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FACULTY OF GRADUATE STUDIES**

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**A LINGUISTIC ANALYSIS OF THE STRUCTURE OF AN  
OJIBWE LEGAL GLOSSARY**

**BY**

**DAWN DUBOIS**

**A Thesis submitted to  
the Faculty of Graduate Studies  
In Partial Fulfillment of the Requirements for the degree of**

**MASTER OF ARTS**

**Department of Linguistics  
University of Manitoba  
Winnipeg, Manitoba**

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## Abbreviations

|             |  |
|-------------|--|
| <b>1s</b>   | first person singular (I/me)   |
| <b>2s</b>   | second person singular (you)   |
| <b>3s</b>   | third person singular (s/he)   |
| <b>3's</b>  | third person obviative   |
| <b>1p</b>   | first person exclusive plural  |
| <b>2i</b>   | first person inclusive plural  |
| <b>2p</b>   | second person plural (you)   |
| <b>3p</b>   | third person plural (they)   |
| <b>3'p</b>  | third person plural obviative  |
| <b>X</b>    | impersonal (with intransitives), passive (with transitives)  |
| -           | separates agents and patients, e.g. <b>3-1</b> = third person agent, first person patient<br><b>X-3</b> = third person passive |
| <b>AI</b>   | animate intransitive   |
| <b>II</b>   | inanimate intransitive   |
| <b>TA</b>   | animate transitive   |
| <b>TI</b>   | inanimate transitive   |
| <b>conj</b> | verb in conjunct order   |
| <b>DIR</b>  | direct   |
| <b>fut</b>  | future   |
| <b>ic</b>   | initial change   |
| <b>ind</b>  | verb in independent order  |
| <b>INV</b>  | inverse  |

|             |                                |
|-------------|--------------------------------|
| <b>NA</b>   | animate noun                   |
| <b>NEG</b>  | negative form of verb          |
| <b>NI</b>   | inanimate noun                 |
| <b>obv</b>  | obviative                      |
| <b>pass</b> | verb in passive order          |
| <b>pc</b>   | particle                       |
| <b>pl</b>   | plural                         |
| <b>pst</b>  | past                           |
| <b>pr</b>   | pronoun                        |
| <b>prox</b> | proximate                      |
| <b>pv</b>   | preverb                        |
| <b>s.o.</b> | someone (animate)              |
| <b>s.t.</b> | something (inanimate)          |
| <b>SVO</b>  | subject verb object word order |

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## **Chapter 1: Introduction**

### **1.1 Overview**

A great deal of concern has been expressed over the quality of interpretation provided in Canadian courts. To assist court interpreters in developing a consistent form of communication, over the past two decades, legal glossaries and manuals containing commonly used legal terms have been produced for various regional Ojibwe dialects including Oji-Cree spoken in Northwestern Ontario and Manitoba-Saulteaux Ojibwe spoken in Southern Manitoba.

To date, little research has been completed in the areas of indigenous legal language and the structure of legal glossaries of Algonquian languages. Although glossaries of Ojibwe legal terms have been compiled to assist court interpreters with this process, a salient question that remains is whether these glossaries adequately provide a means for producing a linguistically true and legally appropriate interpretation of statements translated in court from English to Ojibwe and vice versa.

### **1.2 Aims**

Accordingly, the aims of this thesis are to provide a descriptive overview of the areas of legal language and to explore how legal glossaries of the Ojibwe language are compiled and how effective these glossaries are for the court interpreting process. Specifically, this thesis provides a linguistic analysis of the structure of the *Manitoba Aboriginal Legal Glossary Ojibwe* (abbreviated as *MALG*), a legal glossary of the Manitoba Saulteaux dialect of Ojibwe spoken in Southern Manitoba.

### 1.3 Outline

Chapter 2 begins with an overview of the Ojibwe language along with a discussion of the Saulteaux dialect. This chapter then provides a brief introduction to the Ojibwe writing system that is used in this thesis. The remainder of this chapter provides a discussion of the verbal morphology of the Ojibwe language that is relevant for the linguistic analysis of the structure of the *MALG*.

Chapter 3 provides an introduction to some of the problems with legal translation in the court. Specifically, the pervasiveness of language problems for Aboriginal people are discussed along with court interpreting in Canadian courts. This chapter concludes with a discussion of the need for bilingual legal glossaries.

Chapter 4 provides an overview of the nature of English legal language. Distinctive features of legal English are described along with some of the difficulties in understanding legal language. This chapter concludes with a discussion of the plain language movement in English legal language.

Chapter 5 introduces the discipline of lexicography and provides a discussion of how specialized terminological bilingual dictionaries are compiled. This chapter then considers how specialized terms should be arranged. This chapter concludes with a discussion of some of the unique characteristics that lexicographers, terminologists and language specialists must consider when preparing specialized bilingual dictionaries of Algonquian languages.

Chapter 6 provides a descriptive overview of the construction and lay-out of Ojibwe legal glossaries in general and the *MALG* specifically. Included in this chapter

is a discussion of how the legal terms were chosen and how the glossary was prepared. This chapter concludes with a linguistic analysis of the *MALG*.

Chapter 7 provides a critical analysis of the *MALG*. In addition to reviewing at length the problems associated with this legal glossary, this chapter considers some of the limitations of the standardization of terminology and its subsequent translation from one language to another.

Chapter 8 begins with a discussion of the overall usefulness of the *MALG*. This chapter concludes with a discussion of some of the strategies that may be used for improving legal glossaries and makes suggestions for future research in the area of legal translation.

Chapter 9 reviews the aims and some of the important findings of this thesis. This chapter concludes with a discussion of future research areas. It is hoped that the contents of this thesis will highlight some of the problems that are associated with the present legal glossaries and provide insight into strategies for improving future legal glossaries.

## **1.4 Data**

The data for this thesis is drawn from the legal terms listed in the *MALG*. The *MALG* is comprised of a wide variety of commonly used legal terms primarily relating to the areas of criminal law and family law. Additional legal terms describing common

procedural concepts are also included. In all, a total of 357 English legal terms and their equivalent Ojibwe translations were examined.<sup>1</sup>

## 1.5 Presentation of the Data

Although each of the English legal terms in the *MALG* is translated into Saulteaux using both roman orthography and syllabic orthography, in my linguistic analysis, I make reference to only those glosses represented in roman orthography. The level of analysis of the Saulteaux gloss varies depending on the topic or issue being exemplified.

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<sup>1</sup> The *MALG* is not reproduced in this thesis due to copyright laws. The *MALG* was produced by the Manitoba Association for Native Languages (MANL) in 1992-1993. The structure and the organization of this glossary is described in Chapter 6.

## Chapter 2: Describing the Sauteaux Language

### 2.1 The Manitoba Sauteaux Dialect

Ojibwe is an Algonquian language that is divided into seven dialects: Algonquin, Nipissing Algonquin, Odawa, Chippewa, Oji-Cree, Northern Ojibwe and Sauteaux. The various dialects of Ojibwe are spoken in regions of Canada including Southwestern Quebec, Southern Ontario, the inland regions of Northern Ontario and Southern Manitoba, Saskatchewan and Alberta. The Ojibwe language is also spoken throughout the Midwestern states of Michigan, Wisconsin and Minnesota (Valentine 2001:14-17).

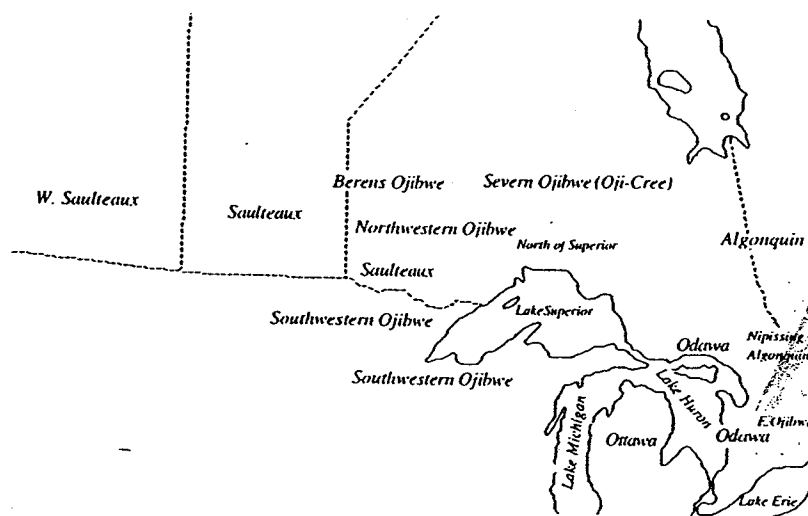
Sub-dialects exist within the Odawa, Chippewa, and Sauteaux dialects. The name Ottawa refers to the Odawa dialect spoken in Michigan. The Chippewa dialect is divided into two sub-dialects: Eastern Ojibwa spoken in Southern Ontario and Southwestern Ojibwe spoken in the Midwestern regions of the United States (Valentine 2001:14-17).

The Sauteaux dialect<sup>2</sup> is primarily spoken in the Southern regions of Manitoba, Saskatchewan, and Alberta and the border regions of Northwestern Ontario (Valentine 2001:17). Although the Manitoba Sauteaux dialect is no longer the primary language of many Aboriginal people residing in Southern Manitoba, the language is still quite viable. According to the 2001 Statistics Canada Census Report, within the province of Manitoba, approximately 8,885 individuals (4,360 male and 4,525 female) identified Ojibwe as their first language. In the capital city of Winnipeg, Manitoba, approximately 2,235 individuals (920 male and 1,320 female) identified Ojibwe as their first language. The

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<sup>2</sup> The sub-dialect of Sauteaux spoken in Saskatchewan and Alberta is referred to as Western Ojibwe. The term Sauteaux arises from the French translation of the Ojibwe word *bawitigong* 'at the rapids' (Valentine 2001:17).

highest proportions of individuals who speak Ojibwe in Manitoba are between the ages of 25 and 64 (Statistics Canada 2001).<sup>3</sup>



#### (1) The Dialects of the Ojibwe Language across Canada<sup>4</sup>

### 2.2 The Manitoba Saulteaux Writing System

There are many writing systems that are used for the Ojibwe language. Folk writing refers to the kind of writing that is used by speakers who are trying to informally write their language using the English alphabet. Hinton (2001:240) identifies two main features of folk writing for American Indian languages. The first is the frequent use of dashes for syllable breaks. The second is the use of English spelling rules and sometimes even the use of whole English words to represent the syllables of the language being represented.

<sup>3</sup> The 2001 Statistics Canada Census Report distinguished only between Ojibway and Oji-Cree.

<sup>4</sup> This map is taken from (Valentine 2001:15).

The *Native Court Interpreter's Manual (1987)* (abbreviated as *NCIM*) prepared by the Manitoba Department of Justice provides an illustration of how folk writing is used in the Saulteaux language.

- (2)
- |     |                 |   |
|-----|-----------------|---|
| (a) | <b>assault</b>  | <i>okee-mee-ga-nahn</i><br>'physical assault'             |
| (b) | <b>attorney</b> | <i>kee-kit-to, inini</i><br>'a lawyer'                    |
| (c) | <b>murder</b>   | <i>onj-,ta, oghee, nee-sahn</i><br>'intentionally killed' |

(NCIM:14-15,81)

The above Saulteaux glosses demonstrate how English conventions of spelling syllable breaks have been incorporated into the folk writing system of the Saulteaux language. In these examples, the commas appear to be used at word boundaries and some compound boundaries.

A second writing system that is often used is the standard roman Fiero writing system. In the Fiero system, letters and combinations of letters, although drawn from the English alphabet, represent Ojibwe sounds. The main characters of this system that depart from English spelling conventions are: (1) the use of doubled vowel letters to represent long vowels that contrast with paired short vowels and (2) the use of voiceless consonant symbols to represent strong (fortis) consonants that are always voiceless and often long or preaspirated and voiced consonant symbols to represent paired weak (lenis) consonants. In this writing system, unfamiliar linguistic symbols such as [š] are replaced by diagraphs and no diacritics are used at all.



The Fiero system is the writing system that is used by most academics and language teachers. All of the Manitoba Saulteaux examples in this thesis are transcribed using the Fiero system described in Nichols and Nyholm (1995). This is consistent with the writing system used in the *Manitoba Aboriginal Legal Glossary – Ojibwe* (abbreviated as *MALG*).

The Fiero transcription of the sample legal terms listed in example (2) are as follows:

|     |     |                 |   |
|-----|-----|-----------------|---|
| (3) | (a) | <b>assault</b>  | <b>ogii-miigaanaan</b><br>'s/he fought him/her'                 |
|     | (b) | <b>attorney</b> | <b>giigidoo(w)inini</b><br>'speaker'                            |
|     | (c) | <b>murder</b>   | <b>onjida ogii-nisaan</b><br>'s/he deliberately killed her/him' |

Wolvengrey (1996) describes a Saulteaux standard roman orthography used by some speakers of the Saulteaux dialects. The Saulteaux writing system differs somewhat from the Fiero system. In the Saulteaux writing system, only voiceless (fortis) consonant symbols are used. Corresponding voiced (lenis) consonants are represented by a digraph that is formed when the phoneme *h* is added to the voiceless consonant symbol (Wolvengrey 1996).<sup>5</sup> This is illustrated by the following set of Saulteaux minimal pairs:<sup>6</sup>

|     |                                 |                                  |
|-----|---------------------------------|----------------------------------|
| (4) | <b>Saulteaux Writing System</b> |                                  |
|     | (a)                             | <b>bahkân</b> 'different'        |
|     |                                 | <b>bakân</b> 'nut'               |
|     | (b)                             | <b>ahšigan</b> 'largemouth bass' |
|     |                                 | <b>ašigan</b> 'sock'             |

<sup>5</sup> For a more thorough discussion of the Saulteaux writing system refer to Voorhis (1977), Cote-Lerat (1984) and Wolvengrey (1996).

<sup>6</sup> These examples are drawn from Nichols (1986:19, 22).

An additional writing system that is often used by speakers is the syllabic writing system which uses non-roman shorthand-based geometric symbols to represent syllables and individual segments (Nichols 1996:599). There are a number of different versions of syllabic writing systems that are used by language specialists working with Ojibwe speakers. The *Manitoba Aboriginal Legal Glossary – Ojibwe* (abbreviated as *MALG*) uses a version of “plain Western” syllabics.<sup>7</sup>

### 2.2.1 Consonants

The Manitoba Saulteaux dialect of Ojibwe is comprised of 18 consonants: 14 obstruents and 4 resonants. The phonetic values for the orthographic symbols illustrated below are shown in the International Phonetic Alphabet (IPA) with the exception of *ch, j*, exception of *ch, j, sh, zh* and *'* whose respective IPA equivalents are [tʃ], [dʒ], [ʃ], [ʒ] and (Nyhholm 1995, Valentine 2001).

#### (5) Consonants

|                  | labial   | alveolar | palatal   | velar    | glottal  |
|------------------|----------|----------|-----------|----------|----------|
| stops/affricates | <i>p</i> | <i>t</i> | <i>ch</i> | <i>k</i> | fortis   |
|                  | <i>b</i> | <i>d</i> | <i>j</i>  | <i>g</i> | lenis    |
| sibilants        |          | <i>s</i> | <i>sh</i> |          | fortis   |
|                  |          | <i>z</i> | <i>zh</i> |          | lenis    |
| nasals           | <i>m</i> | <i>n</i> |           |          |          |
| glides           | <i>w</i> |          | <i>y</i>  |          | <i>'</i> |
|                  |          |          |           |          | <i>h</i> |

(Adapted from Nichols and Nyholm, 1995:xxvi)

The following consonant clusters occur in the Manitoba Saulteaux dialect of Ojibwe:

<sup>7</sup> For a more thorough discussion of the different types of syllabics that may be used in the Saulteaux language refer to Murdoch (1985) and Nichols (1996).

| (6) Consonant Cluster | Saulteaux            | English                 |
|-----------------------|----------------------|-------------------------|
| <i>mb</i>             | <i>ambe</i>          | 'let's go!'             |
| <i>nd</i>             | <i>diindiisi</i>     | 'bluejay'               |
| <i>ng</i>             | <i>anang</i>         | 'star'                  |
| <i>nj</i>             | <i>onji</i>          | 'because'               |
| <i>nz</i>             | <i>onzaam</i>        | 'because'               |
| <i>nzh</i>            | <i>nishkanzh</i>     | 'my (finger, toe) nail' |
| <i>ns</i>             | <i>ikwezens</i>      | 'girl'                  |
| <i>sk</i>             | <i>biskinan</i>      | 'bend s.t. over'        |
| <i>shk</i>            | <i>oshki-inini</i>   | 'young man'             |
| <i>shp</i>            | <i>ishpi-dibik</i>   | 'late at night'         |
| <i>sht</i>            | <i>oshtigwaanens</i> | 'postage stamp'         |

(Scott 1995:10, Nichols and Roulette 1997)

With the exception of *w*, *h* and *y*, a single consonant or a consonant cluster may be followed by *w* (Nichols and Nyholm 1995:xxvii-xxviii). This is illustrated by the following Cw cluster examples:

#### (7) Cw Clusters

|           |               |                     |
|-----------|---------------|---------------------|
| <i>bw</i> | <i>bwaan</i>  | 'Dakota'            |
| <i>gw</i> | <i>gwayak</i> | 'straight, correct' |

### 2.2.2 Vowels

The Manitoba Saulteaux dialect of Ojibwe is comprised of a total of seven vowels: three short and four long vowels. Long vowels are distinguished from short vowels by writing double with the exception for the long *e* vowel which is written single. This is because in the Ojibwe language, the long *e* vowel is not paired with a short vowel (Nichols and Nyholm 1995). In the Manitoba Saulteaux dialect of Ojibwe, the short and long vowels are:

(8) **Short Vowels**

|      | front    | back     |
|------|----------|----------|
| high | <i>i</i> | <i>o</i> |
| low  | <i>a</i> |          |

(9) **Long Vowels**

|      | front     | back      |
|------|-----------|-----------|
| high | <i>ii</i> | <i>oo</i> |
| low  | <i>e</i>  | <i>aa</i> |

(Adapted from Nichols and Nyholm 1995:xxiv)

### 2.2.3 Glide Deletion & Assimilation

The glides *w* and *y* are often deleted between vowels or are subject to assimilation to adjacent vowels. The deletion of the glides *w* and *y* results in obscuring the boundary at which the vowel of affixes can contract with stem final semivowels. Valentine (2001:88-89) points out that many Ojibwe writers will insert a *y* at the point where the glide *w* is deleted. For example, the underlying semi-vowel *w* is deleted from *giigidoowinini* 'lawyer' in the *NCIM* where it is written *kee-kit-to, inini*.

(10) **giigidoo(y)inini**  
'speaker'

An example of assimilation from the *MALG* where *y* is replaced by *w* after *o* and *oo* is provided in (11) where the short vowel of the suffix *-yan* '2s' is raised to *i* following the underlying *y*. The *y* then becomes subject to rounding.

- (11) **ji-gichi-ikidowin**  
 ji-gichi-ikido-+-yan  
 ‘attest’

[back translation]<sup>8</sup> ‘to make an absolute truthful statement’

(MALG:7)

### 2.3 The Morphology of Manitoba Saulteaux: An Introduction

The Ojibwe language is a highly-inflected polysynthetic language.<sup>9</sup> One of its most striking features is its richness in inflectional and derivational morphology. Ojibwe morphology is reliant upon the process of affixation to inflect and derive new words. There are two forms of affixation that are prevalent in Ojibwe: prefixes and suffixes.

For the most part, Ojibwe words tend to be derivationally complex (Valentine 1994:177). This differs significantly from analytic languages such as English whose word order and morphology is much more rigid and restrained.<sup>10</sup> Example (12) provided a morpheme by morpheme analysis of the various suffixes that are added to the verb *dibaakon* to derive the noun *dibaakonigewinini*.

- (12) **dibaakonigewinini**  
 ‘judge’

**dib - + - aakw - + -in - + -ige - + -w + -inini**

|               |                     |
|---------------|---------------------|
| <b>dib-</b>   | measure             |
| <b>-aakw-</b> | stick like          |
| <b>-in</b>    | by hand             |
| <b>-ige</b>   | AI detransitivizer  |
| <b>-w</b>     | extensional element |
| <b>-inini</b> | person /NA          |

[back translation] ‘the one who measures the sticks to put them in order’

<sup>8</sup> The term *back translation* refers to the gloss provided in the *MALG* for the generalized translation back into English of the suggested Saulteaux equivalent.

<sup>9</sup> The term *polysynthetic* is used to describe languages that are comprised of long and oftentimes complex word forms that contain an array of inflectional features (Crystal 2001).

