
Ran Yi
https://orcid.org/0000-0003-0630-8623
The University of New South Wales, Sydney, Australia

Abstract: In public service interpreting, most existing studies have elucidated the reproduction of the content of the utterances. The manner in which the speakers express the content has been under-explored, particularly in high-stake interpreter-mediated multicultural virtual court proceedings in non-European languages. Professional interpreters are bound by the code of ethics to accurately preserve both the content and intent of the source message. With a keen interest in the multilingual population’s equity and access to justice, this article presents the background and initial findings from a mixed-methods study that examines the less-investigated aspect of the English-Mandarin interpretations of the manner of speech performed by certified practitioners in simulated remote hearings. A total of 100 questionnaires were collected to canvass interpreters’ perceptions, views, interpreting strategies, and professional decisions related to the rendition of the manner of speech. The findings intend to enrich interprofessional understanding and inspire manner-related pedagogical practices.

Keywords: court interpreting; manner of speech, remote interpreting, public service interpreting

How to cite this article?

Resumen: Aunque se menciona con frecuencia en los estudios de lingüística y traducción, la manera de hablar no se ha definido con rigor ni se ha evaluado a fondo en la interpretación profesional relacionada con los tribunales en entornos remotos. En términos generales, la manera de hablar describe el modo en que un orador específico expresa sus enunciados en un contexto determinado. En la interpretación cara a cara, sobre todo en juicios gran complejidad, los intérpretes profesionales están obligados por su código ético profesional a “preservar con precisión tanto el contenido como la intención del mensaje original” (véase el Código Ético y de Conducta del Instituto Australiano de Intérpretes y Traductores, 2012, p.10). Sin embargo, poco se sabe sobre la precisión de las interpretaciones de la forma de hablar en las distintas modalidades de interpretación a distancia relacionada con los tribunales. Además, la mayoría de los estudios existentes se centran en las lenguas europeas, y poco se ha explorado en las lenguas no europeas. Teniendo en cuenta estas lagunas, este artículo presenta los antecedentes y las conclusiones iniciales de una investigación experimental con métodos mixtos. El estudio examina el aspecto menos investigado de las interpretaciones inglés-mandarín de la forma de hablar de profesionales titulados en juicios simulados en entornos remotos. Se recogieron un total de 100 cuestionarios para sondear las percepciones, opiniones, estrategias de interpretación y decisiones profesionales de los intérpretes en relación con la interpretación. Las conclusiones pretenden informar sobre las prácticas pedagógicas e inspirar colaboraciones interprofesionales.

Palabras clave: forma de hablar; interpretación en los servicios públicos; interpretación judicial; interpretación remota

1. Introduction

As widely known, Australia is a common law country where courts operate under the adversarial system.1 Contrasting the inquisitorial procedures usually associated with the civil law system operating in most of continental European countries, one of most prominent features of the adversarial system is the contentious procedure between two opposing parties, as evidence is presented by opposing counsels favourable to their side and subject to challenge by the other party (see Finkelstein, 2011; Jolowicz, 2003; Koppen & Penrod, 2003; Van Caenegem, 1999; Solan, 2010). As codified in statutory laws and regulation, the right to a qualified interpreter is a matter of equity and access to social justice, as it is concerned with the right to fair representation (Ng, 2022). Therefore, accuracy of interpreting in courtroom settings is of paramount significance. However, due to the intricacies of court language and nuances of socio-cultural interpretations, a convincing body of research has underscored many cross-linguistic and intercultural challenges encountered by interpreters related to achieving pragmalinguistic accuracy in the highly specialised institutional settings, as evidenced by systematic disregard, addition, omission, or distortion in the interpreted utterances (see Berk-Seligson, 2000; Cho, 2022; Hale, 2004; Lee, 2009, 2015; Liu, 2020; Ng, 2018). Moreover, existing studies have also revealed several gaps. Firstly, regarding the modality of interpreting, most studies were conducted in face-to-face settings, little has been explored in court-related remote settings. Secondly, considering the diversity of language, many studies concentrate on European languages, Asian languages has been under-explored. Thirdly, regarding methodology, most of studies adopt empirical approaches, large-scale experiment studies are thus needed to yield quantified findings. Last but not

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least, much of research concentrate on the accuracy of the content (e.g. legal terminologies and cultural connotations), seldom on the accuracy of the manner in which the content is conveyed.

