

Intra-Cultural Aspects of Legal Interpreting for Deaf People

Patrick J. Coppock
Dept. of Applied Linguistics
The University of Trondheim
Faculty of Arts and Science
N-7055 Dragvoll
Norway
Tel: +47 7 596545
Fax: + 47 7 591030
E-mail: patCoppock@avh.unit.no

Summary

Deaf people, although members of majority cultures largely constituted by the languages and lives of hearing people, also belong to minority cultures constituted by the sign languages and lives of deaf people. Sign language interpreters act as mediators of communication during encounters between representatives of these two cultures, with the express aim of enabling both parts to express themselves freely in the particular language they feel most at home with.

Legal interpreting situations represent one general category of symbolically loaded encounters between representatives of the cultures and languages of deaf and hearing people. This wider category of encounters represents a broad range of different types of encounters, each with their own sets of socially and/or culturally appropriate codes of behaviour, linguistic codes and stringent norms and rules for the organisation of discourse and interaction in general.

This paper discusses a model for examining intra-cultural aspects of interpreting in legal settings where deaf people may be present either as plaintiff, witness or accused. A constructionist approach is used to describe the interpreted courtroom as a complex social (semiotic) field with a large number of different codes and meta-codes in operation simultaneously. Focus is on development and maintenance of a professional role and function (position) for sign-/ spoken language interpreters working in legal settings. Specific demands that legal interpreting makes on sign-/ spoken language interpreters' communicative competence are incorporated in the discussion. Particular attention is paid to problems associated with representation of meta-communicative and/or non-verbally coded signals in legal interpretation between signed and spoken languages. Finally, the need for a specialised code of ethics applicable to the field of legal interpreting is discussed.

Introduction

I have chosen to approach the question of the intra-cultural construction of discourse in interpreted legal situations, such as the courtroom and police interview, in what may by some readers be considered rather unconventional fashion. Nonetheless, I hope this particular approach will act as a catalyst and initiate positive discussion of this important and at the same time highly complex area of interpreting practices. I do not intend here to make any attempt to spell out all the issues involved, nor shall I try and provide any universal solutions to whatever problems I may raise. Open-minded readers will hopefully manage to envision the positive epistemological potential of this particular way of approaching the field of legal interpreting.

Virtual worlds

To start with, I would like briefly to present a relatively recent phenomenon that any “Internet surfers” amongst you may already have encountered in their travels – namely the MOO. The term MOO has of course nothing whatsoever to do with bovine communication, but is an acronym for a communication tool known as a “Multi-user dialogue, Object Oriented.” Amy Bruckman and Mitchel Resnick of the MIT Media Lab, describe their particular brainchild, “the MediaMOO” in this way:

“... a text-based, networked, virtual reality environment designed to extend the type of casual collaboration which occurs at conferences to a daily activity.¹ Visitors to a MOO conference share not just a set of interests, but also a place and a set of activities. Interaction is generated as much by the latter two as the former.”

(Bruckman & Resnick 1993: 1)

Users logging into the MediaMoo find themselves in a LEGO Closet. Stepping out of there they enter the E&L (Epistemology and Learning research group) Garden. Below is a short transcript of a guest’s first meeting with the virtual community of Media MOO.

>connect guest

Okay,... guest is in use. Logging you in as `Green_Guest'

*** Connected ***

The LEGO Closet

It's dark in here, and there are little crunchy plastic things under your feet! Groping around, you discover what feels like a doorknob on one wall.

Obvious exits: out to The E&L Garden

>out

The E&L Garden

The E&L Garden is a happy jumble of little and big computers, papers, coffee cups, and stray pieces of LEGO.

Obvious exits: hallway to E&L Hallway, closet to The LEGO Closet, and sts to STS Centre Lounge

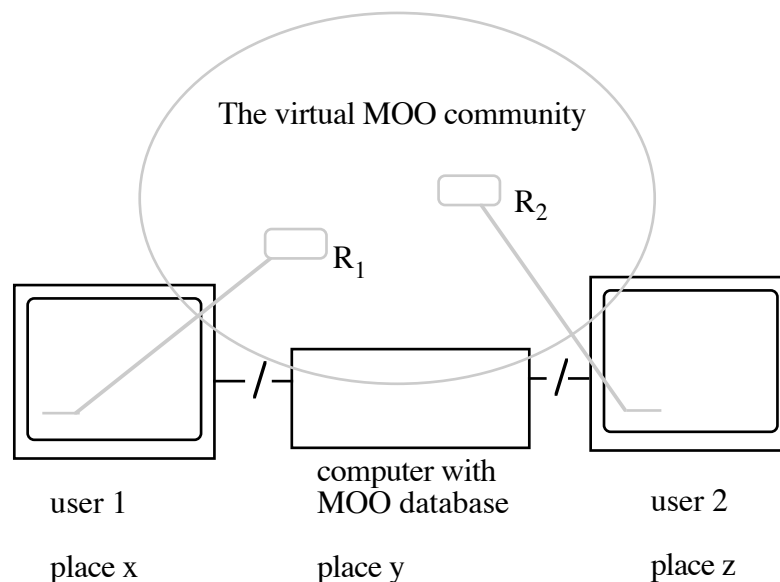
¹ To connect to MediaMOO from the Internet, you start up a terminal application, type:
telnet purple-crayon.media.mit.edu 8888
connect guest

You see a newspaper, a Warhol print, a Sun SPARCstation IPC, Projects Chalkboard, and Research Directory here.
Amy is here.

