

# The Impact of Interpreters' Linguistic Choices in Bilingual Hearings

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Interpreters have an ethical and linguistic responsibility to maintain the legal equivalence of the source language (SL) in the target language (TL), which means respecting the speaker's language level, style, tone, and intent in the target language. Berk-Seligson (1999), Morris (1999), Alvarez and Vidal (1996), and Hale (1999) assert that good interpreting hinges not only on linguistic content, but also on social, cultural, and psychological variables. Accurate interpreting must reflect both a *semantic* and a *pragmatic* view of an utterance if it is to convey the intended meaning of a speaker's speech act (Yule, 1996). Therefore, interpreters need to pay attention to the context, culture, and situation of witnesses and defendants in order to make sense of their linguistic accounts, maintain legal equivalence, and avoid putting witnesses and defendants at a linguistic disadvantage.

Immigration and Naturalization<sup>1</sup> (INS) hearings differ from regular civil court proceedings. First, plaintiffs (who are addressed as defendants) normally seek an avenue of relief such as political asylum, cancellation of removal (i.e., deportation), or residency to be able to remain in the United States legally. Second, INS court proceedings are conducted orally in English and recorded in English. Due to the growing consciousness of language rights during the 1960s and the 1970s, laws were passed to ensure equal access of linguistic minority groups to political, legal, educational, and employment institutions in the United States (Dueñas González, Vásquez, & Mikkelsen, 1991). Therefore, an interpreter is often needed to protect the linguistic rights of all the parties. The role of the interpreter is consequential, as it represents a linguistic bridge between the defendant, the witnesses, the immigration judge, and the attorneys. Interpreters are constantly confronted with both linguistic and pragmatic challenges to quality interpreting. These challenges give rise to a number of questions: How much do interpreters actually change the original testimony? What linguistic features do they tend to add or delete and, most importantly, why? What sociolinguistic factors come into play as an interpreter engages in bilingual legal interpreting (Zambrano-Paff, 2009)?

Analysis of the immigration hearings selected for this research show that interpreters altered the courtroom reality through a variety of linguistic mechanisms: inaccurate lexical choice, the use of definitions rather than equivalent words and phrases, the use of repetition, and the insertion of queries and interruptions. Despite their best efforts to interpret lexicon or expressions that were unfamiliar to them due to the defendant's register or Spanish variant, interpreters failed to maintain the legal and linguistic equivalence of the source language in the target language. Their inaccurate lexical choices changed the pragmatic force intended by the speakers and changed the content of the original testimony, thereby violating the ethical standards for interpreters set by the Federal Judicial Center.

## 1. Objectives

This paper brings to light some of the linguistic repair mechanisms immigration interpreters use when confronted with unfamiliar dialectal or regional lexicon and unfamiliar phrases in the testimony.

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<sup>1</sup> The INS has been renamed the Bureau of Citizenship and Immigration Services, or BCIS, and has become part of the U.S. Department of Homeland Security.

The focus of the analysis is on the interpreter's rendition of the testimony and its possible sociolinguistic consequences for the outcome of the hearing.

## 2. Methodology

This study examines the sociolinguistic performance of four interpreters in four different cases. The research questions this study attempts to answer are the following: What repair mechanisms do interpreters employ when confronted with dialectal lexicon, a lower register of Spanish, a non-prestige dialect, or unfamiliar idiomatic expressions? What impact do interpreters' repair mechanisms have on the testimony, pragmatically speaking? How does the interpreter's mediated rendition affect perceptions of the defendant's image, credibility, and character?

The data were drawn from four different cases involving a total of four interpreters and three judges. Conversational and discourse-analytical approaches were used to identify those areas of defendants' testimony that seemed most challenging for interpreters. The tape recorded data used for this analysis was obtained through the Executive Office for Immigration Review, Office of General Counsel, FOIA Unit, Falls Church, VA, which is the entity that issues tapes or transcripts of hearings upon request. Ethnographic notes as well as informal conversations with interpreters, lawyers, and judges were used to triangulate the results.

Immigration hearings differ from regular hearings. There is no jury or reporter present. The immigration judge conducts the proceedings and decides on the admissibility or deportability of an immigrant, i.e., the defendant. There were three immigration judges presiding over the hearings observed for this study. Two were from the United States and were monolingual, and one was from Puerto Rico and was bilingual. Of the four cases observed, three were Colombian cases and one was Dominican. The four cases were removal proceedings in which the defendant was seeking cancellation of removal from this country. The interpreters' ethnic background varied: two were from Spain, one was from Perú, and the fourth was from Nicaragua but was raised in the United States. The Spanish and Peruvian interpreters had emigrated to the United States a number of years ago and all of them had years of interpreting experience. Other participants were the defendant's attorney, the government prosecutor, the defendant, and, at times, witnesses.

