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# Communication Strategies for Language Access in Courts

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## ABSTRACT

Language access in court systems is an essential element of justice, ensuring that individuals with limited English proficiency (LEP) and Deaf individuals can fully understand and participate in legal proceedings. This paper explores comprehensive communication strategies aimed at improving language access in courts, including interpreter services, bilingual personnel, technological innovations, community outreach, and cultural competence. It discusses the legal frameworks underpinning language access, such as Title VI of the Civil Rights Act and the Court Interpreters Act, and identifies persistent challenges like underfunding, interpreter shortages, and reliance on untrained personnel. The study highlights best practices from international and domestic jurisdictions, emphasizing the need for inclusive, culturally responsive, and technologically advanced communication approaches. Ultimately, effective language access promotes fairness, transparency, and legitimacy in the justice system.

**Keywords:** Language Access, Court Interpreters, LEP (Limited English Proficiency), Judicial Communication, Title VI, Cultural Competence, Legal Translation, Bilingual Personnel.

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## INTRODUCTION

Language access entails the capability of courts to offer services in multiple languages and the communications directed at potential court users that alert them to these capabilities, explain how the public can utilize them, encourage their use, and present the courts as legitimate institutions of justice. Language access is a matter of communication with court users, defined both narrowly (petitioners, litigants, defendants) and broadly (court employees, witnesses and other participants, and the public). In fact, poor communication can profoundly undermine the quality of justice that a court provides. Language access encompasses more than mere translation. Fundamental to communication strategies for language access is an understanding of the diversity of the court's potential language users and the types of communications that will help explain the court's work and promote its legitimacy. Courts, as formal organizations, communicate in two primary ways: with the public and those served, and internally with employees. The first involves public information and messaging, which Senators Charles Schumer and Ted Cruz (who introduced the Senate Resolution 414 establishing Language Access Month in the Courts) termed as communicating to "tribes" of special need. Internally, courts share information with their employees and among those at the front line who deal with the public or those served in various Latino cultures, customs, and beliefs [1, 2].

### Importance of Language Access

Language access is crucial in all court communication. Without interpreters, people who do not speak English well, and Deaf people, face two main problems. First, they cannot talk to court staff or judges about their case. Second, they cannot understand what is happening in court. Court communication does

not even have to be in English. For court communication to be accessible, courts must provide interpreters and ensure that other communication forms are accessible. The term 'language access' in this article 'means that all court communication is in a person's language or mode of communication.' The need for language access is not limited to court hearings. Courts use many different types of communications other than court hearings. Some examples are issuing orders and notices for cases, responding to questions, and telling people the rules for staying safe. Language access in these communications helps people understand and participate in all parts of the court process [3, 4].

### **Challenges in Language Access**

Numerous problems related to language access remain prevalent even in jurisdictions that have made significant and commendable efforts to improve communication within the courtroom setting. These issues largely stem from the inability of courts to provide qualified interpreters in a timely and efficient manner, which ultimately subjects defendants to prolonged pre-trial detention and severely hinders prosecutors' operations. The lack of adequate interpretation services also significantly impedes attorneys' ability to effectively communicate with non-English-speaking witnesses, which can lead to substantial misunderstandings and complications in legal proceedings. Consequently, detainees often feel compelled to abandon their claims or to plead guilty, leading to their removal from the normal flow of the criminal justice system and adding further strain to an already overburdened system. These pervasive problems continue to exist despite the creation of court-certified interpreter panels, which have been established with the intention of controlling the number and quality of interpreters available in professional jurisdictions. The underlying issue remains the insufficient investment of governmental resources allocated to interpreting services, regardless of whether these essential services are delivered by freelancers or agencies that specialize in language interpretation. This continued underfunding exacerbates the existing difficulties and fails to address the urgent needs of both defendants and the legal system as a whole [5, 6].

### **Legal Framework for Language Access**

Title VI of the Civil Rights Act of 1964 is the founding legislation that prohibits discrimination on the basis of race, color, and national origin by recipients of federal financial assistance. Because language-ineligible speakers are often members of protected groups, denial of language services for LEP speakers constitutes national origin discrimination and violates Title VI of the Civil Rights Act. Recipients of federal financial assistance, including courts, must take reasonable steps to ensure meaningful access to their services and activities for language speakers whose primary language is other than English. The federal government has also demonstrated its commitment to providing language access services in the courts through the enactment of the Court Interpreters Act of 1978 and the Omnibus Crime Control and Safe Streets Act of 1968. The former requires that interpreters be provided in federal courts and certified for those courts. The latter provides assistance to states in the development of programs for the improvement and enhancement of court interpreter services for LEP defendants in state courts [7, 8].

