

## **CHAPTER 7**

### **CONCLUSION**

#### **7.1 Overview**

This research has been concerned with court interpreting in the Malaysian context and the influence that language policy and planning have had in shaping its development over the years. The focus has been on the macro aspects of the system: the description and explanation of its features, the perceptions and attitudes of the main role players in the system.

Following the requirement of the triangulation framework set out at the beginning of the research, the researcher has presented the preliminary findings to the respondents or representatives of the respondents to ensure that the description of the system is congruent with the perceptions of the participants. This move is compatible with the SSM (Soft Systems Methodology) highlighted in Chapter 4 in which it is stated that a system consisting of human interactions and perceptions is fuzzy rather than discrete, with a present state which is difficult to describe and future states which are not predictable with any degree of certainty. Enquiry in such research is cyclical in nature and far from being linear with a definite beginning and ending. Questions asked lead to responses which invite more questions. As Checkland (op cit: A9) says 'Enquiry [is] in principle never-ending'.

In this final chapter, the researcher will first discuss the research questions set out at the beginning of the thesis, present the conclusions to the analysis given in Chapter 5, discuss the major findings of the analysis in relation to the issues highlighted in the review, and finally offer a number of recommendations for change in the system and implications for research in the field..

## **7.2 The Research Questions**

The research began with the grand tour question: How does the Malaysian court interpreting system provide an adequate court interpreting service in a multilingual society? The question breaks down into four specific questions focusing on the main issues arising from the preliminary interviews in the research. The conceptual foundations of the research provide the two orientations of the investigation: court interpreting as a system; and language planning and policy.

The first orientation focuses attention on the critical situation which has developed over the years and the need to address it urgently, (i.e. the ability of the system to provide an adequate interpreter service). It is argued that in this research endeavour, the first priority must be to provide a *description* of the system and an *explanation* of how it has come to be as it is. The description should contain as much relevant detail as possible in order to present a rich picture of the situation: an accurate and factual account of the way the service is provided, its strengths, weaknesses and the constraints under which it operates. In such a service, the

initial focus of attention is, clearly, the service provider: the interpreters themselves and the ways the system is organised to enable them to deliver the service. In addition, there is a need to address the factors involved in interpreting (its nature, the techniques available and processes involved), the problems encountered which have a bearing on the training required and lastly, the remuneration for the service provider and the status of the job, which influence the outcome of whether an interpreter will stay or move somewhere else. This has been dealt with at length in Chapter 2 and subsequent analysis of the data obtained in Chapter 5.

The second orientation concerns the policy and planning that affect the running of the system. In this research, national language policy is seen as a powerful ideological tool for social control, especially in a clearly demarcated multilingual society like Malaysia (see Chapter 3 for discussion of the theoretical issues). This is most evident in the legal process, where those who are not proficient in the language are at a considerable disadvantage and this necessarily raises the issue of justice for the individual. Equally, as the linguistic intermediary, the interpreter is inevitably affected too, in more than one way.

The investigation, description and explanation of the system are articulated in the following research questions (as given in Chapter 1, which are repeated here for ease of reference):

1. What is the role of interpreters in the Malaysian court interpreting system?

2. What training is required for the court interpreters in the Malaysian system and what provision does the system make for it?
3. What scheme of remuneration is there in the Malaysian judiciary system for interpreters and what implications does this have for the provision of a satisfactory interpreting service?
4. To what extent does the national language policy and planning affect the provision of adequate court interpreting in a multilingual Malaysia?

The answers to these questions have been discussed at length in Chapters Five and Six, based on the analysis of the responses received from survey respondents and informants; observations and document study.

### **7.3 The Malaysian System – Then and Now**

As has been shown, the Malaysian system of court interpreting is inherently rooted in the way the British colonial administrators ran it. Bilinguals of the three main languages in the country were recruited into the civil service and assigned to the Judicial and to other departments such as Customs and Excise, Immigration, Information, and the Police.

The interpreters were well enough established and organised by 1937 to form their own Association and main features of the service in 1948, when the association became a trade union, were the following:

1. The minimum qualification for entry into the service was the school leaving certificate (from the English school system in which the medium of instruction was English);
2. A minimum training was given to Chinese interpreters but not others;
3. The expected role was not only to interpret between two languages, but also to assist the Bench in open court, including explaining the nature and consequences of a plea and, in addition, to carry out clerical duties, other administrative duties, and, effectively, to perform any duty required by the Bench;
4. The languages involved in interpreting were English, Malay and other languages or dialects.

Closer examination of the present system (data analysis and documentation study) shows how little development there has been over the past 70 years. Indeed, the features of the two systems are identical, in almost every respect as shown below:

1. Identical except the language of instruction is now Malay,
2. No training is required or provided for entry into the service: all that is offered is an induction course that all civil servants undergo and, as of five years ago, interpreters are selected, on a random basis, to attend a one-week workshop at ILKAP on work-related matters;
3. Identical;
4. Identical except that Malay is now the language of the court and of trial.