## 3. Theoretical Framework

### 3.1. *Repair Mechanisms*

The issue of repair has been widely studied in conversational analysis (CA). Conversational analysts are more interested in researching the structure, sequence, and organization of everyday talk-in-interaction than in studying its correctness (Mey, 1993). Although conversation has a cooperative system of resource management, i.e., talking and letting the other talk, there are also instances in which conflict could arise in the conversation because a current speaker wants to hold the floor in the conversation. The flow of a given conversation is often interrupted due to misunderstandings or problems in the organization of talk between the parties involved. However, the local management system can restore the flow of the conversation through a set of conventions concerning turn taking (Yule, 1996).

The management of a conversation also involves prediction of what the other speaker is going to say. For example, speaker A predicts what speaker B is going to say by recognizing the type of utterance to be used in the conversation. This predictability in the sentence is achieved by the classification of utterances into adjacency pairs, which are pairs of utterances such as question/answer, greeting/greeting, request/offer, and request/denial in which a speaker provides one part of the pair, thereby making the second part of the pair predictable (Mey, 1993). The concept of repair becomes important when speakers do not maintain the contiguity of the adjacency pairs. Sacks et al. (1974) define the concept of repair as follows:

No special theoretical motivation is needed to observe that questions such as *Who me?*, the lore and practices of etiquette concerning ‘interruption’ and complaints about it, the use of interruption markers such as *Excuse me* and others, false starts, repeats or recycles of parts of a turn overlapped by another—as well as premature stopping (i.e., before possible completion) by parties to simultaneous talk—are repair devices to troubles in the organization and distribution of turns to talk (pp.723-724).

Conversationalists state that the flow of the conversation has to continue, but they are also aware of possible difficulties speakers may encounter that would be likely to interrupt the flow of the conversation and necessitate repair.

### 3.2. *The Remedial Interchange*

Everyday conversation involves many types of interactions such as question-answer, invitation-acceptance, invitation-rejection, and greeting-greeting. When a speech act may represent a face threatening act (FTA) (Brown & Levinson, 1987) to the hearer or the speaker, there is the need for a remedial interchange. According to Tracy (2002), a remedial interchange comprises four sequential parts; its sole purpose is to “remedy the feelings of discomfort caused by an offense” (p. 126). The sequence for this interchange begins with the offer of a *remedy* to try to solve the problem; it takes the form of an apology, an account, or a request. A *relief* normally takes the form of an expression that validates the remedy offered by the speaker. The next part is performed by the person who initiated the offense, who conveys an expression of *appreciation*, e.g., “Thank you very much.” The final part aims to minimize the offense (Tracy, 2002).

Conversationalists agree that the remedial interchange parts may not occur in that specific order or may not comprise all the parts; however, it is “a powerful, frequently occurring ritual” (Trabing, 2002, p. 127). Failure to offer a remedial interchange in a conversation where one is needed or expected to restore the harmony of the conversation could be perceived as inconsiderate or impolite.

### 3.3. *Self-Repair vs. Other-Repair*

According to conversation analysts such as Schegloff et al. (1977), speakers prefer “self-repair” (that is, repair effected by the speaker himself) over “other-repair” (that is, repair effected by some other participant)” (as cited in Marquéz Reiter & Placencia, 2005, p. 103). Zahn (1984) criticizes the notion of a preference for self-repair over other-repair, claiming there is no support for Schegloff’s findings. On the contrary, Zahn finds that speaker self-repair occurs when the hearer does not know what the repair should be and is therefore unable to provide one. Other-repair occurs when the speaker is the one who is unaware that there is any misunderstanding. Zahn (1984) also states that the occurrence of one repair over another depends heavily on the types of problems arising in the conversation. His study found that speakers favored self-repair over other-repair when there was a lexicon misunderstanding; however, when a speaker states something that is untrue and is not aware of the error, other-repair comes into play (Zahn, 1984). Other variables such as the intimacy of the speakers and issues of politeness play a consequential role in these two types of repair mechanisms.

### 3.4. *Highlighting*

Highlighting is one of several interactional features that may be used to gain more control over a conversation. According to Owsley and Scotton (1984), the user employs these features to gain control over sequencing information and to regulate and evaluate the content of the conversation. Highlighting has two aspects: a) clarifying, as when the speaker stops the previous turn-taker to clarify facts of the interaction, and b) underlining, as when, for emphasis, the speaker repeats a part of the previous speaker’s turn.

