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Alicia B. Edwards

THE PRACTICE OF COURT INTERPRETING

法庭口译实务



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导读：赵军峰

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——《法庭口译实务》导读

一本真正的好书总是能够让人从头至尾一气读完，然后还忍不住回头再细细地把玩品味。阁下现在读到的正是这样一本好书。尽管《法庭口译实务》是一本有关法庭口译这一机构性话语类型的专业知识性读物，但是作者可是位写作高手，能将专业语言用通俗易懂的方式娓娓道来，细致入微，要言不烦，结构严谨却又不乏轻松幽默，读罢仿佛清泉流淌，令人耳目一新，犹如醍醐灌顶。虽然此书早在十几年前就出版了，写的又是有关英语和西班牙语之间的语言转换，但是对于我国对法庭口译感兴趣之读者诸君，无论是未来的法庭译员，抑或与法庭译员打交道的司法人士，此书作为洞悉法庭口译这个行当的“敲门砖”却一点也不过时。

本书作者爱德华兹曾获得历史学学士、拉丁美洲研究硕士以及拉丁美洲历史学博士等学位，系美国国务院签约译员，一直从事各级联邦法院以及美国最高法院的职业翻译，同时也是加州大学伯克利分校访问讲师，在口笔译技巧方面著述颇丰。本书系作者身体力行实践之结晶，全面分析介绍了法庭译员在法庭内外所从事的翻译实务，包括案情准备技巧、职业伦理和规范程序、译员所面临和产生的错误、法律文牒的笔译、录音转写和翻译、译员作为专家证人以及译员的培训等方面的点点滴滴。

正如作者在前言中所言，对于具备双语和双文化并能从事口译的人士，法庭口译代表着一份令人自豪的职业目标，这一职业将展现出勃勃生机。作者的写作宗旨为向读者提供一幅全面完整的职业路线图，辅之以操作性极强的方法和技巧，以期准确无误地完成法庭口译任务。全书分为九章，编排结构与法庭口译这一职业的构成极为吻合。作者在每一章的后面均列出详细的参考书目供读者进一步阅读和提高。从法庭口译实务的外围到法庭口译职业内涵，作者都做了详尽的介绍，从宏观到微观再到宏观，作者结合自身实践用活泼轻松的语言向我们展示了这一特殊口译行当的无穷魅力。

第一章对法庭口译员的职业特征做了翔实的描述，并对法庭口译这一行业进行了宏观勾勒。作者指出，法庭译员必须同时是双语者，又是通晓两种

文化的双文化人。和国际会议口译相比,法庭口译不仅牵涉到交替传译,也牵涉到同声传译,同时受到庭审交锋中诉讼各方的影响,挑战性更大。要成为一名合格的法庭译员,仅有双语和双文化的能力是不够的,还需要特殊的法律知识的教育。学校系统的教育之外,关键还在于自身不断提高修养,边干边学。作者介绍了相关专业的行业性协会和组织,建议译员要接近,最好是加入这些组织,找到专家同行,建立友谊并互相切磋。本章还介绍了各级联邦法院的特殊要求,包括行业法规和资格认证考试规则。作者还谈到了自由职业译员和专职译员的利弊,法庭译员工作的地区、环境和职责。

第二章和第三章开始进入法庭口译实务的案情准备阶段,向读者介绍了实战前的“临阵磨枪”技巧。作者指出,法庭口译的信条是“有备无患”(No surprises),在进入实战之前,译员需要充分了解案情的背景,掌握必要的司法文书内容。作者形象地将事前准备比喻成音乐家要事先熟悉“乐谱”的做法。这包括许多司法程序的内容,比如普通法系中当事人主义的重罪诉讼的方方面面、该法系中特有的“辩诉交易”、案情文牍和起诉书细节、陪审团内容、物证和宣誓口证等等。作者提供了一个译员应该准备的“案情清单”,并作了详细的介绍。除此之外,作者在第三章还专门讨论了事前准备通常需要的双语术语罗列技巧、司法类参考书和词典、如何选择和购买专业类词典、如何处理在词典中查不到的词汇。总之,作者指出,多准备些内容只有好处,没有坏处。

