THE ROLE AND PROFESSIONAL IDENTITY OF THE COURTROOM INTERPRETER IN THE LEGAL SYSTEM OF ENGLAND AND WALES: A SOCIAL CONSTRUCTIONIST PERSPECTIVE

VOL I

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Doctor of Philosophy

ASTON UNIVERSITY

January 2024

THESIS SUMMARY

Institution: Aston Institute for Forensic Linguistics, Aston University

Title: The role and professional identity of the courtroom interpreter in the legal system of England and Wales: a social constructionist perspective

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Degree: Doctor of Philosophy

Year of submission: 2024

Synopsis:

The demographic landscape in Britain has changed significantly over the last decades and Britain is now characterised by what Vertovec (2005) has called "superdiversity". This notion encompasses the complexity and dynamics of different variables that come into play and shape the new socio-demographic reality. It is in this context that the need for public service interpreters in the UK is now greater than ever, particularly for court interpreters as there has been an increase in court cases involving multiple languages.

This study explores the professional identity of the courtroom interpreter in the legal system of England and Wales from a social constructionist perspective. It looks at various aspects of the courtroom interpreter's professional identity in order to understand how it is constructed socially and discursively by the courtroom actors. In so doing, it is meant to define the professional identity of the courtroom interpreter in a changing social and linguistic landscape including changes in the provision of interpreters in the public sector of England and Wales.

Previous extensive research has revealed a persisting controversy over the role of the courtroom interpreter, lack of professional recognition and an overall negative attitude by the legal profession along with other challenges and dilemmas interpreters face in the courtroom (Morris,1995, 1999; Berk-Seligson 1988,1990; Hale, 2004, 2008; Lee, 2009b).

In the current study I use data from interpreter-mediated hearings held at civil and county courts, an Immigration Tribunal, and Crown and Magistrates' courts in England and Wales. The study presents findings based on ethnographic, followed up by interviews with all the participants of the courtroom interaction.

Key words: Courtroom interpreting, interpreter's role; interpreting in the legal setting; social constructionism; ethnographic observation.

DEDICATION

In loving memory of my dear uncle, Pyotr Melnikov, who left this world before his time. I know that you would have been immensely proud of my achievements. This thesis is dedicated to you with profound love and the eternal wish that you could be here to share in this accomplishment. Your memory will forever be cherished.

ACKNOWLEDGEMENTS

I would like to express my sincere gratitude to a number of people who have provided me with invaluable help and made this thesis possible. First and foremost, I am indebted to my supervisor, Dr Krzysztof Kredens, who has been patient, supportive and inspiring during moments of my greatest self-doubt. He guided me through the entire process of my research and thesis writing, always offering insightful feedback and indispensable expert advice.

Second, I would like to thank all the interpreters, legal professionals and other individuals who generously devoted their time to participate in my survey and interviews. Their involvement in my research formed the foundation of this study, and it would not have been possible without their invaluable contributions.

I extend my gratitude to Dr Yvonne Fowler and Malcolm Fowler for their help and support with my study, as well as valuable advice and contribution to my research ideas. I would also like to express special thanks to Rekha Narula, the interpreter and translator who played a crucial role in circulating my survey within her extensive network of professional interpreters. Her efforts contributed to robust and diverse representation of this professional group in my study.

Special gratitude is extended to Dr Zhanna Akkurt and Dr Fidan Israfil-Bayli for their active involvement in recruiting participants for this research. Thanks to their efforts, this study has been enriched with additional insights and valuable contributions from representatives of the legal profession.

I am most grateful to Dr Alan Green, who provided me with moral and emotional support and words of encouragement throughout my doctoral research journey.

I am particularly indebted to Martin Green, CEO of Blueberry Consultants Ltd, for his patience and understanding along with allowing me the much-needed flexibility to make this research possible. I am also immensely grateful to Lucy Popova and my other work colleagues for their understanding and continuous support through the most challenging phases of my thesis writing.

There are no words to describe my gratitude to my partner, Anthony Nolan, for his unconditional and continuous support throughout the challenging years of this course. I am profoundly thankful to him for believing in me and standing by me when I needed it most, for appreciation and keen interest in my academic achievements, and for incredible technical assistance with my thesis. He has been an extraordinary source of my strength and inspiration.

I would also like to express my sincere thanks to my family – especially my mother, Liubov Ledovskaya, my father, Vladimir Ledovskoy, and to all my friends for their understanding, care, encouragement, and tremendous support during challenging periods of this research.

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LIST OF ABBREVIATIONS

AIIC	International Association of Conference Interpreters
AIT	Association of Interpreters and Translators
APCI	Association of Police and Court Interpreters
BSL	British Sign Language
CA	Conversation analysis
CACDP	Council for the Advancement of Communication with Deaf People
CDA	Critical Discourse Analysis
CDS	Criminal Defence Service
CI	Consecutive Interpreting
CILT	Centre for Information on Language Teaching and Research
CIOL	Chartered Institute of Linguists
CIS	Critical Incidents
CIT	Critical Incident Technique
CPD	Continuous professional development
CPS	Crown Prosecution Service
DA	Discourse Analysis
DPI	Diploma in Police Interpreting
DPSI	Diploma in Public Service Interpreting
ECHR	European Convention of Human Rights
HMCTS	Her Majesty's Court and Tribunal Service
ITI	Institute of Translation and Interpreting
MA	Master of Arts

MoJ	Ministry of Justice
NGO	Non-governmental organisation
NRCPD	National Registers of Communication Professionals Working with Deaf and Deafblind People
NRPSI	National Register of Public Service Interpreters
NUBSLI	National Union of British Sign Language Interpreters
NUPIT	National Union of Professional Interpreters and Translators
OISC	Office of the Immigration Service Commissioner
PACE	Police and Criminal Evidence Act (1984)
PSI	Public Service Interpreting
SI	Simultaneous Interpreting

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INTRODUCTION

Britain has a lengthy history of receiving immigrants from all over the world, so the concept of diversity is far from new. Still, there has been major change in UK immigration patterns over the past decade in the form of a significant rise in net immigration and diversification of ethnicities and nationalities. This shift has coincided with various parliamentary acts, such as the Asylum and Immigration Acts of 1993, 1996, and 1999; the 2002 Nationality, Immigration and Asylum Act; the 2004 Asylum and Immigration Act; and the 2005 Immigration, Asylum and Nationality Bill.

According to the latest information from the Office for National Statistics, net migration continues to add to the population of the United Kingdom. The provisional calculation of total long-term immigration for the year ending June 2023 was 1.2 million people; with 508,000 leaving the United Kingdom, this resulted in a net migration figure of 672,000. People coming to the United Kingdom for work, study and humanitarian purposes (e.g. from Ukraine and Hong Kong) have contributed to the high levels of immigration over the past 18 months (Office for National Statistics, 2023). The rise inevitably leads to further diversification of Britain and change in its socio-demographic landscape, which is now characterised by so-called "superdiversity" (Vertovec, 2006).

As successive waves of migration have caused substantial growth in the number of non-native English speakers in the United Kingdom, interpreting has become an essential public service (Aliverti and Seoighe, 2017). As Aliverti and Seoighe (2017: 131) note, demand for foreign language interpreting services in court proceedings "is the most obvious indicator" of the diversification of society outside the courtroom. Mass migration has significantly shaped this trend.

In the context of this constantly changing reality, the role and professional identity of public service interpreters in the United Kingdom needs to be re-examined – and possibly redefined – to be better understood and conceptualised. It is especially important to make sense of the role of public service interpreters at this turbulent time, when the need for them is greater than ever. This is particularly relevant in the case of court interpreters owing to an increase in court cases involving multiple languages.

It is acknowledged that the role of the interpreter in a legal setting is "to make communication possible despite language barriers that exist between litigants and court personnel" (Mikkelson, 2000: 1). The interpreter's primary duty is to remove those

linguistic and cultural barriers to position the non-native or non-English speaker in a position similar to that of the native speaker, so as to ensure access to a fair trial for the non-native speaker (Hale, 2004).

At the same time, the interpreter should not put their client at an advantage over other litigants. This means that the interpreter is not there to ensure that the client understands but rather to provide an opportunity equal to that of a native speaker in the same situation (Mikkelson, 2000).

Existing research on interpreting in court has revealed persistent controversy over the role of the court interpreter, lack of professional recognition, and overall negative attitude expressed by the legal professions alongside other challenges and dilemmas that interpreters face in the courtroom (Morris, 1995, 1999; Berk-Seligson, 1988, 1990; Lee, 2009b; Aliverti and Seoighe, 2017). Hale (2004) notes that the interpreter's understanding of their role has a crucial bearing on their performance. She further notes that courtroom interpreters do not have a problem with ethics, but with their role.

Llewellyn-Jones and Lee (2014: 12) define the term 'role' as a set of behaviours and expectations that an individual should follow in a given social situation. According to Turner (1956, cited in Llewellyn-Jones and Lee 2014: 14), the term refers to behaviour rather than position: it can be enacted but cannot be occupied. How a role is enacted is a form of "presentation of self" (Llewellyn-Jones and Lee, 2014: 15). The concept of self is closely related to the concept of identity; they often appear as synonymous terms and are used interchangeably in academic literature (Oyserman et al., 2012). For example, Benwell and Stokoe (2006: 17) talk about identity as a "project of the self".

Identity is a broader category that refers to distinctive characteristics belonging to an individual or shared by a group. It is a way of labelling the self and the other. It is composed of aspects, such as self-image and self-representation, that transform into certain behaviours that could be defined as role behaviours. Acting out a role, then, is an integral part of identity.

The present study examines the role and professional identity of the courtroom interpreter in the legal system of England and Wales from a social constructionist perspective. It looks at various aspects of the courtroom interpreter's role and identity to understand how both are socially constructed by courtroom actors, which include practitioners, court officials, and non-English-speaking defendants. By so doing, it defines the professional

identity of the courtroom interpreter within the changing social and linguistic landscape that encompasses the provision of interpreters in the public sector of England and Wales.

The present study is based on ethnographic observation of interpreter-mediated hearings, including trials in various types of courts and court settings, such as Magistrates' Courts, Crown Courts, civil courts, and tribunals. The observed proceedings provided valuable insight into the social construction of the professional role and identity of court interpreters within the criminal justice system of England and Wales. Where possible, they were followed up by interviews with the participants. The ethnographic study was also supplemented by surveys of interpreters, defendants, and legal professionals to triangulate the data.

1. CONTEXT FOR RESEARCH AND THEORETICAL BACKGROUND

1.1 Context for research

Diversity in Britain has changed tremendously over the past thirty years. Policymakers, the public, and the social sciences have not yet caught up with the newly emerged demographic and social patterns. Britain is now characterised by "superdiversity", a term introduced by Vertovec (2006, 2007) "to draw attention to the variables that shape understandings of diversity in modern Britain" (Tipton, 2017a: 42).

Policies of multiculturalism aimed to promote tolerance and respect for the collective identities of culturally diverse communities. These were implemented through the provision of support to local communities and their cultural activities, the introduction of diversity to workplaces, and the promotion of positive images of immigrants in the media, among other efforts. However, according to Vertovec (2006), new, smaller, and legally differentiated groups of immigrants did not receive much attention on the public agenda even though these very groups played a key role in transforming the socio-demographic landscape in Britain. It is thus time to adopt a new perspective on diversity in Britain and re-evaluate government policy, social science research, and the overall public understanding of this complex phenomenon.

Various researchers in the United Kingdom and other countries have carried out a number of relevant studies. These include Rampton's (2005) sociolinguistic work on everyday practices in mixed contexts and Soheila Shashahani's (2002) study of a mixed (Shiite, Kurd, and Afghani) neighbourhood in Tehran, among others. Social science research into superdiversity is crucial as it provides valuable insight into complex social phenomena, such as inequality and prejudice, new patterns of segregation, new forms of cosmopolitanism and creolisation, secondary migration patterns, and so on.

However, superdiversity also has a significant impact on policymaking and practices at both national and local levels. Vertovec (2006) identifies several key policy areas where it has had an effect, particularly in relation to community organisations, public service delivery, and community cohesion.

Unfortunately, neither local nor national governments have caught up with the changes occurring in patterns of migration and social diversification. Existing policies and

practices do not reflect these changes; they are often inadequate and can impair the function of public services (e.g. hospitals, schools).

Vertovec (2006: 31) points out that existing methodology and frameworks for social science research are insufficient and need to be "reshaped and extended" to embrace the complexity of newly emerging social patterns in the "multi-ethnic group context". The concept of superdiversity requires reconsidering practices and processes affecting immigrants in contemporary society. It also requires recognition at all levels of British society, hopefully leading to policies "better suited to the needs and conditions of immigrants, ethnic minorities and the wider population of which they are inherently part" (Vertovec, 2006: 35).

Given the dynamic demographic shifts and ever-evolving landscape, it is imperative to reassess and redefine the role and professional identity of public service interpreters in England and Wales. This task holds particular significance for court interpreters, considering the notable rise in court cases involving multiple languages. According to Lord McNally's speech at the House of Lords in 2012, UK courts receive more than 800 requests for interpreting services each day (Lord McNally, 2012, House of Lords).

The current situation with court interpreting in England and Wales is far from trouble-free. Before August 2011, the provision of court interpreters was administered directly by the courts through the National Register of Public Service Interpreters (NRPSI) in accordance with the National Agreement on the Arrangements for the use of Interpreters (hereinafter the National Agreement). The Agreement was issued in concordance with the requirements of Articles 5 and 6 of the Human Rights Act 1998 and provided "guidance on arranging suitably qualified interpreters" for police and court personnel, information about practical arrangements for using interpreters, recommended sources for interpreting services, fees, terms and conditions, complaints procedures, and so on (National Agreement, 2007). The NRPSI has its own code of conduct and sets out stringent criteria for interpreters to join the register.

To save costs, the British government outsourced the provision of public service interpreting (PSI) to a small regional translation agency called Applied Language Solutions (ALS) in August 2011. ALS was subsequently purchased by Capita Translation and Interpreting (Capita TI) and then by thebigword in 2016, where it currently remains. The Ministry of Justice (hereinafter the MoJ) failed to undertake proper due diligence on

ALS's winning bid (House of Commons Justice Committee, 2013). When the contract went live, ALS had only 280 interpreters out of the 1,200 MoJ considered necessary for its operation. Problems with supply and quality emerged immediately.

The National Agreement is no longer in use and cannot be accessed from the Crown Prosecution Service (CPS) website. Today, court interpreters can be supplied only by thebigword as bookings outside this contract are no longer permitted. This has thrown many of the NRPSI interpreters out of the system. Public procurement processes have resulted in unattractive pay rates and working conditions. There is a pervasive assumption that anyone who speaks English and another language can interpret. My survey shows that many professional interpreters have left the profession or considered other career options by retraining.

I have managed to obtain a copy of the interpreting services agreement for interpreters registered with thebigword along with the code of conduct for interpreters from the CPS website. Unlike the preceding National Agreement and guidelines for the use of interpreters, the current documents seem to lack well-defined requirements on interpreter role, duties and, most importantly, quality.

There also appears to be a discrepancy between CPS-recommended guidelines, which state that interpreters working within the criminal justice system should be registered on the NRPSI, and reality. The evidence firmly suggests that not all of the interpreters supplied by thebigword under the MoJ contract are NRPSI members or even have basic training in court interpreting. Although thebigword does not require their interpreters to be NRPSI members, those interpreters are still accepted for assignments within the criminal justice system.

Mike Orlov, Executive Director of NRPSI, shared the following statement in a private communication:

> In 2019 the Government sent a letter to NRPSI outlining there was "no appetite" by public services for regulation or regulation of public service interpreters, stating: "…evidence shows there is not the demand across the entirety of public sector to mandate the use of accredited, registered and regulated interpreters for all interpreting service requirements". NRPSI continues to lobby public services and aims to convince the public sector of the absolute need for registration and regulation by an independent body to ensure those who do not speak English have no hindrance when accessing public services, reinforcing the need for

> professionalism in public sector spoken-word interpreting. (Orlov, 2021).

This statement summarises the unsatisfactory state of affairs in the field of PSI, with government showing very little to no interest in regulating the profession or introducing minimum standards for service delivery within the public sector. Sadly, this is an example of expedience overruling principle.

As part of data collection through survey and semi-structured interviews, I discussed the issues and challenges present in the world of PSI with particular reference to courtroom interpreting. According to many research participants (courtroom interpreters and some legal professionals), there are numerous issues within this sector and problems will continue to multiply if authorities do not try to solve them as soon as possible.

Below, I provide some excerpts from my interviews with interpreters and legal professionals to illustrate their views on the current situation. One research participant, an interpreter, recalls:

> Some issues are more important than others, along with the way linguists are treated. Continuous cancellations [and] unfairly long payment times …demonstrate the fact that no one values the efforts and problems linguists face every day. [These include] booking linguists for a certain period of time and then…paying them either nothing or a small fraction of what had been agreed, [and] abusive and insulting treatment by some agency and court staff members.

Another participant, a solicitor, recounts the following:

> I had a case yesterday where a poor chap in need of a Romanian interpreter had his case adjourned for the eighth time! iPads and Google Translate were used to [communicate with] him, though I have no confidence that he understands. It's a national disgrace and the cost to the public purse must be significant.

Both examples illustrate issues associated with the MoJ privatisation of legal interpreting and translation services. Members of Parliament and spending watchdogs say a catastrophic shortage of interpreters has caused courts to rely on Google Translate, a basic and time-consuming online translation tool.

As the above examples demonstrate, the situation caused by these actions creates a need for research to tackle the issues caused by the current state of the provision of interpreting services in the courtroom. Further research into the court interpreter's role is also needed.

In the new changing landscape of increasing immigration, new language pairs appearing on the one side and outsourcing the provision of court interpreters, discrepancies and lack of consistency over the requirements on the other side it is necessary to redefine the role of the interpreter to understand who the interpreters are in this new reality.

1.2 The role of the interpreter in academic literature

1.2.1 Definitions of court interpreting

In the United Kingdom, court interpreting is a subset of PSI or community interpreting. The term "community interpreting" was introduced by the Chartered Institute of Linguists in the early 1980s in reference to interpreting services provided for police, the courts, and social services (Benmaman, 1997). These terms can be used interchangeably. However, the term is now used less frequently than PSI in the United Kingdom, with the latter gaining preference as an umbrella term for interpreting services in various public settings. This shift is partly a result of negative connotations associated with the word community, which is often linked to amateurism and unprofessional activity (Tipton and Furmanek, 2016). In addition, the term carries the risk of reinforcing the perception that "minority-speaking groups are marginalised in relation to the receiving society" (Tipton and Furmanek, 2016: 3).

As Valero-Garcés (2023) observes, this field of practice is challenging to define due to the absence of a universally accepted name. Some researchers, such as Mason (2001), Dal Fovo and Niemants (2015), and Tipton and Furmanek (2016), favour the term "dialogue interpreting" over community interpreting or PSI to emphasise its dialogic nature. Meanwhile, De Boe et al. (2021: 2) advocate for the term community interpreting despite its strong association with ad hoc and unpaid interpreters, arguing that this term "best captures the solid link between the activity and the contexts in which it takes place".

The term dialogue interpreting suggests a type of interaction between two monolingual participants "communicating with the help of the interpreter, who may be viewed as a third participant" (Angermeyer, 2005a: 207). As Tipton and Furmanek (2016: 6) put it, "dialogue interpreting indicates a certain emphasis on equal, balanced, respectful communication". However, Angermeyer (2005a) argues that dialogue interpreting is too narrow as an umbrella term for the field, as it suggests an interaction involving only two primary participants; in reality, it consists of so-called triadic exchanges (Mason, 2001).

Hence, dialogue interpreting can also be described as a "communicative pas de trois" (Wadensjö, 1998: 12). Tiselius and Dimitrova (2023) use the term dialogue interpreting in a more specific sense, referring to short consecutive interpreting, which will be discussed later in this chapter.

Colin and Morris (1996: xii) define community interpreting as a service provided "within a public service or public agency framework, such as health or social services" in order to "enable communication between someone who does not speak the language of the service provider and a service provider". They refer to this type of interpreting as public service or dialogue interpreting, provide a separate definition of court interpreting, and describe it as "interpreting in a legal setting, particularly the courts" (Colin and Morris, 1996: xii).

Angermeyer (2023) understands court interpreting as a form of PSI that differs from other forms by having a higher degree of professionalisation characterised by specialised training, certification, and employment for interpreters, as well as dedicated professional organisations.

In a few other countries, such as Sweden and Canada, court interpreting is considered a profession for which special training is required along with accreditation. In contrast, areas defined as community interpreting do not require such training. The terms court, judiciary or legal interpreting have all been used for various training programmes. Court interpreting has been used to refer to training programmes focused on the skills necessary for interpreting in the courtroom setting (Benmaman, 1997; Roberts, 2002).

The terms legal and court interpreting both appear in the academic literature. Benmaman (1997) notes that legal interpreting refers to all situations in legal settings where communication is taking place via an interpreter. Similarly, Monteoliva-Garcia (2018) refers to legal interpreting as an umbrella term that includes interpreting across various settings, such as law enforcement agencies, asylum and immigration proceedings, courtroom, police, and prison settings, as well as community settings involving aspects of legal interpreting. In his review of the legal interpreting field in the European Union over the past forty years, Hertog (2015, cited in Moteoliva-Garcia, 2018: 39) points out that the scope of interpreting in the judiciary has expanded beyond court interpreting to include other contexts, such as police, prison, asylum, immigration, and military settings.

Legal interpreting is thus a broader category that encompasses court interpreting as one

of its forms and therefore shares many characteristics with other types of interpreting in the legal setting. Kredens and Morris (2010: 455) observe that court interpreting is "often regarded as the most important sub-domain of legal interpreting". Jieun Lee defines court interpreting as "interpreting provided by professional interpreters at various stages of court proceedings", and "court interpreters" as "professional interpreters engaged in court proceedings involving witnesses and defendants from Culturally and Linguistically Diverse backgrounds" (Lee, 2009a: 36).

Given the broad spectrum of terminology reviewed in this section, I would like to clarify that the term court interpreting will be used consistently throughout this thesis as a subset of PSI. This is because the research focuses heavily on court settings – mostly criminal courts, but also civil courts and immigration tribunals.

1.2.2 Modes of interpreting used in the courtroom

Modes of interpreting used in the legal setting primarily include consecutive and simultaneous interpreting. Consecutive interpreting (CI) is when the speaker pauses or completes the utterance, and the interpreter takes notes. The interpreter then reproduces the speech from the notes. In simultaneous interpreting (SI), the information is translated into another language almost instantaneously, at the same time as the original version delivered (Colin and Morris, 1996; Mikkelson, 2000; Jones, 2002; Lee, 2015).

CI is usually used during examination of witnesses and defendants from diverse cultural and linguistic backgrounds, whereas SI is often used during proceedings. SI is the preferred mode in most courts and can be delivered in a whisper, a technique known as "whispering" or "chuchotage" (Colin and Morris, 1996; Lee, 2015; Ng, 2023). Question–answer sequences are often interpreted using a combination of modes, such as whispering (chuchotage) for the questions and CI for the answers (Licoppe, 2020). Sometimes, sight translation (wherein a written text is transformed into a spoken message) may be needed (Benmaman, 1997).

Mikkelson (2000) distinguishes between consecutive, simultaneous, and sight translation as the three primary modes of interpreting employed in the courtroom. These are the modes of interpreting I identified and observed in my ethnographic study of court interpreting in England and Wales. Below, I discuss each in more detail.

1.2.2.1 Consecutive interpreting (CI)

Mikkelson (2000) distinguishes between two types of CI, namely, long and short. Long consecutive interpreting is used when the evidence or the case is summarised for the defendant; it is also known as "long consecutive reporting" (Licoppe, 2013: 257). This type of interpreting typically involves note-taking as the interpreter would have to provide interpretation for lengthier speeches. Pöchhacker (2004) refers to this type of CI as "classic consecutive" in contrast to short consecutive, where note-taking is not necessary. Short consecutive interpreting operates at the sentence level as opposed to lengthy paragraphs and even speeches (Mikkelson, 2000). Mikkelson (2000: 70) further notes that CI is suitable only for "tightly controlled sessions in which the parties patiently wait for each utterance to be interpreted".

As Colin and Morris (1996) and Mikkelson (2000) both note, the primary disadvantage of CI is that it doubles the amount of time needed for the proceeding. Lee (2015) observes that CI is better suited for witness testimony rather than for proceedings where everyone speaks the same language and prefers to not pause for interpretation.

Another significant disadvantage of the consecutive mode is that it leads to a fragmentation of discourse by breaking the flow of witness narratives (Wadensjö, 1998; Davidson, 2002; Angermeyer, 2008, 2015). Angermeyer (2013: 116) further observes that CI "causes testimony to become fragmented", making it sound less coherent and therefore less convincing than "narratives presented in the official language without interruption" – even when presented by witnesses/defendants with limited proficiency in that language.

Nevertheless, as argued by Colin and Morris (1996), there is a significant advantage to CI when it comes to the matter of accuracy: it is possible to hear and record, if necessary, both the original and interpreted versions separately. When that occurs, it is easier to identify inaccuracies on the spot and correct them if someone with the appropriate language skill is present in the courtroom (Colin and Morris, 1996).

Ng (2023: 92) expresses a similar view, noting that CI is more conducive to accuracy than SI because "the speaker pauses at regular and relatively short intervals to facilitate the work of the interpreter". Ng (2023) further highlights that courts typically maintain records only of interpreter renditions in consecutive mode. The absence of records for interpretation in whispering mode (chuchotage) can be particularly problematic in cases

where court decisions are challenged on the grounds of poor-quality interpreting. Without such records, there is no reliable evidential basis for courts to reference during appeals (Ng, 2023).

1.2.2.2 Simultaneous interpreting (SI)

SI, or electronic interpreting, is a mode that requires special equipment, such as a soundproof booth, headphones, and microphone. This type of interpreting is delivered at the same time as the original material spoken to the listeners in situ. Listeners hear the interpreted version through headphones.

Whispering or chuchotage is a non-electronic form of SI where the interpreter whispers an interpreted version of spoken material into the ear of one or two participants, rather than working from a soundproof booth via headphones, without interfering with the court proceedings (Lee, 2015; Licoppe, 2017; Ng, 2023). Licoppe (2013: 256) describes this mode as "quasi-simultaneous" or "dockside" interpretation as it allows for the uninterrupted flow of the proceeding. In SI, "interpreters sit next to the people who do not understand the working language and whisper the translation in their ears" (Gaiba, 1998: 16).

Ng (2023) argues that chuchotage has a particularly negative impact on interpreter performance, making it difficult to maintain accuracy and often resulting in substandard outcomes. This can be attributed to a number of challenges interpreters face in the courtroom, which include acoustics and external noises, close proximity to the defendant, fatigue, the requirement to be as unobtrusive as possible (Fowler, 1997), and the absence of a record of interpretation (Ng, 2023: 93).

According to Ng (2023), the major challenge interpreters face working in a chuchotage mode is the problem of poor acoustics, especially when they work without the use of headphones. This may be further exacerbated by external noises in the courtroom. Without the use of microphones, their renditions can also be difficult for recipients to hear clearly.

This type of interpreting may also involve sitting in an uncomfortable position for an extended period of time in close proximity to the defendant to ensure whispered interpretation can be adequately heard. This may be quite tiring for the interpreter,

particularly in the absence of the regular intervals available to conference interpreters (Colin and Morris, 1996; Ng, 2023).

The primary advantage of this method is that it does not add time to the proceedings and can be delivered at low cost (Colin and Moris, 1996).

1.2.2.3 Sight translation

Sight translation involves silently reading a text in the source language, then speaking it in the target language. It may be required for court officials and non-English or minimal-English-speaking litigants "during evidentiary and non-evidentiary proceedings" (Benmaman, 1997: 181). Mikkelson (2000) argues that sight translation involves mental processes to similar to SI, with the exception that the source message is provided in a written rather than oral form. Sight translation requires same skills components that are required for the oral SI (e.g. quick reaction, mental agility) (Mikkelson, 2000).

Similarly, Pöchhacker (2004: 19) argues that sight translation is "a special type of simultaneous interpreting" and defines sight translation as "a rendition of a written text at sight". Pöchhacker (2004: 19) further argues that this mode should be labelled "sight interpreting" as it is delivered in real time "for immediate use by the audience".

Mikkelson (2000) notes that sight translation is not an appropriate mode for lengthy documents as interpreters do not normally have sufficient time to prepare for this type of translation in advance. It can also be very straining to perform this type of translation (effectively interpreting, according to Pöchhacker, 2004) at sight. An additional difficulty arises when documents presented at court are handwritten and the interpreter has to decipher handwriting on top of delivering an accurate interpretation. As Mikkelson (2000: 76) suggests, such documents should be translated by professionals "who are given adequate time for research and production of a polished translation".

Thus, numerous studies have compared CI and SI in court settings, paying particular attention to accuracy and interpreter performance. These studies have yielded somewhat contradictory and variable results. While some research highlights CI as the more accurate mode, others emphasise the efficiency and benefits of SI (Mikkelson, 2000; Pöchhacker, 2004; Angermeyer, 2008, 2013; Hale et al., 2017; Lee, 2015; Licoppe, 2013, 2017, 2020; Ng, 2023).

Notably, Gile's (2001) study offers an interesting observation about the relative accuracy of these modes, suggesting that their effectiveness may depend on a specific language combination: "in some language combinations, consecutive may tend to be more accurate than simultaneous, while in others, the relation would be the other way round" (Gile, 2001: 17). This variation highlights the complexity of the interpreting process and the importance of considering multiple factors, including the context and even language combination when evaluating different modes of interpreting in courtroom setting.

1.2.3 Controversies over the role of the interpreter in the legal system

Interpreting can be described as communicative interaction between members of different language communities facilitated by interpreters. It is, by definition, a form of "cross-linguistic and cross-cultural communication" (Kohn and Kalina, 1996: 118, cited in Lee, 2009a: 35). The interpreter seeks linguistic and cultural equivalents to ensure the accuracy of the rendition so that a speaker/hearer from a different linguistic and cultural background receives a message compatible with the original (Lee, 2009a).

Interpreters play a crucial role in facilitating interactions between members of different language communities. As Valdes and Angelelli (2003: 58, cited in Angermeyer, 2005b: 31) point out, "interpreters are individuals who, as the locus of language contact, have much to teach us about the nature of this contact and about the characteristics of bilingual individuals who broker interactions between monolingual members of groups in contact".

The interpreter must also be sensitive to cultural values, customs, and beliefs that may affect communication between the parties. Lee (2009a: 36), referring to Laster and Taylor (1994: 126-127), further maintains that the interpreter is expected to play a "discretionary role", taking into consideration "cultural dimensions of communication between members of different ethnic, cultural and linguistic communities".

Interpreting in legal settings stands apart from other contexts for PSI not only because interpreters must be equipped with specialised knowledge and terminology, but also because even a minor mistake can lead to a miscarriage of justice (Ng and Crezee, 2020). As Tipton and Furmanek (2016) point out, even minor errors in the interpreter's performance can be hugely significant as such errors often remain unresolved.

It is acknowledged that the role of the interpreter in the legal setting is "to make

communication possible despite language barriers that exist between litigants and court personnel" (Mikkelson, 2000: 1). The interpreter's primary duty is to remove those linguistic and cultural barriers to place the non-English speaker in a position similar to that of the native speaker, ensuring access to a fair trial for the non-native speaker (Hale, 2004). Mikkelson (2000: 48) notes that "… the interpreter's critical role is to uphold basic human rights and equality before the law".

According to Morris (1993), the role of the interpreter in the British public service sector is often defined as a go-between – not much more than someone merely bridging the gap in language, a cypher, a court reporter, a bilingual transmitter, or a mouthpiece. Existing codes of practice require the interpreter to render the original message without editing, summarising, deleting, or adding while conserving the language level, style, tone, and intent of the speaker. They must not assume or be given the role of "gatekeeper" or any other "essentially judicial duty" (Gonzalez et al., 1991: 16).

Moeketsi (1999: 100, cited in Hale, 2004: 9) holds a very similar view to the above, arguing that the primary role of the interpreter is to maintain the equivalence of the original message by preserving "all the vital elements of the message he can, like pauses, tone of voice, hesitations, other extralinguistic features, style and register" and not provide opinions "on legal, linguistic or cultural matters…".

However, Hale (2004: 10) argues that placing the non-English speaker into "the same position as an English-speaking witness" is virtually impossible because the interaction in this case is "triadic rather than dyadic". Hale draws on Gulliver's (1979) understanding of mediators and middlemen and on Wadensjö's claim that "in general … a third party who is present at a negotiation will always exert some influence on the process" (Wadensjö, 1992: 30, cited in Hale, 2004: 10).

Numerous studies focus on the role of interpreters in legal settings (e.g. Angelelli, 2004; Berk-Seligson, 1990; Fenton, 1997; Fowler, 1997; Hale, 2004, 2008; Lee, 2009a, 2009b; Leung, 2003, 2008; Mikkelson, 1998, 2008; Morris, 1995, 1999; Ng, 2013). However, many of these studies reveal a conflict between the codified role of the interpreter, which reflects normative expectations for interpreting practice, and the reality of what actually happens in the courtroom (Ng and Crezee, 2020). However, neither in the academic literature nor in the field (whether among practitioners themselves or their service users) is there any consensus or consistency in the definition of the role of the court interpreter.

