits. There was therefore no prima facie case against the accused.

(B) [1989] 2 MLJ 427

Public Prosecutor v Chan Choon Keong & Ors

HIGH COURT (KUALA LUMPUR) — FEDERAL TERRITORY CRIMINAL TRIAL  
NO 56-1-86

FAIZA TAMBY CHIK JC

21 FEBRUARY 1989

#### Summary

The three accused were charged with kidnapping PW6, a six-year-old girl, an offence under s 3(1) of the Kidnapping Act 1961 read together with s 34 of the Penal Code. In the course of the prosecution's case, the prosecution sought to tender a cautioned statement purportedly made by the third accused. Defence counsel objected to the statement being used as evidence in the trial and the court ordered a trial within a trial to determine whether the statement was admissible as evidence. In the trial within a trial, the court thus had to consider (a) whether a proper caution had been given to the accused (b) whether two station diaries and one lock-up diary could be tendered as evidence (c) whether the cautioned statement was obtained under oppressive circumstances. The court then went on to deal with other aspects of the case.

#### Holdings

Held, acquitting the first and third accused and convicting the second accused on his plea of guilty:

(1) An important word as 'inducement' which is obtainable in s 113 of the Criminal Procedure Code has to be explained and made understood to the third accused when administering the caution pursuant to that section. It will not be properly explained to and be understood by the third accused if the recording officer himself did not give the correct word for 'inducement' in Hokkien, be it common Hokkien or otherwise. In this case, the recording officer gave a word in Hokkien for 'inducement' which was different from that given by the certified court interpreter. A proper caution had thus not been properly and fully explained so that the third accused did understand it.

(2) The lock-up register is different from the lock-up diary. Usually, these diaries are used for refreshing of memory rather than evidence of fact stated therein. Thus, station



diaries and lock-up diaries are not admissible since they are not public documents and are only admissible if the makers of those entries are called.

(3) The relevant facts to be looked at in considering what are 'oppressive circumstances' negating voluntariness are: (a) characteristics of the accused; (b) period of time during which he was questioned; (c) length of time during which he was in custody; (d) whether or not he was given opportunities of rest and refreshment. Having considered all the evidence in the trial within a trial, the court has no hesitation in coming to the conclusion that the third accused was put under tremendous physical and mental pressure in order to compel him to make a statement.

(4) In dealing with the evidence of visual identification, the court has to remind itself of the special need for caution before convicting the accused in reliance on the correctness of the identification. Conflicting pieces of evidence given by two important and vital prosecution witnesses, ie the investigating officer and the officer who conducted the identification parade, were specific weaknesses in the identification evidence for the prosecution. Moreover, the identification parade was not properly conducted.

(5) PW6 was six years of age at the time of the incident and seven years of age when she gave evidence at the preliminary inquiry and is ten years of age when she gave evidence in this trial, it must be scrutinized with special care and children have the tendency to invent and distort.

(6) At the close of the prosecution's case, what has to be decided remains a question of law only. The court has only to consider whether at this stage there is some evidence, as adduced and unrebutted, which if accepted as accurate, would establish each essential element of the offence charged. In the present case, the court found no evidence at all to link the first accused and the third accused with the abduction of PW6 or with the exhibits. The court accordingly acquitted them of the offence under s 3(1) of the Kidnapping Act 1961 read with s 34 of the Penal Code.

(7) In sentencing, the court should balance between the public interest and the deterrent aims. The court accordingly sentenced the second accused to a term of six years' imprisonment to run from and be backdated to the date of his arrest and also to two strokes of whipping.



## APPENDIX K: Sample Examination Paper for Promotion to L5

### MAHKAMAH PERSEKUTUAN MALAYSIA

#### PEPERIKSAAN KHAS UNTUK MEMASUKI SKIM PEMBANTU UNDANG-UNDANG GRED L5 KENAIKAN PANGKAT SECARA LANTIKAN (KPSL)

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#### **ARAHAN KEPADA CALON:**

1. Jawab lima (5) soalan daripada tujuh (7) soalan yang disediakan.
2. calon-calon hanya dibenarkan merujuk kepada mana-mana bahan rujukan yang diluluskan menurut senarai bahan-bahan rujukan seperti di dalam Sukatan Peperiksaan.
3. Jawapan hendaklah dalam Bahasa Malaysia.
4. Calon-calon adalah diminta menggunakan kertas berasingan bagi setiap jawapan.
5. Nombor Index, Jenis Peperiksaan dan Pusat Peperiksaan hendaklah ditulis di atas setiap kertas jawapan.

#### **BAHAGIAN I : HAL-HAL PERUNDANGAN**

1. (a) Sila huraikan kedudukan Mahkamah Juvana dalam Hiraki Mahkamah dan bidang kuasanya.  
  
(b) Sila jelaskan prosedur yang terpakai di Mahkamah Juvana.  
(20 Markah)
2. Sila nyatakan dan huraikan bentuk-bentuk pelaksanaan penguatkuasaan perintah Mahkamah yang terdapat di dalam Kaedah-kaedah Mahkamah sama ada Mahkamah Rendah atau Mahkamah Tinggi.  
(20 Markah)
3. Bincangkan perkara-perkara berikut :
  - i. Jaminan mahkamah (*bail*)
  - ii. BonDengan menyatakan tujuan syarat-syarat dan keadaan dimana jaminan Mahkamah dan bon boleh diberi.  
(20 Markah)
4. Sila huraikan bagaimana sesuatu Akta itu dibuat.  
(20 Markah)
5. *Perbicaraan di dalam perbicaraan* adalah satu terma yang biasa digunakan di Mahkamah. Nyatakan secara ringkas apakah yang anda faham tentang terma di atas dan terangkan prosedur yang terpakai.  
(20 Markah)
6. (a) Nyatakan syarat-syarat had batasan masa bagi kes-kes berikut :-
  - i) Kontrak
  - ii) Tuntutan tanah

- iii) Tort  
(b) Bincangkan pemakaian Undang-Undang had masa terhadap Kerajaan dan Badan-Badan Berkanun.

