

Chinese Court Interpreters in Malaysia: Current Situation, Problems and Outlook

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Abstract

Malaysia is a diverse nation comprising different ethnicities such as Malays and other indigenous communities of Sabah and Sarawak, Chinese, Indians, and others. This multi-ethnic composition has engendered a complex sociolinguistic landscape, where not everyone proficiently masters Malay and English, despite these being compulsory subjects in primary and secondary education. In the Malaysian judicial system, the practice of utilising interpreters to facilitate court proceedings is well-established. The purpose of this study is to examine the current practice of court interpretation and the problems and issues that it faces now and in the future. These challenges encompass the availability of competent interpreters and employment conditions such as the workload, salaries, and training. Additionally, the study will delve into the long-term viability and sustainability of the court interpretation profession. Notably, our primary focus will be on Chinese interpreters, who are recognised for their exceptional language skills among court interpreters. To comprehensively address these issues, this research will rely on an array of published sources, online references, and in-depth interviews with key stakeholders in different localities. These respondents include active and retired Chinese court interpreters, legal professionals, and government officers. Through this mixed approach, it is possible to gain a nuanced understanding of the court interpretation profession, pinpoint the root causes of its challenges, and explore potential solutions. Our findings reveal a pressing shortage of qualified interpreters, caused by excessive workloads and insufficient rewards. Court interpreters hold a pivotal role in ensuring the effective administration of justice in Malaysia, particularly in cases requiring cross-linguistic comprehension. To minimise the

likelihood of linguistic misinterpretation and possible worsening of the interpretation profession, it is imperative that serious issues confronting this profession be addressed to safeguard the proper functioning of the judiciary.

Keywords: Malaysian judiciary, court interpreters, Chinese interpreters, problems, future prospects

Introduction

Malaysia is a multi-ethnic country comprising the Malays, Chinese, Indians as well as various other ethnic communities. Ethnicity is further complicated by differences in language, religion, and cultural background. This complex societal fabric has given rise to a diverse linguistic landscape that poses challenges to social communication.

Malaysia practises a unitary language policy. Article 152(1) of the Federal Constitution of Malaysia designates Malay as the national language (Federal Constitution, 2020). Consequently, Malay serves as the official language in all government entities, except in matters related to foreign affairs and international trade and commerce. Although Malaysians are largely bilingual, they are generally not sufficiently proficient in Malay or English which are the official languages of the court.

Malaysia allows a free choice of education in the Malay, Chinese or Tamil medium of instruction. In the case of the vernacular schools (Chinese and Tamil), instruction in the mother tongues is complimented by the learning of the national language. Thus, Chinese and Indians are generally multilingual. However, this diversity comes at the expense of attaining proficiency in all the languages. This weakness becomes a communication problem in cases or occasions that demand high levels of fluency and precision in language use. In this context, the demand of the judiciary is the most relevant and significant.

The legislative framework in Malaysia provides clear and explicit regulations governing the use of languages in the judiciary. Laws, decrees and regulations enacted by Parliament or State Assemblies must be documented in both Malay and English, with precedence given to the Malay version (Federal Constitution, 2020). Articles 152(2) and 152(3) of Federal Constitution of Malaysia also state that the use of English may be sustained by the Parliament of Malaysia and State Legislative Assemblies and for all official purposes, within ten years from Independence as a period of transition from English to Malay. Additionally, Articles 152(4) and 152(5) stipulate that all court proceedings and records are to be conducted in English until ten years from Independence, unless otherwise decided by Parliament (Federal Constitution, 2020). The National Language Act 1963/67 marked the end of transition period, with Section 8: Language of Courts providing that “[a]ll proceedings (other than the giving of evidence by a witness) in the Federal Court, Court of Appeal, the High Court or any Subordinate Court shall be in the national language,” and “shall be

partly in the national language and partly in the English language” “on the application of any party” in court (National Language Acts 1963/67, 2006: 7). As a result of these legislative provisions and associated decrees, the contemporary linguistic landscape of Malaysian courts centres around the use of the Malay language, with English serving as an auxiliary language (Powell & Hashim, 2011).

Although the use of language in the courts is clearly regulated, the process of implementation may also take into “considering the interests of justice” (National Language Acts 1963/67, 2006: 7). Article 270(1) of Criminal Procedure Code (CPC) provides that “[w]henver any evidence is given in a language not understood by the accused, ... it shall be interpreted to him in open court in a language which he understands” (Criminal Procedure Code, 2012: 134). This provision is instrumental in safeguarding the defendant’s right to a fair trial. It is claimed that “Language and law are two in one, and without the transmission of language, it is difficult for law to be released from the cold book” (Teo, 1994: 127). Hence the court interpreters, as one of the most significant language transmitters, play an important role in the administration of justice.

To address these challenges and ensure a fair trial, defendants are entitled to court interpretation service as a constitutional right. The court bears the legal responsibility of providing the defendant or witness with a dedicated interpreter proficient in a language they understand. Court interpreters therefore act as a language mediator between the court and the defendant or witness. In European countries and the United States, court interpreters are treated as professionals with a well-established regulatory framework; but in Malaysia they are civil servants and looked upon as clerical rather than professional staff working without the benefit of a specialised legal and regulatory framework.¹

Enforcement of court interpretation service is more than putting into place an administrative procedure. Rather it poses challenges on matters relating to the maintenance of impartiality, integrity, and competence of service. Malaysian court interpreters are categorised based on language proficiency especially in Malay, English, Chinese, and various other languages. Within this multilingual milieu, Chinese interpreters often find themselves bridging the linguistic gaps among Malay, English, Chinese, and numerous Chinese dialects. In addition to their primary translation responsibilities, they are frequently called upon to undertake translation assignments involving Malay and English texts. Considering the demand for their services, Chinese interpreters should constitute a substantial portion of the pool of court interpreters. However, the reality is that Chinese interpreters are not only limited in number but also declining each year.

