

Introduction

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The Discourse of Court Interpreting: Discourse practices of the law, the witness and the interpreter

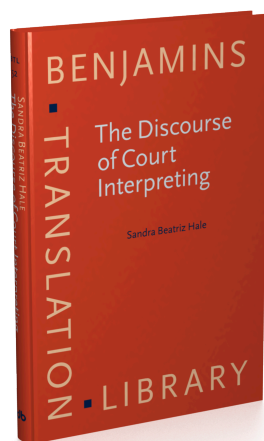
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Introduction

In Australia the practice of court interpreting has been ad hoc, devoid of much theoretical underpinning and almost completely ignored by researchers as a field of study. Interpreters work as individuals rather than as part of a collegial group of professionals. Many lack a commitment to the profession, using their bilingual skills to work as interpreters only part time while they train in another field, or to complement the family's income (Ozolins, 1998). This lack of professional identity among those working as interpreters themselves makes it difficult for those working with them to perceive them as professionals. There is also a minority group of highly qualified, motivated and dedicated court interpreters who become frustrated at the lack of professionalism evidenced in many of their colleagues, and at the lack of recognition and respect their qualifications and professional attitude inspire in those who work with them.

Attempts have been made by a small group of lawyers and practitioners through their professional association (AUSIT), and through the available training courses, to professionalise legal interpreting. Much of what is written or said on the topic, however, is of a very prescriptive or anecdotal nature, rarely based on empirical evidence. There is no real tradition of research in the field of legal interpreting, although the body of research has increased in the last twenty years, with the majority of data-based linguistic research being carried out in Spanish-English (Berk-Seligson, 1988, 1989a, 1989b, 1990, 1999; Hale, 1996a, 1996b, 1997a, 1997b, 1997c, 1999, 2001, 2002; Rigney, 1997, 1999, Roy, 1996) and some more recent work in other language combinations, such as Danish-English and Korean-English (Jacobsen, 2009; Lee, 2009). There has been very useful work published based on ethnographic research (Dueñas Gonzalez et al., 1991, O'Toole, 1993, Laster & Taylor, 1994, Ozolins, 1991, 1998), and some published on issues of role, practice and instruction, based mainly on secondary data, ideologies and personal experience (de Jongh, 1992, Ginori & Scimone, 1995; Morris, 1995, Edwards, 1995, Gentile et al., 1996, Roy, 1990, 1992, 1993, Fenton, 1997, Moeketsi, 1999, Mikkelsen, 2000).

In the context of the current reality of court interpreting in Australia, this book aims to fill part of the gap that exists in the knowledge about the practice of court interpreters. The book deals primarily with the micro-linguistic analysis of Spanish interpreters' renditions in the courtroom, but draws on social and professional

issues to explain the interpreters' performance. It is hoped that the results of this research will serve to inform the practice of interpreting, promote the overarching need for specialist court interpreting training and to help develop appropriate curriculum based on the results of research.

The book explores the intricate processes of interpreting in the ritualised and constrained context of the courtroom. It describes the discourse practices of interpreters vis-a-vis those of the lawyers and the Spanish speaking witnesses in the triadic interaction. Of particular interest is the way interpreters manipulate, filter and alter the messages of the main participants in their interpretation, and the impact such alterations may have on the legal process. Based on authentic data, the book shows how the lawyers' monolingual practices, such as the strategic use of questions to maintain control and reinforce their power, can at times be thwarted by the interference of the interpreter and at times reinforced or enhanced by it. Power is constantly being negotiated through the control of the discourse in the interpreter-mediated interaction. The book also presents results that show that subtle linguistic changes in the interpreter's renditions, such as the omission of discourse markers, can have pragmatic significance on the message. The maintenance of equivalence of style in the interpretation of the witnesses' testimonies is presented as a strong argument for accurate interpreting. The data clearly show that interpreters are often not faithful to the style of the original text even when they are faithful to the content. The results of experiments support the hypothesis that such changes can have an impact on the impressions of credibility, competence and intelligence formed about the witnesses.

The book also explores the possible reasons for the different choices made by interpreters in the course of their work. Some of those decisions are assumed to be influenced by the interpreters' own views about their role and their ethical considerations, some by their own linguistic and interpreting competence, some by the constraints of the language pair, and some by the constraints of the exercise. It is not the intention of this book to criticise the work of interpreters or to highlight their deficiencies, but to highlight difficulties of the interpreting process and suggest solutions. It is hoped that the results of this study will raise the awareness of interpreters, lawyers and policy makers of the issues pointed out above. Although the book concentrates on data drawn from Australian Local Court¹ cases and discusses the Legal Interpreting profession in Australia, the situation does not differ greatly in the rest of the world where the profession is practised. Therefore, the book is relevant to court interpreters everywhere.

The data were extracted from seventeen Local Court hearings in New South Wales (NSW) with permission from the Chief Magistrate. NSW Local Court proceedings are routinely audio-recorded, whereas higher courts' proceedings are taken down on paper by stenographers who record only the interpreter's

English version of the witnesses' testimonies. For the purposes of researching the interpreters' renditions, audio recordings were essential, hence the use of Local Court data. All names and other personal details were changed to ensure confidentiality.

Book structure

The book is divided into chapters, which, although are linked and related to each other, deal with discrete and complete topics, each with its own introduction and conclusion.

Chapter 1 introduces the underlying issues about court interpreting which will be further analysed in detail and in context in the rest of the book. Chapter 2 provides an overview of the history and status of court interpreting in Australia.

Chapters 3 and 4 deal with the language of lawyers in the courtroom through their use of questions. Chapter 3 systematically analyses the types of questions used in examination-in-chief² and cross-examination by counsel for their specific strategic purposes. It then looks at the treatment of the different types of questions by the interpreters and the tendency to change or omit certain features, with possible explanations for such decisions. Chapter 4 analyses the use of discourse markers to preface counsel's questions, their significance, and the interpreters' rendition of them in the different contexts, revealing a systematic omission of such markers by interpreters.

Chapter 5 looks at witness testimony through their answers. It discusses the importance of testimony style in witness character formation and looks at how such styles are either maintained or altered by the interpreter. It explores features of powerless and powerful speech styles as well as the concept of relational versus rules orientations in witnesses' testimonies advanced by O'Barr (1982) and Conley & O'Barr (1990). The chapter also presents the results of matched-guise experiments on impressions of credibility, competence and intelligence.

Chapter 6 looks at the interaction between the questions and the answers and explores the notions of power and control in the courtroom, the institutionalised division of roles and the interpreter's interference with this established notion. It discusses the power of the interpreter to manipulate language in very subtle ways. It looks at specific examples of role reversals and at the way counsel's questioning tactics are either frustrated or enhanced by the witness or the interpreter. The chapter also highlights the constant negotiation of power that occurs in the courtroom.

Chapter 7 presents the results of a questionnaire to practising Spanish interpreters. The questionnaire asks interpreters about their views on issues of role, accuracy and the language of the courtroom and asks them to translate segments

extracted from the data, which are then compared to the results previously discussed in other chapters.

Chapter 8 concludes the book by summarising the results of each chapter and arriving at a further understanding of the linguistic performance of interpreters working in the courtroom. It suggests possible implications of interpreters' discourse practices, defines the role of the court interpreter based on the results, and makes recommendations for further research and training.