Some other interactional features are the use of leading questions. This is done when one speaker tries to suggest possible answers to the other speaker. There are four types: 1) Negative yes/no questions: Didn't you call X? 2) Tag questions: You called, didn't you? 3) Rising and falling interrogative affirmative statements: You didn't call? 4) Disjunctive questions (the question offers more than one choice as an answer, and the choices are mentioned in the question): What was closer to you, the chair or the table? (Tiersma, 1999). Interruptions occur when one speaker begins talking before the other speaker is finished. These may be accompanied by an apology, or not, in order to repair the conversation. An interruption or a turn beginning in the form of an interruption may be followed by what some linguists call repair or corrections. These repairs appear in the exchange to address problems in the conversation: An organization of repair operates in conversation, addressed to recurrent problems in speaking, hearing, and understanding (Shegloff, Jefferson, & Sacks, 1990, p. 31).

### 3.5. *Language and Questioning Strategies*

Linguistic strategies are explicitly identified as important tools for interrogation in the legal profession. The Examinations Handbook states that immigration officials need to be multifaceted, since questions often deal with topics of great sensitivity to the subject. Officials must endeavor to gain subjects' confidence so they will volunteer the information sought. Either in direct or cross-examination, INS officials must master techniques that will maximize the chances of obtaining the needed information, such as showing sympathy or friendliness to win the subject's cooperation. Creating a mood that is conducive to eliciting this information is a feature of both interrogating and interviewing. Finally, INS officials are taught to use correct language, that is:

What is meant by language is that officers must talk on a par with the subject's cultural level.... If slang is appropriate and the subject responds well to it, then use it WITHIN REASON [*sic*] (Immigration Law and Procedure, INS Examinations Handbook, 2001, pp. 93–95).

From a speech process perspective, questions are utterances that perform various sorts of tasks in requesting that a hearer clarify, reiterate, confirm, supply information, and/or repair the content and sense of what was previously said (Frankel, 1990). From a structural organizational point of view, questions and responses are bound together in a specific order.

Questions and answers have a well-defined order and a specific structure. This organized talk requires a speech exchange system in which a questioner imposes on an answerer an array of obligations stated in the questions. Such organized talk is not present in casual conversations, in which the types of turns speakers use are free. That is to say that there is no need for one person to remain a questioner and for another to remain an answerer in a casual conversation (Frankel, 1990). In an interrogation, however, the types of turns are not free. First of all, the answer seems to be conditioned by the type of question. Second, the answerer is not supposed to question the interviewer. Thus, interviews and interrogations are an ongoing turn-type activity in which relations between the questioner and the answerer are fixed and limited.

### 3.6. *Goals of Court Interpreting and the Court Interpreter*

During the 1960s and the 1970s, there arose a growing consciousness of language rights. During this time, laws were passed to ensure equal access of linguistic minority groups to political, legal, educational, and employment institutions in the United States (Dueñas González, Vásquez, & Mikkelsen, 1991).

The Federal Judicial Center (1989) requires that interpreters be able to translate with exactitude and accurately reflect the speaker's tone, nuances, and level of formality. Court interpreters are not permitted to provide a summary or a general idea of the original message. They are "required to

interpret the original source material without editing, summarizing, deleting, or adding while conserving the language level, style, tone, and intent of the speaker or to render what may be termed the legal equivalence of the source message...” (Dueñas González et al., 1991, p. 16). In sum, an interpreter shall render a complete and accurate interpretation, remain impartial and confidential, and be prepared for any type of proceeding or case (Dueñas González et al., 1991).

## 4. Data Analysis

### 4.1. Lexical Choice

According to Trabing (2002), interpreters should have a “working knowledge” of their language, or, in other words, “a broad knowledge, very good every day grammar and syntax and specific knowledge in many fields” (p. 14). Furthermore, Trabing recognizes that idiomatic expressions, slang jokes, and plays on words are not easy to translate, let alone interpret consecutively or simultaneously. Immigration interpreters have demonstrated a broad legal lexicon in both Spanish and English. In interpreting, cultural differences play a consequential role at both the lexico-semantic and the pragmatic level, yet it would be virtually impossible for any given interpreter to know all the jargon and other linguistic nuances of all Spanish-speaking cultures. Trabing (2002) recognizes that cultural differences can greatly influence an interpreter’s rendition. Interpreters may sometimes have to resort to linguistic mechanisms such as defining the term in question in order to render an equivalent meaning in the TL: “An interpreter may have to try [to] work in an explanation of something that is culturally very different” from anything in the target language” asserts Trabing (2002, p. 15).

