

“Please make sure we don’t get this interpreter again”

Australian legal aid lawyers’ experience of working with interpreters

Han Xu

The Hong Kong Polytechnic University

Based on data obtained from semi-structured interviews with legal aid lawyers in Australia, this study examines lawyers’ experience of working with interpreters in confidential legal settings. These interviews focused on lawyers’ knowledge of the interpreting profession and their expectations of interpreting services. The findings show that lawyers overall possess a sound knowledge of how to work with interpreters, as evidenced in their recognition of the interpreter’s ethical role, their awareness of the need to accommodate the interpreter’s professional needs, and their ability to use various strategies to evaluate interpreting quality. In terms of lawyers’ expectations, they value interpreters speaking the right dialect, being patient, and complying with ethical requirements. The lawyers’ expectations of interpreting services are closely related to their professional goal. However, lawyers raise serious issues about telephone interpreting, including interpreters not working in a secure location and engaging in other activities during interpreting.

Keywords: lawyer-client interviews, role, interviews, legal interpreting, telephone interpreting

Introduction

In an increasingly linguistically diverse world, lawyers often need to provide services to clients who do not speak the language in which a particular legal system conducts business. Therefore, it is common practice for legal institutions to rely on interpreting services to enable communication between lawyers and interpreters who do not share the same language (Piatt 1990; Vernon 2011). In such a cross-lingual context, lawyers are confronted with challenges in understanding

how to work with interpreters and translating the client's legal problems into rule-oriented accounts that fit within the legal framework of the institution (Carver 2014; Reynolds 2020). Thus, being able to cope with language differences, adjust their lawyering tactics, and knowing how to work with interpreters in an effective manner become essential skills for lawyers to develop (e.g., Ahmad 2006; Inghilleri 2013). Cruz (1998: 240) points out that a "language difference can greatly challenge the lawyering skills of the average attorney and raise issues of the competent representation of the client by the lawyer." However, unlike other lawyering skills, which are normally gained through systematic training and education at law schools, the knowledge of how to work with interpreters is primarily based on individual insights accumulated through on-the-job experience (Xu 2021a).

Existing studies examining lawyers' experience of working with interpreters show that lawyers' perceptions of interpreting services, including their observation of the interpreter's performance, their understanding and expectation of the interpreter's role, and their knowledge of how to use interpreting services, are all factors shaping how they engage with interpreters (e.g., Hale 2004, 2008; Inghilleri 2013; Kaczmarek 2016; Smith-Khan 2017, 2020). The ways in which lawyers engage with interpreters have a significant impact on the interpreter's work in terms of the quality of interpreting services and the outcome of interpreted interactions (Xu 2021a). Most studies investigating the experience of lawyers working with interpreters have a strong focus on court interpreting, likely due to the availability of data from this context (Berk-Seligson 2002; Hale 2004; Tryuk 2012). However, this research trend does not reflect the reality that most legal issues are resolved outside of a courtroom (Hosticka 1979; Pecol 2017).

In fact, long before a case makes it into the courtroom, substantial time and effort are spent on lawyer-client interviews that take place in a confidential setting in which lawyers solicit relevant information from clients with the aim of transforming the client's social world problems into legal accounts (Felstiner and Sarat 1992; Maley et al. 1995). Hence, the outcome of such interviews has a substantial impact on the cases that enter into the trial stage. Yet, despite their importance in the legal process, how lawyers work with interpreters in these confidential legal interviews has not attracted much attention from researchers, and there is a lack of guidelines for addressing how lawyers and interpreters should interact with each other in confidential interviews (Gramajo 2016). The high stakes involved in lawyer-client interviews are a sharp contrast to the limited resources that have been devoted to research into this area, making it difficult to generate empirical evidence to inform training for interpreters and lawyers alike, or to develop theories and guidelines to guide practice (Ahmad 2006; Xu 2021a).

Based on an ethnographic investigation of interpreted lawyer-client interviews in Australia with data obtained from semi-structured interviews with

lawyers, this study attempts to understand the strategies adopted by lawyers when working with interpreters in a confidential setting by examining their views on different aspects of lawyer-interpreter interactions and the interpreting profession. Following this introductory section, the next section reviews the literature relevant to lawyers' experience of working with interpreters both in court and in confidential legal interviews.