This study will trace the historical development of the court interpretation service and to understand the factors that contribute to its declining popularity. The intention is to shed light on this professional group and to provide insights on the challenges that it faces. The ensuing discussion will focus on answering the following questions.

1. What is the history of Chinese court interpreters in Malaysia and what are their terms of

- employment?
2. What difficulties and challenges do Chinese court interpreters face?
 3. What are the future prospects of Chinese court interpreters in the judiciary system of Malaysia?

Methodology

This study makes use of primary and secondary materials compiled from diverse sources. Interviews were conducted among respondents to provide diverse perspectives and insights into the subject ranging from the Association of Interpreters and Translators, West Malaysia Ministry of Justice (Kesatuan Jurubahasa-Jurubahasa Dan Penterjemah-Penterjemah, Kementerian Kehakiman Malaysia Barat) and two Chinese court interpreters who assisted in mobilising a WhatsApp group of Chinese court interpreters nationwide. Other respondents included a former registrar of the Sessions Courts, two retired court interpreters, two freelance interpreters, and three former court interpreters who are now lawyers. Two government officers, one from the Public Service Department (Jabatan Perkhidmatan Awam, JPA) and the other from Legal Practising Certificate Unit (Unit Sijil Amalan Guaman, USAG) were also involved in the study and provided useful information. There was then a total of 12 interviewees who made this research possible. Ten persons were consulted over the phone and two were interviewed in person. There were also 14 respondents from the WhatsApp group whose participation took the form of providing answers in a questionnaire.² As this study is to obtain a holistic view of the situation facing Chinese interpreters, the respondents were then confined to Malaysian Chinese who are or have been involved in court cases in Malaysia.

Based on the study by Ibrahim (2009), a questionnaire comprising two distinct sections was devised. The first section was concerned with inquiries related to the pathways and procedures leading to a career as a court interpreter, their academic qualifications, and practical service experiences, among other relevant factors. The second section centred on the challenges and obstacles encountered by the respondents in their professional roles. It delved into their aspirations regarding their work, perspectives on seeking supplementary income, and their outlook on the future prospects of the interpretation service. All questions in both sections were designed as open-ended queries.

The Situation of Chinese Court Interpreters

Unlike the work of translation which is done in a written form, that of interpretation is oral presentation in real time (Hale, 2007). In simultaneous interpretation, it is often not possible to render a perfect, word-for-word translation. The interpretation must go through an internal process of “Input → Understanding → Extraction → Conversion → Output”. The interpreter may, for the

sake of time, omit some sentences or portions of minor importance to the overall meaning to avoid the likelihood of mistranslation (Suryasa, 2016; Ibrahim & Noordin, 2017).

Insights gathered from interviews conducted with the 12 participants are now presented divided into two segments with reference to the colonial period and the post-independence era.

The Colonial Period

The use of Chinese interpreters began as far back as the days of the Malacca Sultanate (1402–1511). Although no mention is made of Chinese interpreters in historical sources, the activity of interpreting is unlikely to be absent given the prosperity of maritime trade then. Malacca was a tribute-paying vassal state of the Ming Empire (1368–1644) and it was natural that Chinese-speaking interpreters be used for both political and diplomatic reasons. During Admiral Zheng He's various voyages overseas, interpreters were among members of the crew to facilitate local contacts.³ Translators and interpreters of Chinese descent or Chinese-speaking translators, were commonplace by then (Wong, 1991).

During the British colonial era, the introduction of a Western judiciary system began to justify the need for interpreters to assist in the conduct of court proceedings. By at least the 1930s, interpretation service has become a must for court proceedings (Ibrahim, 2003; Ibrahim & Noordin, 2017). Communication problems were common not only in the judiciary, but also in other branches of the colonial government especially in the police and labour departments. British administrators sent from the mother country or other colonies were required to take lessons in Malay, Chinese (Mandarin and dialects) and Indian languages. British administrators could learn Cantonese, Hokkien, Hakka and Mandarin in China.⁴

The colonial government also recruited natives or local residents who could speak two or more languages to work as interpreters, clerks, or secretaries, and were assigned to various organs such as courts, land offices, police station, and the Chinese Protectorate. Their annual salaries ranged from 300 dollars to 792 dollars (or higher, depending on one's rank), with additional allowances and bonuses—a pretty good deal by the standards of the day.⁵ Chinese court interpreters enjoyed a high social standing among ethnic Chinese. They were revered and often referred to as *shiye* acting as clerks or advisers, as law firms were then rare and dear. Because of their legal knowledge as well as their language, Chinese court interpreters were usually consulted on matters dealing with legal issues. They were always ready to help, and therefore remained prestigious until well after the independence of Malaysia (Personal communication, Interviewee C5)

The Post-Independence Period

The Federation of Malaya attained independence in 1957 and merged Malaysia when it became with Sabah and Sarawak in 1963. With the addition of the native communities in the population,

the demands for court interpretation increased in proportion. Interpreters have to possess better qualifications or to undergo training. A new development is the service of freelance interpreters and translators.

Academic and Language Requirements

The minimum entry requirement into the court interpretation service was possession of the Malaysian Certificate of Education (MCE) with at least a pass in Malay language. Chinese interpreter must also possess a pass in the Chinese language. Apart from proficiency in Chinese, English, and Malay, court interpreters are required to understand at least two Chinese dialects. They were recruited as public servants and were entitled to pension, free medical care, and other benefits. Appointment is via a process of rigorous screening including an interview by the Public Service Commission of Malaysia (Suruhanjaya Perkhidmatan Awam Malaysia, SPA). The qualifications and job requirements are laid down by the SPA (Table 1).