<sup>10</sup> The term *analytic* is used to describe languages whose word forms tend to be invariable and whose syntactic relationships are demonstrated through their word order (Crystal 2001).

### Levels of Derivation of the term *dibaakonigewinini*

|                                 |           |                |
|---------------------------------|-----------|----------------|
| <b>dibaakon-</b>                | <b>TA</b> | 'judge s.o.'   |
| <b>dibaakon- + -ige</b>         | <b>AI</b> | 'judge things' |
| <b>dibaakonige- + -w+-inini</b> | <b>NA</b> | 'judge'        |

(MALG:31, Ahenakew, King and Littlejohn 1990:32)

The remainder of this chapter provides a brief overview and introduction to the structure of the Saulteaux language and the topics that are relevant for my analysis of the *MALG*. For a more detailed description of all of the features of Ojibwe morphology, refer to Bloomfield (1958); Rhodes (1976) and Valentine (2001).

## 2.4 Inflectional Morphology

The main lexical categories of Ojibwe inflectional morphology are: nouns, pronouns and verbs (Valentine 1994, 2001).

### 2.4.1 Features of Noun Inflection

The grammatical categories that are most relevant to the inflection of Ojibwe nouns are: gender, number and obviation.

#### 2.4.1.1 Gender

In Ojibwe, nouns fall into two classes: animate or inanimate. The animacy of Ojibwe nouns is largely based on biological features. The animate class of Ojibwe nouns includes animals, humans, trees, insects and spiritual beings. It also includes a collection of inanimate objects that includes items of traditional religious significance, certain natural objects and some body parts (Valentine 1994, 2001). The distinction between

animate and inanimate Saulteaux nouns is illustrated with the following set of examples:<sup>11</sup>

| (13) Animate Nouns (NA) |             | Inanimate Nouns (NI) |              |
|-------------------------|-------------|----------------------|--------------|
| <b>animosh</b>          | ‘dog’       | <b>makizin</b>       | ‘shoe’ (pl)  |
| <b>amik</b>             | ‘beaver’    | <b>manoomin</b>      | ‘wild rice’  |
| <b>azhigan</b>          | ‘sock’      | <b>nibi</b>          | ‘water’      |
| <b>mandaamin</b>        | ‘corn’      | <b>naboob</b>        | ‘soup’       |
| <b>miskomin</b>         | ‘raspberry’ | <b>ode’imin</b>      | ‘strawberry’ |

#### 2.4.1.2 Number

Ojibwe nouns can be either singular or plural. Each class of Ojibwe noun has a different plural ending. Depending on the animacy of the noun, speakers of the Manitoba Saulteaux dialect of Ojibwe use the plural ending *-ag* to mark animate noun stems and the plural ending *-an* to mark inanimate noun stems.<sup>12</sup> The underlying forms of each of these plural forms are subject to contraction or merger with preceding underlying vowels or semivowels.

| (14) Animate Nouns (NA) |               | Inanimate Nouns (NI) |                |
|-------------------------|---------------|----------------------|----------------|
| <b>animoshag</b>        | ‘dogs’        | <b>mashkosiwan</b>   | ‘grass’        |
| <b>amikwag</b>          | ‘beavers’     | <b>makizinan</b>     | ‘shoes’        |
| <b>azhiganag</b>        | ‘socks’       | <b>miinan</b>        | ‘blueberries’  |
| <b>miskominag</b>       | ‘raspberries’ | <b>ode’imanan</b>    | ‘strawberries’ |

<sup>11</sup> These examples are drawn from *The Saulteaux Language Dictionary* (Scott 1995). All of the Saulteaux words have been re-transcribed using the Fiero roman orthography writing system. This is because the original transcriptions appear in the Saulteaux writing system.

<sup>12</sup> See note 11.

### 2.4.1.3 Obviation

Obviation is a unique grammatical feature of Algonquian languages which distinguishes prominence between two third person animate nouns. Algonquian linguists use the term *proximate* to refer to the animate noun being singled out. Conversely, the term *obviative* is used to refer to all of the other animate nouns within the clause. This is because only one animate third person noun may appear in the *proximate* at any one time (Dahlstrom 1986, Russell 1996).<sup>13</sup>

In the Saulteaux dialect of Ojibwe, the singular form of the obviative animate noun is marked with the suffix *-an*. The plural form of the obviative animate noun is marked with the suffix *-a'*. A summary of the different nominal forms of animate nouns is provided in example (15).

#### (15) Animate Saulteaux Nominal Forms

| <u>proximate</u> (sg) | <u>proximate</u> (pl) | <u>obviative</u> (sg) | <u>obviative</u> (pl) |         |
|-----------------------|-----------------------|-----------------------|-----------------------|---------|
| Anishinaabe           | Anishinaabewag        | Anishinaabewan        | Anishinaabewa'        | 'man'   |
| apichi                | apichiwag             | apichiwan             | apichiwa'             | 'robin' |
| dewe'igan             | dewe'iganag           | dewe'iganan           | dewe'igana'           | 'drum'  |

Moreover, in situations where both the subject and the object of the sentence clause are animate third persons nouns, ordinarily the subject is proximate and the object is obviative (Starks 1992). Examples of the obviation process from the *MALG* are provided in (16), (17) and (18).

<sup>13</sup> In Ojibwe, obviation is only marked on animate nouns. Valentine (2001) notes that while inanimate nouns cannot be inflected for obviation, the verbs associated with them may nevertheless be marked to show obviation inflection.



- (16) **onaabi'aan zhooniyaan**  
'counterfeiting'

**onaabi'aan** TA 3s-3's ind. neutral  
s/he copies him/her/it

**zhooniyaan** NA obv. sg  
'money'

[back translation] 'He makes false money'

- (17) **ogidama'aa' abinoojiiya'**  
'child abuse'

**ogidama'aa'** TA 3s-3'p ind. neutral  
s/he abuses them

**abinoojiiya'** NA obv. pl

[back translation] 'One who abuses children'

- (18) **onashowewininiwan obagidinigoon ge-izhichiged**  
'writ' **onashowewinini** NA 'judge'

**onashowewininiwan** NA obv. sg  
'judge'

**obagidinigoon** TA 3's-3s ind. neutral  
's/he allows him/her'

**ge-izhichiged** AI conj. neutral 3s  
'that s/he will do so'

[back translation] 'The judge allows him to do such a thing'

(MALG:12,16,52)

In example (16), the object noun *zhooniyaa* 'money' is marked for the third person obviative with the singular suffix *-an*. Example (17) provides an example of an obviative plural noun as an object. Example (18) provides an example of where the subject *onashowewininiwan* 'judge' is obviative. In this example, the object is not shown by any overt noun, but rather it is the head of the verb form *ge-izhichiged* 'that s/he will do so.'

## 2.5 Features of Verb Inflection

The inflection of Ojibwe verbs is very complex. Ojibwe verbs show several layers of verb agreement. Ojibwe verbs can be inflected for order, mode, tense and negation. Ojibwe verbs are also inflected to agree with their subjects and objects in person, number, gender and obviation (Rhodes 1976).

### 2.5.1 Person Marking

The person category consists of three basic members: (1) the first person, (2) the second person and (3) the third person. Person categories may appear in both singular and plural forms. The various combinations of person marking are illustrated in the sample Saulteaux verb paradigm in section 2.5.3.1.

The inflectional morphology of verbs is based on a person-marking hierarchy system where the selection of personal prefixes is ranked in a hierarchical order where the second-person marker always outranks the first-person marker and the non third-person marker always outranks the third-person marker. This is illustrated with the following:

#### (19) Ojibwe Person Marking Hierarchy

$$2/1 > 3 > 3' > 0$$

### 2.5.2 Order

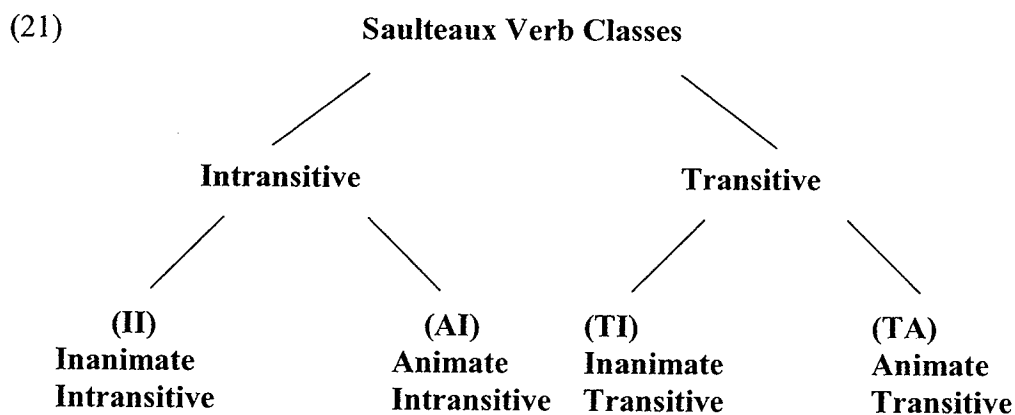
The three orders are independent, conjunct and imperative. Independent verbs only occur in main clauses. Conjunct verbs may occur in both main and subordinate clauses. Independent and conjunct inflections may be added to any verb stem. Imperative verbs differ significantly from both the independent and the conjunct order.

Imperative verbs are only inflected for the following persons: second person singular (2s), second person plural (2p) and the first person inclusive (2i). This is because the function of imperative verbs is to request that an action be completed by the animate subject (Rhodes 1976, Starks 1992).

|      |                     |                  |                     |
|------|---------------------|------------------|---------------------|
| (20) | <b>Independent:</b> | <i>gi-niim</i>   | 'you (sg) dance'    |
|      | <b>Conjunct:</b>    | <i>niimi-yan</i> | 'if you (sg) dance' |
|      | <b>Imperative</b>   | <i>niimi-n</i>   | 'dance!'            |

### 2.5.3 Verb Classes

Ojibwe verbs are of two morphological types: transitive and intransitive.<sup>14</sup> Transitive verbs typically appear in transitive clauses while intransitive verbs typically appear in intransitive clauses. Each transitive stem is specialized for animate or inanimate objects while each intransitive stem is specialized for either an animate or inanimate subject. Both transitive and intransitive verbs inflect for person, number, gender and obviation. Traditionally, stems fall into four classes according to the type of final they have. In Ojibwe, the four classes are:



(Adapted from Logan 2001)

<sup>14</sup> A 'third' type of verb which falls outside the scope of this thesis is the pseudo-transitive verb. Essentially, pseudo-transitive verbs are morphologically intransitive verbs which add anaphoric reference to a third person pseudo-object (Bloomfield 1958, Rhodes 1976).



### 2.5.3.2 Tense

There are four different verb tenses in Saulteaux: present, past, future and volative. Both verb tense and mode are marked by a fixed set of tense inflections and modal preverbs. Modal preverbs are used to mark aspectual notions including the beginning or end of an event (Valentine 2001). Below is an example of the different verb tenses for the animate intransitive verb *niimi* 'to dance' in the independent order:

#### (23) Saulteaux Verb Tenses

|     |          |             |                   |                   |
|-----|----------|-------------|-------------------|-------------------|
| (a) | present  |             | <b>niniim</b>     | 'I dance'         |
| (b) | past     | <i>gii-</i> | <b>nigii-niim</b> | 'I was dancing'   |
| (c) | future   | <i>ga-</i>  | <b>niga-niim</b>  | 'I will dance'    |
| (d) | volative | <i>wii-</i> | <b>niwii-niim</b> | 'I want to dance' |

### 2.5.3.3 Mode

There are also four different inflectionally marked verb modes in Saulteaux that mark aspectual-evidential moods: (1) indicative, (2) preterit, (3) dubitative and (4) preterit dubitative. In the independent and conjunct orders, mode is marked by inflectional suffixes. Specifically, the preterit mode verbs are marked for unrealized and past completed events; in the dubitative mode, verbs are marked for doubt and uncertainty; and in the preterit dubitative mode, verbs are marked for events involving a combination of a past completed event and uncertainty. Verbs in the neutral / indicative mode are not marked for mode (Valentine 2001:798). Example (24) provides an example of the different modes for the animate intransitive verb *niimi* 'to dance' in the independent order:

(24) **Saulteaux Verb Modes**

|     |                        |               |                   |                               |
|-----|------------------------|---------------|-------------------|-------------------------------|
| (a) | neutral                | -             | <b>niimi</b>      | 'John is dancing'             |
| (b) | preterit               | <b>-ban</b>   | <b>niimiiban</b>  | 'John was dancing'            |
| (c) | dubitative             | <b>-dog</b>   | <b>niimidog</b>   | 'John must be dancing'        |
| (d) | preterit<br>dubitative | <b>-goban</b> | <b>niimigoban</b> | 'John must have been dancing' |

2.5.3.4 **Negation**

There are two distinct grammatical devices that may be used to mark negation in Ojibwe: (1) negative particles and (2) negative verbal inflections. Verbs in the independent and imperative orders mark negation with distinct adverbs *gaawiin* and *gego/gegwa* and with negative inflection forms *-sii*, *-ke*, and *-siidaa* respectively. Verbs in the conjunct order do not ordinarily mark negation with adverbs. Rather, negation is marked exclusively through the use of the negative inflectional form *-siw*. The basic forms of negation of the animate intransitive verb *niimi* 's/he dances' in the independent order is illustrated in (25).

(25) **Negation - Independent Order**

*gaawiin niniimisii*                      'I am not dancing'

2.5.3.5 **Initial Change**

Initial change is limited to the conjunct mode of the Saulteaux verb. Nichols and Nyholm (1995) describe initial change as a morphological process that affects the first syllable of either a preverb or the verb stem. Nichols (1980) cited in Logan (2001:24) suggests that initial change is used to draw explicit attention to a "particular participant, circumstance or aspect of an event."<sup>15</sup>

<sup>15</sup> Refer to Nichols and Nyholm (1995) for a complete listing of all of the various forms of initial change.

Initial change is commonly used in certain types of interrogative structures and relative clauses. Relative clauses that are inflected for the conjunct order often use initial change (Valentine 2001:579). Some examples of initial change from the *MALG* include:

- (26) **aandi ge-dazhi-onashoweng** /ga-/ -> /ge-/  
'venue'
- (27) **wenashowaazod** /o-/ -> /we-/  
'defendant'
- (28) **wezhibii'igaadenigin odizhichigewinan** /o-/ -> /we-/  
'predisposition report'
- (MALG:19,32,40,50)

The initial change in (26) is shown on the future form *ge-*. In (27) and (28), the initial change is shown on the initial syllable *we-*.

## 2.6 Preverbs

Speakers of the Ojibwe language often use preverbs to mark tense, mood, direction, relation, manner, quality, quantity and aspect. Preverbs are found at the beginning of the verb, in front of the verb stem and following any personal prefix. As outlined in section 2.5.3.5 above, preverbs are subject to the morphological process of initial change (Valentine 2001).

- (29) **(personal prefix) + (preverbs) + VERB + (endings)**  
**STEM**

Preverbs are attached to verb stems according to the following order:

- (30) **Relative Order of Saulteaux Preverbs**

|                     |                        |                    |                   |                  |  |
|---------------------|------------------------|--------------------|-------------------|------------------|--|
| <b>1</b>            | <b>2</b>               | <b>3</b>           | <b>4</b>          | <b>5</b>         | <b>6</b>                               |
| <b>Subordinator</b> | <b>Tense/<br/>Mode</b> | <b>Directional</b> | <b>Relational</b> | <b>Aspectual</b> | <b>Manner/<br/>Quality/<br/>Number</b> |

(Valentine 2001:168).

This is due to the large number of preverbs that exist in the language and the specific function each class of preverb performs. Example (31) provides a sample of some of the more common preverbs that are available to speakers of the Saulteaux dialect.<sup>16</sup>

(31) **Saulteaux Preverbs**

| Preverb          | Class       | English Gloss                                 |
|------------------|-------------|---|
| <i>gii-</i>      | tense       | past tense                                    |
| <i>bi-</i>       | directional | 'coming in this direction'                    |
| <i>izhi-</i>     | relational  | 'in a certain way'/<br>'like a certain thing' |
| <i>gagwe-</i>    | aspectual   | 'try to ...'                                  |
| <i>gichi-</i>    | quality     | 'greatly, lot, much, really'                  |
| <i>maanaaji-</i> | evaluative  | 'bad, ill, wrong, harmful'                    |

## 2.7 Derivational Morphology

### 2.7.1 Basic Word Structure in Saulteaux

There are two levels of derivation in the Ojibwe language, the first level is *primary derivation* and the second level is *secondary derivation*. Primary derivation refers to the formation of word stems that consist of an *initial*, a *medial* and a *final*. Secondary derivation refers to the formation of new words through the addition of a new *final* to an *initial* that already exists as an independent word stem (Valentine 2001:333-334).

The *basic* Ojibwe stem consists of a root, a basic element which serves as the initial of the stem, followed optionally by a medial and then by a final. Other types of elements may be more complex than the simple roots, being derived from existing stems

<sup>16</sup> The listed preverbs (in their unchanged forms) were extracted from Valentine (2001).



and various word-building morphemes. In Ojibwe, verbal stems end in a morpheme of the class known as *finals*. Inflectional endings follow the stem while prefixes and/or preverbs optionally precede it. The term *stem agreement* is used to describe the innermost layer of verb agreement (Rhodes 1976). Following Goddard (1967, 1990), the basic structure of the Ojibwe verb may be represented as (32).<sup>17</sup>

(32) (prefix) – {(preverb(s)) – **root** – (medial-) **final**} – endings

**Basic Saulteaux Verb Stem**<sup>18</sup>

(Goddard 1967:66, 1990:60).

This is illustrated with the following examples:

(33) **Primary Derivation**                      **ninga-onjibatoomin**

**ninga-onjibatoomin**  
**nin-+ga+onji- + -batoo+-min**

|               |                      |                |               |
|---------------|----------------------|----------------|---------------|
| <b>nin-</b>   | 1                    | <b>prefix</b>  | <i>nin-</i>   |
| <b>-ga</b>    | preverb (fut)        | <b>preverb</b> | <i>-ga</i>    |
| <b>onji-</b>  | from a certain place | <b>initial</b> | <i>onji-</i>  |
| <b>-batoo</b> | run                  | <b>final</b>   | <i>-batoo</i> |
| <b>-min</b>   | 1p                   | <b>ending</b>  | <i>-min</i>   |

‘We will run from there’

<sup>17</sup> There are various derivative patterns and other complications in the formation of Ojibwe verbal stems which are not of concern here. For the purpose of this discussion, what is of significance is the fact that *finals* fall into four classes and that each verb class may be characterized by being inflected with a particular set of endings (Goddard 1967:66).

<sup>18</sup> The term *initial* is often used as the term for the position which can be filled by a *root* or various other formatives that have derived from stems and other elements (John D. Nichols, personal communication).

(34) **Primary Derivation ogii-daangininjiinaan**

**ogii-daangininjiinaan**  
**o-+gii-+daangi-+-ninjii-+-n+-aan**

|                 |         |               |                 |
|-----------------|---------|---------------|-----------------|
| <b>o-</b>       | 3       | <b>prefix</b> | <i>o-</i>       |
| <b>gii-</b>     | past    | <b>prefix</b> | <i>gii-</i>     |
| <b>daangi-</b>  | touch   | <b>root</b>   | <i>daangi-</i>  |
| <b>-ninjii-</b> | hand    | <b>medial</b> | <i>-ninjii-</i> |
| <b>-n</b>       | by hand | <b>final</b>  | <i>-n</i>       |
| <b>-aan</b>     | 3s-3's  | <b>ending</b> | <i>-aan</i>     |

(35) **Secondary Derivation gigichi-anokiiwiniwaa**

**gigichi-anokiiwiniwaa**  
**gi-+gichi-+anokii-+-win+-iwaa**

|                |             |                       |                |
|----------------|-------------|-----------------------|----------------|
| <b>gi-</b>     | 2           | <b>prefix</b>         | <i>gi-</i>     |
| <b>gichi-</b>  | big         | <b>preverb</b>        | <i>gichi-</i>  |
| <b>anokii-</b> | work        | <b>initial (stem)</b> | <i>anokii-</i> |
| <b>-win</b>    | nominalizer | <b>final</b>          | <i>-win</i>    |
| <b>-iwaa</b>   | 2p          | <b>ending</b>         | <i>-iwaa</i>   |

'your (pl) big job'

## 2.8 Compound Nouns

Compounding refers to the morphological process whereby a new word is formed through the combination of two or more different words or word stems. The morphosyntactic criteria required for compound nouns are outlined in Payne (1997:92). A salient feature of compounding process is that the newly created compound word must be either more specific or entirely different than the combined meanings of the words that were used to create the compound.<sup>19</sup>

<sup>19</sup> Refer to Valentine (2001) for an extensive analysis of compound nouns.