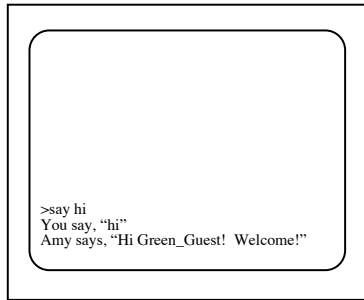
```
>say hi  
You say, "hi"  
Amy says, "Hi Green_Guest! Welcome!"
```

Participants from all over the world connect to MOO's like the Media MOO and interact in real time within, and also with, these virtual worlds, creating new forms of interaction, objects and places. Actors in the virtual discourse community can build their own offices and meeting rooms and connect them with others via a "virtual Internet." A central constructionist principle realised in all MOO-based projects is that all participants are allowed to actively take part in creating the virtual world at the same time as they are "living" in it (Papert 1980).

From a technical point of view, a MOO is basically a relational database running on a host computer with a mediating system for transmitting interactions: the computer network:



The common message code for MOO participants is written English:



The interaction system participants have to aid navigation and on-line communication with each other in the virtual world is a set of simple command structures, built up of minimal syntactical units like those shown below.

```
>out
>say hi
```

Interaction between participants, and between participants and the environment they are participating as members in, is fairly simple and rule-bound, as the following example shows:

```
*>out
The E&L Garden
The E&L Garden is a happy jumble of little and big computers, papers, coffee cups, and stray pieces of LEGO.
Obvious exits: hallway to E&L Hallway and closet to The LEGO Closet
You see a newspaper, a Warhol print, a Sun SPARCstation IPC, Projects
chalkboard, and MediaMOO Map here.
Michele, Jade_Guest, Albert, and Guest are here.

*"Hello everyone!
You say, "Hello everyone!"
Michele waves.

*>look michele
A grad student who's carrying various books and papers she should probably be
reading.
She is awake and looks alert.
Carrying:
Directions to the Ball

*">@whois michele
Michele's real name is "Michele Evard".
Michele can be reached via email as: mevard@media.mit.edu

*>research michele
Research interests:
General Area: Learning, Technological Tools for Learning. Current projects:
kids & LEGO/Logo, kids & telecommunications.

Albert waves.

*">@research me is "Testing MediaMOO"
You set the "research" message of Example (#543).

*"How did you wave, Albert?
You say, "How did you wave, Albert?"

Albert says, "i did :waves."
```

*>"Thanks.
You say, "Thanks."

Any “life” that goes on in the constructed social world of a virtual MOO community depends on a number of systems of different codes, which mediate “frames” (Bateson 1972: 184-188; 189-192) within which, discourse and meta-communication norms emerge over time among a community of participants. One such system is the restricted syntax code exemplified above for speaking and acting in (and on) the virtual world. The number of functions coded into this system determines to a large extent just how interactions may be initiated, carried out and regulated. Another (meta)code is the machine code that the computer system runs on. This meta-system determines how effectively other systems of codes operating at higher complexity levels can function within the virtual environment. Yet another system of codes belongs to the various Internet protocols that regulate the way in which *text-utterances* (Berge 1990) are fed from the various participants around the world into the communality of the virtual community. All these mediating codes that are inherent in the technology of the communication medium interact with the linguistic, social and cultural codes borne by participants to constitute the *textual norms* (Berge 1993) and thereby the discourse spheres of the shared virtual world.

Constructing virtual worlds

The philosophy behind the development of these kinds of virtual community is known as ‘constructionism’ (Bruckman & Resnick, 1993: 8). On one level, this idea refers to the construction of externally mediated (cf. the discussion of frames and code systems above) forms of human communication, or perhaps more correctly, systems where socio-culturally coded encounters occur through exchanges of (electronically) mediated text-utterances between participating actors and agents. The mediating technological medium is the necessary computer hardware and software, as well as the Internet with its attendant whims, vagaries and protocols. Due to mediation effects of this developing technology MOO-participants have to learn to cope with certain limitations on the extent and nature of their interactions with other participants. A certain amount of work will for example be involved in constructing a personal position, that is: giving other participants access to adequate descriptions of oneself that might or might not be redundant - i.e. not considered relevant - if delivered verbally in face-to-face interaction.

Some of the most obvious limitations on interactions in sociocultural fields of this kind are as follows:

- Text-based interaction is focused entirely on *verbally constructed* text-utterances. Focus of both communicator and prospective co-communicators is on the text-utterance as sign. Iconic and indexical signs may occur, but only exceptionally.

