

**LAW, RACE AND GENDER RESEARCH UNIT,
University of Cape Town**

ISSUES IN LAW, RACE AND GENDER

Series editor: Christina Murray

1. Felicity Kaganas & Debbie Budlender:
Family advocate (R15)
2. Tonia Novitz: *The Prevention of Family
Violence Act 1993* (R15)
3. Debbie Budlender: *In whose best interest?
Two studies of divorce in the Cape Town
Supreme Court* (R15)
4. Paul Lawrence & Debra Aarons: *Unrepresented
accused and the language of the Magistrates'
Court* (R15)
5. Waheeda Amien & Paul Farlam: *Basic human
rights documents for South Africans* (R25)
6. Jeremy Seekings with Christina Murray:
*Lay assessors in South Africa's Magistrates'
Courts* (R25)
7. Debbie Budlender: *Doing something with
nothing: The Family Centre pilots* (R15).

Law, Race & Gender Research Unit
Faculty of Law, University of Cape Town
Private Bag, Rondebosch 7701, South Africa

Tel: (021) 650 3914 Fax: (021) 685 5773
Email: lrg@law.uct.ac.za

Please send your orders to the above address.
Cheques should be made payable to the
University of Cape Town

ISSUES IN LAW, RACE AND GENDER

8

ISSUES IN LAW, RACE AND GENDER



DH
362
420968
MORG

LAW, RACE AND GENDER RESEARCH UNIT
University of Cape Town

ISSUES IN LAW, RACE AND GENDER

8

LAW LIBRARY

C15 0254 7312



**Barriers to justice:
Deaf people and the courts**

RUTH MORGAN

LAW, RACE AND GENDER RESEARCH UNIT
University of Cape Town

Published by the
Law, Race and Gender Research Unit
University of Cape Town

2001

DH 362.420968 m225

840906

Enquiries to:
Law, Race and Gender Research Unit
University of Cape Town
Private Bag
Rondebosch 7701
South Africa

Tel: (021) 650 3914
Fax: (021) 685 2577
Email: lrg@law.uct.ac.za

ISBN 0 7992 2076 0

DTP by Tim James

Printed by Capricorn Online, Muizenberg

CONTENTS

<i>Preface</i>	v
I Introduction	1
The cultural versus the pathological model	3
The status of SASL	4
The status of sign language in education	4
Natural sign language vs manually coded systems	5
Variation in South African Sign Language	6
II Investigating communication barriers in the courtroom	8
Barrier 1: Taking police statements without a Sign Language interpreter	9
Barrier 2: Communication problems with the interpreter in court	15
Barrier 3: Laws that are used to discriminate against Deaf people in the courtroom	28
III Recommendations	29
<i>Bibliography</i>	
Appendix A	33
I Criminal Procedure Act 51 of 1977	33
II The persons or the categories or classes of persons who are competent to be appointed as intermediaries	34
Appendix B	35
The Deaf accused or witness: Guidelines for magistrates and other court personnel	

PREFACE

This paper documents the experience of Deaf people when they encounter South Africa's justice system. The evidence that it presents shows that Deaf people are unlikely to be treated in a way that respects their rights and dignity or with justice. Of course, processes in our magistrates' courts fall short of our ideals in many ways. Magistrates attest to the inadequacy of interpretation services in many cases, poor preparation of cases by police investigators and prosecutors, long delays and deficient facilities. Access to training and other legal resources is poor. Public confidence in the courts is low.

The endemic nature of the problems in the justice system and the impact that they have on large groups of disadvantaged people, including particularly children and rural communities, raises the question whether it is appropriate to focus on the situation of Deaf people. South Africa's Deaf population is small - estimated at just 500 000. Deaf people also form a tiny proportion of the people appearing in South Africa's courts. Nevertheless, we think that this paper itself demonstrates the importance of paying attention to the situation of Deaf people. First, the Preamble to the Constitution commits us to 'improving the quality of life of all citizens' and to ensuring that 'every citizen is equally protected by law'. These words reflect an important moral decision taken by South Africa to value all people as human beings in their own right. Certainly, some of the proposals in the paper may be difficult to implement in all courts. But many can be implemented. In particular, the Guidelines in Appendix A, compiled by Helen Alman (magistrate Wynberg, Cape Town) and Elizabeth Baartman (presiding officer Cape Town Family Court), provide magistrates with simple suggestions for ensuring that Deaf people are better understood and thus more justly treated by magistrates. To compile the Guidelines, Helen Alman and Elizabeth Baartman met with a number of Deaf people. In this process they not only were advised on ways in which court processes could be improved but they came to a personal understanding of some of the difficulties of communication between Deaf and hearing people. The Guidelines are intended to ensure that errors that they acknowledge making in the past are not repeated.

Secondly, the paper can be seen as a case study that exemplifies the importance of paying attention to the specific needs and circumstances of all people. The Deaf community has very specific needs and encounters particular prejudices in courts. Other disadvantaged groups face different problems and different prejudices. But common to all is the experience of the failure of those in authority to pay attention to their real needs. Research like this alerts us to the continuing failure of our institutions to accommodate difference and

our failure to respond with sensitivity to everyone. But it also shows us that by paying attention to differences and examining preconceived ideas and knee-jerk responses, we can move towards the goals of the Constitution. LRC is pleased to be associated with this work and wants to thank Ruth Morgan, Trevor Ngcobo, Helen Allman, Elizabeth Baartman and the many Deaf people, court officials and interpreters who contributed to it.

Christina Murray
Series editor

Introduction

A Deaf black minor is a complainant in a rape case. She is allocated a male white interpreter who does not understand her. It is decided that the child should give evidence in a separate room by way of CCTV and through an intermediary. A white intermediary is found who knows sign language. However, she still cannot communicate with the child who uses a different dialect of sign language. A black Deaf relay interpreter is found who can communicate with the child. However, the magistrate claims that according to the law a relay interpreter cannot be used with an intermediary and the complainant must give evidence in the court and not in the intermediary room. Although the child's mother objects to her daughter appearing in front of the alleged rapist, the complainant will give evidence in the court. When the court date arrives, the chief interpreter holds up the proceedings for over an hour as nobody knows how to swear in a Deaf relay interpreter.

(Excerpt from fieldnotes, case 5, October 1999).

As is evident from the above case, Deaf people experience a number of problems in court which centre on communication barriers. In this instance, the combined effect of the communication barrier and the magistrate's interpretation of the law concerning intermediaries (section 170A (2) of the Criminal Procedure Act 51 of 1977 –see Appendix A) resulted in the Deaf child being deprived of her opportunity of giving evidence through an intermediary. She had to appear in court with her two interpreters as well as the person who allegedly raped her.

Although these problems are well known among magistrates as well as within the Deaf community, until recently they have not been documented or raised as human rights issues that need to be addressed by the justice system. A recent survey of South African Sign Language (SASL) interpreter services (Kellerman, 1999) reveals a number of problems relating to Deaf people in the courts.

- The majority of SASL interpreters have never received any training and consequently lack the necessary skills to interpret accurately, particularly translating into spoken language what the Deaf person communicated in SASL.

- The Deaf people concerned frequently do not understand the interpreter.
- The fact that SASL is often not used in the courtroom is not apparent to court officials who do not know how to identify the nature of the sign language used by the interpreter.
- The courts do not know about relay interpreters.
- Neither the court officials nor the Deaf people understand the role of SASL interpreters and consequently don't know how to use them effectively.
- Interpreters frequently do not adhere to an ethical code or maintain professional conduct.
- Interpreters are not familiar with legal terminology.
- Hard of hearing people are used as interpreters.

The first four points relate to the fact that the first language of most Deaf people is SASL, a language in its own right with its own linguistic structure. Unfortunately many hearing people who claim they are fluent in sign language do not understand and cannot use SASL. Usually they string signs together following the word order of their spoken language. This kind of signing is incomprehensible to many Deaf people. Thus sign language interpreters who appear in court need to be proficient in both expressing and understanding SASL. As SASL has a completely different grammar from that found in spoken/written languages, only skilled interpreters will be able to understand a Deaf person who uses the grammar of SASL. The reality that we confront is that there are only a handful of interpreters in South Africa who have the necessary proficiency.

As you can see, it is imperative for all court officials to understand when an interpreter is using signed English/Afrikaans/Sesotho etc as opposed to SASL. I will therefore discuss in some detail the differences between SASL and what is known as signed English, Afrikaans, Sesotho etc (see the discussion on natural sign languages versus manually coded systems below). Another issue that court officials need to understand, is the existence of different dialects of SASL and the need for the interpreter to be fluent in the dialect of the Deaf person concerned. Dialectal variation in SASL exists in South Africa as a result of enforced segregation of Deaf communities according to ethnicity under the former nationalist government. Consequently

1 There are only two professional sign language interpreters in South Africa with appropriate qualifications. Three year diploma courses in sign language interpreting only commenced in 1999 at the University of the Witwatersrand and the University of the Free State.

African Deaf people use different sign vocabulary to white Deaf people (see the discussion on variation in South African Sign Language, below). This means that if an interpreter is of a different ethnicity to the Deaf person concerned, a bilingual Deaf relay interpreter is needed who can impart information from the Deaf person to the interpreter and back from the interpreter to the Deaf person.

