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DEPARTMENT OF LANGUAGES

Applied Linguistics in English Career

“THE RELATIONSHIP BETWEEN THE TRANSLATOR’S PROFESSIONAL
ROLE AND THE JUDGES’ FINAL VERDICTS AT CRIMINAL COURTS IN
QUITO, JUNE 2003 - FEBRUARY 10TH 2009”

Author: Patricio Rodrigo Villota Miño

ADVISORS: DR. MA. TERESA LLUMIQUINGA P.

DR. OSWALDO VILLA T.

Quito-Ecuador

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CERTIFICATE

We Dr. Maria Teresa Llumiquinga P, Director and Dr. Oswaldo Villa T, Co-Director, duly certify that the Thesis under the title: “THE RELATIONSHIP BETWEEN THE TRANSLATOR’S PROFESSIONAL ROLE AND THE JUDGES’ FINAL VERDICTS AT CRIMINAL COURTS IN QUITO, JUNE 2003 - FEBRUARY 10TH 2009” by Patricio Rodrigo Villota Miño, who has finished his studies in Linguistics to be applied in the English Language at distance modality in Army Polytechnic School, after having studied and verified in all its chapters; the dissertation is authorized in front of the correspondent university authorities.

Dr. M. Teresa Llumiquinga P.
DIRECTOR

Dr. Oswaldo Villa T.
CO-DIRECTOR

AUTORIZACIÓN

Yo, Patricio Rodrigo Villota Miño, autorizo la publicación de la tesis “THE RELATIONSHIP BETWEEN THE TRANSLATOR’S PROFESSIONAL ROLE AND THE JUDGES’ FINAL VERDICTS AT CRIMINAL COURTS IN QUITO, JUNE 2003 - FEBRUARY 10TH 2009”, en la Biblioteca Virtual de la ESPE.

Ésta tesis es de mi propia autoría y responsabilidad.

Patricio Rodrigo Villota Miño
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From the bottom of my heart,

Patricio

DEDICATION

I dedicate this research to my son, Andres, and my granddaughter, Domenica, persons who are a model of the purest light of God and mirror like joy of eternity. With all my love I solemnly promise not to fail you.

Papa

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SUMMARY

Translators have a fundamental role at Criminal Courts located at Oe-109 Ramirez Davalos St. in Quito, Ecuador. The three Courtrooms housed public hearings where translators have three different roles upon the case of judgement at its headquarters.

The first role of the translator is to reproduce orally what is being said by the three procedural parties involved in the process: Judge, defendant, and prosecutor using consecutive translation techniques.

The second role of the translator at Criminal Courts of Quito is to hand in translations assigned by the Office of Foreign Affairs, using written translation techniques, which are to be explained at the report;

Finally the third role the translator at Criminal Courts of Quito is to execute sight translation as any procedural part petition takes place within the process with the consent of the Judge.

Judges' final verdicts, on the other hand, have not only to be concrete but reliable, they do not always accept translations as evidence since these are considered optional, and depends on the judge whether to accept them. If there is confusion in the translation, a second translation is effected by another translator and if any doubts are created at this point, the judge is to appoint a diriment translator, whose version will be final and optional.

The researcher mentions that translators could have helped producing workable evidences to punish, rehabilitate, or absolve accused inmates if proper documents would be presented during trials at Criminal Courts of Quito-Ecuador providing light to judges at different instances of the process as required by Ecuadorian current Criminal Law Code.

The relationship between the professional role of the translator with the judges final verdicts during the period of June 2003 and February 2009 study has two

variables: the role of the professional translator and the judges' final verdicts, whose general mission is to serve Justice as a tool find the truth on cyclical wrongdoings within organized crime, either perpetrated in Ecuador and then splitting abroad, or vice versa, to those countries where we had subscribed agreements and treaties on Mutual Help against Criminal Matters involving Assets or Money Laundering, Embezzlement, Immigration and Corruption in general, as it is known by all people involved in charge to articulate justice. (Interpro, 2012) (Nicola, 2012) (Link, 2012) (Embassy of The United States, 2012) (Judiciary National Council of Ecuador, 2003) (Escandon Montenegro Ivan, 2012) (Jimenez de Vega Mercedes, 2004) (Official Gazette N°.865, 1975) (Official Gazette N°.863, 1975) (Official Gazette N°.147, 1992) (Official Gazette N°.410, 2004) (Official Gazette N°. 29, 2005) (Official Gazette N°.166, 2005) (Official GAZette N°. 197, 2003) (Official Gazette N°.364, 2004), ...

Within the research it is mentioned few unclear cases of corruption ventilated at the Criminal Courts of Quito whose leaders charged for illicit enrichment, embezzlement, immigration, among others are on the loose without proper rehabilitation, enjoying what was gotten illegally with more power in the same surroundings.

Upon judging these organized crimes at the Criminal Courts of Quito-Ecuador, there was used some written, and sight translation during investigation, techniques which did not produced expected results, consequently creating another legal gap to be bridged by the Ecuadorian Criminal Law Code concerning Judges final verdicts and organized crime cases which appear from time to time from the underground up to the sky, same which after a while of dilation used as smoke curtain are left there, in the land of nowhere, with no chances to be discovered. Further than that, Pyramidal inversions, invisible to the common eye, work as axioms where the middle class people making use of low rate interest phenomenon, at lower interest bigger credit, get into the situation where cannot pay loans timely, leaving loaners with the opportunity to create bigger legal interest rates, whose heads strangely get out of picture leaving the process ignored

backed with executable documents, and debtors full of debts, as a consequence of such underground organized crime fell from nowhere, where evidences are translated without ink nor voice as in death, cats cut bankers throats.

Statistically it is proven that effective translation could help the fight against organized crime providing clear verdicts pronounced at Criminal Courts of Quito do not get legally twisted all the way around.

INTRODUCTION

The most important aspects covered in each part are summarized as follows:

Part One. - Consist on the State's mission of the translator expert has during preliminary investigations of organized crime noted at the Identification Problem of this research as exposed at dimensions and sub-dimensions, this way the researcher tries to justify why research on translation is needed in order to fulfil the requirements to get the degree of Bachelor in Linguistics at ESPE.

Part Two. - Describes concepts of translation and its importance; legal translation; formation of the legal translator as well as translating techniques; types of judges' verdicts; the relationship between the translator's role and the judges' verdicts in Criminal Courts; as well as the problems with wrong/inaccurate translating around the world.

Part Three. - Focuses on the descriptive, analytical "methodology" applied to develop the proposed research; how were the questions conceived and diagrammed into a survey to give it scientific validity. The sample size of the population is concrete; therefore it was taken as a whole to create a level of confidence on the results.

Part Four. - Displays a detailed analysis and interpretation of the collected data, analyzing it through statistics the obtained results shown on corresponding perceptual graphic resulting from percentage calculated tables.

Part Five. - Mentions final conclusions and recommendations which were gotten at the end as the result of whole scientific research.

Part Six. - Contains a proposal where Professionals of different sciences of knowledge might assist to a Seminar created to clarify the importance of cultivating student translators competence by modelling and testing, instead of concentrating in measuring their test results, for this knowledge is to be executed at Offices of International Affairs, Criminal Division or where this type of

knowledge be required to collect evidences at different stages of Criminal Process.

Inside REFERENCE MATERIALS appears a brief description of the notes, books, magazines and websites used to complete this research. The Annexes contain material used for the survey applied in this research as well as sample forms to be filled when requesting International Help

PART ONE

1.1. RESEARCH STATEMENT

“The relationship between the translator’s professional role and the judges’ final verdicts at criminal courts in Quito, June 2003 - February 10th 2009”

1.2. Problem Identification

Despite the fact we are living in a world full of changes, the turning point at which we might have to change our goals is there, unpredicted, probably hidden, just waiting for anything to happen to take a different direction from the planned one for us to swing into a fixed route and be launched into another challenge hoping for happiness which might happen before, during, or after the next turning point.

Art. 144 of the Organic Code of the Judicial Function¹ in compliance with Exhorts which entitles Judges of foreign lands, members of current conventions and agreements to fighting organized crime, are entitle to take actions as subpoenas delivery, post legal notices and any other legal proceedings requested to entrust its practice to comply with the due process. When these legal International organisms get involved, the General Attorney is in charge for asking the needed help through one of the District Attorneys placed at the different units of offenses, who in time names an Expert Translator to carry out the expertise.

The translator expert is called upon to take charge of the position and carry out the expertise practicing strict confidentiality at preliminary stage of Instruction Phase, where the offense is to be identified. When answers return the translator in charge of the case takes the dossiers and proceeds with translation in the target language and when done, it is turned to the District Attorney as prescribed at Art. 95 of the Procedure of Criminal Code which states: “During prior inquiring in the phase of

¹ Government of Aragon, National Assembly, Republic of Ecuador, Official Gazette 544, Rogatory Letters, P. 88.

instruction², experts turn in reports of expertise. This document, if the Judge considers reliable, is incorporated into the record, if not, a second translation is performed by another expert, and, if neither is acceptable, a diriment translator is called, then it will be up to the judge whether to accept it for the prosecutor to exhibit during the process as we are not playing serendipity or guessing games.

When the process begins; tribunal, district attorney, defendant, and translator and witnesses if called, get into the court room for the hearing where the offender will be found guilty by the tribunal or will demonstrate innocence with the help of a lawyer as the public watch the due process. The role of the translator expert here is to code and decode all what the foreperson orders, translating to both languages if so is said.

During the observations and practices carried out at the Criminal Courts of Quito, evidences discordance between the District attorney and the Defendant's Lawyer were detected, while Defendant's Lawyer counted with perfect original evidences as required by The Inter American Convention on Mutual Assistance for Criminal Matters (Gazette, 1992), the Prosecutor did not count with reliable evidences probably because they were not asked to the authority in question for either not enough knowledge of electronic tools or the English language or both not to mention the obligation of the Attorneys General Office to get legal information as stated in Art. 282 of the Organic Code of de Judicial Fuction.

1.3. Problem formulation

Main Problem: What is the relationship between the translators' Professional Role and the Judges' Final Verdicts at the Criminal Courts of Quito during the period of 2003-2009?

- Is there a selective process where prospects are to be examined in order to get a Certification as a Legal Translator?

² Ecuadorian Procedure Code, Art. 95 "Legal Reports"

- Is the Legal Translator formed adequately to be able to perform the required tasks as expected at Criminal Courts of Justice in Quito-Ecuador?
- Is there a permanent training institution where the Translation Expert is kept abreast of the current trends of technology?

1.4. Variables Matrix

1.4.1. Independent Variable: The Translator's Professional Role

1.4.2. Dependent Variable: The judge's final verdict

VARIABLES	DEFINITION	DIMENSIONS	SUBDIMENSIONS
Independent The translator's professional role	A translator is a person who knowing two or more languages serves as a link between others who, by talking and knowing only different languages, do not fully understand each other neither by writing nor by word of mouth	Translation techniques Interpreting techniques Reading techniques	Transposition Modulation Reformulation Compensation; Simultaneous Consecutive Shadowing Sight translating
Dependent The judges' verdict	A verdict is a judge's resolution of the issues of a case, in a nonjury trial.	Guilty Accused Not guilty	Imprisonment Prison On Bail Enjoy freedom
Relation between the translators' role in front of judges' verdict	The influence of the translators' role in front of the judge's verdict is limited to literacy, just to give agility to the process, because Art.76 (f) of Ecuadorian Constitution proclaims.	Written Translations Oral Translations Sight translation	Ability to write in English and Spanish to be understood at Judge's petition. Ability to code and decode all what is said and reproduce it when required by Judge. Ability to read in one language and translate into another in lively voiced at Judge request.

1.5. OBJECTIVES

1.5. 1. General Objectives

- To establish the relationship between the translator professional role and the judge's final verdict at the Criminal Courts of Quito-Ecuador;
- To elaborate a permanent course proposal for professionals in legal matters to enable them to train Legal Translators;
- To keep Legal Translators abreast of current trends of technology to accelerate due legal processes.

