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Cultural and Psychological Dynamics in Court Interpreting  
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No interpreting in any setting takes place in a cultural or psychological vacuum.

Among us, one hardly needs a dictionary to confirm the meaning of the word "interpreter," but let's look anyway: "One who translates orally from one language into another." In that simple sentence is a word which describes one of the most complex of human abilities, language, because as most social scientists view it, the use of language to symbolize experience and to communicate is man's major accomplishment. The word "communicate" appears prominently linked with language and that suggests that the process of using language (or for that matter of interpreting from one language to another) is commonly done in some group setting. The very root of the word communicate is community, two or more people.

While all this may seem quite simple at first, and might even be shrugged off as irrelevant, understanding the community nature of communicating through language (and so also interpreting from one language to another) will help us to get a clearer picture of environmental group forces which come into play as an interpreter goes about the business of his/her work. A rather sterile look only at the skill of the professional interpreter, without looking at the various settings in which the interpreting is done, can only lead to an ignorance about one of the most powerful influences upon the interpreter's performance and the community's evaluation of that person and his/her performance.

Freedman et al. (1974) note the following about group dynamics:

Someone is sitting alone in a room working on simple mathematical problems. He works steadily and makes a reasonable amount of progress. Then someone else comes into the room and begins to work on similar problems. The two people do not know each other; they do not talk to each other; they have little or nothing in common. Yet the presence of the second person has a profound effect on the first one -- he begins to work harder...

A young black man is in a Southern jail, accused of raping a white girl. There is no evidence against him except that he was in the general vicinity of the crime. A crowd gathers outside the jail, builds up, and gets more and more excited and enraged. Members of the crowd start talk of lynching and before long the crowd has turned into an angry mob. It rushes the jail, breaks down the doors, and drags the prisoner from his cell. He is tortured and killed in a sadistic orgy of violence.

These examples are representative of the kinds of effects groups have on their members. People are stimulated and distracted by being in a group. They respond to a wide variety of group norms and pressures. Being in a group or just in the presence of other people causes an individual to behave and think differently from when he is alone.

(pp. 170-171)

If we note particularly the second illustration of group behavior, we are struck with the power of the group in connection with a legal situation (someone was in jail awaiting trial) and their following through with an action that was totally irrational, not to mention illegal and despicable!

No interpreter who is involved in a serious legal interpreting situation exists outside of the community of deaf persons who have an interest in the proceedings. A look, therefore, at the group dynamics and at the psychological and social pressures which are involved here will help us to formulate some strategies to cope with the situations which develop.

No matter where the interpreting is done or under what circumstances, there are overtones which play a major role in how the interpreter and interpretation is perceived by deaf and hearing consumers.

To have a point from which to explore the situations, let's just assume for the moment that Myers (1967) description is a clear summary of the situation.

When any man is involved in a lawsuit or a legal proceeding, he may be dragged against his will into court. When he is deaf, he must sit there and watch other people make arguments that he cannot hear, about problems that he may not understand, using a special

procedure that he may not comprehend, to arrive at a result about which he may not even be told. He may feel completely lost in court, not understanding what is wrong, what he is supposed to do, and why things must be done in a particular way. (p. 5)

We would have to admit that a rather bleak picture is painted by this author, himself deaf. It implies that a deaf person involved in a court case is quite unable to understand what is going on, and has little experience to help him or her assess the propriety of the proceedings. From this lack of experience, it is entirely possible that conclusions about the proceedings will be drawn which have no basis in fact.

Let me illustrate with two examples from a recent court proceeding held in the St. Louis area. Two deaf men were accused of killing a third deaf man living in their apartment complex. They were arrested and incarcerated in the city jail awaiting trial. Since the two accused of murder had limited English skills, and other psychological problems, the lawyers from the public defender's office decided to seek psychological testing of the two men, with the hope that there might be a ruling in the case that the two were incompetent to stand trial.