Therefore, with these gaps in mind, the current research examines the less-investigated English-Mandarin Chinese interpretations of the manner of speech performed by certified interpreters in court-related remote settings, employing the experimental research method and survey instruments. The research presented in this working paper is part of the author’s ongoing funded doctoral research project. Commensurate with current research progress, this working paper presents the background, a brief review of relevant literature, research design, and initial findings from questionnaire data. The findings intend to inform pedagogical practices and inspire interprofessional collaborations. Section 2 presents the background of this research with a focus on cross-linguistic and professional challenges experienced by professional interpreters. Section 3 provides a brief review of relevant literature in court interpreting and contextualises the manner of speech, which is the primary focus of this research. Section 4 presents the methodology of this study. Section 5 reports the initial findings from the questionnaire data. Section 6 presents the conclusion and recommendations.

2. Background

In Australia, dating back to the 1950s, community interpreting sprung up due to the influx of immigrants from non-English speaking countries (Hale, 2004; Martin, 1978; Ozolins, 1991). As part of community interpreting, the need for court interpreting has been significantly increased. Nowadays, as an integral part of the Australian government's judicial diversity and equity policy, court interpreting today is perceived as a tool to ensure social justice in Australia's multilingual and multicultural society.

Today court interpreters face many challenges. Linguistically, interpreters experience difficulties in attaining pragmatic equivalence. In court interpreting, “not only what is said but how it is said are equally important” (Hale, 2004/2010, p.126). In other words, practitioners are bound by professional codes of conduct to reproduce both the content and the manner of the utterances in courtroom examinations. The term “manner of speech” has been frequently discussed in many scholarly literature yet without a clear definition. To the purpose of this study, the manner of speech is defined as discourse markers (e.g. well, now, you know, see, I mean, I put it to you), stylistic features in the speech (e.g. fillers and hedges, false starts, backtracking), intonation, register, tone, and non-verbal cues. Regardless of its significance, empirical data on discursive practices have revealed the disregard of stylistic features and markers in face-to-face settings, as evidenced by omission, mistranslation, and moderation of the illocutionary force in the interpreted utterances.

Professionally, with the accelerated use of videoconference hearings in courts, research into specific issues that affect interpreter-mediated courtroom communication is required. Even after the covid-19 pandemic, as long as the remote option remains a feature in the justice system, understanding challenges and problems in providing quality court remote interpreting deserves urgent scholarly attention.

Existing literature has illuminated some aspects of spoken and sign language court interpreting studies in European language pairs. However, little is known about the rendition of the manner of speech by professional interpreters in non-European languages in remote interpreting settings. To bridge this gap, this research investigates how professional court
interpreters reproduce the manner of speech in remote interpreting settings. Using the experiment method and questionnaire instruments, the study collected interpreting performance and questionnaire data from 50 credentialed professional interpreters who consented to complete questionnaires and interpret remotely for a simulated trial on Zoom. Modes of interpreting (simultaneous v. consecutive) and conditions of interpreting (via audio link v. via video link) were varied. Drawing on the discoursal analysis of transcribed texts, the findings intend to inform legal professionals of challenges and difficulties in court remote interpreting and shed light on future pedagogical practice.

3. Literature review

Interpreting has traditionally been considered a branch of translation studies (Hale, 2007, p.20). Differing from other translational activities, interpreting is most succinctly performed here and now for the benefit of people who want to engage in communication across barriers of language and culture (Pöchhacker, 2022, p.10). As a cross-linguistic and intercultural interaction, interpreting cannot be viewed in isolation from its language communities, social contexts, interactional scenarios, and institutional settings. As a branch of interpreting, courtroom interpreting is conducted when speakers of different languages have to communicate in legal or paralegal settings (Stern, 2012, p.325). To conceptualise the term “court interpreting”, many scholars have taken descriptive or prescriptive approaches in empirical, experimental or quasi-experimental design (e.g. Berk-Seligson, 2002, 2012; Hale 2004/2010, 2020; Mikkelson, 2000; Stern, 2011, 2018; Stern & Liu, 2019). Court interpreters are assigned to speech events in the courtroom setting, immigration or asylum cases, and small claims courts to perform simultaneous interpreting, consecutive interpreting, whispering interpreting or chuchotage and sight translation tasks.