1.5.2. Specific Objectives

- To find out theoretical material so as to sustain this research work;
- To apply a survey to litigant attorneys to collect data about written and oral translations at the Criminal Courts of Quito-Ecuador;
- To find out real specific cases about the relationship between the translator's professional role and the Judge's final verdicts at Criminal Courts of Quito-Ecuador.

1.6. JUSTIFICATION

Contrary to fact, in this world full of technology, the foundation to obtain valid information as a legal procedure is justified at Art. 147 Validity of the Electronic Information of the Organic Code of the Judicatory Function is not in full usage due to imparity of law. When claimed, this technology could be used to prevent, judge, or correct organized at its fullest degree at any Criminal Court of the Country, due to the excellent knowledge of the tool and English Language as a link to get related information internationally with the countries Members of agreements for fighting organized crime.

Cases inserted within the period of investigation were judged in Quito, Ecuador, at the Criminal Courts located at Oe-193 Ramirez Davalos Street. In these particular cases there were involved known public figures, people respected for their activities, to begin with the period a priest named by presidential order General Manager of Customs in Quito and at the ending the period a well known member of the Ecuadorian soccer selection team involved with immigration. Both these public characters were committing atrocities in name of God and in name of Fame respectively. The first was required by The Ecuadorian Law to the USA and the second was deported by immigration officers from the same country, in neither of these cases the Attorneys General Office got strong evidences and therefore these two public figures were sentenced with the lowest punishment the law dictates and out of this, good behaving; two for one; abettor not doer, put them into parole and finally liberty with no bailing, therefore, less than one fifth of the final verdict was complied. One weak petition from Ecuador was fulfilled for the first case and one report was sent to Ecuador by USA authorities. As everything else translator experts worked on a few papers full of triviality mostly with fake bank statements and sight translation at the hearings.

For the afore said it was extremely necessary to find out the relationship between the professional Role of the professional translator and the final verdicts executed at Criminal Courts of Justice in Quito for legal translations are optional as is up to

the Judge whether to accept them by using the legal principle that only the Judge can interpret the Law, what is generally accepted but not always successful complied with which can be used for the defendant's lawyer to distort well accomplished verdicts and make them look incorrect at the eyes of a quo judges or at superior courts.

There has to be an opportunity for translators specialized on legal foreign affairs to get the required information when needed, at this point all the justice body should put a grain of sand to work as a team, assisting the translator expert in all possible legal ways so in short we can compile information where the crime had taken place using the principle of innocence, to avoid or prevent future crimes as had been happening time after time.

It is also important to have a well trained group of professionals who can teach the translator experts so as to create a confidence environment.

It would be desirable that Judges at all Courts of Justice, could develop confidence when they are to resolve a case where foreign matters are to be processed, as they could count with a team of reliable translator experts to comply with the due process or for making more effective findings and therefore well pronounced verdicts on time, so foreign affairs do no get out of hand or prescribed, all the contrary, reinsert wrongdoers into society as productive human beings and not leaving up to politics to declare or not declare their freedom for activities that are not legally well supported as organized crime which is manifest in immigration offences, drug dealing, embezzlement, and laundering of all kinds, activities which for their nature are kept underground.

PART TWO

THEORETICAL FRAMEWORK

2.1. Theoretical and Conceptual Focus

2.1.1. What is translation? Translation is a form to rewrite or retell information originated in a source language into a target one, in our case from English to Spanish or vice versa.

Therefore translating contexts is an activity at which reliable methods are used in order to keep the texts with identical meanings by using grammar rules of both languages as well as cultural constrains and idioms. Generally people think that a reliable translation must stick to the translated word to word correspondence principle but this form of translation does not count with a particular context, grammar, conventions, nor idioms, let alone cultural aspects. Therefore, this type of translation could be used as to have a general idea of the content but not for legal documentation where the service of a professional translator is necessary, that is why the Attorneys' General Office created a scrutiny of people who can make reliable translations. Nowadays this scrutiny is in charge of the Judiciary National Council.

Both written and oral translations are used as if they were equivalents, without taking into account that the former refers to the reproduction of texts found in documents, magazines, books, newspapers, ..., to communicate in written what was exposed in the source language; while oral translation refers to the ability to reproduce orally ideas that are in course at the moment of speaking either in written or at the moment of speaking.

Translation plays a key role in the development of world culture. A history of world culture from the perspective of translation reveals a constant movement of ideas and forms, cultures constantly are changing for influences of translators. Translations used to be done mostly from Arabic to Latin and later to Spanish and helped the scientific and technological development for the European Renaissance.

The translation of the Bible, in the Messianic Jewish Perspective was first written in Hebrew and then translated into Sanskrit and other ancient languages, this work was motivated mainly by religion, was first in charge of missionaries in different parts of the world. The history of translation, and how it is conceived, is the history of crucial situations often invisible alternatives in the side of culture.

Translation was a prestigious activity in Britain in the Eighteenth Century. The field was divided in distinct areas: translation from the classics (focusing on Latin and Greek authors) and translation from modern languages such as (French, German, Italian and Spanish).

Translators and their work occupy a central space in theory development. In recent years, translation studies have been increasingly drawing attention to crucial mediation. Translators are considered as the experts who should design and implement objectives for mankind based on true efficient models of formation and ethics.

2.1.2 Oral and sight translations. - Legal oral translations simply refer to the content of the speech starting at a sworn interpretation; it implies a responsibility of the performer about their work regulated by law, since this judicial due process has necessarily resulted in findings for courts.

Orality is established in the Ecuadorian Criminal Code at Art. 285³, the Translator Expert should focus on the Chain of Events; Prosecutor exhibition; offended testimony; President of Tribunal questioning consisting of: names of the involved, date of commission, names of witnesses, manner of commission, and instruments used. Later, questioning to the offended parties; Prosecutor Exhibition; Legal testimonies of Experts, witnesses and Prosecutors, and finally reading of anticipated testimonials basically, all the hearing will be conducted y jurors through the management of the President of the Court.

³ Current Ecuadorian Criminal Code

In Ecuador the technique of sight translations is used very often, this technique consists of translating a document in a source language and transferring it as if it were written in the target language. The technique of consecutive interpretation is used mostly when a court presents a single evoker of a foreign language.

The right to have a competent translator for people who do not understand the language spoken in court (especially for the defendant in a criminal trial) is considered a fundamental rule in justice as it is established in the Ecuadorian Constitution, Art. 76, numeral 7, paragraph f⁴. This right is often granted in most national constitutions, bills of rights, fundamental laws establishing a judicial system or by precedents set by higher courts.

According to current standards and regulations, court interpreters usually work alone when interpreting consecutively. In addition to a practical mastery of source and target languages, these oral translators are required to have a broad knowledge of the laws and legal and judicial procedures. Performers have a formal authorization to work in Criminal Courts, in which case they are called interpreters even though in our Country only the judge can interpret the law. In many cases, oral translation is considered an essential part of the testimony, though it only is optional to the judge whether to accept it for an incompetent translation may cause the trial to be declared invalid.

Translators' job however nowadays is mostly used to keep people abreast of the current trends of technology and successes around the world. In Ecuadorian legal matters it is used for the same exposed purpose being as it is up to the judge whether to accept translated documents as well as oral translations, therefore the translator only complies with the duty to inform accurately for the judge to consider about its validity given as his or her expertise.

Translations at Criminal courts in public hearings celebrated at its headquarters as needed for making justice to people who are accused of an illicit. The defendant

⁴ Current Ecuadorian Contitution 2008.

or defendants are inmates who had lost liberty and were incarcerated in one of the common jails for common offenders waiting to be trailed at one of these Criminal Courts to be sentenced by the respective Criminal Court in charge of the case. The Defendants have the right to hire a lawyer or be represented by a counsel attorney appointed by court when the defendant cannot afford a private lawyer. In the event defendant is not pleased with the Court's verdict he can file an appeal at the Constitutional Court, entity of recent creation to preserve human rights and if not agreed with such a verdict could also file an appeal with the National Court of Justice, entity which will settle the case as last instance of the prosecution sue, exactly as the Supreme Court of Justice used to do in the past.

People whose mother tongue is English or/and for some reason documents, affidavits, dossiers, ... are written in part or as a whole in English, or for unknown reasons have dealt in countries where English is spoken by mandate of the art. 76 numeral 7 paragraph "f" of our Constitution, the involved are entitled to have a legal competent translator. Also to resolve international conflicts, English is the language to be used at trials, such as the one Ecuador has maintained with Texaco, company that has caused immeasurable irreversible damage to both people and the land, now and then trying to avoid payments due to restore people's health and land devastation. The case of the Priest who was found guilty of several punishable crimes under Ecuadorian Law and at the same time the same Priest was facing different charges in Florida, felonies such as fake names, immigration disobedience and in Ecuador organized crime such as embezzlement, getting rich illicitly, crimes which in Ecuador do not prescribe but to tangle up justice, other kind of legal procedures are used to evade punishments, such as two for one, three for one; complicity instead of leadership.

This study tries to open the possibility of getting assistance and information in physical form electronically through diplomatic pouch or personally when the situation calls for as to use proper software to prevent expansion of organized crime to find the means to rehabilitate wrongdoers involved at foreign matters as the case of a member of the Soccer Selection of Ecuador, who using his fame and

capacity played with the destinies of many Ecuadorians, but our Attorney General only was aware of that fact when this smart fellow was thrown out from the States with written charges of the cheated Ecuadorians; not even one chatting session was performed with allied officers from International Organisms. Once in Ecuador, six weeks in jail justified all the performed actions and attitudes and everything returned to normality.

2.1.3. The Expert Translator Professional Role. - Ethically, it is limited to tell the truth, in the case one processed party is not agree with the translation, the Judge will call upon another translator, and if not agreed with neither translation a diriment translator will settle the matter at hand, and this point of view will be final and left up to the Judge whether to accept it. As a consequence formation of translators is to be well groomed in order to make a timely, effective role at Ecuadorian Justice and not just a role to be filled to comply with the due process.

Translators nowadays, have the opportunity to use technology to collect information through the known channels of investigation using settle agreements, of course the approval of Judge is to be gotten since he is the only one who is supposed to conduct the investigation and therefore assign the corresponding diligences to the known experts.

Ecuadorian Law and its Codes are updated, there is no need to create a new Criminal Procedure Code, Criminal Code, Criminal Code for Sentencing or the like, what we need is an amendment to our Criminal Code typifying punishments for wrong behaviour of people at international organized crime and clarify step by step in the Criminal Procedure Code the assisting legal actions to be followed, this way serendipity will not take part of oblivion nor politics absolve international crimes against society.

2.1.4. The Judges Verdicts.- After having exhausted all stages of the criminal case from Arrest to Sentencing and subsequently typify the offense against society the Judge installs the first preliminary hearing in which the Foreperson tells the inmate of what he is being charged and evidences presented, if they demonstrated

innocence of the inmate he would be released immediately, if not, there is a risk for the defendant to return to Court after either posting a bail or returning to jail.

As a first step Judges discuss with the jurors all facts and possibilities encountered in the instruction phase. Our Criminal Courts, a tribunal is integrated by two respectable professionals at law and the foreperson in order are to declare an indictment which constitutes an order for the offender whether to be brought to trial.

At this point, after arriving to an indictment, the Judge calls for an Arraignment hearing at which the accused is read the indictment to which the Tribunal had arrived and is asked “guilty or not guilty” if the defendant pleads guilty, the Judge pronounces sentence after complying with the due process.

If the accused pleads innocent, a trial before the jury is installed. Defence and prosecuting Attorneys are allowed to present evidences and confrontations are led by the Judge’s direction, which will be called your seniority as a sign of respect and obedience to carry on within the due process. After exposing arguments of both parts, the jury stops the hearing and discuss whether the verdict is guilty or innocent, decision must be unanimous.

Guilty verdict entitles Judges to pronounce a sentence either with minimum or maximum penalties. If chosen a minimum penalty the accused might get suspended, usually this could happen when the person has never been involved in trouble.

These types of verdicts have to be clear and precise out of shades that darken judgment. Therefore the verdict is a jury’s concrete finding and reliable decision on the factual issues of all opportunities at stake.

