



The Position of Court Translation in Iran and the United States of America

جایگاه ترجمه دادگاهی در ایران و ایالات متحده آمریکا

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Abstract

Increasing number of countries over the world are enshrining in their constitutions the right for citizens to follow and participate in proceedings in their own language. Court interpreters work in civil, criminal and administrative courts to ensure just that. At an international level, several courts (the International Criminal Court, the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda amongst others) have established specialized language services that make use of conference interpreters in a legal setting. Court interpretation is a service provided by a court certified interpreter who is trained to interpret between English and one or more foreign languages. Interpreters work with a number of different individuals in the court system and are able to communicate directly with the individual they're working with, providing a necessary line of communication between that individual and other representatives of the court. A certified court interpreter carries a lot of responsibility in their role. Everything one interprets from a person is taken as fact, which puts pressure on the interpreter to make sure these communications are as accurate as possible. In addition to the words used, appropriate context, tone, and implication must be considered. Also be used to provide the closest possible meaning of what was said to the court.

Keywords: Court Interpreting, Conference Interpreting, Criminal Court Code.

چکیده

تعداد فزاینده‌ای از کشورها در سراسر جهان در قانون اساسی خود حق شهروندان را برای پیگیری و شرکت در دادرسی به زبان خود قید می‌کنند. مترجمان دادگاه در دادگاه‌های مدنی، کیفری و اداری برای اطمینان از این امر کار می‌کنند. در سطح بین‌المللی چندین دادگاه (دادگاه کیفری بین‌المللی یوگوسلاوی سابق و دادگاه کیفری بین‌المللی رواندا در میان سایرین) خدمات زبان تخصصی را ایجاد کرده‌اند که از مترجمان کنفرانس در یک محیط قانونی استفاده می‌کنند. ترجمه دادگاهی خدماتی است که توسط یک مترجم رسمی دادگاه ارائه می‌شود که برای ترجمه بین انگلیسی و یک یا چند زبان خارجی آموزش دیده است. مترجمان با تعدادی از افراد مختلف در سیستم دادگاه کار می‌کنند و می‌توانند مستقیماً با فردی که با آنها کار می‌کنند ارتباط برقرار کرده و یک خط ارتباطی لازم را بین آن فرد و سایر نمایندگان دادگاه فراهم کنند. یک مترجم رسمی دادگاه مسئولیت زیادی در نقش خود دارد. هر چیزی را که از یک فرد تفسیر می‌کند به عنوان واقعیت در نظر گرفته می‌شود، که بر مترجم فشار می‌آورد تا مطمئن شود این ارتباطات تا حد امکان دقیق است. علاوه بر کلمات به کار رفته، باید از بافت، لحن و دلالت مناسب نیز استفاده شود تا نزدیک‌ترین مفهوم ممکن از آنچه گفته شده به دادگاه ارائه شود.

واژگان کلیدی: تفسیر دادگاهی، تفسیر کنفرانسی، قانون آیین دادرسی کیفری.

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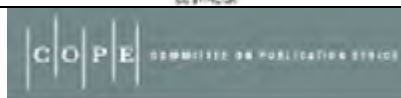
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**Introduction**

There is an undeniable appeal to conferences: the locale, the environment, and the perceived prestige. There is the opportunity to meet interesting people and be exposed to innovation. The interpreter becomes part of a different world without losing independence, much like a tourist getting to explore a different country and then returning home. Interpreting at the Nuremberg trials is considered a milestone in the consolidation of interpreting (primarily conference interpreting) as a profession. However, it could be argued whether nowadays interpreting in court settings can be defined and analyzed under the exactly same terms that we would use to look at Nuremberg. Some could even challenge that such a historical event for the profession be labelled as court interpreting under today's standards (Herráez&Miguel, 2022, 1).

Nowadays court interpreting has become a necessity. It is a significant element in many court procedures. Court interpreting is of great current interest nowadays. The topicality of court interpreting is substantiated by the fact that a rather large number of court participants from many countries with different foreign languages are involved in the judicial process (Chilingaryan&Gorbatenko, 2017, 1).