To do this testing, a considerable amount of time was needed, and various interpreters were used. As the case was prepared for trial, it was apparent that skillful interpreting was necessary and the attorneys were apprised of this. Their response was to resist attempts by the courts to just hire "any old interpreter," but to seek one of the best qualified interpreters in the country, even if it meant that someone with superior skills had to be brought in at high expense to the court. Obviously, all of this contributed to the length of time that the two men were in the city jail awaiting trial and led to a number of postponements of the trial itself.

How did the community with interest in the trial perceive the matter? In a statement prepared for presentation at a chapter meeting of the St. Louis RID, the father of the victim noted that the interpreters were responsible for the delays! This was, of course, not the case. Interpreters have no power or authority to delay any trial. Indeed, in this very case, the court even issued subpoenas to interpreters, which demanded that they be in the court to interpret at the times required. For an interpreter to delay under those circumstances would be to place himself or herself in contempt of the court!

This misunderstanding led to a general feeling of ill will among those in the St. Louis "deafness community." To suggest that the two men on trial needed to have qualified

interpreting services from outside of the community seemed to imply that most of the interpreters in the St. Louis area were incompetent. To search for "super-qualified" interpreters and prepare a defense for the accused required considerable time (more than two years) and this was seen by the community as delaying tactics caused by interpreters.

Working on such a case with those sort of feelings spinning around would naturally influence those interpreting in the case. Not only would such interpreters feel a need (as they always should) to do the best job possible in this situation, but also the need to defend all actions and work, lest they be criticized later. While the feelings do not oppose one another, the mix in the end is hardly conducive to "ideal" interpreting.

In another sense, there is also the feeling of being constantly on display. A courtroom is a public place where anyone may come in and observe the proceedings. Many who watch an interpreter at work, are awed by the mystery and "beauty" of it all. In their untrained eyes, the interpreter can do no wrong and anyone with skills to "talk" with his or her hands most certainly must be able to communicate with all deaf people. Comments made to an interpreter about the wonder of the task might boost the ego for a while, but one soon realizes that the tributes are hollow and so there is little support gained from them; and the interpreter is once more left in the middle of the tension described above.

This fact that the court room is a public place presents yet another problem for the interpreter. When a deaf person is on trial, that person is entitled to the rights and privileges of any other citizen in such a circumstance. One of those rights is that communication between defendant and attorney is confidential and protected. Since sign language is a visual form of communication, if a deaf person wishes to communicate with his or her attorney, he or she must sign to the interpreter who can then whisper the message to the lawyer. Unfortunately, if there are persons in the courtroom who are able to understand sign language, these persons have "access" by sight to this privileged communication.

To prevent such eavesdropping it became necessary in the St. Louis trial to erect a temporary "wall" barrier in the courtroom. When this was done, many in the courtroom audience remarked that they were being denied their ability to view and learn from the proceedings. A feeling of resentment seemed to develop against the interpreters working the case who were now no longer easily visible. (In this case the "wall" only blocked the view of the defense table, but it did make it difficult to see any of the interpreting in the case as well.)

Of course, the question of monitoring the interpretation, so that there be some assurance that the interpreters were doing a good job, also entered into this situation. Notice, however, that the working out of some sound legal principles and procedures resulted in all sorts of emotional responses on the part of many deaf and hearing persons in the community.

It should be evident from the above that there really is a psychological and emotional component involved in any legal proceeding. This component creates, in many instances, a charged atmosphere in which the interpreter must function, an atmosphere which may work counter to the best interests of all involved.

The problem is that most people have little experience in a court of law. Their only concept of what goes on there grows out of what they see on television or read in books. For most this means that there are "good guys and bad guys" and the good guys should always win. Principles of truth and honesty are held by most. Only a fool would come out against truth or honesty or oppose the "good" guys. We all do, after all, support these basic principles, don't we?