Litigant lawyers do not always follow their Decalogue and lend their services to win or win basis no matter what, undertaken the Law at their side and fool judges with fake alibis taking advantage of the Ecuadorian Penal Law which reverses

verdicts done by judicial experts, witnesses, processes, and the legal actions taken under the respective due process; scarce knowledge of the foreign legal body; plus, ignorance of International Agreements and Treaties; lack of proper documentation to be translated as formal evidence of the illicit fail to fulfil Fundamental Steps to typify the illicit; avoiding expert team members advise and examiners for documentation review, that cannot be complying legal requirements⁵.

Judge's verdicts are often challenged by litigant lawyers who are working in favour of inmates, who regularly have lots of financial resources and in the purpose to negotiate their clients liberty, interpose cleverly arguments which serve as a foundation to reverse well pronounce sentences and hard to get verdicts.

2.1.5. Courtrooms.- They are places where legal disputes are treated by legal proceedings according to the due process. In our Country courtrooms are significantly different depending on the assigned court. Criminal Courts located in the city of Quito at Oe1-93 Ramirez Davalos, counts with a Foreperson and two magistrates, forming the tribunal; the prosecutor from the Attorneys Office, a Secretary, witnesses, the defendant and his/her lawyers, judicial police and public in general if English is to be used at any part of the trial, a translator must be in front to fulfil the due process when one or more people do not understand Spanish by mandate of Art. 76, numeral 7, paragraph "f" of the Constitution of Ecuador.

2.1.6 Guilty. - Art. 304⁶: "The innocence of the accused should be assumed in the first place, the Court of Criminal Guarantees must be assured that the existence of crime is there and the defendant is responsible for it, else, the no existence of crime or responsibility of the accused, or doubt about these facts."

Art 305 Criminal Procedure Code,- Deliberation⁷.- "After the debate, the President shall order the parties to leave. Then the Court will deliberate about the

⁵ Janet Shapiro e-mail toolkits@civicus.org

⁶ Ecuadorian Criminal Procedure Code, Art. 304

⁷ CPC Deliberation Art. 305

view of the evidence found during the trial.

During the period of deliberation no person will be permitted entry and the President will dictate the necessary measures to comply with this provision.

The tribunal continuously and permanently will deliberate until reaching a decision and may not suspend deliberation.

Once the court reaches a decision the President will order restatement of the hearing and released their procedural subjects on the decision to convict their or confirm the innocence of the accused.”

Article 306 Criminal Procedure Code.- “Judgment reduced to written⁸.-“ After having delivered the decision in the manner provided in the preceding article, and within three days later, the Tribunal of Criminal Warranties elaborates the sentence which should include a complete and sufficient motivation, and regulation of the respective sentence in which had been declared the guilt of the accused.

Secretary shall notify the parties about the proceedings to the decision of which may invoke the expression provided under this Code and the Constitution of the Republic of Ecuador.”

2.1.7. Imprisonment

Although sometimes the terms “jail” and “prison are used interchangeably, jail is a place use to confine people for short periods of time. A prison or penitentiary is a place use to house convicted criminals for periods of much longer duration. Because a jail is designed for short time periods only, it tends to have fewer amenities than a prison. Individuals who are being housed in a jail have access to unsanitary bathrooms and are provided with food and water by family members or by the stronger law. In a low security jail, they will be fed by the Government and may be able to socialize in common areas during certain periods of the day. Most jails are designed to hold a very small number of criminals, and have

⁸ CPC Judgment Reduced to Written, Art. 306

relatively less security when compared to prisons, although in areas prone to violence, a jail may be run along very strict lines. A jail houses people who have been convicted to serve a short sentence, individuals awaiting trial, people who have not yet paid bail, and detainees who have just been picked up on suspicion of committing a crime. In our Country known as CDP.

2.1.8 Prison

A state or federal facility of confinement for convicted criminals, esp. felons. In a prison, the amenities are much more extensive, as some prisoners may be serving their lives behind bars. Prisons have exercise areas, common areas for eating and socializing in lower security areas, church facilities, and an educational facility which includes classrooms, libraries, and labs to work and study in.

In lower security prisons such as those used to imprison people convicted of white collar crimes, such as getting rich illicitly, embezzlement, or crimes with zero violence these prisons could sometimes be mistaken for a hotel. In most cases, these prisoners tried by a court of law are expected to share cells with other inmates, and because of the long duration of most prison sentences, a complex social and political structure arises among the prisoners. These types of prisoners are considered not likely to commit the same crime again since huge amounts of money at stake may last for generations.

2.1.9. Not guilty

Article 319 Criminal Procedure Code.- “Immediate release⁹”.- If the accused is acquitted, the president will order his immediate release, despite any resource which might be brought, without prejudice of compliance with the penalty to be imposed if the acquittal were reversed. The conviction will not be executed while not enforce.”

⁹ CPP, Immediate Realease, Art. 319

In the case of doubt, the accused is to be judged with the better part after s/he had been confronting the accusation and is free to take to Court to any or all the people who made the accusation, this action is not to be taken as tic for tack but a legal procedure to rein- vindicate his name and expenses an enjoy freedom exercising legal and political rights; enjoying political and civil liberty including freedom of association; choice; contract; expression; information; religion; speech; press,..

2.1.10. Evidences Provided by Translation

Juridical terms used by Judges, experts, Layers and all the personnel involved in the juridical case use as evidence or testimony documents as tangible objects that tend to prove or disprove the existence of an alleged fact. These evidences could be classified as admissible, best, character, circumstantial, clear and convincing, competent, concomitant, conflicting, corroborating, credible, critical, cumulative, demeanour, demonstrative, derivative, direct, documentary, in chief, exclusive, exculpatory, expert, extrajudicial, extrinsic, fabricated, false, forensic, habit, illegally, immaterial, impeachment, incompetent, incriminating, exculpatory, indispensable, insufficient, intrinsic, judicial, legal, material, mathematical, medical, moral, multiple, negative, newly discovered, opinion, original, parole, partial, pre appointed evidence, preliminary, presumptive, prima facie, privileged, probative, proffered, prospecting (1. Moral character; 2. Physical or mental capacity; 3. Habit or custom, 4. Emotion or motive, and 5. Plan, design, or intention; real, rebuttal, relevant, reputation, retrospection, satisfactory, scientific, secondary, signature, slight, state, substantial, substantive, tainted, testimonial, traditional, unwritten, code, title, evidentiary, evidentiary fact, evidentiary hearing, ... plus all the ones asked by the trial lawyer. Once the expert translator is in charge of the position after fulfilling the requests commanded by law, the judge might suggest the path to follow within the particular case in order to arrive to specific results through oral or sight translation. The role of the professional Translator had been limited to what Judges think it is best for the case. If the translation is according to what is expected, it is accepted, if not, a second

translation is asked by the same district attorney, if none of the two are accepted a diriment third opinion is asked and this will be the final of a translating expertise.

2.1.11. Translation Techniques

- Transposition
- Modulation
- Reformulation
- Compensation

2.1.12. Transposition

In this process parts of speech change their sequence when they are translated (caso criminal becomes Criminal case). In a sense a shift of word class plus position. Grammatical structures are often different in different languages. He likes stealing translates as Le gusta el robo. Transposition is often used between English and Spanish because of the preferred position of the verb in the sentence: English often has the verb near the beginning of a sentence; Spanish can have it closer to the end. This requires for the translator to know that it is possible to replace a word category in the target language without altering the meaning of the source text, for example: English Hand knitted (noun + participle) becomes Spanish Tejido a mano (participle + adverbial phrase).

Therefore, when transposing, there is no need to make elegant the wording, instead is a way to obey the grammatical rules of the language at stake. Of course, many times that wording could be reversed to give it more emphasis to what it is tried to point out, this usage is done frequently in poetry.

2.1.13. Modulation

It consists of using a phrase that is different in the source and target languages to convey the same idea: Depende del Reo means literally Depends on the inmate but translates better as “ It is up to him” It changes the semantics and shifts the point of view of the source language. Through modulation, the translator

generates a change in the point of view of the message without altering meaning and without generating a sense of awkwardness in the reader of the target text. It is often used within the same language. The expressions *es fácil de entender* (it is easy to understand) and *no es complicado de entender* (it is not complicated to understand) are examples of modulation. Although both convey the same meaning, *it is easy to understand* simply conveys "easiness" whereas *it is not complicated to understand* implies a previous assumption of difficulty that we are denying by asserting it is not complicated to understand. This type of change of point of view in a message is what makes a reader say: "Yes, this is exactly how we say it in our language".

2.1.14. Reformulation or Equivalence

When using this technique, it help to express something in a completely different way, such is the case of idioms or advertising slogans, which contain previous fixed wording used for ages by different generations and therefore this way to express feelings or cultural tendencies. The process is creative, but not always easy, the usage of some idioms even is characteristic of a region or political section. Would you have translated the movie *The Sound of Music* into Spanish as *La novicia rebelde* (*The Rebellious Novice* in Latin America) or *Gone with the wind* with (*Fuga en Cadenas*); "If the shoe fits, wear it": (*al que toque el guante que se lo chante*); "play it by ear" with (*haremos lo que se presente...*) these idioms or common expressions might sound out of place if used by foreigners, "let's hit the bricks" would not fit in an older generation while "remember the rock we came from under" would fit perfectly but again not in younger generations. Would be related a "lemon" with (something defective); "Straight from the Horse's Mouth" with (from a reliable source); "horse around" with (play around); "string someone along" with (lead someone on dishonestly); "Sell Someone Down the River" with (betray someone); "Smell a Rat" with (feel that something is wrong); or else hearing someone saying that you were smoking, when had never lit a cigarette in your life, well it is not to take it literally since it is meant you were furious.

2.1.15. Compensation

It can be used when something cannot be translated, and the lost meaning is expressed paraphrased in the translated text. Compensating one part of the text in another where could not be translated as Spanish the informal tú and formal usted, into English which only has 'you', and expresses degrees of formality in other different ways.

Translation is not just a changing of words between two languages but also the changes of thoughts between two cultures. Cultural transposition is present in all translation as degrees of free textual adaptation departing from maximally literal. The translator exercises a degree of choice in his or her use of features, and, as a consequence, successful translation may depend on the translator's command of cultural assumptions in each language in which he or she works".

2.1.16. Legal Translations

Legal translations are documents needed for official use. This documents once signed by an expert translator qualified by Ecuadorian Judicature Council as establish on the article of the National Experts Law have validity in Ecuador but when are to be used at foreign countries other protocol is necessary for validity of:

- Sight translation
- Birth certificates
- Marriage certificates
- Divorce certificates
- University degrees
- Medical reports
- Court orders
- Officially used Documents, affidavits

Certified and Notarized Translation

Certified and notarized translations are documents which are being certified by the translator as to certify the accuracy of the information contained in the document.

The certified translations are normally also verified by an Ecuadorian notary public to give faith of the authenticity of said document.

Most of the Embassies have this type of service, of course each has its own requirements and fees. For example the Embassy of the United States in Quito offers notary services for citizens, residents, and tourists in a fixed schedule and for some documents it is necessary to have an appointment, bring the document to be notarized; a valid ID. With photo; witnesses (if needed); and US \$50.00 per document, if the document needs more than one notarial, each Consul's signature will be charged separately.

It is important to note that in the United States any qualified person could be Public Notary, the qualification consists of being a good behaving person knowledgeable of the US Constitution, once this is demonstrated by a test the individual is provided by the seal and immediately could use its power, while in Ecuador we have a dark procedure to get such a dignity and be part of the system.

Translation with Apostil

Apostil is an international certification comparable to a notarization and is often added to documents that have been in some manner signed by a Notary, lawyer or other public official such as the clerk of a court of record in their official capacity. It specifies the modalities through which a document issued in one of the signatory countries can be certified for legal purposes in all the other signatory countries. This document with the respective apostil will have the same value at the required State. Apostil certifications are used for the certification of powers of attorney that are signed in one country but are aimed for use in another. An apostil certification is also necessary for documents that need to be considered official for use in the courts of other countries. In our country though this modality is limited to some original papers given by the Civil Registry, such as birth, marriage, and death certificates, for power of attorneys, real estate and other forms of identity or possession there is another procedure where you have to stand in large lines to pay

some small fees for approval of department heads who must justify their position in this bureaucratic country.

