

**The atypical bilingual courtroom:
an exploratory study of the interactional dynamics in
interpreter-mediated trials in Hong Kong**

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In many jurisdictions, court interpreting is typically provided for the linguistic minority, often for a single individual involved in a trial as a defendant or witness, who does not speak the language of the court. This study is situated in the Hong Kong bilingual courtroom, which is an 'atypical bilingual courtroom'. In Hong Kong, interpreters, known as 'the mouth and ears of the court' (Sin and Djung, 1994: 138), have long been hired to serve the needs of the Cantonese-speaking majority in trials conducted in English. Due to the colonial background of Hong Kong, English has long been an official language (indeed the only one before 1974) despite the fact that it is spoken by only slightly over 3%

of the local population as “the usual language” (Population Census Office, 2011). There is an interesting linguistic dichotomy in an English-medium trial in Hong Kong courts: Cantonese, a language spoken by around 90% of the inhabitants in Hong Kong, is used by lay-participants but English by the legal professionals, which makes the presence of a court interpreter a *sine qua non*. Hong Kong is therefore described as having one of the most ‘interpreted’ legal systems in the world (Ng, 2009b).

In an English-medium trial, the Cantonese-speaking majority in court, including not only defendants and witnesses, but also spectators in the public gallery, has to rely on the Cantonese interpretation of the utterances produced in English in order to participate in the proceedings (see also Cheung (2012); Ng (2009a,b, 2013)). On the other hand, interpreters in the Hong Kong courtroom nowadays often have to work with other court actors, especially legal professionals, who are proficient in both English and Cantonese. Even lay participants as witnesses and defendants who elect to give evidence in Cantonese through an interpreter may also have access (full or partial) to utterances produced in English, which is spoken by about 40% of the local population as “another language” (Population Census Office, 2011).

The central aim of this study was to carry out a detailed investigation into the communication process in this atypical bilingual setting and see in what ways the interactional dynamics differ from those in both a monolingual and a typical bilingual setting. This study is based on authentic audio-recordings of nine criminal trials from three court levels in Hong Kong, supplemented by a survey administered to court interpreters enquiring about the different strategies they adopt when interpreting for the legal professionals and the lay participants and the rationale behind their decisions. It compares the participant roles of different court actors in different court settings, monolingual and bilingual, using Goffman’s (1981) participation framework and Bell’s (1984) audience design as the conceptual framework. It explores the participation status of individual court actors at different stages of a trial and in different interactional scenarios.

It was found that the notion of recipientship in the Hong Kong courtroom is complicated by the presence of other bilinguals, who take on both a ratified role as an addressee or auditor of one version of the trial talk and also a non-ratified overhearer role of the other version of the talk. This inevitably changes the interactional dynamics and impacts on the power of court interpreter. It is therefore not uncommon for a bilingual counsel to challenge the accuracy of an interpretation and to suggest to an interpreter how she should have interpreted a certain term or expression. For example, in a High Court rape case, the interpreter had to change her earlier interpretation of a polysemous Cantonese word *saam*, uttered by the defendant, from “garment” to “upper garment”, at the suggestion of the bilingual prosecution counsel, who obviously believed that the latter would create a discrepancy in the defendant’s testimony and thus help with the prosecution’s case. In another High Court trial, a murder case, where the judge and both counsel were monolingual English-speaking expatriates, the interpreter was found to assume a more powerful role in negotiating meaning with the witness and in controlling the flow of the testimony. There were also instances of real interpreting mistakes which had gone unnoticed as the monolingual legal professionals were not equipped with the required linguistic means to interfere with the interpretation. The findings of this study show that the power of the court actors is realised in the participant role(s) they and the other co-present court actors take on or are capable of playing.

The findings also indicate that the interventions of judges in witness examination, thereby changing their participant role from default auditor to speaker, are particularly problematic and often result in omissions in interpreting and thus the exclusion of the non-English-speaking majority in court, including defendants, witnesses and the spectators in the public gallery. It is also found that the use of whispered interpreting (*chuchotage*), a mode commonly adopted in a typical bilingual setting where there is only one individual who does not speak the language of the court, inevitably excludes all others who have to rely on the Cantonese interpretation for their participation in the proceedings. It is suggested that denying non-English-speaking participants access to the trial in its entirety may compromise the administration of justice. It is also found that the notion of power asymmetry in the courtroom has an effect on the footings adopted by interpreters and potentially on their perceived neutrality as they are observed to assume the voice of lay-participants by interpreting their utterances in the first person but to interpret that of legal professionals in the third person. In the light of these findings, this study identifies training needs and makes recommendations for best practice in the courtroom and for institutional and administrative practice.

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