In the next excerpt, the interpreter seems to have been confronted with an unfamiliar term. This particular interpreter, who is of Hispanic descent, had lived in Nicaragua for 13 years and then moved to the United States. This text shows the interpreter reaching for the correct lexical item in an attempt to compensate for her lack of comprehension and her failure to provide the semantic equivalent of the terms introduced in line 1.3. Furthermore, the interpreter’s lexical choice went unnoticed not only by the immigration judge but even by the bilingual defense attorney. The following text reflects some of the interpreter’s unperceived mistakes, which are underlined:

Excerpt 1, Case 5

1.1 Defense attorney: And what type of business was it?

1.2 Interpreter: *Y ¿qué tipo de negocio era?*

1.3 Witness: *Pues era una miscelánea.*

1.4 Interpreter: It was a miscellaneous.

1.5 Witness: *Tenía restaurante...*

1.6 Interpreter: It had a restaurant...

1.7 Witness: *...fuelle de sodas...*

1.8 Interpreter: ...it had a soda...

1.9 Witness: *...y variedades.*

1.10 Interpreter: ...and varieties.

Dueñas González et al. explain that it is nearly impossible for an interpreter to interpret using direct equivalents or cognates without running the risk of conveying a meaningless message. They stress that the interpreter must account for every word in the SL without compromising the syntactic and semantic structure of the TL. However, in the quest to interpret word for word, the interpreter featured in the above text failed to consider cultural implications that are part of the word *miscelánea*. In some Latin America countries, for instance, a *miscelánea* is a store similar to a bodega in New York. In countries like Costa Rica, Nicaragua, and Colombia, a *miscelánea* means not only a bodega, but also a convenience store or small grocery store. The person testifying in this excerpt is the defendant’s mother, who is explaining to the court that she had a business to support the family like a bodega or convenience store, namely the *miscelánea*. However, the interpreter failed to convey the semantic notion of *store* in her interpretation of the word *miscelánea*.

Line 1.7 features an interesting case with the nominal phrase *fuelle de sodas*. In most Latin American countries, one understands *fuelle de sodas* as a place where one can enjoy natural refreshment, milkshakes, carbonated drinks, ice cream, ice cream sodas, and fruit salads. In other variations of Spanish, such as Nicaraguan or Costa Rican, it could simply mean *soda fountain*, in which case it should be translated directly as *soda fountain*. However, in the Spanish variation of Colombia, which is the variation of Spanish of both the defendant and witness, *una fuente de sodas* means the place where one can enjoy a soft drink or any other non-alcoholic beverage or eat ice cream. However, the interpreter's rendition in line 1.8 is, "It had a soda," which is not what the witness said in the first place. Earlier in the testimony, the defendant was asked the same question and replied that her mother, the witness, owned a restaurant business. Had the mother, who was testifying on her daughter's behalf, failed to add that the *miscelánea* had a restaurant, she would have seemed to contradict her daughter's testimony, damage the credibility and trustworthiness of the defendant, or simply create confusion.

One striking aspect of this case is that the defense attorney is bilingual. On several occasions, I observed bilingual defense attorneys objecting because of the interpreter's lack of linguistic accuracy, which could be seen as a repair mechanism on the part of the attorney. In this case, however, the bilingual defense attorney did not object to the nonsensical rendition, in this particular context, of the word *miscelánea* as *miscellaneous*. It is possible that the defense attorney was more interested in letting the witness continue with her story so as to corroborate the defendant's version of events. Moreover, the fact that the immigration judge seemed not to notice that the English rendition did not make any sense helped the defense attorney continue with her direct examination. Another possible reason for the immigration judge's indifference to the interpreter's lexical choice might have had to do with the equity the defendant had presented to the judge. This defendant had brought compelling evidence of having been persecuted by the Revolutionary Armed Forces of Colombia, also known as FARC. The judge probably wanted to focus on the story of the attack that corroborated the equity, rather than on background information about the witness's convenience store. Also it is interesting to note that this interpreter, who was originally from Nicaragua and had migrated to the United States, seemed certain of her renditions and did not seem to be aware of the semantic and cultural load the words *miscelánea* and *fuelle de sodas* have. Therefore, she made no attempt to repair or amend any of her lexical choices.

#### 4.2. The Effect of Polysemy in Interpreting

Words or lexemes that have acquired more than one meaning are considered to be polysemic. According to Lyons (1977, as cited in Travis, 2005), polysemy occurs when one lexical form has two or more related meanings. For instance, the Spanish word *lechera* refers, in its literal sense, to a cow that produces a lot of milk; *lechera* in its related, metaphorical sense refers to a person who has good luck. The following excerpt features a case of polysemy that the interpreter was unable to figure out:

Excerpt 2, Case 6

2.1 Defendant: *Yo ya me montaba en una chiva con mi equipo...*

2.2 Interpreter: I would go in a *chiva*...

2.3 Defendant: *Bus*.

2.4 Interpreter: ...in a bus and I went with my group...

2.5 Immigration judge: Where is the letter from your group?

2.6 Interpreter: *Y, ¿dónde está la carta de su grupo?*

2.7 Defense attorney: The translation wasn't good.

2.8 Immigration judge: Miss H. I... I'm sorry but I just couldn't hear what you were saying.

If you want to make an objection, please eh...