Table 1

Job Requirements and Responsibilities of Court Interpreters

SPM & SVM (Grade LA19)	
Job Requirements	<ul style="list-style-type: none"> • Applicants must obtain a SPM certificate or its recognised equivalent with a minimum Credit (Grade C) for Bahasa Melayu (Malay Language) and a Credit (Grade C) for Bahasa Inggeris (English Language); • Applicants must obtain a SPM certificate or its recognised equivalent with a minimum Credit (Grade C) for Bahasa Melayu (Malay Language) and a Credit (Grade C) for Bahasa Inggeris (English Language), and also a SKM Tahap Dua (Level 2) or Tahap Tiga (Level 3), or with professional skills in the related field; • Interpreters of languages other than Malay or of dialects must pass the relevant speaking test held by the government.
Job Responsibilities	<ul style="list-style-type: none"> • Interpret in open court; • Translate of court documents and exhibits; • Record proceedings or decisions in court files; • Update exhibition book and court diary, prepare daily and monthly report, make sure the files are sent to the judge.

Diploma, STP, STPM, STAM & HSC (Grade LA29)	
Job Requirements	<ul style="list-style-type: none"> • Applicants must obtain a STPM certificate or its recognised equivalent, and also a Credit (Grade C) for Bahasa Inggeris (English Language) in SPM; • Applicants must obtain a STAM certificate or its recognised equivalent, and also a Credit (Grade C) for Bahasa Inggeris (English Language) in SPM; • Applicants must obtain a Diploma or its recognised equivalent, and also a Credit (Grade C) for Bahasa Inggeris (English Language) in SPM; • Applicants for Malay Interpreters must obtain a minimum Credit (Grade C) for Bahasa Melayu (Malay Language) in SPM / SVM, or its recognised equivalent. • Interpreters of languages other than Malay or of dialects must pass the relevant speaking test held by the government.
Job Responsibilities	<i>Same as for Grade LA19.</i>

Note:

SPM = Sijil Pelajaran Malaysia (Malaysian Certificate of Education)

SVM = Sijil Vokasional Malaysia (Malaysia Vocational Certificate)

STP = Sijil Tinggi Persekolahan (Higher School Certificate)

STPM = Sijil Tinggi Persekolahan Malaysia (Malaysian Higher School Certificate)

STAM = Sijil Tinggi Agama Malaysia (Malaysian Higher Religious Certificate)

HSC = Higher School Certificate Cambridge

Source: Official Portal of the SPA (<https://www.spa.gov.my/spa/en/>), 2022.

Compared to the past, language requirements for Chinese court interpreters are being gradually reduced. Fluency in Chinese dialects is no longer a mandatory requirement, and the dialect requirement for applicants has been reduced from two to one, to the point where there is no explicit mention of dialect proficiency in job advertisements today. This is in line with the overall linguistic trend in Malaysian society, which is moving towards a common language under the influence of the medium of education, while dialects are more at the level of family communication and are declining as more and more of the younger generation do not speak them. As a result, young Chinese court interpreters have weaker language abilities compared to their predecessors.

Court Interpreter Training Courses

From the late 1950s, newly hired Chinese court interpreters were “Student Chinese

Interpreters” with a three-year probation. To improve their language skills, they were required to undergo training in language and dialects for up to two years. They would also attend and observe court trials and proceedings. They have to take qualifying examinations every six months. Within the three years, they would take the written examination involving two-way translations between English and Chinese and later between Malay and Chinese. They have to pass the written test to become “Certificated Chinese Interpreters” in order to work in courts.⁶ The training provided for Chinese-speaking court interpreters differed significantly from that of interpreters in other languages. The training content was specifically tailored to address workplace requirements. It not only facilitated the development of individual skills among trainees but also significantly reduced their anxiety and stress levels as they embarked on their professional journeys. Simultaneously, the implementation of this training programme aimed to enhance the overall professionalism of trainees, equipping them with the abilities necessary to ensure the seamless conduct of trials and improve overall efficiency.

The training courses for Student Chinese Interpreters were reduced to 12 months in the early 1980s and were eventually abolished by former Lord President of the Federal Court the late Tun Mohamed Suffian Hashim, who believed that the interpretation service would no longer be relevant once Malay is spoken by every Malaysian (Personal communication, Interviewees B4 & C5). In place of the training courses, the interpreters would take a written test and a viva voce. The examinations for interpreters were administered by the SPA and were taken over by the Federal Court in the 1980s. The examinations are held at test centres in Penang (Northern Region), Kuala Lumpur (Central Region), Johor Bahru (Southern Region), East Coast (Peninsular Malaysia), Kuching (Sarawak) and Kota Kinabalu (Sabah). The written test included the translation of legal texts and questions on general knowledge, as well as two-way translation between Malay and Chinese. The viva voce, on the other hand, was to test candidates’ practical ability of speaking. The test involved two examiners and a Chinese dialect speaker from all social backgrounds. In the test, questions were asked in English or Malay by the examiners, and translated into Chinese dialect by the candidate. The answers by the dialect speaker were translated back into English or Malay by the candidate. Questions were asked at random, but a typical test would last no longer than 30 minutes. When the test was over, the dialect speaker commented the candidate’s level of ability in that dialect. The examiners would observe the candidate actually using the language, taking into careful consideration his performance during the interpretation before decision was made to pass or fail the candidate. Successful candidates would be provided with a result slip as evidence of their language ability, and then assigned to subordinate courts across the country.

Freelance Interpreter

Apart from court interpreters working as civil servants, there are self-employed interpreters

working on a freelance basis. According to the regulations, interpretation service is provided for criminal cases in preference to civil cases. The defendant in a criminal case is entitled to free interpretation service provided by the court. If no court interpreter is available on the day of the trial, and upon request of the court, the Office of the Chief Registrar, Federal Court of Malaysia (Pejabat Ketua Pendaftar Mahkamah Persekutuan Malaysia, PKPMP) will appoint a freelance interpreter for assistance.

