

## **The Lexical Problems of Court Interpreters in a Botswana High Court**

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### **Abstract**

This article explores the lexical problems of court interpreters interpreting from Setswana to English and from English to Setswana in Botswana. Data for the study were collected from audio CDs and transcripts of court proceedings of criminal trials at Lobatse High Court. Among the major findings are the poor interpretation of some of the lexical items in Botswana's elaborate kinship and cattle naming systems into English, and that of certain English legal jargon and slang expressions into Setswana. Evidence of a tacit collective resolve, especially by judges, to ensure that interpreters perform adequately in the Botswana law court exists in the data.

### **Introduction**

The vision of the Administration of Justice in Botswana, 'Access to Justice for All' (Republic of Botswana 2006) is in alignment with two of the pillars of Botswana's Vision 2016: 'A Safe and Secure Nation' and 'A Compassionate, Just and Caring Nation'. In order to fulfil the requirements of these pillars and, thus, ensure justice for all, the Administration of Justice, among other things, offers the free services of court interpreters to its clients (p.1). The interpreter, defined as a person who converts an expression from a source language (SL) into an equivalent expression in a target language (TL) (Morris 1995), acts as a link between the court and the litigants who do not understand one or more of the languages used during court proceedings. The primary role of the interpreter is to enable all accused persons to understand the charges against them and the evidence adduced, or to state their side of the story in a language of their choice. Thus, the interpreter ensures effective communication between litigants, lawyers and the court (Hewitt 1995).

However, the communicative ineffectiveness of some of the interpreters in Botswana's law courts has been noted (Matiki 2010). The inadequate English of the interpreters (Matiki 2010), the pressure under which interpreting is done, and the fact that English and Setswana are typologically unrelated, guarantee that interpretation problems will occur at several levels. These factors provide the motivation to study the lexical problems that interpreters encounter in the Administration of Justice in Botswana. An additional motivation is the need for introspection, in the context of Botswana's golden jubilee independence anniversary (BOT50), about how effectively the Administration delivers its mandate. This will ensure that Botswana charts a new direction that would lead to greater efficiency in its administration of justice.

The research on interpreting is extensive. The aspect on poor interpretation of lexical items from the SL to the TL (McMenamin 1993) usually results from additions to and omissions from litigants' statements (Jansen 1992) and assignments of wrong meanings to lexical items. Samukeheh (2004:25), for example, reports the assignment of the meaning of 'excuse' to that of 'permission' and that of 'too complicated' to the legal jargon *res ipsa loquitur* ('a clear case looking at the facts').

Interpreters also have problems dealing with word relations such as superordinateness (and hyponymy) and ambiguity and synonymy. Eades (1992) provides evidence of the misinterpretation of the Spanish word *lechera*, whose denotative meaning is a cow that produces a lot of milk, but which, metaphorically, refers to a lucky person, and *equipo*, which refers to either a group or equipment.

Similarly, some lexical errors also arise from cross-cultural differences. Such differences are apparent in the areas of metaphor, idiomatic expressions and euphemisms. Moeketsi (1999) shows that among the Basotho, and among the Batswana, as this study will show, the words denoting sex organs, sexual acts, and

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certain other bodily functions are taboo. As a result, many sexual assault victims use lexical euphemisms in their place. The denotative equivalents of penis, vagina and urinate are *bonna*, *bosadi* and *ho rota*, respectively. However, the euphemisms *motsoko*, *kuku* and *ho ncha metsi ka dinoka*, are used instead (Moeketsi 1999).

Euphemisms may be classified as part of *hlonipha* discourse, a highly gendered cultural and linguistic system of respect which exists in most Southern African Bantu language speaking societies (Moeketsi 1999). Thetela (2002) reports that Basotho women who had been raped tailored their narratives to avoid the use of vulgar language; they also gave their evidence in a toned down manner. She also notes that *hlonipha* narratives sometimes led to acquittals of the accused persons even when they had committed the offence. This means that the discourse disadvantages women. Thus, gender inequality is reinforced in the way the legal system deals with rape cases.