Lawyers' experience of working with interpreters

In the courtroom

Studies of lawyers' experience working with interpreters have generally examined the courtroom scenario (e.g., Benmaman 2000; Berk-Seligson 2002; Morris 1995, 1999; Hale 2004, 2008; Tryuk 2012). These studies reveal constant change in communicative purposes at different stages of the trial. For example, Hale (2004: 33) shows that in an adversarial courtroom, lawyers often use non-confrontational questions during the examination-in-chief to allow more freedom for the witness to speak, while in cross-examination they tend to employ leading questions in order to discredit the other party. These different communicative goals and the according change in language strategies are likely to engender variations in their expectations of interpreters and their attitude toward them.

Earlier studies have shown that there was a prevailing notion among lawyers that court interpreters should not "interpret" – as that is an activity which only the lawyer is entitled to perform but should instead "translate" – with translation being defined as "an objective, mechanistic, transparent process" in which interpreters are denied any latitude in explaining meanings (Morris 1995: 26). In other words, an interpreter is expected to "provide a direct interpretation of what is being said, rather than to provide her personal interpretation of what was originally stated" (Vernon 2011: 249). Consequently, interpreters are metaphorically described as a "conduit" or "translation machine" (Morris 1999), a perspective which highlights interpreters' neutral position and the expectation of their non-interference in interpreted interaction. At the same time, contrary to the lawyer's perception of interpreters as neutral parties who should not interfere with the legal proceedings, empirical evidence shows that lawyers sometimes also expect interpreters to deviate from their neutral position and help advance the lawyer's professional interest by assuming extra communicative tasks. For example, Berk-Seligson (2002) reported a case in which a lawyer asked the interpreter to help elicit a desired answer from the witness in a court trial in the US. In a study of court interpreting in Australia, Hale (2008) revealed a similar situation in which a

lawyer stopped the interpreter from interpreting content that was considered disadvantageous to the client. Such practices indicate that the lawyers expected the interpreters to be selective regarding interpreting content and only convey messages that benefit the lawyer's professional goals. In the same vein, in a survey of court interpreting in Portland, Tryuk (2012) found that in contrast to the judges' frequent objections to interpreters adopting a more active role, lawyers were more likely to support interpreters showing initiative whenever it was to the advantage of their clients.

This previous research shows that lawyers' varying expectations regarding interpreters may seem contradictory. On one hand, interpreters are perceived as neutral machine-like auxiliaries who should not step out of their professional roles, yet on the other hand, lawyers expect interpreters to help promote their professional agenda and adjust their interpreting approach accordingly. Noticeably, lawyers' expectations largely align with their communicative goals and the fulfillment of their forensic requirements, i.e., to present a case favorable to their clients within any given court interaction (Hale 2004). In this context, few studies mention lawyers' perceptions of interpreting quality, and very few studies discuss how lawyers initiate coordination to facilitate the interpreter's work in court, which indicates that the lawyers did not give much attention to the interpreter's professional needs when working with them in court (Hale 2011).

In interpreter-facilitated legal interviews

There have only been a limited number of studies focusing on how lawyers work with interpreters in legal interviews. The few studies that have been conducted show that the nature of interaction between lawyers and interpreters in a confidential setting is very active and dynamic (Ahmad 2006; Inghilleri 2013; Kaczmarek 2016; Killman 2019; Smith-Khan 2017, 2020; Xu et al. 2020; Xu 2021a, 2021b). For example, in a study of interpreter's role performance in the UK, Kaczmarek (2016) interviewed a lawyer about his experience of working with an interpreter in a legal consultation. The interview shows that the lawyer did not expect the interpreter to participate in the provision of legal advice but prioritized the need for the interpreter to provide accurate and precise rendition. Kaczmarek argued that these perceptions of the interpreter's role are closely related to the conversational goals of these consultations, i.e., to allow the lawyer to pinpoint the client's problem and to help the client comprehend the situation. In her study of interpreted legal consultations in the asylum adjudication process in the UK, Inghilleri (2013), found that lawyers supported interpreters in facilitating direct communication between the lawyers and the clients without interference. However, at the same time, some lawyers indicated that they expected 'good

interpreters' to help them build rapport with their clients. Such expectations are also documented in Killman's (2019) investigation of lawyer-interpreter relations in the asylum-seeking process in the United States. It was found that sometimes interpreters are required to switch between different roles, such as those of conduit and helper, to meet the communicative needs of both lawyer and client.