The debate surrounding the role of the interpreter centres on two contrasting perspectives. Some see the interpreter as an advocate rather than a neutral agent. The advocate is expected not only to provide the non-native speaker with explanations to ensure their understanding, but also "to embellish the answers to help gain a more favourable result" and succeed in their case (Barsky, 1996, cited in Hale, 2004: 8). Indeed, many non-English-speaking litigants hold this belief, viewing the interpreter as their saviour or a friend – a person who finally speaks their language and can represent their culture (Morris, 1999). This puts the interpreter in a difficult position as, according to their professional code of conduct, they have a duty to remain impartial at all times and not take on the role of an advocate or friend (Bird, 1995).

The other contrasting opinion refers to the interpreter as a kind of machine, a so-called electric transformer or neutral conduit, who translates directly from one language into another and is expected to be accurate on a word-for-word basis. This view is particularly common among members of the legal profession with limited knowledge of languages.

Although views on the court interpreter's role have evolved over the past few decades, controversies persist to date. Views vary from that of an electric device or neutral conduit on one end of the continuum to advocate for the witness on the other end (Hale, 2008; Mikkelson, 2008; Barsky, 1996).

1.2.3.1 The interpreter as a neutral conduit

Conflicts in views on the role of the court interpreter often arise from misunderstanding of the interpreting process per se, both its very nature and vital aspects. Morris (1995) observes that in court interpreting, there is a distinction between two activities. The first is prescribed, or translation, which is "defined as an objective, mechanistic, transparent process in which the interpreter acts as a mere conduit of words" (Morris, 1995: 25). The second is "proscribed", or interpretation, which involves the process of language decoding to convey the message of the original speaker and his or her intentions (Morris, 1995: 25).

The issue with the prescribed approach often required of interpreters by the law professions is the immanent assumption that L1=L2, which is not possible owing to the very nature of the language (Morris, 1993). This approach suggests that interpreters should translate verbatim, as if only verbatim interpretation could guarantee accurate

rendition of the original message. However, literal or word-for-word translation often fails to correspond to the intended meaning in the target language. Achieving accuracy in interpreting does not mean replicating the source language word-for-word but conveying the intended meaning and style in a manner appropriate for the target audience and context (Cardenas, 2001; Hale, 2008).

Angermeyer (2005a: 204) notes that the requirement to interpret verbatim, by "assuming the voice and the point-of-view of the source speaker", implies a view of the interpreter as an invisible conduit for the words of other participants rather than as a participant in the interaction. Berk-Seligson (1990) likewise argues that the interpreter should be invisible, refraining from acting as a verbal participant in their own right and speaking solely on behalf of other participants. Using Goffman's (1981) framework of speaker roles, Angermeyer (2005b, 2009) observes that this role corresponds to the animator of the translated utterances but not the author or the principal.

Morris (1995) highlights the interchangeable use of the terms interpretation and interpreting among practitioners (interpreters), distinguishing the latter as an oral activity of conveying meaning between languages and the former as a judicial process conducted within the same language to determine the "true" meaning of a document. In the judicial context, interpretation is strictly performed by lawyers while translation is often seen by legal professionals as a verbatim rendering of speech. Consequently, interpreters are expected to avoid departing from literal interpretations; any deviation is viewed by legal practitioners as interpreting rather than translating, which is a proscribed activity for court interpreters (Morris, 1995).

Mikkelson (2008) also observes that court interpreters are often compared to a phonograph or a mechanical device. This view creates a moral dilemma for legal interpreters, who are bound by their code of ethics to be faithful to the intended meaning of the message even when they are instructed by judges to "just translate verbatim".

The metaphors of an electric transformer, neutral conduit, and phonograph are particularly popular among judicial officers and court personnel, who expect a perfect and accurate word-for-word rendition (Angermeyer, 2005a, 2005b, 2009, 2013; Mikkelson, 2008; Morris, 1999, 2010). As a former Australian Supreme Court judge stated,

> It cannot be overemphasised that an interpreter should interpret every single

> word that the witness utters, exactly as it is said, whether it makes sense or whether it is obviously nonsense, whether the witness has plainly not heard or whether, if he has heard, he has not understood. The interpreter should look upon himself rather as an electric transformer, whatever is fed into him is to be fed out again, duly transformed. (Wells, 1991, cited in Gibbons, 2003: 247)

A statement of this kind demonstrates lawyers' ignorance of the complexity of the translation and interpreting process. They simply place unrealistic demands on the interpreter and do not realise that, given the nature of the interpreting process, it cannot be perfect. Hale (2008: 114) maintains that those who compare the interpreter with a mechanical device and believe that accurate translation equals to word-for-word rendition of the original reduce the interpreting process to merely a word matching exercise as they simply "do not understand the nature of language".

While the conduit view prevails among legal professionals, it is hardly limited to court personnel. Berk-Seligson (2002) notes that academic scholars such as Roy (1990), Wadensjö (1992), and Laster and Taylor (1994) also consider the conduit view of interpreting to be a normative one. The normative perspective considers the interpreter "a channel, an instrument conveying information, someone who affects the words, messages and utterances of the monolingual parties in a merely technical sense", which is, in effect, a conduit view.

Despite the ubiquity of the conduit view, Hale (2008) argues that in the many codes of ethics she analysed around the world, there were no legal requirements to produce literal interpretation. She concludes that this requirement is a myth "regardless of what many of the judiciary and lawyers may think or say" (Hale, 2008: 114). Hale (2008) further suggests general agreement that literal interpretation does not equal accurate rendition. It is highly unlikely that many interpreters would succumb to word-for-word translation even if the courts expect them to interpret verbatim simply because this is an impossible task (Hale, 2008: 114).

1.2.3.2 The interpreter as an advocate for the witness

The opposite view on the role of the court interpreter is that of an advocate for the witness, saviour, or friend (Morris, 1999; Hale, 2008; Naudi, 2023). As numerous studies show,

the interpreter may be seen as a friend or even a lifesaver by non-native-speaking witnesses who feel threatened and alienated by the legal system. In such cases, they may assign the interpreter to the role of an advocate acting on their behalf. This puts the interpreter under more pressure as, according to most professional codes of conduct, they must remain impartial at all times and not take on the role of advocate or friend (Bird, 1995; Naudi, 2023).

Morris (1999: 6) describes two contrasting situations typically faced by court interpreters and refers to it as "the gum syndrome". On the one hand, a non-English-speaking client may feel intimidated by a foreign and hostile courtroom; the interpreter is the only person in this establishment with whom he or she can converse in their native language. Owing to the nature of the interpreting process, the interpreter utters the client's words in the first person and stands by the client in the dock. This encourages the client to view the interpreter as a friend or saviour. The more the interpreter tries to prevent this from happening, the more attached the client gets – much like chewing gum on the sole of a shoe. Similarly, Angermeyer (2005b) notes that interpreters are more likely to identify with non-English-speaking litigants as they tend to feel an affinity toward participants who are native speakers of their own language.

This perception of interpreters as potential advocates is further explored in research on legal interpreting in Malaysia. Ibrahim (2007) examines the role of the interpreter in the Malaysian legal system. He argues that the unique sociolinguistic context and cultural norms often lead interpreters to adopt a more active role as advocates for the minority language speaker.

Research on interpreting for vulnerable groups, such as refugees and asylum seekers, illustrates the challenges of balancing neutrality and advocacy. Blasco Mayor (2023) examines the quality of interpreting services for asylum seekers in Spain, focusing on the views of stakeholders such as non-governmental organisation (NGO) workers and lawyers. The study shows that interpreters often face difficult situations when working with traumatised individuals unfamiliar with legal processes. In such cases, interpreters may take on extra roles, such as simplifying legal terms or offering emotional support. These efforts can blur the line between interpreting and advocacy.

On the opposite side of this continuum are the actors in the courtroom who see the interpreter in a very negative way, as an unwanted intruder (Morris, 1999). This resonates

with Fowler's (1997) observations of magistrates who expected that the interpreter "would behave as quietly and unobtrusively as possible" and if the interpreter "could melt into the background, then all concerned would be happier" (Fowler, 1997: 195).

Cooke (1995b) also notes that in some situations, the interpreter can act as a shield. This could occur during cross-examination, for example, where the primary strategy is to unsettle and discomfit the witness through aggressive questioning. The interpreter, who often reduces the coercive force of leading questions and unintentionally undermines the hostile interrogation strategies of lawyers, inevitably provides the witness with some degree of protection from such questioning (Cooke, 1995b; Berk-Seligson, 1999; Hale and Gibbons, 1999). Berk-Seligson (1999: 49) concludes that "interpreters often try to make the witness for whom they are interpreting feel more comfortable, or less intimidated, by the situation in which the latter finds him/herself".

The view of the interpreter as an advocate for the witness is actively supported by Barsky (1996), who maintains that the interpreter's role is reduced and restricted to merely performing basic translation tasks whereas interpreters should be recognised as "active intermediaries between the claimant and adjudicating body" as well as given the latitude to assist "by intervening with questions and clarifications that are pertinent to the case" (Barsky, 1996: 46). Barsky (1996: 46) believes that interpreters should go far beyond the role of a transmitting device to help refugees and act as cultural agents by elaborating on their claims in a more favourable way ("improving narratives"). Barsky (1996) further suggests:

> …if interpreters are allowed to perform these intricate and sensitive tasks…. they will provide invaluable assistance to those who have suffered oppression and exclusion by allowing them to tell the stories that, after all, at the very centre of the determination process as it is currently construed. (Barsky, 1996: 62)

Fenton (2004) strongly disagrees with Barsky's position and demonstrates how such views, although compassionate,

> open the door to dangerous and unsafe practices for the interpreter, instil an exaggerated faith by the claimant in the powers of the interpreter, and if accepted by the interpreting community, would set the interpreting profession back by years. (Fenton, 2004: 265)

Fenton's study shows that some practitioners reject the idea of the role extension beyond

their interpreting, as per Barsky's suggestion. They see involving interpreters in "anything other than interpreting…as detrimental to the individuals as to the profession as a whole" (Fenton, 2004: 269). Hale (2008: 103) argues that Barsky's view also implies that the minority language speaker represented in court is always discriminated against by powerful institutions and as such requires protection and assistance. So, according to Barsky (1996) interpreters are there to speak on their behalf.

It is interesting to note, however, that some members of the judiciary have also been supportive of this role. Hale (2008: 103) provides an example from a local court case in New South Wales, Australia, in which the magistrate asked the interpreter, " …would you assist the defendant please?" As discussed in this section already, this role description (an advocate for a witness) has been supported mostly by non-English-speaking litigants – but sometimes by practitioners themselves, along with some members of the judiciary. Still, Hale (2008) points out that such an approach to the interpreter's role lacks impartiality. If the interpreter assumes this role, he or she inevitably intervenes in the process of justice. Moreover, the interpreter's best intentions to help may well backfire and achieve the opposite result (Hale, 2008: 106).

1.2.4 Court interpreter role descriptors in academic literature (other role definitions)

The role of the court interpreter has been extensively researched by different scholars worldwide. However, although many scholars have offered similar role descriptors, there is no consensus on the role (Lee, 2009a; Ng and Crezee, 2020). Earlier in this chapter, I discussed the two contrasting views on the interpreter's role found in academic literature as well as among legal professionals and practitioners. These are the role of an advocate for the non-English-speaking litigants, and the role of a neutral conduit translating verbatim between languages. Between these extremes, there are numerous other possibilities for interpreter intervention that, while recognised by many scholars and researchers, have yet to be fully defined (Mikkelson, 2008). A number of studies demonstrate that the court interpreter is an interactive participant (Hale, 2008; Martin and Ortega-Herráez, 2009; Devaux, 2016), which will be discussed further in this section.

Lee (2009a: 43) examines the views of legal professionals and interpreters in Australia with respect to the role of the court interpreter. In her survey, she provides the following

widely accepted role descriptors in the academic literature:

- neutral conduit for language (a so-called translation machine)
- facilitator of communication in the courtroom
- cultural expert in the courtroom
- language expert in the courtroom
- advocate for the witness

Lee (2009a: 43) further notes that the term "facilitator of communication" is referred to as a preferable and most appropriate role descriptor by some scholars and literature (e.g. Steytler, 1993; Laster and Taylor, 1994), whereas other researchers consider any facilitative role inappropriate as it can be compared to "filtering or embellishment" (Lee, 2009a:38). For example, Hale (2008) argues that this role is a combination of "advocate for the powerless participant" and "advocate for the powerful participant" roles and carries potentially serious consequences "in the context of court interpreting" (Hale, 2008: 110).

Martin and Ortega-Herráez (2009, cited in Monteoliva-Garcia, 2018: 49) surveyed court interpreters in Spain and found that many perceived their role as facilitators of communication. They enact this role by adapting the register for both speakers, explaining legal procedures, or summarising what was said in the courtroom. This view contrasts with the existing view of interpreters as mere conduits who translate verbatim (Monteoliva-Garcia, 2018).

Likewise, Licoppe (2013: 249) points out that the development of remote interpreting has especially contributed to the "reshaping of communicative ecologies and the pragmatics of interpreting as an activity". Research suggests that in telephone interpreting, interpreters often adopt the role of communication facilitators. This is reflected in their frequent use of the third person (reported speech).

1.2.4.1 The interpreter as an active agent in interactions

Angermeyer (2005a) argues that interpreters should take on an active role in courtroom interactions. This concept was first introduced and theorised by Wadensjö (1992, 1998),

who developed the idea of the interpreter's coordinating role as an active participant in interaction. Wadensjö provided a detailed conceptual framework for understanding this role (Angermeyer and Meyer, 2021).

Angermeyer (2005a, 2005b) examined three small claims courts where informality often led interpreters to perform tasks beyond translation, such as administrative duties and coaching non-English-speaking litigants. The study reveals instances where interpreters acted as legal advisers, speaking for claimants rather than merely interpreting. Interpreters tended to occupy the middle ground by balancing institutional norms with solidarity and affiliation toward litigants who shared their native language. In doing so, they acted as buffers and facilitated communication to mitigate conflicts (Angermeyer, 2005b). The interpreter may thus act as an intermediary, "transforming [the] speech of other participants in ways that are socially acceptable to the respective target audiences" (Angermeyer, 2005b: 42). These findings support Wadensjö's (1998) claim that talk coordinating activities form an inherent part of the interpreter's task – one that is inseparable from so-called pure translational activities.

In a more recent, corpus-based study of a community interpreting database, Angermeyer and Meyer (2021: 120) assert that it is "almost common sense nowadays that interpreters, regardless of the interpreting mode, their professional status, or their expertise, should be perceived as active participants in an ongoing interaction". Drawing on Wadensjö's (1998) earlier work, Angermeyer and Meyer (2021: 125) argue that all interpreter utterances, whether renditions or non-renditions, contribute to coordinating the interaction

Similarly, Licoppe (2020) builds on Wadensjö's (1998) work on the interpreter's coordinating role in interaction, examining situations of implicit coordination where the interpreter manages turn-taking using "embodied cues" or overlaps in interaction. This contrasts with explicit coordination, where the interpreter issues direct requests or instructions for the asylum seeker to stop talking. Licoppe (2020: 66) observes that interpreters use various resources for speech coordination and turn transitions, including gaze, posture, discourse markers such as "okay", overlaps, gestures, and verbal instructions. These tools allow interpreters to take the floor at relevant moments, sometimes starting interpretation before the speaker has finished. Licoppe (2020: 83) concludes that managing turn transitions in courtroom interactions during CI highlights

the interpreter's active role and agency in "sequential gatekeeping" as well as plays an important role in judges' perceptions of how the hearing is proceeding – and ultimately impacts the case's outcome.

Gavioli and Baraldi (2021) further explore the concept of interpreter agency in coordinating interactions and its connection to the notion of mediation. While perspectives on interpreter agency vary (e.g. Tipton, 2008; Baraldi, 2019), it becomes especially apparent when interpreters move beyond mere translation to actively shape the interaction. As an integral aspect of mediation, agency involves interpreters making choices that can significantly impact the direction and effectiveness of the communicative exchange (Baraldi, 2019; Gavioli and Baraldi, 2021).

1.2.4.2 The interpreter as a gatekeeper

In addition to the coordinating role, the gatekeeper role emphasises the interpreter's agency and indicates their active participation in interaction. This role is often discussed in the literature. Many researchers caution against such active involvement as it can lead to negative consequences for both parties involved. For instance, Hale (2008) warns that the gatekeeper role can result in disempowerment when interpreters offer advice outside their expertise or omit crucial information. Hale (2008) argues that by adopting this role, the interpreter becomes the only powerful participant in the interaction. This can lead to negative consequences especially in the context of court interpreting. Adoption of this role may lead to exclusion of the witness/defendant from the interaction, or such attempts can backfire later down the line (Hale, 2008).

The concept of gatekeeping is frequently explored in academic literature, with numerous scholars, including Wadensjö (1998), Tipton (2008), Mason (2009), and Davidson (2009), addressing it from various epistemological perspectives. Pöllabauer (2012) notes that while these studies differ in their theoretical foundations, they all share a focus on the control, selection, and brokering of decision-making processes alongside the flow of information, goods, and services. In her work, Pöllabauer (2012: 216) draws on Kurtz's (1968) definition, describing gatekeepers as individuals who facilitate access to resources necessary to solve problems within specific contexts. She further emphasises that most institutional encounters are gatekeeping encounters, which must adhere to certain rules

and conventions (Pöllabauer, 2012: 217).

Wadensjö (1998: 67) describes interpreters as gatekeepers serving as intermediaries between laypeople and institutions. Building on this concept and her own research findings, Pöllabauer (2012: 226) concludes that interpreters play a highly active and interventionist role in these processes. This view positions the interpreter not as a passive translator, but as a critical agent shaping interactions and influencing outcomes within institutional settings.

1.2.4.3 The interpreter as a cultural broker

Another dilemma is posed by the cultural dimension, wherein cultural differences and culturally bound expressions require additional information, and the interpreter's judgement about the best possible rendition. Providing opinions or additional information is generally viewed as "overstepping the bounds of the court interpreter's role" (Lee, 2009a: 38). Some scholars support cultural intervention in the interest of effective communication (e.g. Mikkelson, 1999; Roy, 2002; Angelelli, 2004; Wadensjö, 2008), while others contend that the court interpreter should not assume the role of the cultural expert or "attempt to explain cultural concepts or beliefs which may have a bearing on the case" (Gonzalez et al., 1991: 240-242, cited in Lee, 2009a: 38).

Similarly, Pöchhacker (2008) argues that the interpreter's role should be clearly distinct from cultural mediation. Hale (2008:102) reinforces this view, stating that the role of a "cultural broker" should be avoided as it compromises impartiality and can lead to negative consequences for all parties involved. However, Gustafsson et al. (2013) provide a contrasting perspective in their study of twenty-six community interpreters in Sweden across various public settings, which focuses on the interpreter's role as a so-called cultural broker. The study concludes that, although acting as a cultural broker conflict with the code of ethics for interpreters because it involves proactively negotiating for a particular outcome, it is often unavoidable. The findings suggest that the role of a cultural broker is intrinsic to the nature of interpreting as separating the conveyed message from its cultural context is virtually impossible (Gustafsson et al., 2013).

Along with other scholars (Krouglov, 1999; Russell, 2000; Katan, 2004), Colin and Morris (1996) note it may be necessary in some public service settings to draw attention

to cultural issues to achieve effective communication by all parties to the interaction. Although legal figures often seek to avoid any intervention that goes beyond purely linguistic aspects of communication, it is important to highlight that language cannot be separated from culture; the two are intricately interwoven and cannot be separated without losing the significance of either (Brown, 1994: 165).

At the same time, a question arises regarding the extent to which the interpreter should intervene and provide input on cultural differences. In a study of police interpreting, Krouglov (1999) finds that interpreters often make pragmatic decisions and can omit colloquialisms or obscenities as well as expressions of hesitations or affirmation that might lead to a change in politeness – and, as a result, alter the perception of the interviewee. Furthermore, the non-English-speaking client may exploit the situation and take advantage of the language and cultural barrier, such as by lying. Colin and Morris (1996) thus raise another valid question: should the interpreter intervene in such circumstances, and to what extent?

Verrept (2008) evaluates the effectiveness of the intercultural mediation programme in Belgian healthcare settings, where the role of an intercultural mediator is recognised as a formal occupation. Intercultural mediators must fulfil certain requirements. Among other responsibilities, they are required to provide interpreting services and act as cultural brokers. Verrept (2008) notes that the quality of interpreting provided by mediators was often poor. Martín and Phelan (2009) offer a different perspective, arguing that the two roles are, in fact, complementary: mediators lack the linguistic expertise of interpreters, while interpreters are not equipped to address intercultural issues.

A more recent study conducted by Wang (2017) reveals that interpreters, as guided by their codes of conduct, are not cultural mediators by default. Serving as a cultural mediator is not an inherent aspect of the interpreter's role, and additional training would be required if they were to assume this responsibility.

1.2.4.4 Other interpreter roles

At the opposite end of the spectrum, interpreters are sometimes assigned duties that go far beyond the role of a linguist and/or a cultural mediator – even within the legal system. Some legal practitioners seem to expect them to play a secretarial or even an investigative

role, or assume that interpreters have editorial duties, such as summarising tapes of police interviews. As Colin and Morris (1996: 175) note, "it cannot be emphasised strongly enough that the interpreter's role does not include the duties of secretaries, editors…or investigators".

Another role sometimes ascribed to an interpreter is that of the language expert. However, Lee (2009a: 38) remarks that providing an expert opinion on language is a different matter from clarifying cross-cultural issues; an interpreter without "proper credentials" cannot claim to be a linguistic expert at the same level as a forensic linguist, grammarian, or cultural expert.

Conflicting views over the role of the interpreter often arise from conflicting expectations imposed by all parties to the interaction. Anderson (2002: 216) observes that "[t]he interpreter commonly serves two clients at the same time. He is the 'man in the middle' with some obligations to both clients – and these obligations may not be entirely compatible". Fowler (1997: 196) further notes that the magistrates she interviewed could not easily distinguish between the "impartiality which they expected the interpreter to display" and the "warm" and "helping" relationship they expected the interpreter to have with the defendant. At the same time, some practitioners themselves occasionally adopt this type of role.

Hale (2008: 100-101) provides the following reasons for confusion over the role of court interpreters:

- lack of uniformity in entry requirements to the profession;
- lack of research into/critical and analytical study of Community Interpreting;
- General professional identity crisis for the discipline and different role expectations imposed on the interpreter by various participants in the interaction.

Hale (2008: 102) then proposes the following role descriptors found as prescribed in some code of ethics or deduced from the performance of practising interpreters:

1. Advocate for the powerless participant
2. Advocate for the powerful participant
3. Gatekeeper

4. Speech assistant (filter, clarifier, embellisher)
5. Faithful renderer of the original utterances.

Thus, in analysing confusion over the professional role of the interpreter, Hale (2008: 108) identifies two opposing poles. On one pole, the interpreter is viewed as a "faithful renderer of original utterances" focused solely on accurate translation. This is the only suitable role for interpreters in her view. On the other, the interpreter acts as a cultural mediator and even an advocate for powerless (or powerful) participants, making decisions about what to interpret and what to omit, hence influencing the content of utterances.

Hale (2008: 102) further argues that the role of "faithful renderer of others' utterances", as outlined in all codes of ethics, is often misunderstood owing to misinterpretation of faithfulness or accuracy. Many equate faithful translation with word-for-word rendition, viewing interpreters as mechanical devices capable of producing direct language equivalents. However, most codes do not mandate verbatim translation, which debunks the myth of its legal necessity. Instead, this role emphasises respecting the speaker's freedom of speech and their responsibility for the consequences of their words, moving beyond the simplistic machine-like approach to interpreting (Hale, 2008: 115).

To address the debate, some authors propose role fluidity, suggesting that the interpreter's role may adapt based on the situation (e.g. Mason, 2009; Tipton and Furmanek, 2016; Devaux, 2016). For instance, Mason (2009) argues that the interpreter can assume different roles within the same interpreting event depending on the positioning they adopt within an interaction. Similarly, Devaux (2016) observes many roles that can be adopted by the interpreter not only within different interpreting fields, but even within the same interpreting event. An interpreter could take on a role of a machine (conduit), interactive interpreter, cultural expert, and so on. However, as Skaaden (2023) notes, broadly defined or variable professional role can create challenges in building professional trust as clients may be uncertain about what to expect.

To sum up, there is still very little consensus in this area despite numerous studies on the role of the courtroom interpreter. Controversy over the role persists among all parties involved, including the practitioners themselves, the non-English-speaking litigants, the members of the judiciary, and academics. Disagreement over the role of the court interpreter can generate confusion and even mistrust of interpreters, who often find

themselves confronted by different and conflicting expectations from various professions and clients. The interpreter's understanding of their role has a crucial bearing on their performance (Hale, 2004). Yet as Monteoliva-Garcia (2018) observes, there is also growing agreement among academics, practitioners, and service users on the crucial role of legal interpreting for both institutional and non-institutional users.

The next section will explore the theoretical foundations of identity construction and provide the rationale for applying Bucholtz and Hall's (2005) framework to the analysis of the identity of courtroom interpreters in England and Wales, based on follow-up interviews with practitioners and legal professionals.

1.3 Theoretical foundations of identity construction

1.3.1 The concept of identity in social science

Identity is a complex and multifaceted concept that has been explored across numerous academic disciplines, generating a wide range of perspectives and interpretations. It is deeply embedded in both individual experiences and social structures. In recent decades, the term has received significant attention in academic discourse as well as in everyday conversations. While the concept of identity may seem simple at first glance, it is deeply rooted in theory, loaded with ideology, and used to describe aspects ranging from personal self-perception to collective group affiliations (Brubaker and Cooper, 2000; Wiles, 2013).

The term identity was first introduced into social science and analysis in the United States in the 1960s. Erikson (1951, 1968, cited in Oyserman et al., 2012: 73) formulated a widely adopted model of identity development that emphasises the formation of identity through exploration and commitment. While Erikson employed the term identity in a manner synonymous with what others have referred to as the self-concept, the term can also be understood as a way of comprehending specific aspects or components of the self-concept (Oyserman et al., 2012). Earlier theories considered identity as a fixed and static category "based on the attributes attached to individuals" (Schnurr and Zayts, 2011: 41).

More recent studies adopt a constructionist view of identity, wherein identity is conceptualised as "something we actively do, rather than something we passively are" (Marra and Angouri, 2011: 1). In contrast to earlier theories, the constructionist paradigm

suggests that identity does not pre-exist language but is instead constructed, negotiated, and asserted through social interaction. It does not develop in isolation but emerges in relation to others. Far from being a fixed entity, identity is fluid and dynamic, shaped by both internal and external factors. It is an ongoing process of becoming rather than a static category of being (Bucholtz and Hall, 2005; Sarangi, 2010; Marra and Angouri, 2011).

Oyserman et al. (2012: 69) adopt a more essentialist perspective on identity, defining it as "the traits and characteristics, social relations, roles, and social group memberships that define who one is". However, Oyserman, et al. (2012: 94) later argue that identities are social products and rather "dynamically constructed in context", suggesting a shift in their view towards a constructionist perspective, which has become more dominant in recent years (Sarangi, 2010).

1.3.2 What is professional identity?

Over the years, the conceptualisation of identity has shifted from a primarily individual and static notion to a more dynamic, socially constructed, and context-dependent one. This evolution provides a foundation for exploring professional identity, which shares many of these characteristics but with a specific focus on the workplace and professional roles (Benwell and Stokoe, 2006; Wiles, 2013).

In the social sciences, there are many definitions of professional identity. For example, Ibarra (1999: 764) defines professional identity as "the relatively stable and enduring constellation of attributes, beliefs, values, motives, and experiences in terms of which people define themselves in a professional role". This definition foregrounds the internal, personal aspect of professional identity, relating it to an individual's sense of self within their profession. Ibarra (1999) further argues that professional identity develops over time through experience and constructive feedback, meaning that it is dynamic and adaptable to one's career.

Drawing on Spencer-Oatey (2007), Li and Ran (2016: 48) define professional identity in their study as "one's professional image, consisting of such attributes as professional role, professional competence and professional ethics". The researchers further argue that an individual's professional role is linked to their status in work settings and can be considered as a "dynamic aspect of professional identity" (Li and Ran, 2016: 48). In their view, professional identity "can be constructed through role performance or enactment"

(Li and Ran, 2016: 48).

Wiles (2013) takes a constructionist approach to professional identity through research into the interaction between the personal and professional identities of students of social work, establishing and outlining three approaches to the construction of professional identity. First, professional identity can be deemed a set of desired professional traits along with adherence to the professional codes, boundaries, and values inherent to a particular profession (in Wiles' study, social work). Second, it can be understood in the sense of a collective identity shared across representatives of a profession. Third, Wiles (2013) suggests a more subjective approach to professional identity by viewing it as a process of individual development in which every person "comes to have sense of themselves as a social worker" (Wiles, 2013: 864).

Wiles' study reinforces the widely accepted view that professional identity is a complex, evolving concept that extends beyond acquiring theoretical knowledge, values, and competencies. Rather than merely conforming to external definitions, it is fluid and shaped through ongoing "identity work" (Wiles, 2013: 861), a concept rooted in Erving Goffman's (1967, 1974, cited in Tracy, 2011: 177) research on how identity is constructed, challenged, and negotiated in talk.

1.3.3 Other studies on professional identity construction

The number of studies of professional identity across various vocational settings highlights the dynamic and context-dependent nature of identity construction. For instance, Svennevig (2011) takes a communicative approach and examines how managers construct their professional identities in workplace meetings. His study demonstrates how communication styles and sequential actions shape leadership identity, particularly through interactions between managing directors and middle managers. Through analysis of response structures in meetings, he establishes how professional roles and responsibilities are enacted and conceptualised in discourse.

Similarly, Chaemsaithong (2011) investigates professional identity construction in historical courtroom settings, focusing on how eighteenth-century expert witnesses used linguistic strategies to establish credibility. Despite their lower social status compared to judges and lawyers, expert witnesses employed discursive tactics such as self-classification, references to professional experience, and strategic response expansions to

assert their expertise and counteract power imbalances. These historical findings remain relevant today as expert identity in legal contexts continues to be negotiated through language.

Other studies explore identity construction beyond institutional settings. Dvir and Avissar (2014) examine the development of critical professional identity using post-modern theory, wherein identity is seen as a dynamic process that constantly changes throughout life and undergoes construction and reconstruction. Clarke and Kredens (2018) extend the discussion to forensic linguists, exploring how professional identity is shaped both inside and outside the workplace.

Clarke and Kredens (2018) argue that narratives play a key role in the construction of professional identities through the lexical and grammatical choices people make when talking about their work. The underlying epistemological position of their study is rooted in the idea that identity performance is enabled through language use, both within and outside the professional context (Clarke and Kredens, 2018). They apply Bucholtz and Hall's (2005) constructionist framework for identity analysis to their research, reinforcing the notion that professional identity is not merely a product of institutional roles but actively constructed through discourse and interaction.

1.3.4 Theoretical framework for identity analysis

As Marra and Angouri (2011: 1) observe, "through language we enact who we are and where we belong". This means how we talk about ourselves, and how others talk about us, actively shape our understanding of who we are. These constructions can be both intentional and unintentional, conscious and unconscious. They are always open to negotiation and reinterpretation.

At the same time, identities do not exist in a social vacuum but develop through interactions within embedded social practices, structures, and ideologies (Marra and Angouri, 2011; De Fina et al., 2006). In other words, identities emerge from interactions shaped by social practices and engagements with interlocutors. They go beyond being mere reflections of institutional roles and responsibilities; instead, they emerge from continuous negotiation in the process of interaction (Bucholtz and Hall, 2005).

This study adopts the identity analysis framework proposed by Bucholtz and Hall (2005)

because it conceptualises identity as a product of linguistic interaction and integrates the most pertinent aspects of identity construction into a structured approach. The framework will be applied to the analysis of the interview transcripts in Chapter 6. I chose to apply this framework to the interview transcripts only because, unlike questionnaires, the follow-up interviews with interpreters and legal professionals were more free-flowing and better suited to the spontaneous conceptualisation of the professional identities of interpreters.

Bucholtz and Hall's (2005) framework is built on an interdisciplinary perspective and a broad overview of existing research. They bring together numerous social theories and extensive studies across various fields and provide a comprehensive approach to understanding identity as socially and linguistically constructed. They outline the following key principles that underpin this framework:

1. **The principle of emergence.** Identity is discursive in nature and depends on specific conditions of linguistic interaction; it is not a pre-existing source of linguistic practices.

2. **The principle of positionality.** Identity includes both macro-level demographic categories (such as gender, social class, age) and local ethnographical and cultural positions.

3. **The principal of indexicality.** Identities are linguistically constructed through labels, implicatures, styles, and other linguistic structures and systems that are semiotically linked to social meanings.

4. **The principle of relationality.** Identities do not exist in isolation and only can gain social meaning through interaction and discourse that includes adequation and distinction, authentication and denaturalisation, and authorisation and illegitimating.

5. **The principle of partialness.** Identity is multidimensional and encompasses multiple facets and constituent parts. It is inherently relational, partial, and a product of contextual discourse.

According to Bucholtz and Hall (2005), identity is thus emergent and not essential. Identity is dynamic. We have control over linguistic resources; we can choose to play

along, distance, or place ourselves in the middle of a certain identity. Identity is also a process. We have a significant degree of control over constructing our identity, which is what positions this ideological stance against essentialism (Bucholtz and Hall, 2005).

To sum up, this section has explored the theoretical foundations of identity construction, providing a brief overview of how social science perspectives have shifted from viewing identity as fixed and static to understanding it as fluid, dynamic, and shaped through interaction. Similarly, professional identity is not simply a reflection of a role or set of skills; rather, it emerges through social engagement and discourse placed within vocational settings. Various studies highlight how identity is constructed through language and shaped by broader social structures and practices. Bucholtz and Hall's (2005) framework offers a useful approach for analysing identity as an ongoing process shaped by interaction. This study will apply their framework to explore how courtroom interpreters in England and Wales construct and negotiate their professional identities through language.

