

**Can domestic courts learn from international courts
about good practice court interpreting?
From the Australian War Crimes Prosecutions to the International Criminal Court**

Abstract

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Background

The requirements for interpreter-mediated courtroom communication have sky-rocketed in recent years. This is due both to the creation of new international criminal courts and tribunals (ICTY, ICTR, ICC, Special Court for Sierra Leone, ECCC, Special Tribunal for Lebanon), and the increasing number of migrants and refugees in domestic courts throughout the world. In domestic courts, problems of interpreter-mediated communication are usually blamed on substandard interpreting quality. This situation compromises the administration of justice, and the need to improve interpreting quality has been voiced in both journalistic and academic literature. However, unless a court case happens to gain international attention, for example in war crimes or terrorism trials, these problems are not adequately dealt with, even when they result in communication breakdown between the judiciary and counsel, on the one hand, and witnesses, on the other. Even in prominent cases such as the Demjaniuk case in Israel (1989) and the Polyukhovich and Berezovsky cases (Australia, 1989-1993) interpreting-related communication problems led to the court's inability to reach a conviction (Morris, Shlesinger, Stern).

In contrast, there has been no systematic criticism of interpreting in the international criminal courts and tribunals (the Nuremberg Tribunal, International Criminal Tribunal for the Former Yugoslavia), this despite the added complexity of the mixed jurisdiction, the use of simultaneous interpreting mode, and several working languages (Gaiba, Stern).

How have international courts and tribunals (eg., The Nuremberg Tribunal, ICTY, ICC) tackled these challenges and achieved quality interpreting? This paper will examine those factors that have ensured successful multilingual communication, seeking its roots in the experience of the Nuremberg Military Tribunal (1945-46) (Hof, Mikulin) and modern international courts and tribunals.

Evidence of quality

Even though interpreting in international courts is occasionally challenged, formally and informally (ICTY), its general quality is considered professional, especially in the English-French combination. In domestic courts, the reports about interpreting quality have been discouraging. Even when running high profile cases, domestic courts (Demjaniuk (1989), Australian War Crimes Prosecution (1986-1993)) seem unable to ensure satisfactory interpreter-mediated communication, with cases resulting in no conviction, and challenges to poor interpreting from the prosecution (AWCP), defense and judges (Demjaniuk, Lockerbie Trial). The analysis of the Polyukhovich committal hearing transcripts led to the Prosecution's Statement to the court requesting a higher interpreting quality and courtroom monitoring of interpreting. In the process of the AWCP, Ukrainian and Hebrew interpreters were replaced twice (Shlesinger).

In contrasting the practices that are believed to ensure high quality interpreter-mediated communication in international and domestic courts I will draw on my research of the ICTY interpreting (conducted since 2000), and to some extent, the ICC, whose interpreting services I have followed from its foundation in 2004. I will further rely on the supporting research by Morris, Shelsinger and Stern in relation to domestic trials.

The **aim** of this paper is to raise the questions of what makes interpreting practices in the international courts more effective than those in domestic ones, and which features are likely to play a decisive role in contributing to effective interpreting practices.

[A comparative study enables us to identify] three areas that either contribute to effective intercultural communication or impede it. They include requirements in relation to **interpreting competence**, the role of the **infrastructure** necessary to provide professional conditions for effective interpreting, and the responsibility of interpreter **users** in contributing to effective interpreting.

[Data. For the analysis of cases and as a basis of my research I used my observations during the Australian War Crimes Prosecutions and the analysis of courtroom transcripts of the Polyukhovich, Berezovsky and Wagner's cases, and my courtroom reports and articles based on it. For references to the Demjaniuk and Eichmann cases I have used the existing literature (Morris, Shlesinger). For the analysis of ICTY interpreting practices I have used a combination of observations, interviews and courtroom transcript analyses (2000 – 2009), and my previous publications' and for the analysis of ICC I have used a combination of observation and interviews (2005, 2009), and the findings of the 2004 round table. I am indebted to the staff of international courts and the scholars of court interpreting in domestic and international courts, including postgraduate research students (Hof, Mikulin, Hajdu).]

Factors contributing to the quality of interpreter-mediated communication

1. Approaches to ensuring interpreters' competence

Domestic courts differ from the international courts in their practice of ensuring interpreters' competence prior to employment. International courts often go through a series of steps to ensure competence prior to employment much more than domestic. How do they achieve this?

