

We All Speak Justice!

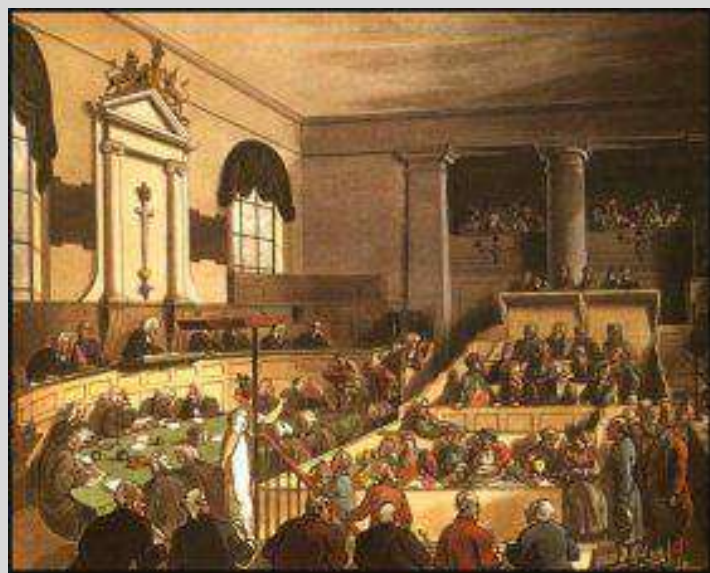
Some Remarks on Language, Understanding and Fair Trials



A Fair Trial – The Origin

“The trial was long in hearing on both sides, and great indulgence was extended towards him by the Court, as ever was showed to any man in the like circumstance at that Bar; the evidence was clear and positive against him, as to every point of the charge of the indictment, and he had all the advantage of a *fair trial*.”

(OBP June 5, 1690: trial of Matthew Crone)



The first International Tribunals and Interpretation



Neither in the IMT Charter nor in the Charter of the IMTFE, a right of the accused to interpretation is mentioned.

Art. 16 of the IMT Statute only mentions a translation of the indictment.

Rule 8 (a) of the IMT Rules of Procedure:

“The General Secretary shall appoint such clerks, **interpreters**, stenographers, ushers, and all such other persons as may be authorized by the Tribunal ... “

Legal Sources Today

Article 14 (3) (f) ICCPR (International Covenant on Civil and Political Rights (1966), UNGA Res.2200A (XXI):

“To have the free assistance of an interpreter if he cannot understand or speak the language used in court”

(Almost) Literally included in:

Art. 21 (4) (f) ICTY Statute

Art. 20 (4) (f) ICTR Statute

Art. 17 (4) (d) SCSL Statute

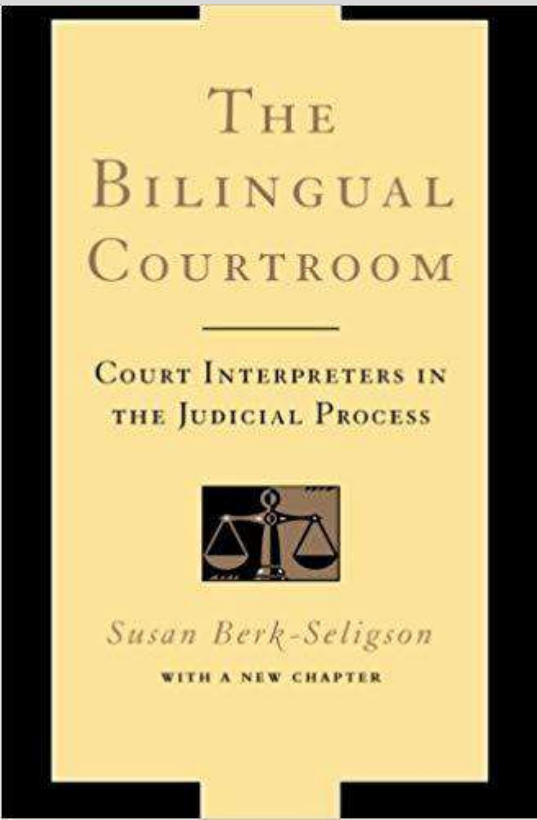
Art. 16 (4) (g) STL Statute

Art. 35 (f) ECCC Law

Art. 67 (4) (f) Rome Statute

Art.21 (4) (g) Law on the Kosovo Specialist Chambers





Interpretation in National Jurisdictions

Since 1966, many domestic jurisdictions have incorporated the right to interpretation for an accused person. This is now standard and recognized as a customary and basic human right.

European Countries:

EU Directive 2010/64 obliges all EU member states to establish national legislation along the requirements stated in the directive.

USA:

Court Interpreters Act 1978

Suspect Interrogation



Under the provisions of the Rome Statute, the constitution of the International Criminal Court, suspects, during investigation, have also the right to cost free interpretation, not only during the trial in the Courtroom (Art. 55 (1) (c) Rome Statute. Also, in case of detention by the ICC, suspects have a right to an interpreter regarding all detention matters (Regulation 93 of the Regulations of the Court).

All suspect interviews shall be recorded (including the interpretation) and fully transcribed later (Rule 112 of the Rules of procedure and Evidence).

No Investigation without Interpretation



- All investigations undertaken by the ICC required interpretation between English or French (ICC working languages) and regionally spoken languages and dialects (Fur, Acholi, Lingala, Wolof, Sango, just to name a few – the roster of the OTP contained contact persons for almost 70 languages and dialects).
- Witnesses and victims of the crimes largely spoke only the local dialect – the investigation could only start after the recruitment and training of Field Interpreters.

Challenges

Accuracy of the Interpretation

This is often challenged – not only by the accused but also by other parties. In some cases, the Office of the Prosecutor hired its own Language Expert solely to sit in the courtroom and watch the interpretation.

Interpretation via Relay

Not in all cases it is possible to find the language combination needed, in these cases relay interpretation has to be used – this is substantially impacting on the time required for e.g. a witness testimony (and affects of course the cost as well).



Some Data on Interpretation at the ICC (2017)

Courtroom activities and meetings:

- 10 languages served in the courtrooms
- 2,481 interpreter days in the courtrooms (= 11.28 FTE)
- 355 interpreter days for non-judicial events

Field Operations:

- 17 language combinations served in the field
- 1006 Field Interpreter days (= 4.57 FTE)
- Recruitment and training for Field Interpreters from 7 different countries



International Nuremberg Principles Academy

Thank you very much for your attention!

Questions?

International Nuremberg Principles Academy



**Egidienplatz 23
90403 Nuremberg**

www.nurembergacademy.org/

twitter.com/NurembergAcadem