(20 Markah)

6. Nyatakan jenis-jenis kausa tindakan yang boleh diteruskan untuk faedah seseorang yang membuat tuntutan yang telah meninggal dunia dan nyatakan bentuk-bentuk ganti rugi yang boleh dituntut bagi faedahnya dibawah Akta Undang-Undang Sipil 1956.

(20 Markah)

## **BAHAGIAN II : HAL-HAL PERUNDANGAN JABATAN**

### **Seksyen A**

1. Huraikan perkara-perkara berikut :-

- i) Sapina
- ii) Waran Menahan
- iii) Waran Tangkap

(20 Markah)

2. Sila huraikan secara am mengenai Writ of Summon.

(20 Markah)

3. (a) Apakah yang anda faham dengan affidavit  
(b) Sila huraikan syarat-syarat penyediaan dan penerimaannya oleh Mahkamah.

(20 Markah)

### **Seksyen B**

1. Apakah peranan dan fungsi Biro Bantuan Guaman Malaysia

(20 Markah)

2. (a) Anda seorang Pembantu Undang-Undang di Biro Guaman. Encik Abu datang berjumpa anda dan memaklumkan beliau terlibat dalam kemalangan jalanraya. Akibat kemalangan itu Encik Abu telah mengalami kecederaan dan motosikal beliau telah rosak. Sila nasihatkan Encik Abu mengenai tindakan yang boleh diambil olehnya.

- (b) Bagaimana pula jika Abu tidak mempunyai lesen dan cukai jalan. Boleh atau tidak beliau membuat tuntutan.

(20 Markah)

2. Ahmad telah berkahwin dengan Aminah seorang muallaf dalam tahun 1990. Hasil perkahwinan itu mereka telah dikurniakan seorang anak lelaki berumur 8 tahun, memiliki sebuah rumah bernilai RM200,000 dan sebidang tanah bernilai RM100,000. Dalam tahun 1998 berlaku penceraian dan Aminah telah

balik ke agama asalnya. Ahmad telah datang berjumpa anda. Sila nasihatkan Ahmad akan hak-hak beliau di sisi undang-undang.

(20 Markah)

### Seksyen C

1. Ahmad adalah seorang bankrap dan beliau mempunyai harta-harta berikut:-
  - i) Wang Tunai RM500,000 di bank.
  - ii) Saham 10,000 Unit bernilai RM20,000 dalam Syarikat ABC Sdn. Bhd.
  - iii) Sebidang tanah di Lot 444 Mukim 7.

Sila nasihatkan Pegawai Pemegang Harta bagaimana hendak mentadbir harta-harta tersebut.

(20 Markah)

2. Apakah syarat-syarat yang boleh memberi hak kepada seseorang sipiutang untuk menyampaikan petisyen kebangkrapan terhadap seorang siberhutang?

(20 Markah)

3. Satu Perintah Penggulangan telah dibuat terhadap HARTA SDN. BHD. oleh Mahkamah Tinggi pada 5.7.1997 dan Pegawai Penerima dilantik sebagai Pelikuidasi Sementara. Segala percubaan yang dibuat oleh Pegawai Penerima untuk menghubungi bekas Pengarah-Pengarah telah tidak berhasil dan sehingga sekarang Pegawai Penerima masih lagi bertindak sebagai Pelikuidasi Sementara.

Huraikan tindakan-tindakan yang harus diambil oleh Pegawai Penerima dalam mentadbir penggulangan syarikat ini.

(20 Markah)

### English version translated by researcher:

#### Instructions to candidates

1. Answer five of the seven questions;
2. Candidates are only allowed to refer to the approved reference materials listed in the examination schedule;
3. Answers must be in Bahasa Malaysia;
4. Candidates are requested to use a separate sheet for each question;
5. Write index number, category of examination and examination centre on every answer sheet.

#### PART I: Legal Matters

- 1a Describe the position of the Juvenile Court in the hierarchy of courts and describe its jurisdiction

1b Explain the practice and procedure in the Juvenile Court.

(20 marks)

2 State and elaborate on the forms of the enforcement of Court Order under the procedure of either the Subordinate or High Court.

(20 marks)

3 Discuss the following: a) Bail and b) Bonds. State the terms and conditions under which bails and bonds may be granted.

(20 marks)

4 Explain how a law is passed as an Act.

(20 marks)

5 A 'trial within a trial' is a term frequently used in court. Explain what you understand by the term and describe the practices followed.

(20 marks)

6a State the conditions for the limitation periods for the following cases: a) contracts, b) land reference, c) tort.

6b Discuss the use of the limitation act on the government and corporate bodies

(20 marks)

7 State the types of cause of action that can be advanced for the benefit of a person who is claiming for and on behalf of a deceased person and explain the kinds of compensation that can be claimed for his benefit under the Civil Law Act 1956.

(20 marks)

## **PART II: DEPARTMENTAL SUMMONS**

### **Section A**

1. Explain the following:

- i) Subpoenas
- ii) Warrant of Detention
- iii) Warrant of Arrest

(20 marks)

2. Explain in general what a Writ of Summon is.

(20 marks)

3. (a) What do you understand by affidavit

(b) Explain the conditions for acceptance by the Court

(20 marks)

## Section B

1. What is the role and function of the Legal Aid Bureau of Malaysia?

(20 marks)

2. (a) You are a legal Assistant at the Bureau. Mr Abu came to see you and inform you that he was involved in a road accident. As a result of the accident he sustained injuries and his motorcycle was damaged. Advise him on the action he can take.  
(b) What if Mr Abu does not have a license and road tax? Can he make any claims?

(20 marks)

3. Ahmad married Aminah, a convert, in 1990. As a result of the marriage, they have a son aged 8, own a house valued at RM 200,000 and a piece of land valued at RM 100,000. In 1998 they divorced and Aminah returned to her previous religion. Ahmad came to see you. Advise Ahmad on his legal rights.