The Hague Convention embracing Ecuador and The United States, Abolishes the Requirement of Legalization for Foreign Public Documents originated in one Convention country and intended for use in another. Therefore, U.S. public documents are to be valid in Ecuador. Under the Hague Convention, neither Ecuadorian consular certification, nor any other authentication other than the APOSTILLE will be required for validity. Each Country should certify its apostil.

Consular Certification of Translation

If a country has not signed the apostil Convention, the interested party must specify how foreign legal documents can be certified for official use, usually this information is given on the phone, if it is required. If two countries might have a special treaty concerning the recognition of each other's documents that has to be proven by the hand and seal of the Secretary of such Consulate for the other to acknowledge it. If the country issuing or receiving the document does not recognize an apostil, originated by The Hague Convention, the interested must usually take the document to the consulate of the foreign country to certify it, this process is known as "consular certification". All these documents should be written in English as International language.

Therefore, a certified and notarized translation is a public document certifying the authenticity and accuracy of the information contained in the translation executed by an expert translator which are usually also verified for official use by a notary public, certifying the hand and seal of such an expert.

Delivering legal translated documents

First of all in order to have any of these documents translated, the expert takes charge of the possession after promising strict confidentiality and other formalities taken under oath; the time to fulfill the task is agreed upon the physical deliver of translated documents which will be handed to the officer in charge.

As it is known, Language is sound alive, and functions exactly as a healthy organism. At Court we all might communicate each other, in fact, when we speak into a living language, we mean something more than an abstract simple metaphor. We mean we are acting here for a purpose. Words are the cells of a language, moving a great body of senses. Language grows and evolves, leaving fossils there where they are supposed to be. The individual words are like different species of beings where mutations might occur. Words fuse, and then mate. Hybrid words and wild varieties or compound words are the progeny, when they are put into a concert we are able to proof what is not known and interpreters are supposed to give the correct meaning in a different language so criminal cases where language is needed will be a link to solve what is unknown by the judge or tribunal for him or them to decide what is best for society.

2.2. Oral Translation

2.2.1. Simultaneous

Translators working at the International Criminal Tribunal in all parts of the world have the right and duty to ensure accuracy of their output. Users of simultaneous interpretation in legal settings often believe that ‘accurate’ interpretation is a literal, word-for-word translation but this believe goes the bin very often when interpreting Spanish into English or Vice versa as exposed earlier when explaining about translating techniques. On the other hand, the purpose of the simultaneous interpretation is to faithfully transfer the message the speaker is trying to convey. For all intents and purposes, those who use the interpretation should have the same understanding of the speaker as those who listen to the original text.

The purpose of this presentation is to highlight situations in which translators are forced to stick to the word-for-word strategy (as we know sometimes can be done others not) at the expense of the sense, and to contrast them with situations where the interpreters judge it is ‘safe’ to do the opposite; situations where interpreters have produced ‘accurate’ output but knowing it is incomplete because it lacks

cultural context (easily included in translation through translator's notes etc.); situations where the linguistic means at the interpreters' disposal cannot convey a full picture of the speaker (body language may be visible to all, but register or tone of voice are accessible only to those who speak the language).

For what is exposed we might conclude that simultaneous interpretation at Criminal Courts is the art of blending translator professional knowledge of the case plus the English culture at the required time and situation.

Simultaneous Interpretations are mostly used with handicaps audiences such as deaf and speechless audiences in sign language; also for conferences in which good quality equipment is needed along with a team of interpreters who should never work more than 15 minutes at the time. In the case of public hearings simultaneous interpreting is not as practical as consecutive interpreting which might take a little more time but it will legitimize current speech and lead to less confusion among acting parties.

2.2.2. Consecutive

Consecutive interpreters speak after the source-language speaker has spoken, obeying strictly the judge's conduction of the hearing. The speaker will pause in order to allow the interpreter to communicate the message in the target language. The length of time between pauses will vary, but an idea or sentence should always be presented in full before the interpreter takes over, if the speaker does not stop the speech, the interpreter should be allowed to act at the corresponding finished idea or sentence so not to alter what had been said. Quality interpreting developed in this way should be done respecting the due process and the direction of the judge's dispositions, the interpreter should be rested and if possible without any emotional disturbance, to translate ideas at the expected level or surpassed it; to transport the idea in its original expression it would be best not to change the quotation reporting speech, as for example: Evoker: it was not me.

(He said) "it was not me" GOOD

He said it was not him NOT CLEAR

2.2.3. Shadowing

Shadowing is repeating what the evoker says word for word in the same language, at first it may turn to be kind of to fast just repeating what the evoker says, but with a lot of practice it can be acquired. This will get the interpreter used to maintaining the correct delay and will help him/her listen to what the evoker says while repeating what he/she has just said. The goal is to get to where you're doing things on a subconscious level because if you have to think while you interpret, you'll be dead in the water. Just remember that even though interpretation is difficult, it is a skill that can be learned after a lot of practice, so if you're willing to stick to it, you will reach that goal, you will know you are up there when two channels are open and can be used with zero difficulty.

Criminal courts celebrate public hearings everyday trying to make justice to the people involved at penal offenses against society. First of all, when the court delivers its verdict after hearing both parts, the plaintiff, often representing the Attorneys General Office as a trial Attorney who does the claiming or accusing part from the nation and an Attorney representing the Defendant, mostly foreigner, who is charged by the later for a crime committed within his jurisdiction.

The defendant or defendants had lost liberty and are incarcerated in one of the common jails for common offenders who are being trailed at one of these Criminal Courts to be sentenced by the respective District Attorney in charge of the case. The Defendants have the right to hire a lawyer or be represented by a counsel attorney appointed by court when the defendant cannot afford a private lawyer. In the event defendant is not pleased with the Court's verdict he can file an appeal at the Constitutional Court, entity in charge to preserve human rights and if not agreed with such a verdict could also file an appeal with the National Court of Justice, entity which will settle the case as last instance of the prosecution suit.

2.3. Hypothesis formulation

2.3.1 Working Hypothesis

There is a relationship between written and oral translations produced by translator experts complying with the due process of transparency at the Criminal Courts of Quito Ecuador in the period of June 2003 and February 2010.

2.3.3. Null Hypothesis

There is not a relationship between written and oral translations produced by translator experts complying with the due process of transparency at the Criminal Courts of Quito Ecuador in the period of June 2003 and February 2010.

PART THREE

METHODOLOGICAL DESIGN

3.1. Research type and design

This research is basic, descriptive and field limited, as it analyzes the relationship between the professional role of the translator and the final verdicts of Judges in the Criminal Courts of Quito located at Oe-193 Ramirez Davalos and 10 de Agosto Avenue, place where juridical parts of the process are present while hearings develop along with witnesses and experts that are called in order to comply the due process. Most of these audiences roomed public of different tendencies.

3.2. Population size and sample

The selected population is composed of ten litigant Lawyers. Due to the concrete size of the population, it is advisable to work with the whole population as sample which is 10 Litigant Lawyers, these group of professionals were selected randomly, one lawyer out of the ten asked to fill out the questionnaire. As not all the lawyers accepted to fill the survey the next in abstract cue was asked and if would accept it, the form was filled.

3.3. Field work

These activities were possible at the Criminal Courts of Quito located at Ramirez Davalos and 10 de Agosto Ave. at the ground floor of the building, also at the 1st, 2nd, and 3er floors while in the free time everybody is given every two hours of hearing or when the judge considers appropriate. At this same place all the mentioned few cyclical cases took place during the years 2006 and 2009.

3.4. Instrument for data collection

The selected instrument for data collection is the survey; same which contains the needed information in ten questions for each litigant lawyer to answer them so the surveyor could work on this yielded data to analyze it and compile it into the hypothesis in question.

3.5. Data Processing and analysis

As it was mentioned, one survey is to be used to collect and display the information. This survey is focused on questions about the usage of written and oral translations in the process; this could be while producing versions, collecting information from other related offices, or at bookings of records of Governmental Offices.

Once the survey was completed it was given to one of every ten Litigant Lawyers until the ten surveys were completed.

As the results were obtained, the answers evaluated to qualify each question whose texts were analyzed by written or oral strategy and then select frequencies as “always, most of the time, frequently, rarely, and never” so to produce results to the planned survey depending on the frequency selected using the formula of chi-square:

Questions	1w	1S	2w	2s	3w	3s	4w	5w	4s	5s	TOTAL
ALWAYS	6	2	1	7	1	10	6	6	8	7	54
MOST OF TIME	2	4	8	0	0	0	1	0	0	0	15
FREQUENTLY	1	4	0	2	1	0	0	0	0	2	10
RARELY	1	0	1	1	5	0	1	1	0	1	11
NEVER	0	0	0	0	3	0	2	3	2	0	10
TOTAL COLUMNS	10	10	10	10	10	10	10	10	10	10	100

Where *w* stands for written translations and *s* for spoken translations, it was not used O (oral) not to get confused with observed values, “o”.

OPTIONS	SPOKEN	WRITTEN	TOTALS
A	34	20	54
M	4	11	15
F	8	2	10
R	2	9	11
N	2	8	10
TOTALS	50	50	100

OPTIONS	a	m	f	r	n	Total
Written	20	11	2	9	8	50
Spoken	34	4	8	2	2	50
TOTALS	54	15	10	11	10	100

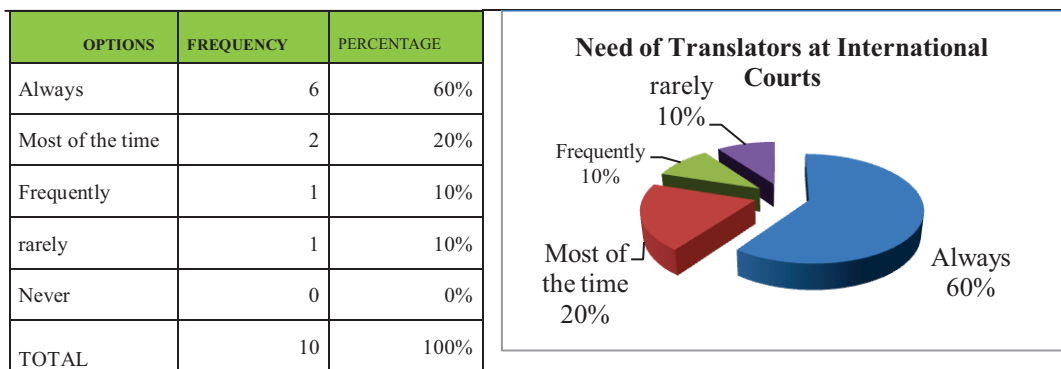
As it could be deduced the survey of one hundred choices for investigating the relationship between written and spoken translations at the Criminal Courts in Quito in the period of 2003 and 2009, fifty percent of the collected data establishes that written translations are important with different adverbial like intensity the other fifty percent of the data concludes the same with different intensity as well. The most relevant data lies into observed spoken results of translations with the thirty four out of fifty and the observed written results of translations with the twenty out of fifty. This determination testifies on its own the importance of both oral and written translations in Criminal Courts.

PART FOUR

TESTING THE HYPOTHESIS

4.1. Graphical exposition of results

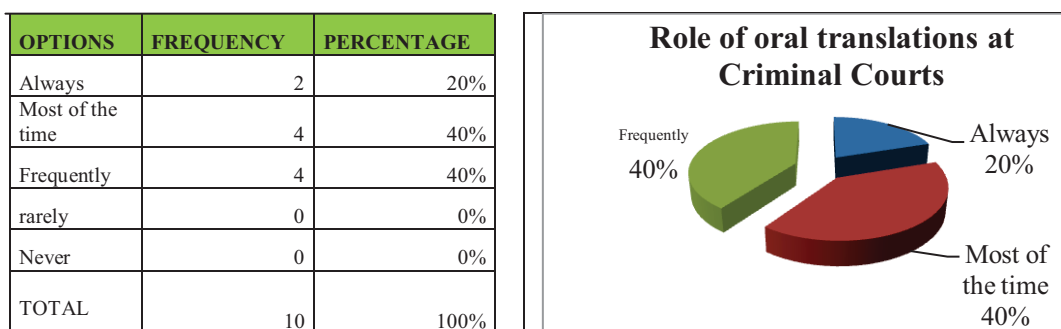
Question 1: Do you think, translator experts would be necessary to ease some juridical questions when transnational have conflicts with Ecuador?



