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DOING JUSTICE TO THE MANNER: INTERPRETING LAWYER QUESTIONING FOR MULTILINGUAL MIGRANTS IN AUSTRALIAN VIRTUAL COURT PROCEEDINGS

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Abstract

In our globalised world, interpreting the language of law in court is never an easy job. Justifiably, much of the public and professional attention has fixated on the content of the utterances in high-stake institutionalised courtroom discourses, since what is said seems to be more substantive than how it is said when it comes to sentencing and judicial decisions. However, in our study, we establish a counterclaim that the long-neglected manner in which the lawyers and defendants express the content that (re)produced and (re)presented by interpreters in technology-enabled remote criminal proceedings is equally important. To bridge this gap in knowledge, we conducted mixed-methods research, surveying fifty certified interpreters in Australia and triangulating results with their interpreting performance data. Our initial findings point to a mismatch between what they said they would do with what they actually did. Despite expressing ethical decisions on reproducing manner-related features, interpreters still misrepresent lawyers' questioning techniques, particularly tag questions in court. One possible explanation could be language-specific difficulties in attaining paralinguistic accuracy in interlingual and intercultural transfers. The contributions of this study include (1) increasing linguistic 'manner awareness' in specialised court interpreting, (2) promoting interprofessional understanding and collaboration, and (3) compassing targeted pedagogies in future interpreter education.



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Keywords: Globalisation. Migration. Multilingualism. Court interpreting. Manner. Lawyer questioning.

Resumen

En nuestro mundo globalizado, interpretar el lenguaje de la ley en los tribunales nunca es una tarea fácil. Gran parte de la atención pública y profesional se ha centrado en el contenido de las declaraciones en los discursos institucionalizados de alto riesgo en los tribunales, ya que lo que se dice parece ser más sustancial que cómo se dice cuando se trata de sentencias y decisiones judiciales. Sin embargo, este artículo investiga la manera, largamente olvidada, en que los abogados y los acusados expresan el contenido (re)producido y (re)presentado por los intérpretes. Se argumenta que la forma y el contenido son igualmente importantes. Para cerrar esta brecha en el conocimiento, se llevó a cabo una investigación de métodos mixtos, encuestando a cincuenta intérpretes certificados en Australia y triangulando los resultados con sus datos de desempeño en interpretación. Los hallazgos iniciales apuntaron a una discrepancia entre la conciencia de los intérpretes y su desempeño real. Este artículo tiene como objetivo aumentar la conciencia sobre las características relacionadas con los modales en la interpretación judicial y la educación de los intérpretes.

Palabras clave: Globalización. Migración. Multilingüismo. Interpretación judicial. Manera. Interrogatorio del abogado.

1. Introduction

1.1. *Globalisation, migration, and multilingualism*

There is no denying that our world has become increasingly globalised. According to the United Nations' International Organization for Migration, there are more than 281 million migrants worldwide, due to various reasons, including war refugees, socio-economic under-privilege, educational prospects, and persecutions based on political, religious, gender, and ethnic identities¹. This figure means that one in every 30 people is a migrant worldwide. In response to the growing immigration, governments in major migrant host societies have acknowledged the fact that societies

1. See the United Nations. International Organization for Migration. World Migration Report 2022. Retrieved from <https://worldmigrationreport.iom.int/wmr-2022-interactive/>. Accessed 01/05/2023.

nowadays are becoming more diverse ethnically, linguistically, and culturally. In response to the intensified globalisation and increasing influx of immigrants, legislators, regulators, and policy-makers have gradually initiated endeavours to institutionalise multilingualism and multiculturalism. For example, in Australia - a country with nearly half of its population born overseas², the federal government has officially recognised multilingualism and multiculturalism by means of legislative and regulatory instruments (Smith *et al.* 2021).

1.2. Access to adequate court interpreting: procedural justice and linguistic equity

The right to a fair trial is an indispensable human right. There is a convincing number of studies that approach such a right from linguistic human rights (see Skutnabb-Kangas & Phillipson 2023), procedural justice (see Namakula 2022; Ng 2023), and linguistic equity (see Angermeyer 2015). No matter which perspective is employed, the right to a fair trial is manifested through three main aspects: (1) the right to speak or use one's own language in court, (2) the right to representation in one's own language, and (3) right to give evidence in one's own language, as etched in fundamental codes and conventions at international (see UNICPRR 1966)³, supranational (see EU Directive 2010/64)⁴, national (see Evidences Act Cth

2. See Multicultural Australia: Australia's multicultural statement. Retrieved from <https://www.homeaffairs.gov.au/mca/Statements/english-multicultural-statement.pdf>. Accessed: 10/03/2023.

3. See Article 14 (1), (3a), and (3f). International Covenant on Civil and Political Rights (ICCPR). United Nations. 1966. "All persons shall be equal before the courts and tribunals...3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him; (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court." Retrieved from <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>. Accessed: 10/03/2023.

4. See EU Directive 2010/64 of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings. Retrieved from <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:280:0001:0007:en:PDF>. Accessed: 01/05/2023.

1995)⁵, and local levels (see Evidences Act NSW 1995)⁶. All these normative and non-normative efforts have established the importance of access to adequate court interpreting as a precursor for procedural justice and linguistic equity.