The management of all freelance interpreters overseen by Bahagian Sijil Amalan under PKPMP, while their registration and appointment are handled by PKPMP's Legal Practising Certificate Unit (Unit Sijil Amalan Guaman, USAG). All freelance interpreters are required to register with this Unit before they are permitted to provide service in court. USAG is mainly responsible for managing and providing foreign and local interpreters service for criminal cases in criminal courts throughout Malaysia, and it provides defendants and witnesses with interpreting service in various foreign languages, sign languages, Sabah/Sarawak dialects and indigenous languages of the Orang Asli. In recent years, USAG (or as PKPMP) has been recruiting part-time court interpreters for Chinese and dialects to fill job vacancies. Applicants must be Malaysian citizens aged 18 and above, and possesses a recognised degree, or a SPM certificate or its equivalent. Language proficiency in Malay, English and Mandarin is required, and good knowledge in Cantonese, Hokkien, Teochew, or Hakka is preferred. Recruits will be appointed to work in courts at all levels (PKPMP, n.d.) for criminal cases only. Remunerations vary depending on degree and qualification. Holders of the SPM, STPM/Diploma, and the Bachelor degree receive a daily allowance of RM54, RM72 and RM100 respectively. Each is entitled to a travelling allowance (RM2.00/km), accommodation/lodging allowance (RM160/day), and flight allowance (RM1,000 for cases in Sabah/Sarawak).

Recruits generally include freelance interpreters (Malaysian citizens or non-citizens), interpreters from four state- and privately-owned companies (Personal communication, Interviewee F12). These companies are The Malaysian Institute of Translation & Books (Institut Terjemahan & Buku Malaysia, ITBM); Maven International Sdn. Bhd.; JD Lingua Franca Sdn. Bhd.; and Multiling Translators Sdn. Bhd. as well as interpretation specialists recommended by foreign embassies in Malaysia. Officials in USAG will review the applicants' qualifications and interview those who are qualified. Successful candidates will participate in a specially designed internal training course. USAG enrolls 20 students for the course whose teachers are usually judges or officials from USAG and ITBM. These courses began in 2017 to replace appointment by interview. The training over five weeks to complete 24 academic hours. The course contents of the training consist of the following components.⁷

1. Theory: 6 hours and conducted in Malay and English by ITBM-appointed lecturers and judicial officers. The subjects include code of ethics for court interpreters, skills, principles, challenges

and strategies of court interpretation, and order of interpretation. There is be a comprehension test at the end of each theory class to assess the extent of the students' knowledge.

2. Training in moot court: 6 hours in which students are divided into groups for role play in a real courtroom mood. The training also contains discussions and Q&A sessions between participants (role-players) and assessors (on-lookers).
3. Observation in open court: 4 hours in a courtroom in Kuala Lumpur after which students discuss what they have observed and other matters with the teachers.
4. Assessment: 2 hours during which each student will be assigned a task in open court, and will be assessed by an untrained assessor.

By the end of the course, successful students receive a certificate to become freelance interpreters. They may then be registered in the “e-Jurubahasa” system (<http://ejurubahasa.kehakiman.gov.my/>) and may be called upon to appear in a specified court when required, especially in criminal cases. Currently, there are interpreters in 268 languages and dialects. For civil cases, freelance interpreters are usually hired by lawyers for their clients, and are duly registered in the online interpreter system. According to a former interpreter (Personal communication, Interviewee E8 and now a lawyer for civil cases), the interpreter will be briefed on the details of the case and the date, time, and place of the court session. The remuneration, which is at least RM800/day, shall be determined by the interpreter and is non-refundable regardless of whether the case is heard or not. Most freelance interpreters in Malaysia are retired or resigned court interpreters.

The Problems of Chinese Court Interpreters

Consultation with selected persons who had worked as interpreters or with personal experience of the profession, it is evident that court interpreters face a multitude of challenges. The primary issues are related to the heavy workload, unattractive incentives, and limited career prospects.

Heavy Workload

In the 1980s the duties of court interpreters was to performing clerical work; maintaining order in open court; attending to important matters in court; preparing the list of cases; handling exhibit items; dealing with paperwork; and translating court documents. As interpreters, their duties include reading and explaining charges to defendants; making sure that defendants understand the nature and legal consequences of admitting guilt; explaining to defendants the facts of the alleged crimes; assisting unrepresented defendants; stopping leading questions; explaining to defendants about their options; and assisting defendants in making a guilty plea (Teo, 1983/84).

Based on the scope of their responsibilities, court interpreters not only fulfill the role of

translators or interpreters but also perform the functions of court officers with legal advocacy skills. They also assist in providing information, act as Commissioners for Oaths (Pesuruhjaya Sumpah) in the High Court, and collect fines and issue receipts in Sessions Courts, as well as translate court proceedings (Wong, 1991). The work of the court interpreter is complex, and most interviewees believe that is a combination of Justices Law Clerk (90%), translator (89%) and clerk (65%) (Ibrahim, 2003). In actual fact, their work goes beyond their normal duties and call upon their skills in languages and legal knowledge, and involvement in clerical work.

In view of the many duties and responsibilities of court interpreters, new recruits must swiftly familiarise themselves with their roles in a on-the-job learning process. The heavy demands lead to stressful workloads resulting to high turnover (Ibrahim, 2007b: as cited in Hale, 2011). To overcome the persistent shortage of interpreters, the service of many Chinese interpreters is frequently shared among multiple courts. This results in a constant rush from one court assignment to another. In many instances, they are urgently needed and must work with limited prior knowledge of the cases they are assigned to. These working conditions are the main causes of stress and strain.