### **Best Practices for Communication Strategies**

Ideally, courts and tribunals should hear witnesses and parties in their mother tongue and provide professional interpretation. When the court's language is Indonesian and the witness or party speaks a local language or regional dialect, an interpreter must be appointed, in line with applicable laws and decrees. If parties are unable to communicate in Indonesian, trials can be conducted in other languages, with the assistance of official interpreters for simultaneous interpretation. Language can serve as a barrier to accessing justice, infringing on the right to a fair trial. In several African countries, post-conflict populations suffer from linguistic disadvantage, necessitating the consideration of multilingualism. A study in South Africa concluded that effective communication is essential to a fair trial; withholding one's language is akin to withholding evidence. Democracy depends on the acceptance and promotion of all linguistic and cultural groups. A 2003 committee recommended allowing official summonses to be issued in a person's preferred language or dialect requested, with provision of interpreters and use of the court's language of record. That preferred language could be any official language in the jurisdiction. The court could deliver judgment in any language, with written or oral translation into the language of record if requested. A dissenting opinion emphasised the practical need to use English as the court's working language but supported the provision of translation facilities. Implementation of the Language Implementation Plan and proper training for court interpreters are crucial, with courts encouraged to operate in indigenous languages where possible to ensure culturally appropriate and comprehensible communication [9, 10].

### **Interpreting Services in the Courtroom**

The United States Constitution forbids Congress or the states to "abridge" the right of people to complain about their government or society. Protesters at the state level can therefore be confident their

speech will be protected, right? Well, maybe. It depends on where they want to protest and how many public safety officers are present at the event. In *Trunk v. City of San Diego*, the Ninth Circuit addressed a controversial law that allows state and local governments to claim up to \$28,791 per day in reimbursement for overtime wages that must be paid to deputies because of a public event. The Court ruled that the City of San Diego's attempt to put such a fee on a private peaceful protest violated the First Amendment. The story begins when Eric Trunk, a veteran of two wars and Cowles Veteran of the Year for the City of San Diego, tried to organize a public gathering. The gathering was to protest the City of San Diego's plans to tear down a veteran's hospital and promised one state senator would attend the event to bring public attention to the issue. He was back at the park the day the City of San Diego commemorated the 9/11 Memorial Groundbreaking Ceremony with a public event of about 500 attendees, when he was told protesters must pay for the overtime costs of all public safety officers who are required to be present. Eric Trunk was told protests had to pay the costs because the City had to pay public safety officers their overtime wages when they worked at public events such as protests. The fee was \$16,183.50, representing the calculated overtime wages of 351 public safety officers to protect the two people protesting during sanitary sewer repairs [11, 12].

#### **Bilingual Court Personnel**

A court may appoint bilingual personnel at the clerical level to serve non-Judicial functions involving communication with non-English-speaking parties. Court officials and employees should have the linguistic competence, cultural sensitivity, and confidentiality to gather, relate, or use information from or for the public. Another person who holds the same position may provide interpretation for court proceedings where there is a pressing shortage of interpreters. Such responsibility must be incidental to the official functions of the employee and not require any additional compensation. Under no circumstances may an employee undertake to interpret for his or her own case without the court's explicit permission. Court personnel who undertake interpretation without counsel's consent, may expose the court to serious allegations of breach of fair-trial rights. Employees may, however, be required to interpret for official communications of a purely administrative nature. If the court is left with employees who speak only English, the use of family members and other unqualified persons to provide the limited translation services is permissible, but only in administrative and nonjudicial functions. The discretion of the courts in those circumstances becomes one of assessing relative risk between the undesirable of using an untrained family member and the indisputable unfairness of proceeding without any language assistance [13, 14].