The court interpreter world is of a more conservative and institutional nature, bound by a code of ethics similar to the one adhered to by lawyers. A person's life depends on the accuracy of the interpreter's delivery, down to the inflection and intonation, the pauses a defendant might make while answering a question, the passion or resignation, the slang – all of it might seem tedious, but it is also rewarding as it allows the interpreter to become a part of our justice system.

Court interpretation can feature both simultaneous and consecutive services, depending on the circumstances and the preferences of the court. While consecutive

interpretation is often preferred for a courtroom setting and one-on-one interviews, it's possible that simultaneous interpretation would be used to facilitate more informal conversations (Natalia de la Vega Munilla, 2019, 1).

Approximately 286, 000 noncitizens obtained lawful permanent resident (LPR) status in the fourth quarter (Q4) of Fiscal Year (FY) 2022. Nearly 136, 000 noncitizens issued immigrant visas by Department of State entered the United States as new arrivals, a 29 percent increase from FY 2021 Q4 (Legal Immigration and Adjustment of Status Report Fiscal Year, 2022, 1). The amount of people who entered America and the involvement of these people with the criminal system of this country in different fields, shows the importance of this issue in this country.

In this project, I intend to express the importance and status of translators in countries, especially in Iran and America. Considering the fact that America is a country that accepts immigrants, while Iran is a country that sends immigrants. We are asking two questions here, one is the main question and the other is a secondary question that includes: What is the status and process of access to interpreters in courts in Iran and America? Has this importance been supported in the laws or court proceedings in the two countries or not?

The process of legal action with all its complex laws and lengthy processes can be difficult for anyone. Especially if a person does not have the ability to speak the official language of the court in question.

In this case, the person does not know how the court process will proceed or cannot understand what to present to the court or what questions to ask based on his petition. Therefore, translators can play a decisive role in today's courts. In the following, we will discuss the reasons for the presence of translators in the court and their important role.

1- Review of Literature

The first law related to the use of translators in court proceedings is in the law on Translation of statements and documents in courts and official offices it can be seen that it was approved on June 20, 1316, which mentions the use of translators in three articles.

Article 1- Whenever one of the parties to a lawsuit or witnesses and experts in courts and offices and parties Transactions or witnesses do not know Persian language in notary offices, their statements are made by a translator It will be officially translated. Note- In the places where official translators are provided by the Ministry of Justice for any of the other languages Farsi has not been determined, the courts and registration offices and offices of official documents of the translator who is a party Trust me, they will determine it for translation. Article 2- The following documents must be translated by official translators or political and consular agents be confirmed A- Documents that are in one of the foreign countries or in Iran in one of the other

languagesFarsi is set and used in one of Iran's courts and offices. B- Documents prepared in Iran and its translation for use in one of the countries A foreigner is needed. Article 3- The procedure for appointing official translators and confirming their signatures and the amount of translators' fees and the cost of certifying the translation will be according to the regulations set by the Ministry of Justice.

This law, which consists of three articles, was passed in the 20th meeting of June 1300 Sixteen were approved by the National Assembly (The law about Translation of statements and documents in courts and official offices Approved on June 20, 1316, 2). Currently, this issue is observed in the Criminal Procedure Law approved in 1392.

In 1978, after an extensive review of interpreting in the federal courts, Congress passed the Court Interpreters Act, 28 U.S.C. § 1827, in order to provide more effectively for the use of interpreters in courts of the United States. This Act requires the Director of the Administrative Office of the United States Courts to set the standard for certification of interpreters who serve in the federal courts. The Administrative Office (AO) facilitated quality interpreting by instituting certification testing, compensation standards, regulations and statistical reporting and training programs when deemed appropriate. To date, there are certified interpreters in Haitian Creole, Navajo, and Spanish (which constitutes about 96 percent of total interpreter usage). There are also Otherwise Qualified interpreters in many other languages, including American Sign Language. On November 19, 1988, President Ronald Reagan signed Public Law 100-702, the Judicial Improvements and Access to Justice Act, which made numerous amendments to the Court Interpreters Act. These amendments provide for the use of interpreters in grand jury and pretrial proceedings, mandate the use of criterion-referenced testing criteria (which is a method of objective measure) and set forth criteria for expanded certification of other languages deemed necessary by the Judicial Conference of the United States. The Court Interpreters Act, 28 U.S.C. §1827 provides payment for interpreting services for judicial proceedings instituted by the United States. Most civil and bankruptcy proceedings are excluded because they are not instituted by the United States (FEDERAL COURT I NTERPRETER O RIENTATION M ANUAL AND G LOSSARY, 2020, 7).