In Australia's multilingual and multicultural society, the court system has adopted supportive measures for multilingual populations with limited English proficiency to access court interpreting in both face-to-face and remote settings. Reviewing the historical evolution of the profession, three milestones have been made in guaranteeing the provision of interpreting services in court. Firstly, agencies have been authorised to ensure equitable access to court interpreters. These agencies include Law Access, the Department of Communities and Justice, and the Community Legal Centre. Secondly, a nationwide database of certified interpreters is hosted under the Translation and Interpreting Service of the Department of Home Affairs of the Australian Government, following a well-established NAATI certification system⁷. In accordance with the access and equity policy, the Translating and Interpreting Service (TIS National) is an interpreting service provided for people who do not speak English and for agencies and businesses that need to communicate with their non-English speaking clients. TIS National has more than 70 years' experience in language services and access to more than 2700 interpreters in more than 150 languages. It

5. See Australia Law Reform Commission. The movement towards a uniform evidence law. The Evidence Act 1995 (Cth) provided a comprehensive law of evidence to apply in federal courts and, with the agreement of the Australian Capital Territory, in the courts of the ACT. In 1995, New South Wales enacted similar legislation. <https://www.alrc.gov.au/publication/uniform-evidence-law-alrc-report-102/2-the-uniform-evidence-acts/the-movement-towards-a-uniform-evidence-law/>. Accessed: 01/05/2023.

6. See Section 30 Interpreters, Evidence Acts NSW, 1995. "A witness may give evidence about a fact through an interpreter unless the witness can understand and speak the English language sufficiently to enable the witness to understand, and to make an adequate reply to, questions that may be put about the fact." Retrieved from <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1995-025>. Accessed: 09/03/2023.

7. See Australian Government Department of Home Affairs. Translation and Interpreting National Service. Retrieved from <https://www.tisnational.gov.au/>. Accessed: 01/05/2023.

provides telephone and video remote interpreting, and on-site interpreting. Thirdly, institutions such as professional associations, advocacy, advisory, and consultation bodies have initiated dedicated resources to facilitate intra-professional solidarity, interprofessional understanding and collaboration, and paraprofessional training in the form of continuous professional development (CPD) lecturers, seminars, workshops, short courses, and documentations.

In the process of professionalisation and certification, three developments are particularly noteworthy. The first is the Code of Ethics and Code of Conduct announced by AUSIT in 2012⁸. The Code contributes to a thorough understanding of the meaning and importance of adequate interpreting. As explained in the Accuracy Principle (2012: 5-10),

(professional interpreters) should provide accurate renditions of the source utterance or text in the target language. In this case, accurate means (1) optimal and complete; (2) without distortion or omission; (3) preserving the content and intent of the source message or text. [Interpreters] should be able to provide an accurate and complete rendition of the source message using the skills and understanding they have acquired through training and education, not adding to, altering, or omitting anything from the content and intent of the source message. In case of any interpreting mistakes, professional interpreters are expected to acknowledge and promptly rectify these mistakes and ask for clarification, rephrasing, repetition, or explanation if anything is unclear where circumstances permit.

The second is the Certified Specialist Legal Interpreter (CSLI) test launched by NAATI in 2022⁹. In Australia, NAATI is the national standards and certifying authority for translators and interpreters. NAATI's certification system offers eight different credentials for translators and interpreters under two broad categories: certification (by sitting tests) and recognised practising (when tests are not available in your language). For interpreters, there are four tiers of certifications: Certified Provisional Interpreter (entry

8. Australian Institute of Interpreters and Translators (AUSIT) Code of Conduct. Retrieved from https://ausit.org/wp-content/uploads/2020/02/Code_Of_Ethics_Full.pdf. Accessed: 13/03/2023.

9. See NAATI Certified Specialist Legal Interpreter (CSLI). Retrieved from <https://www.naati.com.au/become-certified/certification/certified-specialist-legal-interpreter/>. Accessed: 01/05/2023.

level generalist test for spoken and sign languages), Certified Interpreter (higher level generalist test), Certified Specialist Interpreter (high level specialist test in the health and legal domain), and Certified Conference Interpreter (high level complex and specialist in conference situation).

Different certification types are offered for different purposes to reflect the changing needs of our multicultural community. The CSLI test is intended for experienced and accomplished interpreters who are experts in interpreting in the legal domain who have completed training and undertake continuous professional development in specialist legal interpreting. CSLIs are highly competent language users who understand specialised terminology and have extensive knowledge of the legal domain. They have full and detailed knowledge and understanding of how culture and language interact and the relevant codes of ethics and professional standards in the legal domain. Candidates must hold a Certified Interpreter certification to be eligible to sit the Certified Specialist Legal Interpreter test. The heightened eligibility criteria testify to the raised bar for court interpreting and the recognition of court interpreters as specialised experts.

Interpreters should aim to achieve accuracy in the tone, register, and other aspects of how the information is conveyed. For example, competent and ethical interpreters must not omit linguistic features, whether hesitation or confidence, provided in answers that they deem irrelevant to the original question (JCCD, 2022, p.67).¹⁰

The normative instruments have provided sufficient grounds for attending to manner-related features in lawyer questions asked during courtroom examinations. As an indispensable aspect of the accuracy of court interpreting, lawyer questions in courtroom examinations should be understood in a holistic way by harnessing knowledge and expertise in neighbouring disciplines, such as legal reasoning and the language of the law.