(36) **Compound Nouns**

- (a) **mitigo-waakaa'igan** NI  
**mitigo-** + **-waakaa'igan**  
 wood/NI stem +house/NI stem  
 'log cabin'
- (b) **naadamaagewinini** NA  
**naadamaage-** + **winini**  
 help people/AI + person/NA final  
 'lawyer (defending the accused)'

(MALG:32)

**2.9 Sauteaux Word Order**

It is very difficult to identify a single word order for the Ojibwe language. Almost all permutations of the Ojibwe verb and its grammatical arguments are possible. Algonquian linguists attribute this to the language's rich inflectional morphological structure. Specifically, Valentine (1996) suggests that the only required constituent of the Algonquin sentence is the verb phrase. This is because it is unusual for both the subject and object noun phrases to appear in their overt forms within the same clause. The same appears to be true of the Sauteaux dialect.

(37) **Basic Structure of the Sauteaux Sentence**

**(Particle)\* (Noun Phrase)\* VERB (Noun Phrase)\*(Complements)\*<sup>20</sup>**

- (a) **Noongom anokii nimbaabaa**  
 Today (PC) work/AI my father/NA

'My father is working today.'

(Valentine 1996:396)

<sup>20</sup> In following with Valentine (1996:396), the asterisks are used to indicate that more than one constituent of a given type may occur within a single Ojibwe sentence. The parentheses are used to indicate that these constituents are optional.

- (b) **Wshki-nbagasagoon wmpawaawaan giw gaagog**  
 new lumber (NA) like /TA those/pr porcupines/NA

(Valentine 2001:933)

## 2.10 Voice and Valency Adjusting Operations in Sauteaux

All languages have operations that adjust the relationship between semantic roles and grammatical relations within clauses. Languages may either reduce or increase the number of core arguments with the sentence or alternatively, they may maintain the number of core arguments but with altering the semantic role of the arguments (Payne 1997:204-205).

Valency adjusting operations are very productive in the Sauteaux language. In following with Payne (1997:169), semantic valence refers to the number of participants that are expressed on a verb. Valency adjustment is both a derivational and inflectional process in Sauteaux. Valence adjusting and decreasing morphemes in the Sauteaux are suffixal and built onto verb stems.

### 2.10.1 Detransitivization

Detransitivization is a very common derivational process in the Sauteaux language that results in the derivation of an intransitive verb from a transitive verb. Animate intransitive verbs can be derived from transitive verbs by either eliminating or suppressing the action of the recipient (Valentine 2001:403). There are several detransitivization suffixes that are available.

#### 2.10.1.1 The Detransitive *-ge*

The detransitive suffix *-ge* is used to produce “detransitive action focus verbs” (Valentine 2001:403). Oftentimes, a linking vowel *i* will proceed the detransitive suffix *-ge*. Palatalization of the transitive verb final stem consonants *d* and *t* results whenever

either of these stem final consonants are combined with the detransitizing suffix *-ge*. An example of the detransitivation process where the suffix *-ge* is added to a transitive verb stem ending to produce a detransitive actor focus verb resulting in a loss of valency is illustrated in (38):

- (38) **izhichige** AI 'make, do something so'  
 /**izhit-**/ TI 'make s.t. so'  
**izhich+-i+-ge**  
 make s.t. so /TI + detransitive suffix

### 2.10.1.2 The Detransitive *-(i)we*

Another very productive detransitive suffix in Saulteaux is *-(i)we*. This suffix attaches to transitive animate stems that end in certain transitive animate finals to derive an intransitive verb that applies to an unspecified person. An example of the detransitivization process where the suffix *-(i)we* is added to a transitive verb stem ending in *-n* to produce a detransitive actor focus verb resulting in a loss of valency is illustrated in (39):

- (39) **dakoniwe** AI 'arrest people'  
 /**dakon-**/ TA 'arrest s.o.'  
**dakon+-iwe**  
 arrest s.o./TA + detransitive suffix

### 2.10.2 The Reflexive *-idizo*

There are two types of reflexive finals: *-idizo* and *-zo*. The reflexive suffix *-idizo* is comprised of the elements *-idi* and *-zo*. Reflexive verbs result when a reflexive suffix is attached to the stem of a transitive animate verb. The reflexive final *-idizo* is the most common. However, Valentine (2001:408) refers to reflexive verbs as those verbs in

which the “actor acts upon himself or herself.” This is because reflexive verbs result in a loss of valency that renders the transitive verb intransitive. An example of the reflexive is provided in (40):

- |      |                                |    |               |
|------|--------------------------------|----|---------------|
| (40) | <b>giishkizhodizo</b>          | AI | ‘cut oneself’ |
|      | <b>/giishkizhw-/</b>           | TA | ‘cut s.o.’    |
|      | <b>giishkizhw-+idizo</b>       |    |               |
|      | cut s.o. /TA+ reflexive suffix |    |               |

### 2.10.3 The Reciprocal *-(i)di*

Reciprocals are used when the actor and the goal are acting upon each other at the same time. Reciprocals are formed by adding the animate intransitive AI final *-(i)di* to a transitive animate TA verb. The reciprocal suffix *-aadi* results when the transitive verb stem */-aw/* is combined with the reciprocal final *-(i)di* (Valentine 2001:409). This is illustrated in the following example:

- |      |                                  |    |                             |
|------|----------------------------------|----|-----------------------------|
| (41) | <b>naadamaadiwag</b>             | AI | ‘they help each other’ (pl) |
|      | <b>/naadamaw-/</b>               | TA | ‘help s.o.’                 |
|      | <b>naadamaw-+-aadi</b>           |    |                             |
|      | help s.o./TA + reciprocal suffix |    |                             |

### 2.10.4 Benefactives

Benefactive verbs are derived by adding a final *-aw* or *-amaw* to a transitive inanimate TI stem. Benefactive verbs can also be derived from animate intransitive AI verbs where there is a “nonce” transitive stem by suffixing a transitive inanimate TI final *-t* to the intransitive verb (Valentine 2001:463-464). As well, benefactive verbs may also be derived by replacing a final *-e* of AI stems with *-aw*. Benefactives result in a valency increasing operation where the undertaking of an action results in something for the

benefit of another person (Valentine 2001:463,1013). The following example provides an illustration of this valency increasing process:

- (42) **ganawendamaw**                      TA      ‘take care of (s.t.) for s.o.’  
       /**ganawend-/**                              TI      ‘take care of s.t.’  
       **ganawend-amaw**  
       take care of s.t./TI + benefactive suffix

### 2.10.5 Passives

Passive constructions are very productive in Ojibwe. Rhodes (1991:314-319) suggests that there are three different types of passives in Ojibwe:

- (a) Type I passives are built on TA verb stems and require animate final subjects;
- (b) Type II passives are built on TI verb stems and may have either animate or inanimate final subjects; and
- (c) Type III passives are built on verbs of perception and are comprised of the final */-igozi/* or */-igwad/*.

Passivization triggers the following process of events: (1) the elimination of the agent; (2) the detransitivization of the verb stem and (3) the object of the pre-existing transitive verb becoming the subject of the newly formed intransitive verb.

#### (43) Passive Constructions

##### (a) Type I Passive

- bagidaakonaa**                              AI ‘he is released from court’  
       /**bagidaakon-/**  
       /**bagidaakon-+-aa/**  
       be released from court /TA + DIR

(b) **Type II Passive****giizhaakonigaazo**  
'judgment'

AI 'he is finished being decided on'

/giizhaakon-/

TA 'finish deciding on s.o.'

/giizhaakon-+igaazo/

'be finished being deciding on'

[Back translation] 'the final decision from the court regarding sentence'

(MAGL:31)

(c) **Type III Passive****nandawendaagozi**

AI 'he is suitable, desired'

/nandawend-/

TA 'desire s.t.'

/nandawend-+aagozi/

'be suitable, be desired'

**2.10.6 Grammatically Distinct Inverse Constructions**

Inversion is a grammatical process that results in the rearrangement of a specific sequence of constituents. In Ojibwe, as in other Algonquian languages, both *direct* and *inverse* verb forms are explicitly marked. Direct and inverse verb forms are determined by the following hierarchy:

$$2 > 1 > 3 > 3'$$

(Second Person > First Person > Third Person > Third Person Obviative)

Take for instance, the following set of examples:

- (44) **nimawadisaag**  
**ni-mawadis-aa-g**  
1 - visit - DIR 3p /TA 1s-3p ind. neutral  
'I visit them' (direct)
- (45) **nimawadisigoog**  
**ni-mawadis-igoo-g**  
1 - visit- INV 3p /TA 3p-1s ind. neutral  
'They visit me' (inverse)



In (44), the prefix *ni-* refers to the first person *agent* and the suffix *-g* refers to the third person plural *patient*. In (45), the same prefix and suffix are used, however, they now refer to the first person *patient* and the third person plural *agent* respectively. Therefore, in Ojibwe, what we find is that the alignment between the semantic roles of *agent* and *patient* and the grammatical expressions *ni-* and *-g* become reversed. The only overt expression in this reversal is the presence of the *direct* suffix *-aa* in (44) and the *inverse* suffix *-igo(o)* in (45).

In Ojibwe, when the *agent* in the transitive clause is higher on the person-marking hierarchy than the *patient*, the direct construction is required. Conversely, in situations where the *agent* is lower on the person-marking hierarchy than the *patient*, the inverse is required. The use of *direct* and *inverse* suffixes helps to make the direction of the action explicit (Payne 1997:211-213)

### 2.10.7 Nominalizations

Nominalization is a derivational morphological process that transforms verb forms into nouns. The process of nominalization is a very productive in Ojibwe. Nouns are typically formed from the third person singular stem of the following verb types: animate intransitive AI verbs and inanimate transitive TI verbs. There are several different nominalizing noun stems that can be used to form nouns. These include: *-n*, *-gan*, *-aagan* and *-win* (Valentine 2001:503-505).

#### (46) Saulteaux Nominalizations

- (a) **bagizowin** NI sg  
'bathtub'

**bagizo-+-win**  
bathe/AI + nominalizing noun final

(b) **ditibiwebishkigan** NI sg  
**'bicycle'**

**ditwebishkige+-n**  
roll things along by kicking /AI + nominalizing noun final

## **Chapter 3: Current Problems with Legal Translation in Canadian Courts**

### **3.1 Introduction: Aboriginal People and the Canadian Justice System**

In response to the growing recognition that our existing criminal justice system has failed to meet the needs of the Aboriginal people, several government-sponsored justice studies have been undertaken throughout the past decade to examine the relationship between Aboriginal people and the courts. This proliferation of studies has led to the finding that many aspects of the delivery of justice to Aboriginal people is problematic as a result of linguistic and cultural barriers (Ahenakew, King and Littlejohn 1990, Aboriginal Justice Inquiry of Manitoba 1991, Blackburn 1993).

The pervasiveness of language-related problems for Aboriginal people within the present justice system stems from difficulties in ensuring that Aboriginal people understand their legal rights and obligations, the legal proceedings affecting their rights and the nature of any criminal or civil charges made against them. The right of all people to use a familiar language, preferably their first language, is not always met. Despite the growing use of interpreters for individuals who, because of their inability to speak English, cannot exercise their right to legal counsel, much concern over the quality of interpretation provided in the courts continues to be raised. Often interpreters are neither adequately trained nor neutral in the sense that they are familiar with the accused. Even when interpreters and translators are used, the question remains of whether Aboriginal people understand the concepts behind the language used in the legal system (Northwest Territories Department of Justice 1987, Ahenakew, King and Littlejohn 1990, Aboriginal Justice Inquiry of Manitoba 1991, Law Reform Commission of Canada 1991).

Within the courts, there appears to be a different dynamic in the relationship of the Aboriginal accused and the non-Aboriginal accused. Despite the rules and standards of the Canadian Justice system, expectations held of the accused remain culturally bound. The justice system assumes that all persons will use similar reasoning when choosing their pleas, conducting their defences, confronting their accusers, responding to questioning and showing respect and remorse to the court (Aboriginal Justice Inquiry of Manitoba 1991, Dumont 1993).

### **3.2 The Pervasiveness of Language Problems for Aboriginal People**

Ahenakew, King and Littlejohn's (1990) review of the evidence presented in *Manitoba's Public Inquiry into the Administration of Justice and Aboriginal People* reveals significant concern with regard to Aboriginal languages and the delivery of justice to Aboriginal people. In examining the proceedings of this inquiry, Ahenakew, King and Littlejohn (1990:9-13) identify the following problems for Aboriginal people:

- Non-English speaking Aboriginal clients;
- Problems of limited English of Aboriginal clients;
- The lack of admission of language deficiencies by Aboriginal clients;
- The lack of understanding of court English by Aboriginal clients;
- The complexity of influences of Aboriginal languages and culture in the courts; and finally,
- The misinterpretation of attitudes and responses of Aboriginal clients.

Additional language problems arise when court officials conduct interviews with limited English speaking individuals in the absence of an interpreter. It is critical that

accused persons who do not have an understanding of the English language are provided with an interpreter at all stages of the legal process. This includes all interviews with police and all consultations with their legal counsel (Ahenakew, King and Littlejohn 1990:13).

### 3.3 The Role of the Court Interpreter

The primary role of the court interpreter is to act as a language mediator between the court and the non-English speaker as closely as is linguistically possible, placing this speaker in the same situation as an English speaker. Ideally, court interpreters produce a *legal equivalent*, “a linguistically true and legally appropriate interpretation<sup>21</sup> of statements spoken or read in court, from the second language into English and vice versa” (Gonzalez, Vasquez and Mikkleson 1991:16). Without the aid of court interpreters, it would be impossible for non-English speaking witnesses and defendants to either understand the legal proceeding or testify in their defense. Similarly, without court interpreters, non-English speaking defendants could not effectively use legal counsel in preparing their defense (Gonzalez, Vasquez and Mikkleson 1991).

Because the interpreter’s version serves as the legal record, the court interpreter must have a high degree of communicative competence in both languages. Testimony from the source language must be rendered into the target language in a verbatim manner. This task demands the conversion of the form and content of all linguistic and paralinguistic elements of the original message. Hesitations, false starts, self-corrections, hedges, pauses and emotion as they are conveyed through the speaker’s tone of voice,

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<sup>21</sup> In Gonzalez, Vasquez and Mikkleson (1991:33), the term interpretation refers to the transfer of meaning from one language into another for the purpose of oral communication amidst two people who do not share the same language.

word choice and intonation must all be conserved in the same “style and inserted in the corresponding points of the target language message” (Gonzalez, Vasquez and Mikkleson 1991:16).

### **3.4 Categories of Interpreter Error**

The most frequent interpreter error is caused by the court interpreter’s lack of proficiency in the source language, the target language, or both languages. Often, interpretation by language-deficient court interpreters is marked by literal translation. This lack of language fluency renders it impossible for testimony to be transferred into the target language without continual reference to legal glossaries and without faltering breakdowns and communication errors (Gonzalez, Vasquez and Mikkleson 1991).

Grammatical errors such as the transformation of the present tense into a verb of past tense or the subjunctive mood into the indicative mood can significantly change the entire meaning of a statement. Likewise, shifts in tense, number and plurality can result in notable inconsistencies within an individual’s testimony (Gonzalez, Vasquez and Mikkleson 1991).

Alternatively, lexical errors tend to result from a lack of general or specialized vocabulary. Accurate court interpreting requires a combination of lexical precision and highly developed performance skills. Interpreters must be aware of the morphological variations in their working language and be able to accommodate the syntactic requirements of the target language (Gonzalez, Vasquez and Mikkleson 1991).

The language of legal proceedings consists of a variety of very casual speech, everyday colloquial speech and the formal speech of judges and lawyers. Interpreters must demonstrate the linguistic flexibility and the knowledge necessary to conserve all of

the different speech registers. For many language-deficient court interpreters, omissions become the most common strategy for dealing with their inability to reproduce “technical terms, regional variants, conceptual ambiguities and information overload” (Gonzalez, Vasquez and Mikkleson 1991:288).

A further problem which court interpreters encounter when attempting to produce a truly verbatim interpretation is that it is practically impossible to find an equivalent target language word for each and every source language word. To accommodate for this shortcoming, court interpreters must mediate between the verbatim requirement of the legal record and their obligation to convey a meaningful message in the target language. This results in the court interpreter focusing on conceptual units that are conserved concept-by-concept rather than word-by-word (Gonzalez, Vasquez and Mikkleson 1991:17).<sup>22</sup>

### **3.5 Court Interpreting in Canadian Courts**

In recent years, a great deal of concern has been expressed over the quality of interpretation provided by Canadian courts. Although Section 14 of the *Canadian Charter of Rights and Freedom (1982)* guarantees the right to an interpreter for anyone who does not speak or understand the language of legal proceedings, many language-related problems continue to be remarked upon (Ministry of Supply and Services Canada 1982, Law Reform Commission of Canada 1991).

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<sup>22</sup> Chapters 7 and 8 provide a more exhaustive discussion of the difficulties court interpreters experience when trying to convey legal concepts from English to Sauteaux.

### 3.6 Initiatives to Improve the Court Interpretation Process

At present, few provincial and territorial governments have any sort of a formalized certification, training and selection process operating in their court systems. The strongest effort to maintain Aboriginal languages and develop a plan to improve Aboriginal language services within the legal system has come from the Government of the Northwest Territories (Gonzalez, Vasquez and Mikkleson 1991).

In the *Report of the Task Force on Aboriginal Languages*, numerous concerns about the language rights of Aboriginal people in the justice system were raised. These include:

- The right to use the Aboriginal language in all court proceedings;
- The right to be tried by a jury whose members speak the defendant's language;
- The right to an interpreter for individuals who, because of their inability to speak English, cannot exercise their right to legal counsel;
- The right to have court decision and points of law of public importance issued in the regional Aboriginal languages;
- The right to an interpreter as soon as possible on arrest, search and seizure; and lastly,
- The need for specially trained interpreters and translators for the court

(Northwest Territories Task Force on Aboriginal Languages, 1986:28).

Additional concerns that have been raised of the present practice of court interpreters are the need to provide written translation along with oral interpretation, the need to provide both simultaneous and consecutive interpreting in all court hearings and



the need to interpret and translate in both directions; from the native language to English and from English to the native language (Northwest Territories Task Force on Aboriginal Languages 1986). The preparation of written translations of all legal proceedings and the use of simultaneous and consecutive interpretations would provide a more complete and equitable record of the court. Similarly, interpreting and translating court proceedings from the native language and vice versa would assist in conveying terms and concepts that are not easily translated from one language to another; therein minimizing the potential for testimony to be misunderstood.

### **3.7 Summary**

Therefore, while court interpreting in Canada is well established as an activity, it still has a long way to go in becoming a profession. A more comprehensive and specialized training program with established performance standards and a national accreditation system are still needed. Future work on legal glossaries and manuals must be developed by trained interpreters and established on an ongoing basis. Courses in basic native language structure and lexicon should be provided for the judiciary and other court related personnel. Such language courses would provide a better understanding of aboriginal culture and would sensitize those involved in the courts to some of the difficulties of interpretation (Northwest Territories Department of Justice 1987, Repa 1988 cited in Gonzalez, Vasquez and Mikkleson 1991).

## Chapter 4: The Nature of Legal Language

The aim of this chapter is to provide an overview of the nature of legal language. This chapter begins with a brief introduction to legal English. This chapter then examines the construction of the legal lexicon and highlights some of the difficulties with understanding legal language. This chapter concludes with a discussion of the plain language movement in legal English.

### 4.1 An Introduction to 'Legal English'

The history of legal English can be traced back to the development of the common law system of England during the 10<sup>th</sup> century. The conversion to Christianity, the development of a centralized justice system and the development of the legal profession have all been very influential in the evolution of legal language (Tiersma 1999:16,19-20).<sup>23</sup>

The form of English that is used by lawyers and the judiciary differs significantly from ordinary English speech and writing. Legal language can be extremely confusing. Depending upon their context, legal terms may have a number of different meanings. Oftentimes, words that are used in everyday language take on a completely different meaning when they are used in the courtroom (Tiersma 1999).

This raises the question of whether legal language is an exclusive language of its own or whether it is simply another variety of English. Tiersma (1999) suggests that it is best to regard legal English as a variety of the English language. This is because for the

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<sup>23</sup> For an in-depth discussion of the history of the development of legal language see Mellinkoff (1963) and Tiersma (1999).

most part, legal language appears to follow the morphological and syntactic rules that govern English.

## 4.2 The Legal Lexicon

The vocabulary of legal English is quite extensive. Legal English has many archaic words and phrases that are not ordinarily used in modern-day English. Examples of a few archaic constructions that continue to be used by the legal profession today include *here-*, *there-* and *where-* (Tiersma 1999:93).