The remaining four points from Kellerman's survey deal with the lack of professional training for court interpreters and the ignorance amongst court officials regarding sign language interpreting. Because there are very few professional sign language interpreters in South Africa with appropriate training¹ and a great deal of ignorance regarding SASL, the Law, Race and Gender Research Unit commissioned a project to investigate courtroom communication in relation to Deaf people whose first language is South African Sign Language. To understand courtroom communication as it pertains to Deaf people it is necessary to first discuss how Deaf people construct their identity and how they communicate with each other.

The cultural versus the pathological model

According to DEAFSA there are about 500 000 users of SASL. Using SASL as one's primary or first language indicates cultural identification as Deaf. Deaf people see themselves as equal to any other cultural minority group with their own language (Carmel 1987, Erting et al 1994, Lane 1992, Padden 1988). They therefore do not put great emphasis on the fact that they have a hearing impairment.

In contrast, the medical model to which hearing professionals subscribe, pathologises Deaf people and focuses on their impairment or hearing loss (Lane 1992). Consequently the medical model focuses on rehabilitating deaf people using surgery (cochlear implants), hearing aids and speech therapy so that they should fit into the dominant hearing society which demands that they speak intelligibly and communicate through residual hearing, speech and lip-reading. This approach to communication is called oralism. The problem with oralism is that profoundly deaf people cannot benefit from hearing aids and lip reading. These people do not have sufficient residual hearing for amplification to benefit them and never learn to speak or function through speech. Within the medical model such deaf people are termed oral failures.

The convention of writing Deaf with a capital "D" is used to indicate the cultural identity of a Deaf person who uses SASL as a first language, in the same way that people who identify as amaZulu use isiZulu as a their first language. Thus for Deaf people, as for hearing people, language and culture are

inextricably bound together. In contrast a small “d” denotes a hearing impairment. For example someone who is “d”eaf uses spoken language as their first language and relies on lip-reading and amplification to understand spoken language. They do not identify as Deaf or use sign language.

The status of SASL

Before 1994, Deaf people were not recognised as a cultural minority with their own language. Consequently the right of Deaf people to use Sign Language was not considered to be a priority and the language was not recognised as a language on a par with spoken languages by the majority of Deaf or hearing people.

Although SASL is not one of the eleven official languages, sign language does have status in the Constitution of the Republic of South Africa as one of the languages that must be promoted by the Pan South African Language Board (PANSALB), and for whose ongoing development and use favourable conditions must be created.

The status of sign language in education

Although SASL is protected by the South African Schools Act of 1996 which states that it must be used as a language of learning at Schools for the Deaf, most teachers at Deaf schools are hearing and are not proficient in SASL. As a result most teachers use a mode of communication known as total communication which involves signing and speaking at the same time (Johnson et al 1989). This mode of communication is also known as sign supported English or isiZulu or Sesotho etc. For example, a sentence is spoken in English: What is your name? and simultaneously the signs are made for each English word. However, the signs that are used are often different to the natural signs and are invented by hearing educators. There is no natural sign for ‘is’, therefore an artificial sign is used. No facial expressions are used as grammatical markers and often the speed of speaking necessitates that many signs are dropped. As a result, the message that the Deaf child receives is generally incomplete and incomprehensible.

Consequently learners leave high school with extremely low literacy levels. In the USA, the average reading age of a Deaf adult is grade four and in this country it could be lower. As a result of this lack of access to education, Deaf people are the most disadvantaged group in this country and very few Deaf people have university or college degrees. According to the PANSALB report (Aarons and Akach 1998), only 15 Deaf people have completed university degrees in the entire country. Apart from the lack of access to educa-

tion due to poor school performance, those learners who are admitted to university have problems accessing the language of the university as most universities and technikons do not have funds for sign language interpreters.

Natural sign language versus manually coded systems

One of the most prevalent myths about signed languages is that there is one universal sign language. In fact each country has its own discrete natural sign language. I use the term natural sign language to emphasize that we are discussing the languages that Deaf people use amongst themselves wherever Deaf people come together. Even though English is spoken in Britain, North America and South Africa, the natural sign languages used in each country are different. British Sign Language (BSL) is used in Britain, American Sign Language (ASL) is used in North America and SASL is used in South Africa. These sign languages are not mutually intelligible as each language has its own set of handshapes, vocabulary and grammar.

Natural sign languages are first learnt in Deaf schools irrespective of what method of communication is used in the classroom. Deaf children are unusual as a linguistic and cultural group as the majority of Deaf children are born to hearing parents whose language and culture they do not share. The majority of hearing parents never learn sign language and do not communicate fully with their children. The few Deaf children who are born to Deaf parents acquire SASL from their parents and then teach it to their Deaf peers when they get to school.

Even in oral schools where teachers forbid signing in the classroom, Deaf children use natural sign language to communicate on the playground and in the hostels. Natural sign languages are acquired naturally through exposure to other signers. Most Deaf children learn SASL at school. The dialect they use at school has its own vocabulary that is different to that used in the adult communities. Thus interpreters for Deaf children must be familiar with the school variety.

Natural sign languages have their own linguistic structure (grammar) that is completely independent of that used in spoken or written languages. For example in South African Sign Language, the item that is emphasised can appear at the beginning of a sentence. For example, the English sentence John loves Mary can be signed as MARY JOHN LOVE. This sentence could be translated into English as: It is Mary that John loves.

2 As there is no written system for sign language, signs are translated into the equivalent English word or gloss which conventionally is written in capital letters.

Natural sign languages are the true languages of Deaf people. Artificially created sign communication systems have been created by hearing people to make spoken or written languages more accessible to Deaf people. These artificial sign systems are not natural languages and do not have their own grammar. As these systems are created by hearing educators, they use the grammar of the spoken language concerned and frequently invent vocabulary that does not have a consistent internal structure. These artificial sign languages are frequently used by hearing teachers in schools and are difficult for the children to understand. For example, the English sentence The boy is going to town would be signed in Signed English exactly as it is spoken. A separate sign would be used for each English word in the same sequence as the written sentence. As there are no signs for the words the, is and -ing in natural sign language, a sign has been invented to represent these English words in artificially created Signed English (See further discussion in the section on relay interpreting and the excerpts from case 6).

In schools for Deaf children, it is only the teachers who use these artificially created systems. However, teachers often rely on the spoken words that they speak as they sign. The burden of speaking and signing simultaneously leads them to omit signs that correspond to words that they speak (Johnson et al 1989). Consequently, the Deaf child gets an incomplete sentence which is frequently incomprehensible. Deaf children do not use this artificial system outside of the classroom. On the playground they use their own natural sign language.

Natural sign language has its own grammar that uses different ways to represent articles (the) and tense (is...ing). This sentence could be signed in SASL as BOY² (signed on left side), TOWN (signed on right side), BOY-GO (moving from left to right).

Variation in South African Sign Language

Each sign language has different varieties and dialects in the same way that spoken languages vary according to factors such as age, geographical region or ethnicity. Dialectal variation effects the pronunciation of signs and the vocabulary used. Thus an older Deaf person may use a different sign language dialect which has different vocabulary items to a Deaf child. In the same way, an African Deaf person uses different vocabulary to a white Deaf person. A Deaf person from Cape Town will have a different dialect from a Deaf person from Johannesburg. However, the grammar of the sign language is the same for all Deaf people irrespective of age, ethnicity or geographical region.

Dialectal variation in SASL has arisen due to the history of apartheid in

this country. Deaf schools were segregated according to racial, language and ethnic factors (Morgan 1984, Aarons and Morgan, 1988). If a Deaf child was born to isiZulu speaking parents in Soweto before 1978, they were sent to the Deaf school in KwaZulu-Natal. On the other hand, if the parents were isiXhosa speaking, the child had to go to the appropriate school in the former Transkei. Due to the establishment of Deaf schools in each former homeland, Deaf children grew up far from family members and the distance between schools meant that they did not have many opportunities to mix with each other. This resulted in different sign language varieties emerging in each school. Thus different sign language varieties developed in different geographical regions. Whether these varieties constitute different languages or dialects has been a matter of debate. Research in progress (Aarons and Morgan 1998) indicates that linguistically there is one SASL with dialectal variation on the vocabulary level as different groups often have different signs e.g. there are at least four different signs that are used for mother. However, the same grammatical signals on the face are used across cultural/racial groups.

Although there is a great deal of dialectal variation, Deaf people in urban areas quickly become multi-dialectal once they have been exposed to other varieties of SASL. They will quickly learn to understand the vocabulary varieties used by other groups.

Investigating communication barriers in the courtroom

There were two aspects to the research. The first involved participant-observation of eight cases concerning Deaf people appearing in magistrates' courts in and around Gauteng. A qualitative ethnographic methodology was selected in order to obtain an in-depth and textured window into the experiences of Deaf people in the judicial system. As I am a hearing researcher, I worked closely with a Deaf research assistant, Trevor Ngcobo (T.N.), throughout the fieldwork phase of the project.

The second part of the research involved six telephonic or faxed in-depth interviews with court interpreters from different provinces focusing on their experiences interpreting for Deaf people in court.

It was difficult to maintain the role of neutral observer during this research, which became more action oriented as we became aware of the complexity of court communication when Deaf people are involved. In some of the cases, we were drawn into the consultations regarding communication with the Deaf person and the interpreter. In three of these cases, the hearing interpreter could not communicate with her client and requested that T.N. assist her as a relay interpreter. (A relay interpreter is a Deaf person who acts as an intermediary between the hearing interpreter and the Deaf person. The relay interpreter translates the sign language variety of the Deaf person into the sign language variety of the hearing interpreter and vice versa.)

In other cases we were asked to attend court hearings in order to assess the communication between the Deaf person and the interpreter and to suggest other interpreters who could communicate with that person.