10. See Judicial Council on Cultural Diversity and Inclusion. 2022. Retrieved from https://jcdi.org.au/publications/national_standards_interpreters/introduction. Accessed: 09/03/2023.

1.3. *Lawyering: just questions or questioning techniques*

The notion of 'lawyering' has been highlighted by many legal scholars (see Simon 1987; White 1988; Sarat and Scheingold, 1998; Hazard and Hodes 2001). The cursory definition of good lawyering is very complex, as the language of the law is nuanced and indexed by political, ideological, cultural, and jurisdictional specificities.

From a legal training perspective, lawyering refers to the expertise and techniques related to practical court skills, such as reasoning, negotiating, persuading, and questioning. According to the Australian Law Society Bar Association, the median age of a licensed solicitor is 42 years old¹¹. Much of these years are spent on formal legal education and specialised training, including but not limited to law school education, practice modules, continuing professional education, and supervised readership in a chamber. Most law schools dedicate specific terms and resources to legal reasoning modules and mooted practicals that contribute to the granulated exercise and sharpening of questioning techniques in simulated court settings. It is thus reasonable to assert that a good lawyer has sophisticated weaponry of questioning techniques at their disposal in court.

Indeed, it has been widely acknowledged that questions asked by lawyers during courtroom examinations are not merely questions (see Lakoff 1979; O'Barr 1982; de Jongh 1992; Laster & Taylor 1994; Hale 2004; Olsson 2008; Coulthard *et al.* 2010/2020; Coulthard *et al.* 2016). Courtroom questions are carefully crafted techniques that are rehearsed by lawyers repeatedly before representing their case in solemn court proceedings. With an overarching aim to interrogate, expose any inconsistencies, and outmanoeuvre the cunning criminal in court who exhausted all means to survive the trial with a lesser sentencing or a favourable outcome.

But how accurately are lawyer questioning techniques (re)produced and (re)presented through an interpreter remotely to migrants during courtroom examinations? How could judicial outcome change if jurors were better informed and capable of distinguishing the manner in which

11. See Australian Law Society. 2018 National Profile of Solicitors. Retrieved from https://www.lawsociety.com.au/sites/default/files/2019-07/2018%20National%20Profile%20of%20Solicitors_final%20report_190619.pdf. Accessed: 01/05/2023.

the lawyers phrase their questions from the manner (re)produced by a court interpreter? Admittedly, the interpretations of the manner of speech by interpreters for migrant populations in court have long escaped our attention. Only a few studies touched on the importance of reproducing manner-related features in court interpreting (see Berk-Seligson 2002; Hale 2004; Lee 2009, 2011; Liu 2020; Yi 2022). However, a review of these studies reveals several gaps. One is that most of the existing studies about the manner were conducted in face-to-face courtrooms. Little has been known about the interpretation of the manner in remote settings. The other gap is that the specificities of Mandarin discourse markers and other manner-related features in court remote settings remained under-explored.

1.4. Research aim, questions, and the structure of the article

To bridge these gaps in knowledge, we examine the less-investigated aspect of the English-Mandarin Chinese interpretations of the manner of lawyer questioning by professional Mandarin interpreters in multicultural Australian virtual court proceedings. Table 1 displays the research questions, corresponding data sets, and analytical methods.

Research questions (RQ)	Data sets	Analysis Methods
1. How aware are interpreters of the importance of the manner of speech in court?	3 × free-text comments in 100 questionnaires	Content analysis
2. How accurately did interpreters reproduce the manner of lawyer questioning in courtroom examinations?	2,250 minutes of recorded interpreting performance 11,595 words of transcribed texts	Discourse analysis

Table 1. Research questions, data sets, and analytical methods

Following this introductory section, Section 2 will describe the demographic profiles of consenting participants, stimulus materials, and procedures. Section 3 will present the survey and interpreting performance results and discuss triangulated findings. The last section will summarise the main insights, limitations, and suggestions for further study.

2. The Study

2.1. Participants

A total of fifty participants were recruited. Eligible participants are at least 18 years of age, Australia-based, NAATI-credentialled interpreters with appropriate equipment (computer, headphones, microphone, internet access and Zoom application), at least Certified Provisional certifications (the entry level generalist interpreter) in Mandarin Chinese and English language combination and with more than one year of professional experience working as an interpreter in Australian courts, preferably in remote settings, who consented to the terms and conditions listed in the Participant Information Sheet fully approved by the funding institution¹².

2.2. Stimulus materials

In response to RQ1, we developed two sets of questionnaire and circulated the survey instrument via the UNSW Qualtrics platform. The pre-experiment questionnaire collected demographic information and the interpreters' prior knowledge of the the meaning and importance of the manner-related features through knowledge quiz and open-ended questions. The post-experiment questionnaire elicited the interpreters' views, perceptions, professional decisions, and strategies about the interpretation of the manner-related features. Table 2 lists the open-ended question items.

No.	Questions
1	Do you think the manner of speech serve any function in courtroom questions? If so, please specify.
2	What types of manner of speech did you recognise when interpreting?
3	What challenges did you encounter when reproducing the manner-related features?