Analysis and Interpretation

Always and most of the time are the answer which take the eighty percent of the populations asked. Therefore It can be established for sure that the mentioned written translations are needed at international disputes.

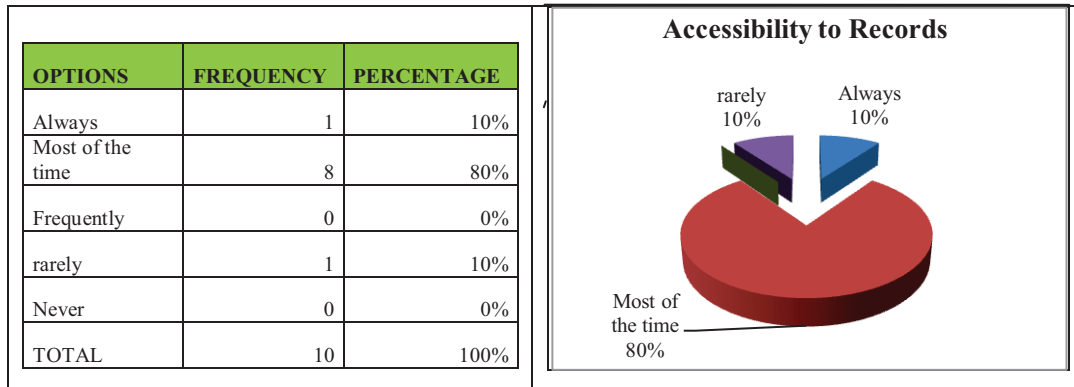
Question 2: In your opinion, what role should a translator expert have at criminal courts?



Analysis and Interpretation

Taking into account hearings are to be conducted orally, Most of the time and Frequently take the 80 percent of the population asked. Therefore fluency in both languages are to be shown at criminal courts, so, translator experts are to translate at lively voice.

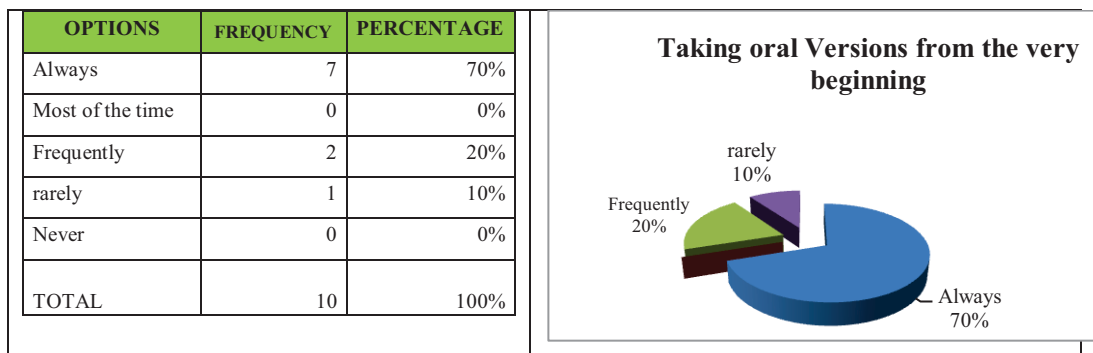
Question 3: Do you think, a translator expert must have access to criminal proceedings in process



Analysis e Interpretation

Most of the time is the first choice corresponding to the 80% of the population surveyed. So translator experts should have access to the files in question.

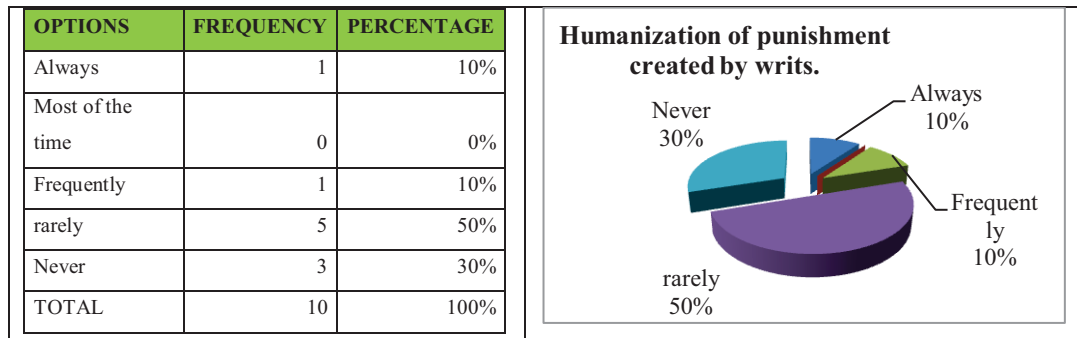
Question 4: Do you think the translator expert is needed to take versions of culpability or innocence of defendants who do not speak Spanish from the time of his arrest?



Analysis and Interpretation

Most of the time is the first choice corresponding to the 80% of the population surveyed. So translator experts should have access to the files in question.

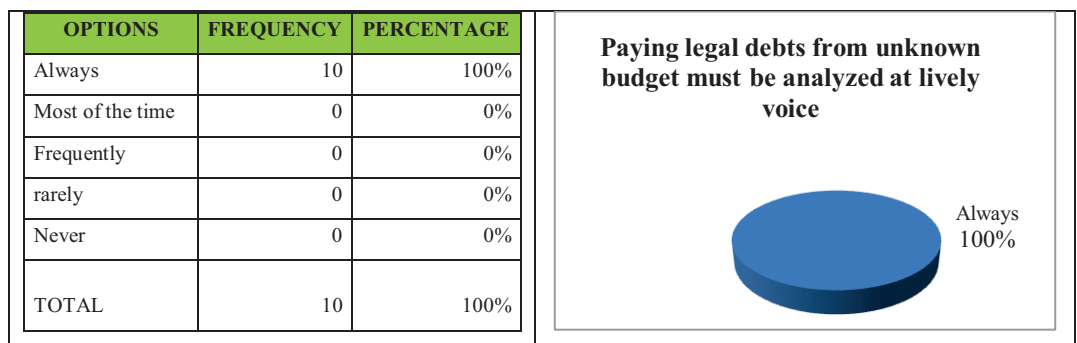
Question 5: Is it feasible that a convicted criminal to prison, would be released after servicing a reduced sentence for humanization of punishments, to less than one-third of the original one?



Analysis and Interpretation

Rarely and never sum together the 80% of the given choices. Taking this into account, these written translations would legally serve to prove that claims from outside prison are always heard but not always approved as inmates are in the process of recuperation before they can be reinserted into society.

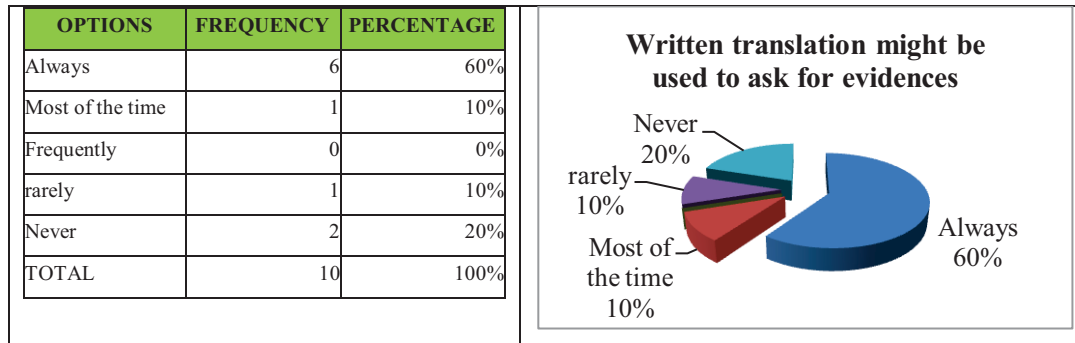
Question 6: Can a convicted of illicit enrichment, after being abroad, be investigated, one who without legal income, but income from other sources pays debts out of an unknown budget?



Analysis and Interpretation

Always is the common choice or the 100%, as peculation or embezzlement has the strong tendency to take capitals out of the country therefore investigation from the source of money will always be welcomed

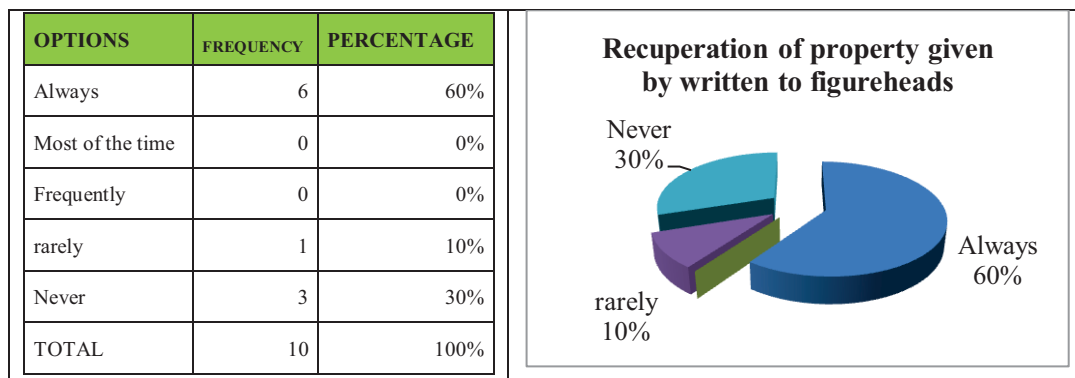
Question 7: Can it be recovered the money from those who unlawfully escaped from the country and return later when the illicit prescribes?



Analysis and Interpretations

Paradoxically the most voted choices are always with the 60% and never with the 20%, given a large gap between them. Nevertheless, a legitimate contradictor such as the State has the choice whether to process. If the wrongdoer splitted to foreign overseas country, there is the possibility to collect data to be processed as evidence through organisms of help on criminal cases.

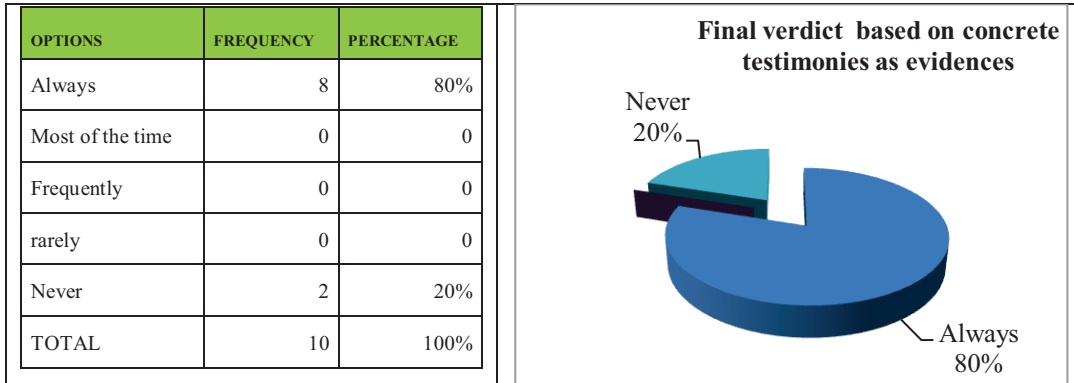
Question 8: Is it feasible a convict for embezzlement recover property, in or out the country, transferred to straw purchasers or figureheads?



Analysis and Interpretation:

60% of the voters decided they should always be given back such properties, given place for the state to collect evidences to both wrongdoers, while the 30% of the asked population said never. Contrary to fact, figureheads or straw purchasers do not have any right to keep the property given to them fraudulently. Law would require the property to be transferred to the embezzler for him to respond for it.