The issues that were revealed in the participant-observation of the eight cases overlapped with those from the interpreter interviews. All of the barriers to Deaf people receiving equity in the justice system centered on communication issues. The following discussion follows the typical sequence of a case and discusses each barrier at the point it first arises. The first barrier was at the police station when the Deaf person needed to make a statement. The second barrier occurred in the court itself, where, even if there was an interpreter available, numerous difficulties arose regarding communication. The final barrier concerns the application of law in a way that discriminates against Deaf people in the courtroom, namely, to prevent a sign language

interpreter from working with an intermediary and the barring of video cameras in court which results in the absence of sign language in the court record.

Barrier 1: Taking police statements without a sign language interpreter

A number of problems exist at police stations when police take statements from Deaf people. Frequently the Deaf person does not understand his or her right to an interpreter before making a statement. Interpreters responded to the questions regarding their presence when police are taking statements from Deaf people by enumerating the problems that Deaf people as well as interpreters encounter at police stations. According to the sign language interpreters interviewed, they are infrequently called to interpret at police stations when police are taking statements from Deaf people and most of the time friends and relatives are used who have minimal signing skills.

The police often justify the lack of an interpreter on the basis of ignorance as to where to locate one or to lack of funds:

On many occasions [the police do not use interpreters], the excuse they give is they didn't know where to find the interpreter or the police department did not budget for that. (Interpreter, Kwa-Zulu Natal)

When they went to report in the police station, none of them were allowed to have interpreters. Their next of kin were made to interpret for them even when they told the police officers that they know of an interpreter in the area who can help them to communicate with the police. But what the police officers did was to ignore them as usual. (Interpreter, Mpumalanga)

In the eight cases observed, most of the Deaf people were dissatisfied with the way in which the police took their statements. It also became apparent that they were not aware of their right to remain silent and to make a statement only if they so wished and only if a skilled interpreter was present. Three scenarios emerged from the data in relation to taking a police statement:

- A hearing person makes a statement for a Deaf person to sign.
- The police make a statement.
- A family member, teacher or social worker acts as an interpreter.

A hearing person makes a statement for a Deaf person to sign

In cases 5 and 6, the hearing relatives or school professionals of Deaf minors made statements to the police which the Deaf people then signed. In both instances, no one interpreted the content of the statements to the Deaf minors.

C.K. (Case 5) a young African Deaf male appeared in court on a charge of rape. He reported that when he went to the police station for the first time, he was accompanied by the school nurse and his mother. His mother and the school-nurse gave a statement on his behalf, which he signed. He did not understand what they told the police as no one interpreted for him. The school nurse does know some sign language but did not interpret for him.

L.M. (Case 6) a young African Deaf girl appeared in court after being allegedly raped by her hearing uncle. L.M. was taken to the police station after the doctor confirmed that she had been raped. She had been taken to the doctor by two of her aunts who then went to the police station and opened the case against her uncle. Her two aunts did not know sign language and did not interpret for her. The aunts made a statement and did not inform her about the content of their statement. No one read the statement to her at any stage.

The police make a statement

In case 4, R.R. on trial for murder informed us that the police had not included him in the process of making a statement and had done so on his behalf. R.R. is an African Deaf male. At the time of the interview, he had been in custody for twenty months awaiting trial. R.R. reported that the police had written a statement based on the detective's understanding of the events that had taken place. He had not been asked to report his experience of what had happened. Furthermore no one had communicated with him and there was no interpreter present. R.R. believed that the police statement was based on the testimony of other hearing witnesses who had lied to the police.

Hearing people told the hearing police many lies. The hearing police were sympathetic to the hearing people who spoke to them for a long time. The hearing people were talking for a long time and telling many lies. The lawyer also believed the hearing police. No one believed me. When the police took a statement, there was no interpreter present. I did not make any statement to the police. They just wrote things down. I couldn't understand what they wrote.

This illustrates the frustration that many Deaf people experience in the court system due to their lack of ability to communicate in our hearing dominated

society. Because R.R. could not communicate with the police and did not understand the process, he did not trust the statement they made, nor the lawyer that the justice system provided. He felt completely disempowered and marginalized by the police and the court.

A family member, teacher or social worker acts as an interpreter

Frequently police officers assume that the hearing family members or professionals such as teachers or social workers working with Deaf people are skilled signers and can communicate proficiently with the Deaf person concerned. Most of the time, this is simply not true. The following cases and extracts from the interpreter interviews highlight the need for a professional sign language interpreter who uses the same sign language dialect as the Deaf person:

When they (Deaf people) went to report in the police station, none of them were allowed to have interpreters. Their next of kin were made to interpret for them even when they told the police officers that they know of an interpreter in the area who can help them to communicate with the police. But what the police officers did was to ignore them as usual. (Interpreter interviewed, Mpumalanga).

H.P. (Case 2), a white Afrikaans male appeared in court on a charge of child abuse. H.P. reported that the police first wanted to take a statement without an interpreter present after he was arrested. He then arranged for his brother to come to the police station to interpret for him. He rated his brother as having very poor sign language skills.

The problems of using a professional social worker who used a different sign language variety to the Deaf child concerned was evident in case 5. A Deaf African child, P.T., was called to give evidence as a witness. The lawyer of the alleged African Deaf rapist raised the fact that there were material contradictions between the complainant's police statement and the information she was giving the court. He established that she had been accompanied to the police station with her aunt and a hearing social worker from another Deaf school, which is predominantly Indian. P.T. had never met this social worker before. The social worker had interpreted for her while the police were taking her statement.

In court it emerged that there were indeed discrepancies between the police statement and the complainant's evidence in court. The accused's lawyer used this to discredit her as a witness. The prosecutor asked her a

number of questions to highlight the difficulties she experienced when she made her statement to the police:

Prosecutor: There was a nurse or person who went with you to interpret at the police station or to the police?

Witness: Yes it was a social worker.

Prosecutor: That person, do you communicate frequently with her or was it the first time.

Witness: It was the first time.

Prosecutor: Was it easy for you to communicate with strangers the first time?

Witness: It was fairly easy.

Prosecutor: Does it happen that when you communicate for the first time there is a misunderstanding?

Witness: Yes.

Prosecutor: Yes, I see today we need to have certain discussion before it is clear to you – the question. Did you ever before this case make a statement to the police about something that happened?

Witness: No, it's the very first time.

Prosecutor: Was the procedure strange or familiar to you?

Witness: I was just worried about what was going on. No one to ask advice, the teachers explained some things to me.

Prosecutor: Was that afterwards?

Witness: Before they did explain.

From the transcript, we can see that the witness was disadvantaged by two factors: a) her problems communicating with the social worker and b) her unfamiliarity with police and court procedures.

Signing the police statements

A further problem connected with police statements is caused by the low levels of literacy in the Deaf community and their lack of education regarding their rights. Most Deaf people sign statements that they do not understand. According to the majority of the interpreters interviewed, most of their Deaf clients could not read and understand the police statements that they had signed.

“Only a few of them were literate in written language. (Interpreter, Mpumalanga)

They could only understand the statement through an interpreter. (Interpreter, Western Cape)

Some they do, some they don't, but most they can't read and write". (Interpreter, KwaZulu-Natal)

Most can't read or write. (Interpreter, Gauteng)

A perusal of the eight cases observed revealed that the majority of Deaf people had signed statements or documents that they did not understand.

In case 4, R.R. was unable to read the police statement that he signed. During his interview, he told us that he wanted to make a new statement in court as the police statement that his lawyer had was incorrect. However, his lawyer did not think this was necessary.

The police allowed G.K (Case 5) to read the statement that his mother and the school nurse provided on his behalf and which he then signed. He reported that the contents were true. I asked him if he could read English and he replied that he could. Although he is in standard five, when I asked him to read a simple sentence I had written in English, he could not understand it. He could only identify a few words for which he provided the signs. His lawyer then decided to take another statement together with the interpreter and the relay interpreter on the day of his court appearance.

Similarly, in case 5, the complainant, P.T, had not been given the statement to read, nor did the social worker interpret the contents of the statement to her before she signed it. The lawyer for the accused established under cross-examination that she could only understand about fifty per cent of written English. Due to her confusion as to what had happened at the police station, she was not aware that she had indeed signed the statement.

Lawyer: Were you aware which language did the police use to take down the statement?

Witness: English.

Lawyer: He was writing in English. Do you understand English? Can you read English?

Witness: I can understand half of English.

Lawyer: Did they give you your statement to read or did the social worker read out the statement to you?

Witness: The police didn't show me the statement afterwards. Once I gave the statement it was interpreted from sign to voice. I went home.

Lawyer: But I'm sure you signed the statement.

Witness: My aunt signed the statement.

Lawyer: I'll show you the statement, is that your handwriting?

Witness: The police's signature.

Lawyer: Did the police write your name on the statement?

Witness: I didn't sign it.

Lawyer: At the bottom?

Witness: Yes I signed it at the bottom – near the middle.

Lawyer: Did you read the statement before you signed it?

Witness: No I didn't read the statement afterwards.

Lawyer: The reason why I'm saying this is there is a material contradiction between the statement you gave here and the statement you told the court.

After further cross-examination from the lawyer as to the differences between the two statements, the witness said that she had given the police some critical information and they had not written it down.

Lawyer: Your statement from the police said: You saw T.M. come from the storeroom busy preparing herself as if something had happened.

Witness: Yes that's true.

Lawyer: Is that what you told the police?

Witness: Yes that is.