(20 marks)

## Section C

1. Ahmad is a bankrupt and he owns the following :
  - i) Cash RM 500,000 in the bank
  - ii) 10,000 unit shares valued at RM 20,000 in ABC Company
  - iii) A piece of land at Lot 444 Mukim 7.

Advise the official assignee how to administer the property.

(20 marks)

2. What are the conditions which entitle a creditor to submit a bankruptcy petition against a debtor?

(20 marks)

3. A Winding up Order has been made against HARTA SDN BHD by the High Court on 5.7.1997 and the Official Receiver appointed as Liquidator. All attempts made by the Official Receiver to contact the former Directors have failed and up to now the Official Receiver still acts as Liquidator.

Describe the actions that should be taken by the Official Receiver in administering the winding up of the said company.

(20 marks)

## APPENDIX L: Extract of Suffian Report 1967

### REPORT OF THE ROYAL COMMISSION ON THE REVISION OF SALARIES AND CONDITIONS OF SERVICE IN THE PUBLIC SERVICES

*under the Chairmanship of*

**MR JUSTICE SUFFIAN, P.S.M., J.M.N., S.M.B., P.J.K.**

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*Volume I*

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#### INTERPRETERS, TRANSLATORS, CLERK/INTERPRETERS AND COURT INTERPRETERS

39. In view of Malaysia's multi-racial society, there is a greater need for translation services in the day-to-day conduct of Government business than in most other countries. At present these services are provided in the three main language media – English/Malay, English/Chinese and English/Indian. Malay will this year become the official language of the country and, in anticipation of this, steps were taken some years ago to provide instruction in the national language in all National Type Schools. It is to be expected, therefore, that with the growing use of the national language, the need for Malay Translators and Interpreters should soon diminish. Similarly, as the national language becomes more and more the lingua franca of the country the need for Chinese and Indian translators will also diminish.

40. This trend has already taken effect in the Police Department which previously employed a large cadre of Clerk/Interpreters. We understand that action is being taken by Government to regrade Clerk/Interpreters in the Police Department as Clerical Officers thereby removing the requirement of a second language as a pre-condition for appointment to the service.

41. In most other Departments, however, there is still a need for Translators and Interpreters and where this need exists we suggest that the posts should be in a single Common User Service divided into three Grades on the following salary scales :-

Grade III ....	\$220 x 15 – 250/275 x 25 – 500	} C.U. Scale (43)
Grade II ....	\$400 x 25 – 700	
Grade I ....	\$600 x 25 – 800	

This scales are similar to those recommended for the corresponding grades in the clerical services. Translators and Interpreters (including Court Interpreters) should be required to do clerical work in addition to their normal duties. They should accordingly be eligible for promotion to higher clerical posts and to the Executive Service if they show merit in their clerical work.



## **APPENDIX M: Universal Declaration of Linguistic Rights**

### **Article 20**

1. Everyone has the right to use the language historically spoken in a territory, both orally and in writing, in the Courts of Justice located within that territory. The Courts of Justice must use the language specific to the territory in their internal actions and, if on account of the legal system in force within the state, the proceedings continue elsewhere, the use of the original language must be maintained.

2. Notwithstanding the above, everyone has the right to be tried in a language which s/he understands and can speak and to obtain the services of an interpreter free of charge.

Barcelona, June 1996

## APPENDIX N: Newspaper Reports

### 'Use *Bahasa* in Courts' call by Senators

SEVERAL Senators have urged the Government to fully implement the use of Bahasa Malaysia in courts.

They felt that the time had come for the courts to speed up the use of the language in proceedings as other branches of Government departments had already done so in their daily operations.

They also felt that much had been done in the use of Bahasa Malaysia in the public sector and that the nation had attained independence for 24 years.

The Senators made these remarks when debating the Courts of Judicature (Amendment) Bill in the Dewan Negara today.

The Bill, among other things, seeks to increase, in any civil cause or matter, the amount in dispute or value of the subject matter before appeals can be brought to the High Court, Federal Court and Judicial Committee in view of inflationary trends.

Moreover, said the Senators, there were already many legal officers who were proficient the use of the language.

Senator Ibrahim Abdullah said the use of the English language in courts should be abolished because most of the

people in the country were more proficient in Bahasa Malaysia.

The question of the terminology used in the court should not arise at all as the Dewan Bahasa dan Pustaka had already prepared the necessary terminology.

Senator Ibrahim also suggested that the present laws be based on the Islamic laws. He added that judges should be sent to Pakistan to study and assess how Islamic laws were being practised in the country.

He also urged the Government to stop the present practise of allowing appeals for civil cases to be heard before the Privy Council in London as it would effect the integrity of the country's legal officers.

Senator Hajjah Salmah Sheikh Hussain, in supporting the Bill, hoped that the attire for judges be changed to suit the national culture.

New Straits Times (NST) Jan 14<sup>th</sup> 1982

## ***Judge to look into plight of interpreters***

**By CHELSEA L.Y.NG and M. WAGESWARI**

**KUALA LUMPUR :** Newly appointed Chief Judge of Malaya Datuk Ahmad Fairuz Sheikh Abdul Halim pledged yesterday to look into plight of court interpreters.

Ahmad Fairuz, who opened the seventh biennial general meeting of the Interpreters and Translators Association of West Malaysia, made the promise before hundreds of members who attended the meeting. The association has 325 members.

During the dialogue session, Ahmad Fairuz said he would take up the woes of the 626 interpreters nationwide with the relevant authorities or at least get more information to find a solution.

The problems raised by members included :

- **WHETHER** interpreters should be lumped together with the court bailiffs under the L7 scale salary grade when the former claimed that their workload is greater;
- **WHETHER** interpreters should be denied the workload allowance with the introduction of legal assistants in the court to take over clerical tasks. The interpreters claimed that they were carrying out the same duties but were now denied the allowance;
- **WHETHER** all interpreters should be given a certificate to recognize their status as certificate court interpreters. The certificate they claimed could be use when they retire;
- **WHETHER** steps should be taken to make the Public Services Department added that the department's response had been positive so far.