With respect to Botswana, the studies on interpreting are of circumscribed quality. Three of them are directly relevant to this study. Essentially, Matiki (2010) advocates the exclusion of English from and the adoption of African languages, especially Setswana, in Botswana's courts. This would, in his view, help Botswana to own their litigation and the Administration of Justice to avoid potential miscarriages of justice due to misrepresentation and miscommunication between litigants and other participants in court proceedings. He rightly points out that when the presiding officers, lawyers, witnesses and accused persons understand Setswana, interpretation from English to Setswana and vice versa becomes unnecessary. The ouster of English from the courts would enable Setswana to develop a legal register. Matiki's reasonable recommendation is worth implementing; however, this has to be done as part of language planning in which the domains of language use in Botswana are properly mapped. In the context of the current pervasive use of English in many official domains, including the law courts, an understanding of the problems that bedevil English to Setswana and Setswana to English interpreting in Botswana needs to be explored.

Ndana's (2008) review of Plaatje's work (1996) further illuminates the discussion. Setswana features prominently in his ideas. The summary of Plaatje's views on the essentials of interpreting are that interpreters should be well versed in all the languages spoken by all court participants, accept the possibility that they could be prone to errors, pay meticulous attention to details, not gloss over or cut short common forensic phrases of court proceedings and strive to be impartial (Ndana 2008). In following these essentials, interpreters would avoid misinterpretations. This is especially important because people's liberty and freedom depend on the interpreters' communicative effectiveness in the courts.

As Nhlekisana (2008) notes, many of the interpreting errors are due to the fact that Setswana and English represent different cultural values, norms and beliefs. Her identification of culture-specific terms and metaphors as creating some of the interpreting problems resonates with the literature on the subject (eg Moeketsi 1999 and Thetela 2002). Such items are difficult to interpret due to lack of equivalence, to be discussed presently, between the SL and TL. Similarly, certain cultural practices, especially the *hlonipha* discourse and the kinship and cattle naming systems, exacerbate the problem. It would be necessary to ascertain the extent to which these cultural systems affect interpreting at the lexical level.

This discussion has shown that court interpreters need extensive knowledge of lexical items and their denotative, contextual, cultural and metaphorical meanings in order to interpret well. Such lexical items should include specialised terms, legal jargon, euphemisms, superordinate terms and cultural terms. The discussion has also shown that although research has been done on court language and court-related matters in Botswana, none has specifically addressed poor interpretation of lexical items, which is the gap that this study attempts to bridge.

### **Lexis**

Lexis, an aspect of form that deals with the relationship between words in a language, is concerned with paradigmatic relations (Berry 1975). Unlike syntax, lexical boundaries are not always precise. As a result,

a flexible, somewhat loose definition of the notion is adopted. A lexical item may consist of a single morpheme, such as 'court', 'leave' and 'old' (Saeed 1997:55) or multiple morphemes, including phrasal verbs, polywords and idioms, for example, 'put off', 'inside out' and 'a bitter pill to swallow', respectively (Baker 1992:34).

Lexical items may collocate. Collocations are words that keep company and give meaning to each other (Baker 1992). This means that they are compositional. They can be either fixed or non-fixed. Fixed collocations become established through repeated context-dependent use. Such fixed expressions take the same order, keep the same company and usually have a single meaning which is not literal, as the following examples show: 'A dog in the manger' (idiom), 'the plot thickens' (proverb/idiom), 'to look into' (phrasal verb) (Obafemi Awolowo University 1987:92). It is clear that the meanings of the above fixed expressions, each of which behaves as a lexical item, do not relate to the meanings of the individual components of the expressions. Interpreters, therefore, need to have a good knowledge of collocations and their meanings in order to interpret well. Collocations that are not fixed are even more difficult to demarcate and interpret, as they allow for substitutions of items according to context (Saeed 1997).

### **Theoretical Context**

Two theoretical/analytical frameworks are germane to this study. The first is equivalence, which is central to discussions on interpreting. Weber's (1984:122) definition of equivalence, 'the degree to which linguistic units can be interpreted into another language without loss of meaning', is similar to Baker's (1992) notion of parity or Cuellar's (2002) closeness in meaning between the lexis and syntax of SL and TL. Most scholars agree that equivalence is almost always partial, and that some interpreting problems originate from this fact.