Lawyer: Would you agree with me that you only told the police you saw T.M. coming out of the storeroom and you told the court that you went into the classroom and saw the accused dressing up.

Interpreter: It's a problem. She doesn't understand how her story contradicts.

Witness: This morning what I said is the truth. As soon as I saw T.M. and G.K. and as soon as he saw me, he ran away.

Magistrate: Why didn't you tell the police that? That you saw G.K. pulling up his pants.

Witness: There were both of us talking to the police, myself and D (the social worker).

Magistrate: In the statement to the police you did not mention that you saw G.K. pulling up his pants. Is that correct?

Lawyer: Yes.

Witness: I did tell the police. I don't know why it wasn't written down.

From the above case excerpts it is clear that the lack of sign language interpreters when police statements are taken, results in numerous problems in court. Deaf people at present do not understand that they have the right to demand a sign language interpreter fluent in their particular variety of sign language. Until they understand this fundamental right, and use such an interpreter when making statements to the police, we can assume that most police statements are inaccurate reflections of what the Deaf person has communicated to the police.

Barrier 2: Communication problems with the interpreter in court

Communication barriers arise in the courtroom if the interpreter is not familiar with the dialect of SASL used by the Deaf person or if the interpreter uses signed seSotho, isiZulu, English or Afrikaans etc. In these situations a Deaf person who is familiar with the dialect used by the Deaf person and the dialect or system used by the interpreter can act as a relay interpreter. A relay interpreter relays what the interpreter says to the Deaf client and then relays what the Deaf client says to the interpreter.

Relay interpreting had been used the most frequently by the African interpreter from Mpumalanga who used it in 6 of the 7 cases she interpreted in 1998.

Apart from that it makes interpreting easy, I find it useful to get the whole information that, if I was interpreting alone, I would have missed. In most cases the Deaf people feel more comfortable and signs freely and with the confidence that all the information will be captured. (Hearing interpreter, Mpumalanga)

Relay should always be there to assess if communication problems. Often the hearing interpreter doesn't realize that the Deaf don't understand him or her. That's why you need a Deaf relay to observe and assess the communication. It works well for Deaf people. (Relay interpreter, Mpumalanga)

Currently many of the interpreters who work in the courts are untrained and often do not use SASL when interpreting in formal situations. For example there are hearing interpreters who use signed English/Afrikaans/Sesotho/isiZulu in the courtroom. As discussed in the section on natural sign lan-

languages versus manually coded systems, the grammar of spoken languages using signs is virtually incomprehensible to Deaf people who are not fully bilingual in the spoken/written language being used. Even those Deaf people who are highly educated have great difficulty processing this form of signing as it violates the principles of visual-spatial languages such as SASL.

Communication barriers may arise with those interpreters who use SASL in the courtroom, if the interpreter is not familiar with the dialect of the Deaf person concerned. Typically interpreters may only be skilled in one or two varieties or dialects that are used by the community in which they work. When confronted with a Deaf person from a different cultural group who uses a different dialect communication becomes more problematic.

If the culture and consequently the sign language variety of the interpreter do not match that of the Deaf person, there is a breakdown in communication. This is extremely problematic for children and Deaf people who have not gone to school and who have not been exposed to the sign language used in the adult Deaf community. If an African Deaf child is allocated a white interpreter, the child is frequently unable to understand the interpreter without a relay interpreter who understood the vocabulary used by children and grammatical constructions called classifiers which enable descriptions of events without relying on specific vocabulary items.

Communication for me is more difficult with black children as the signs are completely different. I have better communication if I use body language. The language of the court is also difficult for me to explain to a Deaf person who is not well educated. (White interpreter, Gauteng)

When the white interpreter was communicating with a Deaf black person, she didn't understand his sign language as she was using signed Afrikaans. The Deaf person didn't understand her as she was using the incorrect signs, not real sign language. So I had to interpret as a relay. (Black relay interpreter, Mpumalanga)

I have problems communicating when a Deaf person uses unfamiliar signs to me or if I see that the Deaf person is not familiar with my sign or the style I use. (Black interpreter, KwaZulu-Natal)

The use of Deaf relay interpreters is critical to removing communication barriers in the courts. Relay interpreting is needed in situations where the hearing interpreter does not use the same sign language dialect as their Deaf client and they are also needed in situations where the hearing interpreter uses signed English/Afrikaans/isiZulu etc.

Deaf people who are multilingual need to be trained and used as relay

interpreters. They need to be multilingual so as to understand hearing interpreters' use of signed English or Afrikaans as well as being fluent in multiple dialects of SASL.

In most of the cases observed, the court interpreter was a white Afrikaans woman who preferred to use signed English or Afrikaans in the courtroom. Whenever the Deaf person could not understand signed English or Afrikaans, my research assistant (T.N.), an educated Deaf person who was deafened after learning English who thus understood written English, was called in to translate her signed English or Afrikaans into South African Sign Language. T.N. was functioning as a relay interpreter in the court and could translate what the Deaf person was signing to the hearing interpreter. He could also relay all the information that the interpreter was signing into the variety of SASL used by the black community in the area.

In case 6, L.M., a young Deaf complainant, appeared for the third time in court after being allegedly raped by her uncle who is hearing. The case had already been postponed twice due to the fact that L.M. could not communicate satisfactorily with any of the sign language interpreters allocated to her. After trying two white Afrikaans interpreters, it had been decided that an African relay interpreter was essential.

On 19 October we met L.M. and her housemother from school in the prosecutor's office to assess whether my Deaf research assistant could communicate with L.M. and act as a relay interpreter in the trial. Although the relay interpreter is a male, L.M. did not seem to have any problems communicating with him and seemed perfectly comfortable relating to him. Ideally the gender of the relay interpreter should match that of the rape survivor.

The following excerpts involving relay interpreting from case 6, where the interpreter is using signed English, will make it clear that the Deaf child would not be able to understand this form of signing as she is not literate in English. SASL has its own grammar using facial expressions. Without these features being included in the signed message, the Deaf person will not understand the message. These features are omitted in signed English or Afrikaans. Therefore the relay interpreter is critical in removing the communication barrier by interpreting the message into SASL.

To assess the relay process in case 6, I asked the housemother to imagine she was the magistrate and ask a question to L.M. via the interpreters. She asked "what is your name?" I will explain this example in some detail to illustrate the linguistic structural differences between natural sign language (SASL) and signed English.

The excerpt is first presented below in its transcribed form using glosses or English words in capital letters to represent each sign. The facial expres-

sions such as (lips) and (—wh) are transcribed above the gloss to indicate what is happening on the mouth or face. Fingerspelled words are transcribed as capital letters separated by hyphens (L-E-B-O-H-A-N-G). The transcription system is difficult to follow if you are not familiar with it and a detailed description is therefore provided in the discussion following the transcription.

1. Housemother (spoken English): What is your name?
(lips) (lips)
2. Interpreter (signed English): ASK YOUR NAME
wh
3. Relay (SASL): NAME YOU
4. Complainant (SASL fingerspelling): L-E-B-O-H-A-N-G
5. Relay: (simultaneously fingerspells her name)
6. Relay (SASL): (fingerspells name more slowly)
7. Interpreter (speaking to researcher in English): I can't pronounce their names.
8. Housemother (spoken Sesotho pronounces name for interpreter).

1. The housemother first asked L.M. what her name was using spoken English: "What is your name?"
2. This was relayed through the hearing interpreter who uses signed English. Signed English relies on English word order with signs supporting the structure of English. She signed "ASK YOUR NAME" using lip movements for the English words as she signed YOUR and NAME.

(lips) (lips)
Interpreter (signed English): ASK YOUR NAME

3. This structure is very different from the natural sign language translation that involves a different word order and the use of facial expressions for grammatical purposes.

wh
Relay (SASL): NAME YOU

The relay interpreter translated this utterance into South African Sign Language in which two signs are used "NAME YOU" simultaneously with the appropriate combination of facial expressions known as the wh-marker (eyebrows down, chin juts out, eyes squinting, shoulders forwards) indicates that a wh-question is being asked as opposed to a yes-

no question. Wh-questions are questions involving who, why, where, how, what and when words and all use the same facial expressions. Yes-no questions have a different facial expression (eyebrows raised, and eyes widen) and require a confirmation or a negation as a response e.g. Were you raped? This yes-no question can only be answered with a "yes" or "no".

The relay interpreter uses a wh-question expression while he is signing NAME YOU. He has topicalised NAME and fronted it to the beginning of the utterance as NAME is the topic of the sentence and must occur first according to the word order rules of SASL. NAME is followed by the sign YOU instead of YOUR. YOUR would be a signed English version rather than a SASL translation of the sentence.

4. The complainant easily understands the question and fingerspells her name: L-E-B-O-H-A-N-G.
5. The relay interpreter simultaneously fingerspells her name and then fingerspells her name again more slowly for the hearing interpreter. The hearing interpreter then tells the researcher that she cannot pronounce the name. The housemother pronounces Lebohang for her.

Fingerspelling must be differentiated from natural sign language. Fingerspelling depends on using a different sign for every letter of the alphabet. The fingerspelled alphabet has been borrowed from written languages and is a form of spelling out words that occur in written languages. Fingerspelling is used only to translate words in spoken languages that do not have a signed equivalent in SASL. Thus names of people can be fingerspelled as well as technical words that may not have an equivalent sign. However, as fingerspelling depends on literacy levels and knowledge of the written language – the ability to decode the alphabet and encode the word in English or Afrikaans or isiZulu etc, many young Deaf children and people without high levels of education cannot read fingerspelling adequately. This is why the hearing interpreter who does not know seSotho cannot encode and pronounce the name correctly.

