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Eva N.S. Ng

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Volume 151

Interpreting in Legal and Healthcare Settings. Perspectives on research and training
Edited by Eva N.S. Ng and Ineke H.M. Crezee

Interpreting in Legal and Healthcare Settings

Perspectives on research and training

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INTRODUCTION

Interpreting in legal and healthcare settings

Perspectives on research and training

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1. Introduction

In legal, medical, work and education settings, the choices and actions that interpreters take, or do not take, have the potential to influence the lives of the people involved. (Swabey and Mickelson 2008: 51)

Interpreting in legal and healthcare settings stands out from other contexts of community interpreting, not only because interpreters working in legal and healthcare settings are required to be equipped with specialised legal or medical knowledge and terminology, but also because the stakes of working in these contexts are so high that interpreting mistakes can become, literally, a matter of life and death, or result in a miscarriage of justice. This probably explains why interpreting in the legal and healthcare contexts has attracted much more scholarly attention over the years than interpreting in other community contexts.

This volume comprises eight selected papers from a conference dedicated to such themes – the First International Conference on Legal and Healthcare Interpreting, hosted by the University of Hong Kong from 24 to 25 February 2017, as well as five additional invited papers related to the fields of legal and healthcare interpreting and interpreter education. The impetus for the conference also stemmed from the interests of the two editors. Eva Ng is a former court interpreter and currently an Assistant Professor teaching legal interpreting and translation at the University of Hong Kong. Her doctoral research explored the roles of the various trial participants and their participation status in the Hong Kong courtroom. Ineke Crezee is an Associate Professor at Auckland University of Technology, as well as a practising healthcare interpreter and translator who helped develop the first healthcare interpreting courses in New Zealand in the early 1990s. Their own research and teaching interests led them to organise the First International Conference on Legal and Healthcare Interpreting, which brought together leading and emerging researchers in the field from all over the world. Some of the

contributors have adapted their presentations for inclusion in this volume. Other scholars have been approached by the editors to share their cutting-edge research with readers.

The sections below provide a brief overview of scholarly work in interpreting in legal and healthcare contexts over the past few decades, followed by synopses of the papers included in this volume.

2. Research in legal interpreting

Legal interpreting has been used in the past decade as an umbrella term to refer to “interpreting in all settings and at all stages of the criminal law procedures” (Hertog 2015: 21), which covers court interpreting, police interpreting and prison interpreting. It also includes interpreting for lawyer-client meetings, interpreting in immigration, customs, asylum hearings and even military settings. Of these, court interpreting has received the most extensive scholarly attention over the past few decades, followed by police interpreting and asylum hearings interpreting. Interpreting in other legal settings remains under researched. Of the large body of literature on court interpreting, the majority has focused on the role of the interpreter in court proceedings, the ethical dilemmas faced by them and how they impact on the court proceedings (e.g. Angelelli 2004; Berk-Seligson 1990, 2002, 2006; De Jongh 2008; Fenton 1997; Fowler 1997; Hale 2001; Ibrahim 2007; Inghilleri 2013; Laster and Taylor 1994; Lee 2009; Leung 2003, 2008; Leung and Gibbons 2008; Martin and Ortega Herráez 2013; Mikkelsen 1998, 2008; Morris 1995, 1999; Ng 2013a, 2016, 2018). Most of these studies, empirical or anecdotal, have pointed to a conflict between what has been considered the codified role of the interpreter and the normative practices of court interpreting, versus what actually happens in the courtroom.