- a. **Selection process and criteria.** Approaches to selection and criteria seem to be much more rigorous, and the requirements higher in international courts. Domestic courts have lower expectations of bilingual proficiency and interpreting competence. In Australia, NAATI accreditation at Professional level is the only criterion applicable to interpreters being able to practice in court, however, the requirements of the generalist examination as a path to accreditation without any specific component on court interpreting, is an inadequate one (Duenas Gonzales, Hale). In the USA, certifications resulting from more rigorous and specialised examinations are administered by courts of different instances, however, it is often limited to Spanish and a limited number of community languages (eg., Russian, Arabic).

The interpreter selection practice in international courts goes back to that established by the Nuremberg Military Tribunal (Gaiba). For example, initially, ICTY used [...]

international advertising and other forms of recruitment allowed the Tribunal to attract University qualified staff with relevant language combinations (English, French and B/C/S). (*At the Junction...*). The Head of Languages at ICC describes the process of recruitment of professional and non-professional interpreters.

Insufficiently rigorous approach to the selection has proven damaging in the **domestic courts**. An attempt to recruit interpreters in the necessary languages (Ukrainian, Hebrew and Yiddish) during for the Australina War Crimes Prosecutions revealed a narrow pool of inadequate interpreters and insufficient scrutiny of their qualifications and skills. Attempts to later replace them with more qualified ones was also done informally, with only partial success (check Miriam).

The selection process has proven to be more complicated for cases involving languages of low diffusion. Both international and domestic courts are known to struggle to reach the potential candidates, and the result is not automatically guaranteed. This was the case of the trials involving Kosovar Albanian at the ICTY, the search and training for Acholi and Lingala interpreters (ICC).

- b. **Professional qualifications and experience.** Professional qualifications and experience rate high, in both international and domestic courts, ahead of training (Hof). Whereas previous experience of work for an international courts is rated as 'very desirable', few interpreters in international courts are likely to have it (e.g., ICTR and ICTY interpreters being recruited by ICC), and interpreters are employed with experience may be gained in other areas of interpreting. For example, at ICTY, the majority of French-English and French-BCS interpreters come from the external, conference interpreting, background. Many of them are members of the International Association of Conference Interpreters (AIIC) with a background of high international conference interpreting standards (*At the junction...*). Some BCS speakers have had previous experience as former Yugoslavia Foreign Affairs staff or a more recently acquired European or American experience. Some BCS-English interpreters had prior experience in consecutive interpreting/field interpreters or translation, and some had been initially employed as translators and/or interpreters with the ICTY investigation team. Their transition to court interpreting benefited from this thematic preparation and knowledge necessary for court interpreting. Standards applied for BCS and other 'rare' languages speakers may have been lowered in terms of the relevant prior experience due to a smaller pool to choose from, but familiarity with cultural references of the former Yugoslavia and a law degree (desirable) have been among the major criteria.

No training but some experience/ although very few interpreters in African international courts (ICC).

Most Australian interpreters who were employed to work in court during the AWCP, had the NAATI recognition, and not accreditation, and courtroom experience. Interpreters had who had been employed by the investigation unit in preparation for the cases were not given the opportunity to work during the trials as it is considered that prior awareness of the nature of the case would compromise interpreters' impartiality. Interpreters during the Demjanjuk trial xxx.

Experience in domestic courts (AWCP).

c. Pre-employment interpreter training

Even with training being a desired requirement it is mainly evidence of education leading to bilingualism, the background in the 'rare' languages and cultural awareness, and training in generic interpreting skills are seen as an important criterion of selection rather than training rather than court interpreting.

As in other fields of interpreting, there is a lack of compulsory requirement for pre-service training in both international and domestic courts. Even in the context of international courts, interpreter training is confused with a degree in any discipline or a degree demonstrating the interpreter's proficiency in his or her B language, for example, English. Thus, 'training' as a requirement at ICTY, essentially in English-French combination, and some in B/C/S, includes references to either higher degrees in English or degrees in translation (*At the Junction...*). French-English, and more recently BCS-French interpreters often have conference interpreting degrees from known European schools, for example, ESIT. BCS-English interpreters have higher degrees in English and, in some cases, training in related fields, for example, translation in French.

Training in **court interpreting** is low on the ICTY list of employment criteria and is virtually unheard of in the setting of domestic courts. With a few court interpreting programs around the world it is hoped that the younger generation of interpreters will be adequately prepared for court work.