Clearly, even in pre-independent Malaya, interpreters were expected to be much more than bilingual intermediaries facilitating communication between parties who did not speak the language of the Court. They were then, and still are today, full-time members of the public service and officers of the court with a range of duties in addition to interpreting. The only significant difference between 1930s and the present day is that the language of the Court is no longer English but Malay.

The full-time public educational entry point is the school-leaving certificate with credits in the Malay language. In addition, credits are required in the relevant language(s). For the Malay interpreter, the credit requirement is English and the ability to use the Jawi (Arabic-based) script in reading Malay. For the Chinese interpreter, the credit requirement is at least two Chinese dialects (Cantonese, Hokkien, Hakka etc) and competence in written Chinese. For the Indian interpreter, the requirement is for one Indian language (Tamil, Telegu, Malayalam, Punjabi) with its appropriate script. Apart from this, nothing else is required before one can be an interpreter in the Malaysian court and higher qualifications are not recognised by entry at a higher grade nor by promotion once appointed. (Recently, in order to solve the problem of interpreter shortage, the requirement has been reduced to just one extra dialect or language. For the Chinese, (s)he need not have a certified qualification as evidence of (her)his linguistic competence. Malay interpreters have also been sent for a 3 month language course to learn Mandarin to cope with the shortage of Chinese interpreters. Both measures did not work).

This study confirms that the role and duties expected of interpreters more than half a century ago still hold good today: as (a) Clerk of the Court; (b) Interpreter (c) Principal Assistant to the Judge, and (d) Administrative Assistant.

### **7.3.1 Statistical comparisons**

In the current situation, we find that the country has developed economically, socially and politically since Independence. Between 1957 and 2000, the population has increased fourfold, from 6.3 million to 23.27 million (which includes the conservative official figure of 1.24 million for the immigrant population).

Court cases have also increased enormously, involving no less than 30 languages (as recorded by the Court Registrar's office), and not just the three main languages and dialects of the Malaysian population. Court interpreters are thus needed more than ever to deal with the trials but, unfortunately, recruitment exercises carried out by the Public Service Department have yielded very few individuals, certainly not enough to make up for those who are leaving the service. At present, the number needed to serve all courts in the country (high courts, sessions and magistrate's courts) is 895, but only 612 are in service. This means the service is 32% under establishment.

Over the same period, there has also been an increase in the total number of court interpreters. In 1949, for a population of some 6 million, there were 306. By 2000, this had increased to 612, for a population of some 24 million. However,

the increase represents a doubling of the number of interpreters to serve a population four times as large. If the 1949 ratio of interpreter to population had been maintained until today, there would be 1224 serving interpreters but the present day figure is only half of that. Even if the number of cases brought before the court had increased proportionately between Independence and the present, the interpreters would still be carrying twice the load they were carrying just before Independence.

If, as the survey respondents agree, trials cannot proceed without the interpreter, there will continue to be huge backlogs of cases in the Malaysian judiciary when the system is 325 short of the agreed establishment and the establishment itself is 329 short of what would be predicted from the 1949 figures. In 1949 terms, the service in 2000 is not short of 300 interpreters but 600.

### **7.3.2 A Continuing Problem**

The unavailability of interpreters continues to be the main problem in the Malaysian courts. Different ways have been attempted to obtain interpreters, as evident from information given by magistrates and registrars. However, all these efforts have been made within the constraints of the old system, and it is those constraints which are the stumbling block that discourages would be interpreters from joining the civil service, and drives existing ones to resign when better opportunities are found.



The findings of the 1998 interpreter survey (Zubaidah 1999) clearly revealed the reasons for the shortage of interpreters and other court support staff. The documented views of the interpreters stated that they were extremely dissatisfied with the multiple duties they were expected to perform, the lack of training to equip them to do their job with confidence and a remuneration system that is clearly not commensurate with the work they do and the responsibilities they carry. As a result, although they admitted to liking the job, an overwhelming number stated they would leave if there were better opportunities outside the service.

In the present research, the focus of attention is the perceptions of judges and registrars, who are the interpreters' superior officers in the courts and with whom they work and serve in the civil service system. Their perceptions assist in clarifying the crucial issues in the system: the interpreters' role, training, remuneration and the impact of the national language policy on interpreting in court for those who are not linguistically proficient.

#### **7.4 Summary of Major Findings**

Ten preliminary conclusions might be drawn here:

1. The serious shortage of human resources in the Malaysian judiciary at all levels continues and increases. The most acute is the shortage of interpreters and other support staff which implies that the existing interpreters are doing extra work, and still more cases will have to be postponed as the work piles up.