Accuracy in interpreting is another much-researched area in court interpreting, with studies largely focusing on how interpreters deal with speaker style, including discourse markers and other paralinguistic features (e.g. Berk-Seligson 1990, 1999, 2002; Crezee, Teng and Burn 2017; Hale 1999, 2002, 2004; Hale and Gibbons 1999; Liu and Hale 2017; Rigney 1999; Teng, Burn and Crezee 2018;). The findings of these studies demonstrate that interpreters tend to focus on the propositional content of a speaker’s utterance, and often fail to preserve the style in which the utterance is made. Some of these studies examine how interpreters alter the style of witnesses’ testimony and potentially their credibility, which may subsequently impact on the outcome of the trials (Berk-Seligson 1990, 2002; Hale 2002, 2004), while others investigate how the pragmatics of questions as counsel’s tools for manipulation are altered by interpreters (Berk-Seligson 1999; Burn and Crezee 2017;

Crezee, Teng and Burn 2017; Hale 1999, 2004; Hale and Gibbons 1999; Liu and Hale 2017; Rigney 1999; Teng, Burn and Crezee 2018). Other issues include omissions in court interpreting due to other co-present court actors' behaviour such as judges' interruptions in court proceedings (Ng 2015), or additions in interpreting because of the interpreter's preoccupation with pragmatics (Jacobsen 2002, 2007).

Other studies in court interpreting examine the interpreters' use of reported speech as a deviation from the normative practice of first-person interpreting (Angermeyer 2005, 2009; Cheung 2012; Leung and Gibbons 2008; Ng 2013b). The use of reported speech in interpreting is seen as a shift in the interpreter's footing to disclaim responsibility for the propositional meaning of the interpreted talk (Leung and Gibbons 2008), or as the interpreter's accommodation to the audience in court, or as a way of minimising confusion over who the speaker is (Angermeyer 2005, 2009; Cheung 2012). Ng's (2013b) study, however, suggests that the interpreter's distinct choice between the first-person direct speech interpreting for utterances made by lay participants and the deviant third-person reported speech interpreting for legal professionals' utterances may have to do with the power asymmetry in the courtroom and the interpreter's uneasiness in assuming the voice of the powerful participants in court.

Video-link or remote interpreting (Braun 2013; Braun and Taylor 2012; Fowler 2013; Licoppe and Verdier 2013) is an emerging area of research in court interpreting. Fowler's (2013) study examines the use of prison-based video-link for defendants applying for bail in England without them appearing physically in court. Her study shows limitations associated with the use of this technology and she contends that the use of remote interpreting places defendants at a disadvantage. The findings of Fowler's study (2013) are corroborated by Licoppe and Verdier (2013), who examined the use of video-conferencing in pretrial hearings in France. Other studies in this area also show that interpreting problems emerging in face-to-face mediation are magnified in the video-interpreted encounters as reflected *inter alia* in an increase in the number of distortions and omissions in the interpreters' renditions (Braun 2013; Braun and Taylor 2012).

Sign language interpreting to ensure deaf people's access to justice and participation in the judicial process has become an important area of study in recent decades (Brennan, Brown and MacKay 1997; Brennan 1999; Brunson 2007; Napier 2012; Napier, Spencer and Sabolcec 2013; Napier and McEwin 2015; Russell 2002; Stone and Woll 2008; Turner 1995). Some emerging studies explore the possibility of deaf people serving as jurors. Findings show that deaf jurors assisted by a sign language interpreter understood as much as the hearing jurors (Napier, Spencer and Sabolcec 2013; Napier and McEwin 2015).

The increasing global need for refugee and asylum-seeking interpreting has led to studies in interpreter-mediated asylum hearings. These demonstrate that

the interpreter is often an active participant in the communicative process, as they are observed to coordinate talk and to take the initiative to elicit information from claimants as well as to ally with the adjudicator, thus positioning themselves as part of the investigating team (Kolb and Pöchhacker 2008; Pöllabauer 2004). Barsky (1994, 1996, 2000) argues that it is important for interpreters working at refugee hearings to be recognized as active intermediaries between the claimant and the adjudicating body, while Fenton (2004: 265) warns that this would “open the door to dangerous and unsafe practices for the interpreter” and “instill an exaggerated faith by the claimant in the powers of the interpreter”.

Studies in interpreter-mediated police interviews include the non-use of interpreters in police interviews (Berk-Seligson 2009) or partial use of interpreters (Nakane 2010) and how this might impact the investigative stage of the criminal process. Other research examines how interpreters react to silence in police interviews (Nakane 2011), and an emerging field of study in this area is on how interpreters diminish or impact the effect of Cognitive Interview techniques deliberately employed by police officers to enhance information retrieval (Heydon and Lai 2013; Gallai 2016).