So it goes in the reasoning of the general population. Deaf persons usually pick up on such principles and feel the same way about how things should be handled. Unfortunately, while many believe that a court of law is there to support truth and honesty, in reality it doesn't always work that way. A defense lawyer may not be very interested in letting all the truth get out, but wish to suppress as much as possible in order to win his or her case.

Now suppose that a deaf person is on trial for a serious crime and suppose that the deaf community is basically convinced that he or she is guilty of having committed the crime, what sort of feelings will be held by members of the deaf community? Most likely, many will feel that the evildoers should be punished. They are presumed guilty in the minds of most. This position, of course, is contrary to the law, but is generally held by almost everyone who reads a newspaper story about someone who has been accused of a crime. The purpose of the workings of a grand jury hearing usually are unknown to the general public. People feel that someone caught and charged is probably guilty.

It will come as no surprise then, that within the deaf community, many will feel that those accused are guilty even before the trial has begun. To aid such a person (and that is precisely what is assumed is taking place when one is interpreting for the accused) is perceived to be a clever ploy or trick to try to prevent the person's getting his or her just punishment. If taken to its conclusion, then, the interpreters

working in such a case are clearly linked to those who are presumed to be evildoers and often seen as setting up obstacles to justice! Here again, with feelings like that floating around, can any interpreter feel that he or she is working in anything less than a very charged emotional situation?

Let us return, however, to the point raised a little while earlier -- the system may not be as interested in truth as the general population believes. Saks and Hastie (1978) make this point:

Probably the most controversy about determining the criminal's state of mind surrounds the legal issue of the insanity defense.... The rationale for the insanity defense against criminal responsibility is that a person who is insane, mentally ill, driven by an irresistible impulse, or unable to distinguish right from wrong lacks the capacity for free choice.

The criticism is that lawyers are interested not in truth, but in winning -- and in the pursuit of victory they are highly selective about what they look for and in the cases they present. (p. 205)

Some of the most famous "deaf" trials are those which have involved the "ability to stand trial" question. This point, closely related to the insanity defense, comes up in two rather widely known trials, one in Chicago and one in Indianapolis. While the details may not fit exactly the situation of those cases, let us assume that part of the problem was communication, or more specifically, communication in the English language. If persons in the deaf community who have skills in ASL look at the situation, they are likely to find it hard to believe that there is a communication problem. After all, they have no problem communicating with the person on trial. How could anyone, therefore, suggest such a thing? Their assessment of it could very well be that it's all a plot to suppress the truth and let the deaf person, who is guilty, go free!

So the defense lawyer is trying to prove that communication is limited or impossible and the prosecutor is trying to show just the opposite. Assuming that neither of them are experts in sign language communication, we see that both sides are very dependent on interpreters or experts on deafness. Since interpreters are usually more prevalent, more available and cost less money than experts on deafness, who gets caught in the middle? Right, the interpreter!

Now a professional who usually works harmoniously with

his or her peers is cast in a role as a resource against another interpreter! This situation has built into it all sorts of charged emotional and psychological components which could greatly influence the performance of the interpreters in the case and spill over into the deaf community. One who takes a position opposite that held generally by the majority could be viewed by the community as a "trouble maker" who should be isolated and put "outside of the camp."

No longer is there a group of nice people all working together for the common good (as they are used to doing); now you have a fractured and split community in which persons may take sides and pre-judge others.

These points from the St. Louis case may serve to illustrate some of the above ideas. One interpreter (designated interpreter "A") was seated at the table with the defendant and his attorney. Interpreter A was responsible for communication between the attorney and the defendant in private (note comments about "wall" above). Also working in the courtroom were two other "sworn" interpreters (B and C) who, as a team, interpreted all the proceedings of the court for the defendant. If one were to enter the courtroom and observe the situation, one could easily get the impression that the interpreters were "ganged up" on the defendant's side of the room.