2. The range of duties expected and demanded of the interpreter, which extend from language services, through legal support functions, to low level clerical activities lies at the root of the problems faced by the service and makes the use of the designation 'interpreter' for the officers who perform all these duties a misnomer.
3. The nature of interpreting and the role of the interpreter are not well understood by those who work with them. The Bench tends to perceive the interpreter as a neutral robot or conduit which can and should provide a literal translation of the whole of the utterances of the original speaker. The Bench views any deviation from that as 'interpretation' (the addition or subtraction of information by the interpreter) or 'advocacy' (the interpreter illegitimately taking on the role of counselling witnesses and defendants).
4. The training of interpreters is supported strongly by all parties – the Bench, prosecutors, defence lawyers, administrators and interpreters – but, in practice, it is neglected. Other than the one-week workshop provided by ILKAP, there is no other pre- or in-service training provided for the interpreters and no systematic provision for on-going professional development.
5. The enhancement of pay and conditions for interpreters, like training, receives enthusiastic support but moves towards the implementation of improvements are very slow. Any change will involve the PSD in a series of complex considerations which, in turn, will have to comply with the policy of the Treasury.
6. The entry qualifications for the service constitute a major obstacle to change. While entry is pegged to a level as low as the school leaving certificate and this, in the judgement of the authorities, is considered adequate for the

requirements of the job, the salary and allowances cannot be altered without implications for all scales throughout the Public Service.

7. The assertion of the administrative officers (including the Registrar of the High Court of Malaya) that ‘not much interpreting is required since most people who are brought to court speak some Malay’ is questionable. The findings in this study certainly support the impression that, while Malay is becoming the dominant language of increasingly monolingual trials, there is still a substantial need for interpreting between Malay and other languages of the country and that there are still instances of English-only trials.
8. The national language policy has been accepted in relation to the language of the courts but language proficiency still remains a major problem. Many senior members of the Bench and the Bar are still far more effective in English. The Malay language spoken by many of those who appear before the courts is pidginised Bazaar Malay rather than the standard Malay of the court and this is accepted without any query (see Chapter 6.7.1 for discussion of this point).
9. The presence of large numbers of immigrants and migrant workers and of tourists and visitors, most of whom do not speak Malay, shifts the language pairs needed for court interpreting away from the Malay/English – Malaysian languages combinations to ones involving several other languages from an unpredictable number of countries world wide.
10. The linguistic rights of the individual are clearly stated in the Criminal Procedure Code but, in practice, many of those whose duty it is to ensure those rights are unclear about what is involved and, although the right to an

interpreter exists, *de jure*, it is often compromised, *de facto*, due to the shortage of interpreters.

The findings of this research do not reflect a satisfactory or complimentary picture of court interpreting in Malaysia. There are many issues which need to be debated further and problems which demand resolution but there is little movement in any direction at present other than agreement from the participants that the system is in need of change or improvement.

## **7.5 Future Directions for the Interpreting Service**

The Malaysian Judiciary is faced by the on-going problem of the shortage of interpreters. The solution to the problem requires coming to terms with the realities of the situation and planning improvements in the system which will lead to the creation of a cadre of competent interpreters who are sufficient in number, appropriately deployed and adequately trained and rewarded.

What is needed is a policy involving the Judiciary and the Public Service Department with clear objectives and adequate means of implementation. The policy should aim to promote the creation of a model of a court interpreting system for Malaysia which is responsive to the needs of Malaysian society in the 21<sup>st</sup> century: a system which can ensure justice and fair-play in a multilingual and multicultural setting.

Attitudes must change about people's right to speak their own language. This means interpreters must be provided. Those in the judiciary should be able to predict which languages are required most and preparations should be made to provide interpreters trained in these languages. Very often the denial to let witnesses speak in their own language takes the form of criticism: 'they can speak but won't' forgetting that the right is legally provided by the government itself.

The overall consideration that has to be made, which is crucial since it will have a bearing on the recommendations, is whether the Judiciary will (a) allow the existing system of the court operation to remain as it is now (b) set up an entirely different system or (c) modify the existing system to strike a balance. While (a) seems an unwise course of action and (b) requires substantial commitment from all concerned, (c) is probably the most reasonable and feasible. However, if (b) or (c) are selected, the question of the interpreter's role has to be addressed and redefined.

The following recommendations which essentially involve policy decisions are made based on information and insights gained from the findings.

### **Recommendation 1**

The Judicial Department should specify and prescribe the scope and the duties of (a) the full-time court interpreter as opposed to (b) the Clerk of the Court and (c) the court clerk. All three roles are essential to the running of the courts but there are significant differences between the status and responsibilities of the three

positions, which must be highlighted, so that the role and duties can be properly assigned.

The interpreter is needed as the linguistic expert to render spoken and written evidence given in court from one language or dialect into the standard language of the court and vice versa.

The Clerk of the Court is needed to perform legal duties and to assist the Magistrate: explaining the charge; the nature and consequence of a plea, keeping and marking exhibits, preparing draft orders for lawyers, assisting the unrepresented accused by supplying legal advice and information.

The clerical staff are needed to perform the clerical duties which underpin the documentation required by the court.

A step in the right direction has recently been taken by the PSD in creating the new post of Legal Administrative Assistant (PTU), to perform clerical duties and take that load off the shoulders of the interpreters. However, the post has been filled entirely by Court Bailiffs (for whom it is a promotion) who have lower academic qualifications than the interpreters and are given no training for their new responsibilities. In the event, the lax supervision and organisation of the post has led (as interpreters report) to no reduction in their clerical work.