1.4 Chapter summary

This chapter has presented a comprehensive literature review on the interpreter's role in the courtroom. The review revealed persistent controversy over defining and understanding the role of the courtroom interpreter. Various perspectives in the literature exist at two extremes that range from seeing the interpreter as a mechanical tool or neutral conduit to a friend or advocate for the witness. The controversy extends from the lack of consensus on what the interpreter should or should not do when interpreting in the courtroom. Lewellyn-Jones and Lee (2014: 33) surmise that the primary requirements for interpreters boil down to confidentiality, accuracy, and impartiality. Yet depending on the role assumed by the interpreter, these core principles can be compromised (Hale, 2008). In the context of superdiversity, existing controversy, and changes in the provision of courtroom interpreters in England and Wales, the role of the interpreter needs to be re-explored and redefined for better understanding. This is especially important given that interpreting is a key element of ensuring justice for all.

Next, the literature review on professional identity construction uncovered the dynamic and emergent nature of identity. This sets the stage for the forthcoming exploration of the

professional identity of courtroom interpreters in England and Wales (Chapter 6).

The following chapter will detail an overview of the institutional context for the current study. It will delve into existing legislation, guidelines, and codes of conduct relevant to courtroom interpreting as well as briefly review the current situation for courtroom interpreting provision under the new agency system.

2 INSTITUTIONAL CONTEXT

2.1 The criminal justice system in England and Wales

The criminal justice system in England and Wales is the starting point for setting the scene and institutional context for the current research. This system consists of various agencies and institutions responsible for enforcing the law in the interests of all citizens. It aims to "deliver justice for all" by detecting crime, bringing it to justice, and convicting the offender while at the same time protecting the victim and the innocent (Joyce, 2017: 140).

As White (2002: 5) notes, the institutional structure of the criminal justice system in England and Wales is distinguished by "fragmentation [and] differences in roles and aims among institutions forming parts of the system" as well as by the "absence of a single [g]overnment body responsible for criminal justice policy and implementation". It is characterised by growing concerns over bringing crime under control without miscarriages of justice that are, sadly, not uncommon.

The criminal justice system in England and Wales is thus rather complex, given its multiple actors and processes. According to Joyce (2017), White (2002), and Welsh et al. (2021), the overarching objectives of the system include the following:

- create boundaries between right and wrong behaviour to prevent and deter delinquency and wrongdoing;
- detect and investigate crime;
- collect evidence in connection with criminal activities;
- arrest, charge and prosecute offenders;
- convict the guilty and protect the innocent from wrongful conviction;
- deliver and administer sentences imposed by courts;
- provide support to offenders to prevent reoffence;
- protect victims;
- protect everyone from arbitrary or unfair treatment by actors in the criminal process;
- maintain order.

The Criminal Justice Strategic Plan (2008–2011) notes victims should be held "at the heart of the criminal justice system by ensuring that justice is delivered to those who have suffered as a consequence of crime" (OCJR, 2007: 7). In the same vein, Welsh et al. (2021: 1) describe the criminal justice system as "a complex social institution that regulates potential, alleged and actual criminal activity within limits designed to protect people from wrongful treatment and wrongful conviction".

White (2002) further notes a characteristic feature of the system in England and Wales: it remains adversarial in that offenders are not required to co-operate with the investigating and prosecuting authorities building a case against them. It is the responsibility of the prosecution to prove a criminal offence beyond reasonable doubt. The two key elements upon which the criminal process rests are thus the presumption of innocence and the requirement of proof beyond reasonable doubt (White, 2002).

The criminal justice system in England and Wales consists of the following key actors and institutions (White, 2002: 6):

- the police
- the Crown Prosecution Service (CPS)
- the Criminal Defence Service (CDS)
- the Courts
- the Probation Service
- the Prison Service
- the Criminal Case Review Commission
- the Criminal Injuries Compensation Authority

Because the main focus of the current research is courtroom interpreting, I will briefly review the functions of the police, the CPS, the CDS, and the courts. These four primary actors are of particular interest as they introduce a wider institutional context to the current research.

2.1.1 The Police

The police in England and Wales does not have a centralised office. Each of the forty-three local police forces, which roughly correspond with areas of local authority, enjoy a certain degree of independence in the exercise of powers granted by legislation. A unique characteristic of the police in England and Wales is that each police officer is a constable

and an office holder in his/her own right. Each thus has considerable autonomy in how they run their office and in decision-making.

Police in England and Wales are the sui generis gatekeepers of the criminal justice system. They have the power to decide whether an individual enters the justice system or stays outside of it. They also have the power to stop and search, arrest, and take a person to the police station for further investigation (White, 2002; Joyce, 2017; Welsh at al., 2021). However, their independence and autonomy are restricted by a set of occupational rules and norms as well as by the 1984 Police and Criminal Evidence Act (PACE) regulations, which will be discussed later.

Once the police decide to prosecute an individual and there is sufficient evidence, they generally pass the case onto the Crown Prosecution Service (CPS) for a decision on whether or not to prosecute (White, 2002; Welsh at al., 2021).

2.1.2 The Crown Prosecution Service (CPS)

The CPS is an independent national agency that serves as a bridge between "the police investigation of cases and the determination of guilt or otherwise by the criminal courts" (White, 2002: 9). It oversees the prosecution process and is responsible for the presentation of all cases in criminal courts. It also provides advice to the police on request.

The CPS was established in 1985 to take over the role of prosecution from the police to ensure fairness of trial and justice. The reason behind this was the idea that the police, by virtue of involvement in the investigation, has a vested interest in the successful conclusion of a case that in turn increases a risk of miscarriage of justice (Joyce, 2017; White, 2002).

2.1.3 The Criminal Defence Service (CDS)

Article 6(3) (Right to a Fair Trial) of the European Convention on Human Rights (ECHR, 1950) guarantees certain minimum rights to defendants:

> Everyone charged with a criminal offence has the following minimum rights:
>
> a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

b) to have adequate time and facilities for the preparation of his defence;

c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

The criminal justice system in England and Wales seeks to secure legal representation for the accused by granting them a statutory right to privately consult a lawyer at any time during their questioning at the police station. Section 58 (Access to Legal Advice) of the PACE (1984) reads "1. A person arrested and held in custody in a police station or other premises shall be entitled, if he so requests, to consult a solicitor privately at any time".

Thus, the primary function of the CDS is thus to ensure access to legal advice, assistance, and representation for those who are suspected or accused of crime. By doing so, the institution safeguards the statutory right of access to legal advice (White, 2002).

2.1.4 The courts

Leaving aside appeals, there are two tiers of criminal courts in England and Wales: magistrates' courts and Crown Courts. The former is concerned with minor (or summary) offences, while the latter take up more serious (indictable) offences. There is a third category of offences that can be tried either in the magistrates' courts or in the Crown Court; the accused may have a choice in the matter and even be involved in making decisions (Joyce, 2017). Welsh et al. (2021) point out that regardless of this classification of offences, most prosecuted cases go uncontested because the defendant pleads guilty.

All prosecuted cases start in magistrates' court. However, more serious criminal offences are tried in Crown Courts before a judge and jury. In magistrates' courts, most cases are generally decided by a bench of three lay magistrates, never fewer than two, supported by a bench legal advisor who provides guidance on points of law. In addition, solicitors and barristers may be appointed as District Judges, who sit alone but are also supported by a legal adviser (White, 2002; Welsh et al., 2021).

As White (2002: 13) explains, the seriousness of the offence determines "the distribution of business between the magistrates' courts and the Crown [c]ourt". Magistrates' courts handle over 90% of all criminal cases, while Crown Courts are responsible for the remaining 3% to 5% of all criminal business (as per the Home Office Research and Statistics Directorate). However, these latter cases are more serious.

Both tiers of criminal courts in England and Wales have their own complex processes by which they function. The element they do have in common is the use of lay decision-makers (called lay magistrates in magistrates' courts, and lay jury in Crown Courts). The lay element in a criminal trial is seen as one of the strengths of the criminal justice system of England and Wales, because it helps to counterbalance the excessive legal technicality. At the same time there is concern that lay jurors may struggle with the complexities of some modern fraud trials or other complex cases (White, 2002). To my knowledge, this concern has not been addressed and proposals for special juries have not been implemented.

Finally, the tribunals system has its own structure for dealing with cases and appeals. Decisions from different chambers of the Upper Tribunal and the Employment Appeals Tribunal may also go to the Court of Appeal (Courts and Tribunal Judiciary, 2023).

Below, Figure 1 provides a schematic for the structure of the courts in England and Wales (Judicial Office International Team, 2016:6). The courts are overseen by the MoJ while the police is overseen by the Home Office.

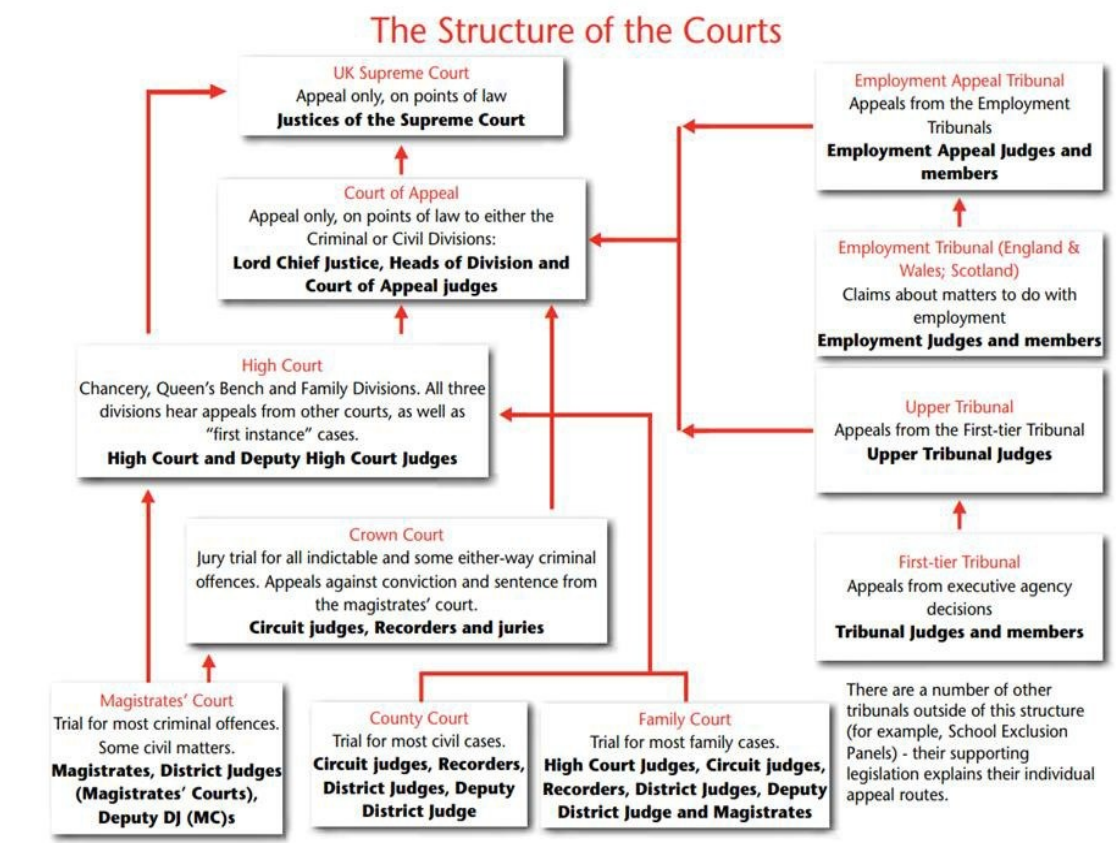

Figure 1: The Structure of the Courts (Judicial Office International Team, 2016: 6)

The criminal justice process typically begins when an offence is reported to the police or otherwise becomes known to them. The police initiate an investigation into the alleged offence, which includes interviewing witnesses and suspects and may result in an arrest of the latter. The person under arrest is taken to a police station for further questioning under caution followed by detention or release on bail. In cases of detention, the person must be charged as soon as possible and appear before the relevant magistrates' court (Faulkner, 2010).

Up to that point, the process is regulated by the 1984 PACE legislation and codes of practice issued under that act. Code C is of particular interest to this research as it attends to the "detention, treatment and questioning of persons by Police Officers" (PACE, 1984, Code C). In particular, Code C provides guidelines for dealing with so-called special groups that include people who do not speak or understand English, people with hearing or speech impediment, juveniles, citizens of an independent Commonwealth country, nationals of a foreign country (including the Republic of Ireland), persons under the

Mental Health Act 1983, and so on.

Section 13 in Code C is devoted to interpreting and the provision of interpreters for non-English-speaking detainees and suspects, suspects whose first language is not English, and those who have speech and/or hearing impediments and require a British Sign Language interpreter (ICVA, 2019; PACE, 1984; Code C, 2019).

Code C was reviewed and updated several times between 2008 and 2019. The most recent version was published on the gov.uk website in August 2019.

2.1.5 Court actors

There are many participants in a hearing/trial. However, for any criminal trial, the defining actors are a judge, prosecutor, and defence advocate. These are the actors who will ultimately determine how the story unfolds in the courtroom (Nunn, 1995).

According to HM Court and Tribunal Service (HMCTS) Guidance (2020a), the key actors in the courts of England and Wales include the following:

- the judge
- the defence lawyer
- the prosecutor
- the defendant
- the jury
- the witness
- assistance for the witness
- the probation officer
- the court clerk
- the usher
- the press/media
- the public

2.1.5.1 Judges

Judges are appointed legal professionals responsible for presiding over court proceedings, making legal decisions, and ensuring that trials are conducted fairly. They interpret and apply the law, make rulings on evidentiary matters, and provide instructions. As Nunn (1995: 785) observes, "the judge is treated with utmost dignity and respect". The judge serves as the ultimate legal authority, decisionmaker, and referee over the adversarial contest that takes place during the trial (Nunn, 1995).

2.1.5.2 Counsel and solicitor advocates

Counsel and solicitor advocates are legal professionals who specialise in representing clients in court, providing legal advice, and arguing cases before judges. There are over 15,000 barristers practising law in England and Wales. Many give specialist advice and represent people in their legal disputes, including during court appearances (Judicial Office International Team, 2016).

In the United Kingdom, counsels can represent either the defence or the prosecution. As prosecutors, they often represent the CPS and are responsible for bringing criminal cases against defendants (HMCTS, 2020a). They present evidence, interrogate witnesses, and argue for the defendant's guilt. Prior to the trial, the prosecutor decides what charges to bring and what penalties to seek (Nunn, 1995).

Heffer (2005) explains that the counsel is

> above all a strategist engaged in acts of persuasion: persuading the jury of the guilt or innocence of the defendant; convincing the judge of the legal admissibility or otherwise of an item of evidence; coercing the witness into answering in a certain fashion. (Heffer, 2005: 95)

It is important to note that in immigration tribunal hearings in England and Wales, the prosecution is typically represented by the Home Office or the Office of the Immigration Services Commissioner (OISC). These government agencies are responsible for presenting the case against the individual facing immigration-related charges or issues. The Home Office, in particular, plays a central role in prosecuting cases related to immigration violations and asylum claims. It presents evidence, legal arguments, and documentation to support its position during tribunal proceedings (OISC, n.d.).

The defence side of the immigration tribunal is referred to as the appellant's

representative. The appellant's representative is the individual who participates in the hearing, offering advice to the defendant (called an appellant) and assisting them in presenting their case. This representative may have legal qualifications or could be affiliated with an advice centre or support organisation. Professional representatives must register before they can appear in immigration and asylum cases. In situations where the representative and the appellant are not physically present in the same location, they should mutually decide on an alternative means of communication, such as e-mail, text messaging, or phone calls (HMCTS, 2020b).

Not all of the tribunal hearings I attended had legal representatives. In some cases, appellants represented themselves.

2.1.5.3 Solicitors

Solicitors are legal professionals who advise clients, prepare legal documents, and manage legal matters outside the courtroom. They often work directly with clients and may be the first point of contact for individuals seeking legal assistance. In criminal cases, solicitors may interview clients, gather evidence, and liaise with barristers for court representation (Law Society, 2023).

2.1.5.4 Defendants

Defendants are individuals or entities accused of committing a crime or wrongdoing. They have the right to legal representation and a fair trial. The defendant typically occupies a seat in the dock, occasionally accompanied by a uniformed officer (HMCTS, 2020a).

Immigration tribunal hearings involve an appellant rather than a defendant. The appellant is an individual who disputes a decision made by the Home Office in relation to their permission to stay in, deportation from, or entry clearance to the United Kingdom. They have the right to appeal decisions made by the Home Office and can seek legal representation or represent their case themselves. At the hearing, the appellant normally provides evidence first to help explain why they disagree with the decision. They may also be asked questions by the Home Office presenting officer and sometimes the judge (HMCTS, 2020b).

2.1.5.5 Jury

A jury is a panel of independent citizens selected to evaluate the evidence presented by the parties engaged in a court dispute and ultimately render a verdict regarding the defendant's culpability or innocence following a trial. Juries are regarded as a fundamental part of the English legal system, and individuals serving on a jury are referred to as jurors (Judicial Office International Team, 2016).

2.1.5.6 Witnesses

Witnesses provide testimony and evidence from the witness box during trials. They may be called by either the prosecution or the defence to support their respective arguments. Witness testimony plays a crucial role in establishing facts and influencing the outcome of trials. Young or vulnerable witnesses can give evidence by video link from somewhere else or from behind a screen (HMCTS, 2020a).

2.1.5.7 Assistance for the witness (interpreters)

All of the observed hearings (see Chapters 4 and 5 below) involved interpreters of different languages. It is worth noting that HMCTS (2020a) guidance to who's who at Crown Court lists, among other court actors, the so-called assistance for the witness. It provides the following definition of what is meant by this category:

> A supporter may be able to sit with a young or vulnerable witness while they're giving evidence. An interpreter will also attend the trial if needed by the witness or defendant. They'll interpret what's said during the trial so everyone present can understand each other. Interpreters are independent of both sides. (HMCTS, 2020a)

As per the HMCTS guide, interpreters are located in the same category as supporters for vulnerable witnesses as well as social and health care workers. Yet while they are included in the list of court actors, they occupy a more peripheral role in the courtroom that is somewhat distinct from that of core participants.

Thus far, this section has attempted to provide a brief review of the criminal justice system in England and Wales and its key actors (namely, the police, the CPS, the CDS, and the courts) to introduce a wider institutional context and determine a point of departure for this research. At the heart of the current study lies the subject of interpreting in the legal settings of England and Wales, with a particular focus on the

role and identity of courtroom interpreters. Accordingly, it is crucial to understand the structure and functional attributes of this complex and multifaceted system.

Drawing on Bourdieu's social theory (1977), Angelelli (2008) argues that interactions are shaped by the institutions within which they occur. Like other social and professional practices, interpreting is influenced by its institutional context and cannot be viewed in isolation. Based on her research, Angelelli (2004, 2008) argues that interpreter roles vary across settings, such as medical, legal, business, and conference environments. This variation significantly impacts their behaviour and professional practices. While individual factors such as age, gender, and education play a role, the primary determinant of interpreter role perceptions is their work setting. She further notes "[r]esearch has demonstrated that interpreters' work settings influence significantly their behaviours in practice, as well as their beliefs about their roles" (Angelelli 2008: 152).

To summarise, the criminal justice system heavily influences the role of courtroom interpreters who must work within complex institutional settings to ensure effective communication in legal proceedings. Understanding the legal framework for interpreters in the United Kingdom is essential to ensure fairness and protect the right to a fair trial for everyone, regardless of language barriers.

The next section will provide a brief review of existing legislation safeguarding the right to an interpreter in the UK criminal justice system. It will also explore legal aspects of the provision of interpreters in the United Kingdom.

2.2 The right to an interpreter in UK legislation

In the legal systems of democratic societies, equality before the law is a fundamental principle. Ideally, everyone should have equal access to justice regardless of their gender, sexual orientation, national origin, ethnicity, religious and political beliefs, or language (Angermeyer, 2013). However, as Angermeyer (2013) notes, achieving this level of equality remains a challenge – especially when it comes to addressing language barriers. This is particularly critical in criminal proceedings, where a person accused of committing a crime must be able to understand court proceedings and should be given the opportunity to communicate with the court "in his or her preferred mode of discourse or be provided with an intermediary who can facilitate that communication" (Gonzalez

et al. 1991: 49, cited in Mikkelson, 2000: 10).

In the United Kingdom, where basic common law rights prevail, there is no inherent right to an interpreter; this means provision of an interpreter lies at the discretion of the judge (Gibbons, 2003). However, the right to an interpreter for litigants who do not speak the language of the proceedings is granted in accordance with Article 6: "Right to a Fair Trial" of the Human Rights Act 1998, which states that defendants have a right "to be informed promptly, in a language which they understand and in detail, of the nature and cause of the accusation against him" as well as "to have the free assistance of an interpreter if they cannot understand or speak the language used in court" (Human Rights Act 1998, Schedule 1, Article 6(3)(a), (e)).

In 2009, the European Council adopted a resolution on a "Roadmap for strengthening procedural rights of suspected and accused persons in criminal proceedings" (or "the Roadmap") that intended to protect defendants and victims by reinforcing their right to a fair trial. As a result, six measures were recommended for EU countries, which included the United Kingdom at the time. Measure A refers to translation and interpretation and stipulates the following:

> The suspected or accused person must be able to understand what is happening and to make him/herself understood. A suspected or accused person who does not speak or understand the language that is used in the proceedings will need an interpreter and translation of essential procedural documents. Particular attention should also be paid to the needs of suspected or accused persons with hearing impediments. (Resolutions of the Council, 2009)

Following the EU committee advice, the UK government opted in with regards to Measure A and it remains valid to date (post Brexit).

In October 2010, the European Parliament and Council adopted Directive 2010/64/EU "on the right to interpretation and translation in criminal proceedings" to emphasise and reinforce the importance of measures proposed in the Roadmap resolution with particular reference to Measure A, "On Translation and Interpretation". All EU countries were meant to accept and transpose the directive by 27 October 2013.

The 2010/64/EU Directive became a massive step forward in promoting the right to a fair trial and providing a legal foundation for the provision of court interpreters. The

directive was adopted 26 November 2016 and would become law in EU countries by 5 May 2019. It still applies in the United Kingdom even after the country exited the EU in 2021 (Brexit Legal Guide, 2019):

> Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings 1 ("the Directive") constitutes the first instrument adopted under Article 82(2) of the Treaty on the Functioning of the European Union 2 (TFEU). Article 82(2) provides the legal basis to adopt, by means of directives, minimum rules on "the rights of individuals in criminal procedure". (EUR-Lex, 2018)

The Directive was introduced to enable the application of a specific right to a fair trial, namely, the right of suspected or accused persons to translation and interpretation in criminal and European arrest warrant proceedings. This marked a significant milestone for safeguarding the rights of individuals requiring linguistic assistance in criminal proceedings (Monteoliva-Garcia, 2018; Valero-Garcés, 2023).

The Directive has a significant impact on the protection of suspected or accused persons in EU countries and the United Kingdom. It implements the rights and guarantees set out in Articles 47 and 48 of the Charter of Fundamental Rights of the European Union (2012) and Article 6 of the European Convention on Human Rights (ECHR, 1950) more consistently through the establishment common minimum standards for Europe. The Directive thus contributes to improving mutual trust among EU member states, as foreseen by the Roadmap, through strengthening the procedural rights of suspected or accused persons in criminal proceedings (EUR-Lex, 2018).

Apart from the Human Rights Act and the 2010/64/EU Directive establishing minimum standards on rights, support, and protection through appropriate language support provisions, the 1984 PACE contains guidelines for criminal investigations involving non-English speakers (Tipton, 2023). When a crime occurs, a suspect is detained in custody for further interview. For non-English-speaking detainees, the decision about the level of their language proficiency and whether an interpreter is required is made by the interviewing police officer. In making this decision, the officer is guided by the aforementioned Code C, Section 3.12, of the PACE 1984 legislation, which currently states the following:

> If the detainee appears to be someone who does not speak or understand English or who has a hearing or speech impediment, the custody officer must ensure:

> that without delay, arrangements (see paragraph 13.1ZA) are made for the detainee to have the assistance of an interpreter in the action under paragraphs 3.1 to 3.5. If the person appears to have a hearing or speech impediment, the reference to "interpreter" includes appropriate assistance necessary to comply with paragraphs 3.1to 3.5. S

Section 13.2 (B) goes on as follows:

> Unless paragraphs 11.1 or 11.18(c) apply, a suspect who for the purposes of this Code requires an interpreter because they do not appear to speak or understand English (see paragraphs 3.5(c)(ii) and 3.12) must not be interviewed unless arrangements are made for a person capable of interpreting to assist the suspect to understand and communicate.

As the above excerpts indicate, a detainee with limited language proficiency must not be interviewed without a person capable of interpreting. However, the need for the interpreter (i.e. the language proficiency of a person requiring an interpreter), as well as capability to do interpreting, are defined by police officers who are neither experts nor at all likely to have special training in this area (English, 2010).

Section 13.1 affirms that "chief officers are responsible for making arrangements to provide appropriately qualified independent persons to act as interpreters and to provide translations of essential documents". It further clarifies that

> making arrangements for an interpreter to assist a suspect, mean making arrangements for the interpreter to be physically present in the same location as the suspect unless the provisions in paragraph 13.12 below, and Part 1 of Annex N, allow livelink interpretation to be used. (PACE, 1984)

Although this section requires the person acting as an interpreter to be appropriately qualified, it does not explain what this involves. It does not even state "appropriately qualified interpreters", but rather vaguely refers to someone qualified, independent, and capable of acting as an interpreter.

Following adoption of the 2010/64/EU Directive in the United Kingdom, Code C was updated to include a reference to Directive requirements for arrangement of an interpreter for non-English-speaking detainees. Section 13.1A of PACE 1984 Code C (2019) states the following:

> The arrangements must comply with the minimum requirements set out in Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (see Note 13A). The provisions of this Code implement the requirements for those to whom this Code applies.

These requirements include the following:

> That the arrangements made, and the quality of interpretation and translation provided shall be sufficient to "safeguard the fairness of the proceedings, in particular by ensuring that suspected or accused persons have knowledge of the cases against them and are able to exercise their right of defence". This term which is used by the Directive means that the suspect must be able to understand their position and be able to communicate effectively with police officers, interviewers, solicitors and appropriate adults as provided for by this and any other Code in the same way as a suspect who can speak and understand English and who does not have a hearing or speech impediment and who would therefore not require an interpreter. (Section 13.1A of PACE 1984 Code C (2019))

In earlier versions of Code C (published between 2008 and 2012), there was no mention of quality in reference to interpreting. Following the adoption of the 2010/64/EU Directive, this section of Code C was revised in line with the Directive requirement to ensure that the quality of the provided interpreting is sufficient "to safeguard the fairness" of the proceeding. Furthermore, with the reference to the Directive, this paragraph further provides that, in order to exercise their right to defence, a non-English-speaking suspect should be put in a position where he/she has a similar level of understanding and are able communicate "in the same way as a suspect who can speak and understand English" (Section 13.1A of PACE 1984, Code C (2019)).

Additionally, section 13.1A of Code C (2019) includes a separate paragraph on translation of documents (a subject that was not even mentioned in previous versions of Code C):

> The provision of a written translation of all documents considered essential for the person to exercise their right of defence and to safeguard the fairness of the proceedings as described above. For the purposes of this Code, this includes any decision to authorise a person to be detained and details of any offence(s) with which the person has been charged or for which they have been told they may be prosecuted, see Annex M.

The updated version of Code C included a paragraph on procedures that not only help to establish the need for an interpreter, but it also provides for a complaints' procedure for situations wherein a suspect/detainee is dissatisfied with the quality of interpreting and/or translation.

According to the 2019 revisions to Code C of PACE (1984), procedures help determine the following:

- whether a suspect can speak and understand English and needs the assistance of an interpreter; and
- whether another interpreter should be arranged, or another translation should be provided when a suspect complains about the quality of either or both.

Paragraph 13.3 of Code C (2019) provides that "the interviewer shall make subsection re the interpreter makes a note of the interview at the time in the person's language for use in the event of the interpreter being called to give evidence, and certifies its accuracy" and the interviewer must also make sure "sufficient time is allowed for the interpreter to note each question and answer after each is put, given and interpreted" (Section 13.3 of PACE 1984, Code C (2019)).

Paragraph 13.4 further suggests that the interpreter is effectively responsible for recording the statement given to the police by the suspect/detainee in the language other than English:

> In the case of a person making a statement to a police officer or other police staff other than in English:
> a. the interpreter shall record the statement in the language it is made;
> b. the person shall be invited to sign it;
> c. an official English translation shall be made in due course. (Section 13.4 of PACE 1984, Code C (2019)).

From these paragraphs (13.3 and 13.4), it follows that Code C not only provides guidelines for the police but also ascribes a certain role to interpreters whereby they are expected to take notes during the interview as well as record questions and answers in the language of a suspect. They should also be prepared to testify in court as witnesses and certify the accuracy of their interpretation.

This is further reaffirmed in paragraph 13.10 of Code C (2019), which instructs the custody officer on what they should arrange for the interpreter to do:

> After the custody officer has determined that a detainee requires an interpreter (see paragraph 3.5(c)(ii)) and following the initial action in paragraphs 3.1 to 3.5, arrangements must also be made for an interpreter to:
>
> - explain the grounds and reasons for any authorisation for their continued detention, before or after charge and any information about the authorisation given to them by the authorising officer and which is recorded in the custody record;
>
> - to provide interpretation at the magistrates' court for the hearing of an application for a warrant of further detention or any extension or further extension of such warrant to explain any grounds and reasons for the application and any information about the authorisation of their further detention given to them by the court; and
>
> - explain any offence with which the detainee is charged or for which they are informed they may be prosecuted and any other information about the offence given to them by or on behalf of the custody officer. (Section 13.10 of PACE 1984, Code C (2019)).

What I find particularly interesting in the above paragraph is that the interpreter is expected to not simply provide interpretation at the magistrates' court, but also "explain" the reasons for detention and "any offence the detainee is charged" with.

Although police interpreting as such is beyond the scope of this research, where the main focus is on courtroom interpreting, it must still be taken into consideration because the police is part of the UK legal/justice system and therefore should not be viewed in complete isolation. With this in mind, PACE (1984) Code C provides very interesting insight into understanding the role of the interpreter in the legal system of England and Wales.

2.3 Availability and provision of interpreters

Despite existing legislation on the right of non-native English speakers to receive interpreting services free of charge, interpreters are often not provided. This can happen

for a myriad of reasons. As discussed earlier, mistaken assumptions about the language proficiency of non-native speakers may result in denial of access to desperately needed interpreting services. As English (2020) reports in her study on the proficiency of non-native detainees, the English-language assessment of non-native speakers involved in legal encounters through arrest, police interrogation, and court interaction is not rigorous even though the stakes are high. The mere circumstances of an arrest and interrogation simply "do not allow for formal pre-testing" (English, 2020: 466).

Flawed assumptions and misjudgements about the language proficiency of detainees are further exacerbated by their own misconceptions about their ability to speak and understand English (English, 2010). This phenomenon was initially identified and described by Ross (1998), who argues that learners struggle to provide an accurate estimation of their acquired foreign language skills and tend to either underestimate or overestimate their additional language competencies.

The issue may also be influenced by perceptions about the inferior status of non-native defendants, prompting some individuals to hide their foreign accents or linguistic difficulties in attempt to avoid stigma or bias (Aliverti and Seoighe, 2017). Blackstock et al. (2013, cited in Aliverti and Seoighe, 2017: 136) observed in their studies of police custody across various European countries that some suspects were determined to assert their proficiency in the local language and, at times, even took offence at the suggestion that they might require assistance from an interpreter.

Drawing upon the study by Ross (1998), English (2020: 466) similarly notes that detainees are often "reluctant to admit to any kind of weakness, including linguistic disadvantage". The consequences of such faulty linguistic assumptions and misconceptions can be far-reaching and may ultimately lead to miscarriages of justice thanks to the denial of interpreting services when they are needed. As Cooke (1995a: 110) puts it, "without an interpreter they are all deprived of the opportunity to communicate their evidence with exactness and adequately put their side of a case".

Another reason why interpreters are not always provided is that an interpreter in a courtroom is often seen as a source of irritation or even "a thorn in the side" (Cook, 1995a). According to Fowler's (1997: 195) observation, an overwhelming majority of magistrates she interviewed expected the interpreter to "behave as quietly and unobtrusively as possible".

This is because interpreting can often weaken or mitigate some of the hostile and aggressive tactics frequently employed in cross-examination; it may also be seen as a potential barrier in relationship-building processes with clients (Van De Mieroop et al., 2023). It is widely thought among lawyers that interpreting makes the whole process twice as long, providing witnesses with extra time for thinking and developing a response – and potentially deceiving the court (Wakefield et al., 2015). An interpreter could distort the perception of non-verbal signals such as eye contact, facial expressions, and so on (Gibbons, 2003). To the lawyer, then, the interpreter is a potential obstacle. This may explain why police officers and court officials are often reluctant to provide an interpreter even when necessary.