- Cues related to non-verbal communication and meta-communication need therefore to be communicated by consciously initiated text-acts on the part of the communicator (i.e. by an act of writing a description of the act itself)
- Construction of personal objects and environmental qualities (the physical context) in the virtual world must be explicit and descriptive enough to evoke the required images and contextual qualities in the minds of prospective co-communicators from a range of cultural backgrounds.
- Database and memory limitations require all kinds of descriptions provided for others to be as minimalistic as possible.

A very basic *MOO-USER PROBLEM* is then to decide just how much of the total semiotic of interpersonal interaction is to be included in any given communicative act or text utterance, and just how much is to be left out. This makes it rather similar to the basic *INTERPRETER PROBLEM* and especially so if we take into consideration the situation for interpreters for the deaf and blind.

Hopefully some vague idea of why the notion of the MOO just may be relevant in relation to courtroom interpreting is now beginning to emerge at this stage. If not, then let us just leave it at that for the time being and plough on into the MOO - or perhaps would be more appropriate to say into the MUD², or even the MUSH³...?

Positions and interaction norms in virtual worlds

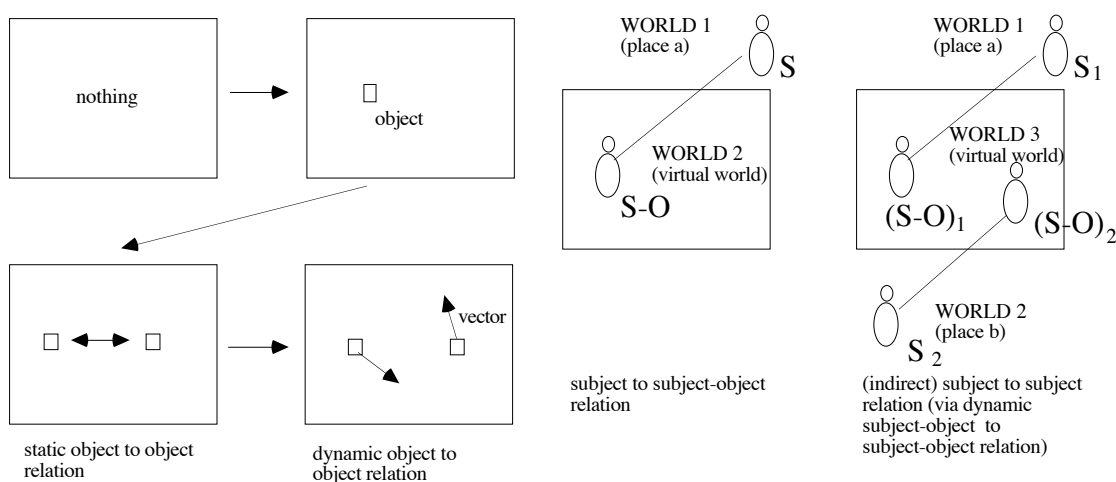
In a virtual world of this kind, positioning of individual agents and actors in relation to one another socially is done through textual construction of characters or personae (also known as “avatars”). Certain types of text-utterances from participants are used to constitute “actions” in the virtual world that leave descriptive text-traces that other participants can access. The representational process of positioning involves such communicative actions as ‘naming’, ‘describing’ and ‘dressing’ etcetera. Having constructed a personae (however simple) for oneself, one can then use this virtual identity, or *subject-object*⁴, to interact in the virtual world with personas constructed by other participants.

² MUD is an acronym for earlier versions of present-day MOO environments, known as Multiple User Dungeons. MUDs are generally developed as adventure game environments.

³ MUSH is an acronym for yet another type of MUD known as Multi-User Shared Hallucination.

⁴ The concept of “subject-object” is rather new, at least for me, and is as such, not fully thought out from an epistemological viewpoint. It seems necessary to introduce such an idea in this kind of context, in order to account for the fact that one as a “participant” subject (via a “virtual representative” or so-called “avatar”) in this semiotic field is “present”, but at the same time “non-present”, since one’s representative is simply a computer-generated sign object with only some of one’s own characteristic qualities, but not all, and because the register of actions this sign object can perform is controlled by means of algorithms that describe and maintain the computer-generated virtual space one is acting in. Since one as subject can, by means of the logging ability of the system, later study the way one has interacted with other users’ subject-objects in the virtual world, then having a concept of subject-object is very necessary and also useful from a descriptive point of view in this connection.

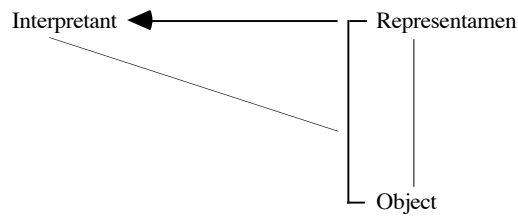
The development of interaction norm systems that allow the construction of virtual worlds that are fully functional as socio-semiotic fields is a complicated process. In the course of time programmers have progressed from an ‘empty’ virtual field (i.e. one containing nothing but a communicative potential) that is often referred to as Cyberspace (Benedikt 1992); via one containing descriptions of static objects (representing things or concepts), via descriptions of spatial relations between these static objects, via descriptions of dynamic spatial relations between vector driven (non-intentional) objects, via introduction of intentionally motivated subject-objects and finally, to present attempts to establish conditions where sign relationships (true interactions) will be possible between acting subject-objects.