Translators work with written language. They take written content in one language (called the source language) and produce a version in another language (known as the target language). Typically, the target language of a piece of writing is the translator's first language. Interpreters work with spoken or signed language. They listen to a speaker in one language and voice or sign what was said in another language in real (or almost real) time. Interpreting is a live service, which helps meaningful conversation to happen between people who don't share a common language (Hoffman, 2022, 1).

3- The Right of Access to a Court Interpreter in Iran and United States

1-3- The definition of right in the systems of Roman, Germanic and Common Law countries

Historically, the Romano-Germanic legal system is the group of legal ideas and systems ultimately derived from the Code of Justinian, but heavily overlaid by Germanic, Canonical, Feudal, and Local Practices, as well as doctrinal strains such as natural laws, codification, and legislative positivism (Romano-Germanic Legal System, 2020, 1). Therefore, the definition of right in the Roman-Germanic system is a concept that is identified by the legal system in countries such as Iran, which is subject to this system.

The simplest definition for common law is that it's a body of law based on court decisions rather than codes or statutes. But in reality, common law is often more complicated than that. At the center of common law is a legal principle known as *stare decisis*, which is a Latin phrase that roughly means "to stand by things decided." In practice, *stare decisis* is just a fancy way of saying that courts and judges need to follow earlier decisions and rulings (otherwise known as case law) when dealing with similar cases later. For example, if a court makes a particular decision based on a specific set of facts, then the court is required to follow that decision if they ever must make a ruling on the same or closely related issue. Likewise, decisions made by higher courts (like a jurisdiction's supreme court) are typically binding on lower courts in the same jurisdiction (Lewis & Glendon, 2022, 3). Therefore, in the applied systems in common law countries like America, in addition to approving judicial procedure laws and observing the principle of fairness, it is of great importance.

2-3- The right of access to a court interpreter in Iran and United States

2-3-1- Access to a court interpreter in the United States

Demographic Trends Highlight the Need for Courts to Provide Language Assistance Services. There is a clear connection between national origin, primary language, and limited ability to read, write, speak, or understand English (known as limited English proficiency). The presence of limited English proficient, or LEP, parties and witnesses in courthouses is nothing new. Since the first Europeans arrived, immigration has been a part of the American experience. However, as the chart that follows illustrates, the foreign-born immigrant population as a proportion of U.S. residents has increased in the last 40 years from historic lows in the 1970s (Gibson, & Jung, , 2006, 81).

The Civil Rights Division (Division) of the U.S. Department of Justice (DOJ) upholds the civil and constitutional rights of all members of our society. It enforces federal laws prohibiting discrimination based on race, color, sex,

disability, religion, familial status, and national origin. The Division's Federal Coordination and Compliance Section (FCS), together with the Offices for Civil Rights of the DOJ Office of Justice Programs and other agencies, work to ensure consistent and effective enforcement of Title VI of the Civil Rights Act of 1964 1 (Title VI) and other laws and executive orders that prohibit discrimination in programs and activities that receive federal funding. Through the Courts Language Access Initiative, FCS secures the rights of all people, regardless of their national origin and English language ability, to participate meaningfully in state court proceedings and programs, consistent with the nondiscrimination provisions of Title VI and its regulations (U.S. Department of Justice, 2016, 2). The presence of interpreters in the courts of the United States in criminal and civil proceedings is accepted for litigants, witnesses, informants and victims, and even third parties.