3.1 Cross-linguistic challenges in court interpreting

The courtroom discourse is a highly sophisticated institutional discourse, constrained by evidentiary rules. Existing literature on the discourse of courtroom can be broadly categorised by field of study and language pair. By field of study, intellectual inquiry in the courtroom discourse involves forensic linguistics (e.g. Charrow et al., 2015; Coulthard, 2013; Gibbons & Turell, 2008; Gibbons, 2014; Mooney, 2014; O’barr, 2014; Stygall, 2012; Tiersma, 2000), sociolinguistics and pragmatics (e.g. Doty, 2010; Harris, 1990, 1995; Jacobsen, 2003, 2004, 2008, 2012; Marmor, 2008; Mason & Stewart, 2014), legal and criminology studies (e.g. Bhatia et al., 2008; Henderson et al., 2016), and interpreting studies (e.g. Berk-Seligson, 2002, 2009, 2012, 2017; Hale, 2002, 2004, 2007). By language pair, existing literature on legal discourse and court interpreting includes Spanish (e.g. Berk-Seligson, 1991; Hale, 2004; Vargas-Urpi, 2016), Russian (e.g. Galashina, 2016; Lysenko et al., 2016), Chinese (e.g. Liao, 2012, 2013; Liu, 2020; Shi, 2011, 2018; Xu et al., 2020), Korean (e.g. Lee, 2007, 2009, 2015), Indonesian (e.g. Susanto, 2016), Danish (e.g. Jacobsen, 2010), Swedish (e.g. Wadensjö, 2001; 2014), and other languages. In view of discoursal and linguistic features, it suffices to ascertain that court interpreting is a highly complex speech event. The complexity of interpreted exchanges challenges professional interpreters’ ability to accurately render both the content and the manner of speech in court scenarios. The acknowledgement of cross-linguistic challenges to accurate interpreting provides the ground for the intellectual inquiry of this research.

As such, the interpretations of the meaning of accuracy in court interpreting should be explored. In the review of literature on the accuracy of court interpreting, three main schools
of thoughts can be found. One school of thought (e.g. Conomos 1993; Pöllabauer 2004) considers accuracy as the rendition of propositional content alone with liberties to alter speech style, whereas the other school of thought (e.g. Wells 1991; Jacobsen 2004) discerns fidelity as the exact interpretation of the original utterances in a verbatim manner. Apart from these extreme views on the understanding of accuracy, the middle approach (e.g. Berk-Seligson 2002; Hale 2002, Hatim & Mason 2014) contemplates faithfulness in courtroom interpreting as a pragmatic reconstruction and argues for the equivalence of illocutionary point and force.

This study follows the middle approach. This approach to the interpretation on accuracy is summarised by Hale below:

An accurate interpretation will attempt to render the meaning of the utterance at the discourse level, taking into account the pragmatic dimension of language, transferring the intention behind the utterance and attempting to produce a similar reaction in the listeners in response to such utterance, as the original would have. An accurate rendition will also take into account the lexical, grammatical and syntactic differences across the two languages, as well as the possible cross-cultural differences (2007, p. 42).

This means that in order to achieve accuracy, a court interpreter must strive for a high command of both working languages and deliver a closet possible equivalence of the propositional content and the manner of speech that suit the linguistic and cultural norms in the target language through a thorough understanding of the speaker's attitude and intention from verbal and visual cues in the interaction.

The manner of speech represents the way a speaker expresses the propositional content. It is essential that the court hears the oral evidence given in a language other than English rendered as closely as possible to that provided in the original utterances. The term “manner of speech” has been frequently used in many studies (e.g. Yi, 2022) but lacks evidence-based scholarly definition. For the purpose of this study, the term “manner of speech” is denoted as markers (e.g. well, you know, so, I put it to you) and stylistic features (e.g. backtracking, false starts, fillers and hedges), intonation, register, and tone.