Underpayment

The remuneration of court interpreters is not commensurate with their heavy workload. In the 1960s, their basic salary and living and housing allowances added up to just above RM200 per month, rising to a maximum of more than RM1,000 and language allowances rising from RM20-30 to over RM100. Indeed, in the early days of independence, the salary of Chinese court interpreters working as civil servants was superior to those of other professions, and many Chinese who were fluent in multiple languages or dialects joined this profession. Today, the work of the court interpreter is no longer a profession of choice. The latest pay scale indicates that the salary for a Grade LA19 court interpreter (Jurubahasa Gred LA19) ranges from RM1,355 to RM4,007 (excluding allowances) with an annual increment of RM100 for qualified staff. For the higher Grade LA29 (Jurubahasa Gred LA29), the salary ranges from RM1,513 to RM5,674 (excluding allowances) increasing by RM145 per year (Parliament Malaysia, 2022). These pay scales are not comparable to those in the private sector. According to the research report by Salary Expert (2022), the average salary for an entry-level court interpreter (one with 2-3 years' experience) working in the private sector is RM36,576 a year (RM3,048 a month), and that for a senior court interpreter (one with over 8 years' experience) is RM57,805 a year (RM4,817 a month). In contrast, it normally takes as long as 10 years for a court interpreter working as civil servant to get his maximum pay. Because of this, most Chinese interpreters tend to work in the private sector.

In the public sector, the only way to earn a higher salary is through hard-earned promotion. Back in the 1980s, Chinese court interpreters could rise to the position of Senior Interpreter (Jurubahasa Kanan) based on seniority or service and language skills. Effectively, these requirements would

include at least 8 years of working experience; proficiency in English as well as in three Chinese dialects including Hokkien/Teochew and two others; and medium level skills in writing. Promotion to the position of registrar through a competitive examination and interview process is open to outstanding court interpreters who have completed at least 8 years of service.⁸

However, many realise that opportunities for promotion are rare and disparities in promotion criteria by ethnicity may constitute an unsurmountable ceiling to upward mobility. Some may be promoted after 5 or 6 years of service while others are overlooked after 8 years.⁹ “I have been there for 37 years, and I know well enough what it’s like” (Personal communication, Interviewee A2). Here practical advice is that, despite the desperate shortage of hands, young people avoid the service altogether because of gloomy job prospects.

The widening pay gap between public and private sectors, coupled with unattractive salaries and heavy workload, has witnessed an exodus of interpreters. All the interviewees and questionnaire participants are of the view that the government should revise the remuneration package. Eight of the 14 questionnaire participants (57.14%) have a part-time job and another three of them (21.43%) are looking for one. They shared a common inclination for translation, which is more flexible in terms of time and space. The research carried out by Kang and Shunmugam (2014) shows that translators receive higher salaries in the private sector. For example, English-Malay translation rate is between 15 to 20 Malaysian cents per word, while Malay-English translation rate is higher at 25 to 30 cents per word. It is possible to achieve RM37.50 to RM50.00 per standard page in English-Malay translation and RM62.50 to RM75.00 per standard page in Malay-English translation (Centre for Modern Languages, University Malaysia Pahang). Higher income can be obtained if the translation service is in a specialised field. The rate for legal translation can reach up to RM45 per 100 words (Malaytranslator.com) and for technical translation, with translation rate of RM0.40 per word, translators may earn thousands of dollars (Translife). Whether in terms of salaries or annual increments, the public sector cannot be compared with prospects in the private sector.

Gloomy Job Prospects

The relatively high social status of court interpreters in the early days of independence has been undermined by the changing perception of the profession. In the 1971 Suffian Report, and in the context of the spread of Malay, the interpreting service was deemed to be a dispensable or a diminishing or dying service. Henceforth, interpreters were overlooked and marginalised by the government. According to Interviewee F11 from JPA, court interpreters were used to be treated as professionals¹⁰, but have since been downgraded as “practisers/executors” (pelaksana) rather than “managers and professionals” (pengurusan dan profesional).

Court interpreters are in essence on the same level as clerks, which leads to subtle forms of discrimination in their career. As the interviewees point out, because they need to deal with a large

amount of paperwork, which is unrelated to their main job of interpreting, and because of their low level, their professionalism is undervalued and not respected (Personal communication, Interviewee A1). Two of the interviewees claimed that when they tried to confirm with the defendant or witness what he wanted to say, it was common to meet with suspicion of their competence from lawyers, prosecuting officers, deputy public prosecutor or even judges. Furthermore, when the defendant or witness tried to than giving a direct answer, judges or lawyers tended to blame the court interpreters for the time they take to interpret (Personal communication, Interviewee B3 & Interviewee B4). Moreover, because court interpreters are not clearly defined as professionals in the governmental system, they are perceived as a junior staff. Two former court interpreters had even been encouraged by the judges to leave their job. They advised that, because of their knowledge in laws as well as in English, they should “think big and aim high” and to get a qualification in law to become lawyers or judges (Personal communication, Interviewee E8 & Interviewee E10).

The gloomy job prospects are further confirmed by the entire interpreting service is decline. Following the 1971 Suffian Report, the shortage of Chinese court interpreters has deteriorated. In an effort to attract more applicants, the government lowered the job requirements. Applicants were no longer required to possess qualifications in both interpretation and translation but only in interpretation. They may be proficient in one instead of two dialects as before, but later even this requirement was abolished. Proof of language proficiency was no longer looked for. This drastic relaxation of standards failed to attract suitable applicants but succeeded in compromising the quality of Chinese court interpreters (Ibrahim, 2003). The government resorted to using non-Chinese interpreters. An attempt was made to train in-service court interpreters (e.g., Malay interpreters) through a three month-long language course. This was later found to be unsatisfactory. Another attempt was to hire non-Chinese Mandarin speakers as interpreters but was eventually abandoned. Apart from the lack of proficiency in the Chinese language, the inability to handle Chinese dialects gave rise to embarrassing interruptions of court proceedings (*Chinanews*, 2009 May 21). There were occasions when court interpreters were appointed improperly to serve in civil rather than criminal cases where the needs were different. In the Teoh Beng Hock case whose cause of death was in great dispute, a new interpreter with only one year’s experience was put in charge of translating a key piece of evidence—the so-called “suicide note”. The translation was laden with errors and a hint of Google translation, and was challenged by Teoh’s family (*Malaysiakini*, 2010 September 20). Over time, court interpreters have been labelled “unprofessional,” and have been denied promotion and increment in salary.