2.9 Defense attorney: Objection, Your Honor! It's not good. He didn't say *group*, he said *equipment*!

2.10 Interpreter: Me eh, Your Honor...

- 2.11 Immigration judge: Do you want to clarify, Mrs. S.?  
 2.12 Interpreter: Yes, *repítame de nuevo, cuando usted trabajaba, ¿iba con quién?*  
 2.13 Defendant: *Cuando yo estaba trabajando con el hospital...*  
 2.14 Interpreter: [Luego]  
 2.15 Defendant: *Después que dejé de trabajar con el hospital iba con mi esposa no más.*  
 2.16 Interpreter: When I stopped working for the hospital I went only with my wife.

The interpreter begins a series of mistakes, as seen in line 2.1, by using a literal translation and an incorrect choice of words because of the defendant's use of a polysemic word, *equipo*, in Spanish. Berk-Seligson (1990) points out that such cases of polysemy—a term used in semantics to refer to a word that has more than one sense or meaning—will sometimes cause the wording of a sentence to seem ambiguous to the interpreter. Choosing a sense of the word *equipo* that did not fit the situation, she introduced the word *group*, which took the immigration judge's interrogation in an entirely new and unnecessary direction in Line 2.5. The defense attorney, in Line 2.7, recognized the error and interrupted the immigration judge's question in an attempt to correct it. The word *equipo* in Spanish is polysemous because it can mean *equipment* or *group of people*. However, in this particular case, the context should have made *equipment* the clear choice. The defense attorney seems irritated, making the judge irritated as well, since the defense attorney did not object properly to the error.

Well-trained immigration interpreters are supposed to request that the immigration judge play the tape back to give the interpreter a second chance to analyze the word in question and then choose the best meaning for it as a remedial interchange. However, the defense attorney was the one who spotted the misinterpretation and subsequent misunderstanding in the cross-examination. The immigration judge, with his interjections in line 2.8 and 2.11, offers the *remedy* by first asking the defense attorney to repeat and to formally state an objection and by instructing the interpreter to ask the defendant for clarification. The *relief* is offered by the interpreter, who asks the defendant to repeat what he had said previously.

Interestingly, the interpreter neither initiates an *appreciation sequence* nor offers any expression to minimize the mistake. As conversational analysts have pointed out in the literature, remedial interchanges need not contain all possible parts or present them in a fixed order. Also, the types of turns in a cross-examination are not free, in that the answer seems to be conditioned by the type of question. The relations between the questioner and the answerer are fixed and limited, such that a chance to complete a sequence to minimize an offense may seem inconsequential on the part of the interpreter, since she is not the one interrogating the defendant. There is no self-repair, and, because the word *equipo* in Spanish is polysemous, the interpreter seems not to notice her mistake in the interpretation.

The next excerpt displays another case of polysemy that remained unresolved by the interpreter:

Excerpt 3, Case 31

- 3.1 Defendant: *me dieron una cita*  
 3.2 Interpreter: they gave me a date

*Cita* is another case of polysemy, since it could mean *date* or *appointment*. In the context intended by the defendant, the accurate interpretation should have been the latter. Nevertheless, the interpreter opts for the first. This mistake went unnoticed by either party.

#### 4.3. Lengthened Testimony: From Fragmented to Narrative

According to Owsley and Scotton (1984) an important mechanism for lengthening the testimony of the defendant or witness is highlighting. Highlighting has two functions: a) clarifying, as when the speaker stops the previous turn-taker to clarify facts of the testimony, and b) underlining, as when the speaker repeats a part of the previous speaker's turn for emphasis. The following texts exemplify how the interpreter makes the SL testimony longer by requesting clarification and repetitions:

Excerpt 4, Case 6

- 4.1 Immigration judge: Okay, and the medical report is prepared by your brother, who is a doctor, correct?
- 4.2 Interpreter: *Y el reporte médico está preparado por su hermano que es un médico... ¿correcto?*
- 4.3 Defendant: *Es, sí, porque mi hermano es es la persona de confianza allá en el pueblo donde nosotros vivimos.*
- 4.4 Interpreter: Because my brother is the person that we trust...
- 4.5 Defendant: *Hay mucha infiltración de autodefensa que uno podía...*
- 4.6 Interpreter: In a little village that we live there was a lot of infiltration.

The above sets of adjacency pairs illustrate how the interpreter, by clarifying and repeating in an attempt to appear more accurate, adds more information. Berk-Seligson (1990) was the first to identify this phenomenon, which I refer to as *highlighting*, in which the interpreter adds material that is understood but not explicitly stated in the source language to the target language rendition. One could argue that these instances of highlighting may not have had any negative repercussions for the defendant. However, these clarification procedures violate the main principle of legal interpreting: "Interpreters must be able to translate with exactitude... while accurately reflecting a speaker's nuances and level of formality.... The interpretation cannot be summary or convey only the gist of the original source language" (Federal Judicial Center, 1989, p. 7). These alterations of the defendant's words show how the interpreter lengthens her rendition of the source language in the target language, which could potentially affect the outcome of the testimony.