Table 2. Open-ended questions

12. The mixed-method human research project obtained the ethics approval from the Human Research Ethics Committee at the University of New South Wales (HC210787) on 15 November 2021.

In response to RQ2, an experiment was conducted remotely on Zoom. The aim of the experiment was to identify the interpreters' ability to accurately render the manner in which the lawyer questions the defendant in remote settings.

2.3. Procedures

Participants first booked their individual experiment sessions with the researcher. For logistics purposes, each interpreter first chose their preferred experiment session from a list of available time slots via the Doodle online scheduling platform. Then, each participant received an invitation letter with a confirmed time and encrypted individual Zoom session code and link. On the day of the experiment, each participant joined the dedicated Zoom session. Following a short briefing lasting five minutes, the participant listened to the pre-recorded simulated criminal trial proceedings¹³.

The simulated trial materials used in the experiment included a script and a role-play recording. The script, which was not shown to the interpreters but for the researcher's and later the markers' reference, was developed in consultation with lawyers and experts on the subject matter. For the purpose of this research, it included manner-related features and points of interactional management scenarios. For example, the defendant directly addressed the interpreter; there was room for an interpreter to respond and clarify the role boundary. The role-play recording featured the judge, the prosecutor, the defence lawyer, and the Mandarin-speaking defendant in the drug trafficking case. The duration of the original recording was 2 hours, including the examination-in-chief and cross-examination. However, for this study, only part of the trial recording containing the majority of the manner-related features was selected and used in the experiment. To examine the accuracy of interpreting the manner-related features, the adapted criminal trial recording did not include strong accents.

13. In regard to the experimental part of the present study, the author would like to acknowledge the use of script and recordings from the Australia Research Council (ARC)-funded Discovery Project (DPDP170100634) with permissions from the chief investigators and people featured in the video.

Both the English and Mandarin speakers were native speakers with the standard accent. In the adapted recording, there was only one terminology, a drug name that was not particularly difficult for generalist interpreters, and the accuracy of content was not assessed. For video remote interpreters, they had visual access to both the front and bench of the court through a split-screen design (see the screenshot below).

Interpreters were randomised into different modes and conditions of remote interpreting. Depending on the mode of interpreting and individual circumstances (e.g. time for clarifications and pause for logistic purposes), each session lasted about forty-five minutes on average. Their interpreting performance on Zoom was recorded for further transcriptions and analysis.

Following the interpreting experiment, participants were provided with an encrypted link to the questionnaire in the Zoom message with the individual access code. Participants completed the questionnaire online during the Zoom session. On average, participants spent ten minutes on the questionnaire. After ensuring their responses were securely recorded, the researcher debriefed the participant and thanked the participants for their time and contribution with a confirmation of participation email.

3. Results and Discussions

3.1. Survey: the content analysis of written responses

3.1.1. The importance of manner

An exploratory approach was adopted in the processing of the interpreters' written responses to the open-ended question 'Do you think the manner should be interpreted'. Two themes emerged from the interpreters' responses: (1) manner should be interpreted because it was important for accuracy in court interpreting and (2) it should be interpreted because it was important for adequacy in court interpreting. Text Box 1 emphasises the importance of accurate interpretations of the manner in court.

Original response in Mandarin Chinese:

如果是刑事案件庭审的话,尤其是那种有陪审团的,我觉得这个有必要把证人的说话风格给翻出来。说不好,这会影响这些陪审员对证人的影响、整体感观这类的。这都很不好说的。责任重大啊!

English translation:

If it's a criminal case trial, especially jury cases, I think it is very important to translate the witness's manner of speech. It is very tricky, it (the manner of speech) may affect his or her (the witness) impression on the jurors, general perception, and the like. You can never underestimate the heavy responsibility we shoulder!

Text Box 1. The importance of accurately interpreting the manner in court

The above example reflects the severity of consequences for any misinterpretation of the manner in court, particularly for criminal trials involving jurors who are not trained as forensic experts or legal professionals. Text Box 2 touches on the importance of adequate interpretations of the manner in court.

Original response in Mandarin Chinese:

这样理解吧,尽量忠实准确传译是我们口译员的职业操守,我们也不应该擅自概括非英语母语讲者或法律专业人士的话。

English translation:

Well, to interpret as accurate as we can is part of (what is written) in the Australian interpreter's Code of Ethics, we are not supposed to summarise what the speakers of languages other than English or the legal professionals had said.

Text Box 2. The importance of adequately interpreting the manner in court

To sum up, both examples stress that ethical interpreters in court shoulder heavy responsibilities and their commitments to adequate interpretations of the manner of lawyer questioning, as evidenced by intolerance of abstractions, additions, or omissions when reproducing lawyer questions to migrant defendants in criminal proceedings.

3.1.2. *The understanding of lawyer questions*

Our data indicated three categories of functions of lawyer questions in courtroom examinations: (1) attitude or mood marker, (2) strategic devices,

and (3) leave time or space for maneuvering. Text Box 3 shows the example of the interpreter’s written response regarding the manner-related feature functioning as an attitude or mood marker in lawyer questions.