- d. Pre-employment testing arose during the selection of interpreters for the Nuremberg Trials. It is understandable that considering that the candidates often came from a different field of work, with no prior experience in interpreting or translation. Gaiba relates the initial test of bilingual proficiency conducted in home country, including translation and bilingual knowledge of certain vocabulary. The candidates' aptitude/potential for simultaneous interpreting into mother tongue through a mock trial (in Nuremberg). **Pre-employment testing** does not exist in domestic courts. In international courts (ICTY and ICC) it has not been used in case of trained and experienced conference interpreters with the major language combination (French-English). Testing has however been part of the selection process aiming to determine the aptitude of the untrained, 'natural', interpreters rather than the existing competence.

Nuremberg. 1. and 2.

ICTY. In some instances of untrained/inexperienced interpreters to test aptitude.

ICC tested some candidates with no prior interpreting experience

- e. Arrangements for pre-service **in-house training** – practical training on the job

Nuremberg. Training sessions in the form of mock trials, from 2 weeks to 2 months; some with none at all. Learning on the job as no one had been trained in SI or court interpreting.

ICTY. Yes, through translation practice and tapes. Like at ICTY, learning on the job, especially 'natural' interpreters with no prior training in SI or other I.

! ICC went further than the other courts. A one-year training course by ETI-trained trainers who designed courses for untrained interpreters in 'rare' languages. Practical training for skills-acquisition using ICTY recordings with, however, no courtroom discourse analysis or

informed training in courtroom discourse.

National courts. Never or seldom any skill-building training for the case or induction.

2. **Infrastructure, employment and working conditions and support to ensure professional working** (by ‘infrastructure’ I understand the basic physical and organizational structures to ensure the operation of professional interpreting services)

Domestic courts often see interpreting matters as peripheral to their operations. Free lance interpreters are called through agencies but in most cases there is no courtroom protocol that defines working conditions, the duration of interpreting period and the need for break, provide a dedicated place in the courtroom and support by the court. However, these arrangements are crucial in providing professional conditions for competent interpreting.

1. Organisational structure to fit court interpreters.
2. Interpreters’ role description. Provisions within the court structure and detailed descriptions in the Staff regulations (ICC) leave no ambiguity about the professional role and modes of interpreting. Optional and to the discretion of the judge in domestic courts.
3. Courtroom physical setting and conditions– not treated as professionals in domestic courts

Domestic courts. To perform their task competently, court interpreters require **adequate physical working conditions — comfortable seating arrangements, adequate hearing,** regular breaks to prevent fatigue, and preparation opportunities (Dueñas González 1991:177). However, national courts, designed for monolingual interaction, do not provide these conditions. They suffer from **poor acoustics and lack proper amplification, and fail to provide adequate seating arrangements for the interpreter** who is often found sitting next to the defendant. Speakers are not used to communicate via interpreters and often **speak unclearly, without projecting their voice** (Colin, Morris 1996: 88-9).

[In international courts] soundproof booths with headphones and microphones ensure **adequate acoustic conditions by blocking out external noises, thus preventing vocal strain and premature fatigue.** [...] When **documents** are read out in court, copies are provided and/or **screened on document camera** to allow sight translation (ICTY, The Special Court for Sierra Leone).’ [Extracts from L. Stern, ‘Court Interpreting’, *Oxford University Handbook of Translation Studies*, Oxford University Press (in press)].

Suggestions for what could be used in national courts:

- A preparation and waiting room outside courtroom.
- Good acoustics (ceilings tiles that don’t generate an echo, carpeted floor and wall padding)
- Voice amplification (microphones for all speakers, including some hanging from the ceiling to pick up voice in court; a microphone for the interpreter in the witness box; court participants using microphones)
- Portable interpreting equipment (wireless transmitter/receiver) to provide mobility for interpreters and get them away from sitting next the accused and closer to the speakers.
- In the absence of portable equipment, interpreters should sit behind (rather than next to) the accused to whisper interpret the proceedings, and a chair needs to be provided outside the witness box but at the level of the witness during examination.
- A dedicated place for the interpreter/s in court - a desk for the monitor (or own laptop), reference materials and note pad. (This is more appropriate when portable equipment is used, and interpreters sit away from the accused).
- Internet facilities for online references, document camera for sight translation when

documents are read out and quoted from.