Words such as *herein*, *therein* and *wherein* are most commonly found in government legislation. Most often these expressions are used to replace a longer phrase such as *in this document* or *in that clause* (Tiersma 1999:94). The use of these expressions often results in difficulty with precise interpretation. Inevitably, this results in the meaning of these expressions being interpreted within their particular context (Tiersma 1999:94-95).

Mellinkoff (1963:13) suggests that a significant feature of legal English is its “mass borrowings from other languages”. Most of the borrowing of legal terms is directly from Latin or indirectly from French. Examples of a few common legal terms that were borrowed into the English language from Latin and French include:<sup>24</sup>

### (1) Legal Terms Based on Latin Derivatives

|                   |   |
|-------------------|---|
| <b>actus reus</b> | -the physical commission of a criminal act by an accused person           |
| <b>mens rea</b>   | -the mental intent required of an accused person to commit a criminal act |

<sup>24</sup> *Black's Law Dictionary- Seventh Edition* (1999) and the *Canadian Law Dictionary* (1998) were consulted in defining these legal terms.

|                      |  |
|----------------------|--|
| <b>ipso facto</b>    | -by the fact itself; in and of itself  |
| <b>trial de novo</b> | -a new trial on the entire case conducted as though there had been no previous trial |

(2) **Legal Terms Based on French Derivatives**

|                 |  |
|-----------------|--|
| <b>appeal</b>   | -an application to a superior court to review the decision of lower court                      |
| <b>assault</b>  | -the application of intentional force to another person without their consent                  |
| <b>court</b>    | -a government body of one or more judges who are responsible for the administration of justice |
| <b>judgment</b> | -the decision made by a Judge  |

Legal English is also contains of legal jargon and technical terms that are not ordinarily used in day-to-day speech. Members of the legal community have a tendency to create new legal jargon by referring to a rule, doctrine or newly established legal principles by the name of the case for which it was established (Tiersma 1999:97-98). This concept is illustrated with the creation of the following terms:<sup>25</sup>

|                            |   |
|----------------------------|---|
| (3) <b>Miranda Warning</b> | -refers to the doctrine that a criminal suspect in custody must be informed of his constitutional rights before he is interrogated by police as established by the case <i>Miranda v. Arizona</i> . <sup>26</sup> |
| <b>Anns Test</b>           | -refers to the test applied in tort law to determine the existence of a common-law duty of care in a particular situation as established by the House   |

<sup>25</sup> *Black's Law Dictionary- Seventh Edition* (1999) and the *Canadian Law Dictionary* (1998) were consulted in defining these legal terms.

<sup>26</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).

of Lords in *Anns v. Merton London Borough Council*.<sup>27</sup>

**M'Naughten Rule** -refers to the common law rule that is used to establish a defence of mental disorder as defined by the House of Lords in *M'Naughten's Case*.<sup>28</sup>

Tiersma (1999:97-98) suggests that examples such as those in (3) illustrate how creative the legal lexicon can be when the need arises and how greatly the legal lexicon can facilitate in-group communication.

### 4.3 The Difficulty in Understanding Legal Language

#### 4.3.1 Technical Language

One of the things that makes legal language so difficult to understand is its unusual vocabulary. Legal English is largely based on technical terminology. Many legal subdisciplines such as criminal law, family law, property law, and commercial law have their own specialized terminology. Even though some technical terms such as *lawyer*, *judge*, *court* and *witness* are reasonably well understood, other technical terms such as *affidavit*, *bench warrant*, *burden of proof* and *stay of proceedings* are seemingly unfamiliar to most people (Tiersma 1999:109-110).

Legal homonyms<sup>29</sup> such as *action*, *brief* and *motion* have an unexpected meaning for individuals of the general public. This is illustrated by the following:

- |     |               |   |
|-----|---------------|---|
| (4) | <b>action</b> | -a noun which refers to a lawsuit rather than a physical movement         |
|     | <b>brief</b>  | -a noun which refers to a type of legal document rather than an adjective |

<sup>27</sup> *Anns v. Merton London Borough Council*, [1978] A.C. 728 (H.L.).

<sup>28</sup> *M'Naughten's Case* (1843) 8 E.R. 718 (H.L.).

<sup>29</sup> Homonyms are words that sound the same, but nonetheless have very different meanings (Crystal 2001).

**motion** -a noun which refers to an application brought before a judge requesting that the court make an order rather than the action of moving something

(Tiersma 1999:111)

The same is true for legal terms specifically formulated by the legal community (Tiersma 1999:112):<sup>30</sup>

(5) **Specifically Formulated Technical Legal Terms**

**alibi** -an attestable account of an individual's whereabouts at the time a crime was committed.

**estoppel** -the preclusion of an individual from alleging or proving that certain facts are otherwise than what they appear in succeeding court proceedings.

**plea bargain** -a process whereby the accused after having pled not guilty to a crime bargains with the judge or crown prosecutor for a withdrawal of a charge or a reduction of a sentence.

#### 4.3.2 Formality of Legal Language

For the most part, language used in legal proceedings tends to be formal (Mellinkoff 1963). To ensure that the integrity of the justice system is preserved, the court must be treated with respect at all times. The use of proper court etiquette is required when addressing members of the judiciary. How one addresses the judiciary depends on what type of court you are appearing before. In superior courts such as the Manitoba Court of Queen's Bench, the Manitoba Court of Appeal and the Supreme Court of Canada, members of the judiciary are addressed as *My Lord* and *My*

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<sup>30</sup> *Black's Law Dictionary- Seventh Edition* (1999) and the *Canadian Law Dictionary* (1998) were consulted in defining these legal terms.

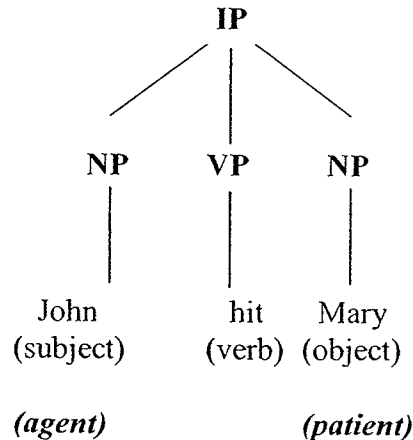
*Lady* (Stuesser 1997:69). This differs significantly from provincial courts where members of the judiciary are addressed as *Your Honour* (Stuesser 1997:69).

Proper court etiquette is also required when addressing other lawyers, witnesses and parties to the litigation process. Opposing counsel is never referred to as "*Your opponent*" (Stuesser 1997:69). Rather, they are referred to as your "*Learned Friend*" (Stuesser 1997:69). Witnesses and other parties to the legal proceeding are never referred to by their first names. Rather, they are referred by either their legal status, "*the plaintiff, the defendant or the accused*" or by their surname (Stuesser 1997:69). In only rare circumstances such as questioning a minor child witness will permission be granted for lawyers to use first names (Stuesser 1997:69-70).

The use of formal language is also prevalent in legal pleadings and legal judgments. This is because the drafting of legal documents requires precision (Mellinkoff 1963). The use of words and expressions with flexible meanings often results in the need for interpretation. Ensuing litigation often results in matters where an appropriate understanding of the legal document cannot be reached.

### **4.3.3 The Overuse of Passives and Nominalizations in Legal Language**

The basic sentence structure of the English language is Subject-Verb-Object (SVO). Ordinarily, English transitive sentences are comprised of a noun phrase followed by a verb phrase and another noun phrase. All English sentences must contain a subject. In an active sentence, the grammatical subject is also the agent. The object of the sentence that typically follows the verb is referred to as the patient.

(6) **English: Active Voice**

In the above example (6), *John* is the subject of the sentence. *John* is also the agent<sup>31</sup> of the sentence. This is because *John* precedes the active verb *hit*. *Mary* is the object / patient<sup>32</sup> of the sentence because she is the person who was hit by *John* (Payne 1997, Tiersma 1999).

Oftentimes, lawyers wish to obscure the fact that their client has been involved in a particular incident. Tiersma (1999:75) suggests that there are two linguistic devices that can be used to “obscure the actor” in legal English: (1) the use of passive constructions and (2) the use of nominalization.

#### 4.3.3.1 Passive Constructions

All languages have operations that are able to adjust the relationship between semantic roles and grammatical relations in clauses through a process that linguists refer to as valency (Payne 1997:169). There are various ways in which the syntactic valence of a particular clause can be rearranged. Valency adjusting operations are used to increase, decrease or rearrange the syntactic valence in a clause. Valency adjusting

<sup>31</sup> The term *agent* typically refers to the subject “responsible for a particular action” (Crystal 2001:9).

<sup>32</sup> The term *patient* refers to the object that is “affected by the action of the verb” (Crystal 2001:254).

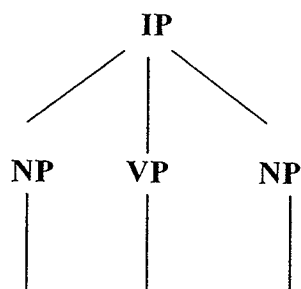


operations that raise the status of a participant in a clause are referred to as increasing valence operations. Conversely, valence adjusting operations that downplay the importance of a participant in a clause are referred to as decreasing valence operations (Payne 1997:172).

The concept of valency in Saulteaux was introduced in Chapter 2. Voice and valency changes such as passive constructions are very productive in the Saulteaux language. They result in a change in the form of the verb. This is discussed in detail in Chapter 6.

Passive constructions are very common in the English language. Passives are typically used in contexts where the agent is low in topicality. When the passive operation is applied to a transitive verb such as *hit* in (7), the patient becomes of the subject of the sentence while the agent is placed in the oblique role (Payne 1997:169, 204).

(7) **English: Passive Voice**



**Mary**      **was hit** **by John**  
 (subject)      (verb)  
*(patient)*                      *(oblique role)*

Tiersma (1999:76) suggests that passive constructions are often used in legal language in order to give the greatest possible rhetorical force. The passive voice is commonly found in statutes and court orders. This is because the passive voice sounds more authoritative.

Conversely, the passive voice is less common in areas of law such as real estate law and business law that focus primarily on the drafting of contracts. This is because contract law requires that the duties and functions of each of the parties of the contract be defined as precisely as possible (Tiersma 1999).

#### 4.3.3.2 Nominalizations

Nominalization is a derivational morphological process that allows a verb to function as a noun (Payne 1997:223). The process of nominalization is very common in legal language. Common examples of nominalized verbs in legal English include:

#### (8) The Process of Nominalization in Legal English

V -> N

| <u>Verb</u> | <u>Nominalization</u> |
|-------------|-----------------------|
| argue       | argument              |
| confess     | confession            |
| object      | objection             |
| respond     | respondent            |
| rob         | robbery               |
| submit      | submission            |

(Payne 1997:223, Tiersma 1999:77)

Tiersma (1999:77-78) suggests that members of the legal profession use the nominalization process very strategically. It is often used in situations where the goal is to de-emphasize or obscure the identity of an individual who is responsible for a

particular action. Removing the identity of the individual from a particular situation helps to downplay the significance of the event. This is illustrated in (9b) and (9c) where the accused's involvement in the robbery is significantly downplayed by the nominalization of the verb, *to rob* and the exclusion of the agent, *the accused*.

- (9) (a) The accused **robbed** the video store on the evening of January 10, 2002.
- (b) The video store's **robbery** occurred on the evening of January 10, 2002.
- (c) The **robbery** occurred on the evening of January 10, 2002.  
(Adapted from Tiersma 1999:77).

It is important to point out that the use of nominalizations significantly reduces the overall comprehensibility of a legal argument. This is because nominalizations tend to be more difficult to understand than their corresponding verb forms. Tiersma (1999:77-78) posits that when there is a need to articulate a clear and precise point of law, members of the legal profession should avoid the use of nominalized verbs.

#### 4.4 Plain Language Movement

Language precision presents a significant challenge for many members of the legal profession. In recent years, there has been a strong movement for legal language to be simplified. This is largely due to the poor organization, the complexity and length of sentences within legal documents and the inherent ambiguity and vagueness of legal terms, concepts and tests (Tiersma 1999:220-222).

To date, the plain language movement has concentrated primarily on written government and consumer documents such as contracts and bank loans. More and more, the courts are showing a preference towards the use of plain language. Recent studies on

the plain English movement suggest that the judiciary rate written documents in plain English as more persuasive than those written in traditional legalese. Accordingly, where legal documents do not require the use of specialized legalese, lawyers are strongly encouraged by the courts to prepare documents using plain English (Tiersma 1999:220-222).

Lawyers are also being encouraged by the courts to use plain English when addressing the court. This is largely due to the legal system having become inundated with pending litigation matters. The lawyer's task is to develop their arguments for the court in a manner that is clear and precise (Tiersma 1999:220-222). Not only does the use of plain language expedite the legal process; but, as we will see in Chapter 8's discussion of non-equivalency problems when translating legal terms from one language to another, the use of plain language may assist in developing an understandable message that can be understood in both languages.

## **Chapter 5: Constructing Specialized Dictionaries**

### **5.1 Overview of the Processes of Specialized Lexicography and Terminology**

Lexicography is the discipline concerned with the theory, design and production of dictionaries. Specialized lexicography is the branch of lexicography that deals with the production of specialized dictionaries and glossaries. Terminology is the study of the theory and practice of specialized terms (Bowker 2003, van Sterkenburg 2003).

The primary difference between lexicography and terminology lies in the mechanics of how specialized terms are produced. Lexicographers employ what is referred to as a *semasiological* or meaning approach. Lexicographers begin by collecting a database of words and then define and organize each of the collected words according to their meaning. In contrast, terminologists employ what is referred to as an *onomasiological* or naming approach. Terminologists begin by identifying a particular concept and then establish a corresponding term that best match that specialized concept. The *onomasiological* approach tends to be employed in the compilation of bilingual specialized dictionaries and glossaries. This is because entries in a bilingual specialized dictionary correspond to concepts that are already fixed by the definition of the source language (Sager 1990, Bowker 2003).

### **5.2 General Characteristics of Specialized Dictionaries**

Specialized dictionaries are comprised of lexical terms that are used to describe concepts in a specific subject field. Specialized dictionaries are often referred to as terminological dictionaries and glossaries. This is because the scope of the dictionary's coverage is restricted by its subject matter (Bowker 2003).

The intended user group and purpose has a significant impact on the contents of a specialized dictionary. The amount and nature of the linguistic and ancillary information that is provided in a specialized dictionary depends on the level of expertise of the intended user. Bilingual specialized dictionaries must include significantly more information with respect to linguistic issues than monolingual specialized dictionaries. Depending upon the level of language competency of the intended user, an extensive discussion of the unique characteristics of the non-native language at the onset of the dictionary may be required in order for the non-expert in the second language to benefit from its use (Hinton and Weigel 2002, Bowker 2003).

### **5.3 The Compilation of Specialized Dictionaries**

The compilation of monolingual and bilingual specialized dictionaries involves the same process. Lexicographers, terminologists and language specialists must first collect and then select a corpus of specialized terms that are to be included in the dictionary. Depending upon the nature of the specialized dictionary, lexicographers, terminologists and language specialists will require the assistance of experts in the various subject fields to assist them with determining the scope of subject areas that should be considered (Bowker 2003). As we will see in the ensuing discussions of the structure and organization of the *Manitoba Aboriginal Legal Glossary Ojibwe* (abbreviated as *MALG*), the subject areas and corresponding terms that are selected for inclusion of the specialized glossary are influenced by the needs of the intended user groups.

This process requires lexicographers, terminologists and language specialists to carefully analyze all of the possible contexts in which each of the selected terms may be

used. Oftentimes, lexicographers, terminologists and language specialists will consult with experts in their respective subject fields to ensure that they have sufficiently canvassed all possible uses for each specialized term. It is important to note that different experts will sometimes have different opinions with respect to what constitutes the “best” definition of a particular concept or term. Bowker (2003) has identified two alternatives that lexicographers, terminologists and language specialists may consider when selecting the most appropriate definition or language equivalent. The first alternative involves lexicographers, terminologists and language specialists selecting the most commonly accepted definition. The second alternative involves the amalgamation of the various expert opinions into a single definition.

### **5.3.1 The Organization & Structure of Specialized Dictionaries**

The preparation of the specialized dictionary occurs once the analysis of the corpus data is complete. Lexicographers, terminologists and language specialists must prepare separate entries for each specialized term. In doing so, lexicographers, terminologists and language specialists must give careful consideration to the overall arrangement of the entries and the arrangement of the information within each individual entry (Bowker 2003).

#### **5.3.1.1 Arrangement of Entries**

General language dictionaries are almost exclusively organized in alphabetic arrangement. Although many monolingual specialized dictionaries are arranged in a more systematic organization, most bilingual specialized dictionaries tend to be arranged in alphabetical order. There are several advantages to arranging specialized terms in alphabetical order as opposed to organizing them in a semantic or pragmatic

manner. These include the user's familiarity with an alphabetic arrangement and the overall ease of reference (Hinton and Weigel 2002, Bowker 2003).

Bowker (2003) notes that the systematic ordering of specialized terms tends to be used when working with cultural independent subject fields such biology and chemistry. In contrast, such an ordering system is rarely used when working with cultural dependent subject fields such as the law. This is because legal concepts tend to be more complex and more difficult to categorize and define than scientific terms.

### **5.3.1.2 Arrangement of Information Within Individual Entries**

Lexical items in specialized terminological dictionaries are ordinarily expressed in the form of nouns. This differs significantly from general language dictionaries which often includes other forms such as verbs and adjectives. Sager (1990) notes that specialized terminological dictionaries tend to be relatively uniform. Unlike general language dictionaries which provide additional information regarding the phonological, morphological and phonetic characteristics of a particular language, specialized terminological dictionaries tend to concentrate solely upon semantic and pragmatic information.

Bowker (2003) further points out that bilingual specialized dictionaries tend to concentrate on the usage of terms. Depending upon the complexity of the languages and the subject matter, bilingual specialized dictionaries will consist of only a list of terms and their equivalents. Detailed definitions of corresponding terms are not ordinarily included. Bowker (2003) suggests that this is because lexicographers, terminologists and language specialists employ an onomasiological or concept-orientated approach in which only the "best" language equivalent is selected.



## 5.4 Characteristics of Specialized Dictionaries that are Unique to Algonquian Languages

The polysynthetic nature of Algonquian languages presents additional challenges for lexicographers and terminologists when constructing specialized terminological and bilingual dictionaries and glossaries.<sup>33</sup> The aim of this section is to provide a synopsis of the some of the unique factors that must be considered when constructing a specialized terminological dictionary of an Algonquian language such as Ojibwe.

### 5.4.1 Selecting the Appropriate Writing System

Lexicographers and terminologists must consider a number of factors when selecting the appropriate writing system to be used in an Algonquian language dictionary. This includes the literacy level in the community, existing writing systems used by community members and the range of intergenerational differences that may exist in the community. More than one writing system is often used within a single community. In Northern communities where the literacy levels tend to be higher, the proportion of speakers who are familiar with both the standard roman orthography writing system and syllabics often depends on the age of the speaker. It is not uncommon to find that a significantly greater number of speakers of the younger generations are versed in both the standard roman orthography writing system and syllabics than speakers of the older generations (Roger Roulette, personal communication, November 9, 1999).

Hinton and Weigel (2002:156) recommend that the selection of the writing system for use in a bilingual dictionary should reflect the writing systems that are

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<sup>33</sup> Interest into the theory and practice of Native American Lexicography has increased significantly over the past twenty years. The text, *Making dictionaries: Preserving Indigenous Languages of the Americas* (2002) edited by William Frawley, Kenneth C. Hill and Pamela Munro provides the most comprehensive review to date of the technical and social considerations that lexicographers, terminologists, linguists and language specialists must consider when compiling dictionaries of Native American languages.

understood by the community for which the dictionary is to be used. Oftentimes, this will require the lexicographer or terminologist to use more than one orthographic writing system when eliciting the terms in Algonquian languages. In the case of Ojibwe, this may require the lexicographer or terminologist to employ the Fiero system and one or more versions of syllabics.

The selection of an appropriate writing system becomes significantly more difficult in situations where the community does not have a standard writing system. The development of a standard writing system can be a lengthy process requiring the assistance of both language specialists and linguists. Depending upon the needs of the community, the level of literacy in the community and the targeted user groups of the dictionary, language specialists and linguists will develop a “folk writing” system that strives to create a balance between correctly marking all of the phonemic distinctions of the language while incorporating the use of English spelling rules (Hinton and Weigel 2002:157-158). This may be required when proposed orthographies containing unfamiliar characters, diacritics or spelling conventions are rejected by speakers as too unfamiliar or where there is a strong tradition of English-based writing of the language.