<p>Original response in Mandarin Chinese: 可能因人而异吧。每个人对于词语和语气的解读是不同的。但多少能听出律师或是被告的一些心理状态, ‘他说没说谎’之类的。</p>
<p>English translation: It depends. Perhaps it means different things to different people, how different people interpret (the meaning of) words and tone. But somewhat (it helps me) understand the psychological status of the lawyer or the defendant, like ‘is he telling the truth’, sort of.</p>

Text Box 3. Attitude or mood marker

The example above highlights the function of lawyer questions as an indication of his or her attitude towards the defendant, particularly relating to his or her subjective evaluation of the convincingness of the defendant. Text Box 2 showcases the lawyer questioning techniques as strategic devices.

<p>Original response in Mandarin Chinese: 我认为, 律师很聪明的, 肯定是话中有话, 法庭上绝不可能随便用词乱问问题。</p>
<p>English translation: I think, lawyers are extremely intelligent, they must be very meticulous with their word choice in their language use and questioning techniques. They (lawyers) will not randomly throw out questions that serve no purpose at all in court.</p>

Text Box 4. Strategic devices

The example above illustrates that questioning techniques are often ‘weaponised’ by lawyers to achieve a certain strategic aim in court. Text Box 3 demonstrates that the questions can leave lawyers some time or space for manoeuvring in court.

Original response in Mandarin Chinese:

上面有些词是在句首，一开始就说，我觉得她可能是有自己的想法，比如缓和一下、整理思路之类的，好方便下面再盘问。

English translation:

These words listed above, some are at the beginning of the sentence. First off, speak it out, I think, she (the prosecutor) may have her own thoughts, like, take her time, organise her thoughts so that (she can) better phrase her upcoming questions in the cross-examination.

Text Box 5. Leave time or space for manoeuvring

To sum up, the three examples share a common note on the strategic use of questions by lawyers to present their case in court. However, a certain degree of agency in the interpretation is also hinted, since understanding what is intended and what is implied by the lawyer varies from one interpreter to another.

3.1.3. Difficulties of reproducing the manner in lawyer questions

In regards to difficulties when reproducing the manner in lawyer questions, participants reflected on their interpreting strategies and professional decisions on how to adequately render the manner. Text Box 6 sheds light on the difficulty of comprehension.

Original response in Mandarin Chinese:

风格这个很难翻的。每个人理解还都不同。有时候，我觉得还是照葫芦画瓢，人家原来怎么说我们就怎么翻，省着自己判断错了，语气哪里不对了。逐字逐句我看也没问题。

English translation:

Style or manner is really difficult to translate. Every one has their own understanding, not necessarily the same. Sometimes, I still think it is better to mimic the original speaker. How did the original speaker say it? Then we did the same in the exact same way. What if I made an incorrect judgment (regarding what has been said) in the wrong way (intonation or tone)? Save me the trouble. Word-for-word, I had no problem with it.

Text Box 6. Difficulties

From the example above, the interpreter exposes the uncomfortable yet universal truth that hardly anyone can see through the cognitive black box

of the other person when s/he is producing intended or implied utterances. Particularly, the understanding of intonation or tone of voice is highly intricate and reliant on specific institutional, situational, cultural, linguistic, contextual, and epistemological information. The use of the four-tone intonation system in spoken Mandarin Chinese communication further compounds the complexity, not to mention the nuanced perception in dialects and regional or local language variations in the geographically extensive, ethnically, linguistically, and culturally diverse China.

3.2. *Interpreting performance: the discourse analysis of tag questions*

Following Hale’s (2004) taxonomy of tag questions, our discourse analysis of transcribed interpreting performance data in text formats unveils three tendencies: (1) omissions of ancillary tags in lawyer questioning; (2) alterations of tag questions, including positive declarative with negative tags and negative declarative with positive tags; and (3) moderations of force reflected by softening “I put it to you” declarative in lawyer questions.

3.2.1. *Omissions of auxiliary tags*

In our data, we identified two types of declaratives with auxiliary tag in lawyer questions. Table 4 shows the distributions of omitted ancillary tags in cross-examination questions.

Categories	Number of original	Number of interpretations
Positive declaratives with auxiliary tag	150	37 (24%)
Negative declaratives with auxiliary tag	100	18 (17.14%)
Total	250	55 (22%)

Table 4. Omissions of ancillary tags in cross-examination questions

From the table above, a total of two hundred and fifty declaratives with auxiliary tags were found in original cross-examination questions: one hundred and fifty in positive and one hundred in negative. However, in the interpretations, fifty-five ($n_o = 55, 22\%$) were translated into simple

declaratives with tag omitted, including thirty-seven ($n_{o-p} = 37$, 24%) in positive and eighteen in negative ($n_{o-n} = 18$, 17.14%).

3.2.2. Alterations

In interpreted tag questions, two common types of alterations were found in positive declaratives with negative tags and negative declaratives with positive tags.

3.2.2.1. Positive declaratives with negative tags

In cross-examination, one example of positive declaratives with negative tags asked by the crown prosecutor is shown below.

Example 1

Crown: I put it to you that you used the Glucodin to cut the drugs so you could sell them. Didn't you?

Table 5 below showcases the alterations of Example 1 found in the interpretations.