4. **Employment:** ongoing v casual; remuneration, working hours, and relief. In terms of working conditions, court interpreters are not treated as professionals.

AWCP – consecutive bi-directional, one interpreter with no team. Community interpreting rates. **Intern courts** followed the example of NT in relation to employment – fixed-term or continuing, rather than on a casual basis.

NT - 3 teams of 12 interpreters each. 4 booths (E, R, F and G). Alternating teams between I, standby and rest. Relief of fatigued interpreters. Payment depending on the country that provided the team, and in case of US, according to previous job

ICTY - AIIC conditions, 3 interpreters per booth, court hours with breaks, 4 days a week, mono-directional. The highest, UN rates in accordance with AIIC rules.

ICC – 2 interpreters per booth.

Under these conditions, the profession of the court interpreter in domestic courts is not an attractive one and discourages future interpreters to see it as a rewarding well-recognised profession.

5. Provision of **support by the court:** preparation, briefing, document provision, terminology unit

This aspects, central to the interpreter competence, is not cost-dependent, however remains highly controversial in domestic courts

No briefing or preparation in domestic courts: None because of the courts' fear that advance information will violate impartiality. This is in conflict with the professional Code of Ethics which requires interpreters to prepare for assignments.

AWCP: Inability to undertake the necessary preparations for the cases due to the Australian court requirements and lack of provision in the Interpreters' Code of Ethics; lack of information sharing or access to relevant documents (witness statements, court agenda, list of geographic, other proper and technical names, etc.)

Demjaniuk. No opportunity to prepare whatsoever (Morris). The opportunity to see the verdict was given in advance in the chambers.

Nuremberg. Ample opportunities to prepare and study documents.

Briefing/materials at ICTY

In addition to the information about a specific case accessible within the Tribunal, the registry provides interpreters with relevant documents necessary for the hearing, such as indictment lists, witnesses' statements and any other documents which may be referred to in the evidence, including court agendas, lists of participants, and lists of personal, geographic, and technical names. Although documents may be provided at very short notice (sometimes as little as a few minutes before the proceedings), it nevertheless gives interpreters the opportunity to familiarise themselves with the subject matter and the relevant lexicon, and rely on written documents that may be read out by counsel. The ICTY Basic documents, which may be quoted during the hearing, are kept in the interpreters' booths for reference. This obligatory preparation on the part of interpreters, comparable with practice in other international courts and similar to the interpreters' preparation for a conference, is one of the crucial keys to the ICTY's interpreting success. It contrasts strikingly with the Australian practice, which, by denying interpreters access to case-related information, denies them the opportunity to adequately prepare for their assignment. (*At the Junction...*)

ICC. Documents available but often at short notice which hinders preparation.

Long-term preparation.

[...] Most ICTY interpreters have had the benefit of long-term preparation. Some had initially worked for the Tribunal as translators and consecutive interpreters, which allowed them to master

the subject matter, the relevant lexical fields and the specialised terminology. Most court interpreters continue to work as translators or editors of legal and other documents part of the time (usually one day per week) (*At the Junction...*)

Experience build up. The ongoing work at the Tribunal has facilitated interpreting the legal arguments, including opening and closing arguments, as well as testimonies of eyewitnesses and expert witnesses. (*At the Junction...*)

Terminology Unit. Created at a late stage of ICTY and from the beginning at ICC. The ICC one coins legal and other terms that do not exist in countries with a different or younger legal system.

Understanding courtroom discourse. Some do it intuitively, however, there is evidence that most may not. They raise the register of witness testimony and the politeness level, mirror the style of the interviewer rather than interviewee, and omit strategic features used by counsel, for example, tags in tag questions.

6. **Professional/collegial support: team work and solidarity in international courts** – part of professional interaction (information sharing, solidarity and professional support). Manifests itself inside the booth. Not in domestic courts where there is a sense of competition and defensiveness in the light of challenge.

In domestic courts, interpreters work in isolation, with one interpreter per case, and the second allocated for the other party. Competitive spirit rather than a sense of cooperation. Financial constraints make team work whereby interpreters employed for one case would take turns impossible.

AWCP: lack of interpreters' teamwork: inability to cooperate, share information; lack of the relevant provision in the Code of Ethics.

Nuremberg. Mutual support, writing numbers, names etc.