Another example from the transcript of case 6 illustrates further differences between sign supported English and natural sign language. SASL, like other natural sign languages, uses a lot more repetition than is used in spoken English. This repetition indicates what is important in the text and draws the interlocutor's attention to what needs to be foregrounded.

1. Housemother (spoken English): Why did you come late this morning?
2. Interpreter (signed English): WHY YOU COME LATE THIS MORNING?

3. Relay (SASL): YOU TODAY MORNING ARRIVE LATE TIME LOOK WAIT WAIT WAIT COME ARRIVE WHY ARRIVE LATE
4. Complainant (SASL): FATHER POLICE CAR
5. Relay (Signed English): POLICE LATE POLICE TRANSPORT LATE
6. Interpreter (spoken English): The police transport came late.

After the housemother asks the question "Why did you come late this morning?" the interpreter uses sign supported English in (2.WHY YOU COME LATE THIS MORNING?) to convey the message to the relay interpreter. Although she does not use lip movements, she uses the same word order as the housemother used. The only word that she omits is "did" as there is no sign equivalent. The interpreter does not use any features of the wh question facial expression in SASL when she asks the question. Her face is deadpan. Thus the child does not even know that she is being asked a question as there are no grammatical cues on the interpreter's face.

In (3) the relay interpreter translates the question into SASL. He uses an expanded version of the utterance in English composed of a series of utterances that can be glossed and then transliterated as follows:

- _____topic_____
- a) YOU TODAY MORNING ARRIVE LATE
 - a) Today, in fact this morning, you arrived late.
 - b) TIME LOOK WAIT WAIT WAIT WAIT COME ARRIVE.
 - b) We looked at the time and waited and waited and waited for your arrival.
- _____wh_____
- c) WHY ARRIVE LATE
 - c) Why did you arrive late?"

In the first utterance (YOU TODAY MORNING ARRIVE LATE), the whole utterance is topicalised, which means that the signer uses a specific facial expression referred to as topic (raised eyebrows and head tilted slightly back). This facial expression functions grammatically to indicate that the topic of this chunk of discourse is the lateness of the child's arrival at the court.

In this utterance, time in SASL is indicated adverbially by establishing the time of day (TODAY MORNING) at the beginning of the discourse chunk rather than in terms of changing the form of the verb in every sentence as one does in spoken English. Once the time reference has been established, the main topic (ARRIVE LATE) is addressed in a statement form meaning Today, this morning you arrived late.

The statement is then elaborated by constructing an image of the relay interpreter looking at his watch and waiting for a very long time (TIME LOOK WAIT WAIT WAIT WAIT). The repetition of the sign WAIT functions to further emphasize the lateness of the complainant. The ground has now been laid for the question to be posed (WHY ARRIVE LATE) using a wh-question facial expression (eyes squint, chin jutting out, shoulders forwards and eyebrows lowered).

It is interesting that the phrase ARRIVE LATE is used in the first utterance and again in the last utterance. This repetition serves to foreground the significance of arriving late and the question as to why that happened, yielding a much longer chunk of discourse than the equivalent English statement: Why did you come late this morning?

The third example from the interview in case 6 serves to illustrate another difference between signed English and SASL.

1. Housemother (spoken English): I'll see you on the seventh of December.
Lip movements: (to) (the) (th) (of)
2. Interpreter (signed English): I want see you on seven December
3. Relay (SASL): DECEMBER SEVEN DECEMBER THIS D-E-C-E-M-B-E-R SEVEN YOU COME AGAIN MEET
__ yes/no q
4. OK
5. Complainant: nods head affirmatively

SASL does not use structures such as articles (a, the) or prepositions (to, of) that are used in English. However in her rendition of (1) "I'll see you on the seventh of December" the interpreter mouths these words in brackets in utterance (2) "I want (to) see you on (the) seven(th) (of) December" in the appropriate places in her signed utterance so that her signing conforms as close as possible to the English sentence. She also signs the invented English sign (ON) which is not used in SASL.

In utterance 3 (DECEMBER SEVEN DECEMBER THIS D-E-C-E-M-B-E-R SEVEN YOU COME AGAIN MEET), the relay interpreter starts his utterance by establishing the time reference (DECEMBER SEVEN). He uses a great deal of repetition to emphasize the precise date and foreground this important information concerning the next trial date (DECEMBER THIS). He uses his sign for DECEMBER in the first two instances. To ensure that he is understood by the child, who may use a different sign for DECEMBER, he then finger-spells the word D-E-C-E-M-B-E-R and repeats the date. Finally after estab-

lishing the time reference, he signs YOU COME AGAIN MEET, meaning you will come and meet me again here.

He ends off with a yes-no question in (4) that could be translated as "Is this ok with you?" which he signs with the appropriate facial expression (raised eyebrows, head tilt back). L.M. responds by nodding affirmatively indicating that she has understood the question.

The necessity for a relay interpreter is also apparent in cases 4 and 5. In case 4, an African Deaf man R.R. appeared in court on 5 October 1999 on a charge of murder. He could not understand the white interpreter and she requested that my research assistant T.N. be appointed as a relay interpreter during the court hearing that day. Interestingly, resistance to the presence of a relay interpreter came from R.R.'s lawyer who stated that only sworn interpreters could appear in court. Eventually the interpreter convinced the lawyer to allow the use of a relay interpreter. However, the chief interpreter was unsure how the relay interpreter could be sworn in as he was Deaf. The swearing in process requires direct communication without the presence of an interpreter. This was resolved by the relay interpreter filling in the form in writing instead of swearing him in orally. In this case the magistrate agreed to the presence of a relay interpreter but did not accommodate the process by allowing additional time for the relay interpreter to communicate with R.R. Consequently the sign language communication was very rushed and some information was lost. The hearing interpreter did not have the confidence to ask the court to slow down for the relay interpreter as she was scared they would then not allow the relay interpreting to occur.

Relay interpreters were clearly needed in case 5, due to communication problems between the African Deaf young people concerned and the white interpreter. In this instance five Deaf people appeared in court in the same rape case. Initially one white Afrikaans female interpreter was appointed to the case. It was soon clear that different hearing interpreters were required for G.K, an African Deaf male who allegedly raped an African female child (T.D.) at school. Three Deaf African female witnesses were also then allocated to T.D's interpreter. The only hearing interpreters that were available, were white women who used a different sign dialect from the Deaf African students.

The interpreting situation for this case was complex and will be described in some detail. This was probably a perfect interpreting scenario as there were separate interpreters for the Deaf accused and Deaf complainant and witnesses. The interpreters had been carefully selected after the magistrate had consulted my Deaf research assistant and me.

Before the case could proceed, the prosecutor had to convince the mag-

istrate that all four interpreters were necessary. The magistrate then asked that all four interpreters be sworn in and the relevant paper work be completed. This delayed the case for one and a half hours. The relevant court administrators had to be convinced of the necessity for four interpreters as they had a problem paying them all. After the chief magistrate in Johannesburg had been consulted, the relevant forms were faxed from Johannesburg and the two Deaf relay interpreters as well as the hearing interpreters were sworn in.

Two female interpreters were used for the female African Deaf witness as this was a rape case and it was important for interpreters of the same gender as the complainant and witnesses to be selected. The hearing interpreter had originally been selected as she was a teacher at a Deaf school and therefore met the criteria for an intermediary. Her African Deaf relay interpreter had attended the same Deaf school and could communicate easily with the hearing interpreter. In addition, the relay interpreter was familiar with the sign language used at the black Deaf school which the complainant and witnesses attended. This ensured that she could communicate fluently with the children from that school (complainant and two witnesses). It should be noted that Deaf children use their own school signs which emerge in every school. The school sign language systems have different vocabulary from the adult sign language variety. It is therefore important that the relay interpreter understands this vocabulary. This particular interpreter had attended this school a few years ago.

The male African Deaf accused had his own two interpreters, the white female hearing interpreter who does all the cases for the Johannesburg courts and an African male Deaf interpreter (my research assistant). The white female interpreter had been selected by the courts as they do not consider gender when selecting interpreters and always use her, irrespective of the gender or cultural group of the Deaf person concerned. She had insisted on using my research assistant as a relay interpreter as he knows the (black) sign dialect used by the accused.

There were no problems concerning interpreters once the magistrate had been convinced of the need for two relay interpreters and the issue concerning swearing in two relay interpreters had been resolved.

Reluctance of courts to accommodate the need for relay interpreters

The problems that court officials had with regard to Deaf people being used as relay interpreters compound communication problems. The first problem concerned relay interpreters being sworn in as court interpreters. There was a perception at a few courts that Deaf people cannot be sworn in as inter-

preters due to their Deafness. This needs to be refuted as they have in fact been sworn in at two courts I attended and there is no reason that this cannot be done at all courts.

Another reason that court officials gave for not using relay interpreters was the extra costs and time that would be needed for the case. The courts should recognize that relay interpreting is worth any extra time that it may take. It does not result in a decrease in the accuracy of the message, an additional concern that was expressed by lawyers and magistrates. Despite the fact that an additional person is required, the accuracy of the message is increased as the relay interpreter is able to understand the Deaf accused or witness much more effectively than the hearing interpreter. Until the courts recognize the importance of relay interpreters and are prepared to make the effort to swear them in as interpreters, barriers to communication will persist in the courts. This, in turn, amounts to an infringement of Deaf witnesses' rights: they are not given the opportunity to participate in the court without any barriers to communication.