In their study of English criminal courts, Aliverti and Seoighe (2017: 143) observe that some court officials prefer to avert the use of interpreters to "avoid delays, speed up proceedings, and save costs". They often adopt a "well, let's see how we get on" approach before deciding whether to appoint an interpreter (Aliverti and Seoighe, 2017: 143). Concerns about public sector costs were among the issues most frequently raised by interviewees in their studies (counsels, judges and magistrates), along with suspicions that non-English-speaking defendants might hide information or exploit their alleged lack of English proficiency to their advantage (Aliverti and Seoighe, 2017).

Morris (1995) discusses such negative attitudes and suspicions towards non-English-speaking litigants and interpreters in her thorough analysis of both modern and historical English-language law reports, which largely reflect the negative views of legal professionals on the interpreting process as well as on interpreters themselves. Morris (1995) suggests such views could reflect a broader prejudice towards non-English speakers based on their language, national origin, and ethnicity. She notes that interpreters must consider both the speaker's intention and the listener's understanding, identifying potential misunderstandings that could expose a lawyer's uncertainties or inefficiencies. In this way, the interpreting process has the potential to undermine the legal procedure itself (Morris, 1995).

In her 1997 study based on interviews with magistrates and interpreters alongside observation of court proceedings in England and Wales, Fowler finds that bilingual magistrates were more supportive of the use of interpreters while monolingual magistrates often held different views (Fowler, 1997: 197). She notes that monolingual magistrates tended to become suspicious when interpreters were used for defendants who

spoke some English, but not enough for legal proceedings. Defendants with limited English proficiency were often at a disadvantage as their testimony appeared less credible compared to those who spoke no English and used an interpreter (Fowler, 1997: 198). Fowler (1997) also observed defence solicitors sometimes deliberately avoiding the use of interpreters to exploit a defendant's lack of English proficiency for strategic advantage.

A similar situation was reported in Australia. Carroll (1995, cited in Hale, 2007: 92) argues that misconceptions about the use of interpreting services for non-native speakers were shared by lawyers, who often advised their clients to avoid interpreting services if they could express themselves in limited or broken English. Carroll (1995: 67, cited in Hale, 2007: 92) recalls that professional interpreting services were not always provided, and courts often failed to recognise the risks of using non-professional interpreters. He identifies four reasons for this:

1) judges find it more difficult to assess credibility through interpreters;
2) judges suspect that interpreted speech may be evasive or tactical;
3) judges believe interpreters do not interpret literally, and therefore accurately; and
4) judges feel capable of assessing a defendant's language proficiency themselves.

In a study of small claims courts in New York, Angermeyer (2008, 2013) observes instances where judges, arbitrators, or interpreters discouraged litigants with some English proficiency from speaking the language directly and instead required them to communicate solely through an interpreter. This was to avoid sending mixed messages about the litigants' ability to communicate in English, which could have negatively impacted their credibility. Angermeyer (2013: 112) reports how "when participants attempt to use institutional language instead of speaking through an interpreter, they may be accused of having lied about the need for interpreting, which in turn may reflect poorly on their credibility overall".

There is another problem with the provision of interpreting services, namely, the extensive use of non-qualified interpreters or bilingual speakers untrained in interpreting. Morris (1995) notes that whatever the reasons behind the use of low quality or unqualified court interpreters, law enforcement officials broadly ignore the legal implications of relying on what is "inevitably a flawed product when interpreting services are provided by unskilled, untrained individuals often deficient even in high-level skills in two

languages, let alone in interpreting skills as such" (Morris, 1995: 29).

Hayes and Hale (2010) conducted a small-scale study analysing fifty court and tribunal appeals in Australia based on the grounds of incompetent interpreting. They found that between 2007 and 2008, such appeals increased by 27.7%. Yet most were dismissed, because higher courts rarely acknowledged the impact of poor interpreting on credibility or case outcomes "unless the interpreting errors are directly related to an issue of specific significance to the case and constitute jurisdictional error" (Hayes and Hale, 2010: 119).

The scenario in the United Kingdom closely mirrors that of Australia in terms of growing reliance on unqualified and untrained interpreters. This trend became more pronounced especially following implementation of a widely criticised framework for the procurement and delivery of interpreting services in the public sector. Thanks to a budget deficit reduction programme implemented by the UK government after the 2008–2009 financial crisis, there was a series of substantial reductions in public spending with the aim of shrinking the size of the welfare state (UK Parliament, 2024). The impact on the legal system was particularly severe, leading to court closures and a reduction in entitlement to Legal Aid. As a result, many defendants are now forced to represent themselves (Fowler, 2016).

To further reduce costs, the MoJ introduced a framework in August 2011 that aligned with the austerity measures implemented across the criminal justice system. This framework involved granting a lone interpreting contract to a commercial agency with the primary objective of curbing government expenditure in the public sector and achieving substantial cost savings (Aliverti and Seoighe, 2017; Gentile, 2017). The privatisation of PSI led to a drop in interpreter remuneration, causing numerous professionals to decline agency work and, in some cases, pursue different career paths. This created a gap that was then filled by unqualified individuals and ultimately resulted in a decline in the quality of interpretation services (Fowler, 2016; Kredens et al., 2020; Naudi, 2023).

Naudi (2023) argues that exclusive reliance on an agency as the primary source for PSI in England and Wales inevitably eroded standards for quality. This was mainly a result of the inadequate compensation for interpreters, lack of reimbursement for travel and waiting time, and seemingly lower level of training standards within relevant agencies (Naudi, 2023).

Thus, following the outsourcing of PSI (and translation) services to a sole provider (initially Applied Language Solutions, then Capita TI, and finally thebigword), there were numerous reports of issues with unqualified and underqualified interpreters (Kredens, 2017). Naudi (2023) highlights a noticeable increase in complaints regarding the quality and availability of interpreters between 2016 and 2017, which coincided with the commencement of the new contract by thebigword (see also Aliverti and Seoighe, 2017).

The below examples are derived from the dossier of evidence prepared by Involvis (2014: 6-7), a report that describes instances of failure to supply interpreters or to comply with the MoJ contract and framework agreement by Capita TI:

> 05/05/14
>
> **Bristol**
>
> Capita failed to provide a Lithuanian interpreter on 5 May in Bristol, sentencing adjourned till the end of the month. Police officers have to make sure one is available for the next hearing.
>
> 06/05/14
>
> **Scarborough Magistrates' Court – reported by *Yorkshire Post*, *Northern Echo* and *Daily Mail*:**
>
> TAXPAYERS have been left with a £3,000 bill when a Lithuanian was prosecuted for stealing two plastic bags worth 10p each – and a Latvian speaker was sent to translate for him.

In response to a barrage of complaints from different stakeholders, the MoJ commissioned an independent review of changes in language services under the new framework in 2014 (Kredens, 2017; English, 2020; Naudi, 2023). The review confirmed that, among other issues, only 50% of registered interpreters had formal qualifications: "[o]f the interpreters registered with Capita TI that responded to the supply survey, just under 50% hold one or more of these top ten[1] qualifications" (Optimity Matrix, 2014: 7). The review continues:

[1] The top ten list of qualifications is as follows:
1) IoLET Diploma in Public Service Interpreting (DPSI) – Law option
2) IoLET Diploma in Public Service Interpreting (DPSI) – Health option
3) IoLET Diploma in Public Service Interpreting (DPSI) – Local government option
4) Metropolitan Police Test / IoLET Diploma in Police Interpreting
5) MA in Interpreting and Translation (as long as justice system-specific skills are examined)

> …this Review found that there is a perception that the current quality requirements under the FA do not adequately reflect the requirements for face-to- face interpreters in standard languages working across the justice system. In this regard, the current quality requirements do not ensure that the quality of interpreters is sufficient to safeguard the fairness of proceedings. (Optimity Matrix, 2014: 38)

The review thus revealed that the reform had actually exacerbated the situation. Specifically, there were concerns about quality due to inadequate proficiency in target and English languages, lack of interpreting skills, and potential biases. After numerous protests, the service provider was switched to thebigword in 2016, and the contract was renewed for another four years in 2021. Nevertheless, Naudi (2023) points out that the transition to a new service provider did not result in improved pay or working conditions for interpreters. During the COVID-19 pandemic, thebigword reduced rates by an additional 15%, resulting in some interpreters earning less than the national minimum wage. Consequently, even more highly qualified interpreters left the profession to pursue better-paying employment opportunities (Aliverti and Seoighe, 2017; Naudi, 2023).

The examples that follow illustrate the state of affairs in the PSI sector when thebigword took over Capita. The first, an excerpt from a 2017 *Daily Mail* news article, reveals that sentencing was delayed after the interpreter went to the wrong court and left without telling anyone:

> FARCICAL! Afghan killer who came to UK and beat police with a hammer has sentencing delayed... because translator went to wrong town
>
> - Jamshid Piruz attacked two police officers with a hammer after coming to UK
> - £10,000 was wasted on a judge, barristers, police and court clerks for his sentencing
> - But the interpreter went to a court in a different town at the wrong time and then went home without telling anyone
> - Piruz will now be sentenced in Hove next Friday instead
>
> More than 2,600 court cases have been adjourned in the past five years because

6) MA in Interpreting (as long as justice system-specific skills are examined)
7) BA in Interpreting and Translation (as long as justice system-specific skills are examined)
8) BA in Interpreting (as long as justice system-specific skills are examined)
9) Post Graduate Diploma in Interpreting (as long as justice system-specific skills are examined)
10) Post Graduate Diploma in Conference Interpreting (as long as justice system-specific skills are examined).

> of failures in the interpreting service. (Drury and Narain, 2017)

In another example from October 2018, barrister Daniel Prowse commented on his experience with court interpreters in the PSI network:

> IT'S AS BAD AS EVER
>
> Worked in a Midlands Crown Court today privately for a solicitor. thebigword had been asked to provide two interpreters. One turned up. Lovely person, doing it for the experience, but all at sea, no badge and didn't interpret at all. She asked for my advice afterwards. She had "level 2" interpreting, had come from London. Pay rate £14 per hour. Cleared £21 for the time in court and had been paid £40 travel, the rail ticket cost £36. She thus earned £25 for around 8 hours (1.5 in court doing nothing and 5.5 hours travel.) = £3 per hour paid to not interpret for a person awaiting a potentially life-changing verdict.

The above examples are indicative of the critical state of courtroom interpreting in England and Wales. Numerous procedural delays occur. In some instances, people are either released or kept in custody due to inadequate or unavailable interpreting services. Qualified and experienced interpreters are pushed out of the profession by unacceptable pay rates and working conditions. However, professional courtroom interpreting is key to a fair trial and justice in a multinational country such as the United Kingdom. It has become even more crucial in light of new patterns of migration along with the migrant crisis in Europe (Schäffner et al., 2013).

On behalf of the Executive Committee of the European Legal Interpreters and Translators Association (Eulita), President Liese Katschinka noted that it is especially regrettable how,

> at a time when the EU Directive on the right to interpretation and translation in criminal proceedings is being implemented, the language services that are currently being provided to the justice sector in the UK appear to be seriously flawed. (Eulita, 2012)

2.3.1 On public service interpreter training in the United Kingdom

Formal development of interpreting as a profession began in the mid-twentieth century. Consequently, most European countries established training institutions for interpreters

during this period. Theoretical reflection on interpreting began in the late 1980s and early 1990s, leading to the development of interpreting studies in Europe. While initially centred on conference interpreting, the field has increasingly included community and PSI over the past two decades (Iannone et al., 2017).

However, few countries have established certification and licensing systems for court interpreters. These systems exist in nations such as the United States and Canada but are absent in places such as the United Kingdom, Denmark, and Australia. Where certification is mandatory, interpreters must regularly renew their credentials. This requires maintaining a minimum number of practice hours, participating in ongoing training, and adhering to professional codes of ethics. In contrast, countries without formal systems often rely on untrained interpreters employed on an ad hoc basis, which raises concerns about the quality and reliability of interpreting services (Lee, 2014, 2015).

Moteoliva-Gracia (2017) notes that in the European Union, the profession of legal translators and interpreters is still being formalised, and efforts are focused on developing training programmes and certification systems. However, variations in legal systems and practices across different jurisdictions pose significant challenges to achieving alignment. The availability of training for public service interpreters varies widely across Europe. Some countries lack any formal training or offer minimal training only, while others provide comprehensive programmes at the postgraduate or university level (Iannone et al., 2017; Valero-Garcés, 2023; Grieshofer, 2023).

Using the terminology proposed by Iannone et al. (2017: 38) to categorise various training options available across EU countries, I have explored the availability of training programmes and courses for public service interpreters in the United Kingdom, including those specialising in legal or court settings. Based on this research, I identified the following pathways:

- **Postgraduate and university-level training.** Some universities, such as the University of Leeds, London Metropolitan University, and the University of Westminster, offer postgraduate programmes focused on interpreting that include legal settings. Their programmes also offer PSI-related modules. Notably, the University of Leeds (n.d.) offers a dedicated MA in Public Service Interpreting and Translation Studies, but at the moment it is limited to the Chinese–English language pathway.

- **Sporadic and in-house training.** Organisations and private companies, usually translation agencies, often run smaller-scale or ad hoc training sessions for interpreters. These may not lead to formal qualifications but rather focus on practical skills in specific interpreting contexts.

- **Blended and online learning.** A growing number of programmes now incorporate blended learning methods that combine online and in-person sessions. Some DPSI exam preparation courses offer a mixed approach, combining distance and on-campus training sessions (e.g. University of Westminster, South Thames College), while others are entirely distance-based (e.g. Cardiff University, DPSI Online, LearnQ).

- **Train-the-trainer programmes.** Initiatives such as those promoted by professional bodies (e.g. the Chartered Institute of Linguists (CIOL) and NRPSI) aim to improve the skills of interpreter trainers and sometimes include so-called train-the-user workshops to educate clients on effective collaboration with interpreters.

- **Non-language-specific training.** Given the linguistic diversity of the United Kingdom, many training programmes focus on universal interpreting skills and ethical guidelines to make them applicable across languages.

Several universities offer undergraduate and postgraduate programmes in interpreting and translation. However, the structure of these courses often lacks a focus on PSI or offers PSI-related modules as optional rather than compulsory. A variety of these training models aims to fill the gaps in formal interpreter education. Still, there is inconsistency in the training and provision of qualified interpreters in the United Kingdom as well as other countries with trained and untrained interpreters often working alongside each other (Tipton, 2014).

Aliverti and Seoighe (2017: 143) highlight research conducted in UK police stations, noting that police officers and lawyers often hesitate to use professional interpreters and instead arrange “informal interpreting”. Tipton (2021: 1064) supports this observation, adding that “…the Ministry of Justice has come under considerable criticism, most recently in January 2019, as unqualified interpreters have been supplied to some police forces”.

Tipton (2014) observes that reliance on unqualified and untrained interpreters arises partly from difficulties in meeting training demands as new language needs emerge. Inconsistencies in recruitment practices, working conditions, and regulatory frameworks further contribute to the uneven standards within the interpreting profession (Tipton, 2014).

The next section will discuss other problems related to the provision of court interpreters in the United Kingdom, with particular focus on England and Wales.

2.4 Provision of court interpreters in the United Kingdom: current situation

Kredens and Morris (2010) describe a situation in the Republic of Ireland where interpreting services for the Irish police were outsourced in 2009 to regional agencies on the basis of tender. This resulted in a significant decrease in the quality of interpreting services. The agencies reportedly failed to carry out even basic checks for criminal records, to say nothing of professional accreditation. Yet the negative experience of the country's closest neighbour was overlooked by the British government and a very similar situation occurred in the United Kingdom when PSI was outsourced to a small regional agency.

As discussed earlier, before August 2011, the provisions of court interpreters in England and Wales were administered directly by courts through the NRPSI in accordance with the National Agreement as well as Codes C and H of PACE 1984. Both the National Agreement and PACE required that whenever possible, interpreters should be used from the two registers (NRPSI and the National Register of Communication Professions working with Deaf and Deafblind People, or NRCPD) for suspect interviews and any other legal proceeding.

The NRPSI serves as a voluntary regulator for PSI and was established in 1994 to ensure minimum professional and quality standards (Mayfield and Krouglov, 2019). A not-for-profit subsidiary of the Chartered Institute of Linguists, the NRPSI was created in response to numerous miscarriages of justice during the 1980s and early 1990s. The register remains active today and is used as a primary source for qualified, experienced, and security-cleared interpreters and translators (Mayfield and Krouglov, 2019; Naudi,

2023).

The NRCPD is equally important. Both registers have codes of conduct that specify minimum requirements in terms of the professional competence, qualifications, and conduct of legal interpreters (PACE; the 2007 National Agreement). Yet registration with these registers is not compulsory for interpreters and those who are not registered still can act as court interpreters (HC Justice Committee, 2013: 12, cited in Aliverti and Seoighe, 2017: 137).

Fowler (2016) notes that in principle, registration of an interpreter used to serve as a quality guarantee. An individual had to pass specific exams assessing their interpreting, translation, and sight translation skills as well as validate over 400 hours of PSI experience completed in England and Wales. However, since 2011, when the system was outsourced to an agency, inclusion in the National Register is no longer a mandatory requirement (Fowler, 2016). Around the same time, as discussed already, the British government also outsourced the provision of PSI. Unfortunately, this cost-saving exercise resulted in numerous issues with the supply and quality of interpreting services in courts.

Following adoption of the new framework agreement, the National Agreement was abolished in its entirety and is no longer available on the CPS website. It appears to have been replaced by new guidance on the use of interpreters that can be accessed on the CPS (2019) website, which states the following:

> The right to an interpreter is an integral part of the right to a fair trial. It is a principle of English common law that the Defendant must be able to understand the charges made against them and be able to properly defend themselves. The right is also enshrined in the European Convention on Human Rights.
>
> Translation services are currently being provided within police stations and the Courts by "The Big Word", who are contracted by the Ministry of Justice. Sign language interpretation is provided by Clarion UK.
>
> Interpreters working within the Criminal Justice System should be registered on the National Register of Public Service Interpreters (NRPSI). NRPSI are an independent, voluntary public interest body and their core role is to ensure that standards within the profession are maintained for the benefit of the public and interpreters.

It is interesting to see the reference to the NRPSI and the requirement for interpreters working in the criminal justice system to be registered on it. This is because according to the current contract with the MoJ, interpreters must be supplied by thebigword. The guidance from CPS (2019) also stipulates the arrangement of interpreters for the police in accordance with PACE (1984) refers to Directive 2010/64/EU, which still applies to the United Kingdom even after its 2016 exit from the European Union:

> The interpretation arrangements must comply with the minimum requirements set out in Directive 2010/64/EU of the European Parliament: "the quality of the interpretation and translation provided shall be sufficient to safeguard the fairness of the proceedings, in particular by ensuring that suspected or accused persons have knowledge of the cases against them and are able to exercise their rights of defence".

CPS requirements for the use of interpreters in court distinguish between the use of an interpreter for a witness and for a defendant. The guidelines list a couple of cases that set a precedent for situations where the competence of the interpreter may be questioned. They also stipulate the requirement of impartiality to avoid a potential conflict of interest:

> **Interpreter for a Witness at Court:**
> In R (on the application of Gashi) v Chief Adjudicator [2001] All ER (D) 262 (Nov), the Administrative Court held that "the failure to provide G with a competent interpreter had constituted a procedural error, given that it was related to the means by which evidence might be communicated".
>
> The interpreter must be someone who is impartial. In Mitchell (1970) 114 S.J. 86, the Court of Appeal held that the employment of an interpreter who was a waiter at the restaurant where offences were alleged to have taken place was inappropriate. (CPS, 2019)

It is particularly interesting to note that in the 1970 case of R. v Mitchell referenced above, the recruited interpreter worked as a waiter at the restaurant where the alleged offence took place.

> **Interpreter for a Defendant at Court**
> The Defendant's right to an interpreter at Court is enshrined within Article 6 of the European Convention on Human Right: "(3) everyone charged with a criminal offence has the following minimum rights – (e) to have the free assistance of an interpreter if he cannot understand or speak the language used

> in court". The right is not subject to qualification.
>
> "Double translation" is permissible at both interview and trial, where it proves impossible to find an interpreter who is fluent in both English and the language in which the Defendant is fluent. Both interpreters must be suitably skilled in the interpretation of their particular part of the process. Each must be fluent in their common language as well as the language used by the Defendant or in English – R v West London Youth Court, ex p. N. [2000] 1 W.L.R. 2368, DC. (CPS, 2019)

The CPS guidelines reaffirm the right to an interpreter pursuant Article 6 of the ECHR (1950). Among other requirements, including the responsibility of the courts to arrange for an appropriate interpreter who must be different from the interpreter recruited for the same defendant/case by the police, the guidelines also allow "double translation" in situations where it is not possible to source an interpreter fluent in both languages (English and that of the defendant). In this case, two interpreters can be used; they must be "suitably skilled in the interpretation of their part of the process" (CPS, 2019).

The National Agreement was thus effectively replaced by new CPS guidelines on the use of interpreters that, unlike their predecessor, do not provide information on practical arrangements for appointing and using interpreters (Section 4 of the Agreement) and/or obtaining suitably qualified interpreters (Section 3 of the Agreement). The guidelines do not say anything about checking the identity of interpreters (Section 7 of the Agreement), accreditation or vetting and security (Section 6 of the Agreement). They do not mention fees or terms and conditions (Section 5 of the Agreement) or anything about ensuring interpreter safety (Section 8 of the Agreement).

In the National Agreement (2007), paragraphs 1.2, 1.3, 3.3, and 3.4 clearly stipulate that the provision of interpreters should be from reliable and reputable sources, such as NRPSI and Council for the Advancement of Communication with Deaf People (CACDP), in accordance with Articles 5 and 6 of the Human Rights Act:

> 1.2 The agreement provides guidance on arranging suitably qualified interpreters and Language Service Professionals (LSPs) when the requirements of Articles 5 and 6 of the European Convention on Human Rights (ECHR, 1950) apply – see Section 3 below.
>
> 1.3 It emphasises that face-to-face interpreters used in this context should be

> registered with NRPSI, and LSPs used should be registered with CACDP (see paragraph 3.2 below).
>
> 3.3.2 Registration with one of the registers provides a number of important safeguards as to interpreters' competence, reliability and security vetting. Further information on NRPSI and CACDP, including their contact details is provided in Annex A to this agreement.

Although the current CPS guidance refers to NRPSI and states that "interpreters working within the Criminal Justice System should be registered on the National Register of Public Service Interpreters (NRPSI)", there is a discrepancy between this CPS requirement and reality.

The National Agreement contained a section titled "Good Practice Guidance" (Section 2) that is missing in the current legal guidance on the CPS website. A small fraction of what was stipulated in the National Agreement, namely, "Interpreters at the Police Station", "Court Papers", "Interpreter as a Witness in Court", "Interpreter for a Witness at Court", "Interpreter for a Defendant at Court", and "Special Provision in Wales for the Welsh Language Witnesses who are Deaf or have a Speech Impairment", is reflected in the current legal guidance provided by CPS. Although no longer in use and not available on the CPS website, the 2007 National Agreement can be retrieved from the archive (see link in References).

Through my professional networks, I managed to obtain a copy of a document titled "Guidance for the criminal, civil and family courts for booking interpreters through Applied Language Solutions (ALS)", revised in September 2012, that was meant to supersede the National Agreement. This document elided any reference to the Human Rights Act at the time the new contract went live. Unlike the National Agreement, the aforementioned guidelines did not stipulate safety provisions for interpreters. In contrast, Section 8 of the National Agreement (2007) states that "[t]hose responsible for requesting the attendance of interpreters should take responsibility for ensuring their safety".

The ALS guidance document detailed the process of booking interpreters under the new framework agreement and gave clear instructions to no longer use the NRPSI register. It also referenced a tier system for interpreters introduced by the MoJ (though this system appears to be no longer in use) that specified different levels of competency and

experience. However, at the same time, NRPSI membership was listed as one of the requirements for Tier 1 interpreters, the top tier out of three.[2]

Annex A of the guidelines set out requirements for the quality and skills assessment of interpreters and translators in different tiers. It is interesting to note that for Tier 3 interpreters, it is sufficient to demonstrate "appropriate linguistic background" and "formalised basic interpreter training" under the national vocational qualification (NVQ) certification system.[3] The document also suggests that Tier 3 interpreters should not be used in court hearings unless Tier 1 or Tier 2 interpreters are not available in the required language (see Appendix 3 (3.1) in Vol 2).

Another interesting document worth looking at is Chief Coroner's Guidance No. 21 Translators and Interpreters from 19 October 2015. Paragraph 5, titled "Assistance in translating or interpreting may be achieved in a number of possible ways", stipulates the following:

1. A friend or relative of the person may help, particularly in non-contentious cases…
2. Assistance may be obtained on a voluntary basis from a local foreign nation association or relevant charity.
3. An interested person may be represented and have either private or public funding or be able to obtain funding for translation and interpreting.
4. Sometimes the local police will assist or a department in the local authority.
5. There are helpful free translation services available on the internet.
6. Where appropriate the coroner must provide professional translation or interpreting services which will be funded by the local authority. This is particularly appropriate in cases likely to be contentious. (Courts and Tribunal Judiciary, 2015)

From this guidance, it follows that untrained bilinguals are formally allowed to interpret at the Coroner's Court. Not only that, professional interpreters appear to be the final option considered once all other alternatives (such as a friend, a member of a family, a local police officer, etc.) have been exhausted.

[2] During one my court visits, a court clerk made an interesting remark about the new framework with particular reference to the introduction of a tier system: "…this tier system doesn't not seem to make any sense; you either can interpret or you can't…".

[3] An NVQ is a work-based way of learning carried out at a college, school, or workplace. Each NVQ level involves a range of on-the-job tasks and activities designed to test participants on their ability to do a job effectively (Reed.co.uk, 2024).

To sum up, the outsourcing of PSI to a single commercial service provider in 2011 led to problems with the supply and quality of interpreting services across the entire public sector. The criminal justice system is no exception. The NRPSI once ensured professionalism and quality but lost its mandatory requirement, leading to a decrease in professional standards and quality (Flower, 2016; Aliverti and Seoighe, 2017). Coupled with worsening working and pay conditions for professional interpreters, this situation gave rise to the use of untrained and unqualified individuals in the criminal justice system – and all the implications that come with doing so.

2.5 Professional provisions for interpreters under the agency system

This section examines the existing service agreements and codes of conduct for interpreters to establish what is actually required of them under the new agency system and what professional provisions are available.

First, I compare the Capita TI and thebigword service agreements to critically evaluate how these documents define the qualifications, responsibilities, and ethical expectations of interpreters working under their systems. The Capita TI and thebigword service agreements were chosen for this comparison because, in my view, they most vividly represent the change in the framework for the provision of interpreting services in the United Kingdom following PSI outsourcing to the private sector.

Both agreements reflect the new reality of interpreting services in public settings. They each exhibit notable differences and similarities that implicate broader issues with standardisation of professional guidelines. By analysing these agreements side by side, I aim to assess how they shape the professional role, identity, and working conditions of interpreters along with their adherence to established codes of conduct, such as those of the NRPSI and the Institute of Translators and Interpreters (ITI).

The comparative analysis of the two agreements is followed by an examination of the codes of conduct issued by government-related bodies and professional organisations, such as NRPSI and ITI, to assess existing professional standards and their consistency (or lack thereof) across the field.

2.5.1 Interpreting service agreements and codes of conduct

To begin, an interpreting services agreement was provided by Capita TI, the predecessor of the current service provider under the MoJ contract, thebigword (see Appendix 3, (3.2) in Vol 2). This document requires interpreters to act in a diligent manner and exercise the degree of knowledge and skills expected "from a skilled and experienced Interpreter". However, there is no definition of "skilled and experienced" in the document – not even a vague reference to minimum requirements for qualification and accreditation or professional standards, let alone professional ethics. The document contains a very brief code of professional conduct where, among other stipulations about acting with integrity, disclosing professional limitations, and not wearing denim or dirty, ripped clothes to an assignment, it proposes seeking "to improve your knowledge and skills" (Capita interpreting service agreement in Vol 2, Appendix 3 (3.2). The agreement declines to elaborate on what this means, involves, or entails.

This lack of clarity about the ongoing professional development of interpreters and other requirements in the agreement and the code of professional conduct reflects the concerns raised by various researchers and scholars. Critics argue that interpreters are left to interpret these vague instructions at their own discretion, which can lead to inconsistency in the application of professional standards in addition to ethical dilemmas (Dean and Pollard, 2009, 2022; Hale, 2007).

According to MoJ statistics, its outsourced contractor Capita TI failed to send interpreters to court in over thirty cases a day (Involvis, 2013). The situation was exacerbated by a boycott of the new framework by a vast majority of qualified and trained interpreters, who refused to accept the declining standards and significantly reduced rates for their highly complex and challenging work as court interpreters (Gentile, 2017).

A number of reports undertaken by various independent agencies reflect the situation in PSI in legal settings. Some of the reviews were commissioned by the MoJ itself (the aforementioned Optimity Matrix, 2014). However, most of the recommendations from those reviews did not find a positive response within the MoJ, as indicated by the Ministry's choice of thebigword as a successor to Capita TI.

Unlike Capita TI, Leeds-based thebigword has over thirty years of experience in the language sector and extensive public sector experience. However, like Capita TI, it has a reputation for poor pay rates and working conditions. thebigword has long been subject

to criticism for its frequent reductions in linguist rates, the introduction of fines, and reductions in fees for interpreters for any slightest misstep (Aliverti and Seoighe, 2017).

Thebigword service agreement does not say anything about the interpreter's competence and what is required in terms of quality and interpreter accreditation. Moreover, it places the responsibility for "being fit for purpose" on the interpreter without providing any definition of what is fit for the purpose under the agreement. Section 5 of the service agreement, titled "Your Responsibility and Liability", provides that:

> 5.1 The Services shall be carried out using reasonable skill and care in accordance with the provisions and the spirit of the Code of Conduct which appears in Appendix 1. We strongly urge that you have your own professional indemnity insurance.
>
> 5.2 You warrant that the Services shall be fit for the purpose specified by us in the relevant Order. If we consider that the Services are not fit for the purpose specified or are, in our reasonable opinion, not fit for transmission to the Client, we shall be entitled to reject the Services and you shall, at our option either take such steps as are necessary to improve the Services or refund payment. (thebigword Interpreting Services Agreement, 2018)

As Colin and Morris (1996: 138) note, "[g]ood practice is not the exclusive responsibility of the interpreter" and quality of interpreting is a "two-way street". Baker and Maier (2011) further observe that the lack of specific criteria for qualifications and accreditation can lead to ambiguity and undermine both the quality of communication and the ethical foundation of interpreting practice.

However, it follows from the aforementioned Sections 5.1 and 5.2 of the service agreement that thebigword has a different take on this view and considers interpreters ultimately liable for the provision of quality services. Section 11 of the agreement refers to competence in the following:

> 11.1 You shall provide evidence of your Linguistic competence technical specialisms, and proof of qualifications where appropriate, by making available the names of referees and undergoing assessment as determined by us.
>
> 11.2 You shall refuse work which you know to be beyond your competence, either Linguistically, physically or due to lack of specialist knowledge. (thebigword Interpreting Services Agreement, 2018)

Despite the CPS requirement for interpreters working within the criminal justice system to be registered in the NRPSI, reality is different. Thebigword does not require interpreters to be NRPSI members or even to have professional qualifications. The below excerpt is taken from a recent communication of thebigword linguist recruitment team to bilingual, UK-based candidates:

> You do not need professional interpreting experience to be considered, simply:
> Have some voluntary interpreting experience
> Have proficient English
> Reside in the UK permanently
> Be willing to obtain an Enhanced DBS (thebigword email communication, 2021)

Section 16, "Security Clearance and Vetting", states that it is the interpreter's responsibility to ensure they fully aware of any changes in government policy on security clearance and vetting. Moreover, the interpreter is liable for any costs involved in the process. By asserting this in the service agreement, thebigword effectively discharges any responsibility for the security and vetting of the interpreters they recruit to work for them.

> 16.1 If at any point in the future the Government's policy on security clearance and/or vetting for personnel is amended or replaced (whether by security clearance or by alternative Government arrangements), you shall ensure that you are fully aware of the changes and you shall comply with the new arrangements once they are enforced.
>
> 16.2 Costs for the above shall be borne by you. Neither the Client nor we accept liability for costs incurred in the process of obtaining such disclosure certification unless otherwise agreed. (thebigword Interpreting Services Agreement, 2018)

Much like with Capita TI, the code of conduct provided in Appendix 1 at the end of the agreement focuses on punctuality, dress code, professional conduct, adherence to data protection and confidentiality, carrying photographic identification, and so on. Very little is said about the requirement for competence other than that the interpreter must "take all reasonable steps to ensure complete, accurate and faithful provision" of their services as well as "ensure complete and effective communication and carry out any consultation that may be necessary" (thebigword Interpreting Services Agreement, 2018, Appendix 1, sec.2). As for competence, paragraph 3 of the code of conduct states the following:

> Our Clients require you to undertake only those assignments you are competent

> to perform and accept personal responsibility for behaving professionally, impartially, ethically and with integrity and fairness. You must be fluent in and demonstrate a comprehensive understanding of the written and spoken form of both languages, including regional dialects, colloquialisms, idiomatic expressions and technical terms. (thebigword Interpreting Services Agreement, 2018, Appendix 1, sec.3)

Similarly, Hale (2007) conducts a comparative analysis of sixteen codes of ethics from nine countries and concludes that, in the majority of cases, they failed to provide a detailed description of the meaning of accuracy or an explanation of the complex nature of the interpreting process. This appears to be a broader issue with codes of professional conduct and ethics for interpreters. As Hale (2007) observes, these issues should be addressed through formal pre-service training.