Moreover, other studies show that when working with interpreters in legal interviews, lawyers pay more attention to interpreting quality and show signs of greater awareness of how they may facilitate the interpreters in achieving effective interpreted communication (Pecol 2017; Smith-Khan 2017, 2020; Xu et al. 2020; Xu 2021a, 2021b). In a theoretical discussion of lawyer-interpreter working relations in the US, (Pecol (2017) argued that lawyers should brief interpreters before any interpreted exchange and speak directly to their clients to facilitate the interpreting process. In addition, they should expect interpreters to keep all parties informed when asking for clarifications and repetitions in order to ensure unhindered lawyer-client communication. Examining interpreter-facilitated legal consultations in the asylum application process in Australia, Smith-Khan (2017, 2020) found that lawyers were aware of their responsibility for addressing and identifying issues related to interpreting. Lawyers believed it was their responsibility to request qualified interpreters who spoke the right dialect. Lawyers constantly monitored interpreting quality and intervened if they identified a misunderstanding or suspected the interpreter was not providing a complete rendition. Corroborating Smith-Khan's findings, an observational study of interpreted lawyer-client interviews in Australia shows similar results (Xu et al. 2020). This study revealed that lawyers played an active coordinating role when working with interpreters in confidential legal interviews. For example, they were observed to initiate active greetings to explain the respective roles of lawyer and interpreter at the beginning of the interview, to actively manage turn-taking, and to provide interpreters with the necessary contextual and visual information during telephone interpreting (Xu et al. 2020).

While these few studies of interpreted lawyer-client interviews are significant in revealing some of the features of lawyers' experience of working with interpreters in confidential settings, more research is required to explore the specific means adopted by lawyers to interact with interpreters to achieve effective communication. The lawyers' perceptions of the way they work with interpreters and the interpreter's performance will be useful in understanding current practice and pinpointing problematic issues to guide future practice.

The status quo of the interpreting profession in Australia

In Australia, interpreting services in both public and private sectors are recommended to be provided by professional interpreters certified by the National Accreditation Authority for Translators and Interpreters (NAATI; Hale 2011). Previously, pre-service training was not compulsory to obtain a NAATI certification, and a prospective interpreter needed only to pass a single examination. However, numerous studies have shown that professional accreditation alone does not necessarily ensure interpreter's professional competence (Hale 2011; Roberts-Smith 2009; Xu et al. 2020). Largely as a result of recommendations made in the Improvements to NAATI Testing Report (Hale et al. 2012), which provided a comprehensive review of the NAATI accreditation system, NAATI launched a new system in January 2018 that replaces accreditation with certification and makes pre-testing training mandatory for NAATI examination applicants.

However, for the majority of interpreters who are active in the market, formal interpreting training had not been a compulsory requirement at the time when they acquired their accreditation. NAATI tests over 60 languages, a figure that covers most of the languages of highest demand. However, according to the 2021 census results, there are over 400 languages spoken in Australia,¹ some of which show an increasing need for interpreters, and there is no certification available. At present, the available education and training opportunities mainly cover the most frequently used languages in the community (Stern and Liu 2019). For certain languages for which the interpreting pool is limited, sometimes the availability of interpreters is given preference over their professional qualifications (Xu 2021a). The above factors suggest that currently practicing interpreters may vary greatly in professional qualifications and competence, which is likely to generate varying perceptions among lawyers with experience of using interpreting services to conduct their interviews.

Method and data

Research method

The present study represents one component of a broader ethnographic study aiming to explore lawyer-interpreter working relations and their impact on the

1. See 2021 Australian census results: www.abs.gov.au/census/guide-census-data/census-dictionary/2021/variables-topic/cultural-diversity/language-used-home-lanp.

effectiveness of interpreted legal aid interviews in Australia.² The ethnographic study includes onsite observations of authentic interpreted lawyer-client interviews and post-observation interviews with legal aid lawyers and interpreters. Results of the observations and the interviews with the interpreters have been reported elsewhere (Xu et al. 2020; Xu 2021b). The present study concentrates on reporting findings from interviews with the legal aid lawyers to reveal their experience of working with interpreters.

Interviews, as a qualitative research method that often takes place in the form of one-on-one dialogue or focus group, have been widely used in interpreting research to identify individual or collective perceptions or expectations regarding the interviewees' experiences in interpreter-facilitated activities or any relevant experience (Hale and Napier 2013; Inghilleri 2013; Mellinger 2020). Interviews allow participants to "formulate their answers freely and in their own words," thus "affording unique insight into participants' impressions and a sound basis for qualitative analysis" (Kaczmarek 2016: 63). Interviews may provide a "richness of information that is very valuable, as it provided a level of detail that is useful to frame the analysis of the data" (De Pedro Ricoy 2017: 45). For the present study, interviews were used as the primary method to address the following three research questions:

- RQ1: How do lawyers interact with interpreters in interpreted lawyer-client interviews?
- RQ2: What are the motivations for lawyers' actions?
- RQ3: What are lawyers' perceptions and expectations of interpreters?