第四章用大量的篇幅介绍了法庭口译过程中涉及到的伦理规范、译员的角色定位以及诉讼程序。作者指出,有备而来的译员一旦进入实战阶段,目标只有一个,那就是向当事人提供完整、忠实的口译服务。译员要想实现这一目标,就必须严格遵守该行业的行为准则和道德规范,这包括保密原则、保持中立和不偏不倚、置身案情之外、勇于承认错误等。本书的附录专门提供有四份文件,包括1978年美国颁布的《法庭译员法案》、1988年《法庭译员修正法案》以及译员应该作出的誓词等,均详细规定了译员的相关行业准则,译员务必严格遵守。作者在本章还细致入微地建议译员在法庭这种庄严的机构性话语背景下应该保持得体的自我形象。此外,作者还要言不烦地介绍了法庭中的各个主要角色特征,以及面对这些主角们应采取的立场和态度等。对于法庭中可能出现的各种音像设备,作者也作了具体的操作指导。对于具体诉讼过程中出现的问题,作者还详细介绍了译员应该如何处理愤怒的言辞,并举例说明如何在英西翻译中处理歧义,在法庭口译中如何进行交传和同传并作相应的训练,包括“影子训练”(shadowing exercise)。总之,译员的目标是要像艺术家一样每天演好自己的角色。在本章的结尾部分,作者还简要介绍了如何正确理解源语的意思,并提供了一个由哥伦比亚最高法院某位法官详细列举的清单供译员参考。

第五章针对法庭口译中常见的错误类型进行了甄别和分析。首先作者指出译员自身可能出现的错误类型,包括对语境的误解、对证人讲话的误解、信息传达不完整、用词不准确(语义错误抑或语域错误)以及对礼貌用语的处理失当。然后是律师们造成的问题,比如他们在使用称谓、使用否定结构和提出过于复杂的问题时常常会给译员带来麻烦。由于文化的差异以及法律体制的不同,译员曾宣誓要毫无错误地进行逐字翻译几乎成了不可完成的使命。这方面的问题可能来自约定俗成的表达法、成语的翻译、“假朋友”(同一个词在不同的语言里意义不同)、不同法律体系中术语的不同、谚语的翻译、法庭中出现的粗俗语的处理、地域差异以及英文中俚语的应用等等,作者分门别类进行说明并辅之以各种例证。

第六章探讨了司法文书的翻译问题,作者指出无论是口译还是笔译,实现交际目的是重中之重。如此一来,交际的背景、目的以及语境可以显示交际是如何展开的。作者重点探讨了庭审过程中各种司法文书的视译和笔译以及二者之间的区别,指出民事案件中文书要比刑事案件笔译的工作量要大,文书管理和译员之间的分工合作显得十分必要。作者分别探讨了翻译过程中意义与理解的关系、如何使用既有的译文、翻译的忠实度、文书的文体与体例以及如何合理使用现代化的信息技术等问题。

第七章探讨了司法过程中录音内容的转写和翻译文体,作者简要介绍了录音转写的程式和问题,用英西对照的实例介绍转写的必要性和具体作用。接下来,作者又从自身的经验出发谈到了如何在有限的时间内完成各种录音内容的转写,包括如何识别录音中的信息、如何在文件上编排转写内容、如何识别话语类型和不同说话人的语音识别等。关于录音内容的翻译,作者分别探讨了谈话内容的语码识别以及双语解码翻译之后的编排,此外还论及录音转写与翻译中的质量控制问题和相应的措施。

法庭口译不仅仅只牵涉到双语翻译问题,在英美法系的诉讼程序中,译员常常需要以“专家证人”的身份参与庭审。第八章简要介绍了译员作为专家证人出现时应注意的问题,在态度上要不偏不倚,无论是提供自己的录音转写和译文抑或应邀评论他人的文本,译员都要做到准确和公正。有时需要译员与律师一起认真准备。在证人席上,译员会遇到来自各方当事人律师的质疑和挑战,比如证词中会出现与法律事实相悖的表述,也会出现以偏概全的问题,诉讼律师会设置种种陷阱诱使译员作出错误的判断。至于语音识别和方言识别,因为另有专业人士去做专家证人,译员则大可不必以专家的身份介入。

在本书的结尾一章,作者简要介绍了译员在职业发展过程中如何进行自我完善。要热爱这个行当并要经常“充电”。“工欲善其事,必先利其器”,作者推荐了一系列的参考书目、专业期刊、电视节目和录音材料,以及获取自

我训练语言材料的网站如 www.courtty.com, 译员可以时常访问、浏览最新的庭审资料来提高自身的业务水平。作者在最后指出, 法庭口译是个“后天获取”的行当, 只有不断学习才能不断进步。