## **Recommendation 2**

The Judicial Department should specify and prescribe the qualifications of persons who interpret for the court for both government-employed and freelance interpreters. The requirement to be an interpreter in court needs to be changed from the existing one, to one that reflects the demands of the job.

A Clerk of Court should be legally qualified with at least a Diploma in law from a local tertiary institution.

A qualified interpreter, must in addition to being highly proficient in languages, possess interpreting and communication skills, including a clear understanding of the interpreter's code of ethics; relevant knowledge of culture and conventions; terminology and registers.

In this connection, it is recommended that the ITNM (the Malaysian centre for translation) plays a greater role in interpreter training, since local universities no longer offer programmes at this level, as they have greater commitment to bachelor and postgraduate degrees.

## **Recommendation 3**

The Judicial Department should establish an independent Board for setting standards for interpreters and should put in place an accreditation process which will ensure standards and quality and a code of ethics for interpreters, whether full-time or freelance.

#### **Recommendation 4**

The Judicial Department should appoint a steering committee on interpreter training and standards, comprising expertise from the Judicial department (ILKAP), the Bar, ITNM, the DBP, and academics from institutes of higher education to design appropriate training courses for initial, in-service and on-going education and training. Centres for training could be located in ILKAP for in-service training, in ITNM for pre-service training for the Central zone, UUM (Northern University of Malaysia) for the northern zone, UTM (University of Technology Malaysia) for the south, and UNIMAS (Universiti Malaysia Sarawak) or UMS (Universiti Malaysia Sabah) for East Malaysia.

Changes occur in every profession in terms of needs which reflect the changing nature of a society particularly a multicultural one such as Malaysia. This means that on going education and training are essential for bilingual and multicultural personnel. Interpreters must be exposed to scholarly publications in cross-cultural communicative issues as well as legal issues occurring in the courts in order to broaden their horizons.

Training opportunities must be put in place to ensure that (a) within two years of appointment, every interpreter will have obtained a professional certificate and (b) within four years, a professional diploma.

#### **Recommendation 5**

The Judicial Department should prepare and forward a comprehensive proposal to the Public Service Department recommending changes to the scheme



of service for the Malaysian interpreters. In the proposal, the actual duties of an interpreter need to be specified and separated from those of the Clerk of Court.

The interpreter position should reflect four levels :

- *Junior Interpreter*: (a minimum qualification of A level with pre-service training)
- *Certificated Interpreter*: (a Diploma in Translation and Interpreting after a minimum of two years as junior interpreter)
- *Senior 2 Interpreter*: (a Diploma in Translation and Interpreting, and a pass in an appropriate departmental examination)
- *Senior 1 Interpreter*: (by appointment from Senior 2 or with a university degree in a relevant field)

As for remuneration, the interpreter's allowance should be made the distinguishing factor between the interpreter and other positions in the PSD requiring similar academic qualifications. Considerable care should be given to drafting interpreter's allowance so that the total amount reflects the expertise involved and required in the job.

### **Recommendation 6**

The Judiciary should adopt a uniform rate of payment for freelance interpreters. At present, the *per diem* payment for freelance interpreters hired by lawyers as well as by the Court is extremely variable. The Court pays RM25.00, even to university teachers who are called to assist in a trial as interpreter, but pays up to RM500.00 to an interpreter from the embassies, while lawyers pay

between RM150.00 and RM500.00. A rate must be determined and made public to all concerned.

### **Recommendation 7**

The Judiciary should provide information on availability of qualified and certificated interpreters for languages other than Malay through an accessible medium or channel, for example the Judiciary's websites, the Bar Council's websites, or handbooks made available in the Registrar's offices throughout the country.

There needs to be a National Register of interpreters equivalent to that provided in the United Kingdom by the Institute of Linguists. The register should make explicit the interpreter's qualifications, experience and availability. The following is the kind of information that should be made available for members of the public, organisations and institutions requiring interpreter services: Name; Language/dialect pairs (natural languages/sign); Experience (places/years); Expertise (simultaneous/consecutive); Specialisation (civil law: bankruptcy etc); Qualifications (professional and academic); Availability (geographical area/times). In addition, there should be recommended terms of engagement with guidelines on best practice and a copy of the Interpreters' Code of Ethics.

### **Recommendation 8**

It is recommended that the Judiciary's training centre (ILKAP) begin a training course or include in its pre-service and in-service training of magistrates, prosecutors and lawyers, a section on court interpreting. Such training should

include information on (1) the nature of interpreting/translation (2) when interpreters are needed and (3) how to work with interpreters. As argued at the beginning of the thesis, social interactions consist of different participants with different perceptions. These perceptions become the basis of the conduct, decision and action of the participants. Those who work with interpreters should know what is involved in the process of monolingual and bilingual communication, the linguistic constraints in switching languages, the physical and psychological effort involved.