Data collection and analysis

The lawyers participating in this study were employees of the Legal Aid Commission in the State of New South Wales (Legal Aid NSW). Legal Aid NSW is a publicly funded legal institution that provides free or affordable legal services to eligible clients in New South Wales, Australia. Interpreting services, including both onsite and telephone interpreting, are widely used at Legal Aid NSW to help non-English speaking clients access legal services. To ensure interpreting quality, Legal Aid NSW requires that interpreters hold professional certification from NAATI.

Semi-structured interviews with Legal Aid NSW lawyers were conducted in 2016, based on a list of pre-set questions. The use of semi-structured interviews

2. Ethics clearance was obtained from the University of New South Wales (#HC15667) where the author was affiliated when the study was conducted.

offers flexibility to “explore the participant’s responses to the prompt questions, or drill down into issues raised during the conversation” (Hale and Napier 2013: 85). The planned questions were developed based on the results of observations that had taken place prior to the interviews as well as a review of the literature on the interactional aspects of interpreting activity. The observations focused on different aspects of lawyer-interpreter interaction, such as lawyers’ and interpreters’ pre-interpreting engagement, turn-taking management, the interpreter’s performance of their role, and measures taken by the lawyers to coordinate the interaction (Xu 2021b). The pre-set questions are listed in Table 1.

Table 1. Pre-set questions used in the interviews with the legal aid lawyers

1.	Do you brief interpreters before the interpreted interviews? If you do, how do you do it?
2.	How do you manage turns when working with interpreters?
3.	Which speech style do you often use when speaking through an interpreter and why?
4.	How would you describe the interpreter’s role?
5.	What do you expect of interpreters?
6.	Do you find working with interpreters challenging? If you do, why is that?
7.	How would you describe your relationship with interpreters in the workplace?
8.	How do you view interpreter’s professional status?
9.	What do you think is your role in ensuring that interpreters act professionally at Legal Aid?
10.	Are you satisfied with the way you interact with interpreters currently? Why or why not?
11.	Do you think the way you currently interact with interpreters needs to be improved? Do you have any suggestions?

The author interviewed seven legal aid lawyers, with each interview lasting approximately 20 minutes. The seven lawyers worked in different areas of law, including immigration law and social security law. All the lawyers had extensive experience working with interpreters, at a frequency of at least once each week. At the beginning of the interviews, the author briefly explained the purpose of the study and the topics that were going to be discussed and asked the lawyers to sign the consent forms. The interviews started with warm-up questions, asking what role they played at Legal Aid NSW, which areas of law they worked in, and how often they needed to use interpreting services. The author then moved on to the pre-set questions. Some of these questions were rephrased whenever it was beneficial for the discussion. Prompts and follow-up questions were used when the author sought clarification or further details from the lawyers (De Pedro Ricoy 2017; Kaczmarek 2016). At the end of the interviews, the author invited the lawyers to add comments or raise issues that were important to them but had not been covered in the pre-set question list. With the lawyers’ consent the interviews were recorded.

The author transcribed the recorded interviews and conducted a qualitative thematic analysis (Silverman 2015) based on their content using the qualitative analysis program NVivo. The transcript of each interview was first coded to identify emerging topics that related to patterns of interaction between lawyers and interpreters, and lawyers' views regarding different aspects of interpreting activity. The lawyers' accounts under each topic were then compared across the seven interviews to identify if there were common trends and recurrent themes. Lawyers' accounts under each theme were further analyzed for their content to identify representative comments (see Hale and Napier 2013: 103–104).

Results

Three major topics emerged in the data analysis process, each containing specific themes that pinpointed different aspects of lawyer-interpreter interaction or issues that commonly arise during interpreted legal interviews. These three topics are lawyers' knowledge of how to work with interpreters, lawyers' expectations of interpreter competence, and issues relating to the use of telephone interpreting. This section will present findings on these three topics to illuminate some of the features of lawyers' experience with interpreters, with representative quotes from the interviews elaborating on the different themes.

Knowledge of how to work with interpreters

The interviews reveal that legal aid lawyers recognize the interpreter's professional status and the important role interpreters played in enabling bilingual legal consultations. Lawyers also acknowledged the difficulty of the interpreter's work and identified several ways they could facilitate the interpreter's work. Specifically, lawyers understood that they should brief interpreters before the start of the interviews. They knew that they needed to speak directly to the clients rather than to the interpreters (Quote 1); that they should use small chunks and pause regularly to allow interpreters to step in and offer a rendition (Quote 2). When working with interpreters remotely by telephone, lawyers were aware that interpreters were likely to have difficulty managing turns due to a lack of visual cues. Lawyers thus actively monitored the clients' behavior and asked them to follow turn-taking rules to facilitate interpreter's work (Quote 3). Moreover, in order to achieve effective communication in a bilingual context, lawyers adjusted the way they posed questions to their clients by using simpler English, shortened phrases and clear sentence structures (Quote 4). Lawyers also welcomed interpreters asking for clarification from them before offering a rendition to the client (Quote 5).