Pragmatic equivalence is the framework adopted for this study. It is concerned with the speaker's intention in the SL and how it is interpreted in the TL (Baker 1992). It incorporates contextual (Nida 2001) and formal (Nida 2004) equivalence in that it takes into consideration the form and context of a message in order to retain the function of the utterance. This, in turn, means that pragmatic equivalence takes speech acts into consideration. A speech act is an utterance that has a performative function in language and communication (Austin 2005). The speech acts of, among others, promising, ordering, greeting, warning, and inviting are relevant to the current study because they are found in abundance during court proceedings. For example, in the courtroom, the illocutionary point behind cross examining witnesses is often to accuse and confuse them, or trick them into admitting certain statements or confessing. Therefore, the interpreter has to work out the implied meaning in the TL in order to get the SL message across. This ensures that the litigants are not linguistically disadvantaged (Hewitt 1995). Cultural factors are considered in pragmatic equivalence as well (Ingo 1992). In brief, then data for the current study are analysed in terms of pragmatic equivalence by establishing whether speakers' intended meanings are captured in the interpretations.

Systemic Functional Grammar (SFG), the other theoretical/analytical framework, developed by Halliday in the 1960s, views language as a network (or system) of systems (Halliday 1994). Hasan (1976) sees each system, for example, number, person, gender, tense, mood, etc, as a list of choices or competing possibilities available to a speaker in the grammar of a language. From a lexical viewpoint, the relationships of meaning between words are relevant to the current study. This is because in a court setting speakers make use of the options available to them to convey their intended meanings. This means that the interpreter needs to pay attention to the available lexical options in order to interpret well.

Two other important headings underlie the need for the adoption of SFG in this study: its interpersonal function and its use of context. Of the three organisational principles of ideational, textual and interpersonal functions, the interpersonal is the most relevant to this study. It deals with verbal exchanges between people (Berry 1975). This relates to the old concept of register now generally discussed under the

notion of genre. The environments in which people interact determine their register (Eggin 1994). This means that language use differs according to one's situation –the subject of discussion, the interlocutors and the environment –formal or non-formal. Accordingly, court interpreting is not only a highly specialised field, interactions in court are more complex than in an ordinary conversation (Chimombo and Roseberry 1998). In any case, legalese has been acknowledged as a (unique) genre, and those who function in the legal environment, including court interpreters, have to be familiar with the register or genre. SFG, with its notion of interpersonal function, therefore, effectively provides the framework for the discussion of court language and for understanding how effectively the interpreters have performed their duties.

Context has already been mentioned and indirectly explained in the foregoing discussion. This is especially relevant in the discussion of the environment in which language is used. SFG recognises the importance of the immediate and wider situation. The wider situation is best described as everything in the speaker's experience or circumstance that shapes their speech, contribution, or narration of events (Berry 1975). The immediate situation has to do specifically with the courtroom setting in which the interpreting is done. The setting should be such that all the participants in the courtroom are able to hear and be heard and understood. Should the court setting, which is usually an intimidating environment, not be constructed appropriately, any or a number of the litigants may be disadvantaged. All of this ties in with pragmatic equivalence which, as already noted, incorporates both formal and contextual equivalence. In other words, both SFG and pragmatic equivalence take into account the totality of the experiences of the litigants and thus enable interpreters to go beyond surface meanings in their interpretations. It can be said, in conclusion, that SFG provides the metalanguage for describing the data and findings of the study.

### **Data and Data Collection**

With the permission of the Executive Bench Clerk, qualitative data (Walliman 2006) for this study were collected from transcribed proceedings of eight decided criminal cases at the Lobatse High Court. These were murder and attempted murder cases which resulted in seven convictions and one acquittal. The alleged crimes were committed in the period from 2005 to 2010, but the cases were heard in 2011. Criminal cases were chosen because interpreting is done mostly during criminal trials. Such trials involve many witnesses who narrate their stories in Setswana. Civil cases do not often proceed to trial, but when they do, the witnesses are usually experts who can express themselves fluently in English.