#### **Recommendation 9**

It is recommended that a periodic review of issues relating to court interpreters related to interpreting which arise during trials in court be made and recorded by the Chief Registrar's Office to ensure consistency in all courts throughout the country. For this purpose an inspectorate of magistrates courts should be set up to oversee good practice.

#### **Recommendation 10**

The Judicial department should ensure effective organisation of the service by adopting a revised model of interpreter service provision which promotes a hybrid system outlined below. The respondents in the survey were asked if they think a hybrid system would be better in terms of availability and competence of interpreters. Almost all (90%) agree that it would. A hybrid system would consist of a group of (a) full-time, trained, in-house interpreters; supplemented with (b) part-time, freelance, trained interpreters from various occupations throughout the country. The (a) group of interpreters would not be required to perform other

duties as they do at present but would be interpreters from 8 to 4 with an agreed weekly work schedule providing cover for a fixed number of courts per week. A system of on-the-job training should also be made part of the job so that a senior interpreter has at least one understudy to train.

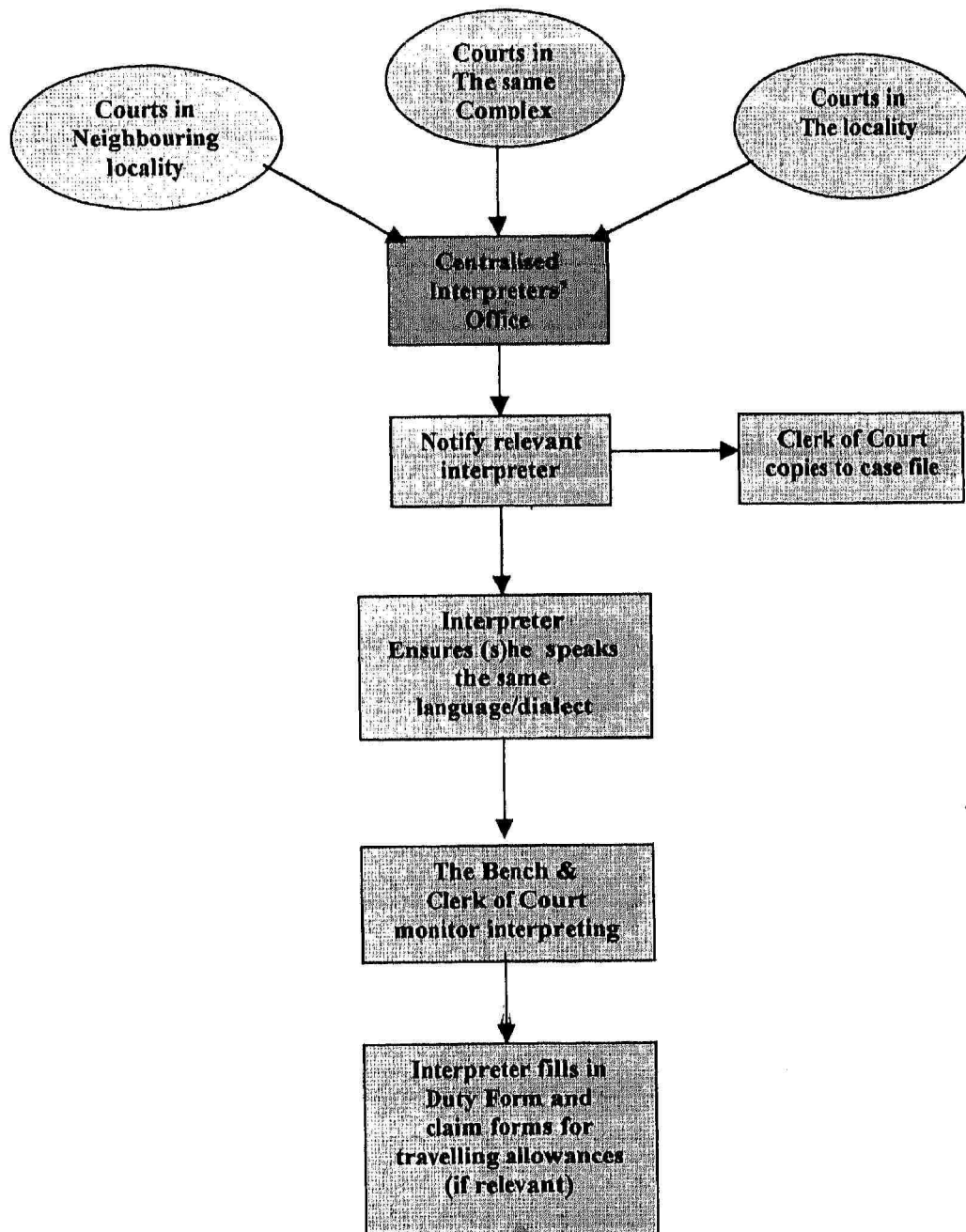
The full-time interpreters could be utilised by the courts in the same complex in which they are housed, other courts in the locality and in neighbouring localities through a centralised interpreters office. The officer in charge would have the duty of organising and notifying the interpreters in advance when they would be needed and ensuring that interpreter and witness/defendant speak the same language or dialect. In court, the interpreter works with the Clerk of Court and the Bench.