- Quote 1: “I got taught to do that [using direct speech to talk to the clients] from other lawyers... I definitely think that’s more appropriate. You’ve already got a barrier between you and the client. You need to minimise that barrier.” (L2)
- Quote 2: “You have to talk in small sentences and they [interpreters] need to interpret that rather than giving them something bigger.” (L12)
- Quote 3: “During telephone interpreting, I’ll have to ask the client or their family to just take turns. You have to ask everyone to speak separately and just try to navigate through politely. Because if it’s interpreter on the phone, it’s hard for them. They have no idea of what is going on.” (L3)
- Quote 4: “So, being able to use clear and simple English, shortened phrases and sentences.” (L14)
- Quote 5: “So sometimes if an interpreter asks me to clarify what I have said, I don’t mind. It’s like a check for me to make me realize that I have said that properly. It’s actually beneficial.” (L2)

These findings show that legal aid lawyers possessed sound knowledge of working with interpreters, and lawyers took it as their responsibility to meet the interpreter’s professional needs to ensure successful interpreted communication. These findings provide corroborative evidence to previous studies (Kaczmarek 2016; Pecol 2017; Smith-Khan, 2017, 2020; Xu 2021b) showing that lawyers play an active coordinator role when working with interpreters in confidential legal settings, in contrast to what was found in studies of court interpreting in which lawyers did not seem to pay much attention to interpreter’s professional needs (e.g., Morris 1995, 1999). Yet, it is worth pointing out that the present study is based on the subjective impressions of a small group of lawyers who are familiar with working with interpreters in a private scenario that is not witnessed by other relevant parties. The study was conducted in Australia where quality interpreting is valued, and ethical conduct is widely promoted (Hale 2004). Therefore, the findings of the study can hardly provide a definitive account of the way in which lawyers work with interpreters in legal interviews in other countries.

On a less positive note, lawyers indicated that on occasion they found themselves suspicious of interpreting quality. One of the most frequently discussed kinds of suspicious practice was interpreters having side conversations with the clients in a language other than English without revealing to the lawyers what was said. According to the lawyers, the length of these side exchanges varied. When they were short, the impression was that the interpreters were asking for clarification/explanation or simply instructing the clients to pause so that they could offer a rendition, both of which are ethically justified practices (Tebble 2012). When

these side exchanges were longer, many lawyers suspected that the interpreters might be giving advice to the clients. When these side exchanges took place, lawyers asked interpreters to explain what was being said to the clients (Quote 6). One lawyer pointed out that it goes beyond the interpreter's role to offer their own perspective to the clients, because such a practice interfered with the lawyer's direct communication with the clients (Quote 7). Some lawyers suggested that interpreters should ask for permission from the lawyers before seeking clarification from the clients, even if it took more time (Quote 8).

Quote 6: "You can tell by them [interpreters] going on to the conversations with the clients and ignoring you are existing there. So, you got to say: 'Excuse me, interpreter, what is that? Can you repeat that? What did the clients ask?'" (L14)

Quote 7: "...but then the danger is I've been trying to simplify the question, and they try to make it more complicated...I don't think that is their role." (L2)

Quote 8: "I think that is a matter of courtesy... They should probably ask first. I think if they need to clarify, they have to do it. You know we need the conversation to be accurate. I don't think we should be worrying about the time." (L8)

In addition, failure to achieve accurate and complete rendition can have serious consequences in legal interpreting (Vernon 2011). Some lawyers in the present study suspected that interpreters provided summaries rather than a complete rendition. They drew this conclusion by comparing the length of the client's utterance with that of the rendition. If the rendition was significantly shorter than the original utterance, some lawyers became suspicious about possible interpreting inaccuracy. One lawyer stated that if she noticed such practice from the interpreters, she would ask a few questions of the interpreter to elicit a complete rendition (Quote 9).

Quote 9: "I would do it in a tactful way. I ask interpreters: 'Was that the only thing they said? Were there anymore that they wanted to add? Could you please ask the client if there is anything they want to add?' Because you can see: she [the client] spoke for ten minutes and you [the interpreter] only gave me two words." (L15)

Moreover, some lawyers based their judgement of interpreting accuracy on the clients' reactions and comments. One lawyer indicated that she would ask the clients questions to determine whether there was any confusion (Quote 10). She sometimes asked the clients to explain back to the lawyer what they had heard from the interpreter to make sure the information had been accurately conveyed.