Heavy workload, gross underpayment, and gloomy job prospects have contributed to the chronic shortage of court interpreters in Malaysia (Teo, 1983/84; Ibrahim, 2003). The situation has deteriorated and there is a backlog of cases in caused by the inability of engaging competent interpreters (Ibrahim, 2003). Since Mandarin and Chinese dialects are not dominant languages in

Malaysia, the shortage is extremely acute (Table 2). Each courtroom should, ideally, be equipped with a team of interpreters that translate English into Malay, Tamil, Punjabi, and Mandarin, and vice versa. Interpreters of other languages will be redeployed to other courts when needed (Wong, 1991). For many courts, however, such a team remains a dream. For example, there are five High Courts, five Sessions Courts and five Magistrate Courts in Johor Bahru, but there are only four Chinese interpreters (*Sin Chew Daily*, 2008 July 25). Under such circumstances, court interpreters have to be shared between courts for criminal cases. In some courts such as those in Shah Alam, Selangor and Kuala Lumpur, Mandarin interpreters are no longer provided for civil cases (*The Sun*, 2022 July 13). As a result, parties in civil cases now prefer to hire freelance interpreters on their own, a practice that may involve conflict of interests and interference in the administration of justice.

Table 2

Numbers of Court Interpreters in the States of Malaysia, 2022

State	MA	CI	IN	BSB	BSW	OA	O	Total
Johor	40	10	28	2	2	-	-	82
Kedah	25	12	18	-	-	-	2	57
Kelantan	34	4	-	-	-	-	3	41
Melaka	12	6	10	-	-	-	-	28
Negeri Sembilan	16	3	16	-	-	-	-	35
Pahang	28	2	9	-	-	1	-	40
Perak	33	9	47	-	-	1	3	93
Perlis	8	-	1	-	-	-	-	9
Pulau Pinang	36	12	22	-	-	-	1	71
Sabah	11	13	-	41	2	-	2	69
Sarawak	15	35	-	-	43	-	-	93
Selangor	77	17	63	-	4	2	1	164
Terengganu	27	1	1	-	-	-	-	29
Kuala Lumpur	90	26	53	4	-	-	3	176
Labuan	1	-	-	-	-	-	-	1
Putrajaya	32	6	10	-	-	-	-	48
Total	485	156	278	47	51	4	15	1,036

Note:

1. MA = Malay; CI = Chinese; IN = Indian; BSB = Bumiputera Sabah; BSW = Bumiputera Sarawak; OA = Orang Asli West Malaysia; O = others.
2. Data as of 2 August 2022. Including Grades LA19 to LA40 (excluding the police and soldiers).

Source: JPA, data acquired through public record request.

The Challenges of Chinese Court Interpreters

The issues of the court interpreter profession are twofold. The first is that is faced with a “perception” crisis, and the second is concerned with language and professional skills.

Perception of the Profession

It is not generally agreed that court interpreters should be regarded as professionals. Some argue that the comprehensive and specific nature of their duties may qualify them as professionals, while others think that it is otherwise. This is the case even in Europe and the United States, where the profession of interpretation has developed for a long time and a systematic management system has been established (Mikkelsen, 1991; Berk-Seligson, 2002; Anderson, 2002; Hale, 2011; Nartowaska, 2015). In Malaysia, insiders and those who are familiar with the job agree that court interpreters are professionals. As a result, lawyers and judges have often called on the authorities, through the media, to give court interpreters the legal status of “professionals”, arguing that this would better address the shortage of court interpreters.

The professional contributions of court interpreters and translators are generally undervalued. Customers are known to “undercut the price” by seeking below-market rates. According to an interviewee, “this situation would never do that when you are seeing a doctor or hiring a lawyer” (Personal communication, Interviewee E10).

A survey was conducted by the author in early year 2023 on the perception of the profession of court interpreters among 16 randomly selected individuals aged between 24 and 69 from among college lecturers and businessmen. The interviewees were asked if they were aware of the profession of court interpreters; the nature of their work; the situation of the court interpreter service; and whether court interpreters were professionals.

The result shows that only half the interviewees were aware of the presence of court interpreters and most understood their work to include translating court documents and interpreting at trials and lawsuits. They felt that court interpreters should be professionals since they must be proficient in at least two languages. However, the interviewees were not aware of the current situation of the service. It may be concluded that not much is known about the work of court interpreters whose status is not comparable with those of doctors or lawyers.

Schmitz (1988, quoted in Ibrahim, 2009) found that the popular definition of court interpreters is not accurate. It is believed that people can call themselves translators or court interpreters as long as they are fluent in two languages to the extent that they can translate and write in a foreign language, even if they do not have the relevant skills or are certified. Most Chinese in Malaysia are able to use two to three languages or dialects and a growing number of unqualified persons are hired at bargain payment. Poor interpretation skills damage the image of the profession and hence

on job prospects. Three interviewees (A1, B3 & E10) confirm that there are court interpreters who do are properly trained for the job nor do they possess the right qualifications. Some are graduates in non-language majors, or have worked in other industries. Most possess limited knowledge of the language and are forced to learn the rudiments of the profession after working as interpreters.

Incompetence in interpretation may lead to serious problems in the courtroom where accuracy of wording and conveyance of meaning matter. The interpreter's mistakes may escape notice because he/she may be the only person in the courtroom who knows the foreign language (Nartowska, 2015). In Malaysia, Chinese lawyers or judges may correct the mistakes of Chinese interpreters. The defence attorney may also request the service of more experienced court interpreters. The overall consequence is that the image of the court interpreters is badly damaged.