2-3-2- Access to a court interpreter in Iran

Sight translation is an oral translation of a written text. This type of translation is used in many official meetings in companies, institutions, organizations, and especially courts. As stated before, in two separate articles in Iranian laws, the existence and presence of a translator in the documents presented to the court and It has a special use in the meetings where the parties appear to assert their rights on the one hand and to defend themselves, which unfortunately has not been paid much attention to. Article 200 of the Criminal Procedure Law states: The investigator for the plaintiff, private claimant, accused, witness and informant who is unable to speak Persian language, a trusted translator from among the official translators, and in case of lack of access to an official translator, the translator Determines another trust. The translator must swear to be honest and trustworthy. Failure to take the oath does not cause the translation of the trusted translator to be rejected. On the other hand, the legislator clearly states in Article 58 of the Civil Procedure Law that the documents submitted to the court must be in Persian language. This article is stated as follows: On the other hand, the legislator clearly states in Article 58 of the Civil Procedure Law that the documents submitted to the court must be in Persian language. This article is stated as follows: If the documents are not in Farsi, in addition to the certified copy or picture, its certified translation must also be attached to the petition. The accuracy of the translation and the conformity of the copy with the original will be certified by official translators or consular officers as the case may be. The importance of Article 58 of the Civil Procedure Law is that failure to comply with its provisions causes the court office manager to issue an order to correct the defect, and if the defect is not corrected, the petition will be rejected. In these two articles, the presence and impact of the translator, both simultaneous and the translator who translates the documents submitted to the court, is clearly stated (Vahabi&Ghorbani, 2023, 116).

4- Becoming a Court Certified Interpreter

1-4- Becoming a Court Certified Interpreter in the United State

The most common type of court interpreter needed is one who can communicate between English and Spanish. But other language specialties are commonly required across the United States, serving non-native English speakers such as immigrants, refugees, tourists, and other individuals. Depending on the setting for these interpretive services, the hours and nature of court interpreting can vary widely from one job to the next. While courtroom interpreters are only required when court is in session, depositions and other projects can demand long hours, including evenings and weekends, and the hours for this profession can be unpredictable, with new projects and job demands forcing interpreters to work overtime on some weeks while enjoying a lighter load at other times of the year.

Court interpreters must go through rigorous education and training before they're able to work as certified court interpreters. Most court certified interpreters have earned a bachelor's degree, with the most helpful majors focusing on a foreign language that could be useful in their interpreting work. Depending on the college or university, interpreting and translation-specific course loads may also be available. After a college degree is earned, aspiring interpreters must complete a certificate program from a reputable organization such as the American Translators Association (ATA) or the National Association of Judiciary Interpreters and Translators (NAJIT). Specialized court interpreter certificate programs are designed to provide professionals with essential interpreting skills as well as an understanding of the U.S. legal system. Once interpreters have completed their court interpreter training, they're able to enter the workforce as professional interpreters, entering a high-demand field where their specialized skills can support the mission of the U.S. court system (Natalia de la Vega Munilla, 2019, 1).

2-4- Becoming a Court Certified Interpreter in Iran

In Iran, the situation is different from that of the United States of America, based on the custom in Iranian courts; Official translators are not only approved by the court, but in the absence of official translators, trusted translators are also accepted. Therefore, the translator must not have passed the official translator exam, but in the absence of an official translator, the trusted translator can also take the necessary measures to do about translation. The translator must take an oath to be honest and trustworthy. However, the translator's failure to take the oath does not mean that the translator's translation will not be accepted.

5- Differences Between Conference and Court Interpretation United State

Interpretation and translation in the conference and the court are very different from each other. There are many reasons for the presence of translators in the courts, including: the diversity of the language and its role in the court. Complete understanding of the work process. Smoothing the course of proceedings and Conducting a fair trial. This is despite the fact that translators have a different position in conferences, and in the following, we will explain the concepts and differences between the two in America.