The centralised freelance interpreters would be managed by a quasi-governmental agency (such as ITNM, if they are equipped). It should not only be the manager but also the main centre for interpreter and translator training. It can then serve interpreting needs for the Police, the Bar Council and the Court, as well as other bodies needing interpreters. It is already performing that function for other organisations i.e. the tourist board and various international conferences.

The flow chart in figure 6.3B indicates the procedures to follow in assigning an interpreter to a court from engagement to payment.

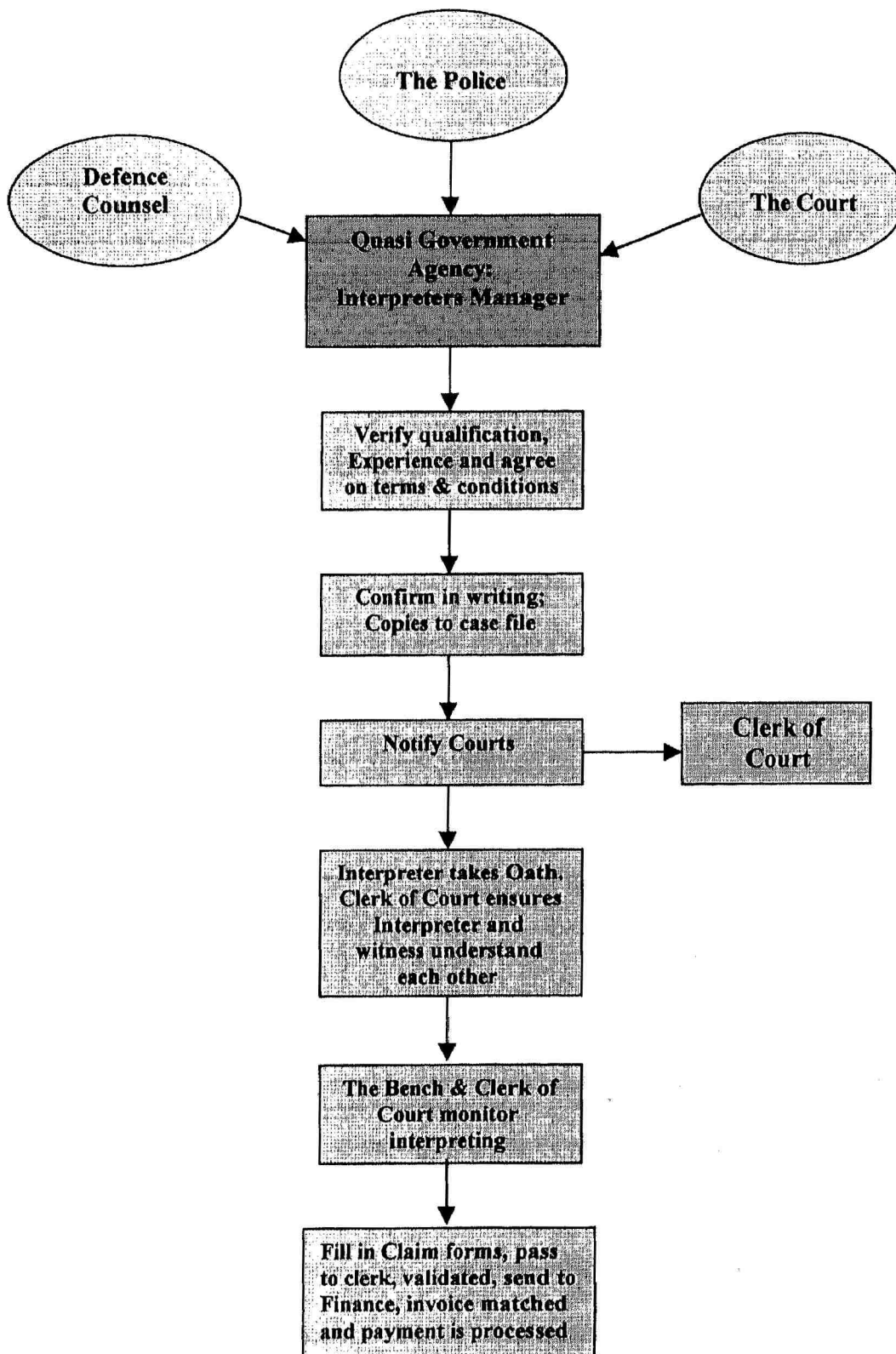
**Fig. 7.1(A)**  
**A Model of a Hybrid System**

**Centralised trained full-time resident interpreters**



*Source: Developed for thesis from soft research data*

**Figure 7.2 (B) Centralised Trained Freelance Interpreters**



*Source: Developed for thesis from soft research data*

## **7.6 Future Directions for Research**

This research has attempted to describe the court interpreting system in Malaysia and to answer the questions presented at the outset of the investigation. A qualitative study such as this does not really provide definite answers but only directions as a result of insights from the experience and the interaction that one has gone through. The research has also generated other questions that may be the basis of further research in related areas for both academics and language practitioners in our effort to move towards good practice and improvement of human society.