#### **Use of Technology in Language Access**

With the rapid rise of digital wireless broadcasting, there has been a renewed interest in using high-speed data for broadcasting applications. At the same time, digital over-the-air broadcasting has become a deeply entrenched technology in countries around the world. Using the results of theoretical investigations on the use of high-speed data for point-to-point transmission, Khosravi and Rashid-Farrokhi show that it is possible to use digital-TV signals in order to broadcast data over a country or a large region. Such a mechanism allows Internet connectivity and other high-speed data services to unserved or underserved populations not only in urban but also in rural and other remote areas. U.S. courts use many forms of technology in providing language access, including telephonic interpreting services, video-remote interpreting, video conferencing for witness interviews, and webpages providing information in multiple languages. The World Languages and International Services Unit of the Administrative Office of the U.S. Courts manages these efforts. National contracts for telephonic interpreting support courts across the nation and provide interpreting for both criminal and civil court proceedings in 350 languages [15, 16].

#### **Community Engagement and Outreach**

Community engagement and outreach efforts help courts reach LEP individuals who might not fully access language services. Nontraditional venues like health fairs offer convenient opportunities for those needing services. This outreach is vital for vulnerable groups, including immigrants, trauma survivors, and those with disabilities or distrust of government. It is essential to tailor outreach to community needs and preferences. Early termination of community surveys may result in LEP individuals with special needs being overlooked. Additionally, using interpreters and translators is just one aspect of language access services. Courts should implement diverse communication methods, as illustrated by law enforcement's varied media, including interviews, pamphlets, public service announcements, and online resources. Custom-tailored communications in different languages can enhance public understanding of the court system, foster trust, and increase awareness of available resources. For effective outreach, select

a venue like a police station and a cohort such as a large immigrant community to assess communication methods [17, 18].

### **Cultural Competence in Legal Settings**

The United States population includes many people who do not speak English fluently. In law, such language difference presents complex problems. Because language is a fundamental aspect of culture, issues of linguistic difference also call for cultural sensitivity; cultural difference may be as critical as language difference in addressing the needs of lawyers and clients. These problems arise in a variety of settings, but are of particular pungency in litigation, and are especially salient in courtroom litigation. The foremost challenge of lawyering across language difference lies in effectively addressing the needs of the non-English-speaking client. A number of questions arise in this regard: How does the role of the interpreter fit into the established structure of the lawyer-client relationship? Should the interpreter be serving as an advocate for the client? Should the interpreter act as her guardian, or a gatekeeper to information? For whom does the interpreter work, the lawyer or the client? How do gender, class, and social status affect the relationships among the student-lawyers, the interpreter, and the client? Why is it that the client speaks so little in this exchange? How can her voice be amplified? How does the involvement of the interpreter affect her sense of autonomy? Addressing such questions requires an understanding of how language difference impacts courtroom interpretation, cross-cultural lawyering, and the modification of basic lawyering skills to accommodate language differences [19, 20].

### **Training for Legal Professionals**

Courts often sponsor training programs to equip judges and parties with effective communication skills for proceedings involving LEP litigants. The use of interpreters can raise a wide range of issues related to confidentiality, role boundaries, access, and interpreter selection. To address these issues, courts can rely on guidelines such as the Best Practices Manual for Court Interpreters, which focuses on providing all participants with job-specific training about the role of Court Interpreters; the Code of Ethics for Court Interpreters; and the Court Interpreter Standardization Project. Judges and parties must also be made aware of the types and limits of the services they are entitled to receive from an interpreter. Examples of courts' instructions to parties include the admonition not to engage in side conversations with the interpreter, and to ask only one question at a time. The LEP party, for example, should be advised that he or she: (1) can remain silent if questioned by the opposing party; and (2) should direct all questions and arguments to the Judge, and not to the Court Interpreter. Additionally, court rules often specify how adverse parties are to secure interpretation services for any witness they may choose to call who has limited English proficiency. Training programs seek to make judges and other parties aware of these rules [21, 22].

### **Evaluation of Language Access Programs**

The evaluation of language access programs can be undertaken with various methods and techniques, including surveys, interviews, focus groups, customer satisfaction tracking, periodic collection of feedback, and post-task reviews. The interest of the user should be understood from documents, e-mails, or preliminary discussions. The evaluation takes the form of an assessment of the institutional needs, the existing resources, and the desire to maintain or improve the language access program. Measures and methods also provide a useful way of managing a program through the varying needs that different users express, which reflects the need to appoint interpreters or translators, supply bilingual staff, or provide administrative assistance. "Determining the value of the language service" collates eleven questions for collecting the necessary facts to begin program assessment. The following items indicate the areas on which to concentrate for a thorough program check: costs, services, clients, requests, quality of communication, staffing, vendors, maintenance, intralibrary, and evaluation [23, 24].