Existing studies (e.g. Berk-Seligson, 2002; Blakemore, 2002; Blakemore & Gallai, 2014; Hale, 2004/2010; Jacobsen, 2003, 2008) have revealed markers and the speech style have a pragmatic value to the courtroom discourse. In other words, the manner of speech can determine the pragmatic force of the utterance, including the illocutionary force. For example, Hale (2004) found that fillers, hedges and other powerless speech features can implicate the perceptions of witness credibility. The manner of speech can challenge interpreters' ability to interpret accurately at the discourse pragmatic level.

However, most of the study focuses on face-to-face interactions, mainly in European languages in the field of court interpreting. Little has been researched about the interpretation of the manner of speech in virtual settings. This study aims to bridge the gap by examining the manner of speech in English and Chinese in court remote interpreting.

3.2 Challenges related to the remote option for justice

In Australia, as early as the 1920s, the use of audiovisual link technologies in courts has been informed by the Evidence Acts (see Evidence Act 1929 SA, Evidence Act 1939, Evidence Act QLD 1977, Evidence, Audio and Audio Visual Links Act NSW 1998, Evidence, Audio and
Audio Visual Links Ac TAS 1999) announced by Australian states and territories,² primarily for interstate proceedings and special interests groups (e.g. affected children witnesses) in remote locations. For many years, courts in Australia have taken a proactive approach to codifying the standards for the use of videoconference hearings in Australian courts. Before the Covid-19 was declared a global pandemic, the Federal Court released the Technology and the Court Practice Note (GPN-TECH),³ which included a guide to arrangements concerning the preparation and conduct of digital or hybrid hearings across Australian court jurisdictions.

Existing studies have revealed two major differences between face-to-face and virtual communication in court proceedings.⁴ Firstly, in videoconferencing trials, normal eye contact cannot be perfectly replicated. Eye contact is especially significant for perceptions of truthfulness during trials. However, in videoconferencing, the judge looks at the court from the video image displayed by the monitor. Nevertheless, the video image is captured by a camera that is not co-located with the monitor, which makes the judge impossible to look directly into one camera capturing the speaker while simultaneously watching the court's reactions. Also, the speaker may deliver testimony differently when addressing the camera than when speaking to a live audience. Secondly, the inability of online trials can have insurmountable limitations to capture nonverbal cues (e.g. gaze, posture, gesture) that add valuable content to human interaction by conveying mutual attention and responsiveness and communicating interpersonal attitudes. In remote courtroom interactions, body language correlates with credibility. However, existing literature revealed that 93% of the meaning of testimony delivered via videoconferencing is distorted or misrepresented,⁵ as the audio transmission may cut off the low and high sound frequencies and flatten the speaker's affect, which can impair the fact-finders like prosecutors in assessing credibility and the way decision-makers like judges and juries adequately evaluate the cues (e.g. subtle changes in tone of voice).

Considering the differences between natural and virtual courtroom interactions, it is necessary to examine the challenges in remote interpreting. Existing literature (e.g. Braun, 2013, 2016, 2017, 2018, 2019) defined the term “remote interpreting” as technology-assisted interpreting services provided by professional interpreters in court-related proceedings with the use of videoconferencing or telecommunication software. Remote interpreting can be further classified by the mode, the condition, and the user group. By mode of interpreting, remote interpreting services can be either used simultaneously or consecutively. The consecutive mode of interpreting is considered the default mode of interpreting to meet high requirements for accuracy during examination-in-chief and cross-examination in high-stake cases, whereas the simultaneous mode of interpreting, namely whisper or chuchotage, is limited to informal conversations between clients and counsels and monologues during court deliberations. By condition of interpreting, remote interpreters either interpret via audio link without the presence of visual cues or via video link with the display of camera video in courts. By user group, remote interpreting can be either used for spoken languages or sign language. During remote interpreting, court interpreters resorted to video-conferencing platforms with interpreting features (e.g. Zoom, Microsoft Teams, Jabber, Webex) and other

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² Australia is consisted of 6 states and 2 territories, with federal and state justice systems.
dedicated platforms (e.g. Interprefy) to provide services in varied modes and conditions of interpreting for spoken or sign language users.

Existing studies concentrate on the broad descriptions of issues and problems in court remote interpreting. However, very few studies examine the discoursal aspect of interpreting performance. To fill the gap, this research investigates the interpretation of the manner of speech in various modes and conditions of court remote interpreting.