Like other marginalised groups (Lawrence and Aarons 1997), Deaf people are ignorant of their rights, court procedures and the language of the court. Relay interpreters are essential to ensure that Deaf people understand their rights.

Matching the gender and culture of the interpreter and the witness

Another aspect of the communication problems that Deaf people experience in the courtroom concerns matching the gender and culture of the interpreter and the witness. If the gender of the interpreter does not match that of the Deaf person in certain gender sensitive cases such as those involving divorce or rape, communication problems result e.g. a female Deaf complainant who had been raped would have a problem with a male interpreter. According to a male interpreter who was involved in a rape case: "It's always not a comfortable situation especially if the victim is a female, females are not easily open to the male interpreters."

Due to the lack of available interpreters of both genders, it is not always possible to achieve this gender match. In one of the rape cases observed, case no? T.N. (a male Deaf black man) was used as a relay interpreter with a young Deaf black girl. The hearing interpreter was female. As a researcher, I was concerned that the relay was a man. However, the witness seemed to feel comfortable with T.N. and in this instance culture and communication seemed to override gender. In the other rape case, the genders were carefully matched.

However, gender was problematic in case 8, a divorce case involving two Deaf African parties on 26 October 1999 in Johannesburg. The wife (A.M.) had initiated divorce proceedings against her husband (M.M.) after he left her at the beginning of the year. They have two children. M.M. didn't want a divorce. A.M. had consulted a social worker at the provincial office of DEAF-SA who had supplied her with an African female sign language interpreter for the court hearing. Only one sign language interpreter was used for both the wife and her husband. Her husband had not attended the meetings with the social worker before the court appearance.

The interpreter switched between signed English and SASL. A.M. appeared to understand her sign language without any difficulty. It is difficult to assess the extent to which M.M. understood the interpreter as he was resistant to her presence. He did not understand the neutral role of the interpreter as he seemed to think that she was siding with his wife because she was a woman. In response to the magistrate's question as to how much he earned, he requested to communicate directly with the magistrate using written English.

Magistrate: Will he be able to pay maintenance?

M.M.: Yes

Magistrate: Ask how much is he earning?

M.M.: ME WANT WRITE-BACK-AND-FORTH

Interpreter: He wants to communicate in writing with you.

Magistrate: I can't do that because you have an interpreter.

_____neg_____

M.M.: WIFE NEVER DISCUSS DIVORCE WHY

Interpreter: Why didn't my wife come to discuss the divorce with me?

Magistrate: What kind of work is the husband doing?

Husband: PAINT

Interpreter: Painting.

Magistrate: As the husband doesn't want to co-operate, the interim order is R200 per child. You can go in a week's time and ask for an increase.

From the above excerpt it is clear that the husband is not co-operating with the magistrate's line of questioning in which she is trying to determine how much maintenance he can afford to pay his wife. He is not answering her questions but using the opportunity to state what is on his mind. After the magistrate asks him how much he is earning, he responds with a demand to

communicate directly with her in writing instead of using the interpreter whom he is not comfortable using. He perceives the interpreter to be against him as is his wife. He then follows this up with a statement that reflects his anger and confusion as to his wife's lack of communication with him regarding the divorce.

Barrier 3: Laws that are used to discriminate against Deaf people in the courtroom

Important barriers are located in existing laws that are implemented in a way that is not in line with the constitutional protection afforded Deaf people.

Exclusion of relay interpreters when an intermediary is used

The most obstructive barrier that was identified regarding relay interpreters concerned their exclusion from proceedings in which an intermediary was used. At least one magistrate interpreted section 170A of the Criminal Procedure Act (which deals with evidence through intermediaries) as prohibiting the presence of a relay interpreter with a witness in the intermediary room. Section 170A (1) and (2) states –

- (1) Whenever criminal proceedings are pending before any court and it appears to such court that it would expose any witness under the age of eighteen years to undue mental stress or suffering if he testifies at such proceedings, the court may, subject to subsection (4), appoint a competent person as an intermediary in order to enable such witness to give his evidence through that intermediary.
- (2) (a) No examination, cross examination or re-examination of any witness in respect of whom a court has appointed an intermediary under subsection (1), except examination by the court, shall take place in any manner other than through that intermediary....

Nothing in section 170A suggests that the use of an intermediary excludes the use of relay interpreters. On the contrary, the section explicitly states its pur-

3 The argument that section 170A does not allow relay interpreters when an intermediary is used seems to be based on a misunderstanding of subsection (2)(a). That subsection demands that once a court has decided that an intermediary should be appointed, the witness may not be subject to direct questioning except by the court. In other words, the intermediary may not be by-passed. This does not affect the role of interpreters.

pose to be avoiding undue mental stress. To require adjudicating officers to choose between using a relay interpreter (and thus ensuring effective communication) and using an intermediary (to achieve the goal of section 170A) would make nonsense of the proceedings.⁴

At present, in most cases the hearing 'sign interpreter' and the relay interpreter would transmit the message from the intermediary to the witness and, when the witness answers questions, convey the answers back to the intermediary. This suggests that the ideal solution would be to have sign language interpreters or relay interpreters who are also intermediaries. An added advantage brought by this solution is that the number of people that the witness faces is reduced. Nevertheless, in the absence of sign language interpreters who can act as intermediaries, judicial officers need to ensure that relay interpretation is used even when it is appropriate to use an intermediary. Any other interpretation of section 170A places Deaf children at a distinct disadvantage when a hearing intermediary cannot be found who is fluent in the sign language dialect that the child uses.

I interviewed the magistrate in case 5 about this issue. She indicated that a relay interpreter could not be used for T.D. as the child was supposed to testify by way of CCTV. In such instances, she claimed, the law specifies that only an intermediary can be used. The intermediary needs to communicate directly with the minor. The problem she believed was the lack of availability of a hearing intermediary who met the criteria for acting as an intermediary and who was fluent in the African sign language variety that T.D. uses. Only a white hearing intermediary could be found. Although she was a skilled interpreter, she needed the assistance of an African Deaf relay interpreter.

Part of the confusion in this case may have developed from loose use of the term 'in camera'. The room in which a child testifies when an intermediary is used is usually referred to as the 'camera' room because it is the room in which the camera is located. But, even when an intermediary is not used, a child testifying in a rape case will give evidence in camera – although in front of the accused. The decision to allow the witness to testify without seeing or hearing the accused has nothing to do with the requirement that the proceedings as a whole should be in camera.

Section 170A(4) of the Criminal Procedure Act permits the Minister of Justice to identify by notice in the Gazette classes of people who may be appointed as intermediaries. The current list is limited to registered medical practitioners who specialize in paediatrics or psychiatry, family counsellors who meet specific criteria, child care workers with necessary experience and qualifications, registered social workers with two years of experience, teach-

ers with four years' experience and registered psychologists (GN R1374 GG 15024 dated 30 July 1993 Appendix A). At present there are unlikely to be relay interpreters who will fall into any of these categories. Most teachers from Deaf schools cannot use SASL proficiently and therefore cannot be used as relay interpreters. Similarly most social workers who work with Deaf people do not have the necessary SASL skills. Therefore it is imperative that the list be expanded to permit suitably trained relay interpreters to act as intermediaries.

Exclusion of sign language interpreting from the court record

A final barrier is also located in legal practice. As video cameras are generally not permitted in courts, the initial message of Deaf witnesses and Sign Language interpreting do not form a part of the court record. Early in 1999, the chief interpreter in the Germiston court, Mr Jimmy Moltsane, made a representation to have this changed. Until this practice changes there is no opportunity to consult what has been communicated in Sign Language in the court by the Deaf person or the interpreter. This places Deaf people at a disadvantage if there is any reason to query what has happened in court. An audio recording is the basis for the spoken language transcript and the possibility of reverting to the original and considering the accuracy of the interpretation is not possible. In other trials the original recording may be consulted during a trial – if, for instance, a witness disputes a statement that he or she is alleged to have made – or after the trial in an appeal process.

There are obvious problems in having video equipment in trials involving Deaf people. The equipment is expensive; court personnel would need to learn how to use it (or it may be hired); and if a court does not have its own equipment, arrangements would need to be made to ensure that it was available when needed. But the blatant injustices documented in this paper that inaccurate interpretation in cases involving Deaf people gives rise to and the degree to which the legitimacy of the justice system is undermined in the process clearly require a response. Expense and administrative inconvenience are not a justification for trials in which witnesses, and particularly accused people, are unable to explain themselves. The approach of the courts ought to be that unless it is demonstrated that no video equipment is available locally, video recordings should be made.

III

Recommendations

A number of recommendations are suggested by this report. The most important concern the rights of Deaf people to competent sign language and relay interpreters. Court officials also need to be trained as to how to use sign language interpreters correctly. In addition, the law concerning intermediaries and video recordings in the court needs to be clarified so that there is no possibility of discrimination against Deaf people.

The national director of DEAFSA, who is Deaf himself, has the following vision for a judicial system where Deaf people are treated equally to hearing people:

Firstly, every Deaf person irrespective of their level of functioning knows their rights, including the right to have a sign language interpreter. Depending on their functional level, they have the right to a backup relay interpreter....

Secondly, all courts in South Africa need to know about the rights of Deaf people. These rights need to be written in the law, the general rights of access need to be narrowed down and specified.

Thirdly, we need a pool of professional interpreters in each province and a pool of relay interpreters in each province to realize these fundamental rights. Additionally we need functional training of all interpreters in the present court system.