Another lawyer stated that she rephrased the same question in different ways to the clients to see if these questions would elicit the same answer (Quote 11).

Quote 10: “I see whether the interview goes well. I see whether the client has understood, and I base on [sic] whether the client has any questions or some confusions.” (L8)

Quote 11: “I might rephrase the questions in a way that I hope will elicit the same answer. If it doesn’t, then I will assume that the client didn’t understand the questions properly or interpreting may be wrong.” (L13)

The various strategies used by lawyers in assessing interpreting quality indicate that legal aid lawyers attach great importance to interpreting accuracy, a finding that confirms previous research showing that lawyers value interpreting quality in legal interviews (Smith-Khan 2017, 2020; Xu 2021a). In particular, the practice of checking the content of any side conversations initiated by the interpreter with clients complies with Pecol’s (2017) observation that lawyers are aware of their responsibility to achieve effective interpreted legal interviews. Such strategies are useful in ensuring lawyers having direct access to the clients’ utterance, but they may not work in all cases. Due to different linguistic structures, a pragmatically accurate rendition does not necessarily mean the length of the original utterance and that of the rendition will be the same (Hale 2004). Miscommunication in interpreter-facilitated interviews cannot always be attributed to inadequate interpreting. Even in a monolingual context, clients may not always understand the lawyers’ questions and may get confused (Sandys and Pruss 2016).

Furthermore, lawyers in legal interviews seem to engage in more active participation in the provision of interpreting services compared to their performance in court. This finding is consistent with the results of previous investigations into interpreted lawyer-client interviews (Smith-Khan 2017, 2020; Killman 2019) which highlights the dynamic nature of this confidential legal exchange. The lawyers’ assumption of this active role may exist because in such settings they are the sole legal representative present and thus are obliged to ensure effective communication (Ahmad 2006). For this reason, there is a greater amount of interactivity between lawyers and interpreters: lawyers pay more attention to the interpreter’s professional needs, insofar as they have an impact on the achievement of the lawyers’ communicative goals (Kaczmarek 2016; Killman 2019). By contrast, in court the responsibility for achieving effective communication is shared among various legal parties in a more complex and intertwined fashion (Hale 2004, 2011; Tryuk 2012; Vernon 2011).

Expectations of interpreter competence

In terms of their expectations of interpreting services, lawyers indicated that interpreters should understand the client's dialect, possess some relevant legal knowledge, and confine their role simply to providing accurate interpreting (Quote 12). Lawyers were strongly opposed to interpreters offering legal advice, or providing their own explanations to the clients, or taking over the interviews on behalf of the clients (Quotes 13 and 14).

Quote 12: "The best that they can is to accurately translate the words that is being said by the client. That's the primary role, I think." (L2)

Quote 13: "Apart from that, they need to be taught ethical ways of interpreting. Ensure that they don't give legal advice during the interview." (L14)

Quote 14: "Sometimes, they are trying to explain things that are not said. That's not good." (L3)

The lawyers interviewed made a clear distinction between interpreting and interfering (Tebble 2012). They expected interpreters to comply with their code of ethics to maintain a clear role demarcation from that of the lawyers. This finding forms a contrast to the findings of Killman's (2019) study, which showed that sometimes interpreters need to assume additional tasks in order to meet the lawyers' and clients' communicative needs, such as simplifying lawyer's lengthy and indirect utterances for the clients. The present study confirms that lawyers expect interpreters to act within their ethical role boundaries, consistent with the findings of Kaczmarek (2016) and Xu (2021a). Bancroft et al. (2013: 10) argued that professional end-users were concerned about losing control of the consultations if interpreters "depart from straight and narrow translation." In this sense, the lawyers' strong support of interpreter's ethical practice is an index of their concern to maintain professional control of the interpreted lawyer-client interviews.

In addition, lawyers also expected interpreters to be respectful of their clients. Building a relationship of trust with their clients across linguistic and cultural barriers can be challenging for the lawyers (Bryant 2001). Inghilleri (2013: 93) pointed out that "for many asylum seekers, opening up to any authority figure, even one advocating on their behalf, can be difficult." Several of the legal aid lawyers revealed that many of their clients come from a background of trauma or occupy a vulnerable position in their family or society. These clients may display some challenging behaviors: they may not express themselves well and may tell their stories in a repetitive and roundabout way. This already difficult situation might be exacerbated by the presence of an interpreter because the client might be concerned about confidentiality and reluctant to reveal everything. Lawyers believed it was their responsibility to create a secure environment so the clients

could discuss their private matters in a relaxed and comfortable way. However, there were cases reported by the lawyers of interpreters becoming frustrated with the clients and using summarization, being rude and dismissive to the clients, or even shouting at the clients (Quotes 15 and 16). These behaviors undoubtedly made the clients feel nervous and uncomfortable. As a result, some lawyers recommended that interpreters should receive relevant training about treating their clients with respect, sympathy, and politeness (Quotes 17 and 18).