The audio recordings in which the original Setswana entries are found are 85 hours long. The transcribed texts which are all in English range between 60 and 265 pages. However, data were collected only from pages 1 to 150 of each of the eight transcribed texts. It is worth noting that the transcribed data are clean in terms of normal non-fluency features such as interruptions and hesitations. This is because court reporters tidy the transcripts, so that Court of Appeal judges can use them during appeal hearings. In all, 39 excerpts constitute the data for the study. However, only nine of them are fully reproduced below. Relevant lexical items (which are underlined) from the other excerpts are used in the discussion when necessary.

The work of eight interpreters was used. Five of the interpreters are BA Humanities degree graduates (G) and the other three are Cambridge certificate holders (C). There are three male (M) and five female (F) interpreters. Only one interpreter who has a BA Humanities degree received formal training in court interpreting; the others were inducted into the job.

Additional demographic information shows that four of the interpreters, one male and three female, are inexperienced (I), with less than five years interpreting experience; three, one male and two female, experienced (E), with five to ten years; and one, male, highly experienced (HE), with above 10 years. Each of the interpreters, for example MCHE (male, Cambridge, highly experienced), is identified when specificity demands it. This coding made it possible to preserve the anonymity of the interpreters

as well as their rights. The confidentiality of the court documents has also been maintained by not taking the CDs and transcripts out of the court premises.

### **Discussion of Findings on the Lexical Problems**

There are two parts to this discussion: the lexical problems that the interpreters encountered, and the manner in which the problems were resolved.

#### *Common Setswana words incorrectly interpreted into English*

Common Setswana lexical items wrongly interpreted into English (Samukeheh 2004) are discussed first. The items show that the interpreters have a shaky knowledge of English (Matiki 2010) as well as Setswana. Consider the word *mme* in the excerpt below:

#### Excerpt 1

Witness: *Ke ne ka bolelela bongwanake gore ke ene mme yo ke nnang le ene* (I told my children that she was the woman I was staying with).

FGE: I told my children that she was the woman I was staying with.

Judge: Do you mean that you were having a romantic relationship?

Witness: *Ee*. (Yes).

FGE: Yes

FGE interprets *mme* (denotatively, woman) which, in the excerpt means 'lover' or 'girlfriend', as 'the woman I was staying with', thereby misrepresenting the witness's testimony. Similar misinterpretations, due mainly to lack of contextual considerations, are those of *kukegile*, interpreted by MGE as 'arrogant' instead of 'angry'; *logong* by MGI as 'wood' instead of 'stick', and *molato* by FCE as 'sentenced' instead of 'convicted'. The consequence of such misinterpretations could be devastating. For example, if the accused in Excerpt 1 was found guilty, the crime would not be described as passion killing, a crime committed mainly by men who are emotionally unhappy or frustrated in their love relationships. In consequence, the accused was likely to have been sentenced to death. Therefore, context, as the theoretical context shows, is important during interpreting (Dodkins and Maripe 2005).

Other similar misinterpretations could also have negative consequences. To say that the deceased was arrogant rather than angry at the time of the altercation is to put the blame for the fight on the deceased, and thus, inadvertently, earn a lesser conviction for the accused. The wrong lexical choice 'stick' for Setswana *thupa*, instead of 'wood', would benefit the accused person whose culpability might be minimised because a stick is smaller than a piece of wood. The judge might infer that the accused meant no harm by using a stick to beat the deceased. In view of the foregoing, it is necessary to question the competence of the interpreters in both English and Setswana because fluent and native speakers of Setswana are not expected to make the misinterpretation errors of the type noted here.

#### *Words without English or Setswana equivalents*

Items that have no equivalents in either English or Setswana are the next set of lexical interpreting problems to be discussed. Here is an example of the category of English words without Setswana equivalents:

#### Excerpt 2

Expert Witness: Apart from the clothes, I seized a small white plastic bag and an uncovered condom which had some blood stains.

MCHE: *Kwa nteng ga diaparo, ke ne ka tsaya plastic e tshweu, le sekausu se se phutholotsweng*

*se na le madi* (Apart from the clothes, I took a white plastic bag, and an uncovered condom which had some blood stains).