1-5- Conference Interpretation

The International Association of Conference Interpreters (AIIC) defines interpreting as the practice of conveying the meaning of a speaker's message orally and in another language to listeners who would not otherwise understand. Conference interpreting is carried out at multilingual meetings between for example representatives of national governments, international organizations or non-governmental organizations, to name but a few. At the European Commission, conference interpreters can be either staff or freelance interpreters, and they can work either for the Commission, the Council of Ministers, the European Council, the European Economic and Social Committee, the Committee of the Regions as well as the various European agencies. Most of the work takes place in Brussels, but there are also a good number of 'missions' accompanying ministers or officials to meetings abroad (European union, 2020, 1).

2-5- Court Interpretation

Court interpretation for foreign language speaking and deaf or hearing impaired individuals is a highly specialized form of interpreting that cannot be effectively performed without commensurate specialized training and skills. Arguably, it is the most difficult form of interpreting. Being bilingual, even fluently so, is insufficient qualification for court interpreting. Court interpreters must be able to preserve "legal equivalence" while interpreting. Moreover, they must be able to do this in each of three modalities: simultaneous interpreting, consecutive interpreting, or sight translating documents (Hewitt, 1995, 21).

3-5- Analysis of Differences between Conference and court interpretation in United State

The differences between these two can be stated in a few cases below:

Prerequisites/Accreditation	Conference	Court
Certification	Not required in the private sector nor requested by conference organizers, if chosen from their pool of experienced interpreters with a history of reliability. They do look for prior experience in the subject matter.	Required. State and Federal courts require certification and separate testing for each. Interpreters may have to state on the record that they are certified. For instances where a certification is available.
Education/ degree	Not required, but it never hurts to have one. A degree is required to work at the United Nations. Preferred at the State Department level. The parties contracting the interpreters may consider those with a degree over others, but expertise in the subject matter takes priority	Not a requirement in State courts. May be required in Federal court if applying for a permanent position in a major city. Although a degree is not required, passing the exams requires college-level knowledge.
Simultaneous	YES	YES
Consecutive	No, although consecutive interpreters will read from their notes.	Yes. Usually done outside the courtroom. State courts may limit the number of pages that are sight translated, while the Federal court has no page limit.
Use of booth	YES	Some federal districts use it, but it is uncommon.
Use of interpreting equipment	Yes- from the booth or handheld transmitter.	Yes. Court-provided interpreting equipment is available for defendants. An interpreter may provide his/her own equipment. Also used in depositions in some areas (Hermida, 2019, 5)
Required knowledge	Excellent passive comprehension of their two source languages; - Accuracy in interpreting into the target language in a grammatically correct manner - Ability to construct complete sentences - Understanding of the appropriate style and register - Ability to keep up with the speed - Intelligent editing of logically redundant words and phrases - Ability to cope with difficult or dense passages - Good diction and delivery Usually interprets in one direction only, if in the booth. Languages are classified as A, B, and C. Conference interpreters interpret to their A and B languages, and only interpret from the C language.	Possess educated, native-like mastery of both English and a second language; - Familiarity with cultural nuances, regional variations and slang - Display a wide general knowledge of what a minimum of two years of general education at a college or university would provide Interpreters are required to interpret into and from the two languages used.

Conclusion

The discussion of translation, whether in the form of conference translation, simultaneous translation or court translation, has and still has a special place. It seems that paying more attention to this issue can solve many problems and shortcomings that exist in the translation process between translators. Whether as a translator who translates a document or a document and then provides it to his client, or as an interpreter in courts or companies and organizations in general, must be fluent in both the source and destination languages. He/she must have specific knowledge in the field of the subject in which he works, and he/she must have high listening and understanding powers and a strong short-term memory.

The correct implementation of existing laws and processes in both countries, if the existing process is implemented correctly and accurately, can solve many problems in the courts that are caused by misunderstanding of complex legal concepts. There are words that have several different meanings in several legal positions and sentences, which completely confuse the meanings of the sentence and can make one person accused and one person guilty.

Suggestions

Here are some suggestions that include: Using practical and practical training courses for court interpreters. Requirement to pass specialized vocabulary learning courses for fields related to law, especially the field of criminology. Not using certified translators in courts without being recognized as official translators.

Ethical Considerations: The matters related to ethics in the research as well as trustworthiness in citing the texts and references of the article have been fully observed.

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