#### **5.4.2 Selecting Appropriate Word Classes & Citation Forms**

Selecting the appropriate word class and citation form for listing terms in bilingual dictionaries of Algonquian languages can be a very challenging task for lexicographers and terminologists (Hinton and Weigel 2002). Compilers of bilingual dictionaries of Algonquian language have attempted to overcome this problem by deriving phrase level equivalents and then indexing these equivalents with key words (Rhodes 2002:114). In his attempt to develop an accurate and consistent set of glosses

for the *Eastern Ojibwa-Chippewa-Ottawa Dictionary* (1985), Rhodes (2002) notes that he was required to cite Ojibwe forms by using a combination of key words and their corresponding parts of speech. This resulted in most of the Ojibwe equivalents being glossed in English phrases rather than English words.

Citation forms similar to that used by Rhodes (1985) have been used in the compilation of other Ojibwe-English bilingual dictionaries. It appears that some level of inflectional and derivational richness must be built into Ojibwe equivalents. A discussion of issues relating to the effectiveness of this strategy is considered in Chapters 7 and 8.

### **5.4.3 Dialect Variations**

Subtle dialect variations often exist amongst neighbouring Ojibwe communities. In situations where the dictionary is intended to be used by more than one speech community, the dictionary must account for the subtleties within the different dialect variations. One way to accommodate for language subtleties amongst the different speech communities is to transcribe the specialized term in more than one dialect variation. The labelling of dialect variations in a bilingual dictionary will require a discussion of the phonological, morphological and syntactic differences in the grammatical sketch of the dictionary.

Intergenerational language differences are quite pronounced in Ojibwe. The younger generation of speakers do not have the same level of fluency as the older generation of speakers (Valentine 2001). To ensure that dictionaries which include intergenerational differences may be used by all members of the community as well as for a future reference of the language, lexicographers and language specialists must ensure that differences are clearly marked within the context of the dictionary and that

this is accompanied by a discussion of these differences. Problems associated with intergenerational differences are discussed in further detail in Chapter 7.

## **Chapter 6: The Structure & Organization of the *Manitoba Aboriginal Legal Glossary – Ojibwe***

### **6.1 English – Ojibwe Legal Glossaries – An Introduction**

Over the past two decades, various language projects focusing on the preparation of English – Ojibwe bilingual legal glossaries have been initiated. Funding for the production of these glossaries was provided by both federal and provincial levels of government. Legal glossaries and language manuals have been published for various regional Ojibwe dialects including Oji-Cree spoken in the Northwestern Ontario and Manitoba-Saulteaux Ojibwe spoken in Southern Manitoba.

To date, most work in the area of legal glossaries has been completed by local community legal clinics and legal services. Sample legal glossaries include the *Glossary of Oji-Cree Legal Terms with English Translation* (1992) distributed by the Nishnawbe-Aski Legal Services Corporation in Thunder Bay, Ontario; *A Glossary of Legal Terms (English/Ojibway)* (1984) prepared by the Kenora Community Legal Clinic and *The Native Court Interpreter's Manual* (1987) prepared by the Manitoba Attorney General.

The selection of legal terms have centered upon those areas of the law most likely to be encountered by Aboriginal people including Criminal Law, Family Law and Child Welfare Law. Common procedural terms are also included within these legal glossaries. For the most part, simple explanations of the chosen legal terms have been provided by local lawyers. The legal terms selected for the legal glossaries and language manuals are translated into the Ojibwe language by community members experienced in language translation and then are reviewed and verified by various community members (Kenora Community Legal Clinic 1984, Auger, Beardy and Hudson 1992).

## 6.2 The Manitoba Aboriginal Legal Glossary – Ojibwe

### 6.2.1 An Overview

The *Manitoba Aboriginal Legal Glossary – Ojibwe*<sup>34</sup> (abbreviated as *MALG*) is comprised of a wide variety of commonly-used legal terms primarily relating to the areas of criminal law and family law. Additional legal terms describing common procedural concepts are also included. For the most part, the terms were selected based on common offences that result in individuals having to attend court. Other resources that were consulted in selecting the terms to be incorporated in the glossary include the *Criminal Code of Canada* and the *Native Court Interpreter's Manual* (Roger Roulette, personal communication, November 9, 1999).

Data for the *MALG* was collected over a three-month period in 1992-1993. In all, a total of 357 English legal terms are included in the glossary. A simplified English definition is given for each legal term. A standard Canadian legal dictionary was used in translating each of the English legal terms into plain English<sup>35</sup> (Roger Roulette, personal communication, November 9, 1999).

### 6.2.2 The Translation Process

Approximately twenty-five elders were invited to participate in the translation of the English legal terms into the Manitoba Saulteaux dialect of Ojibwe. All of the elders were fluent in the Saulteaux language. Most of the elders did not know each other. The elders were provided with the English legal terms and then asked to provide a Saulteaux equivalent. Because many of the English legal concepts are new to Aboriginal thought,

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<sup>34</sup> Funding for the *Manitoba Aboriginal Legal Glossary-Ojibwe* was provided by the Federal Government – Solicitor General, the Provincial Government – Department of Justice and the Royal Bank of Canada.

<sup>35</sup> The title of the particular Canadian legal dictionary that was consulted remains unknown at this time.

several of the Saulteaux equivalents had to be coined. To assist with the translation of those terms, the elders were provided with examples and sample sentences in the Saulteaux language that incorporate the idea or legal concept (Roger Roulette, personal communication, November 4, 1999).

Many of the English legal terms have more than one corresponding Saulteaux Ojibwe equivalent. Multiple language equivalents are listed in those situations where the elders identified more than one possible way of translating the English legal concept or in situations where the elders were not able to establish agreement on the preferred term. Multiple language equivalents were also provided for those terms in which the elders pointed out alternative terms that would likely be understood and used by speakers of younger generations.<sup>36</sup> As a general rule, the elders used the present tense when translating the legal terms. It is important to note however, that the past tense was used in those instances where the context required it (Roger Roulette, personal communication, November 4, 1999).

### **6.2.3 The Organization of the Legal Glossary**

The *MALG* is organized such that the English legal terms appear on the left column while the corresponding Manitoba Saulteaux legal equivalent(s) are listed on the right column. The first gloss under the Manitoba Saulteaux legal equivalent represents the legal definition the term. Where necessary, a simplified version of the original definition of each legal term is also provided. The last gloss provided for each legal term represents the literal translation of the Manitoba Saulteaux legal equivalent provided by the elders.

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<sup>36</sup> This phenomenon is examined in greater detail in Chapter 7 of this thesis.

In an attempt to ensure that the glossary could be read in the absence of a court interpreter, each Ojibwe entry is glossed in both the roman orthography developed by Charles Fiero and traditional syllabic orthographies.<sup>37</sup> It has been brought to my attention that both writing systems are included in the glossary as a result of literacy problems. Few Saulteaux speakers are literate in both the roman orthography writing system and traditional syllabic orthographies (Roger Roulette, personal communication, November 9, 1999). A sample gloss is provided below:

(1) **Sample English / Ojibwe Gloss**

Acquit

Gaawiin gidebimigoosii  
 - To be found not guilty of the  
 charge of an offence by verdict,  
 sentence or other legal process  
 - To find a person not guilty  
 - You are not found guilty

bΔ·? PUΛΓdʹ

(MALG:2)

## 6.3 Preparing a Glossary of Ojibwe Legal Terms

### 6.3.1 Identifying Appropriate Legal Terms

An important question which must be addressed when preparing a legal glossary is what should be covered and for whom. One must further consider how much information and how precisely this information should be defined for each entry. Because legal terminology is very specialized, the preparation of a glossary of Ojibwe legal terms must consist of two very important steps:

- (i) the collection and identification of Ojibwe words and phrases; and

<sup>37</sup> A discussion of the differences between the different Saulteaux orthographies is found in Chapter 2 of this thesis.



- (ii) the analysis, translation and editorial preparation of these terms.<sup>38</sup>

Since legal glossaries are prepared primarily for the purpose of assisting court interpreters and other court related personnel in developing a consistent form of communication, at a minimum, words and phrases relating to both criminal law and family law must be included. To avoid oversimplification, it is suggested that each word or phrase should be defined according to either the *Criminal Code of Canada* or a standard Canadian legal dictionary (Manitoba Attorney General 1987, Auger, Beardy and Hudson 1992).

## 6.4 Word Formation of Sauteaux Legal Terms

### 6.4.1 Stem Structure: Verb Stems and Affixes

Most of the Sauteaux terms in the *MALG* are glossed as short, contextualized phrasal clauses rather than as abstract, independent nouns. This is because Sauteaux is a verb prominent language and the only obligatory constituent of the phrasal clause in the verb. Nouns, particles and complement clauses are all optional. This differs significantly from legal English terms that are almost glossed exclusively as nouns.<sup>39</sup>

Take the following set of examples:

- (2) **ogii-bichi-nisaan** TA 3s-3's ind. neutral  
**o-+gii-+bichi-+nis-+-aa+-n**  
 3-pst-by mistake-kill s.o.-DIR-3's  
 'manslaughter'
- /niS-/** 'to kill s.o.'/TA
- [bank translation] 'he killed him unintentionally'

<sup>38</sup> This presumption is adapted from H.C. Wolfart and F. Ahenakew (1987) who completed a similar study of how to prepare a glossary of Plains Cree medical and nursing terms.

<sup>39</sup> A thorough discussion of the nature of legal language and the legal lexicon is found in Chapter 4 of this thesis.



Primary verb stems are composed of one to three of these components. If a stem consists of only a single component, then that component is the initial as in example (4).

- (4) **anishaa gidinigoo** TA 2s-3s ind. neutral  
'constructive'

**anishaa** casually, without cause or purpose

**gidinigoo**

**gid-+iN-+-igoo**

2-says so to s.o.-INV

'you are told so'

|            |              |                  |
|------------|--------------|------------------|
| verb stem: | <i>iN-</i>   | 'say so to s.o.' |
| ending:    | <i>-igoo</i> | INV              |

[back translation] 'something told to you in passing'

(MALG:15)

In cases where the verb stem is composed of two parts, the first one is the root and the second is the final as in example (5).

- (5) **maakiganaamaa** TA X-3 ind. neutral  
'aggravated assault'

|           |                |              |
|-----------|----------------|--------------|
| root:     | <i>maak-</i>   | 'injured'    |
| TA final: | <i>-ganaam</i> | 'by hitting' |

(MALG:4).

Alternatively, when the verb stem is comprised of all three parts, the first is the initial, the second is the medial and the third is the final. In such instances, the medial functions to identify classes of things involved. This is illustrated in example (6).

- (6) **giitaakonaa** AI reciprocal X conj. neutral  
 'bail'

**giit- + -aakw- + -in + -aa**  
 remove-stick-like-by hand-DIR

**/giitaakon-/**

|          |               |              |
|----------|---------------|--------------|
| initial: | <i>giit-</i>  | 'remove'     |
| medial:  | <i>-aakw-</i> | 'stick like' |
| final:   | <i>-in</i>    | 'by hand'    |

[back translation] 'he is being released'

(MALG:8)

Secondary stems are composed of a word stem and a secondary final. Secondary finals are added to either rearrange the relationship of participants or change the class of the word stem. This results in the basic meaning of the new-formed stem remaining the same as the underlying word (Nichols and Roulette 1997). Take, for example, the Saulteaux equivalent of the legal term *recess* reproduced in (7) where the reciprocal final *-idi* is added to a transitive animate stem to express a meaning of mutual relationship. In doing so, this new stem becomes an AI stem. In this example, the suffix *-ng* marks the AI indefinite subject in the conjunct order.

- (7) **gaa-anwebi'idng** TA reciprocal X-conj. neutral  
 'recess'

**gaa-+anwebi-+-'+-idi+ng**  
 pst(ic)-rest-cause to be-reciprocal-X

|                     |                |               |
|---------------------|----------------|---------------|
| verb stem:          | <i>anwebi-</i> | 'take a rest' |
| secondary TA final: | <i>-'</i>      |               |
| secondary AI final: | <i>-idi</i>    |               |

[back translation] 'a break during a proceeding'  
 (MALG:43)

Similarly, in (8) and (9), secondary finals are affixed to change the verb into a noun. In example (8), the AI verb stem *debwe-* 'tell the truth' is made into a noun stem with the addition of the nominalizing noun final *-win* and the plural affix *-an*. In example (9), the AI verb stem *dibaakonige-* 'judge things' is transformed into a noun stem with the addition of the noun final *-winini*.

- (8) **debwewinan** NI pl 'particulars'
- debwe+-win+-an**  
 verb stem: *debwe-* 'tell the truth'  
 secondary NI final: *-win*
- [back translation] 'the facts'
- (9) **dibaakonigewinini** NA sg. 'judge'
- dibaakon-+-ige+-w-+-inini**  
 verb stem: *dibaakon-* 'judge s.o.'  
 secondary final: *-ige* detransitivizer  
 secondary AI final: *-winini* 'person'
- (MALG:31,37)

Compound verb stems represent a third type of verb pattern that on occasion may be found. These compounds are formed when two verb stems are adjoined together.

Examples of compound verb stems found in the *MALG* include the following:

- (10) **giwashkwebii-bimibizonike** AI  
 'impaired driving'
- giwashkwebii - +bimibizonike**
- giwashkwebii-** s/he is drunk/AI  
**bimibizonike-** s/he drives / AI
- [back translation] 'drives while drunk'

- (11) **ashodamaage diba'ige** AI  
 'recognizance'

**ashodamaage - +diba'ige**

**ashodamaage-** s/he promises something to someone/AI

**diba'ige-** s/he pays something/AI

[back translation] 'the promise to pay'

(MALG:27,43)

Lexical preverbs compound with stem forming elements. In example (12), the preverb *aanji-* is added to the verb stem *dood-* with theme sign *-am* to form the term *aanji-doodam*. Similarly, in example (13), the preverb *michi-* is added to the verb stem *anaamim-* with the suffix *-igoo*.

- (12) **aanji-doodam** TI  
 'criminal negligence'

**aanji - + - doodam**

change/pv +do something/TI

[back translation] 's/he follows through his action despite its negative result'

- (13) **gi-michi-anaamimigoo** TA  
 'circumstantial evidence'

**gimichi-anaamimigoo /TA X-2**

**gi-michi+anaamim+-igoo**

2+without anything special+ -blame people

[back translation] 'just an accusation'

(MALG:12,17)

### 6.4.3 Stem Structure: Compound Noun Stems

An additional type of word formation that is commonly used in the Saulteaux language to create new items or concepts is the compounding of noun stems. As previously explained in Chapter 2, compound noun stems are composed of two word

stems: a prefixed word stem and a noun stem. Several examples of compound noun stems were found within the legal glossary including:

- (14) **onashowe-mazina'igan** NI sg  
 'court order'
- onashowe - + mazina'igan**
- onashowe-** make laws/AI  
**mazina'igan-** book/NI
- [back translation] 'court document'
- (MALG:17)
- (15) **oshkaadizi-onashowewin** NI sg  
 'young offender's act'
- oshkaadizi - + onashowewin**
- oshkaadizi-** be a young person/AI  
**onashowewin-** law/NI
- [back translation] 'young persons law'
- (MALG:52)
- (16) **miikana onaakonigewinan** NI pl
- miikana-** road/NI  
**onaakonigewin-** law/NI  
**-an** pl  
 'highway traffic act'
- [back translation] 'road laws'
- (MALG:26)

Legal terms were also formed by combining a lexical preverb with a noun stem.

Examples of this include the following:

- (17) **gichi-naadamaagewinini** NA sg  
 ‘attorney general’
- gichi - + naadamaagewinini**  
 big/pv + help people/AI
- [back translation] ‘the chief law officer of a province’
- (18) **gichi-ikidowin** NI sg  
 ‘oath’
- gichi - + ikidowin**  
 big/pv + statement/ NI
- [back translation] ‘ a promise that a statement is true’
- (19) **maji-doodamowin** NI sg  
**maji- + doodamowin**  
 bad/ pv + act/NI  
 ‘crime’
- [back translation] ‘an immoral act’
- (MALG:7,17,35)

#### 6.4.4 Voice and Valency Operations in Saulteaux Examples from *MALG*

Valence derivation operations are extremely productive in the Saulteaux language. The majority of the verbs listed in the *MALG* are secondary derivatives. An overview of the various valence derivation operations is provided in Chapter 2. The aim of this section is to highlight how valence derivation operations are used in the construction of Saulteaux legal terms.

Example (20) provides an illustration of how the Saulteaux equivalent of the English legal term *gross indecency* is derived from attaching the AI detransitivizer *-(i)we* to the TA verb stem *ombi*.



- (20) **gagwe- ombi'iwe** AI 3s ind. neutral  
 'gross indecency'

**gagwe- ombi'--iwe**  
 try(pv)-excite s.o.-detransitiver

**ombi'-** excite s.o.  
**-iwe** VAI detransitiver

[Back translation] 'trying to arouse someone'

(MALG:31)

Example (21) provides shows how reflexive verbs were used in the glossary. Reflexive verbs result when the reflexive suffix *-zo* is attached to the stem of a transitive animate verb. In this example, the reflexive AI final *-zo* is added to the transitive animate verb stem *ganawendamaw-* to form the animate intransitive verb *ganawendamaazo* 's/he keeps something to her/himself'. Here, the reflexive suffix *-zo* rather than the explicit reflexive suffix *-idizo* is used. This often results in situations where the underlying verb stem is a benefactive. In this example, the benefactive is used as a way to express that someone is holding private information for another person.

- (21) **ganawendamaazod gigiigidowin**  
 'privileged information'

**ganawendamaazo** AI 's/he keeps something to her/himself'  
 /**ganawendamaw-** TA 'keep something of or for s.o.'

**ganawendamaw+-izo**

keep something of or for s.o. TA + reflexive suffix

[back translation] 'he is to keep to himself your words'

(MALG:40)

A third valency decreasing operation that was used in the glossary was the reciprocal. This is shown in example (22). Here, the reciprocal is formed by adding the animate intransitive AI final *-(i)di* to the transitive animate verb stem *zhaagoozom-*. In

this example, it appears that the reciprocal is used as a way of expressing the idea that someone is trying to convince another person of their position.

- (22) **gigagwe-zhaagoonzondim** AI 2p ind. neutral  
 ‘rebut’

**/zhaagoonzondi-/**

**zhaagoozom- + -di**

convince s.o.

TA reciprocal suffix

[back translation] ‘you are trying to convince each other’

(MALG:43)

Several examples of benefactives were also found within the glossary. In example (23), the benefactive final */-amaw/* is added to the TI verb stem *ashod-* to derive the benefactive verb stem *ashodamaw-*.

- (23) **gimaji-ashodamawaa ji-izhichigesig**  
 ‘intimidation’

**gimaji-ashodamawaa**

TA 2s-3s ind. neutral

**ji-izhichigesig**

AI 3s ind. neutral neg

**ashodamaw-**

TA ‘promise (s.t.) to or for s.o.’

**/ashod-/**

TI ‘promise s.t.’

[back translation] ‘you promise (to do something) bad to him so he  
 won’t do something’

(MALG:30)

#### 6.4.5 Passive Constructions

Passive constructions are often used in legal language as a means to provide a greater rhetorical meaning to a particular concept or ruling. In examining the corpus of Manitoba Saulteaux legal terms, we find a few examples where English legal terms have

been translated into the Saulteaux language using the passive voice. Passive constructions in the Saulteaux language are very different than those that are found in English. Unlike English, Saulteaux does not identify the actor in the passive form (Valentine 2001:688). In example (24), it appears that the passive form is used to emphasize that a lighter sentence has been provided by the Courts. Similarly, in example (25), it appears that the passive form is used to denote that someone has provided money in order for the release of another person.

- (24) **ji-naangimawind** TA X-3s conj. neutral  
 ‘mitigating circumstances’
- ji-** that (pc)  
**naangimaw-** give s.o. a lighter sentence  
**-ind** X-3s conj. neutral
- [back translation] ‘speak lightly’
- (25) **gidibawaa ji-bagidinind**  
 ‘judicial interim release’
- gidibawaa** TA 2s-3s ind. neutral
- gi-+dibaw-+-aa**  
 2-pay for s.o. / TA + DIR  
 ‘you pay for him/her’
- ji-bagidinind** TA X-3 conj. neutral  
**ji-+bagidin-+-ind**  
 that-release- X-3  
 ‘so that s/he is released (by someone)’
- [back translation] ‘you pay for his release’
- (MALG:31,34)

The complex finals *-igaazo* and *-gaade* are used to derive “passive-like” AI and II verbs. The element *-ig* resembles the passive morpheme of transitive verbs while the elements *-zo* and *-de* are abstract intransitive finals (Valentine 2001:359). Several

examples of overt lexical passive verbs were found in the glossary. In (26), the AI verb *inaakonigaazo* 's/he is judged, sentenced so' is derived from the TA verb stem *inaakon-*.