The problematic lexical item is ‘plastic’, which further investigation revealed has a Setswana loan equivalent, *polaseteke*, which the interpreter (MCHE) did not know. Other words that have no equivalents include ‘maroon’, ‘airtime’, ‘pre-trial’ and ‘objection’. The interpreters repeated each of the words, except for ‘objection’, which was unsatisfactorily interpreted as ‘This is unacceptable’ (MGE). The use of the loan word *polaseteke*, and another, *merune* (for maroon) would have been acceptable, as other interpreters have deployed loan words successfully while interpreting.

It is well known that colours are lexicalised differently in different cultures, and therefore, constitute a field in which interpreting is problematic. Setswana’s four primary colours of *bontsho* (black), *bosweu* (white), *bohibidu* (red) and *borokwa* (brown) (Cole 1955) are fewer than the English seven. This potential conflict area is exacerbated by the secondary colours, of which maroon is one. A secondary colour such as *botala* in Setswana creates a challenge because it has two possible English terms, blue and green, which often create confusion (Cole 1955). The interpreter FGI failed to interpret the colour maroon in Setswana due to the Tswana colour concept which has no equivalent term for it. *Bohibitswana* (light red/pink) or *bohibidu jo bo mokgona* (dirty red) could have been used.

*Tshumu* in the following excerpt is an example of the category of Setswana lexical items that supposedly have no English equivalents:

Excerpt 3

Witness: *O ne a re ke utsule kgomo ya gagwe e tshumu, ke sone re loleng* (He alleged that I stole one of his beasts (specifying its colour), that is why we fought).

FGE: He alleged that I stole his tshumu beast that is why the fight ensued.

The word relates to colour, which has already been discussed. As Otlogetswe and Bagwasi (2008) have noted, the cattle colour system in Setswana is very complex. It involves shades of colour and their combinations with other colour patterns. The colour patterns are familiar to a small population of the older generation and herd boys but unfamiliar to the younger generation and urban dwellers. The label *tshumu*, for example, means a white patch on the forehead of a bull (Otlogetswe 2012). For a cow, the label changes to *tshunyana* (Kgasa and Tsonope 1998). A white patch on the forehead of a cow with a black colour on the side of its stomach elicits the label *tshumu phifadu* (Otlogetswe 2012). When the white patch occurs elsewhere on cattle, together with various colour patterns, the labels change. The same labelling procedure is triggered for other colours that appear in different parts of cattle’s bodies together with their colour combinations or patterns. There are thus numerous labels for cattle colours which require specialist knowledge to interpret into English. The failure to interpret such cattle colours accurately and the failure of some judges to appreciate nuanced differences in the colours often lead to wrong verdicts. This is why there are now special courts that deal with stock theft in the Administration of Justice in Botswana.

Other similar Setswana words that the interpreters could not interpret include *dikokobele*, *molala*, *sekweejane* and *loso*. The interpreter FCI failed to distinguish between *phitlho* (‘funeral service’) and *loso* (‘bereavement yard’). The judge intervened to set the record straight and make things clear by pointing out that the pragmatic meaning (‘the yard where someone died’) was needed. If this went on record unrecognised, there would have been confusion as to whether the witness was talking about the grave yard or the yard where a death occurred. The interpreter, therefore, needed to be very careful when dealing with words with multiple meanings and to seek clarity in order to ascertain the speaker’s intended meaning.

The data has shown that Setswana terms referring to cattle colours, insects, social events and other

terms used daily often cause problems for interpreters either because they have no equivalents in English or have multiple meanings, or because the interpreters do not know the equivalents. This indicates, to some extent, that some of the interpreters were incompetent.