The first research direction is in the area of language research: a systematic study of the use of Bazaar Malay among witnesses and defendants in Malaysian courts and its implications on trial proceedings and outcomes. The present research does not give a detailed sociolinguistic account of who, how, why and what the effects of using pidginised Malay are, but it certainly indicates that it is used widely. However, as the researcher recognises, the ban on tape recording in open court and the modification of the 'verbatim' written record by the Bench to reflect standard Malay means that texts of such language are not readily available and any study will have to be ethnographic and participant oriented.

Second, a systematic study on testimony and questioning styles in Malay as compared to widely known testimony and questioning styles in English. It has been witnessed in this research that certain questioning styles lose their impact when rendered in Malay. In addition, such study also relates to forensic

linguistics, the use of a certain type of language to elicit the truth or to recognise untruth spoken by witnesses of different linguistic backgrounds.

## 7.7 Conclusion

This investigation sees the form and functions of the court interpreting provision as both a part of the legal and judicial system and, most importantly, a result of a language policy that has been enforced as part of the agenda to establish a firm measure of control over the development of the country and the direction of the political survival of the nation.

The national language policy has been successful in producing a generation of Malaysians (those under the age of 30) who are, by and large, proficient in Malay and this is the result of a carefully planned and articulated educational policy which developed national linguistic competence over a 30 year period.

The provision of court interpreting services in Malaysia is widely recognised to be inadequate but there is hope for change. This must take place on three levels (1) *structure* (e.g. revising conditions of service, providing adequate pre- and in-service training), (2) *process* (e.g. responding to the changing needs of the service: language pairs, specialist domains etc) and (3) *attitude* (e.g. altering the outlook of the interpreters, the registrars, the judges, the politicians and their perceptions of each other).



How far these changes will benefit all those involved depends on the knowledge and skills of the planners and, in particular, the sensitivity with which they go about the task.

What is essential is that a policy be arrived at and implemented which is, and is seen to be, balanced and just. Language services impinge on society as a whole and on the multiple interests of those who use them: the providers themselves, the clients, consumer associations and those of other professions, and the government.

Satisfying all these contrasting and, indeed, conflicting interests is the fundamental challenge the planner must address and perhaps, given the complexity of the situation, a less Utopian Key Objective should be to find ways (treatment) which fall short of 'curing' the problem (finding a 'solution' to it) but do at least provide some alleviation for it.

Nonetheless, we must never lose sight of the fundamental purpose of the interpreter service; to ensure justice and to constantly reassert that the right to communicate with the powers that be in one's own language is a *right* and not a concession. That court interpreting should be recognised as the *sine qua non* for the administration of justice in a multilingual society and that there should be an efficient and effective system to provide it ought to be self-evident.

This dissertation began with the Interpreter's Oath: the specification of the legal obligation which binds the interpreter during the course of a trial. This Oath

is what each official Malaysian interpreter is required to take before they begin their job.

It seems fitting to end with a quotation which spells out in the clearest terms the impact of faulty interpreting on the provision of justice, since this alone ought to be sufficient to demonstrate, once again that (1) the right to communicate with the powers that be in one's own language is a *right* and not a concession and (2) court interpreting is a *sine qua non* for the administration of justice in a multilingual society. In such a context the need for an efficient and effective system to provide such interpreting cannot be questioned.

...unless a person fully comprehends the charge which that person faces, the full implications of it and the ways in which a defence may be raised to it, and further is able to give full instructions to solicitor and counsel...a proper plea has not been tendered to the court...[and] no proper trial has taken place. The purported plea, trial, conviction and sentence [are] all null and void [and, in such a case] the conviction will be quashed.

*Lord Justice Watkins, Mr. Justice Boreham and Mr. Justice Hirst  
in Regina v Iqbal Begum (appeal) 1991*

---

<sup>1</sup> Twenty two war criminals (German Nazis) were tried in 1946 involving simultaneous interpreting of four languages that is, English, French, German, and Russian.

<sup>2</sup> Malay or Bahasa Melayu (Malay language) or BM: the national language. Between 1970 and 1998, it was renamed Bahasa Malaysia to reflect the fact that it is the language of Malaysians not just the Malays alone. However, following a move in 1998 spearheaded by the Malay Academy (Dewan Bahasa dan Pustaka) the name has now changed back to Bahasa Melayu (the Malay language). For the purposes of this research, it will be referred to by the neutral term 'Malay'.

<sup>3</sup> The backlog of cases specifically refers to 646,171 in the magistrates' court; 94,910 in sessions court, 51,927 in the high court and 5,567 in appeals court in 2000.

<sup>4</sup> The Supreme Ruler who is elected constitutional monarch for a five-year term of office by the hereditary Rulers of the constituent states of the federation.