ICTY. The ICTY *Interpreters' Code of Ethics* specifies that "interpreters and translators should provide their colleagues, whenever possible, with any specialised knowledge they acquire which may be useful to the exercise of their duties." (*Code of ethics*, Art. 11 Professional development, 2. Professional solidarity.) (*At the Junction...*)

[...] it is helpful for interpreters to be assisted by their booth mates for numbers, difficult words and terms, and words used originally to re-use in cross-examination for consistency. Unlike interpreters in national courts, who have no opportunity to consult reference materials while interpreting, ICTY court interpreters can rely on a colleague to consult the Tribunal Basic Documents, dictionaries or even consult the Translation unit using a telephone receiver installed in the interpreting booth. Being placed in booths allows interpreters access to hand-written notes with glossaries of commonly used but difficult words and phrases. These may include common formulaic routines, such as the swearing in of witnesses, dialect discrepancies, such as lists of Slavonic names for months in Croatian and Bosnian, and Latin in Serbian, and columns with the equivalents of the army ranks in different Yugoslav armies, and their English equivalents. (*At the Junction...*)

Such an opportunity of collegial exchange was not given to court interpreters in the Australian War Crimes Prosecutions, and they had no contact with SIU interpreters and translators. The unfamiliarity with uncommon rural and military terminology, the unusual linguistic style of the Ukrainian peasant witnesses and the inconsistency in the vocabulary undoubtedly affected the performance of the South Australian court interpreters and, therefore, damaged the witnesses' evidence. (*At the Junction...*)

7. **Quality control** - interpreting monitoring and safety nets (recording and protocol

for error identification)

Nuremberg. Understanding that interpreters were untrained, and the provision of safety nets (Gaiba Ch 3): stenographic record, electrical recordings of the proceedings and final revised versions of printed records.

Court monitor. Translation of courtroom transcript and verification against the tape recording of proceedings. Recordings in all languages. Awareness of the likelihood of error, which led to the checking. Second team listened to ensure continuity of terminology and familiarity with the topics. Understanding that I are untrained. Safety nets: electrical recordings, stenographic record, revision of records. Assistance by defendants.

ICTY. No official monitor but online recordings in all languages, and transcripts can be verified. An early detection and reporting of errors, often through the LiveNote transcript. Possibility to correct through Chief interpreter. Same teams assigned to the same case for continuity. Understanding, by the interpreter users, of the limitations of interpretation. (LS).

This transcript allows interpreters or their booth mate to detect errors and either correct them shortly in the next few sentences or, in case of serious uncorrected errors, to report them to the Section Chief who would then send a memo to the court. LiveNotes are also used in case of a dispute about what was said earlier and whether the interpretation was correct, as the transcripts can be checked at the end of a session. (*At the Junction...*).

Lack of practical provision for quality control in domestic courts.

Authors (Morris) note that interpreters' **interventions are discouraged** (no provision in the Code of Ethics for interpreters to inform the Judge of any doubt arising from a possible lexical lacuna in the source or target language; discouragements of interpreters from asking for repetition, rephrasing or explanation. Inadequate practices picked up by the defense.

In case of dispute it may be impossible to verify the original as in many courts the only record is the transcript of the majority language and the interpretation into that language. There is a lack of clarity as to what procedures to follow in case of dispute.

This became a major issue during the **AWCP**. Monitoring was introduced as a result of complaint by the prosecution. A report was written, court interpreters changed twice, and an unofficial bilingual monitor/observer placed in court. No recording of the original – impossible to refer to the original to check.

The prosecution of the Australian War Crimes became aware of the communication problems during the hearing of the first case, that of Ivan Polyukhovich, when the case was well underway. Subsequent attempts to identify the cause of interpreting and other communication problems and point them to the court's attention came too late, and with the way events proceeded,¹ it is impossible to tell whether placing a bilingual monitor in court and drawing the judge's attention to the communication issues at an earlier stage would have changed the outcome of the cases. (*At the Junction...*).

8. Code of Ethics

Important because they define interpreters' role and good practice, and provide guidelines for professional practice. However, they are ignored and/or in conflict with the expectations that lawyers/judiciary have of interpreters. They are important as they can empower interpreters in requesting professional conditions.

AWCP. AUSIT CoE clashes with perceptions of judiciary and counsel, for example, re preparation.

¹ No case was found against the second defendant, Nikolai Berezovsky, and the third defendant, Heinrich Wagner, was found unable to stand trial due to the deterioration of his health.

Nuremberg. No CoE. Rules dictated by the court.