综观全书, 作者从自身实践出发, 用轻松简洁的语言全面翔实地向我们展示了英美普通法系下英西法庭口译中的种种细节实务。本书层次分明, 内容丰富, 通俗易懂。不足之处是: 作者因为要“面面俱到”, 不免显得重点不突出, 口译技巧部分权重稍显不足。而且本书探讨的只是美国普通法系中的种种案例, 所涉语言仅是英语和西班牙语。但是“他山之石, 可以攻玉”。随着经济全球化进程的加快, 进入 21 世纪的中国进一步改革和开放, 涉外官司和庭审也逐渐增多, 中国的法庭将会越来越多地处理涉外纠纷案件, 因此对法庭口译人员的需求也会与日俱增。而相比于西方国家, 我国的法庭口译研究才刚刚起步。

西方的许多国家都是移民大国, 移民潮导致了大量说各种语言的人员的涌入, 使得对法庭口译的要求日益增加, 法庭口译也逐渐成为法庭中必然存在的形式。从言语交际的角度来看, 法庭口译是实现操不同语言、有不同文化背景的诉讼各方以及庭审法官、合议庭或陪审团成员之间互相理解沟通的桥梁与中介。从法律沟通的角度讲, 法庭译员经常肩负着沟通不同法系之间差异性的重任。与此同时, 法庭口译也是维护和保障法律赋予诉讼各方的公民权和法律平等的必要条件。美国作为一个移民国家, 早在 1978 年就已经出台了有关法庭口译人员的权利法案, 并在 1988 年出台了修正案(见本书的附录)。在相关立法方面, 我国自 1954 年的宪法开始, 到 2004 年对第四部宪法的修正案以及其他法律, 多次立法为少数民族使用其语言文字的权力和当事人享有法庭翻译权利提供保障。我国《刑事诉讼法》和《民事诉讼法》中也有涉及法庭翻译人员的条款, 主要涉及翻译作为诉讼参与义务的规定, 但是对于如何选择和聘请翻译人员、翻译人员应当具有的资格、翻译性质、翻译操作过程等均未提及。

《法庭口译实务》一书的目的是要帮助译员能够有组织地进行工作, 同时向那些同译员合作或者雇佣他们的客户揭示法庭口译工作的本质。如作者所言, 要成为一名合格的法庭口译员, 仅仅有合格的语言能力是不够的, 更重要的是必须掌握控辩双方法庭交流的特点。本书对于口译员工作的详尽描述不仅有助于口译员正确评价自己的工作, 也有助于律师和其他法庭人员了解口译员的工作要求。

我国目前对于法庭口译的研究还不能满足法庭口译发展的需要。基于法庭言语的机构性特点和法律言语翻译的特殊要求, 法庭口译的标准和规范仍然需要进一步完善和发展。法庭口译的要求是要忠实于源语, 这种忠实要求译文达到源语的效果, 真实表达源语者的意图, 严格保留原语的形式、风格、

语气以及言外之意。但要从法律和语言两方面来实现译文与原文的“法律上的对等”却存在着许多的困难。如何发现并一一解决这些困难，实现理想中的法律上的对等，是将来的研究需要解决的问题。

不仅如此，在当今中国的经济和法律大环境下，法庭口译员在法庭的地位已由原先单纯的“传声筒”变成了法庭言语双方交际的“协调者”，法庭口译应该成为一个新兴的职业类型并得以全面健康地发展。相关立法的完善、相关人员的系统培训、相关行业协会的建立乃至相关研究的深入开展在我国均成为当下之急。只有规范法庭口译行为，统一法庭口译准则，建立和完善相关立法，我们才能为进一步实现司法公正创造条件。《法庭口译实务》的引进和出版恰逢其时，功不可没。

赵军峰

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To the Reader

Court interpreting can represent a satisfying vocational goal for the bilingual and bicultural liberal arts major who has the ability to interpret. Over the next twenty years the need for well-trained court interpreters will grow. This book describes the normal flow of work, how to train for it, how to find it, how to prepare for a case, how to do the work, and subsequent reading to help us improve our work. Most of the case material cited I have personally observed, while some examples have been recounted by colleagues. Names of cases and participants have been changed.

Some of the material in Chapter 2 derives from a paper given at the American Translators Association National Convention in 1982, entitled "Documents Are a Court Interpreter's Best Friend," subsequently reprinted by the Court Interpreters and Translators Association as an offset. The use of the case sheet was explained in a lecture called "Case Preparation" at the Educators' Pedagogical Institute on Court Interpreting at Montclair State College in New Jersey in 1987.

Chapter 4 originated with a paper in *The Court Manager* (1988), entitled "Ethical Conduct for the Court Interpreter," and an article in *Capital Translator* with Attorney Lloyd Elsten, entitled "Interpreting in Criminal Court" (1982).