- (26) **gikinawaaj gii-inaakonigaazo** AI 3s ind. neutral  
 'probation order'
- /inaakonigaazo/**  
**/inaakon-/** TA 'judge, sentence s.o. so'  
 's/he is judged, sentenced so'
- [back translation] 's/he was sentenced in a noticeable way'  
 (MAGL:41)

#### 6.4.6 The Process of Nominalization

The process of nominalization is very common in the creation of Ojibwe legal terms. It appears that this is probably an artifact of the translation of the legal terms from English (D. Pentland, personal communication). Many of the language equivalents were formed from the third person singular form of AI verbs. The most common nominalizer that is used is *-win*.

- (27) **onaakonigewin** NI sg  
 'act'
- onaakonige-+-win**
- onaakonige-** make laws/AI final  
**-win** nominalizing noun final  
 [back translation] 'a document stating what has been made into law'
- (28) **oshki-maajichigewin** NI sg  
 'precedent'
- oshki -+-maajichige -+-win**
- oshki-** for the first time (pv)  
**maajichige-** start to do something  
**-win** nominalizing noun final  
 [back translation] 'something which is done the first time'
- (MALG:2,33,40)

## **6.5 Verb Inflection**

### **6.5.1 Person Marking**

Person marking is very important in the Sauteaux language. As mentioned in Chapter 2, the inflectional morphology of transitive verbs is based on a person marking hierarchy. There are several combinations of person markings that are used in the translations of English legal terms. In examining the corpus of Manitoba Sauteaux legal terms, it appears that the most prevalent person markers that are used are the second person and third person singular forms. Wherever it was possible, the Sauteaux equivalents appear in the third person singular form (Roger Roulette, personal communication, November 11, 1999).

It is important to note, however, that many of the translated legal terms do not appear in their most simple verb forms. This is because many of the Sauteaux terms had to be lexically innovated as the English legal term does not ordinarily exist in the target language. To accommodate this shortcoming, many of the legal terms are translated using short phrases that are readily understood by Sauteaux speakers rather than with a simple word form.

In many cases where the second person form is used in the translation, a third person singular form is also given. This provides the interpreter with more examples so that they can more easily realize that they can inflect the forms as necessary. This also serves as examples to non-speakers of the kinds of variations to expect (J.D. Nichols, personal communication). This is illustrated with the following example:

(29)

(a) **gizaka'amaage**  
'arson'**gizaka'amaage**

AI 2s ind. neutral

**gi-+zaka'amaage**

2-set fire to s.t. of s.o.'s or for s.o.

[back translation] 'you are setting fire to something of someone's'

(b) **zaka'amaage**

AI 3s ind. neutral

'arson'

[back translation] 's/he set fire to something of someone's'

### 6.5.1.1 The Use of the Second Person Form

The frequency of the use of second person forms requires closer examination of some interesting examples:

(30) **gigikendaan aaniin ge-izhiseyan**  
'mentally competent'**gigikendaan**

TI 2s ind. neutral

**gi-+gikend-+-aan**

2-know s.t. -0

you know it

**aaniin** in a way (pc)**ge-izhiseyan**

AI 2s conj. neutral

**ge-+izhise-+-yan**

fut(ic) – fare so – 2s

[back translation] 'you understand what will happen to you'

- (31) **gaawiin gigechinawisii**  
‘reasonable doubt’

**gigechinawisii** AI 2s ind. neutral neg

**gaawiin** no

**gigechinawisii** AI 2s ind. neutral  
**gi-+gechinawi+-sii**  
2-be sure-NEG

[back translation] ‘you are not sure of s.t.’

- (32) **onjida gibiigonamaage gegoo**<sup>40</sup>  
‘wilful damage’

**onjida** on purpose (pc)

**gibiigonamaage**  
**gi-biigonamaage** AI 2s ind. neutral  
2- break something of someone’s

[back translation] ‘you intentionally break another’s property’

(MALG:33,43,51)

Each of these English legal terms has a very specific and technical meaning within the Canadian Criminal Justice System. The term *mentally competent* refers to an individual’s ability to understand the nature and consequences of an act. The term *reasonable doubt* refers to the level of certainty that a juror must have before forming a “legally sound determination” of the guilt of an accused person (Yogis 1998:223). The term *wilful damage* refers to tortious acts committed by an individual that were done with bad or malicious intent (Yogis 1998). These meanings are not easily translated into the Sauteaux language. The only way to effectively convey a meaning that is somewhat

<sup>40</sup> The intransitive final *-aage* is produced from the coalesce of the transitive stem *-aw* and the AI detransitive *-(i)ge* (Valentine 2001:403).

similar to the meaning of these specialized terms in the English language is to produce an equivalent that is personalized and verbalized (J.D. Nichols, personal communication).

Rather than giving an equivalent for the terms *mentally competent*, *reasonable doubt* and *wilful damage* as either an "X" form verb or phrase or as a simple third person form, the second person form is used as a tool for explaining something to the accused. Given the complex and specialized nature of English legal terms, it is reasonable to argue that this form is both structurally and pragmatically required to produce an equivalent of the English term and to correctly explain the legal concept to an accused person. Using example (30) the interpreter is able to explain to the accused that the accused's mental competence is being discussed. Using example (31) the interpreter is able explain to the accused that the trier of fact, either the judge or the jury, did not have the level of certainty required to make a determination that the accused committed the offence. The same is true in example (32) where the interpreter is able to use the glossed equivalent to advise the accused that the court is discussing whether the accused intentionally broke the other person's property.

One question that arises is whether the use of the second person in producing these Saulteaux equivalent forms violates the basic requirements of legal interpretation. The best possible translation is one that uses normal language forms of the target language to communicate as nearly as is possible the same meaning that is understood by source language speakers to target language speakers, while maintaining the dynamics of the original source language form (Larson 1984). In order to convey the semantic context of the source language term, Saulteaux interpreters often have to modify the surface structure of English terms in order to produce equivalents. Although these



constructions do not produce a one-to-one correlation, it seems that this is the most effective way of explaining English technical terms.

### 6.5.2 Order & Mode

The independent and conjunct orders are readily employed in the translation of English legal terms. The *MALG* contains no terms in the imperative order. Despite the fact that the imperative order is not used in the glossary, given the sometimes authoritative and direct nature of some Court proceedings, it is reasonable to expect that the imperative order would be used in oral translation settings.

In Chapter 2, four different types of modes were identified: (1) neutral, (2) preterit, (3) dubitative and (4) preterit dubitative. In examining the corpus of Saulteaux Manitoba legal terms, examples appear in both the neutral and the preterit modes.

(33) **Neutral Mode**

|                |                    |
|----------------|--------------------|
| <b>gimoodi</b> | AI 3s ind. neutral |
| steal (s.t.)   |                    |
| 'he steals'    |                    |

(34) **Preterit Mode**

**ji-onashowaazopan**  
'preliminary hearing'

|                                    |                      |
|------------------------------------|----------------------|
| <b>ji-onashowaazo+-pan</b>         | AI 3s conj. preterit |
| that-be decided about – 3 preterit |                      |

[back translation] 'They are deciding in court whether he should go to trial'

(MALG:40,47)

The use of aspectual-evidential modes is very important in the Saulteaux language. This is explored in greater detail in Chapter 8.

### 6.5.3 Tense

The present tense was chosen over the other tenses as the preferred tense of the glossary. As a general rule, the present tense was used whenever possible. The past tense and the future tense were used only in those circumstances where the particular context required it. (Roger Roulette, personal communication, November 4, 1999, November 11, 1999). The glossary was designed for individuals who are literate in both languages. It is expected that users of the legal glossary would be able to quickly and efficiently translate the Saulteaux legal concepts into the appropriate context with little difficulty.

### 6.5.4 Negation

In examining the corpus of Manitoba Saulteaux legal terms, we find a number of language equivalents which were formed using negation. It appears that negation is used by the elders as a tool for translating problematic terms where there is no equivalent in the TL. Although the Saulteaux expression does not have the same propositional meaning<sup>41</sup> as the specialized legal term, it seems to nonetheless have a similar impact on its target audience. Baker (1992) suggests that the main advantage for using this strategy is that it provides both the interpreter and the non-English speaking witness a concept with which they can identify. This notion is illustrated in examples (35) and (36).

- (35) *gaawiin imaa aginzosii* AI 3s ind. neutral  
 NEG-there-belong to a group-NEG-3s  
 'jurisdiction'

[back translation] 'he has no authority'

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<sup>41</sup> Proposal meaning refers to the meaning that arises from the relationship between a word or utterance and what it refers to (Baker 1992:286).

- (36) *gaawiin debwesii* AI 3s ind. neutral  
 NEG-tell the truth-NEG-3s  
 ‘misrepresentation’

[back translation] ‘he is not telling the truth’

(MALG:31,33)

In examining (35), we find a distinction between the specialized legal definition of the term *jurisdiction* “the limits of a court’s power such as within geographical areas or the types of cases heard” and the literal translation of the Saulteaux equivalent “he has no authority.” Similarly, in (36) we find a distinction between the specialized legal definition of the term *misrepresentation* “the act of giving a false account or representing something improperly” and the literal translation of the Saulteaux equivalent “he is not telling the truth”.

### 6.5.5 Dialect Variation

There appears to be some evidence of dialect variation in the *MALG*. In examining the corpus of Manitoba Saulteaux legal terms, we find dialect differences in the way that relative clauses are created. In the *MALG*, regular conjunct verb suffixes are used. This differs from other Ojibwe dialects like Minnesota Ojibwe and Ottawa where special endings can be added to relative clauses to replace certain third person endings. In the Manitoba Saulteaux dialect, it appears that some speakers use initial change to mark the construction while others use a relative clause preverb. This contrast is illustrated in (37). In (37)(a), the initial syllable *o-* of the relative clause *onashowaazood* is shown with initial change *we-*. Conversely, in (37)(b), the relative clause preverb *gii-* of the relative clause *gii-onashowaazod* is shown with the relative clause preverb *gaa-*.

(37)

(a) **wenashowaazod** AI 3s conj. neutral**(ic) + onashowaazo-+-d**

(ic) – be judged - 3

‘defendant’

[back translation] ‘one who is put through the court process’

(b) **gaa-onashowaazod****gaa+-onashowaazo-+-d**

relativizer – be judged-3

‘defendant’

[back translation] ‘one who is put through the court process’

(MALG:19)

There also appears to be some lexical variation in the corpus of Saulteaux legal terms. In (38), we find lexical variation in the structure of the Saulteaux equivalents listed for the term *minor*. In (38)(a), the form *oshki-* is while in (38)(b), the form *oshk-* is shown.

(38)

(a) **oshkiwaadizi** AI 3s ind. neutral

‘minor’

[back translation] ‘(s)he is a youth’

(b) **oshkaadizi** AI 3s ind. neutral

‘minor’

[back translation] ‘(s)he is a youth’

(MALG:33).

## **Chapter 7: Problems Associated With The Current Legal Glossary**

### **7.1 Introduction**

This chapter considers the suitability of the translation of the Saulteaux legal terms identified in the *Manitoba Aboriginal Legal Glossary – Ojibwe* (abbreviated as *MALG*). To date, the only other academic research to consider problems with the translation of English legal terms into Ojibwe and Cree was completed by Ahenakew, King and Littlejohn (1990). In their report titled *Indigenous Languages in the Delivery of Justice in Manitoba*, Ahenakew, King and Littlejohn (1990) identified several problems with the manner in which Saulteaux legal terms are created. These problems are reviewed within the context of the current legal glossary. In addition, this chapter also considers some of the limitations faced by court interpreters in their attempt to translate legal concepts from English to Saulteaux and vice versa.

### **7.2 The Historical Precedent of Legal Terms in the Saulteaux Language**

Justice is perceived very differently by Aboriginal and non-Aboriginal people. There is no documented history of specialized legal terminology for the Saulteaux language. Ahenakew, King and Littlejohn (1990:23) suggest that this is because in the Ojibwe worldview, only one law exists, the *enendaagwag* translated in English as *Law of the Orders*. Within this justice system, the Elders instruct the younger generations on what is acceptable and unacceptable behaviour through the use of oral histories and legends. While a code of conduct has been derived from the Law of the

Orders, the elements of this code have never been formally translated into a formal glossary of any type (Ahenakew, King and Littlejohn 1990:23).<sup>42</sup>

Even though there may not be a codified set of terms, the elders instructing the younger generations must have had to use the language in order to discuss issues relating to law and justice. An important question for linguists that remains to be answered is what language or vocabulary is used by the elders in teaching others about their legal system? Documenting the language that is used by the elders when they discuss concepts of law and justice including actual courtroom interpretation would provide linguists and language specialists with suggestions of how these concepts are used in the native language. This is something that has not yet been completed. The collection of such language and vocabulary would seem basic to the creation of a glossary of specialized legal terms.

To some extent, the Manitoba project represents a first attempt to do this. In this project, a panel of elders were assembled and asked to elicit ways of expressing the English legal concepts in the native language from which a preferred phrase or series of phrases were extracted. One shortcoming with the Manitoba project is that it does not consider how these phrases are used in actual courtroom interpretation. Perhaps from a native view, a study of actual usage is not needed (J.D. Nichols, personal communication).

However, it is unlikely that non-native speakers would be able to use the glossary in the same way. The Saulteaux language is rich in inflectional and derivational

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<sup>42</sup> For a more depth discussion of the history of the justice system and Aboriginal people, refer to *Aboriginal Peoples and the Justice System: Report of the National Round Table on Aboriginal Justice Issues* (Royal Commission on Aboriginal Peoples (1993) and Ahenakew, King and Littlejohn (1990).

morphology. Oftentimes, the language is comprised of very complex word forms. To a non-native speaker who does not have a strong understanding of the language, conjugating the glossed terms that are provided in the Manitoba glossary would be a very difficult, if not impossible task.

Another shortcoming here is the English orientation of the procedure. While the elders were apparently able to discuss the words, the focus was on the elders finding words equivalent to the English legal terms. What a linguist, preferably a native speaker of the language, would want to do first is explore with the speakers the semantic domains of law, justice, punishment and social control within the language without any comparison with or use of English (J.D. Nichols, personal communication).

Lastly, because there are no precedents for legal terms in the Saulteaux language, Saulteaux equivalents of English legal terms must be created from their context and by transferring Ojibwe linguistic resources into existing verb stems and words that convey a similar meaning. Many of the problems associated with the translation of English legal terms into the Saulteaux language result from the difficulty of creating a vocabulary for which there is no cultural equivalent in the language.

### **7.3 The Problem of Non-Equivalence<sup>43</sup>**

#### **7.3.1 Lexical Innovation**

The choice of a suitable equivalent often depends on a wide variety of factors. In Saulteaux, many words dealing with the legal system must be lexically innovated because the source language word expresses a cultural-specific concept (Baker 1992:22). This concept is illustrated with analysis of the terms *dibaakonigewinini* and

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<sup>43</sup> Non-equivalence at word level means that the target language has no direct equivalent for a word that occurs in the source language (Baker 1992:20).

*naadamaagewinini*. The break down of the main elements of these terms in (1) and (2) shows how the NA final *-winini* can be added to the AI verbs *dibaakonige* and *naadamaage* to form the terms *dibaakonigewinini* and *naadamaagewinini*.

- (1) **dibaakonigewinini** NA sg  
'judge'

**dibaakonige- + -winini**  
VAI NA final  
judges person

- (2) **naadamaagewinini** NA sg  
'defense counsel'

**naadamaage- + -winini**  
VAI NA final  
helps people person

The literal translation of the first term *dibaakonigewinini* describes judges as “the one who measures the sticks to put them in order.” The literal translation of the second term describes the defence counsel as “the one who helps people” (Ahenakew, King and Littlejohn 1990:32). A morpheme by morpheme analysis of these terms is shown in (3) and (4).

- (3) **dibaakonigewinini**  
'judge'

**dib- + -aakw- + -in + -ige + -winini**  
measure+ stick like + by hand + detransitivizer + person /NA

[back translation] ‘the one who measures the sticks to put them in order’

- (4) **naadamaagewinini**  
defence counsel

**naad-+ -amaw+ -ge+ -winini**  
fetch+TI benefactive final+detransitivizer+person/NA

[back translation] ‘the one who helps people’  
(MALG:19,31)



### 7.3.1.1 The Use of *-aakw-* & *-in* Saulteaux Legal Terms

The medial *-aakw-* ‘stick-like’ and the final *-in* ‘by hand’ are found in the construction of several of the Saulteaux legal terms in the *MALG*. The complex final formed from these two elements *-aakon-* has the meaning of ‘by formal deliberation, council, court, etc.’ It seems that the elders have used this complex final as a way of trying to express that some sort of decision-making process has taken place. The use of these stem-building elements suggests that at least for judgments and sentences and law making, there seems to be a stem-building element (the complex of *aakw-* + *-in*) that is widely available (J.D. Nichols, personal communication). This is shown in examples (5) through (10). These examples are shown as they are cited in the *MAGL* in their derived form and are comprised of other derivations including valency changes.

- |     |                                      |  |
|-----|--------------------------------------|--|
| (5) | <b>onaakonigewin</b><br>‘act’        | NI sg  |
|     | <b>onaakon-</b><br>root oN-          | TI ‘make a rule, law or sentence about something’<br>‘order, set, establish’               |
| (6) | <b>inaakonigaazo</b><br>‘adjudicate’ | AI 3s  |
|     | <b>inaakon-</b><br>root iN-          | TI ‘decide so about s.t., make such a rule, law or sentence about something’<br>‘thus, so’ |
| (7) | <b>bagidaakonaa</b><br>‘mistrial’    | TA X-3s  |
|     | <b>bagidaakon-</b><br>root bagid-    | TA ‘release s.o from court jurisdiction’<br>‘set down, allow, release’                     |

|      |  |   |
|------|--|---|
| (8)  | <b>giitaakonaa</b><br>'bail'                         | TA X-3s   |
|      | <b>giitaakon-</b><br>root <b>giit-</b>               | TA 'remove s.o. from court jurisdiction'<br>'remove, release' |
| (9)  | <b>gigiitwaamaakonigoo</b><br>'consecutive sentence' | TA X-2s   |
|      | <b>giitwaamaakon-</b><br>root <b>giitwaam-</b>       | TA 'sentence s.o. again'<br>'again, repeated'                 |
| (10) | <b>gi-nabwaakonigoo</b><br>'double jeopardy'         | TA X-2s   |
|      | root <b>nabw-</b>                                    | TA 'double up'  |
|      | (MALG:2,8,14,21,22,34)                               |   |

It has been suggested the basic meaning of the medial *-aakon-* 'hold or handle a stick' can be extended metaphorically to mean 'judge against a standard.' Some speakers have explained this idea using the use of the ceremonial 'pipe'. The medial *-aakw-* is used to make reference to the shape of the pipestem while the final *-in* is used as a reference to the ceremonial handling of the pipe where council deliberations were being held (J.D. Nichols, personal communication).

### 7.3.1.2 The Use of *-ashowe* in Saulteaux Legal Terms

The finals *-ashowe* and *-ashowaaN* are also found in the construction of several of the Saulteaux legal terms in the *MALG*. In comparing the use of this final form in the *MALG* with their use in the glossaries for the Oji-Cree dialect, it appears that these two finals may be equivalents of the transitive and intransitive verbs using *-aakon-*. This provides some evidence that there may be some dialect variation in the terminology (J.D. Nichols, personal communication). Examples of terms containing the medials *-ashowe* and *-ashowaaN* are shown in (11) and (12).

- (11) **onashowebii'iganan** NI pl  
'transcript'

**onashowe- + -bii'-iganan**

**onashowe-** decide about someone/AI  
**-bii'-igan+-an** write, draw s.t/ TI +thing / NI final +an 'pl'

[back translation] 'document of the court'

- (12) **onashowaanaa** NI sg  
decide about s.o. /TA X-3s  
'trial'

[back translation] 'he is out on trial'

(MALG:49)

### 7.3.2 The Problem of Lexical Pragmatics

The innovation of new Sauteaux legal terms often results in lexical pragmatic problems. Rhodes (2002:113) suggests that the internal logic of the Ojibwe language is masked when words are glossed in English. This problem is found in examples (1) and (2) above. Although the glossed translation of the legal terms *judge* and *defence counsel* may at first glance appear to be idiomatic, they are not. The literal or semantic meaning of a glossed term is often very different from the glossed form that has been simplified by the lexicographer or language specialist. Therefore, while the pragmatics of the terms *dibaakonigewinini* and *naadamaagewinini* might match the pragmatics of the legal terms *judge* and *counsel* respectively, the underlying meaning of the Sauteaux terms are not likely to be properly understood by the non-native Sauteaux speaker.