*Setswana kinship terms and euphemisms*

We now discuss lexical errors arising from the use of euphemisms and the misinterpretation of Setswana kinship terms into English. It is clear in this study that some kinship terms pose problems because they have multiple meanings, some of them dialectal, which confuse some interpreters. Examples of these, as shown in Cole and Moncho (2012), include: *rremogolo* ('paternal uncle', i.e., older brother to father, or paternal or maternal grandfather), *rrangwane* ('paternal uncle', i.e. younger brother to father), *rakgadi* ('paternal aunt'), *mmangwane* ('maternal aunt', i.e., mother's younger sister), *mremogolo* ('maternal aunt' i.e., mother's elder sister, and paternal or maternal grandmother, in some dialects) and *malome* ('maternal uncle'). The following example illustrates the problem:

Excerpt 4

Prosecutor: Do you know the complainant?

FCI: *A o itse mongongoregi?* (Do you know the complainant?)

Witness: *Ke ngwana wa ga rremogolo* (She is my grandfather's child.)

FCI: Yes, she is a child to my grandfather.

Judge: *Rremogolo* meaning your father's elder brother or your father's father?

Witness: Yes, her father and my father are siblings.

In the excerpt, the interpreter FCI interpreted the term *rremogolo* (also *ntate mogolo*, in some dialects) as 'grandfather', which is the common understanding of the term in Setswana. However, the term is ambiguous. In some dialects it means 'uncle', that is, one's father's older brother; in others, it means 'grandfather' i.e. maternal or paternal grandfather (Molalapatla 2004). In the case of a paternal uncle, Setswana also distinguishes between older brother to one's father (*rremogolo*) and younger brother to one's father (*rrangwane*). The interpreter did not articulate these nuanced differences in the meanings of the terms. As the term may also be conflated with *rrangwane* (paternal uncle i.e. younger brother to father), this makes it even more difficult to interpret.

As already noted, interpretation errors also arise from the use of euphemisms in English and Setswana. However, they are commonly used by female victims of sexual assault to avoid explicitly describing sexual acts. This is not surprising as sex matters are treated as taboo in Setswana culture (Moeketsi 1999 and Thetela 2002). The objects that attract the frequent use of euphemisms are genital organs, sex and sexual secretions. Consider Excerpt 5:

Excerpt 5

Complainant: *Fa ke sena go apola jaaka a ne a mpoletse o ne a dirisa bonna ja gagwe mo go nna gape* (After I had undressed, as he had instructed me, he used his manhood on me again).

FCI: After I undressed all of my clothes since he told me to undress my clothes, he used his genital parts again.

Judge: You know in Setswana we have a way when we try to make a language polite but when we are in court we call a spade a spade.

Complainant: *O ne a dirisa bonna ja gagwe.* (He used his penis).

FCI: He used his penis.

Judge: Meaning?

Complainant: *O ne a nthobala*. (He had sex with me).

FCI: He had sexual intercourse with me.

In the excerpt, the interpreter FCI gave an imprecise interpretation of the complainant's testimony in the rape case because the witness used euphemisms. Thus, rape or forced sexual intercourse (*nthobala*) is euphemistically described as the use of 'manhood', 'genital parts' and 'penis'. Similar euphemisms include *bonna*, which is ambiguous, as it can be interpreted as 'manhood' or 'masculinity' or (as a euphemism for) 'penis'. *Motsoko* (cigarette) is another euphemism for penis. Ejaculation is euphemistically referred to as *rotela* (urinated) and *arabiwa* (he was answered). *Bosadi* (womanhood) is used as a euphemism for *kuku* (vagina). However, *kuku* also means cake and this makes the word ambiguous. *Mae* (eggs) is a euphemism for *marete* (testicles). Moeketsi (1999) rightly argues that the use of euphemisms impacts negatively on the outcome of a case; it gives the judge a wrong impression of the situation since it tends to soften any violence involved in the act.

The avoidance of explicit terms in rape cases in Botswana courts is a cultural issue – part of the *hlonipa* discourse discussed in the literature review part of the Introduction to this paper. It may be argued that the interpreters are aware of commonly used euphemisms related to sex and sex organs and their meanings, and that this should enable them to interpret correctly. However, the interpreters who are fluent Setswana speakers were also bound by their culture and thus provided literal rather than culturally and pragmatically nuanced interpretations. As a result, the interpretation resulted in obscure meanings and confusion.