ICTY. Introduced later in the 1990s. Emphasis on completeness, quality (accuracy and completeness), preparation and professional development.

Unlike in Australia, where court interpreters feel discouraged from interrupting the proceedings if in doubt about the meaning of a word or its equivalent, and would often resist correcting themselves in order not to 'lose face', ICTY interpreters' *Code of Ethics*, Art. 6 Reliability 2, encourages them to clarify any ambiguities by addressing the bench: "Interpreters, when working in the courtroom, shall inform the Judges of any doubt arising from a possible lexical lacuna in the source or target language." Another article instructs interpreters about their actions in case of doubt: "If anything is unclear, interpreters and translators shall ask for repetition, rephrasing or explanation." (Art. 10 Accuracy 2b)

ICC. CoE incorporated into the staff regulations. A detailed definition provided in relation to each mode, and professional requirements.

3. Interpreter users' responsibility for interpreting quality (users include administrators, lawyers, judges and other court staff, and witnesses and defendants). Ability to anticipate and prevent communication breakdown

1. **Cross-cultural awareness and competence.** Familiarity with the witnesses' and defendant's cultural background of the case, including the skills of handling the problems that arise from the differences of the legal background and expectations of defendants and witnesses

Familiarity with the witnesses' cultural background: [...] Investigative teams at the ICTY work in a close contact with trial attorneys, who follow the development of the cases, become acquainted with the background and the way of life of witnesses and are therefore become more familiar with their mentality and ways of interacting. This familiarity allows prosecutors to lead the witnesses through their evidence in court by consciously trying to avoid questions and requests for information that can be misunderstood by the witnesses. Thus, there were accounts of prosecutors using B/C/S kinship words in an English question in order to avoid any ambiguity ("Was it your *kum*?") (*At the Junction...*)

Counsel should object to other parties' attempts to confuse witness by asking badly phrased, lengthy questions or questions where the intention may be unclear to the witness, leaving the witness unsure about the essence of the question and leading to giving an inadequate answer, and should ask for these questions to be re-phrased in order to ensure that they are understood by the witness. The court, either through counsels or judges and magistrates, should also encourage interpreters to voice any interpreting difficulties that may arise. (*At the Junction...*)

2. Understanding of **interpreting process** and skills to communicate via interpreters, including **Speaking skills:** speed and unplanned speech.

Challenging task of making speakers change their speaking style..

Polyukhovich case. Insufficient understanding of cross-cultural communication by the counsels and judges (how to use an interpreter; what to expect or not expect of an interpreter, eg expecting a literal translation; asking lengthy questions or questions containing several questions). The use of communication difficulties by the defence to discredit witnesses. The non-intervention of the judges during communication difficulties during cross-examinations

ICTY. [...] although scape-goating interpreters is still a common device during arguments between

parties, there have also been instances of cooperation from the defence, who might suggest a potentially difficult word in two languages or simplify the interpreters' task by using, while speaking the B/C/S, English loan-words (eg *rebuttal*, *rejoinder*, *affidavit*, *debriefing* pronounced in the B/C/S phonetics). (*At the Junction...*)

[...] ICTY judges have an understanding of the fact that the interpreted evidence does not have the value of an original. Whereas one of the major areas of perceived inconsistencies during the Australian War Crimes Prosecutions was the witnesses' inability to recognise their earlier statements, back translated from Ukrainian into English, quoted to them in English and re-interpreted back into the Ukrainian, the ICTY judges are aware of discrepancies and errors that may arise from back translated statements; hence their cautious treatment of witnesses who cannot recognise the words of their earlier statement in a back translated version. (*At the Junction...*)

Domestic courts. Speakers are not used to communicate via interpreters and often **speak unclearly, without projecting their voice** (Colin, Morris 1996: 88-9).

At international trials the main challenge is **the speed of delivery**. In domestic courts during consecutive interpreting, it is poor sentence structure and length of sentences.

The Nuremberg Trials: The yellow and orange button to slow the speakers, and the understanding that 60 words/minute is an acceptable speed.

Eichmann trial. At the Eichmann trial, the two major problems facing the interpreters were the horrific nature of much of the testimony, and the inordinately long sentences and inaccurate expressions characteristic of the German spoken by Eichmann (Hausner 1977 : 355-356). Numerous attempts by the judges, as well as his own defence counsel, to persuade Eichmann to change his style proved futile. Inevitably, the quality of interpretation suffered. Because of the nature of the material, the interpreters at both war crimes trials suffered considerable emotional strain: some found they could not cope and had to be replaced. (Morris 1998: 2)

ICTY: No function to slow the speaker except attracting the judge's attention.