Other studies in legal interpreting address the all-important issues of interpreter training, education, certification and professionalisation (Blasco Mayor and Del-Pozo-Triviño 2015; Hale 2010; Perez and Wilson 2007; Wallace 2012); others examine underexplored fields such as interpreting in prisons by non-professional interpreters (Baixauli-Olmos 2013; Martínez-Gómez 2014, 2015) and raise cause for concern. Interpreting for children in legal settings is another ill-explored yet emerging field of study (Keselman, Cederborg and Linell 2010; Salaets and Balogh 2015).

Following this rich vein of literature, this volume contains papers addressing interpreting in various legal settings, including courtroom interpreting, interpreting for refugees and for lawyer-client meetings, professionalisation and training for legal interpreters as well as training police officers to work with interpreters.

3. Research in healthcare interpreting

The second thematic strand of the book pertains to healthcare interpreting, and the following brief review of the literature identifies the main themes in the field. Healthcare interpreting is a broad church, and includes interpreter-mediated interactions involving diverse medical professionals including speech pathologists (Langdon and Saenz 2015), doctors, physiotherapists, nurses and midwives, which may employ telephone or video remote interpreting (Cheng 2015; Magill and De Jong 2016; Phillips 2010; Wang 2018).

Different settings involve different demands (Dean and Pollard 2011), for example speech pathology (speech and language therapy) interactions may require interpreters to provide metalinguistic commentary as to how something was said in terms of phonology, grammar and sense. Whereas end-of-life interpreting, and interpreting in oncology or genetic counselling may involve a host of intrapersonal, interpersonal and environmental demands (we take the definition of demand from Dean and Pollard 2013). Other scholars (e.g. Bot 2005) have reported on mental health interpreting as areas of healthcare interpreting which require special sensitivity and a very good working relationship between the interpreter, the client and the health professional. In these cases, briefings are essential for the health professional to set out the client's background, the purpose of the interview, and the way questions will be asked. This allows the interpreter to provide input on the likely acceptability of certain questions in the counselling setting. In a personal communication with one of the editors, one former Iranian student, herself an interpreter, nurse and counsellor, suggested that asking Iranian patients about suicidal ideation may be problematic, yet this question appears to be very much part of the suggested approach to counselling of depressive patients (American Psychiatric Association 2013).

Healthcare interpreting (Roat and Crezee 2015) has been variously referred to as health (care) interpreting (Avery 2001; Crezee and Asano 2016) or as medical interpreting (Meyer et al. 2003; Roat 1999a, 1999b, 2000). Research areas within healthcare interpreting have focused on benefits to patients (Flores 2005; Flores et al. 2012), ethical dilemmas, accuracy, impartiality, interpreter role (Athorp and Downing 1996; Cambridge 1999; Meyer et al. 2003; Wadensjö, 1998), advocacy, cultural brokerage, and interpreter education (Crezee 2013, 2015; Crezee and Ng 2016; Crezee and Grant 2013, 2016). Research in the first seven areas is rendered difficult by the fact that healthcare interpreting typically takes place in health professional-health consumer interactions which are not open to the public. Obtaining consent to observe and describe such interactions for the purpose of research involves a whole host of ethical considerations, and necessitates obtaining approval from institutional review boards, university ethics committees, healthcare facilities, health professionals, patients and interpreters. This makes the work by Angelelli (2004), Cambridge (2012), Krystallidou (2013), Meyer et al. (2003) and Sleptsova et al. (2014, 2015) all the more interesting because they managed to overcome these obstacles.

Accuracy and what this means for translation (and interpreting) has been a topic of discussion since the dawn of the profession. Any comprehensive definition of accuracy must touch on maintaining the speaker's illocutionary intent (Burn and Crezee 2017; Crezee, Teng and Burn 2017; Morris 1999; Teng, Burn and Crezee 2018) and pragmatic aspects of communication. Hale (2014) unpacks the discussion