Quote 15: “Sometimes, I think the interpreters, perhaps they don’t have the same training of [sic] clients we deal with, get frustrated. They summarize. They maybe get a little bit cranky with the clients. Then they take over the service. They just tell you want they want to tell you.”

(L13)

Quote 16: “The interpreter was shouting at the client... I don’t know their way of talking. Perhaps it was just a shouting game. So, I had to cut the interpreter [off] because they are making the client nervous.”

(L3)

Quote 17: “They have to have empathy with the person they are interpreting for...They have to understand that it can be a difficult situation regarding what the person is to talk about.”

(L15)

Quote 18: “I expect them to be polite to the client, because they (clients) usually go through a lot.”

(L2)

Instances of verbal expression of incredulity and hostility by interpreters are also reported in Inghilleri’s (2013:88) study, in which she argued that interpreters’ aggressive behavior can generate “fear and intimidation” among asylum seekers. Focusing on bilingual medical consultations, Tebble (2012) found that it is not always easy for interpreters to interpret for patients suffering from hearing or speech difficulties because the interpreters may not hear clearly or understand what the clients said. Tebble (2012:41) suggested that a briefing be held with the client prior to the consultation in order to help the interpreter understand the patient’s special needs on the grounds that “accommodating them during the consultation are ways of empowering patients.” At Legal Aid NSW, if the lawyers knew beforehand that the client might display challenging behaviors, they could prepare interpreters through briefings (see also Pecol 2017). The legal aid lawyers in this study take it as their responsibility to establish rapport with the clients and fear that an interpreter’s intervention may jeopardize their efforts. This approach differs from what was found by Killman (2019), who shows that in some cases interpreters are expected by lawyers to adopt additional roles to help develop rapport with their clients. This finding corroborates the results of previous studies (Kaczmarek 2016), further demonstrating that lawyers’ expectations of interpreters are closely related to their professional goals.

Issues with telephone interpreting

At the time this study was conducted, telephone interpreting was widely used at Legal Aid NSW (Xu et al. 2020). Telephone interpreting is a form of remote interpreting, allowing interpreters to facilitate cross-lingual communication remotely without sharing the same physical location with the speakers. Proponents of telephone interpreting cite its cost-effectiveness, ready accessibility, and efficiency in ensuring confidentiality as advantages (Hale et al. 2022; Ozolins 2011). Despite these advantages, the lawyers interviewed in this study raised serious concerns about telephone interpreting. The primary issue is that of interpreters not being in a quiet location or not being able to ensure confidentiality while providing interpreting services. Lawyers reported cases of interpreters working in what sounded like a moving train, a public area with other people talking in the background, or at home with family members in the same room (Quotes 19 and 20). When interpreters were not in a quiet and secure location, with background noise and other people present, the external noise might make the interpreters' voice inaudible to the lawyers and clients. In such a situation, the norm of confidentiality may be violated because the interpreted information can be heard by others. One lawyer pointed out that when interpreters could not hear clearly due to background noise, they frequently had to ask for repetitions from the lawyers, which interrupted the flow of the interviews (Quote 21).

Quote 19: "They would say 'please make sure we don't get this interpreter again,' you know, for whatever reason...if they do use a telephone interpreter, where the interpreter may be on a train. Or where it's not very confidential or quiet. By what you telling [sic] the client, everybody can hear." (L15)

Quote 20: "Trains, background noise...because the interpreter is in another world, different sites. You are not contacting someone who's in the office that is solitude." (L14)

Quote 21: "When that happens, you'd hear the interpreter say, 'I didn't hear you, could you please repeat that?'. It is unprofessional. They should be in somewhere that is quiet. You have to think about what that important point that I mention. It's a full sentence or paragraph and the clients ask questions straight after. The conversation became miscommunication and mistranslation even." (L14)

Another common complaint relates to telephone interpreters engaging in other activities while interpreting. Lawyers reported cases of interpreters seemingly eating, taking care of a baby, washing dishes, or even driving during interpreting

(Quotes 22, 23 and 24). Engaging in other tasks while interpreting inevitably distracted interpreters from concentrating on interpreting, which may have affected their ability to achieve accuracy. Some lawyers chose to confront the interpreters and politely asked them to not engage in other activities while interpreting (Quotes 23), but some interpreters tried to deny this was happening (Quotes 22 and 23). In some cases, the lawyer became frustrated and had to terminate the call (Quote 22).