### *Slang expressions*

Slang expressions are the next set of interpreting problems to be discussed (see Alimi and Arua 2008). They are not easy to interpret because the expressions and their meanings are normally restricted to a particular group of people or generation. Three examples are: *ma 14* (teenagers or youngsters), *manyora* (thugs) and *metsi* (alcohol). Excerpt 6 below provides the context in which *ma 14* is used:

Excerpt 6

Witness: *O ne a sa thole a nthata a re o bone ma 14* (She did not love me anymore and was now pursuing youngsters).

FGI: She was no longer interested in me.

Judge: What does *ma 14* mean?

Witness: It refers to teenagers My Lord.

In the excerpt, the interpreter FGI avoided giving the equivalent of *ma 14*. In this case, she was trying to avoid using the slang term in order to formalise the witness's style of speech, a decision which was improper because it amounted to an omission of a part of the testimony. Similarly, the meaning of *metsi* as alcohol not water and *manyora* as thugs also needed to be properly recorded, not avoided, for reference purposes, among other things.

Witnesses try to be formal in their speech in court. When they fail, interpreters attempt to help them formalise their language, thereby leading to interpreting errors. It would appear that insisting on the use of formal language in court, which is a formal setting, may help to eliminate problems in interpreting slang language.

### *Legal and technical lexical items*

In this section we discuss interpreting problems arising from legal and technical language. In the legal

domain, Latin terms, especially archaisms, are the most problematic. Because Setswana does not have equivalents for them, the interpreters struggled to interpret those used during the proceedings. *Mens rea*, as in the extract below, is used for illustrative purposes:

Excerpt 7

Judge: Was there *mens rea* in the accused's actions?

FCI: *A mosekisiwa o ne a dira molato?* (Was the accused committing a crime?).

Judge: *A se mosekisiwa a neng a se dira se ne sele ka fa molaong?* (Was there a wrongful intention in the accused's action?).

The excerpt shows that the interpreter FCI did not understand the legal term *mens rea*, so the judge explained it to her. Yet the severity of a sentence, should the accused be found guilty, depends on whether the alleged crime was intentionally committed or not. Many other legal terms also highlight the interpreters' weakness in this area. There was a constant struggle to interpret legal terms such as *status quo*, 'plea' and 'malice aforethought'. Confusion also arose from the lack of understanding of legal terms that appeared to the interpreters to be partially synonymous: 'warn' (*tlhagisa*) was misinterpreted as 'charge' (*lebisa*) and 'manslaughter' (*polao e se ka maikaelelo*) as 'murder' (*polao ka maikaelelo*). The item *actus reus* proved too difficult to interpret and the judge charged the attorney to explain it to his client. It is clear then that court interpreters have to deal with legal jargon which creates a challenge for them, as they are not trained in Law.

In addition to this specialised language of the court, technical terms from fields such as the military, forensic science and pathology also pose problems to the interpreters, as the following illustration shows:

Excerpt 8

Witness: Some samples of genital swabs were taken from both the accused person and the deceased for forensic analysis.

MGI: *Go ne ga tswewa diswab mo go mosekisiwa le moswi go ya go sekaikiwa ke baitsaanape.* (Genital swabs were taken from the accused and the deceased and submitted for forensic examination).

Correct interpretation: *Go ne ga tsewa matute a go tholwang malwetse mo go one ke ba bongaka go ya go kanokwa ke baitsaanape.* (Genital swabs taken from the accused and the deceased were submitted for forensic examination).

Judge: Due to the unavailability of an equivalent Setswana term for genital swabs, I will allow the interpreter to use it for purposes of these proceedings.

The judge noted the unavailability of an equivalent Setswana term for 'genital swabs' and allowed the interpreter to use the original English word in the interpretation. Besides 'genital swabs', there were other technical words that posed problems for the interpreters: 'armoury' (storeroom where firearms are stored), 'magazine' (part of a gun), 'DNA' (deoxyribonucleic acid), which was left uninterpreted, and 'haemorrhage' (loss of blood). This last entry was misinterpreted as 'grievous bodily harm'.

In conclusion, we have shown that kinship terms, lack of equivalent terms between languages, wrong lexical choices, unknown terms, euphemisms, legal jargon and technical terms are some of the lexical challenges that both male and female and experienced and inexperienced court interpreters face. In the next section, there is a brief discussion of how judges intervened when interpretation problems were identified.