Type of alteration	Interpretations in Mandarin Chinese	Romanised pinyin	Gloss English translation
1. Positive declaratives with positive tags	我这么跟你说韩先生，你用Glucodin物质，你其实是为了去把毒品切割开去方便你卖的，【是吗】？	wǒ zhè me gēn nǐ shuō hán xiān shēng, nǐ yòng Glucodin wù zhì, nǐ qí shí shì wéi le qù bǎ dú pīn qiē kāi qù fāng biàn nǐ mài de, 【shì ma】？	I put it to you, Mr. Han, you used Glucodin, actually to cut the drugs for sales, did you?
2. Declarative	你把毒品把它分拣下来，然后进行售卖。	nǐ bǎ dú pīn bǎ tā fēn jiǎn xià lái, rán hòu jìn háng shòu mài.	You cut the drugs and then sell them.
3. Yes or no tag	我这么跟你说，你用这个物质是把放在毒品里面，让他们的减弱他们的浓度，然后这样你就可以可以去卖他们，【是不是】？	wǒ zhè me gēn nǐ shuō, nǐ yòng zhè ge wù zhì bǎ fàng zài dú pīn li miàn, ràng tā men de jiǎn ruò tā men de nóng dù, rán hòu zhè yàng nǐ jiù kě yǐ qù mài tā men, 【shì bú shì】？	I put it to you, you used the substance to put in the drugs to cut the drugs and then you can sell them, yes or no?
4. Forced choice interrogative	你是不是用Glucodin来削减毒品的浓度，然后再把它卖掉？	nǐ shì bú shì yòng Glucodin lái xuē jiǎn dú pīn de nóng dù, rán hòu zài bǎ tā mài diào？	Did you or did you not use Glucodin to cut the drugs so you could sell them?
5. Positive declaratives with positive ratification tags	用这种Glucodin这种物质是把可卡因稀释，然后你可以卖他们，【是这样吗】？	yòng zhè zhǒng Glucodin zhè zhǒng wù zhì shì bǎ kǎ yīn xī shì, rán hòu nǐ kě yǐ mài tā men, 【shì zhè yàng ma】？	You used the substance Glucodin to cut the cocaine so you could sell them, is that right?
Wh-interrogative	我跟你说是用了Glucodin这种稀释剂是用于切割可卡因，让可卡因弱化的，你对此怎么说？	wǒ gēn nǐ shuō nǐ shì yòng le Glucodin zhè zhǒng xī shì jì shì yòng yú qiē kāi kǎ yīn, ràng kǎ yīn ruò huá de, nǐ duì cǐ zěn me shuō ？	I put it to you, you used the substance Glucodin to cut the cocaine and weaken them. What do you say to this?

Table 5. Examples of alterations in the interpretations

As shown below, six types of alterations can be found in the interpretations. In Alteration Type 1, the question was treated as a positive declarative with a positive tag “是吗” (‘did you’) in Chinese with a rising intonation. In Alteration Type 2, the question was translated as a single declarative without tags with a falling intonation. In Alteration Type 3, the question was represented as a yes or no tag using the expression “是不是” (‘yes or no’) in Chinese with a falling intonation. In Alteration Type 4, the same Chinese expression “是不是” (‘did you or did you not’) was used as a preface to an interrogative question with a falling intonation. In Alteration Type 5, the same question was altered as a positive declarative using the positive ratification tag “是这样吗” (‘is that right’) in Chinese with a falling intonation. In Alteration Type 6, the same question was mistranslated as a Wh-interrogative marked by the use of the expression “你对此怎么说” (‘what do you say to this’) in Chinese but attached a rising intonation.

From the above examples, despite the interpreter’s best effort to maintain the form, force, and effect of the original utterances, variations to the question form and type were shown. These variations changed the pragmatic force and effect from a strong coercive tone to a less powerful or negotiable tone in lawyer questions. This can further implicate the defendant’s evaluation of the strategic intention of lawyer questions and the seriousness of the matter in discussion during courtroom examinations. In response to lawyers’ questions, the defendant might show differences in their tone of voice and discursive strategies. In criminal trials, whether jury trials or not, the consequences of inadequate interpretation of the manner-related features in lawyer questions could affect the power dynamics in the courtroom. They may further lead to implications for the judicial outcome. Therefore, it is argued that the manner-related features in the lawyer questions should be maintained in the same manner as lawyers originally intended.

3.2.2.2. *Negative declaratives with positive tags*

In cross-examination, one example of negative declaratives with positive tags asked by the crown prosecutor is shown below.

Example 2

Crown: Mr Han, you're not really sure about anything you're telling this court today, are you? I suggest that's because you're not being truthful.

Table 6 below showcases the alterations of Example 1 found in the interpretations.