(PSD) recognize the Diploma in Translation obtained from Universiti Malaya.;

- **WHETHER** a syllabus for interpreters' examination ought to be created so that their course of study would help them answer questions on legal proceedings in the criminal, commercial and civil courts; and
- **WHETHER** interpreters could be allowed to claim reimbursements for attending association meetings. They said that this was the first time the association had succeeded in obtaining unrecorded leave for its members. Presently, only court officers receive an allowance for travel, food and lodging expenses.

During the session, several interpreters appealed to Ahmad Fairuz to be transferred to their home states saying that they had served outstation for many years, some as long as nine years.

Ahmad Fairuz said he had taken note of their names and the courts that they were serving in now. He said that he would ask for more details when he visits some of the states next week.

Cuepacs president Datuk N.Siva Subramaniam, who was also at the meeting, said that he had extended a proposal to the PSD suggesting that civil servants' social rights and benefits – which include those of court interpreters – be restructured similar to that of the private sector so as to attract more people to the public service.

He said that Cuepacs had had three discussions with PSD on the matter since January and another discussion would be held soon. He

On the need for another 169 interpreters nationwide, Siva

Subramaniam said interpreters who could master several languages should be recruited to solve the problem.

He said most people were reluctant to join the civil service because of the low wages and unattractive benefits.

President of the association, Azizah Abdul Rahman, said she had submitted a memorandum suggesting that the Special Pension Allowance be

increased from RM30 to RM60 a month, that the Commissioner for Oath allowance be increased to RM100 per month, coat allowance to RM450 for every three years, neck tie allowance be increased to RM50 for every two years and critical allowance to be paid.

(NST Sept 30<sup>th</sup> 2001)

### **Courts lack facilities, need repairs: Rais**

Jejebu, Mon: Courts have been found to be sorely lacking in infrastructural facilities, with many court buildings in need of repair.

They are short of interpreters and lack, among other things, equipment to record statements of witnesses and the accused and waiting rooms for witnesses.

"I have noticed that in some courts, the witnesses are allowed to roam about, and some even enter courtroom when the trial is going on," Minister in the Prime Minister's Department, Datuk Dr. Rais Yatim said.

"This cannot be allowed as it is against the smooth and fair running of the case. Witnesses cannot be in court before they have been called". The

shortage of interpreters is a long standing problem.

"The unattractive salaries and failure to give them their claims for expert fees has driven away a lot of interpreters," Rais said at his Hari Raya open house yesterday.

He said he will bring up the issue of expert fees for interpreters with the Cabinet soon.

"The lack of interpreters is one of the reasons for the huge backlog of cases," said Rais.

He added that he will ask the court authorities at federal and state levels to submit a report to him on the facilities needed.

(NST Dec 21<sup>st</sup> 2000)

## Pay scheme makes court interpreters RM28 poorer

WE REFER to the letter, "Timely to upgrade service scheme" by concerned Officer of Ipoh (*The Star*, Nov 11), and would like to thank the writer for his valuable views.

Court interpreters in the East Coast share the same view expressed by the writer. In addition, we – the court interpreters – also wish to express our dissatisfaction with some other matters pertaining to the courts interpreters' service.

First, with the implementation of the SSB, the special pensionable allowance of RM30 to all court interpreters has been abolished, thereby reducing further the monthly income of court interpreters.

This would mean that, despite an increase of RM2 by the 1994 revision of the court interpreters' scheme, the SSB has, in fact, made us court interpreters poorer by RM28.

Secondly, the Public Service Department should not be unduly worried about the view that any upgrading of the court interpreters' service to Grade L5 would undermine the status of the lower court registrars who are also placed under Grade L5.

The job of the lower court registrars is mainly of administrative nature, whereas the court interpreters play a dual role as language interpreters in court proceedings and as clerk of courts.

We have seen in many other departments that the assistant enforcement officers (*penolong pegawai penguatkuasa*) and assistant

administrative officers (*penolong pegawai tadbir*) who are both placed under the same Grade N5 perform their respective duties in the same office without any problem affecting their status.

Thirdly, the Public Service Department should fully implement Mampu's report pertaining to the upgrading of the court interpreters' service.

The Public Service Department should not give excuse that the shortage of staff is also faced by many other departments.

The Public Service Department must adopt a realistic approach.

Compared to many other services, the shortage of court interpreters has been a problem since early 1970s. It should take a serious view on the problem of backlog of cases.

Pending cases in courts would cause much worry and agony among the litigants.

Finally, we sincerely wish to express our gratitude and appreciation to the Chief Justice of the High Court of Malaya and to the Chief Justice of the Federal Court for their efforts towards solving our problem.

**EAST COAST  
INTERPRETERS,  
Kota Baru.**

(Ed - This letter bears nine signatures)  
The Star Nov 15<sup>th</sup> 1997

## **APPENDIX O: United States Interpreters Act 1978**

**PUBLIC LAW 95-539 (OCTOBER 28, 1978)  
AMENDED PUBLIC LAW 100-702  
(NOVEMBER 19, 1988)**

### **1827, Interpreters in courts of the United States**

(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.

(b) (1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when the Director considers certification of interpreters to be merited, for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director may certify interpreters for any language if the Director determines that there is a need for certified interpreters in that language. Upon the request of the Judicial Conference of the United States for certified interpreters in a language, the Director shall certify interpreters in that language. Upon such a request from the judicial council of circuit and the approval of the Judicial Conference, the Director shall certify interpreters for that circuit in the language requested. The judicial council of a circuit shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of the Judicial Improvements and Access to Justice Act.

(2) Only in a case in which a certified interpreter is reasonably available as provided in subsection (d) of this section, including a case in which certification of interpreters is not provided under paragraph (1) in a particular language, may the services of otherwise qualified interpreters be used. The Director shall provide guidelines to the courts for the selection of otherwise qualified interpreters, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

(3) The Director maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in proceedings instituted by the United States, and in so doing shall consider the prevailing rate of compensation for comparable service in other governmental entities.

(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of



this section. The clerk shall make the list of certified interpreters for judicial proceeding available upon request.