If virtual worlds of this kind are to be considered “true semiotic” fields for human communication (i.e. compared with normal face-to-face communication) then discourse processes in the virtual world must be based on sign relationships generated between intentionally driven subject-objects with access to a full range of (human) signification devices (i.e. the potential for creating and interpreting signs in all possible modalities) at their disposal. Even the most advanced multi-participant virtual worlds with graphic representational systems are still a very long way off from this ideal situation in practice.

Semiosis

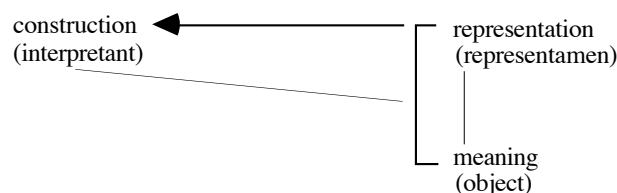
The triadic sign model of Charles Sanders Peirce is a useful starting point for understanding how meaning is socially constructed as signification and interpretation processes. The peircean sign model permits us to take into account observable actions or events over and above those of purely spoken language, that result from the large number of simultaneous sign process that characterise face-to-face communication. A saussurean (dyadic) sign model does not allow this to the same degree. Here, I shall briefly introduce a rather simplified description of the triadic peircean sign. The diagram below is taken from the International Encyclopaedia of Linguistics (Bright (ed.) 1992).



In Peirce's own formulation, a sign is:

“..something, A, which brings something, B, its interpretant sign determined or created by it, into the same sort of correspondence with something, C, its object, as that in which itself stands to C.” (Peirce 1902)

What then is the sign? Is it the representamen? In a way. The representamen must be introduced into a situation in order for signification to occur. The sign itself consists of more than the representamen, it comprises a fully triadic relationship between the production of some observable event or representation (the representamen), which, for the producer of the sign, stands in some relationship to some object or other (I can call this the intended meaning) and which, by virtue of its occurrence, brings some interpreter's constructed reaction to this occurrence (the interpretant) into the same type of relationship with the object as the one already existing between the object and the representamen. When this happens, the interpreter has understood the meaning of the sign and will be able to use it themselves as the source of a new sign process. The diagram below is my attempt at placing the peircean terminology mentioned above into a modern constructionist or, perhaps better: representational framework.



For semiosis (signification, or more simply: a communication process) to occur, some agent must initiate a physically perceivable representational event and some interpreting agent must perceive that event and react to it in some way or other, attributing meaning by means of the sign relation. This constructed interpretative reaction may subsequently give rise to a new sign process, as mentioned above. In this case the construct “migrates” back into the sphere of discourse, becoming a potential new form of representation. A further requirement is that the interpreter wishes to discover, or make some hypothesis about, meaning on the basis of the original event, associating this in some way with some communicative intention on the part of the agent initiating the event.

The sign-producing agent will also need to be considered a qualified producer of meaningful

utterances by the interpreter. Interpreters' perceptions of sign producers' competencies as producers of meaning, on the basis of the signs and codes they use, are closely tied to any subsequent perceptions of the *validity* of utterances and the *truth value* that interpreters attach to these signs. Since all signs are non-arbitrary, in that they are motivated by interest on the part of the producer (Kress 1993), the choice of a given sign at any given time by some communicating agent will always be seen by interpreters as related in some way or other to that agent's world view at that time in history.

From virtual worlds to legal interpreting

I shall now face the question of how to tie in the above with interpreting in legal situations in a wider sense. What I have tried to do so far is to introduce a number of productive metaphors for use in further theoretical discussions of the general topic area of legal interpreting. Hopefully, at least some readers have stayed with me so far, and perhaps even been able to spot some potential useful connections from here to the more general field of interpreting practices.

Courtroom discourse (and thus courtroom interpreting) has to do with mediated exchanges of text-utterances expressed as, and expressing, many different communication codes and modalities. This mediation is related amongst other things to the established text-norms within the legal system, and more specifically to the courtroom as a specific text-norm genre. Crucially, for all types of legal situations, the perceived truth or non-truth value of any single interpreted utterance will be of vital importance for agents and actors involved in the interpretative context. This is especially true for those agents and actors who belong to groups that are marginal in various ways in relation to legal discourse. Here I would include any non-professional members of a courtroom discourse community such as plaintiffs, witnesses and accuseds. The deaf person using an interpreter in the courtroom will often represent one or other of the aforementioned positions. At the present time, it is only in very rare cases that one can realistically imagine other kinds of positions that deaf persons might adopt⁵. Courtrooms are per se highly emotionally and existentially loaded *social fields* (Bourdieu 1986). Even quite minimal utterances have an extremely high degree of illocutive force in such situations. Another, less obvious factor that to a certain extent forms courtroom discourse is the varying extent to which the different agents and actors in the courtroom are considered qualified as competent text-producers, i.e. as *members* within the wider social and cultural frameworks that the courtroom is a part of. This kind of issue is related to questions of intra-societal power relations in a wider sense. Any theoretical approach to the study of courtroom interpreting must be able to account for, and describe such factors to some degree.