Type of alteration	Interpretations in Mandarin Chinese	Romanised pinyin	Gloss English translation
1. Interrogative	韩先生, 看起来的话, 您好像不太确定您告诉法庭的一些信息, 然后您是在说真话吗?	hán xiān shēng , kàn qǐ lái de huà , nín hǎo xiàng bú tài què dìng nín gào sù fǎ tíng de yī xiē xīn xī , rán hòu nín shì zài shuō zhēn huà ma ?	Mr. Han, it suggests that you're not sure about anything you're telling this court, and are you being truthful [interrogative particle ma]?
2. Yes/no tag	韩先生, 你好像今天在法庭上没有一样东西你是确定的【对不对】? 我跟你讲, 因为你没有讲实话。	hán xiān shēng , nǐ hǎo xiàng jīn tiān nǐ zài fǎ tíng shàng méi yǒu yī yàng dōng xī nǐ shì què dìng de 【duì bú duì】? wǒ gēn nǐ shuō , yīn wéi nǐ méi yǒu jiǎng shí huà 。	Mr. Han, it seems that you're not really sure about anything you're telling this court today, yes or no? I suggest that's because you're not being truthful.)
3. Imperative	你对法庭上讲的这些事情你都不是那么自信。你要告诉我们真话啊!	nǐ duì fǎ tíng shàng jiǎng de zhè xiē shì qing nǐ dōu bú shì nà me zì xìn 。 nǐ yào gào sù wǒ men zhēn huà ā !	You're not really sure about something you told this court. You need to tell us the truth [imperative particle a]!
4. Declarative	我感觉你今天跟法庭讲的话都不是很准确, 很确信是因为你没讲真话。	wǒ gǎn jiào nǐ jīn tiān gēn fǎ tíng jiǎng de huà dōu bú shì hěn zhǔn què , hěn què xìn shì yīn wéi nǐ méi jiǎng zhēn huà 。	I think things you're telling the court today are not very accurate. I'm sure it's because you're not being truthful.
5. Declarative with positive tags	韩先生, 您今天向法庭的供词好像您自己都不太确定【对吧】? 我认为这是因为您不诚实。	hán xiān shēng , nín jīn tiān xiàng fǎ tíng de gòng cí huà dōu bú shì hěn què dìng 【duì ba】? wǒ rèn wéi zhè shì yīn wéi nín bú chéng shí 。	Mr. Han, it seems that you're not actually sure about anything you're telling the court, right? I suggest it's because you're not being truthful.)

Table 6. Examples of alterations in the interpretations

As shown below, five types of alterations can be found in the interpretations. In Alteration Type 1, the question was treated as an interrogative in the Chinese interpretation using the interrogative particle “吗” (ma) with a rising intonation. In Alteration Type 2, the question was translated as a yes/no tag question with a falling intonation using the expression “对不对” (‘yes or no’) in Chinese. In Alteration Type 3, the question was represented as an imperative without a politeness marker with a falling intonation attached to the imperative particle “啊”(a) and an exclamation mark in the transcription. In Alteration Type 4, the same was treated as a single declarative with a falling intonation. In Alteration Type 5, the same question was altered as a declarative using the positive tag “对吧” (‘right’) in Chinese with a rising intonation.

While the interpreter tried to maintain the form, force, and effect of the original utterances, variations in the form and type of questions were observed. As a result of these variations, lawyer questions had a less powerful and negotiable tone rather than a strong coercive tone. Further, the defendant’s evaluation of lawyer questions and the seriousness of the matter during courtroom examinations can be affected. The defendant might use different discursive strategies and tones when responding to lawyers’ questions. It is possible that in criminal trials, regardless of whether a jury is present or not, the consequences of inadequate interpretation of manner-related features in lawyer questions could influence the power dynamics in the courtroom. As a result, the judicial outcome might be adversely affected. Accordingly, the manner-related features in lawyer questions should be maintained as intended by lawyers.

3.2.3. Moderation of force: “I put it to you” declarative

Another pattern found in our interpreted data is the softened force of the “I put it to you” declarative. This type of question is a common legal formula used by lawyers in cross-examination to present a version of facts that contradicts what has been proposed by the witness being examined, and to pre-empt what will be presented in his/her case by his/her own witnesses. The propositional content of such questions was primarily contentious and often placed at the end of a question and answer sequence. Thus, it is a

leading question with stronger illocutionary force. Table 7 shows the interpreted versions of the “I put it to you” declarative.

Turn	Speaker	Utterances
T37Q	Prosecutor	<i>I put it to you</i>
	Interpreter 1	那我这么跟你说吧 so let me put it to you this way
	Interpreter 2	我方的主张是 my theory is that
	Interpreter 3	我是不是可以这样说呢 can I put it this way
	Interpreter 4	我能不能可以这样理解呢 can you set it like this
	Interpreter 5	我有这么一个推论/说法 I have a theory
	Interpreter 6	我向你指出 I put it to you
	Interpreter 7	我现在告诉你 I now tell you
	Interpreter 8	我跟你讲 I tell you
	Interpreter 9	我这么说 I put it this way
	Interpreter 10	我有一个说辞 I had an excuse or plea [argument]
T38Q	Prosecutor	<i>I further put it to you</i>
	Interpreter 1	我再跟你说 I further tell you
	Interpreter 2	我进一步说 I further put it this way
	Interpreter 3	我再次向你指出 I further put it to you

Table 7. Interpretations of the “I put it to you” declarative.

As shown above, the force of “I put it to you” declarative was significantly weakened by interpreters, as reflected by various shifts made to the original question form with a suggestive or negotiable tone - a prominent feature of powerless speech in courtroom discourse (see Bradac *et al.* 1981; Blankenship & Craig 2007). The moderation of force can impact the jurors’ perceptions of the trustworthiness of the defendant, evaluations of the strength of evidence, and further verdicts based on the assessments of information present in court (see Erickson *et al.* 1978; Durik *et al.* 2008).