(2) The clerk of the court, or other court employee designated by the chief judge, shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.

(d)(1) The presiding judicial officer, with the assistance of the Director of the Administrative Office of the United States Courts, shall utilize the services of the most available certified interpreters, or when utilize the services of the most available certified interpreters, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise qualified interpreter, in judicial proceedings instituted by the United States, if the presiding judicial officer determines on such officer's own motion or on the motion of a party that such party (including a defendant in a criminal case), or a witness who may present testimony in such judicial proceedings\_

- (A) speaks only or primarily a language other than the English language; or
- (B) suffers from a hearing impairment (whether or not suffering also from a speech impairment)

so as to inhibit such a party's comprehension of the proceedings or communication with counsel or the presiding judicial officer, or so as to inhibit such witness' comprehension of questions and the presentation of testimony.

(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters, and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused, the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.

(e)(1) If any interpreter is unable to communicate effectively with the presiding judicial officer, the United States attorney, a party (including a defendant in a criminal case), or a witness, the presiding judicial officer shall dismiss such interpreter and obtain the services of another interpreter in accordance with this section.

(2) In any judicial proceedings instituted by the United States, if the presiding judicial officer does not appoint an interpreter under subsection (d) of this section, an individual requiring the services of an interpreter may seek assistance of the clerk of court or the Director of the Administrative Office of the United States Courts in obtaining the assistance of a certified interpreter.

(f)(1) Any individual other than a witness who is entitled to interpretation under subsection (d) of this section may waive such interpretation in whole or in part. Such a waiver shall be effective only if approved by the presiding judicial officer and made expressly by such individual on the record after opportunity to consult with counsel and after the presiding judicial officer has explained to such individual utilizing the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter, the nature and effect of the waiver.

(2) An individual who waives under paragraph (1) of this subsection the right to an interpreter may utilize the services of non-certified interpreter of such individual's choice whose fees, expenses, and costs shall be paid in the manner provided for the payment of such fees, and costs of an interpreter appointed under subsection (d) of this section.

(g)(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfil the provisions of this section and the Judicial Improvements and Access to Justice Act, except as provided in paragraph (3).

(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4), be paid by the Attorney General from sums appropriated to the Department of Justice.

(4) Upon the request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the clerk of the court, or other court employee designated by the chief judge, upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.

(5) Any moneys collected under this subsection may be used to reimburse the appropriations obligated and disbursed in payment for such services.

(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees prescribed by the Director under subsection (b)(3).

(i) The term "presiding judicial officer" as used in this section refers to any judge of a United States district court, including a bankruptcy judge, a United States magistrate, and in the case of grand jury proceeding conducted under the auspices of the United States attorney, a United States attorney.

(j) The term "judicial proceeding instituted by the United States" as used in this section refers to all proceedings, whether criminal or civil, including pre-trial and grand jury proceedings (as well as proceedings upon petition for a writ of *habeas corpus* initiated in the name of the United States by a relator) conducted in, or pursuant to the

lawful authority and jurisdiction of a United States district court. The term "United States district court" as used in this subsection includes any court which is created by an Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title.

(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, *sua sponte* or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer, on such officer's motion or on the motion of a party, may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.

(Added Pub.L. 95-539, 2(a), Oct. 28, 1978, 92 Stat.2040, and amended Pub.L.100-702, Title VII, 702-710. Nov.19,1988,102 Stat.4654-4657)

## **APPENDIX Q: Interpreters' Code of Ethics**

### **(1) United States Courts**

#### **Code of Ethics for Official Court Interpreters**

1. The official court interpreter, as an officer of the Court, shall be a person of high moral principles and integrity, honest, conscientious, trustworthy and of emotional maturity, in addition, he must be exceptionally well qualified as a linguist to be appointed to that office.
2. The interpreter shall interpret accurately and faithfully to the best of his ability, always conveying the thought, intent and spirit of the speaker. He should speak in a clear, firm and well modulated voice and use inflections only when called for. At times, because of the difficulty of translation, he may have to paraphrase a statement to adjust his presentation to the level of understanding of the person concerned. However, he must always request permission to do so.
3. In order to give faithful and accurate translation when called upon, and to establish proper rapport, the interpreter shall first determine what the person's educational, cultural and regional background is. Also, whether or not he or she has a speech impediment, is hard of hearing, or has any other physical or psychological problems. Knowledge of these facts will help the interpreter to be more effective.
4. The interpreter must familiarise himself with the case as much as possible prior to going into the courtroom. He should find out whether or not technical language will be used or whether the case involves a particular area where he may have to brush up on certain terms. The very least he should do in preparing himself, is to study the indictment charges to avoid possible translation problem during the formal court proceedings.
5. The interpreter shall maintain an impartial attitude during the course of interpreting. He must never interject his own words, phrases or views into his interpretation, unless, because of difficulty of translation, he is specifically instructed by the Court or permission is granted to do so. He should be particularly careful not to allow the inflections of his voice to be interpreted as partiality.
6. The interpreter shall guard confidential information and not betray confidences which have been entrusted to him by parties concerned. During trials, or any legal proceedings, he should not, under any circumstances, discuss the testimony or merits of the case with those he interprets for and anyone else. He shall properly advise those he interprets for and anyone concerned with the case to do the same.
7. The interpreter shall always adopt a conservative manner of dress and conduct in upholding the dignity of the Court and of his profession. This is particularly important when he is interpreting in the courtroom and attention is upon him. He shall also be thoroughly familiar with all local court rules and abide by them.
8. The interpreter must constantly strive to improve his knowledge of legal terminology in English and the language he interprets for, and also be familiar with general courtroom procedures so that in addition to interpreting for those concerned, he may, when time and situation permits, explain to them what is happening in the courtroom. The interpreter is responsible to have the proper dictionaries and other linguistic reference materials readily available for consultation.

