Quality in legal interpreting
How to reconcile sociolinguistics with ideas of binary evaluation
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Quality in legal interpreting: How to reconcile sociolinguistics with ideas of binary evaluations

Background and focus
Language is central to legal processes. Courts often work in the national language, and interpreters facilitate understanding and mediate meaning when there is a mismatch between the language of the court and lay participants’ linguistic competence. Court interpreters in Denmark are primarily untrained ‘mother-tongue’ interpreters, there is no national certification and no recognized training. Several reports have argued that the “quality of legal interpreting” is low in terms of the interpreters’ professionalism and linguistic competences (see e.g. Rigsrevisionen 2018). This is a fundamental problem to the legal process, and to justice. Yet, the court’s understanding of quality and of language is worth taking a closer look at from a sociolinguistic perspective. We find it of little value to evaluate court meetings in terms of binary categories. Rather we ask: How do interpreter-mediated court cases unfold linguistically and socially? Why do things unfold in particular ways?

Three approaches to quality
Court interpreting can be approached from three different perspectives, each representing a different understanding of language and of the aim with the encounter.

The legal perspective: Language represents the world. Utterances are tests and independent of context. Interpreting is basically translation, i.e. acts of transferring meaning from one language to another with a one-to-one correspondence (verbatim) between the elements. All modifications, expansions, omissions, or clarifications, are signs of ‘lower’ quality of interpreting, and ‘interpreting quality’ is uniquely associated with the individual competence of the interpreter.

The translation perspective: Translations are mediation of meaning between a source language text and a target language text. In oral translations (interpreting), the role of the interpreter is to establish direct communication between individuals with different linguistic background. Ideally, interpreters strive to render all messages accurately, faithfully and if possible without addition, omission or embellishment of the meaning. In practice, interpreters employ various strategies to compensate for structural and semantic differences between languages and for speakers’ different cultural understandings (House 1996, Venuti 1995). Quality is about ensuring understanding for all participants along with being true to the source message.

The sociolinguistic perspective: Language is a process, which materializes in contextually embedded utterances. Most utterances are turns in encounters where meaning-making and mutual understanding is the goal. Meaning-making is inherently embedded in context and dependent on the different participants’ repertoires, experiences, aims and understandings (Silverstein 2003). Interpreting is cross-linguistic meaning-making and mediation, and the interpreter is only one participant out of at least three (Wadensjö 1998, Angenæs 2002, Karrebæk, Kirilova & Sørensen, 6). The result of the interpreter-mediated encounter depends on all participants. Quality concerns the characteristics of interpreter-mediated meeting outcomes, and involves collaboration and the establishment of mutual understandings.

Conclusions
Different participants in communicative encounters have different aims. In truth, the legal professionals orient towards truth, evidence and responsibility, and their view of language is embedded in their professional approach. Even though as sociolinguists we have a different understanding of language and communication, we need to take seriously how our stakeholders think about the situations we use data.

The interpreters facilitate understanding between participants who do not understand each other. Our analyses show that interpreters make strategic choices that do not align with the legal approach to translation.

• Expansions and explanations are relevant as they render explicit what legal professional may keep implicit. Interpreters thereby facilitate understanding and perhaps even prevent interruptions through questions from the accused.

• Standardization and normalization of the accused’s contributions ensures that these are accessible and comprehensible to the legal professionals. In fact, sometimes more so than to the interpreters who seek to create coherence where it may be lacking. This makes it easier for the legal professionals to uphold an impression of language as text. It also raises the interpretive work done by the interpreter and sometimes represents the accused as a different kind of social persona than s/he appears to be through the original contributions.

With a sociolinguistic take on interpreting quality we consider not only legal and translational aspects, but also institutionally embedded power relations, language ideologies and linguistic variation, all of which impacts how meaning is mediated and understood in court as well as elsewhere in the world.

Example 1

Example 2

Example 3

Data

- Audio recordings from a Danish court
- 32 Preliminary Statutory Hearings
- 1 Trial
- Interviews with judges, prosecutors, interpreters
- Field notes
- Media data (national newspapers, social media etc.)

Recorded languages in court

<table>
<thead>
<tr>
<th>Language</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arabic</td>
<td>9</td>
</tr>
<tr>
<td>English</td>
<td>6</td>
</tr>
<tr>
<td>Albanian</td>
<td>4</td>
</tr>
<tr>
<td>Romanian</td>
<td>3</td>
</tr>
<tr>
<td>Polish</td>
<td>3</td>
</tr>
<tr>
<td>Spanish</td>
<td>3</td>
</tr>
<tr>
<td>Somali</td>
<td>1</td>
</tr>
<tr>
<td>Dutch</td>
<td>1</td>
</tr>
<tr>
<td>French</td>
<td>1</td>
</tr>
<tr>
<td>Persian</td>
<td>1</td>
</tr>
<tr>
<td>Fijian</td>
<td>1</td>
</tr>
<tr>
<td>Norwegian</td>
<td>1</td>
</tr>
<tr>
<td>Swedish</td>
<td>1</td>
</tr>
</tbody>
</table>

Research output


Kohler, S. & R. H. (2021). Legal interpretation in context: Mediating justice in European courts. European Journal of Speech, Language and Law. In this study, the authors examine the role of language and culture in shaping legal interpretations and the impact of these interpretations on court outcomes.


Kohler, S. & R. H. (2021). Sprogs status i Rigsfællesskabet (2021). Københavnerstudier i Sprogstudier, 82. This study examines the role of language in shaping legal interpretations and the impact of these interpretations on court outcomes.

See more at: interpreting.ku.dk/english

Example 1

Example 2

Example 3