### Resolving the Interpreting Problems

Part of the reason for the concern for the accurate interpretation of lexical items is the preservation of the integrity of the justice system (Plaatje 1996). Records which are used for reference, especially at the Court of Appeal, should accurately reflect the proceedings of the courts. It is for this reason that litigants and court officials – judges, witnesses and attorneys –intervene when they believe that facts have been misrepresented or misinterpreted. This section, however, examines only the judges' interventions.

The judges' interventions included seeking clarifications on and correcting misinterpreted items, and seeking consensus on the meanings of certain lexical items. The next excerpt illustrates this last point:

#### Excerpt 9

Witness: *O ne a ta a kukegile fa ke leka go bua nae* (He was furious when I tried to talk to him).

MGE: He was arrogant when I tried talking to him.

Prosecutor: I think the term angry will be more suitable under these circumstances.

Judge: Any objection?

Defence Lawyer: No My Lord.

Here the judge got the defence lawyer to agree to the correct interpretation 'angry' rather than 'arrogant'. Similarly, the judge recognised that some lexical items did not have equivalents and thus allowed them to be used as in the SL. This is clearly indicated in Excerpt 8 when the judge asserts: 'Due to the unavailability of an equivalent Setswana term for genital swabs, I will allow the interpreter to use it for purposes of these proceedings'.

In some instances, the difficult nature of interpreting and the unavailability of time to dwell on the possible correct interpretations forced the judges to move the cases forward without immediately resolving the problem of meaning: 'For the sake of time show the witness the gun and let the word magazine just be left as magazine in the interpretation'.

Above all, the judges were concerned that correct interpretations should be properly reflected in court records. This might mean that interpreters would need to research the correct meaning of the item(s) after court proceedings. In such cases, the judge's pronouncement is unequivocal: 'The term will be researched and put on record at a later stage for the sake of progress'.

The brief discussion in this section has two important implications. The first, academic, is that it shows that the interactional aspect of court interpreting can be a fruitful research area. The second, administrative and pragmatic, is that it presents the picture of a system of justice not only at peace with itself, but one that also supports the BOT50 message of Botswana as a 'proud and united nation'. This is apparent in the interactive harmony evident in the manner in which the linguistic and \*interpreting problems identified in this study are resolved in the midst of court processes and even after court proceedings have come to an end.

### Conclusion

The paper explored the lexical problems encountered by interpreters in a Botswana law court. The findings of the study reveal that interpreters found it difficult to interpret kinship terms, English and Setswana words without equivalents, euphemisms, slang expressions, legal jargon, and technical terms. The findings also indicate evidence of interactive attempts at resolving identified interpretation problems.

To make the data more representative, future research on court interpreting in Botswana should use more cases from different locations, observe court proceedings and seek, using questionnaires and interviews, the opinions of judges, lawyers, litigants and interpreters. Focus on interactional discourse in the court environment, as already indicated, and the acceptability of new Setswana terms as part of Botswana

legalese, should be major research undertakings.

Finally, three salient recommendations are noted here. The first is that interpreters need continuing (socio)linguistic/legal education, in line with the national Vision 2016 pillar that advocates that Botswana should be an educated and informed nation (Republic of Botswana 1997). That interpreters are unfamiliar with some of the recent English to Setswana loan words identified in this article is a sad commentary on how little has been done to ensure their continuing education. In other words, being an informed and educated nation should, directly or indirectly, be part of the new vision for Botswana. The second is that the interpreting code of ethics needs to be reviewed. When faced with unknown terms during court sessions, interpreters should be allowed to use reference materials, preferably online dictionaries that can be consulted quickly. The third recommendation is that new Setswana phrases equivalent to legal and archaic English phrases should be developed and adopted in the legal system to avoid incomplete interpretations. Should all of these recommendations be implemented, then this study, which is part of Botswana's 50<sup>th</sup> anniversary of Independence celebrations, would have succeeded in charting a new direction that would lead to the greater efficiency of the Botswana Administration of Justice.

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