*Source: Background Report #21:124-125  
New Jersey Supreme Court Task Force 1984/1999*

**(2) Ireland**

**CODE OF PROFESSIONAL CONDUCT FOR INTERPRETERS,  
TRANSLITERATORS, AND TRANSLATORS**

***POLICY***

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings either because English is not their native language or because they have a speech or hearing impairment. The resulting communication barrier must be removed, as far as is possible, so that those persons are placed in the same position as similarly situated persons for whom there is no such barrier. As officers of the court, interpreters, transliterators, and translators help ensure that such persons enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively. Interpreters, transliterators, and translators are highly skilled professionals who fulfill an essential role in the administration of justice.

***SCOPE***

This code shall be binding on all persons employed by or under contract to the Judiciary who interpret, transliterate, or translate in connection with

A. any proceeding before any court of this State;

B. any proceeding, hearing or session of a grand jury, of a surrogate or of any arm of the Judiciary, including but not limited to Juvenile Conference Committees, Intensive Supervision Program Panel, Child Placement Review Boards, Child Support Hearing Officers, attorney and judicial disciplinary committees, administrative hearings, and mediation, settlement, and arbitration proceedings; or

C. any other activity ordered by a court or conducted under the supervision of a court or its agent.

This code is inapplicable to a person whom a court appoints as an interpreter, transliterator, or translator when that person is not employed by or under contract to the Judiciary. Nor shall the code be construed to limit the authority of a court to determine the qualifications of a person testifying as an interpreter under Evidence Rule 604.

***CANON 1***

***HIGH STANDARDS OF CONDUCT***

Interpreters, transliterators, and translators should maintain high standards of conduct at all times to promote public confidence in the administration of justice.

***CANON 2***

***FAITHFUL AND ACCURATE CONVEYANCE OF MESSAGES***

Interpreters, transliterators, and translators should faithfully and accurately reproduce in the target language the closest natural equivalent of the source-language message without embellishment, omission, or explanation.



### **CANON 3**

#### **IMPARTIALITY AND CONFLICTS OF INTEREST**

Interpreters, transliterators, and translators should be impartial and avoid any appearance of bias or favoritism. They should avoid not only conflicts of interest but also the appearance thereof.

A. Interpreters, transliterators, and translators should not, as a general rule, serve in any proceeding in which :

(1) they are related to or have a close social or business relationship with a party, counsel for a party, or a witness, or are themselves potential witnesses;

(2) they, their spouse, or child are party to the proceeding or have a financial interest or any other interest that would be affected by the outcome of the proceeding; or

(3) they have been involved in the choice of counsel.

B. Prior to providing professional services in a proceeding in court, interpreters, transliterators, and translators should disclose on the record any services that they may previously have provided to any of the parties or their attorneys involved in the matter, as well as anything else that could reasonably be construed as affecting their ability to serve impartially or as constituting a conflict of interest. This disclosure should not include privileged or confidential information.

C. Interpreters, transliterators, and translators should not provide services if remuneration is contingent on the outcome of a case.

D. During the course of matters in which they are engaged, interpreters and transliterators should not converse or have contact with jurors, parties, witnesses, attorneys, or with friends or relatives of any party, except as may be required in the discharge of official duties.

E. Attorneys, probation supervisors or investigators, police officers, therapists, social workers, or other professionals should not interpret in any non-judicial proceeding or for any court support service in which he or she is professionally involved with a party to the matter.

### **CANON 4**

#### **UNOBTRUSIVENESS**

Interpreters and transliterators should be as unobtrusive as possible and should not seek to draw inappropriate attention to themselves while performing their professional duties.

A. When interpreting or transliterating for a witness, interpreters and transliterators should convey the speaker's emphasis and emotional tone only to the degree necessary to convey the speaker's messages, without reenacting or mimicking the speaker's tone, emotions, or dramatic gestures.

B. When interpreting during a proceeding, interpreters and transliterators should dress and conduct themselves in a manner consistent with the dignity of the court.

C. Interpreters and transliterators should not interject or reveal their own feelings, moods, attitudes, or beliefs while performing their professional duties.



## **CANON 5**

### ***LIMITATIONS OF PRACTICE***

Because interpreters, transliterators, and translators are responsible only for enabling **others** to communicate, they should not take a primary role in such communications and may take a secondary role (see below) only as necessary for assuring an accurate and **faithful** interpretation, transliteration, or translation.

A. Interpreters, transliterators, and translators should avoid activities that may be **reasonably construed** to constitute the practice of law, e.g., giving any legal advice or **answering parties' questions** that would ordinarily be answered by an attorney.

B. Interpreters, transliterators, and translators should not engage in any other **activities** that may be **reasonably construed** to constitute a service other than interpreting, transliterating, or translating during the course of performing their interpreting, transliterating, or translating duties.

C. Interpreters and transliterators may assume a "secondary role" when they find it **necessary to speak directly to the court** to seek assistance in performing their duties, e.g., **seeking direction** when unable to understand or express a word or thought, **requesting that speakers moderate their rate of communication** or repeat or rephrase something, **identifying interpreting errors**, or notifying the court of their reservations **about their ability to satisfy an assignment competently**. In such instances they should **make clear that they are speaking for themselves**.

D. Translators may assume a "secondary role" when they find it necessary to include **an explanation in the translation of a text being prepared**. In such instances they should **make clear that that information is the translator's and not a part of the text**.

## **CANON 6**

### ***CONFIDENTIALITY***

Interpreters, transliterators, and translators should protect from unauthorized **disclosure all privileged or other confidential information** that they obtain during the course of their professional duties.

## **CANON 7**

### ***ABSTENTION FROM COMMENT***

Interpreters, transliterators, and translators should not publicly discuss, report, or offer **an opinion concerning a matter in which they are or have been engaged**, even when that information is not privileged or required by law to be confidential.

## **CANON 8**

### ***REPRESENTATION OF QUALIFICATIONS***

Interpreters, transliterators, and translators should accurately and completely **represent their pertinent testing credentials, training, and experience**.

**CANON 9**  
**PROFESSIONAL STANDARDS AND DEVELOPMENT**

Interpreters, transliterators, and translators should continually improve their skills and knowledge and should keep informed of, adhere to, and conform their practices to all statutes, Rules of Court, and policies of the Judiciary that relate to the performance of their professional duties.