Such an observation was made by the prosecutor in this case, who then made a special request of the court that another interpreter (D) be allowed to sit at the prosecution's table and give advice about the nature of the sign language proceedings and to act as an "expert" on deafness. As might be expected, there were objections made by the defense to such a proposal, but in the end the judge did allow interpreter D to sit with the prosecutor and give information.

The case then involved four interpreters! In order to ensure that everyone's rights were protected and no one had an unfair advantage, this seemed to be the only solution. Notice, however, how you now have four people who in most other situations would work together as a team, now cast in the role of keeping tabs on one another and in some instances acting as adversaries. This situation certainly had its emotional and psychological side, influencing all the parties involved. Such feelings were not really a problem for the attorneys who could be arguing with one another in a most hostile-looking fashion and then go out together as friends for happy hour after the court was adjourned for the day!

One final observation needs to be made before we move on to possible ways of coping with such situations. When every word spoken is being recorded by a steno-typist, the words seem to have a de facto aura of importance about them. If,

in addition, some words have meaning in a legal sense beyond their meaning in normal conversation, the choice of words can become not only important but crucial.

An example of this came up in the St. Louis trial as well. The prosecutor seemed to be trying to create a bad reputation for the defendant. In order to do this, various witnesses were brought to testify about wild parties and such, which had preceded the killing. One such party involved a young deaf woman who had sexual intercourse with one of the defendants at the party. The legal question involved here was whether or not the young woman was raped. There was rather a lengthy debate in chambers between attorneys, interpreters and judge. Rape is a word which describes a crime; however, to have intercourse under wild party circumstances is not. Obviously the prosecutor was interested to have the word "rape" spoken during the course of the proceedings and the defense was not. The interpreter was caught in the middle!

Strange proceedings, a highly charged emotional atmosphere, a person's life resting in the balance of every word spoken, and the general misunderstanding connected with legal proceedings, can all lead to interpreter problems. However, the situation is far from hopeless and much can be done to "ease the pain" of interpreting in such settings.

While it may sound simplistic at first, I feel that many of the problems noted above can be solved if interpreters and members of the deaf community become aware of them. It is much easier to succeed against a foe who is known than to fight the unknown.

It is curiously, however, not the case now. There is very little which is being written or done to raise awareness of the emotional and psychological problems which are involved in courtroom interpreting. It is to the credit of the 1965 edition of "Interpreting for Deaf People" that this problem was touched on briefly in the article on interpreting in legal situations. The introductory paragraph to "when the interpreter becomes emotional" is

It sometimes happens that the interpreter may become so emotional during the court proceedings as to make his work ineffective. This could happen if the interpreter knows the deaf persons involved; if the lawyers put undue pressure on the interpreter; or if the general emotional climate gets out of hand during the proceedings. Suggested techniques would include the following:

1. Self-discipline...
2. Reaffirmation of rights...
3. Excuse from the case... (Quigley and Youngs, p. 52)

Notice that many of the situations involving the psychological and emotional pressures I noted earlier are not mentioned among the difficulties. This will not help to raise awareness of the factors involved and so will not help the interpreter in such a setting to cope with them.

Under the index headings of "emotional" or "psychological" in Myers' book, one finds only a brief note that deaf persons in court are often emotionally or psychologically disturbed. This, too, is not very helpful, since it doesn't address the group dynamics nature of the problem.

In 1970, the Council of Organizations Serving the Deaf (COSD) held a national forum in Chicago on the theme, "The Deaf Man and the Law." A mock trial was held during which a challenge was made concerning the competency of an interpreter (one of the emotion-charged situations I noted earlier). This is the only instance in the whole forum that the emotional and psychological questions of legal interpreting were apparent, but the thrust of the mock trial situation was really to indicate how to handle an interpreter challenge legally.

Judge Rolloff

Mr. Henderson, there is a question being raised as to whether this interpreter is really interpreting accurately. (He indicates the interpreter standing beside witness. It was decided prior to trial to challenge some interpreter, to indicate the importance of using a skilled qualified interpreter.)