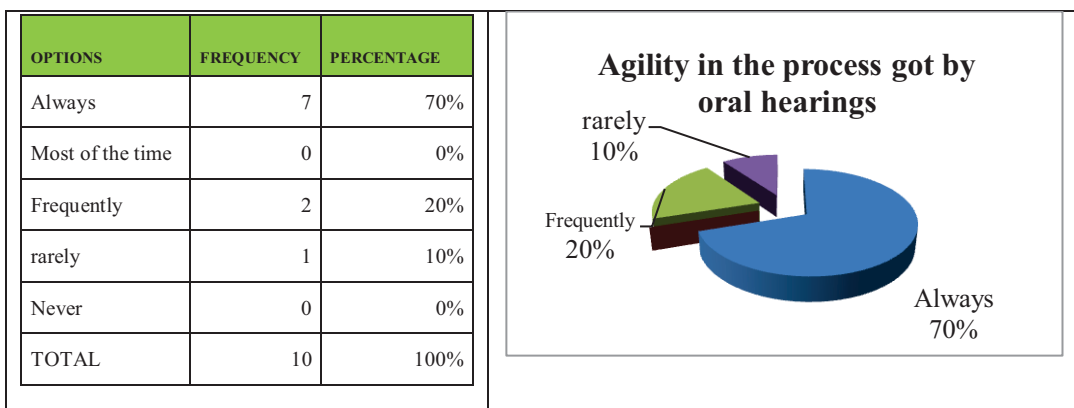
Question 9: Is it appropriate for a judge to sentence an international defendant drastically, assuming consequences of organized crime with relevance?



Analisis and Interpretation

Always takes the 80% of the voters. It is understandable since law authorize judges to punish drastically to criminals for illgal enrichment, the other 20% does not agree to this policy before law transformation takes place.

Question 10: Do you think legal translators can help judges to conduct international due process in a more agile way?



Analisis and Interpretation

Always and frequently consolidate the 90% of voters. Therefore it is clear that translator experts provide the means for the audience to continue under the due process at which either documentation or people use International Language.

4.2. Analysis of Results

As the formula of the chi square disseminates:

$$\sum \frac{(F_o - F_e)^2}{F_e}$$

The researcher finds the expected values as column total multiplied by raw total and this product divided into the grand total, obtaining the following results:

4.2.1. Observed frequencies

Options	a	m	f	r	n	Total	
Written	20	11	2	9	8	50	
Spoken	34	4	8	2	2	50	
Total	54	15	10	11	10	100	Grand Total

4.2.2. Expected Frequencies

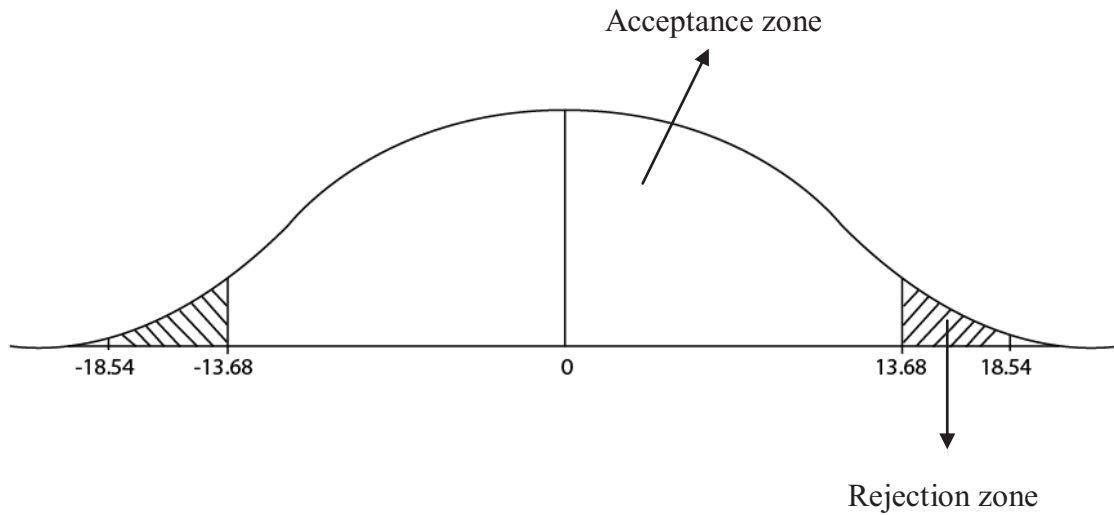
Options	a	m	f	r	n
Written	27	7,5	5	5,5	5
Spoken	27	7,5	5	5,5	5

Where,

O	E	O - E	(O - E) ²	(O - E) ² /E
20	27	-7	49	1,81
34	27	7	49	1,81
11	7,5	3,5	12,25	1,63
4	7,5	-3,5	12,25	1,63
2	5	-3	9	1,80
8	5	3	9	1,80
9	5,5	3,5	12,25	2,23
2	5,5	-3,5	12,25	2,23
8	5	3	9	1,80
2	5	-3	9	1,80
				18.54

4.3 Critical value

Following the corresponding steps of the chi square table, the researcher finds the degrees of freedom subtracting 1 to the number of columns ($5-1=4$) and 1 to the number of rows ($2-1=1$) and multiplies both results ($4*1=4$).



4.4 Conclusions

- According to the alpha value at 0,05 or 95% of confidence level with 4 degrees of freedom, whose coefficient lies at 13.68 in the chi square table, the result is much more inferior compared to the known total chi square of 18.54. So, the null hypothesis is rejected and the working hypothesis accepted with the 95% of confidence since both translation types were related at the period of investigation in the Criminal Courts of Quito, for the ethical effects executed during the process of obtaining either written or oral evidences producing high standards of reliability at judging, constituting a trustworthy evidence in front of justice stated in the Constitution and in the law.
- The study shows statistically that oral and written translations globally have the same value in the clarification of facts to do justice at all phases of trials, therefore translator experts should be kept updated permanently in both abilities to perform an effective professional role at Criminal Courts;
- Final verdicts must be reliable not only concrete for judges at Criminal Courts of Justice have to be certain of the professionalism of the translator since their work will be used as a tool to benefit both accused and society.

4.5. Recommendations

- Legal Translations performed by experts must be maintained for legal practices at Criminal Courts should be well developed based by translator experts specialized on legal terms for judges to interpret them and be able to pronounce reliable verdicts following the corresponding due process;
- Judges at Criminal Courts should support the translator experts job at all phases from beginning to end of the trial to execute his expertise and not fall in defendant's alibis whose purpose to twist well pronounced final verdicts will always be present;

4.5.1. Professional training of translator experts

Translator experts working at Criminal Courts should be evaluated constantly at all phases of legal process, and mainly when s/he is to be certified as Public Translator, to create confidence in the expertise, so Judges could rely in their work and pronounce final verdicts with reliability. To accomplish this, the best training experts must go through is on the job, it will help if along with the job experience there would be the possibility to assist to well structures training legal courses giving by professionals on the legal field.

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ESPE
Linguistics Career

Proposal

for a training Course to translator prospects by means of flowcharts submitted by the surveyor in accordance to the requirements for the degree in Bachelor of Linguistics

Prepared by : Patricio Rodrigo Villota Miño

Quito - Ecuador

2012

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Background

It has been detected lack of adequate dialogue practice in the formation of linguistic professionals, for these participants are at a disadvantage in the skill areas of speaking and understanding, so, translation being a cultural communicative process in which professionals are supposed to mediate between languages confront a very harsh deal at the speech event, speech situation, and speech act in public hearings and other social acts in general. Although many of these participants can master a small repertoire of acceptable responses to a variety of typical questions, they lack the ability to transfer ideas of legal interest to both defendant-plaintiff and judge-secretary interventions and consciously move into an English recitation towards the comfort of a specific direction previously learned passively as vital facts of using the language. Professionals seem to lack the feeling of dynamics of conversation in using the target language let alone translation into it; all too often, they resort back to the security of the model drills which were presented in their learning textbooks, like explanations of terms such as “do you know what is the meaning of get?” the meaning of “get...” which in no way relates to the ongoing trial, probably due to the washback¹⁰ they had gone through in their testing (TTS) when they were trained to show test centred activities rather than competence-centred ones. (Haiyan)¹¹

Too little time, or none of it, is spent in preparing these learners for open-ended communication situations, no fluency at the target language had been acquired, despite the fact that native speakers assume a conversation is the base of communication which can go anywhere, depending on the moods and inputs of each participant according to the ongoing challenge at either legal international trials or domestic situations where usage of target language is expected.

Oral Translation is the ability to articulate intelligent sounds comprehensibly when mastering supra segmental linguistic patterns of stress, rhythm, and

¹⁰ Li, Haiyan, *Cultivating Translation Competence: Teaching & Testing*, P. 2.

¹¹ Li Haiyan, “Cultivating Translation Competence: Teaching & Testing”, *Translation Journal Bloq*, 8, N^o.1(2006), pp. 5-7

intonation as well as the ability to use a series of tools at the different phases of the oral translation to describe routines about family, other people, living conditions, experiences, dialogues, events, which had taken place in an immediate past, now, causes of trials are to be exposed with the help of techniques that work in real situations like direct purpose flowcharting, using at least three participants. This proposal will try to improve the formation of students of Linguistics who might be willing to work at Offices of Foreign Affairs, as translator experts or at any other legal or social environments where English/Spanish linguistic skills are needed for understanding.

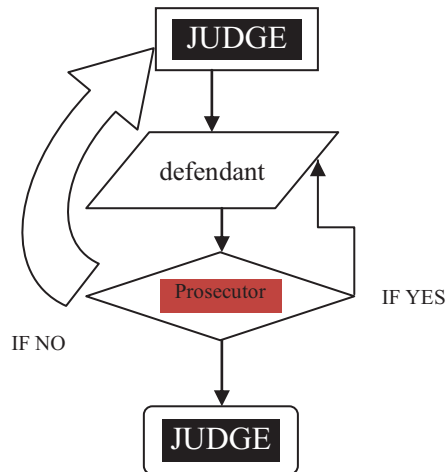
The ability to translate as a direct exchange to inform the legal parts about activities done by the accused while doing the offense might help judges and prosecutors to establish responsibilities. This task is to be executed as clear as possible, always trying to maintain the proper essence of it, no room for long time intervals nor mistakes. Both defence and accusation are done in front of the eyes of the foreperson at a trial where prosecutor attorneys at law and witnesses call out for the need to use techniques that work where the translator expert perform his or her role applying competent work permitting the judge or tribunal to transform this information into juridical terms to conclude emitting reliable final verdicts.

Speaking in both languages actively engages an attempt to communicate events that had happened in the past but are relevant in judging at time of speaking. Therefore, it is translators' responsibility to give reliable versions for judges to analyze them and finally come to an understanding of chain of events which eventually might lead to conclusions. Of course Ecuador does not have many cases to be resolved at the Criminal Courts of Justice, with foreigners, as they probably are ventilated by different means, or perhaps this Country is not attractive enough or else too easy to get through for foreign law breakers, but a lot of paper translation is done domestically for Ecuadorian law breakers, same which are up to the judge whether to be accepted and used in the corresponding due practice.