In many aspects, thebigword's code of conduct and service agreement resemble Capita TI's service agreement and code of conduct, but with even more exploitive terms for interpreters. This is demonstrated in reduced rates, curtailment fees, and penalties, as detailed in the below excerpt from the agreement:

> **1.7.2 Cancellation Policy MoJ**
>
> **a) If the MoJ or we cancel the booking**
>
> If we or the Client cancel a booking after 9am the day before the booking, we will pay you £50.00. We will not pay for incidentals or travel.
>
> If we or the Client cancel a booking before 9am the day before the booking no fee or expenses will be payable.
>
> **b) Linguist cancels booking**
>
> If you cannot attend a booking, you must notify us immediately.
>
> If you do not attend an appointment, you will not be paid for the assignment and in addition we may charge you £50.00.
>
> If you fail to attend more than 3 bookings, we may cease working with you and remove you from our database.
>
> If you cancel any booking within 28 days of the date of the booking, then we may charge you £10.

> If you cancel a booking after 9am the day before the booking, we may charge you £30. (thebigword Interpreting Services Agreement, 2018)

It is also worth mentioning that the current hourly rate of pay stipulated in thebigword service agreement is £18 for standard booking, and £24 for complex ones. For comparison, the CPS published the following rates effective from 5 February 2007 (a copy of this document is provided in Appendix 4, Vol 2):

> In summary, the rates are:
>
> - Minimum booking – Payment where attendance time is three hours or less: £85.00
> - Additional payment for attendance and travelling time beyond three hours per 15 minutes or part thereof: £7.50
> - Cancellation fee when cancelling a booking after 10 am on the day before it is due to begin (i.e., a sum equal to the minimum booking fee): £85.00

In 2007, the minimum rate for interpreters was £28 per hour. From talking to interpreters who worked under the old system, I understand that their hourly rates were £30 or higher over a decade ago. I also understand that curtailments and penalties were unheard of until thebigword took over in 2016. The changes further worsened working conditions for court interpreters, pushing many professionals out of the business (Gentile, 2017).

Special mention should be made of paragraphs 24 and 35 of the code of conduct provided in Appendix 1 of thebigword service agreement. Paragraph 24 puts the interpreter under an obligation to effectively act as an informant in situations where they feel there is a safeguarding issue that involves a child or vulnerable adult:

> 24. If, in the course of your work, you are involved in a potential Safeguarding issue involving a child or vulnerable adult, or have concerns about any aspect of the assignment you are undertaking, our Clients require you to raise these concerns in an appropriate manner to the responsible person leading the assignment or the relevant Authority, understanding that the matter may need to be handled sensitively and in confidence. (thebigword Interpreting Services Agreement, 2018)

Paragraph 35 places an expectation to act as a witness and provide a witness statement

where required so by the client: "35. Where our Clients require you to do so, you shall provide a witness statement after completing a booking and before leaving the premises" (thebigword Interpreting Services Agreement, 2018).

The above two paragraphs raise questions about the interpreter's role as these requirements and expectations surpass the traditional understanding of an interpreter's responsibilities even with all the existing controversy in mind. This aspect may be of interest for further research.

Worthy of separate attention is how thebigword service agreement refers to interpreters as linguists rather than interpreters. By defining a linguist as "someone who provides the Services", they departed from the previous MoJ agency service agreements (for ALS and Capita TI) wherein interpreters were explicitly referred to as interpreters. This shift in terminology is conspicuous, as Licoppe (2013) observes that institutional roles are often defined and reinforced through professional forms of address that influence the perceptions of roles and responsibilities within a professional context.

Coupled with all other changes in the system reflected in the service agreements, as discussed above, this shift in professional address and labelling of court interpreters with a vague and generic term ("Linguist") contributes to additional confusion over their role. It not only undermines their professional identity, but also dilutes the significance associated with the profession.

Comparison of the Capita TI and thebigword service agreements thus reveals that both fail to provide interpreters with clear definitions of qualifications, skills, or ethical standards. The absence of clear definitions creates an environment of professional ambiguity and opens the door to the inconsistent application of professional standards. Many scholars (Hale, 2007, 2008; Liu and Hale, 2018; Corsellis, 2008; Tipton, 2014; Valero-Garcés, 2019, 2023) emphasise the importance of structured training and well-defined professional guidelines in PSI. By neglecting these foundations, the agreements leave interpreters ill-equipped to meet the demands of their roles.

2.5.2 Other codes of conducts

Valero-Garcés (2023) points out that every profession establishes standards of professional conduct to guide practitioners. These standards are typically documented in

codes of ethics or best practice guidelines that regulate and inform professional conduct. According to Valero-Garcés (2023: 21), most ethical codes are based on "meta-ethical principles, which are sometimes referred to as prima facie duties". In this section, I will review some of the existing guidelines and codes of conduct issued by professional organisations and government agencies. I do so to evaluate their consistency and explore their implications for the role and professional identity of public service interpreters.

On 31 October 2016, the MoJ commissioned the Language Shop with the provision of quality assurance across the MoJ language services contract. The Language Shop is employed for quality assurance purposes to ensure that only language professionals meeting the necessary standards are utilised as interpreters in courts and tribunals. In accordance with the existing agreements, the Language Shop manages a register of linguists on behalf of the MoJ. Only the linguists whose information is listed in this register are authorised to undertake interpreting assignments booked under the Language Services Framework (The Language Shop, 2016a).

The Language Shop (2016a) website states that "[a]ll linguists are required to abide by the MoJ's Code of Conduct when working across the Language Services Contracts". The statement is followed by the link to the MoJ's Code of conduct (n.d), called the authority code of conduct, which will be further discussed below (The Language Shop, 2016b).

In the MoJ code of conduct (n.d.), interpreters are referred to as "Language Professionals". The code comprises five main paragraphs, namely:

- Professional Competence
- Translation and Transcription Services – Written Interpretation
- Face-to-Face and Remote Interpretation – Verbal Interpretation
- Ethics
- Confidentiality

Among other things such as fluency in both languages, maintenance of "language and other professional linguist skills", and sufficient cultural knowledge, professional competence includes punctuality, timesheet approval, wearing a badge, or having any other photo identification. It is worth noting that the very first requirement outlined under "Professional Competence" is collaboration with the Authority quality assurance process, specifically through active participation in the mystery shopping assessment (for

comparison, the requirement of being "fluent in both languages" is listed third in this paragraph).

> All Language Professionals must:
>
> 1.1 At all times co-operate with the Authority Quality Assurance process through participation in the Mystery Shopping Assessment, Spot Check Assessment and in Person Assessment processes. (MoJ, n.d.)

The MoJ code of conduct for interpreters closely aligns with thebigword service agreement code of conduct (Appendix 1), including the requirement for participation in mystery shopping and so on. Both codes also require impartiality, confidentiality, neutrality, and refraining from giving any advice or expressing opinions "to any of the parties that exceed their role and duties as Language Professionals" (MoJ, paragraph 3.4, n.d.).

Under paragraph 3, titled "Face to Face and Remote Interpretation – Verbal Interpretation", the MoJ code of conduct (n.d.) obliges interpreters "to ensure effective communication and clear understanding" between parties. This is effectively prescribing a role known in academic literature as "facilitator of communication" (Lee, 2009a; Hale, 2008).

For comparison, the UK Home Office introduced an "Interpreter's Code of Conduct" in 2021. The document articulates its purpose on the front page: "[t]he purpose of this document is to explain the role and expectations of the interpreter when they are engaged to act on behalf of the Home Office" (Home Office, 2021). It also has a separate section, titled "Role of the Interpreter", that places emphasis on the aspect of confidentiality. Additionally, a distinct section titled "Interpreting" provides more detailed guidance for interpreters concerning their role and process. For instance, it establishes requirements for speaking slowly and clearly, remaining calm, and refraining from emotional involvement.

Furthermore, the Home Office document mandates the use of direct speech in interpreting and specifies that interpreters must use "I…" rather than "he said" (2021). Using Goffman's (1981: 144, cited in Angermeyer, 2005a: 32) terminology to describe speaker roles, Angermeyer (2005a) observes that many guidelines prescribe the "ideal interpreter" in the legal setting as "only the 'animator' of the translated utterances…not the author or

the principal" (Angermeyer, 2005a: 32). This aligns with Berk-Seligson's (1990) earlier observation that the interpreter in the courtroom should be invisible and "ideally she should not exist as a distinct verbal participant in her own right during the course of the judicial proceeding" (Berk-Seligson, 1990: 53).

Particular attention should be given to the requirement to interpret "as close to verbatim as English allows", suggesting an expectation for interpreters to serve as a "neutral conduit" (Home Office, 2021). This expectation somewhat contradicts the research conducted by Hale (2007: 134), who concluded that claims about prescribed literal renditions by codes of ethics are unjustified. As Pöchhacker (2016) further observes, the requirement for verbatim translation constitutes an unrealistic institutional demand placed on interpreters, especially in light of the widespread lack of specific training for judiciary interpreters.

In many other aspects, such as integrity, impartiality, equality, and confidentiality, the Home Office code of conduct overlaps with the one provided by the MoJ. However, the most striking difference pertains to the role of the interpreter, the detailed expectations set out for interpreters, and what is required of them. Notably, the Home Office explicitly refers to interpreters as "interpreters", not "Language Professionals" (as per the MoJ code of conduct) or "Linguists" (as per the thebigword service agreement and code of conduct).

In addition to codes of conduct for government agencies, I would also like to explore those suggested by professional organisations such as NRPSI and ITI. Both are professional membership organisations held in high regard among practitioners for setting professional standards in the fields of interpreting and translation.

Both professional bodies provide more detailed guidance on professional competence and conduct for interpreters. As with the other codes of conduct discussed earlier, the NRPSI and ITI codes highlight confidentiality, impartiality, neutrality, and integrity as core principles of professional conduct. However, studies have found that some interpreters lack awareness or understanding of the impartiality principle, which can potentially lead to breaches of professional conduct. In Mayfield and Krouglov's (2019) study, for instance, two thirds of the sample of interpreters reported issues and challenges in investigative interviews and statement-taking procedures. These often stemmed from confusion around their role and expectations for them to act outside their professional boundaries.

It is also worth noting that all the codes of conduct, government agencies, and professional organisations emphasise that practitioners should only accept work for which they believe they are competent, both linguistically and in terms of specialist knowledge, and cultural and political contexts. As discussed earlier, this implicitly shifts the responsibility for ensuring competence onto the interpreters themselves, even though it should be, as described by Colin and Morris (1996: 137), "a two-way street". This again brings up a question of the pressing need for compulsory pre-service formal training, a point strongly advocated by Hale (2007).

The NRPSI (2016) code of conduct clearly promotes the roles of "facilitator of communication" and "faithful renderer of the original utterances" (cf. Hale, 2008). The document refers to interpreters as "practitioners" and defines a "Practitioner" as "a person defined in 2.1 carrying out work in a professional capacity" (NRPSI, 2016). The following excerpts from the NRPSI (2016) code of conduct illustrate their stance on the interpreter's professional role:

> 3.9 The competence to carry out a particular assignment shall include: a sufficiently advanced and idiomatic command of the languages concerned, with awareness of dialects and other linguistic variations that may be relevant to a particular commission of work; the particular specialist skills required; and, where appropriate, an adequate level of awareness of relevant cultural and political realities in relation to the country or countries concerned.
>
> 5.4 Practitioners shall interpret truly and faithfully what is uttered, without adding, omitting or changing anything; in exceptional circumstances a summary may be given if requested.

Paragraph 5.10 suggests that where working conditions are not conducive to effective interpreting, the interpreter should withdraw from the assignment:

> 5.10 Practitioners shall, in advance where practicable, seek to ensure that the necessary conditions for effective interpreting are provided (e.g. being seated where they can see and be heard clearly; provision for adequate breaks, etc). Where this is not the case the interpreter shall make it known to the parties concerned and, where the deficiency is likely to be a serious impediment to effective interpreting, shall withdraw from the commission of work. (NRPSI, 2016)

However, the above requirement for interpreters conflicts with the requirements of the

MoJ code of conduct (n.d.), which stipulates that interpreters must "remain for the entire duration of the assignment until released by the Commissioning Body". Even if the working conditions are not conducive to effective interpreting, the interpreter is expected to inform the relative parties. However, this does not grant the interpreter the authority to withdraw from the assignment. As shown below in Paragraph 3.5,

> 3.5 Request that the relevant parties provide an environment that is conducive to deliver interpretation; such as ensuring that all parties can be heard clearly etc. The Language Professional must inform the relevant parties if the environment appears unsuitable for the purpose. (MoJ, n.d.)

The thebigword service agreement goes even further and imposes penalties and charges for interpreters if they withdraw from an assignment for reasons other than concerns over their competence to carry on with the task. Even in these circumstances, penalties may be applied to the interpreter.

The ITI code of conduct (last updated 8 October 2022) stipulates, as one of the core professional values, that members are required "to convey the meaning between people and cultures, accurately and impartially" (2013, paragraph 4.1a). Similar to the NRPSI code of conduct, it primarily promotes the role of a facilitator of communication. This is further reiterated in the below paragraph:

> 2.4.1 Members shall interpret impartially between the various parties in the languages for which they are registered with the Institute and, with due regard to the circumstances prevailing at the time, tale all reasonable steps to ensure complete and effective communication between the parties, including intervention to prevent misunderstanding and incorrect cultural references. (ITI, 2013)

This comparative analysis reveals that professional bodies such as NRPSI and ITI provide the most comprehensive guidelines for practitioners. Yet although they share core values and principles, there still seems to be a lack of consensus surrounding the interpreter's role even though there is a clear trend towards the role described in academic literature as a facilitator of communication (Lee, 2009a; Hale, 2008).

To sum up, the above review of professional provisions for interpreters under the new agency system, which focuses on service agreements and codes of conduct, reveals a significant lack of clarity and consistency in defining expectations and requirements for

interpreters. The thebigword service agreement, the primary service provider for courtroom interpreters under the MoJ contract, exhibits considerable shortcomings in specifying the qualifications, skills, experience and professional standards expected from interpreters. Very little guidance is given on improving knowledge and skills or overall professional development. While the thebigword code of conduct mirrors the MoJ code of conduct, it also introduces somewhat controversial and potentially conflicting expectations for interpreters.

The review of additional codes of conduct from the Home Office, NRPSI, and ITI confirms the lack of standardisation in the industry through the variation in expectations and roles for interpreters. Although the codes of conduct provided by professional bodies such as NRPSI and ITI share the same core principles and values regarding professional standards, setting benchmarks for the industry, they appear to exert very little influence on PSI. Their voice does not seem to carry significant weight in shaping industry practices.

2.6 Chapter summary and research questions

The chapter has provided an overview of the institutional setup for PSI and, more specifically, courtroom interpreting in England and Wales. This includes examination of existing provisions in legislation, guidelines, and codes of conduct for organisations and individuals working with interpreters alongside those for the practitioners themselves under the new agency system. The systematic review has revealed that the controversy over the interpreter's role exists not merely in the academic literature, but above all in institutional discourse. This controversy is manifested in various documents to inform the working practices of interpreters. As discussed above, the existing guidelines, legislative acts, and codes of conduct for interpreters lack clarity and often impose conflicting expectations. This leads to confusion, miscommunication, and the potential obstruction of justice.

The privatisation of PSI has resulted in reduced remuneration and an overall deterioration in the working conditions of court interpreters. This has prompted experienced professionals to leave the industry while encouraging untrained and unqualified bilinguals to enter the profession and fill the void. All these factors together indicate that

the situation of courtroom interpreting in England and Wales is far from ideal and requires urgent attention, especially in this turbulent time characterised by superdiversity.

The research thus examines the role and professional identity of the courtroom interpreter in the legal system of England and Wales from the perspective of social constructionism. The central part of the study is the analysis of various aspects of the courtroom interpreter's role and professional identity to understand how it is constructed in a changing social and linguistic landscape.

Research questions

1. What is the professional role and identity of the courtroom interpreter in the superdiverse landscape of England and Wales?
2. How do interpreters view their own role in the courtroom and how do their views correlate with reality?
3. How do *all* the court actors/legal professionals view interpreters?
4. What is the social/professional status of the court interpreters in England and Wales?

The next chapter will delve into the methodological underpinnings and research design of the study. This includes a detailed discussion of the research methods, the rationale behind their selection, and how they were implemented to address the research questions.

3 METHODOLOGY

This chapter will describe the research design, theoretical framework, and research methods used to address the questions posed by the current study.

3.1 Social constructionism

This study adopts the paradigm of social constructionism, which encourages us to take a critical look at the notion of a so-called objective world around us. It invites us to question the view that "conventional knowledge is based upon objective, unbiased observation of the world" (Burr, 2015: 3). Social constructionism may be defined as a perspective that views the world and human life as jointly constructed through social and interpersonal influences in the process of interaction (Galbin, 2014).

Social constructionism cautions us to be suspicious of our assumptions about how the world appears to be. A radical example of such assumptions is the perception of gender and sex. Social constructionism seeks to seriously question whether the categories of "man" and "woman" are simply a reflection of naturally occurring, distinct types of human being (Burr, 2015).

The social constructionist approach rests on the assumption that "the terms by which the world is understood are social artefacts, products of historically situated interchanges among people" (Gergen, 1985: 267). The foundation of the social constructionist framework is an absence of ultimate truth (Burr, 2015). Social constructionism focuses on the collective generation of meaning that emerges in the process of social interaction, shaped by language and other social processes. Knowledge is not what people have or don't have, but rather something people do together.

Danziger (1997) introduces and contrasts "light" and "dark" versions of social constructionism. Dark social constructionism places greater emphasis on the category of power. Discourse also plays an important role but, according to dark social constructionism, power cannot be reduced to mere discourse. Rather, it is manifested through non-discursive aspects of human relationships. In so-called lighter versions of social constructionism, there is little or no reference to the issues of power; even if they are implied or mentioned, they are viewed as "effects of discourse" (Danziger, 1997). As Danziger (1997: 410) puts it: "[p]roblems of power, if recognised at all, are embedded in

essentially discursive relationships, whereas in 'dark' social constructionism discourse is embedded in relations of power". According to Danziger (1997: 410), dark social constructionism recognises that the "talk and text are inseparable from manifestations of power".

Dark social constructionism recognises at least two non-discursive manifestations of power: the human body and social structures. For those scholars, both the body and social structures are real entities that have physical presence and therefore cannot be reduced to discursive constructions. However, where light social constructionism makes any mention of the body (if at all), it does so through references to "embodiment" as an element of a "discursively constructed identity" (Danziger, 1997: 410). Light social constructionists primarily emphasise the ongoing construction of meaning in discourse.

All varieties of social constructionism recognise that knowledge exists within social relationships, but they differ in how they construct these relationships. At one extreme are the varieties that favour macro-social structures. At the other are those who focus on the micro-social level, as reflected in everyday talk, or scholars treat all social events/life as a sort of conversation. Between these two extremes are scholars who take a more balanced view of social constructionism and try to make sense of the relationships between these two levels, bridging the gap between these opposing positions (Danziger, 1997: 411).

Social constructionists deny that our knowledge is a direct perception of reality. Instead, it is constructed interpersonally through daily interactions within the process of social discourse. The linguistic choices people make "fabricate" our knowledge of the world or a given phenomenon. Furthermore, they suggest that socially constructed knowledge and action go together; language has "practical consequences for people that should be acknowledged" (Burr, 2015: 11).

When people talk, the world gets constructed. Our use of language can thus be thought of as a form of action and social constructionists take interest in the performative role of language. Berger and Luckmann (1966) suggest that human beings continuously construct the social world, which then becomes a reality to which they must respond. This means they cannot construct it in any manner they want as it has already been constructed by their predecessors. Accordingly, social constructionism seems to lead to the claim that nothing exists except as it exists in discourse. Gablin (2014: 84) notes that from a social

constructionist perspective, language is not simply a means of communication; rather, "people exist in language".

Social constructionism in its most extreme form maintains that nothing has any essential, independent existence outside of language; discourse is all there is. "A discourse provides a frame of reference, a way of interpreting the world and giving it meaning that allows some objects to take shape" (Burr, 2015: 105).

While my perspective leans toward light social constructionism, as I focus primarily on the role of discourse in shaping meaning and identity, I also acknowledge that power is not merely an effect of discourse. I recognise that social structures and established practices play a role in shaping interactions. In this sense, my approach is not purely at the light end of the continuum but rather incorporates elements that acknowledge the relationships and interaction between discourse, power, and social structures.

3.2 Qualitative research

Bateson (1972: 320, cited in Denzin and Lincoln, 2011: 12) observes that qualitative research is "guided by highly abstract principles". It provides tools for exploring a wide range of dimensions of the social world, its institutions, and culture. It seeks to understand social processes and offers insight into societal issues. Qualitative methods serve to interpret a participant's experience within context; it honours their viewpoints and stories, offers multiple interpretations of qualitative data depending on the researcher's worldview, and enriches quantitative analysis. Qualitative research is emergent in nature, so the research design can be adapted to the new details or openings that may emerge in the process of enquiry (Dörnyei, 2007).

According to Mason (2002: 3):

- Qualitative research is "broadly interpretative" as it is mostly concerned with how the social world is understood, experienced, interpreted, and co-constructed.
- Methods of data generation in qualitative research are both flexible and sensitive to the social context in which such data are produced.
- Qualitative research aims to produce contextual understanding of usually complex, rich, and detailed data by relying on interpretative methods rather than

> quantitative methods. Some forms of quantification can also be used as part of data triangulation, but statistical forms of analysis are generally not considered essential in qualitative research.

In the current study, I employ qualitative research methods such as ethnographic observations, questionnaires, and follow-up interviews for data collection. I then combine these with some elements of discourse analysis and thematic analysis to interpret the data.

3.2.1 Ethnography

Ethnography has traditionally been associated with examining social contexts and is, therefore, a very relevant methodology for this study. As Wei (2019: 157) puts it: "[i]t emphasises exploring social phenomena and interpreting their meanings rather than testing hypotheses". This is consistent with the epistemological perspective of social constructionism adopted within this research.

Uzzell and Barnett (2006: 302) argue that the role of the ethnographic researcher is "to understand the constructed realities of those interviewed or observed". Ethnographic research is concerned with "constructions of reality – its own constructions and in particular those constructions it meets in the field or in the people it studies" (Flick, 1998: 11, cited in Uzzell and Barnett, 2006: 302).

Ethnographic research provides a detailed account and analysis of a certain social phenomenon in specific contexts. This is a multidimensional methodology that mainly employs qualitative methods and involves the collection of different types of data through various means. Those means include participant observation, making field notes, audio and video recording interactions, interviews, collecting documents and photos, and so on (Wei, 2019; Morgan-Trimmer and Wood, 2016).

However, Blommaert and Dong (2010) urge researchers to bear in mind that ethnography is deeply rooted in anthropology. As such, it already contains its own ontologies, epistemologies, methodologies, and frameworks that need to be considered within a wider anthropological tradition that does not necessarily fit frameworks adopted by other traditions in the social sciences. These anthropological roots provide a specific direction to ethnography that situates language "deeply and inextricably" in social life, offering a perspective on language that differs from those of many other branches of language study

(Blommaert and Dong, 2010: 7).

Blommaert and Dong (2010) further argue that although ethnographic methods are actively used in different theoretical frameworks, they are designed to fit an anthropological set of questions. It is thus important to understand potential limitations. Hymes (1964: xxvii, cited in Blommaert and Dong 2010: 7) notes that failure to remember this can impair the research, leading to "false antitheses and leaving significant phenomena unstudied".

The same can be said about gathering ethnographical data. Knowledge of language is closely linked to all participant interactions at multiple levels and in a variety of contexts. Knowledge production is therefore heavily influenced by ethnographers themselves (Blommaert and Dong, 2010). This aligns with the paradigm of social constructionism, as the researcher is interacting with those under study and knowledge is co-constructed by all study participants – including the researcher.

The term "ethnography" is often used interchangeably with the term "participant observation" and other forms of observational or qualitative methods. This not only causes confusion in academic literature, but also significantly decreases the value of ethnography in understanding social phenomena and practices. Further, it reduces this rich and broad methodology to a unidimensional research method. It is thus important to note that not all studies grounded in participant observation meet the criteria for ethnographic research. Ethnographic research must have some essential features that distinguish it from other research methodologies where observational methods are employed (Wei, 2019; Morgan-Trimmer and Wood, 2016).

Wei (2019: 156) describes the essential features of ethnographic research as follows:

- having a clear interest in a specific cultural practice of a social group or a social phenomenon;
- immersing oneself in everyday social interaction to observe the practice or the phenomenon in context over a substantial period of time, and to take note of as many variations as possible;
- collecting evidence of how members of the relevant community make sense of their own practice of the social phenomenon;
- presenting an account of one's observation.

Ethnographic research is thus "characterised by long-term participant observation as a central method, where the researcher spends an extended period of time in a social group in order to collect data" (Morgan-Trimmer and Wood, 2016: 1).

Geertz (1973, cited in Neyland, 2008: 17) introduced the term "thick description" to capture when the researcher gives more attention to a specific aspect of some social phenomenon because a deeper understanding of that aspect is required in order to make sense of the whole phenomenon. Detailed descriptions and rich storytelling of incidents in the field are often found in ethnographic research, helping to develop a close understanding of what is going on (Neyand, 2008; Wei, 2019).

3.2.2 Linguistic ethnography

Linguistic ethnography serves as an umbrella term for a number of interpretative and discursive approaches that study "the local and immediate action of actors from their point of view and considers how their interactions are embedded in wider social contexts and structures" (Copland and Creese, 2015: 13). Copland and Creese (2015) describe linguistic ethnography as a research approach comprised of the study of language, culture, and identity.

Linguistic ethnography regards language as a form of communicative action embedded in the social contexts surrounding the daily routines of people's lives (Copland and Creese, 2015). One noteworthy aspect of linguistic ethnography lies in its intention to "make familiar strange"[4] – quite a distinctive departure from the traditional anthropological approach that seeks "to make the strange familiar" (Erikson, 1990: 92, as cited in Copland and Creese, 2015: 13).

With the above in mind, I will adopt the framework for my data analysis suggested by Copland and Creese (2015) in their book *Linguistic ethnography*, which provides a "hands-on approach within particular theoretical, discursive and methodological frameworks informed by intellectual roots in ethnography and linguistics" (Copland and Creese, 2015: 9). The choice of this particular framework was informed by Copland and

[4] I applied this approach of "making familiar strange" to my ethnographic observations of interpreter-mediated hearings. Such purposeful distancing allowed for a fresh and unbiased view of the dynamics and interactions within the courtroom, contributing to better understanding of the role and identity of interpreters in the legal context.

Creese's strong focus on linguistics, making it well suited to my research in this field. Additionally, this framework does not prescribe a normative process but instead allows the researcher the freedom and flexibility to shape "relationships and outcomes" (Copland and Creese, 2015: 9), which aligns well with the perspective of social constructionism.

Copland and Creese's (2015) framework for ethnographic data analysis aligns fully with my research paradigm of social constructionism, in which I intend to mostly employ a bottom-up approach to data in order to identify themes and patterns that will inform the answers to the research questions. In essence, Copland and Creese's (2015) framework offers a robust methodological basis and the necessary tools for an in-depth ethnographic data analysis in the field of linguistics. It provides a systematic yet flexible approach that accords with this study's aim to uncover the socially constructed realities of interpreter-mediated hearings.

Copland and Creese (2015) present four approaches to data collection and analysis via presented case studies: interviews, fieldwork, interaction, and text analysis. In my research, I will apply this framework to fieldwork notes, semi-structured interviews, and some of the questionnaires. For analysis of field notes, Copland and Creese (2015) suggest the following process:

- Reading through the entire set of field notes in chronological order with the intention of generating categories grounded in the details of observations.
- Generating categories through bottom-up reading. These categories are partly led by research questions, but open to other themes.[5] Coding from the bottom up enables the researcher to identify themes across data sets.
- Looking for patterns in field notes, including differences and contrasts, in order to better understand them.
- Compiling a list of themes supported by field note extracts.

Copland and Creese (2015: 74) point out that after reading the field notes, looking for patterns and generating categories, field notes move from "evidentiary material collected in the field to data". This is because by this stage, the field notes have undergone

[5] In their book *Linguistic ethnography*, Copland and Creese (2015) use the term "theme" without directly referencing Braun and Clarke (2006). Still, the absence of a direct reference does not imply that the term theme in the context of their work has a different meaning from the definition provided by Braun and Clarke (2006).

systematic and rigorous analysis with added analytical commentary to organise them. Next, the researcher should carry out:

- final analytical reading and production of main headings with a series of subheadings; and
- linking field notes to other supporting data, such as audio and video recordings, if available.

In sum, the researcher conducts an initial thorough and detached reading of the notes. A second reading begins wherein the researcher begins to identify themes as well as code and categorise data (Copland and Creese, 2015). Here, Copland and Creese (2015: 44) make a very important note by stating that themes should "not be imposed by existing frameworks" but rather identified across the field notes. This methodological advice accords with the perspective of social constructionism adopted for the current study, where reality is seen as a construct resulting from people's social interactions (Burr, 2015). A third and final reading of the field notes "reduces categories by collapsing data further into manageable units. At this point the researcher is looking for connections between categories" (Copland and Creese, 2015: 44).

With Copland and Creese's (2015) framework in mind, I will employ thematic analysis – a method developed by Braun and Clark (2006) for identifying, analysing, and reporting patterns (themes) – within my dataset. This set includes field notes and interview transcripts as well as questionnaires related to the follow-up interviews.

3.2.3 Ethnography and social constructionism

The ethnographic research carried out in this study is based on a constructionist paradigm. Ethnography works well with the constructionist paradigm because it allows for the presentation of multiple realities shared by participants as well as their interpretation. Ethnographers use various techniques for data collection that include, but are not limited to, observation, interviews, and document analysis.

According to Saule (2002, cited in Al-Saggaf, 2006: 8), there are three possible implications to conducting ethnography from a constructionist perspective:

1. Constructionism accepts that a theory cannot fully explain the nature of the

phenomenon under study because the underlying premise is that reality only exists in the mind of each individual. Therefore, individual perceptions of what is real differ from the enquirer's ethnographic interpretation. This leads to multiple interpretations of reality.

2. Constructionism acknowledges a degree of subjectivity in research owing to potential influences on the interpretation of ethnographic data and texts. Thus, elements of the researcher's position and background may emerge in data interpretation and analysis.
3. Constructionism accepts that the nature of social constructs can only be revealed through the researcher's interaction with those under the study. This is consistent with ethnographic enquiry, wherein the phenomenon under study co-exists with the researcher's direct participation.

In the current study, the above-mentioned methods will be used in conjunction with thematic analysis and some elements of discourse analysis.

3.2.4 Thematic analysis

Thematic analysis is very flexible in nature and can be applied across a wide range of theoretical frameworks and epistemological approaches. It is compatible with both essentialist and constructionist paradigms (Braun and Clarke, 2006). However, the focus and outcome will be different and depend on a chosen epistemology. As Braun and Clarke, (2006: 14) note, thematic analysis carried out within a constructionist paradigm "seeks to theorise the socio-cultural contexts, and structural conditions, that enable the individual accounts…provided [to the researcher]". Moreover, thematic analysis allows the researcher to either analyse meanings across the entire dataset or choose and examine one specific aspect of a phenomenon in depth (Braun and Clark, 2006; Jaspal, 2020).

In the current study, I will apply thematic analysis to interview transcripts (and some of the completed questionnaires, as they form a single data set with the follow-up interviews) as well as my ethnographic observation field notes. I employ a hybrid method, examining a socially constructed phenomenon using both bottom-up and top-down approaches to data analysis. This approach will guide me through my notes to knowledge. This was a conscious decision to align the research and data analysis with the perspective of social constructionism.

It is important to highlight that this research is not driven by a researcher's analytic preconception or a particular theory. For that reason, data analysis and coding are carried out without attempts to "fit it into a pre-existing coding frame" (Braun and Clarke, 2006: 12).

Braun and Clarke (2006) identify two levels of thematic analysis: semantic (or explicit and latent) and interpretative. Thematic analysis at a semantic level does not look beyond the explicit meanings of the data and what was said or written by research participants. Thematic analysis at a latent level explores "underlying ideas, assumptions, and conceptualisations" that inform the semantic aspect of the qualitative data (Braun and Clarks, 2006: 13). Thematic analysis that focuses on latent themes tends to be rather constructionist and is often associated with the constructionist paradigm. In this form, it overlaps with some forms of discourse analysis (Braun and Clarks, 2006).

In my research, I apply thematic analysis as per Braun and Clarke (2006) at a latent level in order to identify recurrent themes, underlying ideas, and emerging patterns relevant to interpreter roles and what this might tell us about their professional identity construction.

3.2.5 Discourse analysis

Discourse analysis is a valuable tool for studying various aspects of human and social life, including interaction, communication, and social relations. It is particularly useful in exploring identity, both social and professional, as well as how individuals convey intentions, tell stories, and perform actions through language. Recent developments in the social sciences have led to understanding and acknowledgement that language plays a key role in constructing social reality. Researchers increasingly seek to understand how social phenomena emerge and are maintained over time. By being constructionist in its very foundation, discourse analysis provides a valuable methodology for examining such phenomena and answering numerous questions about various aspects of human life (Johnstone, 2008; Phillips and Hardy, 2002).