What I want to do is attempt a process of construction, or perhaps better still, a process of

⁵ This has to do with power issues in relation to a number of important social and historical aspects of deafness that I shall not begin to discuss here.

REconstruction of the courtroom as a social (and semiotic) field. In doing so, I hope to place the question of the development and maintenance of the legal interpreter's professional position into a wider perspective, and perhaps clarify and identify some of the more important issues at stake for interpreters who choose to work in legal interpreting situations. The rest of this paper will attempt to analyse the interpreted courtroom as a complex social field. But before we go on to do this, a short excursion into the areas of truth value, validity and the relationship between verbal and non-verbal communication is necessary.

Perceived truth value and the verbal-non-verbal continuum

In constructing a theory where one wishes to account for the perceived validity of communicative actions in an interpretative (representational) process such as we find in the courtroom we will need to incorporate both verbal and non-verbal aspects of semiosis in this particular social field. In practice one will not expect to find any clear cut division between the perceived relative validity and truth value of signification processes involving the use of verbal and non-verbal codes. Communication in the courtroom involves exchanges of signs in many different codes, in all available modalities. All text-utterances constituting such exchanges must be considered equally valid, i.e. as potential bearers of truth or falsity, irrespective of their respective encodings and modalities. This signification-implicative facticity presents considerable, and not always recognised complications for professional courtroom sign-/ spoken language interpreters.

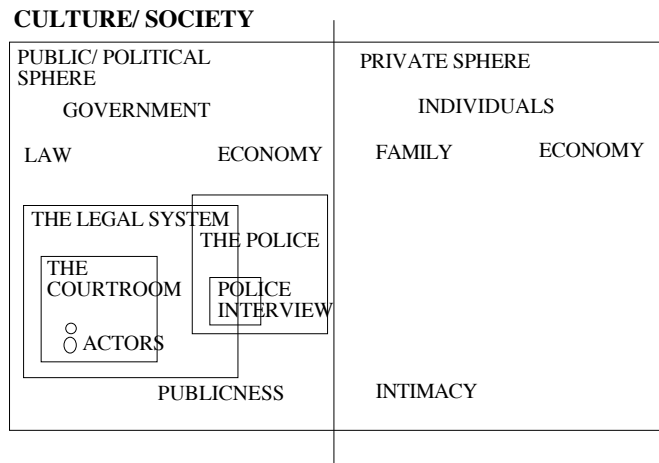
Let us briefly consider just a few consequences of this type of facticity. Silence, especially in courtroom situations, may be as heavily communicatively loaded, if not more so, as anything said by means of the spoken word. Many negative judgements have for instance been made by juries on the basis of a perceivable "pregnant silence" or a seeming lack of willingness on the part of a defendant to answer a simple question promptly. Quite small delays in answering a question will in other words easily be attributed very high degrees of communicative import in existentially loaded situations. Delays of this kind are on the other hand more or less inevitable in interpreter mediated communication. Small nuances of tone of voice, (observable) eye movements and gaze patterns will also play an important role in interpretation of the truth value of others' utterances, as will even less salient (at least superficially) socially coded signs indicating invested, real authority and other, more superficially codified aspects of individual autonomy. The ways in which people move around - slowly, quickly, decisively, hesitantly - as they speak, also communicate strongly in the non-verbal modality. Even more extreme perhaps, is the notion of the social role played by codified olfactory communication. After-shave lotion and perfume are used by many men and women as strong signals of power and sexuality in everyday life, and may also be used more or less consciously for this purpose in the discourse of the courtroom. And of course there are the ever-prevalent, but all too often ignored, gender-specific codes, signals and discourse norms that come into play in the

constitution of all other types of discourses (cf. McIntyre and Sanderson in this volume).

What ought an interpreter do if the lawyer he or she is interpreting has a habit of moving around a lot in the courtroom, and indeed of using such movements communicatively? Should one try and follow the speaker? Should one stand still? Sit? Attempt to represent or reconstruct the speaker's movements on a smaller scale? Who the deaf person is looking at while what he or she is saying is being voiced by the interpreter will also be attributed meaning in the courtroom. Where should the interpreter position him- or herself in order to take account of this? Is it possible to minimise or accommodate these kinds of effects at all? Ought the interpreter to move at all within the courtroom or just sit quietly in one place all the time? When ought the interpreter say that they do not understand things that are said, if this should happen - which it does? What ought the interpreter to do if s/he says something wrong her-/ himself? A list of this kind is, of course, almost unending, so I leave any further compilation up to the reader's imagination.