**CANON 10**  
**IMPEDIMENTS TO COMPLIANCE WITH CODE**

A. Any interpreter, transliterator, or translator who discovers anything that would impede full compliance with this code should immediately report it to his or her employer or the court.

B. Interpreters, transliterators, and translators should immediately report to the presiding judge any solicitation or effort by another to induce or encourage them to violate any law, any provision of this code, or any other standard governing interpreting, transliterating, or translating promulgated by the Judiciary.

C. When an interpreter, transliterator, or translator has any reservation about his or her ability to satisfy an assignment competently, he or she should immediately convey that reservation to the court or presiding officer. If the communication mode or language of the non-English-speaking person cannot be readily interpreted or transliterated, the interpreter or transliterator should notify the court or presiding officer.

**(3) State of Nebraska**

**RULES RELATING TO COURT INTERPRETERS:**  
**SCOPE AND EFFECTIVE DATE**

These rules become effective on September 20, 2000, and will govern the use of interpreters in all courts of the State of Nebraska.

**RULE 1. INTERPRETER REGISTER**

The State Court Administrator will publish and maintain a statewide register of interpreters which will consist of the following:

**A. Certified Court Interpreters:** Court interpreters who have satisfied all certification requirements pursuant to the Rules Relating to Court Interpreters.

**B. Registered Court Interpreters.** Noncertified court interpreters, not including sign language interpreters, who have not satisfied the requirements of Rule 3 of the Rules Relating to Court Interpreters, but have agreed to accomplish the following by January 1, 2002:

1. Complete an interpreter orientation program sponsored by the State Court Administrator.
2. Receive a passing score on a written ethics examination, and
3. File with the State Court Administrator prior to being placed on the register a written affidavit agreeing to be bound by the Code of Professional Responsibility for Interpreters.

**C. Sign Language Court Interpreters.** Sign language interpreters who possess at a minimum, Level 4, Quality Assurance Screening Test (QAST - Level 4) awarded by the Nebraska Commission for the Deaf and Hard of Hearing.

## **RULE 2. APPOINTMENT OF INTERPRETERS**

**A. Use of Certified Court Interpreter.** Whenever an interpreter is required to be appointed by a court, the court will first attempt to appoint a certified court interpreter who is listed on the statewide register of interpreters if one is reasonably available.

**B. Use of Registered Court Interpreter on Statewide Register.** If the court has made diligent efforts to obtain a certified court interpreter as required by Rule 2A of the Rules Relating to Court Interpreters and found none to be available, the court may appoint a registered noncertified court interpreter who is otherwise competent to interpret in the courts and is also listed on the statewide register of interpreters.

**C. Use of Interpreter Not on Statewide Register.** Only after the court has exhausted the requirements of Rules 2A and 2B of the Rules Relating to Court Interpreters may the court appoint a nonregistered, noncertified interpreter who is not listed on the statewide register but who is otherwise competent.

## **RULE 3. CERTIFIED COURT INTERPRETER REQUIREMENTS**

A certified court interpreter will be able to interpret simultaneously and consecutively and provide sight translation from English to the language of the non-English-speaking person or from the language of that person into English. An interpreter will be eligible for certification upon establishing to the satisfaction of the State Court Administrator that he or she has:

**A.** Reached the age of 18;

**B.** No past convictions or pending criminal charges, either felony or misdemeanor, which are deemed by the Supreme Court to evidence moral turpitude, dishonesty, fraud, deceit, or misrepresentation;

**C.** Achieved a passing score on a written ethics examination administered by the State Court Administrator; and

**D.** Achieved a passing score on legal interpreting competency examination (certification examination) administered or approved by the State Court Administrator.

In addition, any interpreter possessing a Federal Court Certified Certificate or a Legal Specialist Certificate in Sign Language (SC:L) is recognized as a certified court interpreter.

## **RULE 4. EXAMINATION FOR INTERPRETER CERTIFICATION**

**A. Complete Application.** An applicant desiring certification in a particular language will file with the State Court Administrator an approved application form and pay the applicable exam fee established by the State Court Administrator.

**B. Evaluation of Application.** The State Court Administrator will evaluate the application and determine if the applicant meets the initial qualification requirements of Rule 3 of the Rules Relating to Court Interpreters.

**C. Examination.** Examinations for interpreter certification in specific languages will be administered at such times and places as the State Court Administrator may designate.

**D. Scope of Examination.** Applicants for interpreter certification in a spoken or sign language may be tested on any combination of the following:

1. Sight interpretation,
2. Consecutive interpretation, and
3. Simultaneous interpretation.

**E. Results of Examination.** The results of the examination will be mailed by regular mail to the applicant's most recent address.

**F. Confidentiality.** All information relating to the examination is treated as confidential by the State Court Administrator and test administrators except that statistical information relating to the examinations and applicants may be released at the discretion of the State Court Administrator.

## **RULE 5. SUSPENSION OR REVOCATION OF CERTIFICATION**

**A. Grounds for Revocation or Suspension of Certification.** Unprofessional or unethical conduct that violates the Code of Professional Responsibility for Interpreters or a conviction of a criminal misdemeanor or felony may be grounds for suspension or revocation of certification and removal from the statewide register of interpreters. A disposition other than acquittal, e.g., pretrial diversion, of any criminal charge filed will not preclude an action by the State Court Administrator with respect to the interpreter's certification.

**B. Incompetency.** The State Court Administrator may remove any interpreter from the statewide register of interpreters for incompetency provided the interpreter is allowed an opportunity to be heard to dispute such finding.

**C. Complaints.** All complaints of alleged unprofessional and unethical conduct by interpreters shall be in writing and will be investigated by the State Court Administrator or a person appointed by the State Court Administrator. Each complaint will be reviewed to determine if there is sufficient cause to believe that the interpreter has engaged in unprofessional or unethical conduct. If sufficient cause exists, the State Court Administrator may suspend or revoke the certification of an interpreter and remove the interpreter's name from the statewide register of interpreters. If a violation is by a registered, noncertified interpreter, the State Court Administrator may suspend or remove the interpreter's name from the statewide register of interpreters.