In this study of the role and identity of courtroom interpreters in England and Wales, I adopt a social constructionist perspective, which makes discourse analysis a natural fit within this research paradigm. I will apply discourse analysis to my ethnographic field notes alongside an in-depth thematic analysis to gain deeper insights into the construction

of the professional role and identity of courtroom interpreters. In doing so, I will draw on Wood and Kroger's (2000: 25) framework that offers a flexible, "a kind of made-to-order rather than off-the-rack" approach to discourse analysis, allowing for tailored techniques and strategies suited to a specific project. Most importantly, Wood and Kroger (2000) take a discursive approach that aligns with a social constructionist perspective, making this framework a valid choice for the current research.

I will apply discourse analysis at different levels. At a higher level, I will incorporate elements of multimodal and semiotic analysis to examine the physical courtroom settings, symbols of power and status, the position of key actors in the courtroom, and their attire (Chapter 4). Influenced by earlier traditions of semiotics, Kress and van Leeuwen (1996) provide the foundations for multimodal research, suggesting that all modes must be considered as semiotic systems in themselves. As much social interaction often contains multiple modalities, a multimodal approach to interaction offers a more comprehensive analytical framework for linguists (Machin, 2007).

At a lower level, I will apply discourse analysis to the language used in the field notes. My analysis will consist of two parts. First, I will engage in self-reflection on the language I used to describe observed events in the courtroom. This involves considering how my professional, cultural, and linguistic background may have influenced my linguistic choices. Second, I will examine my field notes through the lens of discourse analysis to explore power dynamics and relations between actors, interpreter practices, and the institutional language and terminology encountered in the hearings I observed.

I will further examine forms of address, or how interpreters are addressed in court. According to Johnstone (2008: 140), forms of address are important indices that signal social identities and discourse roles; they help "create, change, or reaffirm a social relationship in addition to indexing a set of conventional expectations". Brown and Ford (1961: 375) argue that the choice of certain linguistic forms, particularly forms of address in interaction, is "governed by the relation between the speaker and his addressee".

In certain social situations, address is expected to be symmetrical and reciprocal regardless of whether it involves use of the first name for all interlocutors, or combination of a title and last name, and so on. In non-reciprocal situations where some difference in age, occupation, or any other form of subordination exists, participants in the interaction are expected to employ the form of address that corresponds to their status in that

particular social context (Brown and Ford, 1961; Johnstone, 2008). It is also possible to use no term of address at all. Finally, changes in individual roles can be indexed by shifts in how individuals address one another.

Discourse roles as well as the status of the participants in the interaction are signalled by choices on every level, from the choice of address to the delivery of the message itself. (Brown and Ford, 1961; Johnstone, 2008). As Johnstone (2008: 141) puts it, "[c]hoices among forms of address are complex and often difficult. This is especially the case for speakers with less institutionally allotted power, as any student knows". Forms of address thus index relationships, discourse roles, and the status of participants in the interaction and are therefore an interesting aspect to consider in the field note analysis.

The following section is devoted to the practical side of the research, including data collection, participant recruitment, and research design.

3.3 Research design

To address the research questions formulated in Chapter 2, I carried out a study based on ethnographic observation of interpreter-mediated hearings in various courts. This was followed by interviews (where possible) with all relevant court actors in a variety of English juridical settings involving interpreters, viz. county, Crown, and magistrates' courts as well as tribunals. In addition, I carried out an online survey with interpreters and legal professionals to complement my ethnographic observation.

I use a hybrid approach that integrates multiple qualitative research methods for methodological triangulation. Interpreters do not work in isolation or in a physical vacuum. This means it is essential to consider not only the discourse surrounding their work in the courtroom and how they construct their role and identity through talk, but also the courtroom setting itself, the positioning of key actors, and their attire (or lack thereof). These elements set the stage for an in-depth analysis and provide a more comprehensive understanding of the evolving role of courtroom interpreters.

Similarly, Haworth (2006) uses a multi-method discourse analysis approach in a different legal context, namely, police interviews. Haworth (2006) combines the analytical strengths of conversation analysis (CA), critical discourse analysis (CDA), and

pragmatics. The combination allows for better understanding how the institutional setting, along with the social identities and status of participants, exert influence over interactions.

In the reported study, I use the following qualitative methods:

- ethnographic observations of interpreter-mediated hearings in different court types, including Crown Courts, magistrates' courts, civil courts and immigration tribunals;
- a survey of interpreters, legal professionals, court officials, and clients (non-English-speaking litigants);[6]
- recorded interviews with interpreters and legal professionals;
- coding data, following Saldaña's (2021) manual for qualitative researchers;
- thematic analysis of the field notes, survey responses, and interview transcripts following Braun and Clarke' (2006) framework;
- discourse analysis of field notes, based on Wood and Kroger's (2000) framework;
- elements of multi-modal analysis applied at a higher level to examine the physical setting of the courtroom, courtroom actor attire, actor positions in the courtroom, and other semiotic elements that suggest power dynamics and contribute to a deeper analysis;
- survey analysis and interpretation of responses, following Hale and Napier's (2013) guidelines for research methods in interpreting; and
- transcript analysis through the lens of Bucholtz and Hall's (2005) framework for analysis of identity construction.

3.3.1 The study: ethnographic observation and survey

All observations were carried out between 2014 and 2019. In total, I carried out seventy-eight hours of ethnographic observation of various interpreter-mediated hearings in criminal and civil courts in Birmingham, UK. Hearings attended involved fraud, murder, rape, driving offences, family disputes, personal injuries claims, and immigration and asylum seeker appeals, among other issues. This research is not language specific,

[6] I use the whole spectrum of court actors, including defendants.

therefore the observed cases comprised a variety of languages that included Urdu, Panjabi, Pashto, Lithuanian, Bengali, Portuguese, Tamil, Farsi, Polish, Romanian, Arabic, and Somali.

Some observations were followed by informal discussions with the interpreters, court officials and defendants.

In addition to ethnographic observation, a survey was conducted in order to gather views held by the practising interpreters, court officials, and non-English-speaking litigants so as to obtain a panoramic view of the court interpreter's role and professional profile.

The survey was conducted in two stages. The first stage of the interpreter survey contained twelve questions. Three questions were multiple choice and asked respondents about their age, number of years of experience in court interpreting, and court types they interpreted for. The remaining questions were open-ended and phrased so as to elicit answers concerning interpreter experience, practice, and views on their own role, courtroom status, and problems they may have encountered in the courtroom. It was mainly distributed by hard copy or emailed to interpreters whose contact details were shared with me in court or at networking events. This stage of survey was conducted between 2015 and 2016.

The first survey stage was not labelled a pilot study because the original questionnaire was designed with a slightly different focus in mind. Initially, I intended to explore whether court type influenced the interpreter's role. However, as my research progressed, I shifted my focus toward the professional identity of interpreters and how it is constructed within the evolving socio-economic landscape. With this shift in mind, I revised the questionnaire for interpreters to add new questions and remove some of the original ones with the aim of better addressing the research questions outlined in Chapter 2. As the first-stage survey for interpreters yielded a great deal of interesting and highly relevant data, I included it in my analysis discussed in Chapter 6.

The second stage of the survey was conducted online via Google Forms and contained some revised and additional questions. The new questionnaire for the interpreters consisted of twenty questions – some original questions were removed, and new questions were added. The structure of the questionnaire changed as well. The first seven questions became multiple choice and aimed at collecting mainly demographic information from participants (source–target language(s), years of experience, types of courts they worked

at, gender, age group, etc.). I also added some open-ended questions to elicit their views on their own role and how they think it is seen by other courtroom participants along with their views on their status, agencies, professional organisations such as CIOL, and trade unions. The online survey was carried out between 2018 and 2021. For the purpose of the current research, my analysis and discussion (see Chapter 6) will primarily focus on data collected during the second (electronic) stage and only reference the most pertinent responses from the first-round questionnaire for interpreters. Both questionnaires are available in Vol 2, Appendix 2, Section 2.1.

In my previous research from 2011 (Green, 2011), I carried out a survey of interpreters only and provided them with the five role descriptors as per Lee's 2009 study in Australia. This time, I intentionally chose to remove the role descriptors from the questionnaires and leave the questions open-ended in order to elicit the interpreter's own definitions of the role and see how they construct their role in the process of interaction as per the social constructionist approach.[7]

The questionnaire for legal professionals consists of nine open-ended questions mainly structured to obtain views on the interpreter's role and status in the courtroom as well as their experience with interpreter-mediated hearings and understanding of what the interpreting process involves. Initially, the questionnaire was distributed manually or by e-mail. This phase of data collection was conducted between 2015 and 2016. Later (in April 2018), the questionnaire was moved to Google Forms and distributed and completed electronically between 2018 and 2022. Unlike the questionnaire for interpreters, this one was not changed except for the addition of one extra question at the end (Q10) asking for contact details in case the participant wanted to be contacted in relation to the research later. The questionnaire template for legal professionals (court officials) is available in Vol 2, Appendix 2, Section 2.2.

Finally, the questionnaire for service users (clients or non-English-speaking litigants) consists of ten questions. Two are multiple choice; the remaining eight are open-ended and aimed at eliciting views on their experience with interpreters and understanding of interpreter role within the legal process. To design the questionnaires, I drew on those by Lee (2009a) and Fowler (2013). The survey was mainly conducted electronically (online) and, in some cases, followed by a semi-structured interview over the phone, by Skype, or

[7] The findings from my previous research (2011) were presented at the 7th International Conference of the Iberian Association for Translation and Interpreting Studies held in Malaga, Spain, in January 2015.

face-to-face. Some respondents preferred to respond by e-mail.

3.3.2 Participant recruitment

Overall, eighty-four interpreters participated in the current study between 2015 and 2021. Twenty-six participants participated in the first round of the survey while fifty-eight participated in the second (online) round.

Seventy-nine participants were accredited interpreters with appropriate qualifications. Of these, fifty-eight had the DPSI (Diploma in Public Service Interpreting or were Metropolitan Police Test, Law option holders. Fifty-two UK interpreters were registered on the NRPSI. All interpreters were based in the United Kingdom, mainly in the West Midlands, but a few were from other parts of England. The majority of participants were approached directly in court and invited to participate in the research. Some participants were recruited through my personal networks.

Given that the United Kingdom is a multinational country comprised of different cultures and languages, the selection of research participants aimed to cover a wide range of languages. Accordingly, the research sample includes Panjabi, Urdu, Dari, Pashto, Mirpuri, Arabic, French, Italian, Creole, Russian, German, Czech, Slovak, Polish, Romanian, and Farsi. The largest groups of respondents were Panjabi, Urdu and Pashto interpreters.

3.3.3 Interviews

The modes of the interviews were as follows: ten were face-to-face, four via phone, and ten by e-mail. While the most informative answers were provided face to face, the telephone or Skype interviews and the electronically filled-in questionnaires also provided valuable contributions to this study. Eight interpreter interviews were recorded with consent.

In terms of court officials, twenty-seven professionals participated in the study between 2015 and 2022. Twenty-one respondents completed the questionnaires fully while one answered three questions only. Five legal professionals were interviewed (and recorded), while twenty completed printed-out questionnaires or submitted their answers online (via

Google Survey) or by e-mail. Among the respondents who took part in the research were seven barristers, seven solicitors, one judge, and three court clerks.

Participants were approached directly in courts during breaks in the hearings. In some courts (the Immigration Tribunal in Birmingham), court staff was very helpful and assisted me with distributing the questionnaire among court officials. In addition, I contacted the Law Society, the Crime Line, and multiple chambers in the West Midlands area with a request to circulate my survey. A few respondents were recruited via LinkedIn and some via my personal network.

The smallest group of participants is, unsurprisingly, the third one: non-English-speaking litigants. I managed to speak with only two defendants in a Crown Court. Only one completed the questionnaire via his interpreter. Although the other defendant was not a native English speaker, he had a very good command of the English language and therefore did not need an interpreter to assist him during the trial. He was nonetheless happy to express his views on the role of the interpreter in court, providing a valuable contribution to this research.

3.3.4 Transcription

Interviews with the participants (eight interpreters and five legal professionals) were recorded with their consent. All possible steps were taken to anonymise the data: names were not mentioned when recording or, if they were, they were removed or concealed in the process of transcription and analysis.

Transcription was completed by the Transcription Centre, an agency approved by Aston University. All anonymised transcripts are provided in Vol 3, Appendix 11.

3.4 Research ethics

The sensitive nature of the very context of this research along with the participation of all court actors required a guarantee of complete anonymity for all informants. To address the potential ethical issues associated with this research, I committed to the following actions:

- designing a consent form for participant perusal prior to taking part in research by completing the questionnaire (see Vol 2, Appendix 2);
- asking judges for permission to take notes in the courtroom;
- clearly explaining to all participants that I did not expect them to disclose any details of their specific cases and that they had the right to remain anonymous in the study;
- explaining to participants that they could withdraw from the study at any time; and
- guaranteeing complete anonymity and confidentiality to all the participants with respect to their names and any personal or confidential information. I did so in accordance with the Recommendations on Good Practice in Applied Linguistics set out by the British Association for Applied Linguistics (BAAL), which states that "informants have the right to remain anonymous and their confidentiality should be respected" (BAAL, 2021).

My research project was approved by the Languages and Social Sciences Research Ethics Committee at Aston University with some minor suggestions that were implemented in the consent form. The signed and dated ethics approval form is provided in Vol 2, Appendix 1.

None of the interviewed respondents disclosed any details of specific cases or people and all chose to remain anonymous in the study. Some also preferred to not be tape-recorded in the interview. These requirements for preserving anonymity were satisfied along with non-disclosure of any confidential information as per the aforementioned Recommendations on Good Practice in Applied Linguistics set out by BAAL.

For my ethnographic observation, I always sought permission from an usher before entering a courtroom to observe a hearing. I also requested permission to take notes during an observation. In some cases, the judge's approval was required and it was always granted without any issues.

During breaks, I approached interpreters and legal professionals while wearing my Aston University badge and asked whether they would be willing to take part in my research. I always carried printed consent forms so that they could familiarise themselves with my research subject and conditions in order to make an informed decision about participation.

Where possible, I also attempted to approach defendants – but only those who were not

on remand and therefore did not pose a safety risk. Additionally, I ensured that such interactions took place in public areas, surrounded by court personnel and/or interpreters, to minimise any potential safety concerns.

3.5 Chapter summary

This chapter outlines the research design and methods employed for data collection and analysis. This qualitative research adopts ethnographic methods traditionally associated with exploring social contexts. Grounded in constructionist epistemology, the study was not driven by a researcher's analytical preconceptions. It was conducted with an open mind, avoiding attempts to fit into any pre-existing theory.

The frameworks presented by Copland and Creese (2015), Wood and Kroger (2000), Braun and Clarke (2006), Bucholtz and Hall (2005), and Hale and Napier (2013) referenced in this chapter provide a robust methodological basis for the study. They will be applied during the data analysis and interpretation stages.

I further outlined the methods used for data collection and analysis, including participant recruitment, survey distribution methods, interviews, and observations of interpreter-mediated hearings. I then discussed the transcription and anonymisation of data in line with the research ethics provided at the end of this chapter.

The next chapter will delve into the analysis of ethnographic field notes, offering insights derived from courtroom observations. It will also outline the rationale behind the design of the observation sheet and discuss each category along with its analysis.

4 DATA ANALYSIS: ETHNOGRAPHIC OBSERVATIONS

This chapter provides an in-depth analysis of the field notes, explaining the rationale behind category selection for the observation sheet and detailing the process of sheet design. Next, I analyse each category from the observation sheet with a brief discussion of what was observed in the courtroom and how it helps us understand the role, identity, and status of courtroom interpreters. Finally, I conduct a thematic analysis of critical incidents and other (general) field notes using the framework developed by Braun and Clarke (2006).

4.1 Ethnographic observation of interpreter-mediated hearings

My initial fieldwork at different types of courts in Birmingham commenced with observation of everything happening in the courtroom with an open mind, taking as many notes as possible during the process. After a few visits, however, I realised that some structure and organisation were required to make the observation process more efficient and informative – yet still conducted with an open mind. In view of this, I developed an observation form (template) that originally consisted of a list of observation categories. Later, I modified and elaborated it into a more comprehensive version that helped me focus my observations on specific aspects that would inform my research. In doing so, I followed Blommaert and Jie's (2010) beginner's guide.

My analyses will examine elements and categories in terms of my observation form. Some elements, such as court type and actors, will be examined from a top-down perspective. Others, such as notes on critical incidents and interpreter role and status in the courtroom, will be approached from a bottom-up perspective.

The observation sheet template includes the following observation categories:

- Type of court
- Type of a hearing and its stage
- Language
- Modes of interpreting used by interpreters)
- Present actors
- Environmental and physical settings (including audibility, position of actors)
- Notes on the interpreter's role

- Comments on the interpreter's status in the courtroom
- interpreter swears an oath at the start of the hearing
- Critical incidents
- Notes on observations

The next section provides a more detailed explanation of each category and the rationale for its selection as a focal point for my ethnographic observation.

4.2 Rationale for observation sheet category selection

As mentioned earlier, before establishing a specific structure for my observation sessions and categories upon which to focus during my observations, I did not have any predetermined framework and observed the proceedings with the goal of immersing myself in the setting with an open mind. However, I soon found the experience overwhelming and realised that I needed a structure for channelling my focus more effectively. Consequently, I compiled a list of focal points as per Blommaert and Jie (2010) to help me become more targeted and purposeful during my court observations.

The use of these categories serves as a framework for a systematic analysis of various dimensions of interpreter-mediated hearings as they guided me through my ethnographic research journey. Their choice was informed by my initial observation experience, but also by literature on interpreting studies as well as by the wider academic literature. During the initial stage of my court observation, I felt the need to break these categories down into systematic units. Below is the rationale for each chosen category.

All observation sheets are provided in Vol 2, Appendix 5.

Every observation sheet has an order number, the date, the start, and the finish time of an observation session.

4.2.1 Type of court

Different courts can have distinct procedural norms, degrees of formality, and participant interactions. This category helps contextualise my observations within their specific legal environments. My observations further demonstrated variations in environment from court to court that could contribute to interpreter performance and perceptions of their

role. For instance, Wadensjö (1998) notes that degree of formality has a direct impact on performance.

4.2.2 Type of hearing and its stage

The nature of a hearing and the stage at which it is unfolding may each influence the dynamics and requirements for interpreting. Distinguishing between various hearing types and stages allows for a better understanding of the interpreter's role.

4.2.3 Language

Language is a fundamental aspect of courtroom interpreting. Documenting the languages involved provides insights into the linguistic and cultural challenges faced by interpreters in the context of superdiversity within the justice system of England and Wales.

4.2.4 Modes of interpreting used by interpreters

Different modes of interpreting – consecutive, simultaneous (whispering or chuchotage), or sight translation – have a significant impact on communication dynamics in the courtroom. This category enables analysis of interpreter visibility in the courtroom, whether as a vocal or invisible actor, intruder, or recognised participant of the proceedings on a par with other professionals in the courtroom.

4.2.5 Present actors

Identifying and documenting the individuals present in the courtroom, including legal professionals, defendants, and witnesses, contributes to understanding the dynamics of the legal proceedings especially when the interpreter is added to the equation. Actors will vary not only from court to court, but also from hearing to hearing within the same case. These individuals play key roles in the courtroom interaction, each performing a designated role in the proceedings. Through observation of the interactions involving these courtroom actors, I aim to identify the role of the interpreter.

4.2.6 Physical settings

Physical aspects, such as audibility and actor positions in the courtroom, influence interpreter performance. This category provides insights into potential challenges faced by interpreters in the courtroom as well as reveals valuable information about the interpreter's role and status in the courtroom.

4.2.7 Notes on the interpreter's role and status in the courtroom

These two categories delve directly into defining the interpreter's role and their status in the courtroom through their actions, interactions, positions, forms of address, and acknowledgement of their presence by other participants in the proceedings. Understanding how interpreters are perceived and treated by others in the courtroom sheds light on their professional standing and the level of recognition they receive.

I made comments about the interpreter's role and status in the courtroom usually at the end of each observation session, drawing conclusions from what I observed. Both categories were informed by the observed events. In the analysis of my field notes, I will not address this category separately but will discuss it along with all other findings in Chapter 5.

4.2.8 Interpreters swearing an oath

Exploring whether interpreters are required to take an oath and the way they do it (e.g. under instruction, unprompted, etc.) contributes to understanding the expectations and legal considerations surrounding their role.

4.2.9 Critical incidents

Documenting critical incidents[8] helps identify unusual moments during the proceeding that shed light on the understanding of the interpreter's role and status in the courtroom. It also contributes to an in-depth analysis of various aspects constituting the professional identity of interpreters in the justice system of England and Wales.

Typically, I completed the observation sheet at the start of the session and then proceeded to take notes during the observed event, paying particular attention to the actions and interactions of the interpreter in the defined context. If something occurred that would seem unusual to me (interrupted the usual flow of the proceedings) I would mark it as a critical incident (CIS) on the observation sheet.

In the next section, I will critically reflect on my professional, cultural, and linguistic background to evaluate its potential impact on my observations of courtroom interpreting

[8] I borrowed the concept of critical incidents from Farrell and Baecher (2017). I elaborate on it later in this chapter.

and how it may have influenced my perceptions of the role, identity, and status of courtroom interpreters. Additionally, I will examine the lexical and grammatical choices I made when reporting observed events in various courts and identify discursive patterns across the field notes to inform my analysis of how the role, identity, and status of courtroom interpreters have been constructed. To analyse these patterns, I draw on the framework and guidelines provided by Wood and Kroger (2000).

4.3 Self-reflection on observational practices

As a researcher with a professional background in interpreting, I am acutely aware of how my own experience may shape the lens through which I observe and analyse courtroom interactions. My professional background could have a dual effect on my observations. On the one hand, it enables me to focus my attention on certain aspects of the courtroom interaction that otherwise might have gone unnoticed. On the other hand, achieving complete objectivity may be challenging, as subconscious professional bias may have unintentionally influenced my reporting of events, interpretation of statements, and even the conclusions drawn from my ethnographic observation. For example, my focus on the interpreting practices (modes, techniques), attention to the interpreter's position in the courtroom, their challenges, and working conditions along with status, recognition, and behaviour may indicate that I hold certain expectations about these aspects based on my own professional experience and background.

In addition, I acknowledge that English is not my native language (my mother tongue is Russian). Although I have achieved a high level of proficiency in English, my linguistic and cultural background may have influenced certain lexical and grammatical choices. Reflecting on my notes, I observe the use of specific discourse markers, simple sentence structure, evaluative language, and cultural references rooted in my own background. These elements suggest the influence of my mother tongue and cultural heritage on my reporting.

Building on these reflections, I provide a list of discourse patterns identified during my analysis of the field notes accompanied by brief commentary from a discourse analysis perspective. The aim of this analysis is to complement the thematic analysis by gaining additional insights into the interpreter role, identity, and status in the courtroom and how

these are constructed through language and institutional practices.

4.3.1 Discursive patterns identified in the field notes

4.3.3.1 Researcher's positionality towards what was observed

As Wood and Kroger (2000: 101) note, "positioning is an important concept in considerations of the way in which people are both producers of and produced by discourse". Positioning can be understood as the framing of the identities of speakers and hearers in particular ways through discursive practices (Wood and Kroger, 2000). As a reporter of the events I observed in various courts, I take an active role in constructing narratives about these events and hence contribute to understanding of the interpreter's role, identity, and status in the courtroom. This construction is shaped by my lexical and grammatical choices that may in turn be influenced by my professional and cultural background, as discussed already.

Below, I provide examples where my authorial voice as a researcher is projected through explicit comments, descriptions and evaluation of the observed events. In observation sheet No. 6, I provide a cultural note based on my personal experience of Eastern European culture:

> Cultural note – it is a standard practice in Lithuania, they prefer to handle such situations this way rather than involving police or taking the matter to civil court. Since both actors are Lithuanian, the incident may have been assumed culturally acceptable.

Another example is from observation sheet No. 8, where I evaluate the interpreter's language proficiency:

> Overall, the interpreter's English sentences sounded very plain and even basic at times.

Throughout my field notes, I use words and expressions such as "I think", "it is interesting to note", "which speaks volumes", "which is odd", "undue and inappropriate", and "sent a cold shiver down my spine", among others, that project my views, attitude, and assumptions as follows.

Expressions of uncertainty

Although I strove to be an objective, neutral, and detached observer, I inevitably engaged in on-the-fly self-reflection and analysis of my perceptions of what I observed. Hence, I frequently questioned my perceptions to avoid making false claims and acknowledge the inherently subjective nature of the observation process and interpretation of events, which are often open to multiple interpretations. This is reflected in the frequent use of question marks in the field notes as well as the use of words and phrases expressing uncertainty, such as "I am not sure", "I believe", "my impression was", "seemed", "probably", "I presume", "I inferred", and so on. These moments of doubt may also indicate an awareness of the complex nature of interpreter-mediated courtroom interactions and recognition of the overall limitations of ethnographic research.

Use of "just" to construct significance (or lack thereof)

The adverb "just" often serves to minimise or qualify actions, roles, or situations and can indicate a certain degree of subjectivity and interpretation on the part of the speaker (Collins Dictionary, 2025). This adverb appears in the field notes in several contexts and helps shape the views of power dynamics in the courtroom, the interpreter's role, visibility, and recognition by other court actors as well as critique of the system. It further demonstrates the researcher's position towards the observed events.

In observation sheet No. 18, for example, use of the word "just" suggests a reduction of the interpreter's role to something mechanical:

> She was like a robot just sitting there interpreting without even looking at the defendant.

Observation sheet No. 11 states that the court officials "just carried on the discussion without stopping and the interpreter continued to discharge his duties in a simultaneous mode". Here, use of the adverb "just" highlights the lack of acknowledgement of the interpreter's presence and needs, suggesting that the court proceeding was not adapted to the requirements of interpreting.

Another example where the use of "just" indicates a lack of acknowledgement of the interpreter's needs is demonstrated in observation sheet No. 12:

> However, refreshments were not provided for them, just water.

Thus, use of the word "just" throughout the field notes is a significant rhetorical device that not only serves to highlight a lack of consideration for interpreters or a reduction of complex tasks into simple, mechanical functions, but also sheds light on the researcher's perceptions and interpretations of courtroom dynamics. This reaffirms that the observer (myself) is not completely neutral but takes an active role in constructing the meanings of the observed events.

Use of "clearly" to construct validity of evidence

The adverb "clearly" serves multiple functions and is often strategically used in academic writing to signal the existence of reliable evidence for claims. It can function as an adverb of manner while in its modal sense, it can act as a marker of the author's perspective. Use of this adverb may also serve to reinforce the author's assertions and engage in a discussion with the reader (Rozumko, 2018).

In my field notes, the adverb "clearly" often introduces statements I intended to present as undeniable or easily understood, suggesting a particular interpretation that should be accepted by the reader without much questioning. In observation sheet No. 11, for example, "clearly" frames my interpretation of the court's intentions as an obvious fact even though it is an inference based on the physical arrangement of the participants:

> It was clear from the situation that they did not intend those discussions for the defendant as the interpreter was nowhere near him.

In observation sheet No. 26, the use of "clearly" indicates my perception of the claimant's confusion as being beyond doubt:

> The claimant clearly did not understand that and looked at the interpreter to help him, but the judge interfered and rephrased the question for him.

In a similar vein, I use the adverbs "apparently" and "obviously" (or phrases "it was obvious", "it was clear") to signal the interpretation of the observed events in an attempt to establish them as factual or self-evident. None of these words are neutral descriptors. They serve to frame subjective interpretations as objective truths. They are powerful tools of evaluation, persuasion, and influence, shaping the reader's understanding of the observed events.

4.3.3.2 Inconsistent use of grammatical tenses in descriptions of courtroom interaction

Upon reflecting on my field notes, I notice frequent shifts between the Past Simple, Present Continuous, Present Simple, Present Perfect, and other verb tenses. These shifts are not errors, but rather strategic choices that contribute to the overall meaning and impact of the text. For example, I use Present Continuous to emphasise the immediacy of an action taking place here and now, with me as a live witness. I switch to Past Simple when I reflect on the events I observed, adding distance and adopting a more analytical stance towards my observations.

4.3.3.3 Use of reported speech, both direct and indirect

Where possible during my courtroom observation, I tried to capture and quote the exact words uttered by a certain actor in the courtroom to ensure accuracy, authenticity, and objectivity of my account of the events. However, indirect speech is used more often throughout the field notes as it was not always possible to quote actor utterances verbatim. Additionally, it allowed me to condense and summarise longer conversations or speeches, focusing on the main points that, in my view, were most relevant to my research aims.

4.3.3.4 Use of speech verbs

The field notes use a variety of verbs for speech that capture the details of the courtroom interaction and reveal how communication occurred between different actors. I most frequently used the verbs " to say ", " to talk", and " to speak" to describe general acts of speaking in a detached and neutral manner, aiming to achieve objectivity. Other verbs used to denote speech in the field notes carry additional connotations. For example, the verb "whisper" is frequently used, often in the context of interpreter interactions with defendants, particularly during SI in the dock. Usage of this verb indicates that the message was directed at certain hearers rather than all present actors. Similarly, the word "slurred" (see observation sheet No. 10), used to describe the unclear speech of a defendant in the witness box, conveys connotations of a lack of confidence, vulnerability, and disempowerment.

Special attention should be given to the frequent use of the verbs "clarify" and "explain", particularly in the context of interpreter interactions with defendants and other court

actors. The former verb indicates that the interpreter is making something easier to understand, while the latter implies that interpreters often provide additional context to facilitate communication. Use of these verbs suggests that the interpreter's role often goes beyond merely rendering the message from one language to another.

Use of the verbs "ask", "reply"/"answer" indicates an act of speech in which questions were asked and answered, or requests were made. Use of these verbs in the field notes highlights the power dynamics within the courtroom, which can be described in terms of "agent–patient distinction" (Wood and Kroger, 2000: 101). This is when judges or barristers, who hold positions of power, ask questions (agents) while defendants and witnesses must provide answers (patients). In situations where interpreters ask the speaker to slow down or request clarification from court actors, they effectively claim agency and negotiate their identity as active and visible participants in the courtroom interaction (see observation sheet Nos. 21, 22, 24, and 30).

To sum up, it is important to note the influence of the researcher's professional, cultural, and linguistic background on the observation and reporting of events. The use of evaluative language, discourse markers, and specific grammatical structures reflects the researcher's views and assumptions. This highlights the subjective nature of ethnographic research and how the researcher is not a neutral observer, but an active participant in constructing the meanings of events.

In the next section, I will analyse each category from the observation sheet. This will be followed by a thematic analysis of my general notes taken while observing the interpreter-mediated hearings.

4.4 Analysis of ethnographic field notes

4.4.1 Semiotics and power

The discussion of English and Welsh court systems inevitably brings the concept of power into consideration. Semiotics is well suited to help us explore the play of power within an institutional context. Siefkes (2010: 225) notes that "power is closely connected to signs", but often this connection is seen as happening "after the fact". This implies signs are usually viewed as representing power that originally stems from reasons

unrelated to signs (Siefkes, 2010). A classic definition of power comes from Max Weber in his 1922 work *Economy and society*: power is "every opportunity, within a social relation, to assert one's own will even against resistance, regardless of what this opportunity is based on" (Weber 1956 [1922]: 1-28, cited in Siefkes, 2010: 227).

Building on this, Siefkes (2010) argues that power is not always exercised through explicit control but can emerge from structural imbalances within a given system. He refers to this as "structural asymmetry" where institutional hierarchies create conditions that privilege certain actors over others (Siefkes, 2010: 229). In the legal system, this asymmetry is not only reflected in procedural authority but also reinforced through spatial arrangements, symbols, and professional markers such as formal attire and dress codes. This is where visual semiotics becomes crucial in understanding how institutional power is communicated and maintained (Siefkes, 2010; Isani, 2006).

Isani (2006: 51) asserts that visual semiotics play a pivotal role in shaping and interpreting professional identity. Elements such as proxemics (spatial organisation in professional setting), graphics (logos, signs, letterheads), professional artefacts (gravels, scales of justice, blackboards), insignia (mottoes, crests, flags), colours, and dress code all contribute to the perception and reinforcement of professional roles. These elements are not merely decorative, but serve to encode authority, hierarchy, and institutional legitimacy (Isani, 2006). Thus, visual signs within courtrooms not only establish power relations but also shape how interpreters and other legal professionals are positioned within the system.

As semiotic resources, visual signs offer a rich research site for multimodal discourse analysis, a branch of discourse studies that goes beyond language alone to examine how language interacts with other communicative resources such as images, scientific symbols, gestures, actions, music, sound, and various semiotic resources. Halliday (1978: 123) defines semiotic resources as "systems of meanings that constitute the "reality" of the culture". Building on Halliday's (1985) social semiotic approach to language, Kress and van Leeuwen (1996) develop a descriptive framework for visual analysis. Their main argument is that visual design fulfils the same functions as language and meaning can be constructed through multiple modes, thereby enriching the meaning-making process (O'Halloran, 2011).

In the next section, I apply elements of semiotic and multimodal analysis to my field

notes to explore how institutional power is manifested through physical settings and visual signs of different courtrooms. Specifically, I will examine how the physical layout, symbols, and special arrangements of different courtrooms contribute to the construction of professional role and identity of court interpreters.