### **Case Studies of Successful Language Access Initiatives**

Beyond the federal language access initiatives mandated and managed by CLS, many courts across the Nation have made exceptional strides toward language access. Levels of good practice vary greatly from one court to another. Some promising cases have been examined intensively by the Gellhorn-Sargentson Language Access Project of the Justice Management Institute. These studies provide many concrete examples, detail the requisite planning and resource commitments, and document specific results. The following is a synopsis of one of the case studies that outlines the planning process, implementation requirements, and achieved outcomes. The Administrative Office of the Courts of the State of Washington, working with other branches of State Government, developed an integrated language-assistance system used for criminal, civil, and traffic matters. A central feature of the Court Interpreter Program (CIP) is the digitization of courtroom proceedings. The Court Utilization of Sound System Technology project employs real-time captioning of court proceedings. The goal of this project was to

make court services in Washington State accessible to all non-English-speaking and hearing-impaired citizens [25, 26].

### **Future Directions for Language Access in Courts**

Representing clients who are linguistically different requires a thoughtful and comprehensive modification of vital legal skills at every stage of the practice. This encompasses crucial areas that include not just investigation, but also effective client contact and communication, advanced interviewing techniques, and providing sound, informed advice. Moreover, effective counseling and negotiation strategies become imperative in this context, as they must be adapted to ensure clarity and comprehension among clients from diverse linguistic backgrounds. Additionally, briefing skilled interpreters is essential, as is thorough preparation for cases, and ensuring that all appearances are appropriately managed in court settings. Furthermore, the rapid evolution of computer technology in recent years may present new opportunities for enhancing communication across different languages within the court systems through innovative and tailored information technology solutions. Beyond technological advancements, it is important to recognize that language rights form a critical component of a broader framework of human rights. The policies adopted by the courts regarding language usage often reflect deeper underlying assumptions about the essential purposes and roles that language holds within the legal context. These varied factors combined underscore the significance of ensuring that all clients, regardless of their linguistic background, receive not only fair representation but also unimpeded access to justice in legal proceedings. By prioritizing these modifications and considerations, the legal profession can move closer to achieving an equitable system that respects and accommodates the diverse voices of its clients [27, 28].

### **Policy Recommendations**

Policy recommendations aimed at significantly increasing the use of interpreters within the judicial system must begin with the establishment of well-defined protocols that clearly outline who qualifies as a language-minority individual. Additionally, it is essential to specify the circumstances under which an interpreter is to be provided for those individuals. To ensure the integrity of the interpretation process, effective checks need to be firmly in place to verify that individuals granted interpretation services genuinely require them. This means preventing situations where, for instance, persons are receiving free interpreting services when they are, in fact, fluent in the language being spoken in court, thus wasting valuable resources. Furthermore, judges must be equipped with comprehensive and clear guidelines regarding the proper course of action when a defendant explicitly refuses to proceed without the presence of an interpreter. Once these protocols are adequately established and implemented, judges and court officers will have little discretion to deny the provision of interpreters in cases where they are clearly needed. In addition to clear protocols, it is equally important for judges and court officers to undergo extensive training focused on effectively assessing the need for an interpreter. In scenarios, where it is determined that an interpreter is indeed necessary, training should also include thorough guidance on how to properly implement this decision in the court setting. Without the establishment of such robust policies, the initial screening questions aimed at identifying language needs fall short of serving the interests of justice. In the absence of adequate support through training and well-defined guidelines, initial screening procedures cannot sufficiently safeguard the rights of litigants who have limited proficiency in English. This is particularly concerning as it directly jeopardizes their fundamental right to due process an essential consideration given the substantial number of court cases that involve litigants who may not speak any English at all. Therefore, concerted efforts to establish these recommendations are crucial to ensure language access and fair treatment within the judicial process [29, 30].

### **CONCLUSION**

Effective language access is not a peripheral issue but a core element of justice. Courts must go beyond basic translation to implement comprehensive communication strategies that include legal compliance, professional interpreter services, culturally competent personnel, and community-based outreach. Despite progressive legal mandates, many jurisdictions still struggle with resource limitations and institutional inertia. Embracing technological advancements and prioritizing linguistic inclusivity can significantly enhance the quality of justice for all, particularly for marginalized and vulnerable populations. A well-resourced, multilingual, and culturally sensitive court system ensures meaningful participation in legal processes, thereby reinforcing public confidence in the rule of law and the legitimacy of judicial institutions.

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