The following recommendations, if implemented, would achieve the realization of this vision.

Hearing interpreters and Deaf relay interpreters

One of the main problems in courts is in the area of sign language interpretation. The use of teams of hearing interpreters and Deaf relay interpreters will go a long way to rectify the situation.

- Deaf people need a skilled professional interpreter when they are giving a police statement. Relay interpreters also need to be used at all police stations to work in a team with the hearing interpreter. Relatives and professionals who are not proficient SASL users must not be used as interpreters when police statements are taken.
- It takes time to train hearing interpreters as they need to first acquire the

appropriate sign language skills, it is much faster to identify and train relay interpreters who already have the required language proficiency. Both male and female relay interpreters need to be identified and trained.

- Each court needs to have contact information for a few male and female relay interpreters who are fluent in the sign language used by the different Deaf communities in that area.
- Courts need to be made aware of the correct swearing-in procedure for relay interpreters. A hearing interpreter can be used to explain the contents of the form to the relay interpreter and allow them to complete the form in writing when swearing them in.
- Every court needs to use relay interpreters in each case involving a Deaf person. Courts need to identify and train such people.
- Separate interpreters are needed if a Deaf accused and Deaf complainant or witness appear in one case.

Educating Deaf people about court procedures and legal terminology

A programme needs to be introduced which educates Deaf people about court procedures, their rights regarding interpreters, how to use an interpreter and legal terminology. A Deaf person familiar with judicial procedures such as a relay interpreter could spend time explaining procedures and what is expected to a Deaf person who is about to appear in court. Legal terminology and concepts also need to be explained at this time. The Department of Justice in conjunction with DEAFSA could identify appropriate Deaf people and train them accordingly.

Raising awareness regarding sign language and the experience of Deafness among court officials

- Magistrates, prosecutors, lawyers providing legal aid and chief interpreters need to be educated about SASL and its dialects as well as the difference between SASL and sign supported English/Afrikaans/SeSotho etc.
- The terminology "Deaf and mute" and "Deaf and dumb" used by court officials and in pay scales for interpreters needs to be changed to "Deaf".
- Court officials must be required to inform Deaf people of their rights and must be sensitized to the problems that Deaf people encounter in the justice system and in broader society.

Training court officials about sign language interpreters

- Court officials need to be trained regarding the professional role of the sign language interpreter and how to use sign language interpreters correctly. The court officials need to treat the interpreters respectfully. They need to slow down when necessary, especially on names and words which need to be fingerspelled. They need to allow for lag time when a relay interpreter is used. A pretrial interpreter consultation is needed so that interpreters can familiarize themselves with any written statements that may need to be translated.
- The remuneration problems that sign language interpreters experience need to be addressed.
- The justice system needs to ensure that sign language interpreters who appear in courts are proficient users of SASL rather than sign supported English/Afrikaans/SeSotho etc. This needs to be done in collaboration with DEAFSA and PANSALB.

BIBLIOGRAPHY

- Aarons D., and P. Akach (1998) *The situation of the Deaf in Tertiary Education in South Africa. Report to the Pan South African Language Board.* DEAFSA, Johannesburg.
- Aarons D., and R. Morgan (1998) 'The linguistic structure of South African Sign Language after Apartheid.' Paper presented at the conference: The Sixth International Conference on Theoretical Issues in Sign Language Research. Gallaudet University, Washington DC, November 1998.
- Carmel S. (1987) *A study of Deaf culture in an American Urban Deaf Community.* Ph.D. Dissertation, The American University, Washington DC.
- Ering C.J., and R.C Johnson, D.L. Smith & B.D. Snijder (1994) *The Deaf Way: Perspectives from the International Conference on Deaf Culture.* Washington, DC: Gallaudet University Press.
- Johnson E.J., Liddel S.K., and C.J. Ering (1989) *Unlocking the Curriculum: Principles for Achieving Access in Deaf Education.* Department of Linguistics and Interpreting and the Gallaudet Research Institute. Gallaudet Research Institute Working Paper 89-3. Gallaudet University, Washington, D.C.
- Kelleman, K. (1999) *Discussion Document on SASL and SASL Interpreter Service Strategic Planning.* DEAFSA. Distributed to workshop participants, Bloemfontein, 29 November – 1 December 1999. Unpublished manuscript.
- Lane, H. (1992) *The Mask of Benevolence: Disabling the Deaf Community.* New York: Vintage Books, Random House Inc.
- Lawrence, P., and D Aarons (1997) *Unrepresented accused and the language of the Magistrates' Court.* Issues in Law, Race and Gender 4. Law, Race and Gender Research Unit. University of Cape Town.
- Morgan, R. (1986) *Sign Language in South African Black Deaf Communities: Implications for Future Research.* Unpublished honours thesis. Faculty of Arts, University of Witwatersrand.
- Padden C., and T. Humphries (1988) *Deaf in America, voices from a culture.* Cambridge, Mass.: Harvard University Press.

APPENDIX A

I. Criminal Procedure Act 51 of 1977

Section 170A Evidence through intermediaries

- (1) Whenever criminal proceedings are pending before any court and it appears to such court that it would expose any witness under the age of eighteen years to undue mental stress or suffering if he testifies at such proceedings, the court may, subject to subsection (4), appoint a competent person as an intermediary in order to enable such witness to give his evidence through that intermediary.
- (2) (a) No examination, cross-examination or re-examination of any witness in respect of whom a court has appointed an intermediary under subsection (1), except examination by the court, shall take place in any manner other than through that intermediary.
(b) The said intermediary may, unless the court directs otherwise, convey the general purport of any question to the relevant witness.
- (3) If a court appoints an intermediary under subsection (1), the court may direct that the relevant witness shall give his evidence at any place
 - (a) which is informally arranged to set that witness at ease;
 - (b) which is so situated that any person whose presence may upset that witness, is outside the sight and hearing of that witness; and
 - (c) which enables the court and any person whose presence is necessary at the relevant court proceedings to see and hear, either directly or through the medium of any electronic or other devices, that intermediary as well as that witness during his testimony.
- (4) (a) The Minister may by notice in the Gazette determine the persons or categories or class of persons who are competent to be appointed as intermediaries.
(b) An intermediary who is not in full-time employment of the State shall be paid travelling and subsistence and other allowances in respect of the services rendered by him as the Minister, with the concurrence of the Minister of Finance, may determine.

II The persons or the categories or classes of persons who are competent to be appointed as intermediaries

GN R1374 GG 15024 dated 30 July 1993 (with effect from 30 July 1993)

The Minister of Justice has under section 170A (4) (a) of the Criminal Procedure Act, 1977 (Act 51 of 1977), made the following determination regarding the categories or classes of persons competent to be appointed as intermediaries:

Medical practitioners who are registered as such under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974) and against whose names the speciality paediatrics is also registered.

Medical practitioners who are registered as such under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974) and against whose names the speciality psychiatry is also registered.

Family counsellors who are appointed as such under section 3 of the Mediation in Certain Divorce Matters Act, 1987 (Act 24 of 1987), and who are or were registered as social workers under section 17 of the Social Work Act, 1978 (Act 110 of 1978), or who are or were classified as teachers in qualification category C to G, as determined by the Department of National Education, or who are or were registered as clinical, educational or counseling psychologists under the Medical, Dental and Supplementary Health Service Professions Act, 1974.

Child care workers who have successfully completed a two-year course in child and youth care approved by the National Association of Child Care Workers and who have four years' experience in child care.

Social workers who are registered as such under section 17 of the Social Work Act, 1978, and who have two years' experience in social work.

Teachers who are classified in qualification category C to G, as determined by the Department of National Education, and who have four years' experience in teaching and who have not at any stage, for whatever reason, been suspended or dismissed from service in teaching.

Psychologists who are registered as clinical educational or counseling psychologist under the Medical, Dental and Supplementary Health Service Profession Act, 1974.

APPENDIX B

The Deaf accused or Deaf witness: guidelines for magistrates and other court personnel

Introduction

During 2000, we were participants in a LRC/Justice College short course on Social Context in Judicial Decision-Making. The expressed reluctance of colleges to deal with cases where one or more party was Deaf, led us to confront the problems experienced by Deaf people in the justice system in South Africa.

We contacted DEAFSA (Deaf Federation of South Africa), and arranged several meetings with Marius Cronjé (Social Worker), Ivan Japhta (Placement Officer), Patrick de Lill (Development Worker) and Christopher Matthews (Interpreter). The problems of Deaf accused/witnesses, the interpreters and the court personnel were discussed and practical solutions sought within the present framework of the system. After the initial meeting, it became quite clear that the problem was a great deal more serious than we had originally thought. A further meeting was held with Carmella Erasmus, a professional Sign Language court interpreter, who described the situation in South Africa as "horrifying and terrifying". It served to confirm that people who cannot hear are severely prejudiced at all stages of the criminal justice process. Public buildings, such as the courts, have been made physically accessible to disabled people (for example, people in wheel chairs). No real attempt has, however, been made to ensure that justice is accessible to people who cannot hear.

Working with the representatives of DEAFSA and using the information provided by them, we drew up a set of guidelines, which, we hope, will in some way, give court personnel some insight and some assistance in facilitating communication with Deaf people.