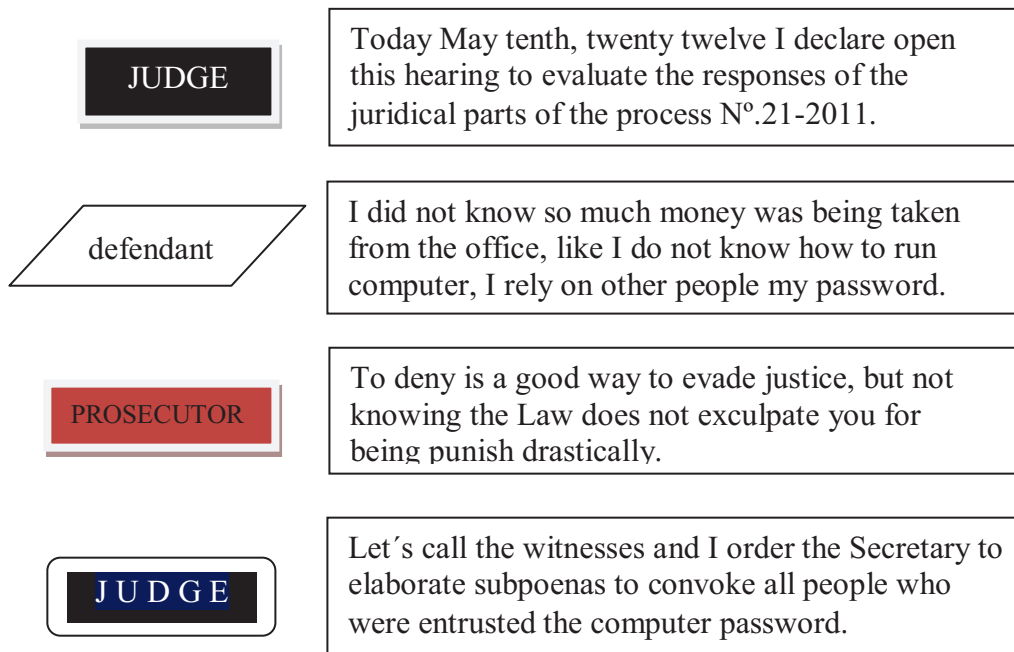
Justification

For the disadvantage translator prospects have at communication practices, the researcher hopes that dialogue maps based on flowcharts plus peer reproduction will help the translator trainees to develop fluency and understanding, skills which actually are underdeveloped. Time should not be wasted while acquiring these very valuable skills with the mirage of using them at either social situations or legal trials where each skill is to be used to help society. So, everyone should get involved into the drill as a way to awaking dormant skills. Similarly, certain kind of dialogue map could indicate many possible routes a process of judgment might take, yet it would only serve as a reliable guide to get more meaningful interactions which the translator discovers for him or herself at the time when the linguistic process comes to an effect. There is no way that such a map could include every possible thing a translator might encounter while working in the process, since there are an infinite number of ways to combine both languages into quality thought expressions or the expressions given by the evoker or addressee.

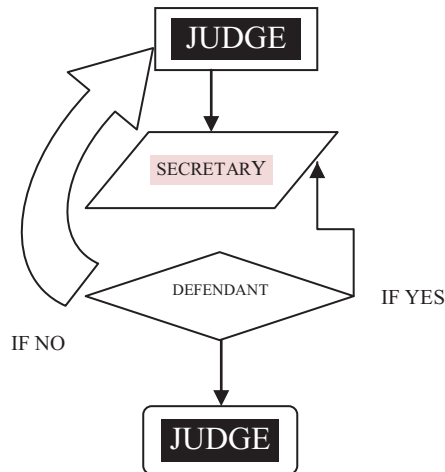
Modelling



COPY

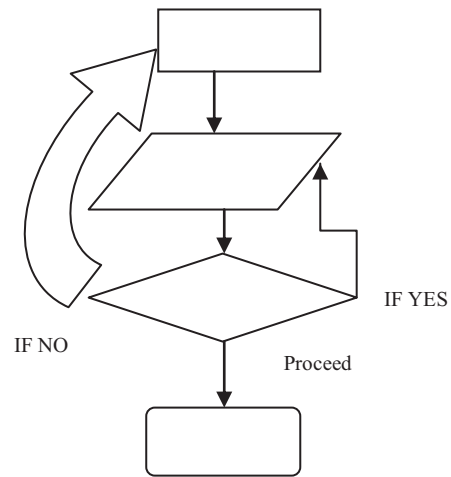


REPRODUCE



JUDGE	For the rights of which I am invested and in the name of the Constitution of the Republic of Ecuador, I declare this lawsuit open.
SECRETARY	Today June tenth two thousand twelve this hearing to evaluate the responses of the juridical parts of the process N°.20-2010 is open.
DEFENDANT	For my experience the container was full of tobacco and not any drugs as the report is
SECRETARY	I make the defendant aware that every said will be taken as said for corresponding judgment.
J U D G E	The case is open for trial.

CREATE



	<input type="text"/>
	<input type="text"/>
	<input type="text"/>
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Purpose of the Study

This practical research would be best suited for higher University-Level Linguistics Students, roughly equivalent to the seventh level of linguistics since their high degree of intellectual development would assure that they can abstract what is to be translated and make use of their analytical skills in learning coding, decoding, and recoding automatically during the translation approach. It is necessary to note that the mastering of most English structures is to be at disposal, as well as usage of a lot of technical words about the subject at hand is imperative. Therefore, using flowcharting as one of techniques that work for future English fluency, where users of the language are supposed to copy, reproduce, and finally create information to be decoded from a source language using paper and lively voice.

Obviously, this involves total immersion of the culture of the language at stake since translation is an expression of receiving, decoding, and transferring cultural information. This way a translator of the language becomes a link of both cultures. If context or situation is taken into the session, where the instructor is to model for the student to reproduce, this modelling at a particular social situation in this “active school¹²”; the chatting session is desirable to be located at the skirts of town where this process is to develop also it would have to be executed by a competent professional who can administer the tool to finally get the idea into action for aesthetics teaching, later, on the job, when asking for help to Legal Foreign Affairs Offices, it will turn to be a fascinating experience, for being able to get the required information by electronic means, as Art.147¹³ from the Organic Code of the Judiciary establishes validity of Electronic Documents at Court, once this process is accomplished should be noted in the portfolio to keep record of the expert translator as an advancement and consequently improvement in the career.

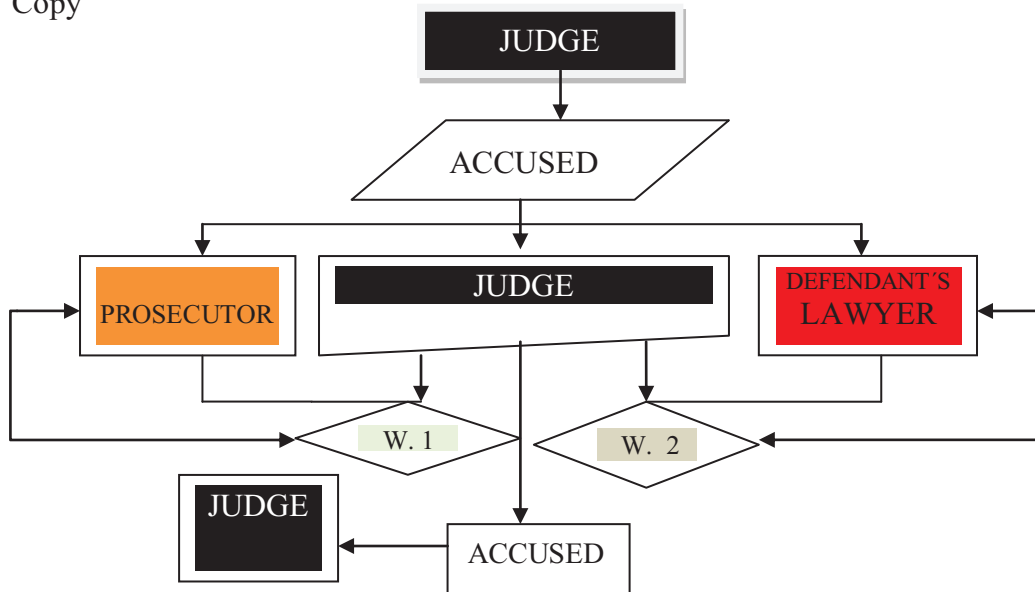
¹² Delgado, Braulio, Magic Class Technique, p.35

¹³ Ecuadorian Assembly, Organic Code of the Judiciary Function, pp.88

Mohan and Katz ¹⁴, point out that “sociolinguists have used the term “communicative competence” to make a distinction between a language code and the use of that code for communicative competence is what enables a member of the community to know when to speak and when to hear or remain silent.”

¹⁴ Bernard Mohan and Naomi Katz, “Communicative Competence and Flowcharts,” TESL Talk, 8, Nº.1(1977), pp. 25-31

Copy



JUDGE: For the power the Ecuadorian Constitution confers me I solemnly declare this trial open. Mr. Stevenson: Do you swear under oath to tell the truth and nothing but the truth so justice in the name of the Republic of Ecuador be delivered?

ACCUSED: Yes Sir. As I said before, I did not know what was in the container. As far as I am concerned the tobacco I bought to sell in my country was probably exchanged by accident for the immigration officers. I also want to tell your seniority that my partner and I had been treated in a very cruel form at the investigation office.

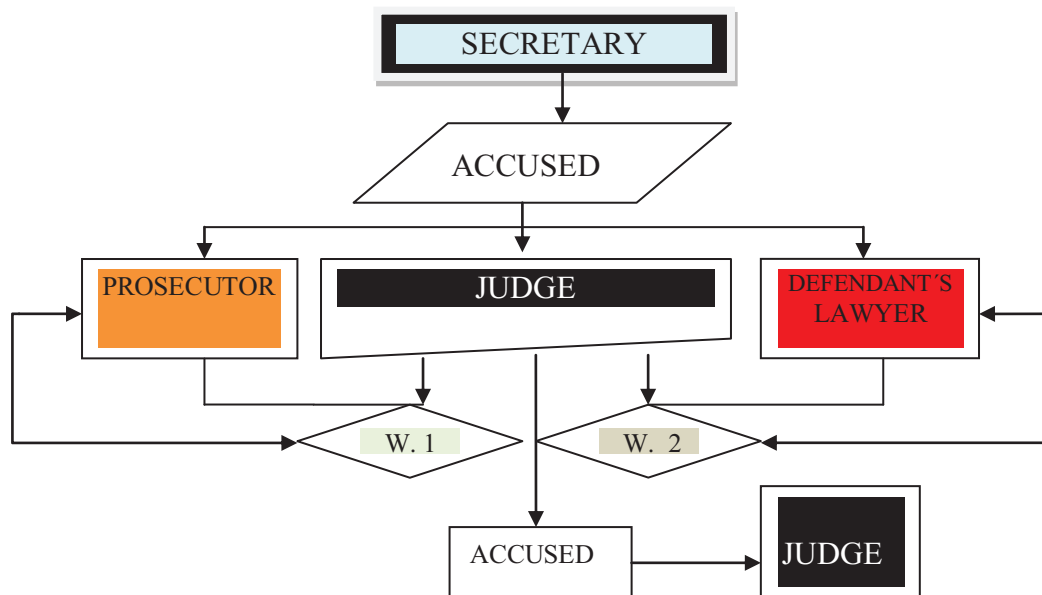
PROSECUTOR: Your seniority, I certainly do not know where the accused is coming from when he denies the content of the merchandise. There is a large difference between heroin packages and tobacco packages, also the amount in the free market varies from one thousand to one million, and that is a strong probability why the accused declares himself dummy.

Witness 1: In the office Sir, where I work for the last eight years.

DEFENDANT'S LAWYER: Thank you, District Attorney, for being relevant by asking the witness how long he had been in the office. Your seniority, for logic is easy to see that an employee who works for eight years at the same office, does not want to get in trouble. Witness 2, Do you think the accused was dubiously taken drugs to his country?

Witness 2: I do not think so, sir. In fact, I went to by some of the tobacco with him at the street market in Charapoto.

REPRODUCE



SECRETARY: Trial is reopen and two witnesses are called to declare whether they had access to the computer password.

ACCUSED: As I have taken my word under legal oath I have to say that the two witnesses at court are not my relatives and therefore are able to testify in my favour.

PROSECUTOR: There is strong evidence, as I will proof later that the accused knowingly had taken little by little Government's property, as demonstrated by evidences. So, I would like to ask the witness 1 where was he at from January the second until January the fifth of this year in course.

Witness 1: In the office Sir, where I work for the last eight years.