### 7.3.3 The Problem of ‘Cultural Specific’ Concepts

In addition to the problem of lexical pragmatics, another reason why many Saulteaux legal terms are poorly interpreted and translated is that legal phraseology tends to be semantically complex. Take for instance, the Saulteaux equivalent for the legal term *indictment*.

- (12) **onashowaa-mazina’igan**                      NI sg  
**onashowaa- + -mazina’igan**  
 decide on something/AI + book/NI  
 ‘indictment’

[legal definition] ‘a document which states the charge against an accused’  
 [back translation] ‘a court document’

(MALG:28)

An *indictment* is a formal court document that states the charge against an accused person. However, when translated into the Saulteaux language, we find that the semantic context of this specialized legal term is lost. This shows that when the target language lacks a specific term or hyponym, translators must compensate by using a more general term (Baker 1992:20).

Additional examples of this phenomenon include the Saulteaux terms used for the English legal terms *appeal* and *attest*. In (13), we find that while the Saulteaux gloss *ji-aandaakonind* makes reference to the meaning of a change in court, it does not make any reference to the specific process that is required in order for an individual to request a decision of the court be reviewed. Similarly, in (14), we find that while the Saulteaux gloss *ji-gichi-ikidowin* makes reference to the act of making a statement, it fails to make any mention about the process of swearing the truth of a statement under oath or making an affirmation to the truth of a particular statement.

- (13) **ji-aandaakonind** TA X-3s conj. neutral  
**ji- + aandaakon-+-ind**  
 that - change laws- X-3s  
 ‘appeal’

[legal definition] ‘a review of a case by a higher court at the request of one of the parties’

[back translation] ‘change his court’ or ‘retry his case’

- (14) **ji-gichi-ikidowin** AI 2s conj. neutral  
**ji-gichi-ikido-+-win**  
 fut-big-speak so-2s  
 ‘attest’

[legal definition] ‘to swear under oath in either written or oral form’

[back translation] ‘to make an absolute truthful statement’

(MALG:5,7)

#### 7.4 The Incongruence Among Word Classes

English legal terms are largely represented in the form of nouns. The form and word class of lexically innovated Saulteaux legal terms differs significantly from English legal terms. Matching technical English terms with a simple abstract noun is difficult. In the Saulteaux equivalents examined in the glossary, most terms are listed as verbs. When nouns are cited in the glossary, they are usually formed from the third person form of AI verbs by adding the nominalizer *-win*. This is shown in (15) where the verb form *debwe-* ‘tell the truth’ is nominalized with the suffix *-win* to derive the Saulteaux noun *debwewin*.

- (15) **debwewin** NI sg  
**debwe- + -win**  
 tell the truth/AI + -nominalizer noun final  
 ‘evidence’

[back translation] ‘the truth/fact’

(MALG:23)

## 7.5 The Incongruence Among the Translation of Saukteaux Legal Terms

An additional problem that arises quite frequently in the preparation of legal glossaries is the incongruence among the translation of Saukteaux legal terms. The lack of differentiation of distinct legal terms in the Saukteaux language presents court interpreters with the difficult task of trying to distinguish between the different definitions of the word. This is illustrated with the following sets of examples for the Saukteaux terms *gichi-ikidowin* and *debwewin*:

|      |   |  |
|------|---|--|
| (16) | <b>gichi-ikidowin(an)</b><br><b>gichi-+ikido-+-win+-(an)</b>  | NA sg (pl)   |
|      | <b>gichi-</b> big (pv)<br><b>ikido-</b> say/AI<br><b>-win</b> nominalizing noun final<br><b>-an</b> plural suffix |  |
|      | <b>‘affidavit’ / ‘ipso facto’ / ‘testify’</b>   |  |
|      | [legal definition for <b>‘affidavit’</b> ]  | ‘a written statement made under oath before a person who is authorized by law’ |
|      | [back translation]  | ‘an absolute truthful statement’   |
|      | [legal definition for <b>‘ipso facto’</b> ]   | ‘by the very fact itself’  |
|      | [back translation]  | ‘what is said is absolute truth’   |
|      | [legal definition for <b>‘testify’</b> ]  | ‘to give evidence under oath’  |
|      | [back translation]  | ‘stating truth and / or fact’  |
|      | [legal definition for <b>‘particulars’</b> ]  | ‘the factual details substantiating a charge’                                  |
|      | [back translation]  | ‘the facts and truths’   |

- (17) **debwewin** NA sg  
**debwe- + -win**  
 tell the truth/AI + nominalizing noun final  
**'affidavit' / 'ipso facto'**
- [legal definition for **'affidavit'**] 'allowed to be used or presented as evidence'
- [back translation] 'the truth (understood to be allowable)'
- [legal definition for **'ipso facto'**] 'by the very fact itself'
- [back translation] 'the truth'
- (MALG:3-4,6-7,23,30,35,37,48)

In each of the above examples, we find a collection of seemingly different legal concepts corresponding with a single Sauteaux term. One significant shortcoming of the above listed Sauteaux equivalents is that they fail to sufficiently convey the specialized meaning of the corresponding English legal term.

In (16), the same Sauteaux noun, *gichi-ikidowin(an)* is used to define the specialized legal terms *affidavit*, *ipso facto* and *testify*. The difficulty in employing the term *gichi-ikidowin* to define each of these terms is that they represent very different and distinct ways of providing truthful statements to the court. An *affidavit* refers to a written statement that is made or taken under oath before an officer of the court who has the authorization to certify the statement. The terms *ipso facto*, *particulars* and *testify* are also distinguishable in that *ipso facto* denotes the meaning of "in and of itself", *particulars* refers to specific facts and details outlining a criminal charge and *testify* refers to a statement made a witness under oath.

Similarly, in (17), the Sauteaux noun, *debwewin* is used to define the legal terms *admissible*, *affidavit*, *evidence* and *ipso facto*. The term *admissible* is used to signify

whether a specific portion of evidence meets the exclusionary rules prohibiting the court's receipt of irrelevant evidence. This differs significantly from the specialized legal meaning of the terms *affidavit* and *ipso facto* described above.

Due to the incongruence and inexactitude of many of the Saulteaux equivalents, in order to avoid misinterpretation, the court interpreter must carefully describe the context of each of the legal terms to the non-English speaking witness (Ahenakew, King and Littlejohn 1990).

## 7.6 The Use of Loan Words

The creation of new lexical entities for specialized subject fields such as the Sciences and the Law relies heavily on the borrowing of loan words.<sup>44</sup> The introduction of loan words into the lexicon of the target language usually requires language specialists and terminologists to create meaning into the context of the word. This is because when standing alone, loan words are meaningless to speakers in the target language. Through time, loan words often become lexicalized into the vocabulary of the target language (Larson 1984:170, Sager 1990:85-86).

Another problem that seems to contribute to the mistranslation of English legal terms into the Saulteaux language is the use of loan words within the source text. Ahenakew, King and Littlejohn (1990:80) along with Baker (1992:25,34-36) suggest that loan words pose problems for the translation process because once a word or expression is borrowed into the source language, neither its development nor any additional meanings it might or might not take on can be predicted or controlled. Take for instance, the Saulteaux equivalents of the English legal terms *actus reus*, *mens rea* and *robbery*.

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<sup>44</sup> See Chapter 4 for a detailed discussion of the use of loan words in the construction of legal language.





with Ahenakew, King and Littlejohn (1990:80), it is arguable that court interpreters are actually interpreting an “English Gloss of an English Gloss.”

### 7.7 The Overuse of the Preverb *gichi-*

The preverb *gichi-* which translates in English as ‘a lot, much, great or big’ is readily used in the creation of Saulteaux legal terms (Valentine 2001:164). Functioning as a preverb of manner and degree, *gichi-* may occur as the initial component of either a verb stem or a noun stem. Ahenakew, King and Littlejohn (1990) suggest that the prefix *gichi-* is employed as a means of trying to show that certain legal concepts are in some way greater or more serious than others. This is illustrated with the following sets of examples:

- (21) **onashowewinini** NA sg  
**onashowe- + -w+-inini**  
 decide on something/AI + -person/ NA final  
 ‘judge’

[back translation] ‘the legally trained person who presides over a case in court’

- gichi-onashowewinini*** NA sg  
***gichi- + onashowe- + -w+-inini***  
 great-/ pv + decide on something/ AI + person/NA final  
 ‘judge’

[back translation] ‘a Superior Court Judge’

- (22) ***gichi-maanakamigizi*** NA sg  
 great- + do wrong-/AI 3s ind. neutral  
 ‘indictable offence’

[back translation] ‘he did a serious act (offence)’

(MALG:7,31)

A limitation of the use of the preverb *gichi-* is that it does not sufficiently convey the differences in the specialized roles of some English legal terms. The duties of a provincial court *judge* and a superior court *justice* are very different. Whereas provincial court *judges* are restricted to proceeding over matters dealing with criminal offences, superior court *justices* have the jurisdiction to proceed over both civil and criminal matters. This notion is also illustrated in (22) where the English legal term, *indictable offence* is inaccurately represented by the Saulteaux term *gichi-maanakamigizi*. *Indictable offences* are much more serious than ordinary offences, usually resulting in a period of incarceration upon conviction. Accordingly, *indictable offences*, unlike ordinary offences tend to be heard by higher levels of court (Ahenakew, King and Littlejohn 1990).

### **7.8 Difficulty in Expressing the Notion of “time” in Legal Translation**

Court interpreters often have difficulty with translating questions relating to the notion of ‘time’. Unlike the Canadian legal system that depends heavily upon the accurate reporting of time, in Aboriginal cultures, the passage of time is regulated by the sun (Ahenakew, King and Littlejohn 1990). Resultantly, when asked questions regarding the specific time of events, many Aboriginal witnesses have considerable difficulty with providing accurate responses. It is suggested that oftentimes, the witness will not remember what they did on a specified date or that they might not even understand what the word *October* means. This is because a month is perceived as the period of time between the passage from one full moon to the next full moon.

It has also been suggested that Aboriginal witnesses will avoid answering questions of this nature because of cultural values. Asking someone to put another

individual in a position where they may cause injury to another is very difficult for them. In situations where it is critical that the Ojibwe-speaking witness answer a specific question with a direct answer, court interpreters will often make reference to a specific incident, for example, a car accident as a specific point of reference, in order to try and assist the witness in narrowing the time of the event (Roger Roulette, personal communication). Accordingly, the translations of questions involving the notion of ‘time’ often appear as incomplete questions (Roger Roulette, personal communication, November 4, 1999). This is illustrated in examples (23) and (24).

(23) **October 7, *gigii-waabamaa na 'awe gaa-anaamimind?***

***gigii-waabamaa*** TA 2s-3s DIR ind. neutral  
***gi-+ gii-+ -waabam-+-aa***  
 2-pst-see s.o.

***na*** yes-no question (pc)  
***'awe*** that (pr)  
***gaa-anaamimind*** TA X-3s conj. neutral  
***gaa-+anaamin-+-ind***  
 pst(ic) – accuse s.o.-X-3

‘On October 7, did you see the accused?’

(24) **October 7, *gigii-waabamaa na 'awe bichibani'ind?***

***gigii-waabamaa*** TA 2s-3s ind. neutral  
***gi-+ gii- + waabam-+-aa***  
 2-see s.o.-dir

***na*** yes-no question (pc)

***'awe*** that (pr)

***bichibani'ind*** TA X-3s conj neutral  
 hit s.o. in an accident-X-3s

‘On October 7, did you witness the car accident?’

(Roger Roulette, personal communication)

## 7.9 The Choice of Terminology: The Elders vs. The Younger Generations

The general discourse and choice of words that are used by the elders of the community and the younger generations differs significantly. Many of the Saulteaux equivalent legal terms are not readily understandable by the younger generations. This is because the elder generations tend to use words that contain metaphorical connotations. Whereas the older generations interpret the phrase *gichi-ikidowin* as 'grand/big words' inferring that one must tell the truth, younger generations misinterpret this phrase as 'to speak loud.' Therefore, when asking younger speakers to tell the truth, the court interpreter must use the phrase *ji debweyan awegonen waa-ikidoyan* rather than simply the term *gichi-ikidowin* (Roger Roulette, personal communication, November 4, 1999).

|      |                            |  |
|------|----------------------------|--|
| (25) | <i>older generations</i>   | <b>gichi-ikidowin</b><br>grand-big-word/ NA<br>'truth'         |
|      | <i>younger generations</i> | <b>ji-debweyan awegonen waa-ikidoyan</b>                       |
|      |                            | <b>ji-</b> that (pv)   |
|      |                            | <b>debweyan</b> /AI 2s conj. neutral<br>tell the truth-2s      |
|      |                            | <b>awegonen</b> what (pr)                                      |
|      |                            | <b>waa</b> will (ic)   |
|      |                            | <b>ikidoyan</b> AI 2s conj. neutral<br>ikido+-yan<br>say so-2s |
|      |                            | 'you must tell the truth to what you are going to say'         |

(Roger Roulette, personal communication)

This is further illustrated with the following set of examples dealing with the English legal term *attempt* in (26). Here, the court interpreter must ask the younger generations the lengthy question, *gi-gii-gagwe-doodaan gegoo ji-maazhichigeyan* rather than *gi-gii-gagwe-maazhichige*. This is because the Saulteaux verb *maazhichige* ‘disorderly bad’ used by itself is not understood in the same way by younger generations (Roger Roulette, personal communication, November 9, 1999).

|      |                                |   |                       |
|------|--------------------------------|---|-----------------------|
| (26) | <i>older<br/>generations</i>   | <b>gi-gii-gagwe-maazhichige</b><br>2-pst-try-do s.t. bad -2s  | AI 2s ind. neutral    |
|      |                                | ‘you attempted to do commit a crime’  |                       |
|      | <i>younger<br/>generations</i> | <b>gi-gii-gagwe-doodaan gegoo ji-maazhichigeyan</b><br><br><b>gi-gii-gagwe-dood-+-aan</b><br>2-pst-try-do something to s.t.-0 | TI 2s-0s ind. neutral |
|      |                                | <b>gegoo</b>  | something/pr          |
|      |                                | <b>ji-maazhichigeyan</b><br>fut-do s.t. bad-2s  | AI 2s conj. neutral   |
|      |                                | ‘you attempted to do something’   |                       |

(Roger Roulette, personal communication)

## 7.10 Etiquette Employed By Court Interpreters

Court interpreters have a duty to maintain a high standard of professionalism and remain impartial throughout the entire court proceeding. Nonetheless, there are times when court interpreters have difficulty translating the questions posed by lawyers and the judiciary. Court interpreters often begin their translations with the phrases “The lawyer wants to know,” “You are being asked,” and “S/he is asking.” Phrases such as these tend to be used in situations where the lawyer’s questioning may be perceived as being aggressive by the Ojibwe witness. This is because the court interpreter wants to remain

neutral and distance themselves from the person asking the question (Roger Roulette, personal communication, November 9, 1999). Examples (27) and (28) illustrate methods of how the court interpreter may effectively distance themselves from the person asking the question while continuing to remain impartial.

- (27) **Lawyer/ Judge** Ask s/he: "Did he/she go to the hospital?"
- Saulteaux Translation** **Gigagwejimigoo "gigii-izhaa na aakoziwigamigong?"**
- gigagwejimigoo** TA X-2s ind. neutral  
**gi- + gagwejim-+-igoo**  
 2-ask s.o. questions-INV
- gigii-izhaa** AI 2s ind. neutral  
**gi-+gii-+izhaa-**  
 2-pst-go to a certain place-2s
- na** yes-no question (pc)
- aakoziwigamigong** hospital/NI (loc)
- 'You are being asked did you go to the hospital'
- (28) **Lawyer/ Judge** Ask if s/he got medicine from the hospital.
- Saulteaux Translation** **'Awe gigagwejimig daga aakoziwigamigong ji-gii-ondinaman mashkiki.**
- 'awe** that (pr)
- gigagwejimig** /TA 3s-2s ind. neutral  
**gi-+gagwejim-+-ig**  
 2-ask s.o. questions-INV
- daga** please! / come on! (neutral)
- aakoziwigamigong** hospital /NI (loc)

**ji-gii-ondinaman** /TI 2s-0 conj. neutral  
**ji-+gii-+ondin-+-am+-an**  
 that-pst-get s.t. from a certain place-TI theme-2s

**mashkiki** medicine / NI

‘He/she is asking if you got some medicine from  
 the hospital.’

(Roger Roulette, personal communication)

### 7.11 Issues Relating to Lexical Pragmatics – Evidentiality

Rhodes (2002) suggests that the pragmatic norms of Ojibwe speakers present a further problem for linguists and language specialists when producing bilingual English Ojibwe dictionaries. A common way to express doubt, uncertainty or speculation in the Saulteaux language is to use evidential adverbs and/or inflectional suffixes that belong to the dubitative and preterit dubitative modes. Evidential adverbs are frequently used by Saulteaux speakers in the context of telling stories or narratives. Evidential adverbs are also used by Saulteaux speakers in circumstances where they do not have firsthand knowledge of the events which they are reporting. Essentially, the use of evidential adverbs and dubitative and preterit dubitative inflectional markings on verbs provide Saulteaux speakers with an effective way of qualifying the nature and reliability of their testimony (Valentine 2001:147). Common evidential adverbs that are used by Saulteaux speakers to express doubt and/or uncertainty to a predication include the adverbs: *giiwenh* ‘evidently/allegedly’ and *iidog* ‘perhaps’ (Rhodes 1979:103, Valentine 2001:147).

Witness testimony among Saulteaux speakers varies significantly in its level of certainty. The use of aspectual-evidential modes is prevalent in the testimony of



Saulteaux speakers. In addition to using evidential adverbs, witnesses will often use the inflectional suffix *-dog* which belongs to the independent order of the dubitative mode in order to qualify their testimony. The inflectional suffix *-gwen* is used for third person forms of the conjunct dubitative mode. The inflectional suffix *-w* is also used in the conjunct dubitative mode. The inflectional suffix *-en* is used in the conjunct order (Valentine 2001:832).

The preterit dubitative mode is used in circumstances where the witness wants to convey uncertainty in respect to events that occurred in the past. The inflectional suffix *-(go)ban* is used in the independent order while the inflectional suffix *-(go)banen* is used in the conjunct order (Valentine 2001:832).

The use of the inflectional suffixes of the dubitative mode are illustrated in example (29) where the inflectional suffix *-dog* is used to express that the individual was probably sick and the inflectional suffix *-gwen* is used to express that it is not known if the individual was sick.

- (29) **English Question:** Was he sick?
- Typical Witness Responses:** **gii-aakoqidog** /AI+O 3s - ind. dubitative  
pst – be sick –3s  
'He was probably sick'
- Nimanj iidig gaa-aakozigwen**
- nimanj** I don't know
- iidig** AI 3s conj. neutral  
they say to each other
- gaa-aakozigwen** AI 3s conj. neutral  
pst (ic) – be sick-3s
- 'I don't know if he was sick.'
- (Roger Roulette, personal communication)

The court interpreter's understanding of the principles and practices that govern the communicative use of the Saulteaux language is essential. Misinterpreting or overlooking the witness's use of evidential particles or aspectual-evidential modes can have significant effects on the court's understanding of the witness's testimony and the eventual outcome of the court proceeding itself. In the case of a criminal matter, failure to appropriately translate doubt, uncertainty and speculation expressed within a witness's testimony could potentially result in an accused person being falsely convicted of a crime.

Given the important function that evidential particles and aspectual-evidential modes have in the qualification of witness testimony, it is recommended that future legal glossaries must include examples of how the legal terms can be used in other modes. They might include examples of sample questions and typical witness responses.

## **Chapter 8: Strategies For Improving Legal Glossaries**

### **8.1 Revising the Structure and Organization of the Legal Glossary**

An inherent problem with the Ojibwe legal glossaries that have been generated to date by local community legal clinics and language specialists lie in their structure and organization. The *Manitoba-Aboriginal Legal Glossary-Ojibwe* (abbreviated as *MALG*) not only lacks information regarding the general lay-out and organization of the glossary, but it fails to include any grammatical information regarding the Saulteaux language. The glossary provides no information to users of how to pronounce the legal terms or how to use the legal terms in a court-interpreting setting. The glossary also lacks an index of the corpus of English legal terms that have been translated into the Saulteaux language. Essentially, the legal terms as they are shown in the present version of the glossary are not useful to either court officials or court interpreters.