4. Methodology

The aim of this research is to investigate the factors that impinge upon the interpreting accuracy of the manner of speech by professional interpreters in the Mandarin and English language pair in remote settings.

To be more specific, the research questions are:

RQ 1: How aware are Australian-based Mandarin-English interpreters of the meaning and significance of the manner of speech in court interpreting?

RQ 2: How accurately do interpreters render the manner of speech in court remote interpreting settings?

RQ 3: Does the mode of interpreting (Consecutive Interpreting vs Simultaneous Interpreting) affect the accuracy of the interpretation of the manner of speech?

RQ4: Is there a difference in interpreter performance between audio-only and audio-visual remote interpreting?

The research study follows a mixed methods approach. “Mixed methods” is a research approach that combines elements of both quantitative research and qualitative research in the collection, analysis, and interpretation of data (Hale and Napier, 2013). This project uses a primarily qualitative research methodology that includes two questionnaires and an experiment as data collection methods. The experimental study employs a 2 × 2 mixed design which consisted of two variables: the mode of interpreting (consecutive vs simultaneous) and the condition of interpreting (audio vs video) in remote settings. Interpreting mode (simultaneous vs. consecutive) is manipulated within participants. Visual input (audio-only vs. audio-visual) is varied between participants. A total of fifty NAATI-credentialed professional participants have been recruited (see Participants section below). This methodology is appropriate to answer the research questions as detailed below.

To answer RQ1, the participants are asked to complete a pre-experiment questionnaire about different aspects of the manner of speech in courtroom discourse. Each questionnaire had different types of questions, including multiple-choice and open-ended questions. To answer RQ2, the participants interpret for the examination-in-chief and the cross-examination sections of a video recorded simulated trial involving a Chinese-speaking defendant and English-speaking counsel in a real courtroom. In both examination-in-chief and cross-examination, participants first interpreted the courtroom questions from English into Chinese and then interpreted the responses from Chinese into English. The experiment is conducted remotely, using the Zoom platform. To answer RQ3, the participants are randomly allocated to two conditions, consecutive interpreting and simultaneous interpreting. A number of participants are randomised to interpret the examination-in-chief and the cross-examination sections of the above-described simulated trial via Zoom in the consecutive mode, while the remaining participants are randomised to interpret the same section of
the simulated trial simultaneously via Zoom, using the simultaneous interpreting feature ‘Language interpretation’. Each participant's performance was recorded. To answer RQ4, participants are randomised in different conditions with or without the video.

The mode of remote interpreting (simultaneous v. consecutive) and the condition of remote interpreting (via audio link v. via video link) are randomised among participants. Participants (N0=50) are randomised into a simultaneous interpreting group (Group_SI, N1=25) and a consecutive interpreting group (Group_CI, N2=25). In each group, the participants are further randomised into the audio or video condition, including Audio_SI (N3=12) and Video_SI (N4=13). The audio and audio-visual tracks in the CI group are labelled as Audio_CI (N5=14) and Audio-visual_CI (N6=11).

This sample size is sufficient to meet the research aims and answer the research questions because this study does not intend to generalise but to gain an in-depth understanding of factors impacting the accuracy of remote interpreting.

5. Preliminary findings: questionnaires

This study employed two sets of questionnaires: one for demographics and general knowledge about speech style and discourse markers, the other for views and decisions related to the manner of speech in the interpreted utterances. Each questionnaire comprises fifteen questions.

The survey consisted of multiple-choice questions, text type questions, Likert scale questions, and open comments related to the manner of speech and other practical aspects of accuracy of interpreting in courts and tribunals. Respondents were asked about gender, age, education, and professional experience with court interpreting, as well as their knowledge and views about the rendition of the manner of speech and the issues related to the accuracy such as markers, speech style, and non-verbal cues.

5.1 Demographics

Among fifty responses to the demographic survey, the professional interpreters were predominately female (43 out of 50). In terms of the age range, 46% of the respondents were aged between 35 and 44. In terms of the base location, 55% of the professional interpreters were based in NSW (55%), followed by VIC (21%), WA (12%), and QLD (12%). From the response rates, it is revealed that the gender and age range of most of the interpreters who responded to surveys were female interpreters in their 40s, predominately based in major cities along the eastern coastlines in Australia.