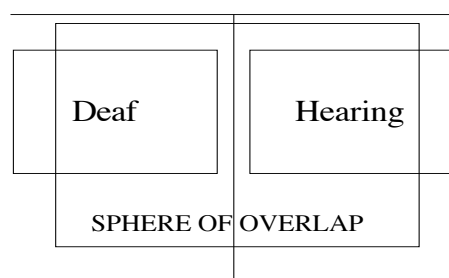
The interpreted courtroom in a wider perspective

The rather simplified diagram below is an attempt to position the social field of the interpreted courtroom, and consequently the interpreter and his or her deaf client(s), within a wider socio-cultural perspective. Following Jürgen Habermas, I divide the broader realm of society into a more or less distinct public/ political sphere and a private sphere (Habermas 1990 & in press). Since the legal system is a state institution, and also a constitutionally required function of any democratic society, it is clearly positioned within the public/ political sphere. The court is also an instrument of the law, and as a sanctioned legal institution it is situated within the stringently coded discourse sphere of the legal system in a different kind of way to many of the agents and actors who appear there in one role or another, such as police officers, witnesses, plaintiffs etcetera. In the courtroom, police officers may or may not be primary agents or actors. In police interviews police officers will almost exclusively be primary actors. The interview situation is also a non-public event that is formally defined as part of the public process of law, although it differs in important ways from the more public discourse arena of the courtroom. As such it is an interesting area for study. In this paper, however, I shall not develop a discussion of the interpreted police interview, but concentrate on the communicative frames and codes that facilitate construction of the discourse of the interpreted courtroom in some more detail.



Constructing a professional position for legal interpreters

Deaf and hearing persons belong in many ways to different *life-worlds* and thereby also different discourse spheres (Habermas in press). This has mainly to do with choices related to preferred modes and codes of communication – primarily sign-language versus spoken language. This is probably especially true in relation to the private sphere. In society at large, however, deaf and hearing people will at some stage or other end up by participating in most of the same kinds of social situations and signification processes together. Deaf people however, will still need to access many of the common linguistic and social codes within both the public and the private sphere in different ways from hearing people, amongst other things by using interpreting services and more specialised technologies such text-based telecommunication devices⁶. The primary function of the professional sign-language interpreter is as a mediating medium or communication channel between agents and actors taking part in encounters occurring across the borders of these two spheres of reference or life-worlds.



The sign-/ spoken language interpreter operates, then, within a sphere of overlap between the codes and norms of deaf and hearing culture and mediates communication between representatives of the two discourse spheres. In such situations the interpreter will to some extent often be looked upon by hearing people as a representative agent belonging to the life-world of deaf people. This can present potential problems for the interpreter during the development and maintenance of a professional

⁶ Another type of technological development starting to appear are proprietary automatic voice-to-text translation devices, as well as sign-to-text and text-to-voice systems. Present prognoses do not however envisage any degree of large-scale commercial availability for such devices before well into the next century.

persona or position within the wider social and cultural context of society. This process will clearly require that the interpreter has equal access to the domains of culture-specific knowledge belonging to both life-worlds and to the multiplicity of codes and registers that constitute these domains.

The courtroom trial is an integral part of society's legal system. The same goes for the police interview. Deaf or hearing persons participating in such situations have a need to translate individual representations of their personal experiences into text-utterances by means of the cultural, social and linguistic codes that they know best. The interpreter has responsibility for adequately (re)presenting the multiplicity of all present agents' and actors' de facto text-utterances for the court, and vice-versa, adequately (re)presenting the codes and text-utterances of the court for all agents and actors present. Validity- and truth-demands implicit in the text-norms of the legal system require that the official discourse norms of the courtroom are constituted by means of conventionalised linguistic codes designed to allow (binary) judgements of truth and validity, or otherwise, to be made on the basis of what is said.

In the next section I shall consider in more detail some of the wider range of codes and meta-codes that a sign-/ spoken language interpreter must relate to in their work in any kind of legal setting.

Codes, meta-codes and communicative power in the courtroom

The most important agents and actors present in the courtroom will generally be as follows:

THE JUDGE(S)
JURORS
LAWYER(S) FOR THE DEFENCE
LAWYER(S) FOR THE PROSECUTION

THE PLAINTIFF
THE ACCUSED

OTHER OFFICERS OF THE COURT
GUARDIANS
POLICE OFFICERS
THE GENERAL PUBLIC

THE INTERPRETER(S)

All the agents and actors listed above belong simultaneously to various discourse spheres, constituted at various levels within the wider system of frames and meta-frames that the courtroom is a part of (c.f. the model of spheres of discourse in society presented previously). Which sphere of action the interpreter is seen or perceived to belong to by the various agents and actors participating in the communicative sphere of the courtroom is extremely important. The interpreter cannot,

indeed must not, be seen to belong exclusively to (i.e. be a “member” of) either the legal sphere or to the more restricted private discourse sphere of the deaf community, but ought ideally be seen to belong to a public (professional) discourse sphere where issues related to the provision of highly professionalised interpretation services is instantiated and maintained. This will be necessary if the interpreter is to freely gather the prerequisite knowledge and skills to enable him or her to move freely between the many forms of representation required in legal settings.