Chapter 5 includes comments on neologisms from an article published in *Capital Translator* (1985), entitled "Hortera Meets Empaste." Another part of the chapter was suggested by a lecture entitled "Avoiding the Pitfalls of Literal Translation/Interpretation." given at a Workshop for Federal Court Interpreters in Miami, sponsored by The Federal Judicial Center (1988).

Chapter 6 includes ideas presented at a "Workshop in Court Interpreting and Legal Translation" (1983) for the National Capitol Area Chapter of the American Translators Association (Washington, D.C.).

Chapters 7 and Chapter 8 have grown out of my work on tapes and as an expert witness, supplemented by the generous advice of Alea A. Alger-Robbins

of San Diego, and María Elena Cárdenas of Miami, with incisive comments by Irene King-Tomassini of Miami.

Chapter 9 had a modest beginning in the article “All Rise: Books on Court Interpreting” for *Capital Translator* (1982) and has been much extended and modified.

Perhaps this book can help us think about court interpreting in an organized fashion, and improve our practice of it. The book may also help attorneys, judges, and administrators better understand the role and functions of the court interpreter, to better use her talent.

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How to Become a Court Interpreter and a Brief Sketch of the Work

In its narrowest sense, court or judicial interpreting is the oral interpretation of speech from one language to another in a legal setting. Court interpreting is thus an excellent career for language and humanities graduates who have strong bilingual and bicultural abilities. Bilingualism does not guarantee the ability to interpret. A bilingual person, however, may perhaps have the gift. If one needs two languages for court work, one also needs to understand two cultures. The court interpreter must be both bilingual and bicultural.

Court interpreting is but one form of interpretation. Other varieties include conference interpreting (which is simultaneous at international conferences), and escort interpreting (consecutive interpreting done for small, informal groups). When you visit the United Nations, you hear conference interpreting. Conference interpreters usually do simultaneous interpreting into their “A” or active (usually native) language, from two or three “B” or “C” (more passive) languages. The conference interpreter who does simultaneous work usually needs only to produce correct speech into one language. She is isolated from ambient noise by a booth, she has sophisticated sound equipment provided by the conference or institution, and that sound equipment brings the sound to her on a headset whose incoming volume she can control. Her purpose is to communicate, sometimes in an elegant fashion, so she may perhaps embellish, smooth out, and fix infelicitous turns of phrase.

While court interpreting requires the ability to do simultaneous, it is more demanding than conference interpreting in that one must be able to go to and from two languages in consecutive, and into at least one language in simultaneous, usually the language that is not English. Also, one cannot fix or modify any words, because such fixing would taint the case. Because these are adversary proceedings, parties can become very angry if they sense any deviation from the formalities. The court interpreter is not isolated in a booth,

and must depend on her ears and eyes to find out what is happening. Substantial court work allows the interpreter to become familiar with court terminology and to feel comfortable in the courtroom.

Who Should Become a Court Interpreter

Some interpreters are attracted to court interpreting because of its dramatic potential and excitement, while others become more lively from the experience. Translators, who work on written documents, may not always be able to interpret. They may not like interpreting even if they can do it. The life of the translator appears calm, because he is mostly involved with a computer, or else does research at the library, while interpreters move around, travel, and work before the public in exciting cases. Interpreters need to be assertive, and tend to be more outgoing, lively, and noisy than translators. Although the drama in the courtroom is that of the case, and thus belongs to someone else, we participate as actors do; we speak the lines created by others. Thus, the profession of court interpreter is not for the shy or retiring, not for the person who likes peace, calm, or routine. It requires your full attention and devotion. One never reaches a point where one can say: "Now I know it all, now I can sit back and rest." Cases, procedures, and vocabulary require constant study. Also, one can take nothing for granted: schedules change, cases are pled out instead of going to trial, there is constant movement between courts, jails, the offices of attorneys and others. No schedule is sacred, and one needs to be able to jump fast both mentally and physically.

Interpreters believe that other colleagues are "real" interpreters if they derive most of their income from interpreting. Many professionals derive almost all of their income from interpreting or a combination of interpreting and translating.

A court interpreter must love language, words, the history of words, and the interplay between language and culture. It helps also to like action, to be dismayed at the prospect of a nine-to-five job. Because most interpreting work is done on a free-lance or independent contractor basis, one needs a number of clients and work in various courts to survive. While the field offers no guarantee of economic security, skilled people can build an interesting life with a reasonable income. Court interpreting is never boring; there are few professions of which that can be said. The court interpreter will never lead a life of quiet desperation.