## **APPENDIX 1**

### **CODE OF PROFESSIONAL RESPONSIBILITY FOR INTERPRETERS PREAMBLE**

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency or a speech or hearing

impairment. It is essential that the resulting communication barrier be removed, as far as possible, so that these persons are placed in the same position as similarly situated persons for whom there is no such barrier. As officers of the court, interpreters help ensure that such persons may enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively. Interpreters are highly skilled professionals who fulfill an essential role in the administration of justice.

#### **APPLICABILITY**

This code shall guide and be binding upon all persons, agencies, and organizations who administer, supervise use of, or deliver interpreting services to the judiciary.

#### **CANON 1: ACCURACY AND COMPLETENESS**

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.

#### **CANON 2: REPRESENTATION OF QUALIFICATIONS**

Interpreters shall accurately and completely represent what their training and pertinent experience is and any certification they may have.

#### **CANON 3: IMPARTIALITY AND AVOIDANCE OF CONFLICT OF INTEREST**

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

#### **CANON 4: PROFESSIONAL DEMEANOR**

Interpreters shall conduct themselves in a manner consistent with the formality and civility of the court and shall draw as little attention to themselves as possible.

#### **CANON 5: CONFIDENTIALITY**

Interpreters shall keep confidential all privileged and other confidential information.

#### **CANON 6: RESTRICTION OF PUBLIC COMMENT**

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

#### **CANON 7: SCOPE OF PRACTICE**

Interpreters shall limit themselves to interpreting or translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

#### **CANON 8: ASSESSING AND REPORTING INABILITIES TO PERFORM**

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment completely, they shall immediately convey that reservation to the appropriate judicial authority.

#### **CANON 9: DUTY TO REPORT ETHICAL VIOLATIONS**

Interpreters shall report to the proper judicial authority any effort to encourage a lack of compliance with any law, any provision to this code, or any other official policy governing court interpreting and legal translating.



## CANON 10: PROFESSIONAL DEVELOPMENT

Interpreters shall strive to continually improve their skills and knowledge and advance the profession through activities such as professional training and education, and interactions with colleagues and specialists in related fields.

### INTERPRETER OATH

I, \_\_\_\_\_, swear or affirm that I will, to the best of my skill and judgment, after my appointment as interpreter, make a true (Language) interpretation of all court proceedings, probation activities, or any other proceeding into a language which the party understands and that I will in the English language repeat the party's statements to the court or jury.

## (4) NAJIT (National Association of Judiciary Interpreters and Translators)

Rules Relating to Court Interpreters adopted September 20, 2000.

### **Preamble**

Many persons who come before the courts are non- or limited-English speakers. The function of court interpreters and translators is to remove the language barrier to the extent possible, so that such persons' access to justice is the same as that of similarly situated English speakers for whom no such barrier exists. The degree of trust that is placed in court interpreters and the magnitude of their responsibility necessitate high, uniform ethical standards that will both guide and protect court interpreters in the course of their duties as well as uphold the standards of the profession as a whole.

While many ethical decisions are straightforward, no code of ethics can foresee every conceivable scenario; court interpreters cannot mechanically apply abstract ethical principles to every situation that may arise. This Code is therefore intended not only to set forth fundamental ethical precepts for court interpreters to follow, but also to encourage them to develop their own, well-informed ethical judgment.

### **Applicability**

All NAJIT members are bound to comply with this Code.

### **Canon 1. Accuracy**

Source language speech should be faithfully rendered into the target language by conserving all the elements of the original message while accommodating the syntactic and semantic patterns of the target language. The rendition should sound natural in the target language, and there should be no distortion of the original message through addition or omission, explanation or paraphrasing. All hedges, false starts and repetitions should be conveyed; also, English words mixed into the other language should be retained, as should culturally bound terms which have no direct equivalent in English, or which may have more than one meaning. The register, style and tone of the source language should be conserved.

Guessing should be avoided. Court interpreters who do not hear or understand what a speaker has said should seek clarification. Interpreter errors should be corrected for the record as soon as possible.



### ***Canon 2. Impartiality and Conflicts of Interest***

Court interpreters and translators are to remain impartial and neutral in proceedings where they serve, and must maintain the appearance of impartiality and neutrality, avoiding unnecessary contact with the parties.

Court interpreters and translators shall abstain from comment on cases in which they serve. Any real or potential conflict of interest shall be immediately disclosed to the Court and all parties as soon as the interpreter or translator becomes aware of such conflict of interest.

### ***Canon 3. Confidentiality***

Privileged or confidential information acquired in the course of interpreting or preparing a translation shall not be disclosed by the interpreter or translator without authorization.

### ***Canon 4. Limitations of Practice***

Court interpreters and translators shall limit their participation in those matters in which they serve to interpreting and translating, and shall avoid giving advice to the parties or otherwise engaging in activities that can be construed as the practice of law.

### ***Canon 5. Protocol and Demeanor***

Court interpreters shall conduct themselves in a manner consistent with the standards and protocol of the court, and shall perform their duties as unobtrusively as possible. Court interpreters are to use the same grammatical person as the speaker. When it becomes necessary to assume a primary role in the communication, they must make it clear that they are speaking for themselves.

### ***Canon 6. Maintenance and Improvement of Skills and Knowledge***

Court interpreters and translators shall strive to maintain and improve their interpreting and translation skills and knowledge.

### ***Canon 7. Accurate Representation of Credentials***

Court interpreters and translators shall accurately represent their certifications, accreditations, training and pertinent experience.

### ***Canon 8. Impediments to Compliance***

Court interpreters and translators shall bring to the Court's attention any circumstance or condition that impedes full compliance with any Canon of this Code, including interpreter fatigue, inability to hear, or inadequate knowledge of specialized terminology, and must decline assignments under conditions that make such compliance patently impossible.

Source: [www.najit.org](http://www.najit.org)