An important issue that needs some examination at this point is to what extent such a specific professional public sphere of action is legitimately constituted at the present time in history. There are still very few countries in the world where sign-/ spoken language interpreter training and education, public provision of interpreter services, and interpreter assessment and accreditation are fully legitimate (i.e. legislatively validated) societal institutions. There is, in other words, still a good deal of ambiguity attached to the question of which public bodies ought to have responsibility for constituting and legitimising sign-/ spoken language interpreters as professional agents. In practice, this has to do with determining which public bodies are to be given responsibility for education and training, accreditation, evaluation and in-field development of adequate interpreting services. This is something which obviously will vary a great deal from country to country, and from culture to culture throughout the world for many years to come.

Norway is for instance in many respects a fairly privileged country as far as development of publicly funded sign-/ spoken language interpreter education and services goes. Still, it is only quite recently that a curriculum for a two-year sign-/ spoken language interpreter-training program at university level has been developed and implemented here. Some regions of Norway still lack adequate basic provisions for sign-/ spoken language interpreting services. The quality of available interpreting services varies considerably from region to region, and the provisory (state) system of assessment and accreditation for professional sign-/ spoken language interpreters is by no means able to guarantee deaf and hearing consumers consistent quality levels.

In practice, the sign-/spoken language interpreter and the deaf client(s) will as often as not (and here I speak from a certain amount of personal experience) be perceived by many of the agents and actors present in legal situations as occupying a separate discourse sphere of their own, since no one else present is a qualified sign language user. It will also generally be true to say that if there are any other competent sign language users present in a courtroom, these will seldom be invested with any degree of communicative power in relation to the discourse of the courtroom. One exception to the above-mentioned situation will be the case where an expert sign language interpreter-linguist witness is present (having for instance been previously subpoenaed by the court) cf. Nancy Frishberg’s article in the present volume. Another type of exceptional case will be where a specially qualified deaf signer is present in an official role of co-interpreter (cf. Phyllis Wilcox’ article, also in this volume). A third type of special case is where the interpreted courtroom is made the object of

study by qualified researchers with a mandate to record and analyse the ongoing discourse (cf. Graham Turner's article in this volume).

Under most "normal" conditions of legal interpreting, however, the sign-/ spoken language interpreter is, by and large unwillingly, invested with a disproportionately high degree of communicative power in relation to other agents and actors in the interpreted courtroom. He or she will have a more or less complete monopoly on how encoding of text-utterances between the various representational systems (codes) in the courtroom discourse is managed and executed, and thus also on how adequately exchange of these text-utterances occurs. If provision of an interpreter is supposed to guarantee all participants in the court the right to adequate representation, then this is obviously a far from ideal situation, insofar as there can be no form of monitoring (beyond actors' subjective perceptions of the way the flow of discourse is functioning) of the interpreter's role in the construction of the discourse. In adverse conditions this will imply a severe lack of protection of basic communicative (and thus juridical) interests for all involved parties, and in the worst possible scenario, the possibility of severe miscarriages of justice (cf. Shephard-Kegl, Neidle & Kegl in this volume).

The most obvious solution to this problem is to make it mandatory for courts to have at least one qualified sign language user present during interpreted proceedings. Another possible solution is to require video-recording of all interpreted proceedings so that possible interpreting discrepancies and misunderstandings can be cleared up at a later stage. Normally, all spoken discourse in the courtroom will be recorded in writing by the court stenographer, but the fact that something is recorded as said in this way will not *automatically* guarantee that a deaf person present with an interpreter has received the same message as the rest of the court, nor that whatever the deaf person has said has been accurately transmitted to the court.

Note that I have studiously avoided using the term "language" in the discussion above. This is not because language per se is considered uninteresting or irrelevant as a code, but because this particular model (or any approach that might be derived from it) ought to be able to account for other types of codes that are in operation simultaneously in legal interpreting situations, and which as they do so, constitute a wider system of meta-frames for the interpreted courtroom. On the level of the language code, there are the various forms of non-verbal communication mentioned previously. At another, we might call this a level of *meta-codes*, there are codes of law (which are *both* socially and linguistically constituted), as well as more implicit codes of behaviour related to the various sets of professional ethics operating within the discourse of the courtroom.

In the table below I have attempted to summarise some of the most important sets of meta-level codes, together with their cultural spheres of action, and their primary (or possibly exclusive) practitioners in the courtroom.

Code	Sphere of action	Practitioner(s)
Code A: The Law	society	the judge
Code B: The Ethics of the Legal Profession	the practice of law	defence and prosecution lawyers officers of the court
Code C: The Ethics of the Guardians of the Law	the practice of police work	the police guardians of the court
Code C: The Ethics of Interpreting	the practice of interpreting	the interpreter
Code D: The Ethics of Everyday Life	the practice of daily living	the jurors the plaintiff the accused the witness the public

Codification of the spheres of action of the interpreted courtroom

Interpreting ethics and the interpreter as subject-object.