<sup>5</sup> It was formalised as the Interpreters' Association in 1937

<sup>6</sup> 'Adat' laws, which are only applicable to the Malays, have been accommodated within in the legal system since pre-colonial times.

<sup>7</sup> Danica Seleskovitch was a professional interpreter and Professor at the Sorbonne. She founded the International Association of Conference Interpreters (AIIC).

<sup>8</sup> The term was coined by Roberts (1994) to cover the multiple interpreting services required by travellers and tourists.

<sup>9</sup> Literal translation from Malay: Batu 8; which means 8<sup>th</sup> mile

<sup>10</sup> Language switcher is Morris's term for 'interpreter'

<sup>11</sup> By making these changes, the interpreter prevents the witness, accused, defendant or plaintiff from being aware that the original question was not just 'what happened'. The form of the question implies that the testimony of the witness may not be reliable. Had the witness known this, (s)he may have put her/his testimony in a different way.

<sup>12</sup> Consecutive summary interpreting is an informal term used to refer to the common practice of court interpreting where the interpreter interprets in consecutive but does not provide a version of the whole of the original. The Bench is ambivalent to the practice, requiring the interpreter to render every word and, when such a full version is provided, insisting that the interpreter sticks only to what is relevant.

<sup>13</sup> The Diploma in Translation was started in 1974 and was aimed at students who already possessed a Bachelor's degree in any field or a minimum of three years' experience in translation or interpreting.

<sup>14</sup> The survey was a collaboration between the DBP and all the local higher level institutions that teach law. It enquired into the major sources of difficulty in implementing the national language policy in the legal sector.

---

<sup>15</sup> LS refers to 'language switcher' see 10 above

<sup>16</sup> See Appendix E. The account given is typical of what usually takes place in the open court for a criminal case in which the accused is unrepresented. The range of duties expected of an interpreter is evident. However, the clerical duties required are not apparent as these are done after the trial session is over.

<sup>17</sup> Only one respondent reported that his/her court has no major problem.

<sup>18</sup> The survey formed part of the research carried out by the researcher to discover hard evidence, rather than anecdotal descriptions, of the interpreters' demographic and educational background, the training and the salary they receive, the perception of their own abilities as interpreters and prospects for the future, the association they belong to and their views on how the service could be improved. The majority of interpreters serve in Magistrates Courts (54%) and the rest are divided between Sessions Courts (22.5%) and High Courts (22.5%). Of the 471 interpreters, almost 40% are Malays, 21 % Chinese, 30% Indians and the rest are the minorities speaking Punjabi, Thai, Bangla and East Malaysian dialects. Although the official language of trial and record in the Malaysian court is Malay, the Malaysian court is necessarily a multilingual one, with all three major languages of the country being spoken. Malay is cited by almost all interpreters (over 90%) as a language they use in court, followed by English with more than 70%. The remainder is almost entirely taken up by equal claims (25% each) for Chinese (mainly Cantonese, Mandarin and Hokkien) and the Indian languages (dominated by Tamil). Other varieties of Malay (Achenese, Javanese, Madurese etc), the East Malaysian languages (Iban, Kadazan, Bajau, Bidayuh etc) together with Thai and Bangla complete the picture. The bulk of the profession (80%) falls into the 25-44 age groups with very few individuals in the younger group (20-24) or the older 45-55 group. As to gender and age, the majority of interpreters are women in their mid to late 30s who outnumber men by 3:1. In terms of education and training, the highest qualification expected for entry to the service is the STPM (the Malaysian Higher School Certificate; equivalent to GCE or GSE 'A' level in the United Kingdom). The actual requirement is the lower award, the SPM (the Malaysian School Leaving Certificate, roughly equivalent to the 'O' level). The vast majority therefore (close to 65%) possess the SPM; less than a quarter has the STPM; and the rest 13 % have their education in English (the MCE and HSC), the odd few have a Diploma in Law (external), Diploma in Translation and even a Diploma in Applied Linguistics but such qualifications are very rare indeed. As to professional experience and training, the service is made up of two main groups: those in their late twenties to early thirties who have no more than 5 years' experience (36.6%), and those in their late thirties to early forties who have 16-20 years' service (26.5%). If we take into account interpreters in their early twenties and those in their thirties who have no more than five years' experience, the percentage of the relatively inexperienced reaches almost one third. The implications for training and professionalisation appear self-evident, especially since about 12% of the more experienced senior interpreters will, by now (2002), have already retired or chosen optional retirement. More than half of the interpreters, at the time of the survey, had not attended any of the one-week workshops provided by ILKAP (the Training Institute for the Judicial Department) and virtually none of them any of the training courses (Certificate, or Diploma) provided by the University of Malaya. Tiny numbers have attended other relevant courses (one, for example, on Sign Language). Nevertheless, since ILKAP has been running a one week workshop twice a year since 1995, it is most likely that, by now, more than half the total number of interpreters have had the opportunity of at least receiving this amount of training. The Malaysian court interpreter comes across in

---

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

<sup>19</sup> This is because, by 1970, Malay had become the medium of instruction for all national schools.