Quote 22: “They are driving. You can hear the family in the background. The clients sometimes wouldn’t be able to hear clearly what the interpreter say, because they are driving or having a conversation with their partners in a car. I said to them it seems that you are driving. They said no. I said I apologise I had to terminate this call and ask for another interpreter.” (L14)

Quote 23: “I’ve had interpreters eating...I’ll have to ask them to stop eating food. They try to deny it. I guess, just be professional.” (L2)

Quote 24: “...such as when you think the interpreter is actually doing something else at the same time, whether it’s driving, taking care of the kids at the same time, that you can hear in the background. Having a child potentially take the phone at one time. I think I’ve heard someone doing the dishes at some point as well.” (L10)

These comments reveal that legal aid lawyers are concerned about the quality of telephone interpreting and constantly monitor interpreters’ performance, a finding consistent with that of Smith-Khan’s (2017, 2020) studies. Significantly, the difficulties mentioned tend to be associated with interpreters’ unprofessional conduct, rather than the inherent disadvantages of telephone interpreting, such as a lack of visual cues and technical issues (Ozolins 2011). Arguably, the interpreter’s physical absence in the case of telephone interpreting does not offer an advantage for them to act less professionally and perform to a lower ethical standard. These unprofessional practices reported by the lawyers to some extent reflect the current state of the community interpreting profession in Australia, that the level of interpreter professionalism is not always satisfactory (Xu et al. 2020). Such unprofessional behavior also reflects poorly on interpreters’ professional image, making it less likely for lawyers to recognize and treat interpreters as professionals.

Conclusion







Based on data obtained from semi-structured interviews with seven Australian legal aid lawyers, the present study revealed lawyers' experience of working with interpreters in confidential legal interviews and their expectations of interpreting services. The findings show that legal aid lawyers possess a sound knowledge of how to work with interpreters, as evidenced by their willingness to facilitate the interpreter's work, their recognition of the interpreter's ethical role boundaries, and their employment of multiple strategies to assess interpreting quality. These findings support the results of previous research on interpreted lawyer-client interviews, which showed that lawyers play an active coordinator role in ensuring the delivery of adequate interpreting in confidential legal interviews (e.g., Inghilleri 2012; Smith-Khan 2017, 2020; Xu 2021a, 2021b). Lawyers' efforts in accommodating the interpreter's professional needs are closely related to their professional goal, i.e., to ensure effective communication with their clients via adequate interpreting (Kaczmarek 2016). Legal aid lawyers maintained firm control over their professional domain, including establishing rapport with the clients, and did not expect interpreters to share their professional responsibilities, a contrast to what was found in Killman's (2019) study. The present study also revealed that many issues raised by lawyers are linked to interpreters' professional competence and ethical conduct. These findings suggest that more training is required for interpreters in terms of their ability to comply with ethical requirements, to deal with physically and emotionally vulnerable clients, and to possess relevant legal knowledge to perform adequately in this particular legal setting.




The present study is among the first to investigate interpreted lawyer-client interviews, a barely researched area in interpreting studies. It is hoped that the findings presented here will prove useful in increasing knowledge of interpreted lawyer-client interviews and informing the design of relevant training and guidelines for interpreters and lawyers alike to resolve the issues raised in the study. An interpreted lawyer-client interview is a highly complicated process, which means that the interaction between lawyers and interpreters is constantly changing and cannot be fully depicted based on lawyer's subjective accounts collected in 2016. Future observational studies are needed to investigate the interactional routines and dynamics of participation in authentic interpreted exchanges (Biagini 2016). The data obtained from such observational studies can be used by researchers to conduct micro-descriptions and analysis of the patterns observed, thus corroborating the findings of the present study to reveal the features of interpreted lawyer-client interviews.





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Address for correspondence

Han Xu
 Department of Chinese and Bilingual Studies
 The Hong Kong Polytechnic University
 Kowloon
 Hong Kong
 han12.xu@polyu.edu.hk

Biographical notes

Han Xu is an Assistant Professor at the Department of Chinese and Bilingual Studies at the Hong Kong Polytechnic University. She is a practicing interpreter. Her research interests include corpus-based interpreting studies, interpreting technology, and community interpreting.

 <https://orcid.org/0000-0001-5493-6857>

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