Several factors must be considered when constructing specialized legal glossaries. At the onset of the preparation of a legal glossary, great care must be taken in identifying the intended users of the glossary. Given that the intended audience of legal glossaries will likely include court officials, community social workers, court interpreters as well as both Saulteaux and non-Saulteaux speakers, the selection of legal terms must centre upon those areas of the law such as Criminal Law, Family Law and Public Law that are most likely to be encountered by members of the Saulteaux communities. That being said, additional information regarding the general courtroom process and common everyday courtroom expressions are also required in order to ensure that every person involved in the court proceeding has the same understanding of what is taking place.

The preparation of legal glossaries requires language specialists and community members experienced in language translation to consider the most appropriate method of analyzing, translating and presenting the corpus of selected English legal terms. This will depend on the individual needs of the members of the Sauteaux community and the needs of court officials and court interpreters.

In following Wolfart and Ahenakew (1987), Hinton and Weigel (2002) and Callaghan (2002), several improvements could be proposed for the editorial preparation of the current legal glossary. The Sauteaux language is a highly-inflected polysynthetic language that relies on the process of affixation to inflect and derive new words. The nature of Sauteaux words is very different than English words. Sauteaux words show a great deal more relational information in the words themselves along with lexical information at the core of the words. In many cases, these relational elements are obligatory parts of the word. This differs from English where relational elements can be removed from the word leaving a bare word with primarily lexical content; that is if the English word is not already bare of such elements. Therefore, Sauteaux words compare more to English clauses and sentences than to individual words. Understanding how equivalents for English legal terms work requires an understanding of this rich word-internal structure. In order to account for the morphological richness of the Sauteaux language, future legal glossaries might include an introductory discussion and overview of the morphology of the Sauteaux language.

They could provide a discussion of the basic word structure of the Sauteaux language including an overview of the basic Sauteaux verb stem, a review of the general features of noun inflection including gender, number and obviation along with a review

of the general features of verb inflection including person marking, order, verb classes, tense, mode, negation and preverbs, and sample verb paradigms.

The inclusion of a description of the Saulteaux language at the beginning of an interpreter's manual raises a couple of concerns. The first is whether a legal glossary is the appropriate place for providing such a description and the second is whether court interpreters would actually read this information. While a detailed description of the language is best included in a separate grammar text, the inclusion of a general overview of the language might nonetheless be of interest to some interpreters.

Saulteaux legal terms should continue to be translated using both standard roman orthography writing system and syllabics. This is because few speakers of the Saulteaux language are literate in both the standard roman orthography writing system and syllabics (Roger Roulette, personal communication, November 4, 1999). Providing legal translations in both writing systems will help to ensure the usefulness of the legal glossary to all Saulteaux speakers. The use of the standard roman orthography writing system may also prove very helpful to non-Saulteaux speakers who wish to consult with reference grammars and/or other academic texts on the Saulteaux language. This is because the standard roman orthography writing system is the preferred writing system for linguists and many language teachers.

The legal terms should continue to be arranged in alphabetical order for whatever orthography that is most used in the target community. It is further recommended that boldface type continued be reserved for all of the legal terms in the glossary and their respective language equivalents. This helps the user of the glossary to quickly identify the legal term that they are seeking.

Some lexicographers recommend that bilingual dictionaries should provide a reverse listing of the terms for both languages (Hinton and Weigel 2002). Although reverse dictionaries may be useful for bilingual education programs and language maintenance programs, it is unlikely that a reverse directory of specialized English legal terms would be practical. Legal English is largely based on technical terminology that has either been specifically formulated by the legal community or has been borrowed from other languages (Tiersma 1999). The lexical structure of English legal terms and Saulteaux equivalents do not match up. Whereas English legal terms tend to appear as a single nominalized word, an analogous meaning in the Saulteaux language cannot always be expressed using the same word class.

The organization of the individual glossed words must also be improved. One prevalent shortcoming of the present glossary is that it makes no distinction as to which gloss represents the standard legal definition of the English legal term, which gloss represents the literal meaning of the legal term and which gloss represents the English translation of the Saulteaux term. This distinction is necessary in order to ensure that the user of the glossary understands the true meaning of each glossed term.

At the onset of the glossary, the general form of a sample English – Saulteaux entry should be provided. Sufficient grammatical information should be provided for each Saulteaux legal term. Where possible, the word stem should be identified separately. This would greatly assist the non-Saulteaux speaker trying to use the Saulteaux legal term within a particular context. The following examples represent one possible way of re-organizing the lay-out of the present legal glossary:

(1) Revised Sample English / Ojibwe Gloss<sup>45</sup>

## (a) ogii-bichi-nisaan

| ENGLISH LEGAL TERM                   | SAULTEAUX EQUIVALENT<br>(ROMAN ORTHOGRAPHY)            | SYLLABIC FORM           |
|--------------------------------------|--|-------------------------|
| <b>manslaughter</b>                  | <b>ogii-bichi-nisaan</b>                               | <b>ᑯᑦᑲᑦ ᑲᑦᑲᑦ ᑎᑦᑲᑦᑎᑦ</b> |
| <b>STANDARD LEGAL<br/>DEFINITION</b> | -the killing of a human being with<br>no premeditation |                         |
| <b>LITERAL MEANING</b>               | 'he killed him unintentionally'                        |                         |
| <b>MAJOR STEM ELEMENTS</b>           | <b>GLOSS</b>   | <b>CLASS CODE</b>       |
| <b>PREVERB</b><br>/bichi-/           | 'unintentionally'                                      | pv                      |
| <b>ROOT</b><br>/niS-/                | 'kill s.o.'  | VTA                     |

## (b) maakiganamaa

| ENGLISH LEGAL TERM                   | SAULTEAUX EQUIVALENT<br>(ROMAN ORTHOGRAPHY) | SYLLABIC FORM       |
|--------------------------------------|---|---------------------|
| <b>aggravated assault</b>            | <b>maakiganaamaa</b>                        | <b>ᑭᑲᑦᑲᑦ ᑎᑦᑲᑦᑎᑦ</b> |
| <b>STANDARD LEGAL<br/>DEFINITION</b> | 'the act of causing physical injury'        |                     |
| <b>LITERAL MEANING</b>               | 'he received physical injury'               |                     |
| <b>MAJOR STEM ELEMENTS</b>           | <b>GLOSS</b>                                | <b>CLASS CODE</b>   |
| <b>ROOT</b><br>/maak-/               | 'injured'                                   | root                |
| <b>FINAL</b><br>/-ganaam/            | 'by hitting'                                | TA final            |

(MALG:4,33)

<sup>45</sup> This is adapted from Nichols and Nyholm (1995).

## **8.2 Accounting for Dialect and Lexical Variations of the Language**

Some evidence of dialect and lexical variation was found in the *MALG*. Dictionaries and glossaries that include dialect and lexical variations must distinguish and label each of the terms. The labelling of dialect variations in a bilingual glossary is especially important when the intended users of the glossary include non-native speakers. A discussion of all relevant morphological and syntactic differences of each of the different dialects must be included within the glossary. Differences in the use of the Ojibwe language by speakers of younger generations and older generation can be quite pronounced (Valentine 2001:10-11). Accordingly, all references to intergenerational differences in the language must clearly labelled so that users of the glossary will be able to reference and use the appropriate form. It is recommended that dialect differences be included in legal glossaries where the intention is for the glossary to be used over a wide area such as Manitoba.

## **8.3 The Need for an Expanded List of Legal Terms**

The language used in court proceedings tends to be very formal. Proper court etiquette is required when addressing both members of the judiciary and the other parties of the litigation process. How one addresses the judiciary often depends on factors such as the type of court you are appearing before and the stage of the particular court proceeding (Stuesser 1997).

The corpus of legal terms that are listed in the *MALG* are limited to matters dealing with Criminal Law, Family Law and simplified court procedural matters. The glossary in its present form does not consider how legal language is actually used in the courtroom setting.



Understanding how to effectively communicate in the courtroom is very important. Although the current glossary attempts to provide a definitional explanation of legal concepts, it does not provide any context for how these terms should be applied in actual court and lawyer-client interactions and communications. Important terms that are missing from the glossary include terms dealing with how to speak to the judge and opposing counsel. While it is presumed that interpreters are able to appropriately communicate with the court, some interpreters may find the inclusion of examples of different ways to address the court useful. This is one area where new fieldwork research in both on-reserve courts and courts held in larger urban centres might be completed.

#### **8.4 The Use of More Neutral Terms**

Finally, it is important that future legal glossaries contain a corpus of language terms that are universally understood and accepted (Ahenakew, King and Littlejohn 1990). According to Baker (1992:21), one of the most common strategies for dealing with non-equivalencies, particularly in the area of propositional meaning, is to translate problematic terms with a more neutral or less expressive word. Baker (1992:21) suggests that this strategy works well in most languages because the hierarchical structure of semantic fields is not language-specific.

In closer examination of the corpus of Manitoba Saulteaux legal terms, we find that in many cases, the individuals responsible for the glossary have tried to do just that. This is illustrated in the following Saulteaux entries for the legal terms *manslaughter*, *narcotics* and *parole officer*. For each of these examples, the full word is provided followed by a breakdown of the main elements of the word stem and then a morpheme by morpheme analysis.

- (2) **ogii-bichi-nisaan**  
'manslaughter'

/bichi-/ pv 'unintentionally'  
/niS-/ TA 'kill s.o.'

**o- + gii- + bichi - + nis-+ aa-+ -n**  
3s-pst-unintentionally-kill s.o.-DIR-3's

[back translation] 'he killed him unintentionally'  
[legal definition] 'the killing of a human being with no premeditation'

- (3) **zagaswaajige**  
'narcotics'

/zagaswaad-/ TI 'smoke s.t.'  
**zagaswaa-+-d**  
smoke/AI + transitivizer

**zagaswaa-+-d- + -ige**  
smoke s.t./TI + detransitivizer

[back translation] 'things that you smoke'  
[legal definition] 'drugs as listed in the Narcotics Control Act'

- (4) **naagajichigewinini**  
'parole officer'

/naagajit-/ TI 'observe s.t.'

**naagajit- + -ige - + -w+-inini**  
observe s.t./TI + detransitivizer + person/NA final

[literally] 'he who watches'  
[legal definition] 'a person who supervises and makes sure the conditions of a person's parole are being met'

(MALG:33,35,37)

In the first example, the phrase 'no premeditation' is glossed with the preverb *bichi-* meaning 'unintentionally'. In the second example, we find the word 'drugs' reinterpreted as the phrase 'that which is smoked.' This example is interesting as the

negative connotation shown by the gloss is not shown in the stem structure. This is attributed to the fact that the stem *zagaswaad-* is the underlying TI stem of the AI detransitive stem *zagaswaajige-*. It, in turn is the applicative form (that is, a transitivized form) of the AI stem *zagaswaa-* ‘smoke’ which has a positive connotation in traditional Ojibwe culture. Accordingly, the applicative form *zagaswaajige* suggests ‘smoke s.t. (that is not usually smoked).’ This is a very marked and uncommon form that has become lexicalized in the language as having this negative meaning (J.D. Nichols, personal communication). In the third example, we find the phrase ‘a person who supervises’ simplified as ‘he who watches’.

## 8.5 Translation by Cultural Substitution

A second way to improve the translation of legal glossaries is to translate by cultural substitution. This strategy involves replacing a culture-specific item or expression with a target language item that does not have the same propositional meaning but is likely to have a similar impact on its target audience. The main advantage of using this strategy is that it gives both the interpreter and non-English speaking witnesses a concept with which they can identify (Baker 1992).

In their discussion of Plains Cree medical glossaries, Wolfart and Ahenakew (1987:223) suggest that when people are forced to translate medical terminology into Cree, oftentimes, the intended result is “way off track.” This appears to be the case for legal terminology as well. Take for instance, the Saulteaux terms for the English legal terms *accused* and *alibi* in examples (5) and (6):

(5) **anaamimaa**  
‘accused’

/anaamim-/ TA ‘blame s.o., accuse s.o.’

**anaamim-+-aa**  
blame s.o. /TA X-3s ind. neutral

[back translation] ‘person charged with a crime’  
[legal definition] ‘any person charged with an offence’

(6) **gigiwanim**  
‘alibi’

/giiwanimo-/ AI ‘deceive s.o. in speech’

**gi-+giiwanimo-**  
2- be deceptive in speech /AI 2s ind. neutral

[back translation] ‘you lie’  
[legal definition] ‘to claim to have been elsewhere at the time of  
the commission of an offence’

(MAGL:2,5)

Whereas in English, the term *accused* does not imply guilt, in the Saulteaux language, this term literally translates as “the one blamed for the wrongdoing” (Ahenakew, King and Littlejohn 1990:64). Similarly, whereas in English the term *alibi* does not imply that the individual is being deceitful, in the Saulteaux language, this term literally translates as ‘you lie.’ The problem with this gloss is that it does not make any mention about the person being somewhere else at the time the offence is alleged to have been committed. Accordingly, when Saulteaux speakers are not able to use a particular word to correspond to a particular term in legal English, it might be more useful to employ a common word rather than to invent an entirely new expression that is not able to express the semantic meaning of the specialized English legal term and that speakers may not understand.

## 8.6 The Use of Plain Language

In Chapter 4, it is noted that Canadian courts are slowly moving towards simplifying legal language. The lawyer's task is to develop legal arguments and present their case in a clear and precise manner (Tiersma 1999). The use of plain English would not only help court interpreters to appropriately identify the legal issues at hand, but it will help them to effectively translate the court proceedings into the Sauteaux language.

As previously mentioned, one of the most problematic issues with the current glossary of Sauteaux legal terms is that the Sauteaux equivalents fail to sufficiently convey the specialized meaning of the corresponding English legal term. Perhaps the most effective way for court interpreters to effectively translate court proceedings, would be to first discover the meaning of the legal term of the source language and then use target language forms that will express that meaning in the most natural and comprehensive way possible. Not only would the use of plain language assist in developing an understandable message that is more apt to being comprehensible in both languages, but it would also greatly increase the likelihood of the non-English speaker having their legal rights adequately represented within the justice system.

## **Chapter 9: Conclusion**

### **9.1 Summary**

The purpose of this thesis has been to provide both an overview of the translation process and to highlight some of the problems associated with the present legal glossary of the Manitoba Saulteaux Ojibwe dialect.

In examining the word formation of Ojibwe legal terms, we find that the most prevalent problem associated with the construction of legal glossaries is the issue of legal equivalencies. A major inadequacy of the present legal glossary is that it fails to deal with the differing concepts of Aboriginal and non-Aboriginal approaches to law and justice.

Legal terminology is described within the context of English only. This inevitably results in considerable difficulty with creating a vocabulary of legal terms for which there is no cultural concept in Ojibwe. This appears to have contributed to both the incongruence among legal terms and the creation of legal terms that are not lexicalized within the language.

Without the development of legal terms that accurately represent what speakers of the language say, problems surrounding the issue of legal equivalencies will undoubtedly remain. In order for English – Ojibwe legal glossaries to function effectively as a tool for court interpreters, legal professionals and members of the court, the focus of future studies must rest on building a corpus of Aboriginal language terms that are both universally accepted and understood. In Wolfart and Ahenakew (1987), it is suggested that a more precise and understandable message would be conveyed if glossaries began

with real Cree words and phrases that were then translated into the English language. The same appears to be true for Ojibwe.

## 9.2 Suggestions for Future Research<sup>46</sup>

To date, there has been very little research in the areas of legal language, translation theory and the structure of legal glossaries of Algonquian languages. Although glossaries of Ojibwe legal terms have been compiled to assist court interpreters with this process, their overall effectiveness remains questionable at this time. Future work in this area must focus upon the collection of a corpus of legal terms that are understood and accepted by both the elder generations and the younger generations of the linguistic community. Not only is input regarding the composition of future legal glossaries required from court officials and court interpreters themselves, but it is also required from Saulteaux speakers.

### 9.2.1 Research of Indigenous Terminology

There is the need for additional research into the indigenous terminology of legal concepts such as crime, punishment, guilt and the administration of justice. Present glossaries assume that equivalent legal terms can be found or easily created for specialized English legal terms. Unfortunately, what these glossaries fail to consider is the range of words and expressions that may already exist within indigenous languages.

The corpus of Saulteaux legal terms examined in the *Manitoba Aboriginal Legal Glossary* (abbreviated as *MALG*) seem to suggest that there may be an Ojibwe set of terms for some concepts of justice. In particular, there appears to be a set of Saulteaux terms that are used to describe decision making processes using the medial *-aakon-*. New

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<sup>46</sup> I wish to thank John D. Nichols for his helpful suggestions in this area.

observational field research is needed in this area to examine the Ojibwe vocabulary for justice, law, and governmental decision making processes.

It is also important that linguists and language specialists have an understanding of the history of the justice system and Aboriginal people. The work on future glossaries should consider the advantages and disadvantages of preparing a glossary of terms that is based on legal concepts that are unique to the justice system of Aboriginal people. Linguists and language specialists working on the compilation of legal glossaries must also consider the degree in which relationships exist amongst indigenous terms and specialized English terms. Given the range of differences between the two languages, it may be the case that equivalencies cannot be constructed and that a more effective way to translate legal concepts from English to Saulteaux and vice versa is through an explanation of the legal concept rather than through the innovation of a new and incomprehensible terms.

### **9.2.2 Research into the Organization and Preparation of Legal Glossaries**

Significant differences have been found between the methodologies and strategies used by language specialists in preparing and organizing glossaries for the Oji-Cree dialect spoken in Northwestern Ontario and the *MAGL*. Unlike the various glossaries of the Oji-Cree dialect that list a series of nouns that correspond to each specialized English term, the Saulteaux glossary uses an entirely different organizational strategy whereby the semantic meaning of English legal concepts is conveyed through the use of simple sentence examples.

The unique construction of the Manitoba Saulteaux glossary raises two interesting questions. The first is whether the use of a sentence-like approach to



translating English legal concepts provides a more accurate and linguistically true equivalent. The second relates to whether the glossed sentences that have been provided by elders in small language workshops accurately represent the type of expressions that are used by court interpreters when translating from English into Ojibwe.

Voice and valency changes are very productive in the Ojibwe language. The corpus of legal terms examined in the *MALG* show that valence changing derivation is often used in the translation of Ojibwe terms. It is recommended that future research in this area consider the semantics and pragmatics of Ojibwe valence changing derivation along with the pragmatics of obviation. Topics that still need to be considered include an examination of the factors that determines when one passive form will be used over another Ojibwe form and the factors that determine when detransitive forms should be used over transitivized forms.

### **9.2.3 Improvements to Standard Legal Dictionaries**

Standard legal dictionaries are comprised primarily of terms that describe specialized legal concepts and processes. A problem with current legal dictionaries is that they do not include information on how English legal language is actually used in the courtroom. While the terms that are listed and defined in the dictionaries are helpful for purposes of understanding the legal principles behind the law, many of the listed terms are archaic and do not provide a context for when and how these terms should be used. Accordingly, it is recommended that future research in this area should include a field study of the actual English legal language that is used in the courtroom as well as legal

language used in lawyer-client interviews with both English speaking and non-English speaking clients.

#### **9.2.4 Research in the Area of Court Interpretation**

Research in the area of court interpretation in Canada is very limited. It is recommended that future research in this area involve a more exhaustive examination of the court interpretation process. An investigation into the interpreter's role in actual courtroom interpretation settings along with research into the unique strategies and practices that are employed by court interpreters would prove valuable in providing a better understanding of the overall effectiveness of legal glossaries. It would also provide valuable insight into more efficient ways of dealing with the incongruence among the translation of *Saulteaux* legal terms and with ways for dealing with 'cultural specific' concepts.

A future study into this area might include attending court hearings and observing the different techniques that are employed by interpreters. Meeting with a variety of court interpreters would assist in providing valuable insight into how these terms might differ from the terms and translating techniques that are currently in use. It would be interesting as well to examine how court interpreters deal with external factors such as dialectal, cultural and generation differences when they are interpreting.

Oral testimony forms the basis of nearly all court proceedings. Future research into the court interpretation practice must include an examination of the various discourse strategies that are available for interpreters to use when interpreting. A study of this nature would provide linguists and language specialists with valuable insight into how future training programs might be established for court interpreters when providing

interpreting services involving indigenous languages. To date, there are no formal language training requirements for individuals who provide court interpretation services in Manitoba courts.

Finally, the creation of Saulteaux legal terms that describe the 'legal system' from the Aboriginal perspective and continued work in the area of plain legal language is needed. Developing a corpus of Saulteaux legal terms that are then translated into English would provide court officials and court interpreters with a more efficient means for producing linguistically true and legally appropriate interpretations of statements spoken in the court. As well, continued work in the area of plain legal language would undoubtedly assist court interpreters with interpreting messages that are more apt to be understood by speakers in both languages.

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