The maintenance of a professional persona/ position as legal interpreter will require the construction, presentation and maintenance of an ethically grounded position that is functional for a wide range of different situations and for to a wide range of potential consumers of interpreting services. This position must relate to two main spheres of (communicative) action:

- the private/ (inter)personal sphere: the interpreter as subject (me/ I).
- the public sphere: the interpreter as object (professional function, role)

All agents in professions having to do with life-and-death (i.e. existentially loaded) issues involving other human beings (and their interests/ property) need to relate to this in some way or other. To that end practitioners in legal and medical professions have long established a number of special active bodies that strive to maintain high standards of education for, and ethical practices among, members of these professions.

The sign-/ spoken language interpreter in the courtroom has constantly to cope with problems involved with translating other actors’ and agents’ text-utterances – (re)presenting these persons’ subjective experiences for others – into the required codes, while at the same time managing one’s own subjective evaluations and interpretations of the situation at hand. This means viewing, and learning to understand oneself, as *subject-object*. Representation of other actors’ and agents’ positions will in legal interpreting situations occur by the constant generation, use and re-use of

various personae on the part of the interpreter. This involves more than transmission of words and sentences coded as signs, or vice-versa. It also involves skills regarding interpretation, (re)construction and (re)presentation of non-verbal modes of communication, as well as a set of skills in relation to the social and ethical codes described in the previous section.

This to a certain extent is at conflict with any idea of the interpreter as “communication technology” – the interpreter as a mere channel or medium for communication, or as a purely linguistic switching device. The legal interpreter cannot only be an object – a tool, a conduit, a channel through which communication happens through at the expense of subjectivity. Professional interpreters will be both subject and object at one and the same time, and will have to have strategies to cope with this fact.

To take account of this within a constructionist model we will also need to consider the following question: To what extent will representations of actors’ communicative intent constructed as the interpreter constantly moves between a shifting set of different personae be valid? Ideally, these representations will have the same communicative status and quality as if they were constructed by the agent or actor who is speaking at the time. In practice they will necessarily be *co-constructs*: i.e. combinations of (re)constructions of sender intent developed by the interpreter during the interpretation process, coupled with, and mediated by, components of the interpreter’s competencies in the representational forms of the codes and meta-codes of the courtroom.

The degree of success with which these *co-constructions* are developed “on-line” by the interpreter will decide to a large degree whether an adequate exchange of text-utterances in fact occurs in legal interpreting contexts. This fact strongly underlines the need for a well-developed set of ethical guidelines and practices for these types of situations. It also emphasises how important it is to work to develop adequate and highly specialised training programs, as well as stringent assessment and accreditation procedures for interpreters that are to work in legal settings.

Bibliography

- Bateson, Gregory, 1972. *Steps to the Ecology of Mind*. New York: Ballantine Books.
- Benedikt, Michael 1992. *Cyberspace: First Steps*. Cambridge Massachusetts, London: MIT Press.
- Berge, Kjell Lars 1990. *Tekstnormers diakroni. Noen idéer til en sosiotekstologisk teori om tekstnormendring*. University of Stockholm. Department of Nordic Languages.
- Berge, Kjell Lars 1993. ‘The diachrony of textual norms; or, why do genres change? A presentation of a theory illustrated by its relevance for the teaching of writing.’ In: Gunther Kress (ed.): *Domains of Literacy. Changing English*, Volume 1, Number 1. University of London: Institute of Education, Department of English, Media and Drama.
- Bourdieu, Pierre 1984. *Distinction : a social critique of the judgement of taste*. (translated by Richard Nice). London & New York: Routledge & Kegan Paul

- Bright, William (ed.) 1992. *The International Encyclopaedia of Linguistics*. New York, Oxford: Oxford University Press.
- Habermas, Jürgen 1990. *The Structural Transformation of the Public Sphere*. Cambridge, Mass. : MIT Press
- Habermas, Jürgen (in press). “Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy”. As yet unpublished English translation (To be published by MIT Press; Translator: William Rehg) of *Faktizität und Geltung. Beiträge zu einer Diskurstheorie des Rechts und des demokratischen Rechtsstaates*. Frankfurt am Main : Suhrkamp 1992.
- Kress, Gunther 1993. ‘Against arbitrariness: the social production of the sign as a foundational issue in critical discourse analysis’. *Discourse and Society*. vol 4, nr 2, 1993. 169-192.
- Papert, Seymour, 1980. *Mindstorms: Children, Computers and Powerful Ideas*. New York: Basic Books.
- Peirce, Charles Sanders 1902. Manuscript L75: Application to the Carnegie Institution (July 15, 1902). Available electronically by Gopher at: Gopher.Georgetown.edu 70 as: gopher_root:[peirce.top]top11.txt/ L75 Reading Order (Complete), 363KB.