4.4.2 Physical settings and types of courts

The system of courts in England and Wales has developed over one thousand years, resulting in a complicated and sometimes even confusing structure. Coulthard (2016: 76) describes how "[t]he first thing that strikes any visitor to a courtroom is the strangeness of the setting". Every aspect of the courtroom generates a sense of excitement and anxious anticipation:

> the layered, hierarchical, windowless space with the judge(s) or magistrates supreme, ritual conventions of standing to the call of "All rise!", the professional uniforms of lawyers in wigs and robes, and of police officers waiting to give evidence, and witnesses and families looking nervous and dressed up for the occasion. (Coulthard, 2016: 76)

Yet there are striking differences between different types of courts, particularly between criminal and civil courts. During my observations, I took special notice of the physical design and interior layout and found the following differences between different courts:

- degree of formality and power representation (robes and wigs in Crown Court/normal smart wear in magistrates' and civil courts and tribunals);
- physical settings of room (e.g. secure dock at the very back of the courtroom in Crown Court or some courtrooms in magistrates' court as opposed to the absence of a dock, a table for a witness box in civil court where litigants sit while being questioned, and so on);
- participants in hearings/trials (e.g. the jury, prosecutors, barristers vs solicitors, Home Office representatives at immigration tribunals);
- procedures; and
- language.

In the next section, I focus mainly on the environmental and physical setting – which includes space, audibility, differences in courtroom layouts, courtroom actors and their attire, and other extra linguistic elements – in order to understand how the courtroom is "constructed semiotically as a performative stage on which legal dramas unfold" and how the court settings and layouts can be read in semiotic terms (Du, 2016: 595).

4.4.3 Criminal courts in England and Wales

As mentioned above, all criminal cases in England and Wales start at a magistrates' court. Over 90% will be completed there, but more serious offences or those that cannot be settled at magistrates' court are referred to a Crown Court for a jury trial. The majority of my courtroom observations were conducted at Birmingham Magistrates' and at Birmingham Crown Court.

Although I could not take photos of the courtrooms during my observations, I found similar images of the layouts for the two courts on the internet and have schematic drawings of the courtrooms I attended for my ethnographic observations.

4.4.3.1 Magistrates' court layout

Below are images (Figures 2, 3, and 4) of the façade of Birmingham Magistrates' Court and one of the courtrooms at Burton Magistrates' Court (Court 1):

Figure 2: Façade of the Birmingham Magistrates' Court (Larner, 2020)

Figure 3: Burton Magistrates' Court, in Horninglow Street (burton-on-trent.org.uk, n.d.)

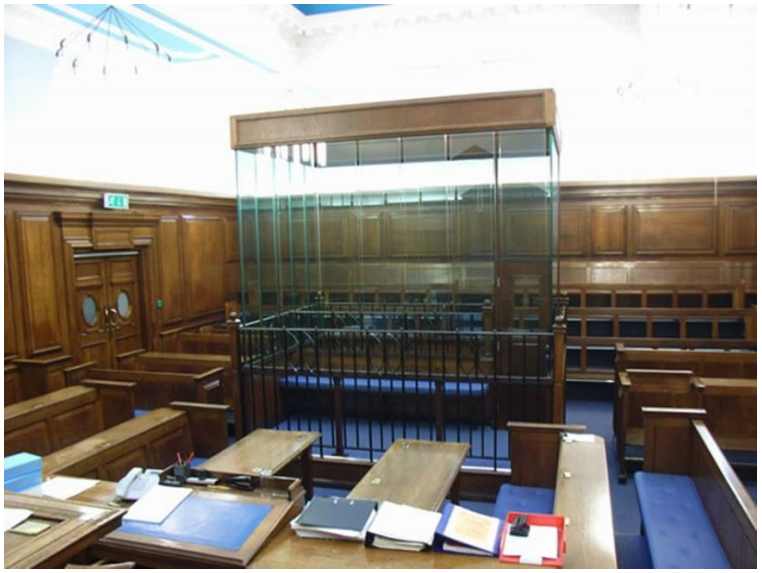

Figure 4: Burton Magistrates' Court (burton-on-trent.org.uk, n.d.)

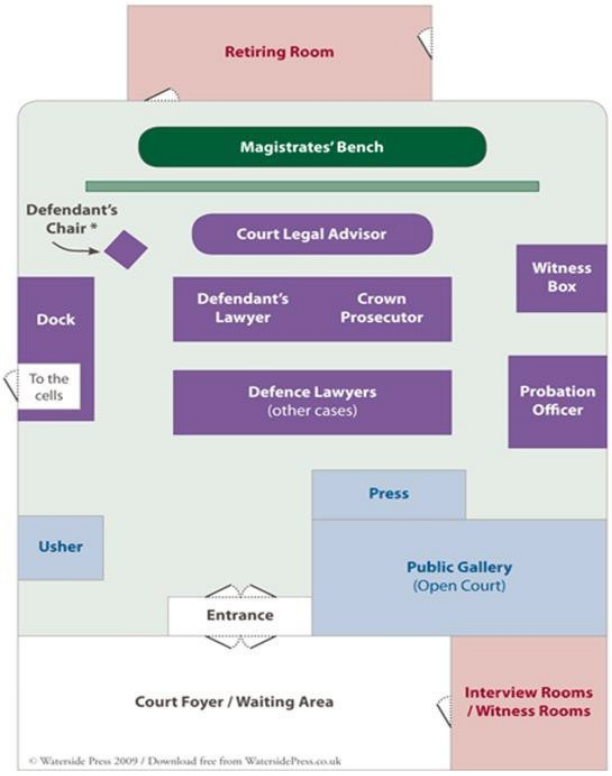

Figure 5: Magistrates' court layout **(**Gibson, 2009).

Figure 5 above is a schematic and simplified view of a typical magistrates' court layout. Most courtrooms are fairly similar, featuring the central and dominant magistrates' bench (often raised on a platform). Between the magistrates' bench and the lawyers' tables for the prosecution and defence, there is space – a desk – for the court legal adviser. To one side, there is the dock for the defendant. For security reasons, defendants in custody usually arrive through the cells. Witnesses are called to their own stand known as a witness box.

Other designated areas are for a probation officer, the court usher, the press, and the general public (in open court). Outside the courtroom, there is a foyer and rooms for witnesses, meetings with legal advisers, and interviews.

Interpreters do not have a designated area. They may sometimes be placed in the dock with the defendant or next to it, where they talk to the defendant through a glass screen with holes in it.

This finding resulting from my ethnographic observation resonates with Fowler's 2016 study of courtroom interpreting in England. The below figure is taken from her study

published that same year in *Language and Law Journal*; it shows the seated and standing positions of the interpreter in the magistrates' court. As indicated in Figure 6, this would be a typical position of the interpreter in the courtroom of a magistrates' court.

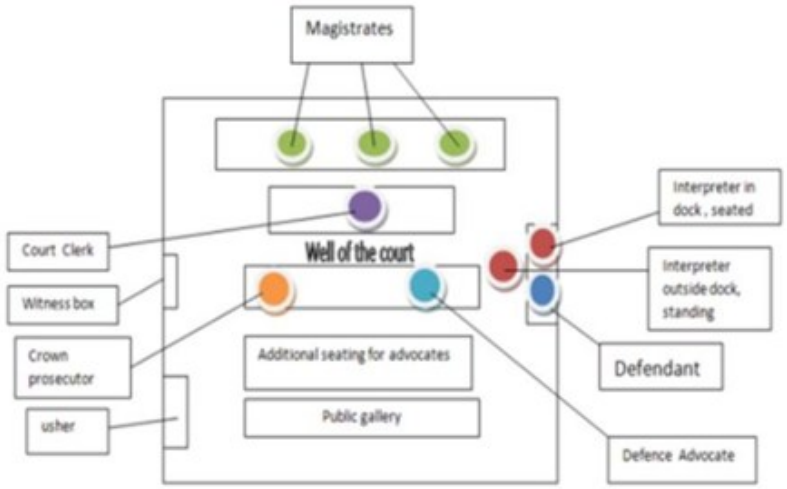

Figure 6: Interpreter seated/standing positions in a typical face-to-face magistrates' court (Fowler, 2016: 144)

The above images of the façade of Birmingham Magistrates' Court, along with the courtroom images of Burton Magistrates' Court, exude a sense of power and authority that can be imposing and intimidating at the same time. The court's dominance is engraved in its grandiose architecture and courtroom layout, with the unbalanced distribution of power manifested in courtroom design, decoration, and seating arrangement. As Nunn (1995: 783) notes:

> Trials typically take place in buildings with imposing architectural designs. It is not uncommon for the courthouses to evoke associations with glorious empires of the past. The courthouse is represented as a place where justice in the philosophical sense is done. To underscore this projection, quotations from great moralists, esteemed jurists, or classical works of morality or law are frequently inscribed on courthouse walls.

Crown Courts have a very similar function in their architectural design and courtroom layout. Figure 7 below captures the façade of the Queen Elizabeth Crown Court in Birmingham. Similar to Figure 2 (Birmingham Magistrates' Court), the façade is a vivid

representation of institutional power. This is manifested in the size, shape, and colour of the building, which has large windows, a grand staircase, and engraved coats of arms on the front wall. As intimidating as it looks, all of it together serves as a sentinel of justice for society.

Figure 7: The Birmingham Crown Court (O'Callaghan, 2023)

4.4.3.2 Crown Court layout

As Heffer (2005: 37) points out, "[j]ury trial unfolds in a specific formal setting – the courtroom" – which is often compared to a theatre stage (Heffer, 2005; Du, 2016). Likewise, Nunn (1995: 783) maintains that the setting of the trial "not only suggests the presence of theatre, but … also sets up a commanding 'environmental resonance' or atmosphere of authority and power". He goes on further to claim "[t]he trial is a highly ritualised formal narrative that is the culmination of the adversarial process. Like the image of the criminal, the trial too is socially constructed" (Nunn, 1995: 780).

Below, Figure 8 illustrates the entrances and seating arrangements of a typical Crown Court in England and Wales (Heffer, 2005: 37).

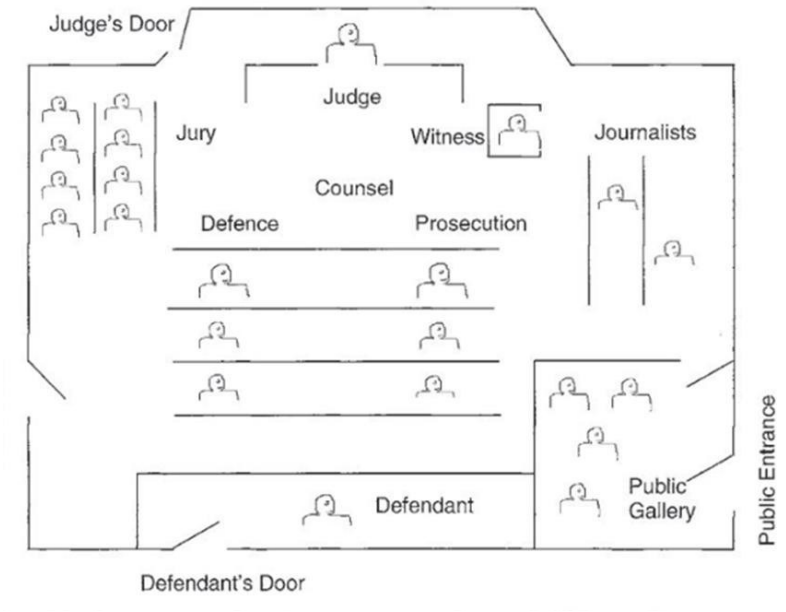

Figure 8: A typical Crown Court layout in England and Wales (Heffer, 2005: 37)

As with the magistrates' court layout, the Crown Court layout has a stage near the front of the courtroom with a judge sitting at a podium overlooking the court "as if to direct the drama that is to unfold on the stage below" (Nunn, 1995: 783). Similarly, Heffer (2005) argues that the seating positions of all "on-stage speech protagonists are…communicatively significant" (Heffer, 2005: 38). The judge's bench is raised over the other seats in the room, to indicate status, so the judge is able to oversee the proceedings as well as keep all participating actors in his or her sight. In front of the judge's bench is a bench for counsel (defence and prosecution), who sit on opposite sides connecting the jury and witness ends of the stage. It is on this very stage that most important verbal and non-verbal interaction in court takes place (Du, 2016; Heffer, 2005; Nunn, 1995).

Heffer (2005) notes that, unlike the American courtroom where counsel enjoy mobility across the court stage (the well of the court), the English courtroom does not permit counsel to move from their positions. The defence thus benefits from being positioned closer to the jury, while the prosecution benefits from being closer to the witness. Nunn (1995: 783) suggests that "the very structure and design of the courtroom works to legitimate the prosecution and delegitimate the defence".

Wolfe (1995: 610) argues that from counsel's perspective, the "critical perceptual attributes" of courtroom position include: 1) eye contact between jury and witness; 2)

proximity of the lawyer to the jury; 3) audible voice communication between lawyer, jury, and witness; and 4) the ability to control the direction and flow of witness-jury-counsel communication. This resonates with my courtroom observations. On one of my visits to Crown Court (see observation sheet No. 31), the defence barrister emphasised that it was of particular importance for the defendant to address the jury directly rather than via the interpreter, so that direct eye contact between jury and defendant and a direct flow of communication between defendant, defence counsel, and jury were preserved without throwing another party (the interpreter) into this complex interaction structure.

The witnesses face the jury, which is "huddled together as a single body" and the immediate audience for this "performance" (proceeding) as well as the addressee during the trial (Heffer, 2005: 38). The jury is visible in its box, but individual jurors have no speaking rights of their own (Heffer, 2005; Nunn, 1995).

Finally, the defendant sits in the dock and is often separated from the rest of the court by a glass screen at the very back of the courtroom. The defendant is certainly not the beneficiary of the courtroom's formality. Instead, the defendant is regarded as an object to be examined (Nunn, 1995; Heffer, 2005). The two opposing court players – the judge, who is the most powerful figure in the room, and the defendant, who is the most powerless one – "face each other directly across the professional benches" (Heffer, 2005: 38).

More removed is a seating area for the general public. These seats are usually separated from the rest of the courtroom by a barrier or bar, which emphasises to those sitting behind that "they are spectators, not participants" (Nunn, 1995: 783).

As for interpreters, their seating position in Crown Court is similar to magistrates' court in that there is no designated seat for the interpreter (it is interesting to note how in a Chinese court, for example, the interpreter has a designated seat alongside other key player in the courtroom). In the Crown Court, the interpreter is usually placed in the dock with the defendant, but they enter the dock from a different entrance.

4.4.3.3 Attire

With the exception of magistrates' and family courts, all English courts require legal professionals and court personnel, whether judges, barristers, solicitors, court clerks, recorders, or ushers, to wear court dress (Isani, 2006). Isani (2006: 54) further notes that

barristers, as a tribute to tradition, are also required to wear a "horsehair wig" when they appear as advocates in courts. The wig must be worn with a black gown over a dark suit and "a white shirt with strips of white cotton called 'bands' hanging before a wing collar", as can been seen in Figure 9 below (Isani, 2006: 54).

Figure 9: Typical counsel attire at a Crown Court (Legal Aid Agency, 2020)

Unlike judges, court clerks, and ushers, English advocates follow two distinct dress codes: one for business conducted in chambers or offices, where interactions with clients are typically private and face-to-face; and another for the courtroom, where "communication is defined in terms of public and polyadic interaction" (Isani, 2006: 53).

In tribunals and magistrates' courts, judges and court personnel are required to wear a business suit and there is no requirement for a special robe as in a Crown Court (Figure 9). Isani (2006: 56) points out that English legal court dress is viewed as a vector of professional identity and serves as a means of visual communication, which is "generally assumed to be intended to target the lay public". It also serves as a visual representation of rank and status within the professional community (Isani, 2006; Du, 2016).

The dress code for legal professionals is thus another institutional element suggesting power and authority. It sets the legal community aside from the lay public, as so-called servants of justice vs "the other". This distinction signifies the closed nature of the legal system, where strangers are not permitted. However, the dress system itself is not unified within the community. It varies between different types of courts in degree of formality (representing rank and status) and, as such, serves as a visible arena for invisible power struggles between the members of the professional community.

In contrast to legal professionals, it is interesting to note that there is no set dress code for

court interpreters. While some interpreters were dressed very smartly, wearing suits and ties, the majority of interpreters I observed were dressed in a smart casual fashion, such as jeans or other elements of casual dress style.

4.4.4 Civil courts and tribunals in England and Wales

Civil cases typically relate to debt, the repossession of property, personal injury, and the return of goods and insolvency. These issues are mainly dealt with by county courts. Family matters are usually handled by family courts (gov.uk, 2022a).

Tribunals can be defined as "specialist judicial bodies which decide disputes in particular areas of law" (gov.uk, 2022b). The tribunals system has its own rather complex structure.

As part of my ethnographic observation, I attended Birmingham Civil and Family Justice Centre and the immigration tribunal Birmingham Immigration and Asylum Chamber (First Tier Tribunal), Sheldon Court. Here, I would like to discuss the differences I observed between these and the aforementioned criminal courts.

Below is an image of one of the courtrooms at the Birmingham Civil and Family Justice Centre (Figure 10), which can also be read in semiotic terms. Although the primary attributes of power are preserved in the elevated judge's seat positioned centrally towards the front of the room along with the coat of arms above, the overall interior design of this room appears less formal, and certainly less intimidating, than the courtrooms at magistrates' and Crown Courts. Tables are arranged in a manner that encourages dialogue among the participants, as if in attempt to reduce the level of antagonism between the parties and focus on finding a solution. The room is rather small and not designed to accommodate many people. It is more functional than symbolic and gives the feel of a more private, less hostile atmosphere.

In interpreter-mediated hearings, the interpreter sits next to the client requiring the service. There are two entrances to the room, one for the judge at the back of the room and the other for everyone else. Unlike in criminal courts, seating arrangements in civil courts are not fixed. The opposing sides sit opposite each other, but there are no designated seats for each participant in the litigation.

Figure 10: Birmingham Civil and Family Justice Centre (HMCTS and MoJ, 2018)

Figure 11 below represents a typical courtroom in an immigration tribunal. The overall layout is very similar to the room at the Birmingham Civil and Family Justice Centre (Figure 10). Like the room in Figure 10, the room below looks a lot less formal. The interior design and seating arrangement are also very similar to the one in Figure 10.

This image is taken from the website of the Right to Remain (2020), a charity organisation that supports migrant groups across the United Kingdom. It is interesting to note a mention of the interpreter as one of the (key) actors in the asylum hearing, which suggests that at immigration tribunal appellants are more likely to need an interpreter to facilitate communication with representatives of governmental bodies. I read this as tacit recognition of the importance of the interpreter's role in this type of hearing.

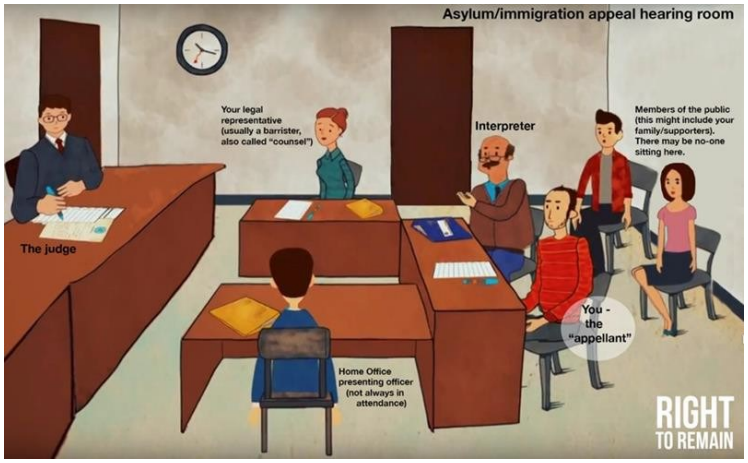

Figure 11: An immigration tribunal (Right to Remain, 2020)

When I attended the Immigration Tribunal in Birmingham, I noticed the atmosphere there was overall even less formal than at the Birmingham Civil and Family Justice Centre (Figure 10). Unlike all other courts I attended, the reception area at Sheldon Court is decorated with welcome messages in various languages. This alone is a striking difference that sets this court apart from both criminal and even civil courts in Birmingham. Figures 12, 13, 14, and 15 were taken during my visits to the immigration tribunal.

Figure 12: Reception area, Birmingham Immigration Tribunal

Figure 13: Play area for children, Birmingham Immigration Tribunal

It goes without saying that the atmosphere of the Immigration Tribunal in Birmingham is not merely less intimidating but quite the opposite: it is actually rather friendly and welcoming. The same cannot be said of civil courts, let alone criminal courts. I was even

allowed to take photos of the interior.

Another interesting observation I made at Sheldon Court was a designated room for interpreters, as shown below (Figures 14 and 15). This is where they can rest, prepare for their assignments, and socialise with fellow interpreters – an area similar to professional chambers for barristers.

Figure 14: Interpreters' room (exterior), Birmingham Immigration Tribunal

Figure 15: Interpreters' room (interior), Birmingham Immigration Tribunal

This in itself is a very interesting and important fact that speaks volumes about recognition of the interpreter's role as an important actor in an immigration tribunal. This also resonates with Figure 11 from the Right to Remain website, where the presence of the interpreter at the asylum hearing is assumed to be an integral part of the process.

The differences between the physical settings are discussed at length above, with one note I would like to add about a hearing I attended on 3 June 2015 at the Birmingham Civil and Family Justice Centre. It was a motor insurance case and what I found particularly noteworthy was the formal environment, which was similar to criminal court. As described above, the judge's seat was slightly raised with a coat of arms displayed above his chair. The prosecutor and defence counsel were both wearing formal court dresses and wigs. The judge was wearing a formal black and white court dress, but no wig. Although less formal than in criminal courts, the environment, atmosphere, and physical settings in civil court were significantly more formal than family court and the immigration tribunal.

4.4.5 Audibility

One of my observation focal points was audibility in the courtroom. By audibility, I mean how well and clearly the court proceeding can be heard by the audience. It goes without saying that ears are a key work tool for an interpreter. For interpreters to be able to do their job, they must above all clearly hear what is said. In the legal context where every word matters and can be life-changing, good audibility in the courtroom is of particularly high importance. As Hynes (2021: 163) puts it,

> [h]earing is fundamental for every one of us, it allows us to communicate with others and stay in touch with our surroundings. For spoken-language simultaneous interpreters the role of the ear is even more important; without functioning hearing, they would not be able to work.

Interpreting is a complex communication activity that presents interpreters with many challenges, which Gile (1995) calls "problem triggers". Gile (1995: 171) defines problem triggers as "anything that increases the processing capacity of an interpreter" so more effort is required for the interpreter to listen, understand, and produce the message in a target language). Gile (1999) also notes that interpreters, particularly in simultaneous mode, usually work at the limit of their capacity, listening to a foreign language,

analysing, translating, and speaking at the same time.

Gile (1995) formulated a cognitive framework of interpreting (called effort models) based on the three primary cognitive efforts required during the interpreting process, which he labelled as listening and analysis (L), production (P), and memory (M). The underlying concept of this framework is that there is a limited amount of mental energy (or processing capacity) available to an interpreter. Exceeding this processing capacity may result in "errors, omissions or a loss of linguistic and/or delivery quality in the target speech" (Gile, 2008: 2). This processing capacity is also known as cognitive load.

Poor audibility invariably increases the cognitive load on interpreters, compelling them to expend additional mental effort to decipher unclear speech. It puts interpreters under additional pressure, causing fatigue and negatively affecting performance. Simply put, the interpreter's brain does not have the spare capacity to compensate for gaps caused by audio issues (Hynes, 2021). As Hale and Napier (2016) note, poor sound will inevitably have a negative impact on the interpreter's ability to perform to the best of their skill and ability.

The European Commission published the following notice titled *Interpretation Disclaimer* on their official website:

> Interpreters require high sound quality to accurately and fully render the content of the participants' contributions. If at any time sound quality drops below what is required for interpretation, the interpreters will stop working. We strongly recommend participants to connect from a well-lit, quiet office-like environment. Connections from noisy interiors or public places, from outdoors, on the move or with no image will not be interpreted.
>
> Poor connections or poor sound quality hinder effective communication and may have a negative impact on the hearing health and well-being of both participants and interpreter. (European Commission, Interpretation Disclaimer, n.d.)

Moreover, poor sound places strain on the interpreter's hearing. The evidence gathered through various studies suggests that the sound quality is one of the primary causes of the recent significant increase in hearing issues among conference interpreters, which include debilitating and career-ending hearing conditions (CAPE, 2021). The literature demonstrates (Westcott, 2006; Parker et al., 2014) that extended exposure to poor sound

may result in medically diagnosed physiological consequences. Deteriorated sound quality may affect the overall health of interpreters well before any physiological symptoms become evident.

Seeber (2022) examined sound quality in remote interpreting. The findings from study highlight a significant impact of sound quality on the interpreter's perceived cognitive load, which is influenced by an increased sense of frustration, additional effort, and strain. It is interesting to note that the impartial and unbiased assessments of interpretation output reveal a substantial decline in quality when sound conditions deteriorate. While aspects such as style and delivery remain relatively unaffected, it is the content of the conveyed message that suffers an adverse impact (Seeber, 2022).

In my court observations followed by an analysis, I rated audibility as:

- Good (all speakers could be heard well during the proceeding);
- Satisfactory or average (most of the proceeding could be heard, but with occasional minor issues);
- Intermittent (some speakers could be heard well during the proceeding and others not);
- Poor (very difficult to discern what was said by parties during the proceeding).

At the Crown Court, the audibility for eight out of fifteen hearings I attended was rated as good, four hearings were poor, two satisfactory, and one intermittent. In cases where audibility was rated as good or satisfactory, interpreters were equipped with ear loops and/or headsets. I had a chance to talk with them during breaks; they reported good or acceptable audibility and were happy with the provision of equipment. In cases where the audibility was rated as poor, often no hearing loop was provided for the interpreter. Sometimes, poor audibility was rectified by the provision of headsets.

In a case rated intermittent, the following comment was added to my field notes:

> defence and prosecution could be heard well and clearly, while the judge's speech was not loud and would have been harder to hear in the dock behind the glass. Court clerk was speaking to the judge very quietly, clearly no for the interpreter to interpreter what was said to the judge. (Observation sheet No. 4)

At the magistrates' court, five out of ten hearings had a good audibility, and five were satisfactory. There are no notes on poor audibility. In most cases, the interpreters either

were provided with the necessary equipment or participants could be well heard, and no additional equipment was required. On occasions when the magistrates' microphones were off, it was difficult to hear them.

At the immigration tribunal at Sheldon Court, four out of seven hearings had good audibility and three were satisfactory. There were no notes on poor audibility. It is worth noting that courtrooms at the immigration tribunal were rather small, and therefore no significant issues with audibility were noted.

At the Birmingham Civil and Family Justice Centre, two out of three hearings had satisfactory audibility, and one was good. There were no notes on poor audibility.

To sum up, the audibility in most cases I attended across various courts was either good or satisfactory. I observed a relatively low number of cases where the audibility was poor and even in those cases, there were attempts to address the issue. However, there also were situations where interpreters reported poor audibility and struggled to hear what was said in the courtroom and no equipment was provided to them (see observation sheets Nos. 9, 14, 16, 26).

4.4.6 Court actors

As discussed in Chapter 2, many actors take part in a trial. The defining characters in any criminal trial are the judge, the prosecutor, and the defence counsel (or advocate solicitor). These are the key and most powerful participants in the courtroom. On the other side of the spectrum (the least powerful) are the defendants and witnesses. There are also assistants for witnesses/defendants, such as interpreters and social or healthcare workers. Other court actors include the usher, court clerk, probation officer, the jury, media, and the public.

It goes without saying that all the hearings I observed as part of my ethnographic research had judges or magistrates in them. Whether in criminal or civil courts, or immigration tribunals, every hearing I attended had a side representing the prosecution. In Crown and magistrates' courts, this role was fulfilled by the prosecution counsel or barrister from the CPS. In civil court proceedings, the prosecution side varied based on the type of hearing, with a plaintiff in civil matters or petitioner involved in family court disputes.

Immigration tribunal hearings typically saw representation from a Home Office commissioner on the prosecution side.

During my observations, it was not always possible to discern the presence of solicitors. Out of the thirty-five hearings I observed, only in sixteen of them could I identify the presence of solicitors: eight cases in Crown Court, one at a magistrates' court, four in the immigration tribunal, two in civil court, and one in county court (a family dispute). Unlike other courts, the presence of solicitors was obvious in civil and county courts.

All hearings had a defendant side (called the respondent in civil court hearings and the appellant at immigration tribunals). However, some hearings in Crown Court involved multiple defendants at once. This typically occurs when defendants are linked to the same criminal activity or are facing similar charges and consolidating their cases into a single hearing.

In total, I observed seven hearings in Crown Court that involved multiple defendants. One was a VAT fraud case that involved eight defendants, three of whom were non-English speakers and required an interpreter. An interpreter was provided for each defendant in need of that service.

In another instance, there was a murder trial involving seven defendants – all of whom required the assistance of an interpreter. What made this trial unique in terms of court interpreting was the setup for the interpreters, which resembled the format of conference interpreting. In this arrangement, two interpreters worked together in tandem outside the dock, alternating every thirty minutes. They were equipped with conference interpreting tools, such as headsets and microphones. At the same time, the defendants within the dock were provided with hearing loops to access the interpretation. It's worth noting that one defendant had a dedicated interpreter sitting with him in the dock as his language differed from that of the other defendants involved in the trial.

At a hearing I observed in Crown Court, there was a case of criminal negligence involving two defendants. One required assistance from the interpreter, while the other was a native speaker and appeared via video link.

And finally, I had the opportunity to observe a fraud trial at the Crown Court in Birmingham. This trial involved three defendants who did not speak English; all three were Polish speakers and relied on the services of an interpreter. What struck me as quite

unusual in this case was the presence of two Polish interpreters who provided simultaneous interpretation for the three defendants in the dock. Their approach resembled that of conference interpreting, with both interpreters sitting side by side equipped with headsets and microphones. They alternated their interpreting duties every thirty to forty minutes.

Out of the thirty-five hearings I observed, eleven were trial by jury. As discussed above, all of the hearings I attended involved defendants, judges (magistrates in magistrates' courts), and defence and prosecution sides.

I observed thirteen trials involving witnesses; two cases had victims present at the hearing while one trial was conducted via video link. A few cases involved police officers (giving evidence as witnesses), the press, and media workers. One trial was attended by health and social workers. There also were technical assistants, security guards, and members of public present at some of the trials.

All courts I attended had ushers and court clerks to assist with administrative tasks in court, maintain records, and ensure that proceedings ran smoothly.

As discussed above, some cases had more than one interpreter. This was observed in several criminal trials at the Crown Court involving multiple defendants who needed interpreting services.

4.4.7 Languages observed in the courtroom

As previously mentioned, this study is not language-specific as its primary focus is on the interpreter's role in the courtroom rather than delving into the linguistic aspects of the interpreter's abilities. Consequently, I observed hearings in which interpreters facilitated communication, accommodating language service users from diverse ethnic and linguistic backgrounds.

The most frequently encountered languages in the courtroom were Urdu, Panjabi, Romanian, Pashto, Farsi, Polish, and Lithuanian. Less frequently, I observed hearings with Arabic, Portuguese, Bengali, Somali, and Tamil. All these languages are considered standard by the MoJ, as per its *Guide to language interpreter and translation services in courts and tribunals* (2018). On a couple of occasions, I came across Tigrinya and Amharic languages in a Crown Court trial. These two languages are considered rare and

listed as "languages permitted exceptional qualification requirements (languages without DPSI)" in the *Guide to language interpreter and translation services in courts and tribunals* (MoJ, 2018).

The distinction between standard languages and those that allow for exceptional qualification requirements is based upon the standard qualification requirements of the interpreter (MoJ, 2018). This means that for these languages, requirements for interpreter quality are less stringent compared to those for standard languages, mainly as a result of the scarcity of professionals within this language group.

4.4.8 Types of hearings

During my ethnographic study, I had an opportunity to observe interpreter-mediated trials and hearings involving the following types of criminal offences:

- driving offences (fraud, motor insurance, drink driving and refusal to use a breathalyser, and driving an uninsured vehicle)
- assault (assault and threat with a weapon; assault with a kitchen knife)
- fraud (VAT fraud, driving insurance fraud, and other types of fraud)
- murder
- human trafficking across the UK border
- rape
- child sexual abuse
- sexual assault
- criminal negligence

In the immigration tribunals, all hearings I attended as part of my ethnographic research were related to appeals against the Home Office's decision.

In civil courts, I had the opportunity to observe family disputes (divorce proceedings) and personal injury claims.

4.4.9 Trial stages

Most of my ethnographic observations (71%) were conducted in criminal courts in Birmingham. Twenty per cent of all observed interpreter-mediated hearings were

conducted in the immigration tribunal and 8.5% in civil courts. Below, I provide a brief summary of what the stages of trial in criminal courts of England and Wales involve (Home Office, 2023).

Criminal court trials in England and Wales typically unfold in several stages that can be summarised as follows:

Stage 1 – Pre-trial proceedings

- **Investigation.** Law enforcement agencies investigate the alleged crime, gather evidence, and interview witnesses.
- **Arrest.** If there is sufficient evidence, law enforcement agencies may arrest a suspect and read their rights to them.
- **Initial appearance.** The suspect appears in court for an initial hearing where they are informed of the charges against them, and bail may be considered.

Stage 2 – Charging decision

- CPS reviews the evidence and decides whether to charge the defendant.
- If charged, the defendant receives a summons or is formally charged, and a court date is set.

Stage 3 – First court appearance

- The defendant appears in court for the first time, and their plea (guilty or not guilty) is entered.
- If they plead guilty, the case may proceed to sentencing. If they plead not guilty, a trial is scheduled.

Stage 4 – Pre-trial preparation

- After the defendant's initial appearance at a magistrates' court, an initial hearing (known as the plea and trial preparation hearing or PTPH), takes place twenty-eight days later. During this stage, both the prosecution and defence work on preparing their cases, collecting evidence, and sharing information.
- Legal arguments, motions, and pre-trial hearings may take place.