Q. Now are you really telling us the exact words that the witness stated?

A. Yes, I am.

Q. Are you in any way interpolating what she says and changing it?

A man from the audience (Rev. Pokorny -- sic!)

I object, your Honor. She was asked at what point did her car enter the intersection. The interpreter said at what time.

Mr. Henderson

If Rev. Pokorny would like to request a sidebar and indicate that his expertise is greater, I think that the Court would be willing to listen...

Judge Rolloff

Members of the jury, a question has been raised as to the competency of the interpreter. The Court has an official interpreter and the Court will ask to have her sworn to determine whether the interpreter who was here is competent. (pp. 50-51)

This excerpt clearly shows that there was a great deal of interest in the competency question and the situation of the mock trial was devised to explore that area. What is also clear is that the emotional component of the challenge was completely overlooked in the presentation or the discussions which followed it. However, that it happened at all is a step in the right direction, since this is the only way that interpreters and deaf people will be able to become more familiar with court proceedings and the psychological and emotional stresses of them.

In an article in the Archives of Environmental Health (1967) it was noted by Switzer and Williams that deaf people have various life problems. Such problems often center around their being cut off from the mainstream of social experience because of communication difficulties. The authors note that such deprivations are often compensated for by the copying of various social institutions within the deaf "world" itself.

Effectively isolated by his communication problem from sharing meaningfully with most of those with whom he rubs shoulders in the community, in the home, and on the job, the deaf person has sought and created special means to compensate. The chief characteristic of these means is that the communication barrier has been eliminated since all members use the sign language. The result is that deaf people move in and out of the larger culture according to their needs of the moment but always have available a complex of their own resources that enables them to live happy, reasonably balanced, and profitable lives. (pp. 249ff.)

From this we learn that deaf people experience political, social and religious institutions within their own world. A deaf person who is an officer of a deaf club has the opportunity to learn what democracy means and becomes familiar with it. No parallel exists within the deaf world in which a person may learn of the legal and judicial system. There is to my knowledge no deaf court. It would be well, therefore, for schools for the deaf and other training facilities to set up

mock trials for students so that this important part of life may not also go unexperienced. The discussions following such a trial should not only deal with the legal terminology and processes presented, but also with the emotional and psychological components related to what was happening.

Finally, no program of interpreter training should be without a unit in the curriculum designed to assist interpreting students to handle the emotional and psychological problems of legal interpretation. RID chapters and the national RID would do well to address this issue also at regional and national meetings so that interpreters become more familiar with the situations and might more easily cope with the problems.

After all, the problem is real and the group dynamics are powerful! In his report on the St. Louis trial, Roberts wrote the following:

Two psychologists testified for the defense that Spivey had a borderline personality and "atypical psychosis" at the time of Eisenberg's death.

They testified that Spivey suffers from delusions and has trouble keeping touch with reality.

Testimony by two state witnesses with expertise in psychiatry and psychology disputed the diagnosis that Spivey had suffered atypical psychosis but agreed he had a borderline personality, which is not considered a mental disease or defect.

The trial required the use of three interpreters of sign language. Two interpreted the testimony of witnesses and remarks from the judge and attorneys. Spivey and his attorney conferred through a third interpreter.

In her closing argument Saturday, Judy K. Raker, the assistant circuit attorney, asked the jury to return a guilty verdict to send a clear signal to the deaf community that murder is unacceptable behavior. (p. 15B)

Right or wrong, this last paragraph says quite clearly that legal interpreting is a group activity. The circuit attorney saw it as influencing the deaf community a part of which are the many interpreters who had an interest in the case,

and other deaf persons who had an opinion about the case. The more we can do to understand and prepare for the group feelings involved in such cases, the better we will be able to interpret them in a professional and expert way for the benefit of all.