5.2 Remote interpreting experience

In terms of the experience with remote interpreting, 48 out of 50 indicated positive responses. Among those who had remote interpreting experience, 74% had been requested to interpret remotely in court-related settings, whereas 26% only had done court interpreting in the face to face settings. Among those who had interpreted remotely in court-related settings, 56% responded that they had interpreted more than 15 times/meetings. In terms of the mode of remote interpreting, 64% reported that they had worked on both modes, whereas 24% and 12% only interpreted simultaneously or consecutively in remote settings.
In terms of the condition of remote interpreting, interpreters were asked about their personal preference for video vs. audio-only conditions. 66% responded that they preferred interpreting with visual cues so that they could see the speaker while interpreting. However, 24% of responses showed no particular preference for video or audio.

5.3 Manner of speech

In regards to discourse markers, respondents were asked to indicate possible discourse markers in the courtroom sentences using the text box in the questionnaire. Out of all 50 responses, 12 skipped the question due to lack of knowledge and five reported “I don't know” or “not sure about it” in the text box. Among the remaining 33 answers, five only indicated the sentence number and two only indicated the number of discourse markers in the sentences. Among the 26 valid answers, two were partially wrong, two were all wrong, and the remaining 22 were correct. Among the 22 correct answers, 15 respondents indicated four discourse markers, three respondents specified five discourse markers, three respondents denoted three discourse markers, and one only identified one discourse marker.

In regards to the rendition of stylistic features, respondents were asked to choose the most appropriate rendition of stylistic features sample sentences. In the first sentence, four respondents chose to disregard filler and hedges in interpreted utterances. Moreover, respondents were asked to explain their choices in the text box below.

<table>
<thead>
<tr>
<th>Explanations</th>
<th>Sample answers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completeness</td>
<td>“Interpreters have to interpret everything that’s said accurately. Not summarising.”</td>
</tr>
<tr>
<td>Content and style</td>
<td>“mimicking the respondent as best as the interpreter can in the court”</td>
</tr>
<tr>
<td>Verbatim</td>
<td>“Interpreters need to translate word by word.”</td>
</tr>
<tr>
<td>Implications for court decisions</td>
<td>“hesitation influence jury judgement “</td>
</tr>
<tr>
<td>Code of Conduct</td>
<td>“To interpret as accurate as we can is part of interpreter’s Code of Ethics, we are not supposed to summarize what the LOTE or the Professional said. “</td>
</tr>
<tr>
<td>Not to render</td>
<td>“I don’t translate gap fillers, like uh, errh, because they don’t contain any meaning. “</td>
</tr>
</tbody>
</table>

Table 1. Explanations on the rendition of the manner of speech

From Table 1 above, three main views can be identified regarding the reproduction of the manner of speech: complete disregard as “irrelevant”, verbatim rendition without pragmatic considerations, and pragmatic equivalents for its possible impact on the court decision, ethical conduct, and professionalism.

6. Conclusion and recommendations

The research dealt with the manner of speech in court remote interpreting by examining the perceptive and behavioural data gathered from fifty certified Mandarin interpreters in Australia. Interpreters are bound by professional ethics to reproduce everything that had been said in courts. It is argued that the reproduction of the manner of speech in virtual courtrooms may have implications for the accuracy of court interpreting, particularly the assessment of credibility. This working article revealed the initial findings from the questionnaire data. From the questionnaire data collected from fifty consented interpreters revealed the three main views on the rendition of the manner of speech: complete disregard as “irrelevant”,
verbatim rendition without pragmatic considerations, and pragmatic equivalents for its possible impact on the court decision, ethical conduct, and professionalism. To be more specific, most of the professional interpreters supported the reproduction of the manner of speech as part of faithful and ethical professional behaviours. With respect to the manner of speech, professional interpreters can make conscious efforts to attend to speech style and markers in the original utterances and strategically reproduce them in the interpreted utterances.

However, this working article only reported initial findings from questionnaire data. As this research progresses, the discoursal analysis of transcribed texts of the interpreted speech data collected from the experiment can provide further insights into the interpreting performance on the rendition of the manner of speech in remote legal proceedings. With further data, the research can be particularly useful in the provision of specialised training to prepare future court interpreters in remote settings.

References