Languages and Professional Skills

Chinese court interpreters are proficient in Mandarin and selected dialects.¹¹ The dominant dialects spoken by the Chinese community are Hokkien, Cantonese, and Hakka. In recent years, Mandarin is gaining popularity as it is the language of instruction in all Chinese schools. The job of the interpreters is to convey information in the dialects into the official languages of Malay or English.

The ability to handle the translation process demands a high level of linguistic competence of interpreters. In all cases, court interpreters have to cope with the pressure of having to perform in the same manner of a professional.

The first challenge arises from the differences between languages. What is aimed at in interpretation or translation is equivalence in meaning. Mandarin and Chinese dialects belong to the Sino-Tibetan language family, Malay to the Austronesian language family, and English to the Indo-European language family. Their word orders, grammatical structures and writing styles are completely different from each other. Besides, the variants and differences arising from the localisation of language further complicate the translation process. Successful translations require the interpreters to be proficient in the source language and the target language, to have a good understanding of the cultures and ideologies, and also to be familiar with the language features, such as colloquialisms, slang, etc. This cannot be achieved in a short period of time because language is dynamic and changing. Interpreters are under pressure to keep learning to cope with the demands of their work.

The second challenge stems from the lack of interpretation skills and knowledge concerning different cases. Despite the need for skills training, Chinese interpreters are overloaded with work and attend one-day seminars instead of training courses.¹² Seminars do not normally bring about visible improvements in translation skills. There is also the urgency to acquire knowledge of legal and other issues. Practical experience of interpreters is that involvement in civil cases is more

complex and difficult than in criminal cases because of the need to be familiar with terminologies of many areas of knowledge. In effect, a court interpreter must acquire proficiency in languages and knowledge related to different legal cases.

The Future of Chinese Court Interpreters

Chinese court interpreters play an important role in the courtroom. Yet, their number is declining because of various difficulties and challenges. The truth is, the role of Chinese interpreters cannot be abolished in courtroom interpreting service. Persons who are not proficient in the Malay language would need interpretation services to reduce the risk of miscarriage of justice because the defendant or witness are “unable to speak” and the judge “unable to understand” the language of each party. While the defendant may lodge an appeal, it will add to the work and cost of the higher court, and the time costs for all involved. Worse still, the negative impact is to cast doubts on the fairness and credibility of the judiciary system.

In view of the crucial role played by Chinese court interpreters, there exists significant potential for the sustainable growth in the staff strength. There are currently 156 interpreters serving at all levels of the courts nationwide. It is realised that the demand for Chinese court interpreters is substantial and will only become more so with the growing economic and trade relations between China and Malaysia and the likelihood of greater demand for the services of interpreters. The reality is that official action is urgently required to alleviate the situation. This will contribute significantly to ensure the continued effectiveness and integrity of the judicial process.

Official action has to be long-term rather than short-term. A comprehensive and sustainable approach would be centred on two key issues. The first is to improve the remuneration of the service and to implement a programme for training new recruits. The other is for official recognition of the “professional” status of court interpreters and an attractive salary scheme. Former Justice Tan Sri Harun Mahmud Hashim (2001) argued that interpreters be accepted as a profession and as diploma holders in the same way as non-graduate teachers with special skills are recognised. Moreover, court interpreters should perform interpretation duties in court trials and translation of documents only. Many Chinese interpreters possess exceptional language skills and are capable of handling a wide array of cases, which invariably keeps them fully occupied. One viable solution to the shortage of interpreters is to devise an incentive mechanism built on the “more work, more pay” principle. This system could serve as a catalyst to enhance interpreters’ motivation and enthusiasm towards their work. Furthermore, in-service Chinese court interpreters should be entitled to appropriate training courses, and to attend regular seminars on court interpretation to address challenging work assignments through brainstorming sessions. These activities could be incorporated into their annual key performance indicators to encourage participation.

The persistent shortage of court interpreters is indicative of a situation in which vacancies

are left unfilled for long periods. This may be rectified by developing a talent training programme to attract young recruits into the service. Court interpreters are a minor profession and few interpretation courses are available. The Malaysian Translators Association (MTA) offers a translation degree programme, while University of Sciences Malaysia (USM) offers programmes from the undergraduate to the doctoral levels. Postgraduate programme in translation are also offered by University Putra Malaysia (UPM).

There is no indication that the government is inclined to address the shortage of Chinese court interpreters. This lack of commitment may be attributed to two factors. Firstly, the size of the public service workforce does not permit much further expansion, not least with reference to the court interpreters (Personal communication, Interviewee F11). Secondly, persistent deficit spending over the years imposed severe limitations on additional budget allocations. As senior interpreters retire and without new recruits, the number of Chinese court interpreters is diminishing steadily each year. Continued neglect in address this issue will only worsen the situation.

Conclusion

Court interpretation is a longstanding service adopted by the Malaysian judiciary. There is an urgent need that its status and professional standing to be formally recognised and integrated into the civil service. As it still lacks an effective administrative structure, interpreters tend to be assigned tasks beyond their court-related duties and to serve without the benefit of proper training. It is acknowledged that court interpreters play a critical role in upholding the integrity of the judicial system and safeguarding the interests of the people. The accurate interpretation of factual content from one language to another directly impacts the fair administration of justice. The importance of this service unique and should not be overlooked by the government. Efforts to formalise the profession, enhance training, and establish an administrative framework would not only serve the interests of court interpreters but also contribute significantly to the efficient functioning of the Malaysian judicial system. Ultimately, it is the administrative of justice that will stand to benefit or to suffer.