3.3. Triangulation: Mismatch between perceptions and performance

We further triangulate the survey results with the transcribed interpreting performance in text formats. The triangulation indicates a clear mismatch

between what the interpreters said they would do and what they actually did.

Several explanations can be made for the gap between perceptions and performance. One reason is the actual difficulties in achieving pragmalinguistic accuracy in court interpreting. As illustrated by Liu (2020) in the experiment with trainee student interpreters, the differences between English and Chinese are manifested in various dimensions, grammatical formation, syntactic structure, semantic organisation, and pragmatic considerations.

Another explanation is that the complexity of pragmalinguistic accuracy is further compounded by cultural, institutional, situational, and contextual information during the interlingual and intercultural transfer in high-stake courtroom settings. As revealed by interpreters' responses to open-ended question items in the questionnaire, sensing the heavy duty and the challenge to achieve accuracy in criminal proceedings, interpreters often feel double pressured already in face-to-face settings.

The findings of the present study partly corroborated with Hale (2004) and Lee (2011). In Hale's (2004) study, Spanish interpreters showed varying degrees of addition, omission, and alteration when rendering the lawyers' questions from English into Spanish in face-to-face settings. She emphasised that such addition, omission, and alteration of manner-related features shifted the pragmatic force and effect and further changed the power dynamics in courtroom examination. Similar phenomena were also found in Lee's (2011) study of the speech style features rendered by Korean interpreters in face-to-face courtroom examinations. Lee explained that translatability issues existed when reproducing these linguistically nuanced features during interlingual and intercultural transfer of meanings. The lexical expression, syntactic structure, and semantic considerations between Asian and European languages may affect the actual interpretation of manner-related features. In another face-to-face court interpreting study, Liu (2020) revealed that the difference in grammatical formation of questions may also account for the variations of question types when interpreting from English into Mandarin. Similar issues were also identified in Mandarin-Spanish combination. For example, Chi (2021) analysed the oral corpus of authentic data from real hearings held in the courts of

Barcelona. The results revealed the textual and interaction problems faced by interpreters in criminal proceedings, which ascertained that the linguistic distance could be a possible cause of miscommunication in face-to-face proceedings.

The lawyer tag questions are particularly intended for a specific strategic goal (see Hosman & Siltanen 2011). This study examined the interpretation of the manner-related features in lawyer questions during the simulated remote criminal proceedings. Despite the lexical, syntactic, semantic, and pragmatic differences between Asian and European languages, the format of remote proceedings may also affect the interpretation of the manner-related features in courtroom examination. For instance, Braun (2017) studied the addition and expansion in remote legal settings. Her micro-analysis of interpreters' renditions revealed a tendency on the part of the interpreters to over-elaborate, which created lengthy turns and fragment talk-in-interaction. She concluded with two implications for over-interpretations in remote legal settings: (1) informational accuracy and (2) interpreter's participation and presence in the interaction. These can further impact the participants' perception of the interpreter's professionalism and trust in virtual space. It is thus important to retain the force and effect of the original tag questions in the target language in virtual proceedings.

4. Final remarks

The importance of adequately interpreting the manner of lawyer questioning in courtroom examination cannot be understated. In today's globalised world, it is a matter of linguistic human rights, an integral part of procedural justice, and a critical issue of professional ethics.

In the present study, we are concerned with the interpreters' perception of the importance of interpreting the manner of lawyer questioning and the actual performance of interpreting the manner in simulated virtual court proceedings. In response to RQ1, we have discovered that our interpreters understand (1) the importance of interpreting the manner in courtroom examination questions, (2) the nuanced functions of lawyer questions, and (3) the difficulties when reproducing the manner in the target language. In response to RQ2, we have found that our interpreters (1) omitted ancillary

tags, (2) altered positive declarative with negative tags and negative declarative with positive tags, and (3) weakened the force of “I put it to you” declarative in lawyer questioning. Further triangulation of survey and experiment results unveils a mismatch between the cognitive understanding and the actual interpreting activities in remote settings. Three assumptions are made on the dissonance: (1) difficulties in achieving pragmalinguistic accuracy manifest in grammatical, syntactic, semantic, and pragmatic differences and (2) complexities of cultural, institutional, situational, and contextual information during the interlingual and intercultural transfer in the high-stake courtroom. However, the present study shows four limitations, limited to (1) primarily qualitative findings, (2) one language pair, (3) criminal proceedings, and (4) remote settings.

Last but by no means least, the burning question our researcher and educator community should urgently attend to is - how to address the gap between perceptions and performance. Knowing what is expected of interpreters and how it should be done is just one piece of the puzzle. A more important issue is how to apply this knowledge to their professional activities. Therefore, a simple, one-off awareness campaign is not enough. Persistent and concerted endeavours, as well as a leap of faith, are needed to bring educators, instructors, researchers, practitioners, and lawyers together through connected education and collaborative practicals.

With these points being discussed, we remain rationally optimistic about the future of court interpreting provided by ethically aware professional interpreters, empowered by technological advances, and facilitated by multi-stakeholders, including interpreter education and training agencies, professional associations, advocacy, and legal centres. After all, one of the defining characteristics in the increasingly globalised 21st century is understanding and collaboration.

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BIONOTE

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