#### 4.4. Definitions

The data show another mechanism by which interpreters lengthen the testimony of witnesses and defendants. By using definitions, interpreters are able to convey the meaning of a word or of slang that is unfamiliar to them.

Excerpt 5, Case 6

- 5.1 Defense attorney: How did you receive it?
- 5.2 Interpreter: *¿Cómo lo recibió?*
- 5.3 Defendant: *Lo recibió la empleada que nosotros teníamos.*
- 5.4 Interpreter: The person that we had working for us received it.

Examples of the use of a definition as a repair technique are very common. This is a clear example of the interpreter's use of definitions whenever she can't arrive at an adequate translation. Thus *empleada*, which would be *employee* in a literal translation, but in this context would mean *maid*, is replaced by its definition, as stated in Line 5.4: *the person that we had working for us*. Other instances in which definitions served as this interpreter's repair mechanism are as follows: *gente de bajos recursos* as *people that ah they don't have enough money*, and *culata* as *back of the rifle*. Defining is her way of repairing her lack of lexical precision. This interpreter's technique could have negative consequences for the defendant, since the testimony on the record could be viewed as powerless testimony. Providing a definition when what the defendant uttered was a single word not only lengthens his testimony but also diminishes his assertiveness, affecting his register and linguistic image.

This tendency to resort to definitions rather than equivalents can be as dangerous for the defendant as highlighting, since it may imply that the defendant is beating around the bush or being indirect or imprecise, and possibly has something to hide as well. Berk-Seligson's (2002) data also show that repetitive speech is associated with lack of persuasiveness. The interpreter's repeating, clarifying, and defining may have a detrimental influence on the judge's perception of the defendant.



When the defendant sounds hesitant due to the repair mechanisms adopted by interpreters, judges and trial attorneys can easily feel that the defendant is not sufficiently persuasive.

#### 4.5. Verbal Queries

In addition to the verbal tactics documented above, which interpreters use to control the flow and length of the testimony of both defendants and witnesses, there are verbal and non-verbal techniques interpreters use to get the defendant or witness to repeat an answer for them. Berk-Seligson (2002) shows in her data that interpreters use a variety of queries to get the speaker to repeat an utterance. The most common queries found in her data are *¿Cómo?*, which means *What?*; *No lo oí*, which means *I didn't hear you*; and *No oí, no oí*, which repeats *I didn't hear*. My data also show interpreters using these techniques to address the witness and ask for a repetition, often without requesting permission from the immigration judge. Lines 6.2 and 7.3 exemplify these verbal tactics:

##### Excerpt 6, Case 5

6.1 Defendant: *...y soy tecnóloga de comercio exterior.*

6.2 Interpreter: *¿Perdón?*

6.3 Defendant: *...y soy tecnóloga de comercio exterior.*

6.4 Interpreter: *...and a technologist in ...uh...*

##### Excerpt 7, Case 5

7.1 Interpreter: *...and a pamphlet...*

7.2 Defendant: *...que decía milicias urbanas de las FARC.*

7.3 Interpreter: *¿Perdón?*

7.4 Defendant: *Decía: milicias...*

7.5 Interpreter: *That would say militants...*

7.6 Defendant: *urbanas...*

7.7 Interpreter: *Urban militants of the FARC...*

7.8 Defendant: *uhumm ejército del pueblo...*

7.9 Interpreter: *...uh (0.3) army for the people...*

Besides the typical query *perdón*, meaning *pardon* or *pardon me*, these data show other verbal techniques used to get the defendant's attention. Consider the following:

##### Excerpt 8, Case 8

8.1 Defendant: *I mean no, yo dejé un... un supuesto abogado que no era abogado, chequeándome mis papeles porque vine a traer trabajo acá, me regresó la a...*

8.2 Interpreter: *[Espere, no entiendo, puede empezar otra vez.]*

8.3 Defendant: *OK, yo, yo regresé a Puerto Rico pero a la la cita de migración...*

8.4 Interpreter: *I went back to Puerto Rico to the appointment at immigration...*

8.5 Immigration Judge: *When you say the appointment because of the marriage to your wife...*

8.6 Interpreter: *La cita por el matrimonio de su esposa, la cita que tenía por el...*

8.7 Defendant: *[Sí.]*

8.8 Interpreter: *Yes.*

In Line 8.2, the interpreter needs to get the defendant's attention so that he will repeat what he just said. Because the interpreter is confused, his remedial interchange is to simply ask the defendant directly. The code of ethics for interpreters requires that the interpreter first address the judge to state either that there is confusion in the testimony or that the interpreter did not understand the defendant. It is after receiving the immigration judge's permission that an interpreter may address the defendant to

request clarification. This interpreter, however, takes the floor and prompts the defendant to repeat his testimony. Even though the testimony may have been confusing, and the interpreter may have had every reason to request that the defendant repeat himself, the interpreter still needed to ask the immigration judge for permission to request clarification.