Thus, speakers often forget to speak at a pace that allows simultaneous interpreters to keep up, and when they increase their delivery to a very fast pace, interpreters have to attract the attention of the Judge(s). While observing the hearing from the public gallery, the author witnessed several such incidents during which interpreters spoke in the microphone to attract the judge's attention and have the speaker slow down. (*At the Junction*)

Impossible to slow down the speakers who are not willing to and who intend to sabotage the proceedings, for example, Milosevic.

ICC. Example of judge requested by the court officer to slow down.

What helps, like at ICTY, is the judge in charge of courtroom procedure and intervening when speakers speed or use inadequate speaking techniques.

Reading and overlapping speech: It can occur when counsel read out a legal passage without the interpreters having the text in front of them, or when counsel and witnesses who speak the same language (usually B/C/S) without having to wait for an interpreter, forget that English and French speaking participants require the interpretation into their languages. Similar situations occur when an English-speaking judge has an exchange with English-speaking counsel. (*At the Junction*)

Since then, document camera have been used at ICTY where read out documents are projected and can be seen by the interpreter for sight translation (LS).

3. Interviewing techniques

Problems with interviewing techniques may not be an interpreting problem per se but it is

amplified by interpreting through for example, lack of equivalent functional or grammatical structure in TL, such as strategic questions in cross-examination, leading questions in evidenc-in –chief, tag questions, questions tht require a narrative answer and not a positive-negative one.

Polyukhovich: problems relating to the interviewing techniques (references to the **previous statements** in its back translation; references to **video recorded** statements, lengthy questions containing numerous clauses and **questions within questions**);

Repetitive questions that alienated witnesses for the prosecution.

Rhetorical devices used for the benefit of the jury (“May I suggest” “I put it to you”) and attempts to discredit the witnesses’ intelligence (repetitive questions).

ICTY. More understanding at the ICTY by the counsel and the judges. Judges explaining to witnesses that ‘it is this man’s job’ (ICTY), reminding the counsel that they are not in front of the jury, or telling the prosecutor not to use the double negative (Charles Taylor trial).

4. **The role of judges in controlling the communication process**

AWCP.

- lack of awareness of cross-cultural communication and communication through an interpreter
 - lack of awareness of discrepancies and errors arising out of back translated statements
- lack of interventions by the judges in case of inappropriate treatment of witnesses by the defense or for linguistic reasons (eg, in case of excessively long questions or questions containing more than one questions)

ICTY. Judges have been supportive of the interpreters’ need not to work above a certain speed. Some admitted to being guilty of forgetting to restrain their delivery speed. The author witnessed some instances where a judge required counsel to slow down the speed of their delivery in order to suit the interpreters’ needs. (*At the Junction*).

Unlike the judges during the Australian War Crimes Prosecutions, who generally allowed excessively lengthy and convoluted questions (among them questions within questions and questions with quotations in them, which were particularly difficult for interpreting and understanding), ICTY judges have been known to intervene for linguistic reasons (for example, in cases of excessively long questions, or questions containing more than one question). Some of them were reported to repeat their statements for the clarity of understanding, which benefits the interpreters, the defence and the witnesses. Judges from the continental legal system were reported to restrain allegedly aggressive counsel in order to remind them that their tactics were inappropriate in a bench trial (“Vous n’êtes pas devant le jury.”) (*At the Junction*).

Reading fast and not slowing down at ICC: Vain attempts by the court officer to slow down the judge who was reading out his decision. **Not providing a document for interpreters at ICC.**

AWCP: Unplanned speech including lengthy, poorly phrased sentences, including double negatives and questions within questions.

5. **Interpreter users’ education** – it is done routinely in Australia for newly appointed judges; invitation by ICC where I conducted 8 seminars for different types of I users tailoring these seminars to the users’ needs.

⇒ The necessity to consider interpreters’ professional needs, without which proper quality of interpreting is impossible.

Despite governments’ failure to demonstrate commitment to ensuring quality interpreting in domestic courts, the chronic shortage of funding and a lack of adequate court interpreter training and education of interpreter users and administrators, there is much that domestic courts can learn

from the lessons of international courts in order to ensure quality interpreting practices.