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Notes

- 1 The Malaysian judiciary does not have a legislative and regulatory framework for court interpreters, who are governed by the laws and regulations that apply to public officials. A handbook on court interpreters and clerks entitled *Manual for Interpreters and Clerks of Courts* by Sia Gion Sing and published in 1949, explains the job descriptions of these two jobs and the judicial procedures associated with them.
- 2 Background of the 12 interviewees and 14 questionnaire respondents:
 A1 and A2: Serving court interpreters at the Kuala Lumpur High court.
 B3 and B4: Retired interpreters, formerly of the Johor Bahru Sessions Courts, Johor and Kota Bharu High Court, Kelantan.
 C5: A former Registrar who had served in the Temerloh Sessions Courts, Pahang, and in the Kuala Lumpur Sessions Courts.
 E8, E9 and E10: Former interpreters who served respectively at the Butterworth High Court, Penang; Shah Alam Sessions Courts, Selangor; and Seremban Sessions Courts, Negeri Sembilan.
 F11: JPA officer.
 F12: USAG officer.
 Of the 14 respondents, there was an in-service court interpreter serving in the High Court Kota Kinabalu, Sabah (G13), 6 freelance interpreters, and 7 retired interpreters. Four of the 6

freelance interpreters served mainly in the Kuala Lumpur and Selangor courts, while the other 2 served in various parts of the Malay Peninsula. Among the seven retired interpreters, 2 were from Klang High Court, Selangor, and another 2 from the Klang Sessions Courts, Selangor. The remaining 3 did not indicate the location of work (I20-I26).

- 3 Among the interpreters who accompanied Zheng He on his seven voyages to the South Seas were Ma Huan (c. 1380–1460) and Fei Xin (1388-?), and both had been to Malacca. Ma Huan was fluent in Persian and Arabic and acted as Zheng He's interpreter during his fourth, sixth and seventh voyages, while Fei Xin, being fluent in Arabic, was one of the interpreters during Zheng He's third, fourth, fifth and seventh voyages. The two interpreters recorded their experiences of the voyages in separate publications.
- 4 See the following files in the National Archives of Malaysia, Kuala Lumpur:
 - 1957, File 0040793W. Reports having examined Mr. Irving, junior officer, in the Kheh dialect and strongly recommends that he be sent to China to study for 12 months.
 - 1957 File 0071745W. Mr. A. M. Pountney, cadet, to proceed to China to study Chinese.
 - 1957 File 0087146W. Supplementary provision of \$200 to vote for expenses of cadet studying Chinese in China.
 - 1957 File 0095943W. Informs that Mr. McLean, cadet has been selected to proceed to China to study Chinese.
 - 1957 File 0090261W. Cadets going to China study Chinese. Requests to arrange that the cadets reach Singapore together on the date which the colonial secretary will name.
 - 1957 File 0096483W. Cadets for China. Mr. Liaw to hold himself in readiness.
 - 1957 File 0434916W. Mr. Pryde's application to proceed to China to study Chinese.
 - 1988 File 0005835W. Circular letter no. 14/55. courses in Chinese at the government officers Chinese language school.
- 5 From the files of the National Archives of Malaysia, Kuala Lumpur:
 - 1957 File 0006957W. Applies for a bonus of \$30 for the Chinese interpreter of court.
 - 1957 File 0008728W. Recommends that the Chinese interpreter should receive some remuneration for service done.
 - 1957 File 0040038W. Offering Chia Boon Teat the appointment of Chinese interpreter and translator in the official assignee's office on a salary of \$600 per annum.
 - 1957 File 0062794W. Lai Tate Luke - appointment of, as Chinese clerk and interpreter (\$300).
 - 1957 File 0073257W. Chinese clerk and interpreter Sungei Besi for 1898 (\$300) - requests that a notice be inserted in Selangor and Perak gazette inviting application for the appointment.
 - 1957 File 0078473W. Liew Kim Beng, Chinese clerk & interpreter, land office \$480 - forwards resignation.
 - 1957 File 0128410W. Appointment of Yoong Sz Meng, senior student interpreter, as Chinese

clerk and interpreter (III) Chinese secretariat.

- 6 The certificate was issued by the JPA, and according to Interviewee C5, the former local court Registrar, has not been issued since at least 1967. The reasons for its discontinuation are not known.
- 7 From Official portal of Legal Practising Certificate Unit (n.d.). Kertas Cadangan Kursus Kejurubahasaan Bagi Jurubahasa Asing Lantikan Mahkamah [Interpreting Course Proposal for Court Appointed Foreign Interpreters].
- 8 The court Registrar is the immediate supervisor of the court interpreter, whose duties include assigning cases to interpreters, co-ordinating interpreters and scheduling trials. As the mid-level manager of the court, the Registrar acts as a link between the judges at the top and the staff at the bottom. This position is usually held by the officer who is most familiar with the work and legal procedures of the court.
- 9 The interpretation industry in Malaysia lacks the backup of an authoritative institution such as the Malaysian Bar or the Malaysian Medical Association, to provide a full range of services. It also lacks a complete code of ethics and code of conduct. The only official governing authority in the industry is the ITBM, which was established by the government in 1993. This authority is supposed to play the same role as the two professional associations mentioned above, but from its official website and information provided by interviewees, it is more of an industry facilitator than an authoritative leader. There is also a special association for court interpreters called the Association of Interpreters and Translators set up in 1988 and managed by Ministry of Justice. The rights and benefits of court interpreters are mainly negotiated by the association. Its other functions include membership networking and information sharing. This association is responsible for applying for and communicating with the government about the rights of court interpreters, it also organises social activities for members and shares information.
- 10 According to the service scheme, court interpreters belong to “Kumpulan Skim Perkhidmatan Persepadu” (which a service scheme that combines two or more groups of academic qualifications in one service scheme), and they are not required to resign when applying for promotions, unless otherwise specified.
- 11 Historically, Malaysian Chinese migrated mainly from Fujian and Guangdong provinces of south China. The dominant dialect groups the dialects are Hokkien, Hakka and Cantonese. Smaller dialect groups include Teochew, Hainan, Fuzhou, Putian, Guangxi and Xinghua.
- 12 Institutions that offer short-term on-the-job training include ITBM, the Judicial and Legal Training Institute (Institut Latihan Kehakiman dan Perundangan - ILKAP) and MTA.