#### 4.6. Interruptions

Interruptions are interactional features that may be used to gain more control over the conversation and to regain the floor in the conversation. In general, an interruption may be followed by what some linguists call *repair* or *corrections* to restore the conversation. The data also show instances in which interpreters interrupted the flow of the defendant's testimony.

Excerpt 9, Case 31

9.1 Defense attorney: You were re-elected as an official?

9.2 Interpreter: *¿Usted fue ele elegido como oficial (0.2) en el partido?*

9.3 Defendant: *Estaba dentro del partido y estaba en el quinto renglón para el consejo.*

9.4 Interpreter: *¿En el quinto qué?*

9.5 Defendant: *Quinto renglón, o sea en el quinto nivel.*

9.6 Interpreter: I was a member of the party and I was in the fifth uh uh level in the party.

9.7 Defense attorney: Okay.

9.8 IJ: What does that mean?

9.9 Interpreter: *¿Qué quiere decir eso?*

In line 9.4 the interpreter asks what the defendant meant by *quinto renglón*. It is clear that the defendant is using specialized political vocabulary that is part of the dialect used in the defendant's native country, Colombia. The interpreter takes the floor by interrupting the defendant's testimony without asking permission from the immigration judge to address the defendant. Interpreters draw attention to themselves by taking the floor in this manner. In such instances, defendants are likely to view the interpreter as another member of the fact-finding committee, since the interpreter not only asks them to repeat but also to define terms.

In situations like that of line 9.4, in which the interpreter requests clarification by asking the defendant, *¿En el quinto qué?*, meaning *In the fifth what?*, the interpreter is also asking the defendant to define what he means by *renglón*. This questioning directly influences the defendant's testimony, since the pragmatic force of the defense attorney's original utterance was focused on having the defendant confirm that he had been re-elected as an official. As was previously mentioned, these hearings are recorded and transcribed in English. If the defense decides to appeal the immigration judge's ruling, a board of appeals reads the transcript and makes a decision. This decision will be based solely on the interpreter's English version; any questions asked in Spanish are not transcribed. The English record will show testimony that drifts away from the defense attorney's point (highlighting the importance of the defendant's re-election). At the same time, the interpreter's intrusive queries weaken the defendant's testimony and any interruptions made by the interpreter are as intrusive as if they had been made by any judicial official in court.

## 5. Conclusion

Speech is a very complex system in which many different social, cultural, and psychological factors come into play. In testimony mediated by an interpreter, the choice of words remains in the hands of the interpreter. It is the interpreter's word choice that remains on the record, and that is heard and repeated in subsequent questions posed by other attorneys and the immigration judge. Whether or not interpreters are consciously aware of their linguistic coerciveness, they engage in an active reconstruction of events according to their own particular perspective and circumscribed by their knowledge of sociolinguistics or lack thereof.

Hale (2004) analyzed the ungrammaticalities present in her data and reviewed Chomsky's distinction between errors and mistakes (1965). Hale prefers to address ungrammaticality in interpreters' utterances as *errors* rather than *mistakes*<sup>2</sup>. She does so because she finds it difficult to determine whether these ungrammaticalities are due to competence failure or performance failure.

The interpreting problems analyzed in this study seem to be of both types. On one hand are errors stemming from cultural variability and cultural differences between the background of the interpreter and that of the defendant or witness. These errors are typically of a lexical-semantic nature, and play a consequential role, both semantically and pragmatically. They often represent problems with competence, in that the interpreter lacks an underlying familiarity with the defendant's dialect. Such errors, unfortunately, are inevitable, because no one person could possibly be familiar with all the different slang terms, for example, used throughout Latin America and Spain. On the other hand are mistakes, or performance failures, often stemming from time constraints on the immigration judge and the interpreters. The tight schedule the judges must adhere to creates pressure for the interpreters, who are reluctant to be the cause of prolonging a hearing in order to obtain clarification, even when clarification is needed.