Elizabeth Baartman
Presiding Officer, Southern Divorce Court
Helen Alman
Magistrate, Wynberg, Cape Town

1. In general

- A hearing loss is the impairment of the sense of hearing to the extent that it interferes with communication and affects many aspects of the life of an individual.
- There are people with a mild to moderate hearing loss whose primary mode of communication is the spoken language and who could, in most circumstances, benefit from a hearing aid.
- Deaf people are born Deaf or become Deaf before the acquisition of language. Such a person has a profound hearing loss, identifies with Deaf culture and has Sign Language as the primary mode of communication. This is known as pre-lingual deafness.
- Deafened people acquire a moderate-severe or profound hearing loss after the acquisition of a spoken language and are dependent upon the visual sense for additional information for the purposes of spoken communication. Some Deafened people learn Sign Language and may prefer transliteration from spoken language eg spoken English to a more English form of manually coded sign language as opposed to natural South African Sign Language.
- Not all people experience deafness in the same way. The cause of deafness, time of onset, time of identification, degree, type and shape of hearing loss, type of intervention, support of family, and socio-economic circumstances of the person will influence the functioning of a person with hearing loss. These factors will play a role in determining the communication methods which the individual will prefer.
- Deaf people view themselves as belonging to a linguistic minority with its own culture, with Sign Language as a binding factor.
- The terminology "deaf and dumb" (see also §161(2) Act 51/77) is offensive, misleading and perpetuates a perception that deaf people are somehow mentally defective.
- Deaf people are a vulnerable group in the criminal justice system whose rights in terms of the Constitution and the Criminal Procedure Act, may in many cases, have been ignored as a result of the failure on the part of the police to communicate with them effectively.

2. Communication

- To get the attention of a Deaf person, touch them lightly on the shoulder, or wave your hand.

- Always maintain eye contact while communicating. The moment you look away, the conversation is interrupted. What is considered a stare in other cultures is not impolite in Deaf culture. It is considered rude and ignorant to look away while you are speaking.
- Ask which language the person would prefer to use to communicate. Hard of hearing people may be able to hear some of what is being communicated, but may miss things. They may be able to lip read. They may also be able to communicate in Sign Language and may prefer to do so. It should be remembered that a court setting is intimidating for most people and that people can be hesitant to reveal just how little they can hear for fear of causing irritation.
- People who are able to lip read may require an oral interpreter who relays verbal information in spoken language by shadowing what another person is saying by making the mouth movements without voicing anything. The oral interpreter sits or stands in front of the Deafened person or oral Deaf person so that their lips and face are clearly visible. Oral Deaf people need oral interpreters as it is very difficult to lip read people at a distance and in situations where there are more than one person speaking. Certain people who do not talk clearly or who have moustaches are very difficult to lip-read.
- Good lighting is very important for good communication.
- Background noise can distort communication with a person who uses a hearing aid.
- Don't shout at a person with a hearing loss. It is humiliating (for both parties) and distorts the articulation.
- Speak clearly and at a slightly slower pace, but do not exaggerate speech.
- Do not cover your mouth or turn away while talking.
- Use short and simple sentences and rephrase if you are not understood.
- Use facial expressions that correspond with what you are saying. Nod slightly to show that you are attentive, as an expressionless face conveys inattention.
- Because facial expression is so important, there may be the impression that the Deaf person is being emotional or intense, and that this behaviour is inappropriate for a court. It should be remembered that this is part of visual communication.
- Use simple gestures to emphasise words.
- Remember that only 8 of the 26 letters of the alphabet can be seen on the speaking lips.

- Write if necessary, but remember that written language is the second language of the Deaf person who communicates in Sign Language. Written documents should be in simple language.
- Be patient if the response is slow
- Remain positive and relaxed, your attitude can build confidence.
- Don't be distracted by a person's flat tone of voice.
- Give clues when changing the subject.

3. Sign Language

- Sign Language is an integral part and identifying feature of membership in Deaf Culture.
- It has its own grammatical structure independent of any spoken or written language. South African Sign Language (SASL) has regional and cultural variations but the same grammatical structure countrywide.
- There is not a one-to-one relationship between Sign Language and other spoken languages. One sign may be translated by more than one spoken word and vice versa.
- SASL is not more or less abstract than any spoken language. It is capable of expressing all that spoken language is capable of expressing, with all its subtlety and complexity.
- Manually coded spoken languages (i.e. making a sign for each word in a spoken language) are not Sign Language. They are merely simplified forms of communication because they do not follow the grammatical rules of either spoken or signed language.
- Sign language relies on handforms (the different shapes that the hand takes), location (the areas where the handforms are placed), movement, orientation (of the palm in relation to the body) and facial expression to convey meaning. Facial expressions also express grammar. A person who cannot sign may form the impression that a single sign conveys completely different meanings because they do not understand the complexity or subtlety of Sign Language.
- Fingerspelling (the way the 26 letters of the alphabet are made on the hands) is used to spell names of people or places and concepts or words that do not have signs. Fingerspelling is limited to people who have been exposed to the written form of a particular spoken language.

4. The Sign Language interpreter

- Sign Language interpreters are bilingual, bicultural professionals who conduct themselves according to professional ethics.
- Because Sign Language as the natural language of Deaf people was marginalised in the past in South Africa, training of Sign Language interpreters was never established in this country until 1999 when programmes were initiated at the University of the Witwatersrand and the University of the Free State. In other countries formalised training has been in existence for a long time, with qualifications ranging from certificate to degree levels, over a minimum period of three years. Until these programmes were started, there were only three professional Court Interpreters in this country, who trained in the United States of America, or Europe.
- Despite the lack of formal training, interpretation for Deaf people has always existed, although on a small, informal scale. Children of Deaf Adults (CODA), family of Deaf people and teachers of Deaf children who are often not competent and fluent in SASL provide interpreting services for Deaf people.
- The Sign Language interpreter must face the Deaf person, and be on the same side as the speaker so that the Deaf person can look at both the speaker and the interpreter.
- There should be enough light on the signer's face (i.e. on the face of the Deaf person and the interpreter). Light should not shine behind the person signing.
- Interpreters should, ideally be given a break every 20 or 30 minutes as interpreting Sign Language can be very tiring. (In the USA, two interpreters are always assigned to one job, and switch every twenty minutes as it is exhausting to interpret continuously.)
- If you do not understand what the Deaf person is saying, use the interpreter to ask them what they mean.
- DEAFSA (Deaf Federation of South Africa) can be contacted for a list of SASL interpreters. It may be necessary to ascertain from the Deaf person where they went to school, or where they grew up, so that this information can be conveyed to DEAFSA to ensure that an interpreter is provided who can best communicate with that particular Deaf person.
- The concept of an interpreter differs where Deaf people are involved. Although interpreters are neutral, their clients see the interpreter in a more representative role ("their ears and voice") than the neutral role of

a court interpreter.

- It may also be that a Deaf person communicates better with a particular interpreter as a result of their regional or cultural similarities. Quite clearly in such a case, this Deaf person has an advantage over the Deaf person who does not communicate as well with that particular interpreter. In such a case it would be necessary to have two Sign Language interpreters
- It is DEAFSA's policy that only hearing interpreters be used in criminal trials. However, due to a lack of hearing interpreters, hard-of-hearing interpreters are sometimes used in applications for interdicts, divorce cases etc. It should be remembered that such an interpreter needs to be close to the speaker and needs to be able to see the face of the speaker clearly. It is also necessary for the Deaf person to see the face of the interpreter. This may necessitate the interpreter having to move about in the court. It is particularly important in such cases that speakers pace their speech carefully, with sufficient pauses so that the interpreter can convey the message clearly.
- Visual interruptions cause interruptions in communication. It is therefore important that no-one walk between the interpreter and the Deaf person.
- Interpreters use their upper bodies when signing. For this reason, a tic, for instance, might cause a visual distraction. Interpreters who do not wear ties in court do not do so out of disrespect, but to enhance communication.
- It should be remembered that although the Sign Language interpreters are professional interpreters, they are not professional *court* interpreters. Communication will be enhanced if jargon is kept to a minimum and technical words are explained.
- The interpreter is not a social worker and should not be asked to perform other tasks such as contacting the accused's family. DEAFSA does employ social workers whose job it is to fulfil these duties.

There are estimated to be 500 000 Deaf people in South Africa. Those who enter the criminal justice system, at whatever level of participation, are severely prejudiced at almost every stage of the system, in spite of the guarantees of equality enshrined in the Constitution, and the right to use the language of their choice (section 30, although in their case hardly a choice). They are vulnerable in the system and have been marginalised. In order to provide real justice, far-reaching changes must be made.

It is necessary that the South African Police Services be sensitised to the abuse of rights which occur where Deaf people enter the criminal justice sys-

tem. Ideally, there should be policemen in every district who are able to sign, but failing that, the various police stations should be provided with contact numbers so that Sign Language interpreters can be arranged as soon as possible. There seems to be a perception in some quarters that the "problem" of communicating with the Deaf person is something for the court to sort out.

To facilitate communication during the court-process, it is imperative that there should be proper training for Sign Language court interpreters. The Department of Justice should institute a proper training programme so that Sign Language interpreters can be trained as court interpreters. A list of these trained interpreters should be kept at each Regional Office so that the interpreters are accessible to all of the courts in the Region.

Deaf people in the criminal justice system are discriminated against as a result of their "disability". The core problem appears to be the fact that Sign Language has not been promoted, nor have conditions been created for the development and use of Sign Language in South Africa.

*Information supplied by: DEAFSA Deaf Federation of South Africa
20 Napier Road, Richmond, Johannesburg
Private Bag X04, Westhoven, 2142
Tel (011) 482-1610
Fax (011) 726-5873*