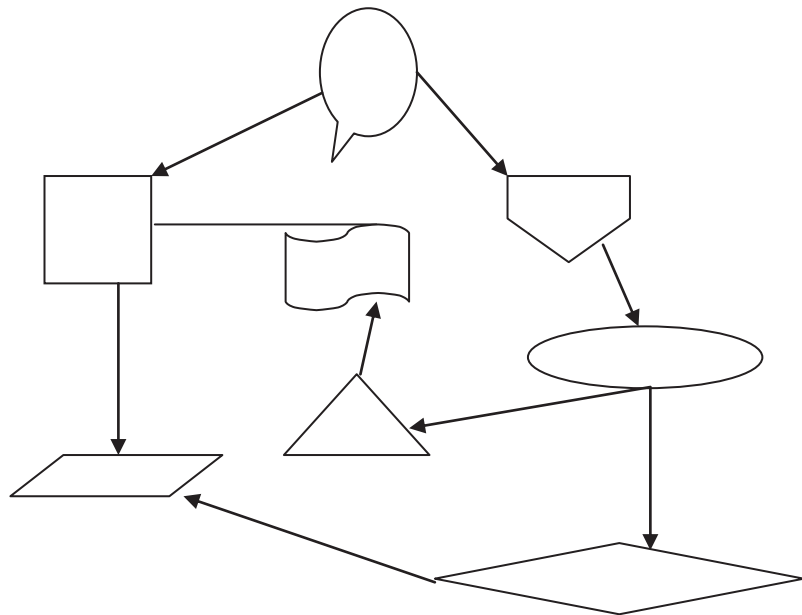
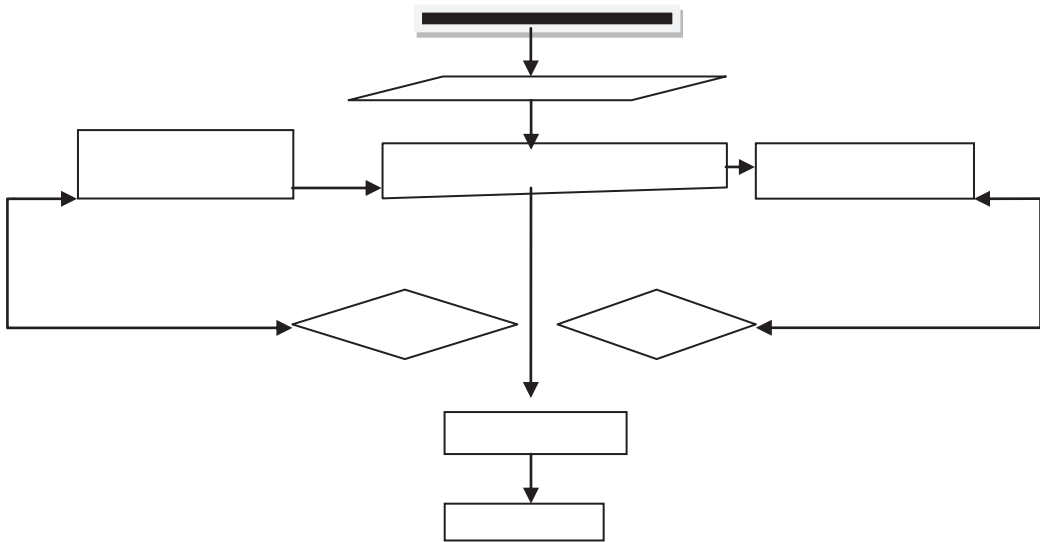
DEFENDANT'S LAWYER: Thank you, District Attorney, for being relevant by asking the witness how long he had been in the office. Your seniority, for logic is easy to see that an employee who works for eight years at the same office, does not want to get in trouble. Witness 2, Do you think the accused was dubiously taken governments property?

Witness 2: Sir, I truly believe in honesty, and the accused was never involved in any illicit.

Accused: As I claimed before, Computing is not a subject I know, therefore to get my everyday job done I had to delegate knowledgeable people to do the task.

Judge: The jury is at recess to come to a final verdict, all parts can go to the respective places.

CREATE



Review of literature

The researchers who first suggested the use of flowcharts to attempt fluency in English were Mohan and Katz. After a discussion of their seminal article, in which it is reviewed some processes alike of programming languages, a brief explanation to detect “If” conditionals, are used to show results at “communicative Competence and Flowcharts”. There will be a review of subsequent literature about flowcharting and communicative competence using languages to be exercised in both written and oral translations after lot of dialogue practice and narration had taken place, getting skills which will be the stepping stones to accomplish the Proposed Instructional Objectives in the Legal Translator Formation in order to execute his/her role at all type of hearings these activities will be registered for further review and constant improvement with short rehearsals and presentations as it is suggested by games oriented to teaching¹⁵ (Allen, 1985).

Another part of the research is an account of how Mohr’s chart could be adapted for using in both written and oral translations approach as well as the analytical study of some illustrative cases where for the lack of evidences had led free some of the most wanted without proper rehabilitation. Once reproduced and acquired, this type of work, it is to be noted in the respective translator Portfolio so to give the translator the feeling of continuity in students’ acquiring of wisdom.

Mohan and Katz, in an article named “Communicative Competence and Flowcharts” describe a change in the purpose of flowcharting to focus in getting English fluency, out from the traditional emphasis on grammatical and phonological aspects, to concentrate on the use of language in real situations such as the ones at challenge in Courtrooms or other daily situations alike practiced at a fine atmosphere plain of tranquillity. Since the standard way of learning is the use of language by dialogue, it is suggested that there should be relevant dialogues at tutoring sessions as a way to construct narratives providing time, place, people,

¹⁵ Sciacca. Michele F. op. cit, p. 91.

what happened and the way the evoker or addressee felt at a particular situation, events eventually might be reproduced within courtrooms as a legal free environment.

J. B. Heaton¹⁶ comments in his memoirs of cultivating translator Competence by saying that passive learning only leads to poor results, focusing in the purpose of flowcharting in getting Competence, out from the traditional emphasis on grammatical and phonological aspects, to concentrate on the use of language in real situations such as the ones at challenge in Courtrooms, where this research focus on. Since the standard way of learning is the use of language by dialogue, it is suggested that there should be more techniques for using dialogues at tutoring sessions as a way to construct narratives providing time, place, people, what happened and the way the evoker or addressee felt at a particular situation, event which might be reproduced within courtrooms but originated at daily present students environment and to accomplish tasks where are to be produced during these sessions for them to be registered at the portfolio ladder as proof of acquiring skills as well as revision.

Research Design

Before beginning this section on descriptive and analytical analysis, it is important to point out that this research deals only with logic of conversations produced at artificial created situations which will be rehearsed at country sides to be reproduced for correction and remodelling. However, it should not be assumed that all conversations are logical. In fact, many conversations are simple exercises in free association with no established form, goal, or purpose other than trying to get information or by mere enjoyment. These free style conversations lie outside the realm of translation instruction; our students can hardly be expected to achieve complete competency for such free-form discussions, as this would entail profound experience within the language and a wide knowledge of various connotation and translator trainees who should be expected to achieve another

¹⁶ J.B. Heaton, "Cultivating Translator Competence, Preparing a Functional Language Course," *English Language Teaching Journal*, 35, N^o.1 (1990), pp. 22-27.

kind of fluency, in which they become able to consciously move a talk in a given direction by building upon what has been said, and reproduce it by following the rules outlined in H. P. Grice in his maxims of quality, quantity, relevance, and manner.¹⁷

The goal, then, of the following activity plan is to impress upon the translator trainee mind a logical strategy which will allow him or her to participate more fully in English conversations. Five steps will be suggested, to lead the translator trainee gradually from an initial encounter with this chart approach to the eventual ability to converse logically without direct reference to the chart. “The information processing model of learning and memory has a cognitive-gestalt orientation and is based on a computer analogy”¹⁸. Therefore this intentional learning will focus on conceptual representation and neural memory trace.

The first step is to familiarize the students with the Mohr discourse chart by modelling. This will be made much easier if translator trainees have had some previous exposure on whether to accept, as can be found in notional textbooks. Before showing students the entire chart, the Instructor should review each of the category labels which appear on the cardboards. This review is best done with reference to examples which show the function indicated by each category. For instance, after an initial statement, “This project will increase understanding”, an example of Agree, Giving Reason would be, “Yeah, there is a need of knowing why the illicit was committed in Ecuador,” here the researcher is taking for granted that the concept of having a developmental project for understanding can include why it was performed in his country.

When individual terms have been gone over and students seem to understand them, the researcher can introduce the chart as a whole. This can be done either on an overhead cardboard or on individual handouts, of both. The advantage of individual chart handouts is that participants can take them home and experiment

¹⁷ H.Paul Grice, pp. 41-58

¹⁸ Sprinthall, Norman, Educational Psychology “ability to think about thinking”, p.328

with them on their own, at the pace they find convenient until grasping the knowledge through over learning. Participants at an advanced level of English, as at the third year students at ESPE, appear to have very little trouble understanding the discourse chart and what it represents. It also seems to catch their interest. The instructor should follow several simple dialogues through the chart to help students see how it works, which depending on their interests it should be tailor made, and the theoretical part practiced at a natural environment¹⁹.

“I Like English”²⁰ textbooks, television and theater screen plays, and cassette recordings of native talk will help for the student to get used to different accents²¹. The Instructor will occasionally need some adjustments to make in these conversations in order that they fit neatly and easily into particular pathways along the discourse chart for subsequent usage. The teacher will find that some of the students enjoy saying the dialogues out loud in order to practice their pronunciation and get feedback from peers.

- **(black)** judge: How did you know SS carry heroin?
- **(yellow)** Accused: express opinion, without reason
- **(orange)** Prosecutor: disagree, without given reason
- **(black)** Judge: ask for reason
- **(yellow)** Accused: provide reason
- **(black)** Judge: disagree with the reason
- **(yellow)** Accused: keep to your opinion and reason
- **(black)** Judge: concede

¹⁹ Delgado, Braulio, *The Magic Class Technique*, Otavalo, Ecuador, p. 36

²⁰ Gay, Kathryn; Sintetos, Lorre Hluchan, *I like English, Book One, Lesson 30, New Ways*, p. 194

²¹ Sprinthall, Richard C. *Educational Psychology, Learning Theory Today*, p.298

Remember the teacher is not a judge, the teacher is supposed to assist students²² in every possible way, if not as might as well teacher should select different career.

This step begins with a five or ten minute lecture in which the teacher clearly and concisely explains Grice's rules of logical conversation.²³

The following is a sample handout for created confrontations. On the back of paper, were given a grading chart founded on Grice's logic of conversation

Question: Who is out there ?

W1: "It's me."

J: Get in. Guess - why you are here, but do not speak, because,...

W1: ahh.

J: "I said to keep your mouth closed!" "Maybe you are right, but I still think you should tell your peers about your undiscovered attitude! Come out from the closet!"

W1: mmm

J: If you do not participate with your experience, you as might as well get out of the program. You are eating our food for free, doing nothing,...

W1 received 20 in the rule categories of quantity, quality, and relevance; fifteen in manner, because his lack of elaboration; and a twenty in his overall adherence to the cooperative principle.

J received 20 in quality and relevance; 19 in quantity, for his first statement fails to provide the reason implied in the use of the adverb, because; a 10 in manner; and a 20 in his overall adherence to the cooperative principle. So, W1 received a total of 95 points out of 100, while J received 89.

In order to prepare assertive theoretical material for different legal tasks subjects there should be defined and separated with an emphasis on special areas of study, so lessons in communication materials might concentrate on 12 language

²² Castro, Orestes, Evaluation Seminar, Cuban Pedagogical Institute, Handout N^o.1

²³ Grice, pp. 41-58

functions to be learned through role-playing and simulation. As most instructors will not have a special training in giving classes, Heaton outlines twelve training units in the course, with each related function, making clear that a single utterance, taken out of context, is open to misunderstanding.

Although these units would seem to be separated out of each classroom language function, Heaton reminds that “the interpretation of a single utterance as fitting into one particular function is impossible, unless the context is known.” For example, in the utterance -Did you hear what I said, Olga Shapiro?- may be a request for information, and attempt to gain the attention of participants, or even a warning.”²⁴

subject	encounter
Tutoring introduction	1st
Polite requests	2nd
Attention Signals	3er
Question Simplification	4th
Acceptation, rejection, correction of responses	5th
Rephrasing and reporting	6th
Oral and written instructions	7th
Allowing permissions	8th
Monitoring understanding	9th
Warning and advises	10th
Cause and effect explanation	11th
Intention, suggestion, probability, speculation	12th

Time table

²⁴ Heaton, pp 22, 24

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