There are some immigration judges who prefer consecutive interpreting, whereas others prefer simultaneous interpreting<sup>3</sup>. The cases analyzed in this study have involved immigration judges who prefer consecutive interpreting. This is an important detail to note, since interpreting consecutively makes interpreters feel not only less pressured to deliver the message but also somewhat more confident that there is room to interrupt for clarification purposes. When the immigration interpreters observed in this study were engaged in consecutive interpreting, they seemed to have more time to think and organize their thoughts, and also seemed to produce a more faithful rendition of the testimony. As mentioned above, time constraints are crucial. Even though the consecutive mode of interpreting buys interpreters more time to think and process the information than does the simultaneous mode, interpreters know that immigration judges are on a tight schedule. They know that most of the judges want to finish cases within the scheduled time. Interpreters may not want to delay the hearing by interrupting every time they are not sure about a term. I would also argue that interpreters also do not want to lose face in front of the judge.

When confronted with unfamiliar lexicon, interpreters feel pressured to render a translation they believe comes closest to semantically mirroring what the defendant or witness has said. However, as can be seen in the excerpts above, the interpreting has not always been accurate. As far as the types of repairs interpreters resort to, the analysis found that interpreters use the different types of repair outlined in the literature: self-repair, other-repair, interruption, highlighting, and clarifying. Self-repair took the form of queries and interruptions, as the interpreter had to stop the witness or defendant's testimony to seek clarification. Other-repair was mostly done by bilingual attorneys, and sometimes by the bilingual immigration judge. The type of remedial interchange observed displayed some of the sequences proposed by Tracy (2002). However, there were hardly any instances in which the interpreter apologized for having made a mistake or for misunderstanding the defendant. One reason for this could be the rigidity of the speech event and the nature of this type of talk. Cross-examinations and interrogations have a well-defined order and a specific structure in which the turns are not free. Therefore, it may seem unnecessary for an interpreter to apologize, since the interpreter is supposed to be an invisible entity in the first place.

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<sup>2</sup> "The difference between 'mistake' and 'error' has been linked to Chomsky's (1965) distinction between competence and performance; error relating to a lack of competence, and mistake relating to a lapse of performance (Corder, 1967, 1971; James, 1998). It is difficult to say whether the ungrammaticalities found in the interpreters' utterances were competence failures or simply performance failures caused by pressure. For this reason I opted to use the term "error" to apply to every instance" (Hale, 2004, p. 130).

<sup>3</sup> "(1) Simultaneous interpretation... usually takes the form of a whispered interpretation. This type of interpretation is used when an interpreter sits near the person receiving the interpretation and provides the translation *sotto voce*; (2) consecutive interpretation... in the U.S. courts consists of a method whereby first a question is asked and then interpreted. The reply follows and is then interpreted. Interpretation usually follows the completion of a sentence or statement. This type of interpretation is most frequently used when a non-English speaking person is on the witness stand" (Arjona-Tseng, 1985, p. 187).

## 6. Final Remarks

The data show that interpreters play a pivotal role in constructing the courtroom reality, and mitigate or magnify the culpability of defendants through coercive linguistic techniques: inaccurate lexical choice as well as the use of definitions and other repair mechanisms. Some judges and attorneys were clearly influenced by the lexical choices of the interpreters. With respect to the impact these repair mechanisms have on the testimony, it has been shown that the interpreter's intrusiveness in interrupting can restructure the questions in both direct and cross examination and therefore change the illocutionary force of the original examination. This indicates that the interpreter's linguistic choices influence other participants in these judicial proceedings. When interpreters lengthen the testimony, they change not only the quantity of words but also the quality of the testimony, turning it into powerless speech.

In addition to affecting the defendant's testimony, credibility, and character through the use of a wide variety of repair mechanisms, interpreters risk diminishing the pragmatic force of the defendant's utterance, which further weakens its credibility. The interpreter's mediated testimony may sound less persuasive due to lengthening, lack of linguistic precision, and attempts to clarify misunderstandings and unknown lexicon.

Interpreting is a culturally bound activity that confronts the interpreter with linguistic, interpretive, and cultural constraints in which enormous linguistic challenges and sociolinguistic pressures must be overcome. In immigration hearings, the interpreter's version of the testimony, as it is rendered in English, is the only testimony the monolingual English-speaking judges and attorneys will understand. The interpreter's version is the official version, the one they will use to reflect on the defendant's innocence or guilt.

Interpreters must be highly skilled and experienced to truly maintain the register, the content, and the pragmatic force intended by the speaker. Scholars such as Berk-Seligson in the United States, Hale in Australia, and Morris in England have raised awareness of the linguistic challenges interpreters face in their attempts to maintain legal and linguistic equivalence in the TL. This study should also serve to demonstrate to those in the private and public sectors, as well as to those within educational institutions, that skilled interpreting requires far more than the ability to speak a second language. Finally, an increase in the number of bilingual attorneys and judges would aid interpreters in maintaining a high level of professionalism and respect for the linguistic rights of defendants because a third party other than the defendant, witness, and interpreter would more often be present to monitor the quality of interpreting in bilingual judicial hearings.

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