Stage 5 – Trial

- **Jury empanelment.** In cases with a jury, potential jurors are selected and sworn in.
- **Presentation of evidence.** Both sides present their case, including witnesses, documents, and evidence.
- **Cross-examination.** Witnesses may be cross-examined by the opposing side.
- **Closing arguments.** Both sides make their closing arguments.
- **Jury deliberation**. In jury trials, the jury deliberates in private to reach a verdict.
- **Verdict.** The jury (or judge, in non-jury trials) delivers a verdict of guilty or not guilty.

Stage 6 – Sentencing (if applicable)

- If the defendant is found guilty, a separate hearing may be held to determine the sentence.
- Factors such as the nature of the crime and the defendant's criminal history are considered.

Stage 7 – Post-trial proceedings

- **Appeals.** Either party may appeal the verdict or sentence to a higher court.
- **Probation or incarceration.** Depending on the sentence, the defendant may serve time in prison or be placed on probation.

It is important to note that the specific procedures and stages may vary depending on the nature of the case, the court's jurisdiction, and whether it's a summary trial (in a magistrates' court) or an indictable trial (in a Crown Court). Additionally, some cases may be resolved through alternative dispute resolution methods or dropped before trial if there is insufficient evidence (the submission of no case to answer may be made at this stage) (Home Office, 2023).

During my ethnographic study, I encountered most of the stages described above except for the post-trial proceedings (Stage 7). As for appeals, I only observed those during immigration tribunal hearings. This means I observed pre-trial consultations, legal arguments, the initial appearance at court (before cases to be referred to the Crown Court) and plea hearings, charging decisions (at the magistrates' court), pre-trial preparations (at the Crown Court), and all stages of the trial in the Crown Court (including jury

empanelment, report reading, closing speeches, jury deliberation over verdicts, witness and defendant examination and cross-examination, and the judge's summary).

4.4.10 Modes of interpreting in the courtroom

An outline of modes of interpreting can be found in Chapter 1. In this section, I only review what I actually observed in the courtroom, referencing some existing studies in the field.

On the observation sheet template, I included the words simultaneous, whispering, and sight translation as separate modes of interpreting, along with the consecutive mode. However, when observing whispering mode interpreting in the courtroom, I would check the boxes on the form for both the simultaneous and whispering interpreting. In cases where I encountered SI in the form of conference interpreting in the courtroom, I would only check the box for simultaneous mode accompanied by the additional comment "conference interpreting".

In total, I encountered SI in the form of whispering or conference interpreting in all thirty-five (100%) of the cases I observed. Whispering was used in thirty-two (91.4%) cases, while conference interpreting was used in only three (8.6%) cases.

Conference interpreting was used in a high-profile murder case with multiple defendants and interpreters. This approach proved more efficient and cost-effective for the court, with two interpreters working in tandem and alternating every thirty minutes, as they should. They sat outside the dock and were equipped with headsets and microphones, although no booth was provided. In other cases, which constituted the overwhelming majority, whispering (chuchotage) was employed when SI was needed. Although some scholars consider sight translation a variant of SI (Mikkelson, 2000; Pöchhacker, 2004), I counted it separately from SI during my court observations. Sight translation was used in only ten (28.6%) out of the thirty-five cases.

During my ethnographic observation, I did not differentiate between long (classic) and short CI as discussed in Chapter 1. Out of the thirty-five court cases I observed, twenty-nine (83%) utilised some form of CI.

To sum up, during my ethnographic observation of interpreter-mediated hearings, I found that both consecutive and simultaneous (whispering) modes are used in the courtroom in

England and Wales. However, whispering (SI) was the most commonly used mode of interpreting in the courtroom, accounting for a striking 91.4% of usage. The second most commonly used mode of interpreting was CI, with an 83% usage rate. Sight translation was used in only 28.6% of cases, followed by the least commonly used mode of interpreting in the courtroom, conference interpreting, which accounted for only 8.6% of cases.

The results of this study regarding modes of interpreting used in the courtroom are consistent with studies in this field (Mikkelson, 2000; Tse, 2001; Hale, 2011; Stern, 2012; Hale *et al*., 2017). For example, a study conducted by Tse Chung Alan in Hong Kong also shows that SI is widely used in the courtroom in the form of whispering. However, CI is also very common in the Hong Kong courtroom, with most of interpreting conducted in the consecutive mode (Tse, 2001).

I can conclude that the results of my ethnographic research regarding modes of interpreting used in the courtroom in England and Wales align with the findings of studies in the field carried out by scholars such as Hale (1997, 2004, 2007, 2020), Mikkelson (1996, 2000), Berk-Seligson (1999, 2017), Wadensjö (1998, 2022), Tse (2001), Ng (2023), and others. It appears that compared to the use of CI in the courtroom, SI in the whispering mode is associated with lower status. The role of the interpreter also appears more prominent in CI than when whispering.

In rare high-profile cases, however, conference interpreting may be used. This involved special equipment and multiple interpreters, which allowed them take regular breaks. In such cases, the status of interpreters in the courtroom appeared more elevated and their role was more respected. According to my ethnographic findings, conference interpreting was used in only 8.6% of all observed cases while whispering was employed in 100% of cases. CI was the second most common mode, accounting for 91.4% of all observed cases.

4.4.11 Swearing an oath in the courtroom

Under common law, all witnesses are required to be sworn in or make an affirmation with no reference to a deity (McConville and Wilson, 2002). The Oaths Act, 1978 (Chapter 19) provides a more modern framework for the administration of oaths and affirmations in various legal and official contexts. The Act addresses the manner in which oaths are

taken, the individuals authorised to administer oaths, and the form of oaths and affirmations (Oaths Act, 1978).

Swearing an oath in court is thus a practice enshrined in an Act of Parliament (Oaths Act, 1978) and has great legal and ethical significance. When an individual swears an oath, they are making a solemn promise to tell the truth or fulfil a specific duty, often in a legal or judicial context. The act of swearing an oath is integral to the justice system of England and Wales and is used to ensure the integrity and truthfulness of testimonies and statements made in court.

It is not just witnesses who must swear an oath or make an affirmation, but also jury members, legal professionals (typically upon entering their respective professions), and anyone giving evidence other than witnesses, which can include police officers and court personnel in some situations.

The same rule applies to interpreters and translators. Before an interpreter is allowed to begin their work in a courtroom at any stage of a case presented before the court, they must be sworn in. As Colin and Morris (1996) observe about the practice in the courts of England and Wales, an interpreter in court is shown to the witness box (usually by the court usher) and asked to provide details such as their name and qualifications. They are then required to swear an oath, either on a holy book or make an affirmation with no reference to a deity, to confirm that their interpretation will be given to the best of their ability.

The text of the oath that interpreters should take in the courtroom before commencing interpretation is as follows: “I swear by Almighty God that I will well and faithfully interpret and make true explanation of all such matters and things as shall be required of me according to the best of my skill and understanding” (Colin and Morris, 1996: 82). The affirmation reads similarly but begins with “I do sincerely and truly declare and affirm that… [as above]” (Colin and Morris, 1996: 82).

Colin and Morris (1996) further note that taking an oath or making an affirmation as an interpreter in court confirms their duty to facilitate proper communication among the participants in the proceedings. The wording of the oath/affirmation allows for the fact that interpreters may not always understand everything said in court perfectly, but it obligates them to interpret to the best of their “skill and understanding” (Colin and Morris, 1996: 82).

In eighteen (51.4%) out of the thirty-five cases I observed, interpreters swore an oath at the beginning of the proceedings. However, I cannot confirm Colin and Morris' (1996) statement regarding interpreters being asked to confirm their names and qualifications. In some cases, interpreters may have stated their names but unfortunately, I did not record this information. I never witnessed interpreters confirming their qualifications before swearing an oath or at any other point during the proceedings. Usually, I obtained that information as part of follow-up discussions after the proceedings or during breaks.

In four (22%) out of these eighteen cases, the interpreter swore an oath unprompted. In all these cases, the interpreter would go straight to the witness box, swear an oath, and then proceed to take a seat by the defendant. All these cases took place in the magistrates' court. This behaviour suggests the interpreters in these cases were well aware of the protocol and followed it without command from court personnel, as if they belonged to the courtroom. Such an observation may support the claim of interpreters being an integral part of the courtroom alongside other court players, such as counsels, magistrates, and various personnel.

In a civil court case I observed on 3 June 2015 (related to motor insurance; see observation sheet No. 26), the interpreter swore an oath only when he was invited to the witness box with the witness – and not before that. My notes read, "Claimant's [b]arrister finished questioning and the claimant takes his seat. The interpreter and the witness go together to the witness box. The interpreter reads the oath from the notes and then interprets it for the client" (observation sheet No. 26). In this case, the interpreter did not swear the oath before the proceeding commenced but was only directed to do so after the claimant's examination had finished, and the witness was invited to the witness box for the witness statement and cross-examination. My field notes from this observation suggest that the interpreter was not very professional as he remained silent much of the time during the proceeding and only interpreted the witness statement during cross-examination.

In the Crown Court on 28 April 2016, I observed a case related to sexual assault that involved a Tigrinya/Amharic-speaking defendant (see observation sheet No. 31). The interpreter was directed and guided by the usher to swear an oath. The example below is derived from my field notes:

> The judge entered the room; everyone rose.
>
> Straight after that the usher looked around the room, looking out for the interpreter and by gesture pointing at him and saying "interpreter" (in a whisper) asked him to come to her and explained him quietly that he would be given a card with an oath to swear. The interpreter stepped into the witness box, and she (the usher) gave him the oath card. He swore that oath and proceeded to the dock. (Observation sheet No. 31)

A particularly interesting case took place in the Crown Court on 3 March 2015 that involved a Romanian-speaking defendant charged with a driving offence and fraud (for details, see observation sheet No. 9). At the start of the hearing, the interpreter was not given a chance to swear an oath even though she was already standing in the witness box, ready to begin. The prosecutor launched into his speech, and the interpreter had to interrupt him with a request to allow her to do her job. He stopped, apologised, and gave her an opportunity to swear an oath and proceed to the dock to take a seat next to the defendant. She was only given the chance to swear an oath after interrupting the prosecutor's speech. This incident was noted as a critical incident in my field notes and will be discussed in more detail in the next section.

In seventeen cases (48.5%), I did not witness interpreters swearing an oath. In some instances, I entered the courtroom after the proceedings had already begun and I may have missed that initial part. In other cases, interpreters typically took an oath on the first day of the proceedings and if the same interpreter was engaged in subsequent hearings within the same case, they did not repeat the oath. I may not have always had the chance to observe the first part of the proceeding where the interpreter would typically be required to swear an oath or make an affirmation. Seven (41%) out of these seventeen cases were in the immigration tribunal. Although interpreters may be required to give an oath or affirmation in the immigration tribunal, similar to other court settings, I did not witness this there – not even at the very start of the hearings, when it would be mostly expected.

To conclude, the act of swearing an oath highlights the critical role of interpreters in ensuring justice and fairness in legal proceedings, suggesting their commitment to accuracy, professionalism, and neutrality. Notably, the cases where interpreters voluntarily swore an oath without being prompted by court personnel, particularly in a magistrates' court, suggest these interpreters were well-versed in courtroom protocol

and acting as integral members of the legal team. This observation indicates that interpreters are not merely auxiliary figures or outsiders, but essential elements of courtroom proceedings akin to counsels, magistrates, and other legal personnel.

4.4.12 Critical incidents (CIS)

I borrowed the concept of critical incidents from the field of language education. Farrell and Baecher (2017: 2) define a critical incident in the context of language teaching as "any unplanned and unanticipated event, vividly remembered, which occurs during class, outside class, or any time during a teacher's career". According to Farell and Bacher (2017), incidents are considered critical only when teachers consciously reflect on them, allowing them to discover new insights into their teaching practices.

The concept of critical incident was first introduced by Flanagan in his well-renowned 1954 article on the critical incident technique (CIT). This technique was originally for the purposes of job analysis, with the aim of identifying critical requirements for job success. Over the years since 1954, the CIT has become a widely used qualitative research method and today is recognised as an effective exploratory and investigative tool.

Flanagan (1954: 327) defines the critical incident technique as "a set of procedures for collecting direct observations of human behaviour in such a way as to facilitate their potential usefulness in solving practical problems and developing broad psychological principles". The technique outlines procedures "for collecting observed incidents having special significance and meeting systematically defined criteria" (Flanagan, 1954: 327).

By incident, Flanagan (1954) means "any observable human activity that is sufficiently complete in itself to permit inferences and predictions to be made about the person performing the act" (Flanagan, 1954: 327).

For an incident to be deemed critical, it needs to happen in a situation where the observer can fairly understand the purpose or intent behind the action, and where the outcomes are clear enough to leave little doubt about their effects (Flanagan, 1954). Tripp (1993) later surmises that incidents happen, but critical incidents are shaped by our perspective on a situation and by our understanding of the importance of an event. Considering something as a critical incident stems from "the significance we attach to the meaning of the incident" (Tripp, 1993: 8).

Tripp (1993) further argues that most critical incidents are not dramatic or obvious. They do not exist independently of an observer, awaiting discovery. They are usually simple descriptions of everyday events that happen in professional practice, but they are critical in a rather different sense: they show important patterns, reasons, and structures hidden underneath. At first glance, these incidents may seem typical rather than critical, but they become critical through analysis and reflection. They become critical when they are shown to have broader significance within a larger context. This shows that critical incidents are not just observed, but rather constructed through analysis (Tripp, 1993). Thus, when a critical incident occurs, it interrupts (or highlights) taken-for-granted ways of thinking about professional practices. Through analysis of these incidents, one can explore the values and beliefs that form the basis of their ideas about their professional practices (Tripp, 1993; Farell and Bacher, 2017).

In the current research, I draw upon the concept of critical incidents to explore and analyse the significant events and situations arising within the context of interpreter-mediated hearings. These incidents could involve challenges, dilemmas, miscommunication, or other noteworthy occurrences that shed light on the dynamics, complexities, and impact of interpreting on courtroom interactions.

During my observation of interpreter-mediated hearings, I recorded critical incidents in thirty-three (94%) of the observed cases. In some instances, I documented one or two critical incidents while in others, I observed multiple occurrences that I considered critical incidents for various reasons.

During my analysis of critical incidents, I compiled a list consisting of thirty-five different types of events. I considered these events atypical for the legal setting as they somewhat disrupted or violated established procedures and/or challenged my expectations of how they should run. I grouped similar or overlapping events into broader categories (themes), adding numbers that corresponded to relevant observation sheets. Here is a list of the initial categories (themes) of critical incidents:

1. Interpreters take on additional roles, such as helping the client make telephone calls or complete forms (see observation sheet Nos. 3, 14, 21, 27).
2. Interpreters swear an oath unprompted (see observation sheet Nos. 3, 11, 21, 33).
3. The interpreter intervenes in the proceeding in order to be able to perform her role (see observation sheet No. 9).

4. The interpreter provides emotional support to the defendant (see observation sheet No. 2).
5. Failure to book an interpreter, in terms of consequences (see observation sheet Nos. 4, 26, 28, 31).
6. Failings of the interpreter, such as failing to interpret everything or being late for a proceeding (see observation sheet Nos. 5, 6, 10, 22, 23, 26, 29, 30, 31).
7. The interpreter engages in conversations and social interactions with the defendant (see observation sheet Nos. 6, 10, 29, 35).
8. Overbooking or two interpreters booked by mistake (see observation sheet No. 7);
9. The judge asks the interpreter to stop (see observation sheet No. 8).
10. No consideration is given to the presence of the interpreter (see observation sheet Nos. 8, 9, 20).
11. Defendant admits they would rather give evidence through an interpreter (see observation sheet No. 10).
12. Friendly interaction of court personnel with interpreters, such as in an anecdote about an interpreter bringing a homemade cake to the courtroom (see observation sheet No. 10).
13. The interpreter initiates sitting by the defendant despite instructions from the court to sit separately (see observation sheet No. 11).
14. Interpreting outside the courtroom, such as when an officer is filling in a form for the defendant outside the courtroom (see observation sheet Nos. 11, 34).
15. Conference interpreting (see observation sheet Nos. 12, 13, 19, 35).
16. Interpreters request breaks (see observation sheet No. 13).
17. The interpreter sympathises with the defendant (see observation sheet No. 15).
18. Interpreters are not provided hearing equipment, or audibility is not very good (see observation sheet Nos. 4, 16).
19. Lack of awareness of the interpreter's role among court personnel (see observation sheet Nos. 17, 20, 31).
20. The interpreter does not look at the defendant while interpreting (see observation sheet No. 18).
21. Derogatory comments from male Asian solicitors and defendants to a female Asian interpreter (see observation sheet No. 20).
22. Lack of consideration and respect for the interpreter's role (see observation sheet Nos. 8, 20, 31).

23. Magistrates step in for the interpreter (see observation sheet No. 21).
24. The interpreter addresses the barrister by his last name and asks him to answer defendant's questions (see observation sheet No. 21).
25. Interpreters exercise some control over the proceeding (see observation sheet Nos. 24, 26, 27).
26. The interpreter is greeted by the judge (see observation sheet No. 25).
27. The interpreter admits to lowering the register to make the defendant understand (see observation sheet No. 11).
28. Adversarial interpreting[9] (see observation sheet Nos. 12, 13, 30).
29. The court instructs interpreters (see observation sheet Nos. 11, 14, 22).
30. The interpreter provides cultural explanation to the judge (see observation sheet No. 23).
31. Inappropriate questions from the Home Office representative to the appellant (see observation sheet No. 27).
32. The jury intervenes with the proceeding by protesting the prosecutor's questions (see observation sheet No. 32).
33. The interpreter steps in to clarify misunderstandings between the defendant and the prosecution at his own initiative (see observation sheet No. 32).
34. The prosecutor provides an explanation to the defence barrister about the presence of the interpreter in the courtroom (see observation sheet No. 31).
35. The interpreter is addressed as "interpreter" (see observation sheet No. 31).

As can be seen from the list above, some categories (themes) encompass numerous events (critical incidents) of a similar kind while others were relatively unique. Subsequently, I reviewed the above identified themes for critical incidents and collapsed them further into the following overarching themes:

1. **Failings of the interpreter** (noted in observation sheet Nos. 5, 6, 10, 22, 23, 26, 29, 30, 31).
2. **Interpreters take on additional roles** (noted in observation sheet Nos. 3, 14, 21, 27):
    - The interpreter provides emotional support (see observation sheet No. 2).
    - Interpreting outside the courtroom, such as when an officer is filling in a form for the defendant outside the courtroom (see observation sheet Nos.

[9] The term adversarial interpreting was introduced by Kredens (2017).

11, 34).

- The interpreter addresses the barrister by his last name and asks him to answer defendant's questions (see observation sheet No. 21).
- The interpreter admits to lowering the register to make the defendant understand (see observation sheet No. 11).
- The interpreter provides cultural explanation to the judge (see observation sheet No. 23).
- The interpreter steps in to clarify misunderstandings between the defendant and the prosecution on his own initiative (see observation sheet No. 32).

3. **Interpreters swear an oath unprompted** (noted in observation sheet Nos. 3, 11, 21, 33).

4. **Failure to book an interpreter** (noted in observation sheet Nos. 4, 28, 31):

   - Overbooking or two interpreters booked by mistake (see observation sheet No. 7).

5. **The interpreter engages in conversations and social interactions with the defendant** (noted in observation sheet Nos. 6, 10, 29, 35):

   - The interpreter sympathises with the defendant (see observation sheet No. 15).

6. **Conference interpreting** (noted in observation sheet Nos. 12, 13, 19, 35).

7. **Lack of consideration and respect for the interpreter's role** (noted in observation sheet Nos. 8, 20, 31):

   - No consideration is given to the presence of the interpreter (see observation sheet Nos. 8, 9, 20).
   - The interpreter intervenes in the proceeding in order to be able to perform her role (see observation sheet No. 9).
   - The judge asks the interpreter to stop (see observation sheet No. 8).
   - Interpreters are not provided hearing equipment, or not very good audibility (see observation sheet Nos. 4, 16).
   - Derogatory comments from male Asian solicitors and defendants to a female Asian interpreter (see observation sheet No. 20).

8. **Lack of awareness of the interpreter's role among court personnel** (noted in observation sheet Nos. 17, 20, 31):

    - The prosecutor provides an explanation to the defence barrister about the presence of the interpreter in the courtroom (see observation sheet No. 31).

    - Court instructing interpreters (see observation sheet Nos. 11, 14, 22).

9. **Interpreters exercise some control over the proceeding** (noted in observation sheet Nos. 24, 26, 27).

10. **Adversarial interpreting** (noted in observation sheet Nos. 12, 13, 30).

However, there are a few unique or single-occurrence critical incidents that did not belong to any of the above categories (themes). Instead, they stood alone. Below is the list of critical incidents I considered unique and noteworthy:

- Defendant admits they would rather give evidence through an interpreter (see observation sheet No. 10).
- Friendly interaction of court personnel with interpreters, such as in an anecdote about an interpreter bringing a homemade cake to the courtroom (see observation sheet No. 10).
- Interpreters request breaks (see observation sheet No. 13).
- The interpreter does not look at the defendant while interpreting (see observation sheet No. 18).
- Magistrates step in for the interpreter (see observation sheet No. 21).
- The interpreter is greeted by the judge (see observation sheet No. 25).
- Inappropriate questions from the Home Office representative to the appellant (see observation sheet No. 27).
- The jury intervenes with the proceeding by protesting the prosecutor's questions (see observation sheet No. 32).
- The interpreter is addressed as "interpreter" (see observation sheet No. 31).

Some of the above unique incidents will be included in a wider discussion of the general field notes in Chapter 5.

The systematic ethnographic observation of interpreter-mediated hearings in England and

Wales thus resulted in the documentation of critical incidents in 94% of the observed cases. These events were particularly notable for their deviation from the usual legal proceedings. Further categorisation of these incidents into broader themes revealed overarching patterns, providing insights into various aspects of interpreter roles, identity, and interactions in the courtroom. Recognition of unique and noteworthy critical incidents that cannot be attributed to any overarching theme or pattern is still valuable as they add depth and introduce new dimensions to the analysis. The next section will further discuss the most interesting and noteworthy events with the aim of exploring their implications within the context of the research.

4.4.13 Analysis of general ethnographic field notes

The initial observations discussed above, based on the template categories, are fairly superficial and impressionistic. I now delve into the depth of what I observed and recorded in my field notes during the proceedings. My field notes contain further comments and reflections (resembling a diary) on what I observed in court. These are occasionally supplemented by follow-up conversations with participants in the proceedings, including the interpreters, legal professionals, and the defendants.

Following the framework for the analysis of ethnographic field notes in linguistics proposed by Copland and Creese (2015), I carried out a thorough read-through of all the collected notes. After the second and third readings, while looking for emerging patterns, I compiled a list of the initial themes that drew my attention at this stage. I ended up with 168 themes across my entire ethnographic date set. A complete list of the initial themes can be found in Vol 2, Appendix 6, Section 6.1.

As the next step in my field notes analysis, I consolidated some of the recurring themes into broader patterns and categories, noting the observation sheets they appeared in. At this stage, I ended up with a list consisting of sixty-five recurrent patterns (Vol 2, Appendix 6, Section 6.2).

Furthermore, I applied a thematic analysis framework proposed by Braun and Clark (2006) and compiled a list of themes and subthemes that emerged from the analysis of the ethnographic field notes. This stage resulted in the identification of a total of 9 themes, although some themes are larger than others and needed further breakdown into smaller

subthemes.

In the next subsection, I provide a list of the identified themes and subthemes along with some examples extracted from the field notes and references to the observation sheets.

4.4.14 Themes identified through analysis of general ethnographic field notes

Theme 1 – Possible roles for the interpreter in the courtroom

Subthemes

a. "[The] interpreter is just a machine" (from the follow-up with the interpreter, noted in observation sheet Nos. 4, 28).
b. "The interpreter was there just to clarify things", or the interpreter as a back-up (noted in observation sheet Nos. 5, 26, 31, 32).
c. The interpreter does not interpret everything and at times keeps silent, or the gatekeeper (noted in observation sheet Nos. 8, 10, 16, 23, 26, 27, 32, 35).
d. The interpreter as a friend/helper.
e. Interpreters interact with the defendants socially (noted in observation sheet Nos. 10, 35).
f. Interpreters intervene in the process (noted in observation sheet Nos. 10, 20, 21, 22, 24).
g. Interpreters take on additional roles (noted in observation sheet Nos. 14, 21, 22, 27, 29).

Theme 2 – Working conditions for court interpreters

Subthemes

a. Availability of necessary equipment (hearing loops and microphones) for interpreters (see observation sheet Nos. 2, 4, 5, 12, 14, 16, 17, 35).
b. Catering and provisions for the interpreters (see observation sheet Nos. 6, 8, 19, 27).
c. Position/location of the interpreter in the courtroom or absence of designated space (noted in observation sheet Nos. 7, 8, 11, 12, 14, 26, 31, 33, 34, 35).
d. Breaks for interpreters (noted in observation sheet Nos. 8, 10, 13).

Theme 3 – Attitude towards interpreters in the courtroom (noted in observation sheet Nos. 3, 11, 20, 24)

Subthemes

a. Positive acknowledgement of the interpreter's presence in the courtroom (noted in observation sheet Nos. 6, 7, 8, 16, 23, 24, 25, 29, 33, 34).
b. Lack of consideration/acknowledgement given to the presence of the interpreter in the courtroom (noted in observation sheet Nos. 3, 5, 6, 8, 10, 11, 20, 23, 24, 27, 29, 31, 34, 35).
c. Interaction between interpreters and court personnel (noted in observation sheet Nos. 14, 25, 27).

Theme 4 – General deterioration of professional standards in the field

Subthemes

a. Status of interpreters (changed for worse), the profession is no longer respected (noted in observation sheet Nos. 3, 4, 7, 10, 11, 24).
b. Qualified interpreters leaving the profession (noted in observation sheet Nos. 7, 11).
c. Drop in standards of court interpreting (poor-quality interpreting).
d. Absence of the interpreter (not provided/didn't turn up) when needed (noted in observation sheet Nos. 8, 28).

Theme 5 – Forms of address towards interpreters

Theme 6 – Differences between types of courts

Theme 7 – Interpreter role performance (confident and competent interpreting/professional behaviour of interpreters; noted in observation sheet Nos. 3, 15, 28, 34, 35).

Theme 8 – Adversarial interpreting (noted in observation sheet Nos. 12, 13, 19, 30).

Theme 9 – Interpreter dress code in the courtroom (noted in observation sheet Nos. 11, 32, 35).

4.5 Ethnographic field notes through the lens of discourse analysis

This section conducts an additional review of the field notes through the lens of discourse analysis to complement the thematic analysis and gain additional insights that will inform my conclusions. Drawing on Johnstone (2008), I examine the power dynamics and relationships between actors as well as interpreter practices in the courtroom that shape the interpreter's role and identity. Additionally, I look at the institutional language and

its impact on the construction of the interpreter role, identity, and status within the courtroom.

4.5.1 Power dynamics and relations between actors

As Johnstone (2008) notes, another two important aspects of any human interaction and relationship that are created in discourse are power and solidarity. Power is associated with asymmetrical relationships in the group, where participants are not equal in their rights and authority, and one individual or group holds more influence, control, or decision-making ability over others. Solidarity can be understood as a counterpart of power in human relationships and is associated with more equal and symmetrical interactions (Johnstone, 2008).

Assessment of the field notes from a discourse analysis perspective reveals complex and very much unequal power dynamics within the courtroom. There, the authority of judges and barristers, the most prominent actors at the centre of the proceedings, often overshadows the roles of interpreters and defendants. This is evident in courtroom interaction where the judges give instructions, deliver judgements, and control the flow of proceedings. Barristers and prosecutors form the second group most frequently mentioned as active speakers in the field notes; they "ask questions", "state", and "explain", and their speech is directed at judges, the jury, witnesses, or defendants.

In observation sheet No. 21, for example, the magistrates deliver a lengthy concluding speech and pronounce the defendant guilty, demonstrating the highest level of power and authority within the courtroom:

> Magistrates come back and the main magistrate started the concluding speech, breaking his speech down into manageable chunks and sentences and the interpreter interprets it (consecutively) back to the client aloud.
>
> The defendant has been pronounced guilty of driving an uninsured vehicle and is liable to fine.

In observation sheet No. 32, the defence barrister addresses the defendant with specific instructions and assumes the role of an interrogator by asking questions to elicit answers that support the defendant's case:

> The defence barrister addresses the defendant: "I want you to answer my questions in English as much as possible and Mr interpreter may need to clarify some questions for me".
>
> The defence barrister questions the defendant, and he is answering in English, although it can be seen his English replies are not always completely adequate.

In the above example, the barrister indirectly addresses the interpreter and acknowledges his presence and the role of an assistant who may need to provide clarifications.

As demonstrated by the above examples, the category of power dynamics and relations is closely linked to recognition of the interpreters and their visibility in the courtroom. This is evident through acknowledgement (or lack thereof) of interpreters' professional needs through the provision of necessary equipment, pausing, or slowing down the delivery of speech to allow the interpreters to perform their professional duties, and the supply of refreshments and water.

The manner in which interpreters are addressed also reflects their recognition and visibility in the courtroom. As Johnstone (2008: 141) notes, "[d]iscourse roles are indexed via choices on every level, from which word to use to what sort of thing to say". This also applies to the forms of address, particularly for speakers "with less institutionally allotted power" (Johnstone, 2008: 141).

The interpreter position in courtroom interaction is quite complex, if not to say controversial. They effectively act as mediators between different parties. They facilitate communication and play a crucial role in enabling non-English speakers to access justice. Interpreters have some agency as they make decisions about how to interpret, what to prioritise, and when to intervene. They can claim control over the flow of the conversation by requesting a pause or by clarifying what was said. For example, observation sheet No. 24 reports:

> The client goes on to answer a question about her husband (whether she had sufficient funds for him until he finds a job). And the interpreter made a sign to her by hand for her to stop there so she could interpret back to the court.
>
> The interpreter said, "One second, sorry", and she clarifies the point with the client and then interprets it back to the judge.

In addition, they can control communication by choosing what to interpret and what to omit, as demonstrated in observation sheet No. 10:

> When I asked them why they did not interpret everything that was happening in the courtroom to the defendant, they replied that most of what was happening there had nothing to do with their client as those defendants who were questioned on the day were on their own and had nothing in common with their clients. They only interpreted what was relevant to their client's case or if their client asked a question and wanted to hear interpretation.

However, their power is constrained by the expectations of neutrality and the authority of other court actors. As Johnstone (2008: 130) puts it, "…power comes with social status" and the status of the interpreter is often not fully recognised. They are sometimes treated as invisible or subservient and are not always given appropriate consideration. This is reflected in the occasionally dismissive attitude of some legal professionals, including judges, towards interpreters. For example, the interpreter's professional needs are sometimes overlooked. This is illustrated by the failure to provide necessary equipment or when no pauses are made to allow the interpreter to perform their duties effectively, as illustrated in observation sheet No. 31:

> Both the prosecutor and the defence barrister were speaking without making pauses for the interpreter and not very loud. The interpreter was listening to them and then making some brief comments back to the defendant, which was likely to be the summary of what was said rather than full interpretation of everything.

Thus, power relations within the courtroom are complicated and involve constant negotiation among the different actors. While judges and barristers hold considerable power, interpreters also play an important role in the courtroom power dynamics. The level of power held by each actor is not fixed but rather negotiated and contested through discourse and actions in addition to the extralinguistic factors of the courtroom, such as body language, gestures, paralanguage, context, and so on.

4.5.2 Interpreter practices in the courtroom through the lens of discourse analysis

Interpreters employ various professional techniques and practices in the courtroom to achieve communication goals and facilitate interaction between various court actors and

the non-English-speaking litigant. These practices include, but are not limited to, using different modes of interpreting, choosing between the first and third person when delivering interpretation, taking notes, providing clarification and cultural information, and adapting to the courtroom setting and environment.

Modes of interpreting, one of the most striking patterns identified in the field notes, was discussed in depth under the thematic analysis. In this section, I focus on the use of the first vs. third person by interpreters and the phenomenon of interpreter silence through discourse analysis.

4.5.2.1 Use of first vs third person

Professional interpreters are expected to use the first person when interpreting a speaker's utterance and, according to Angermeyer (2013), this practice distinguishes professional court interpreters from other types of community interpreters. The use of the third person (or reported speech) is regarded as a characteristic of unprofessional interpreters (Angermeyer, 2005a). However, sometimes even professional interpreters use the third person when they want to clarify who is exactly speaking or "emphasising personal non-involvement in what they voice" (Wadensjö, 1998: 19).

During my observations, I paid particular attention to the use of grammatical person by interpreters as a marker of their professionalism and adherence to institutional norms and professional requirements. In observation sheet No. 21, for example, I note "[h]e uses the first person when interpreting defendant's answers". This suggests to me that the interpreter has a good understanding of professional expectations and requirements. Also, the use of first person can make the interpreter more visible and present in the courtroom as they are actively using their voice to convey the message. This can make them more prominent in the communication, potentially enhancing their role and influence in the proceedings.

To the contrary, I observed several cases where the interpreter primarily used reported speech. Using the third person creates distance between the speaker and the listener; the interpreter speaks about the speaker rather than as the speaker, which can significantly alter the perception of the message. In observation sheet No. 23, for example, the interpreter said, "The lady said she could understand me so far". In this case, the

interpreter perhaps wanted to present himself as a separate speaker by emphasising "me" and confirm that the appellant could understand him well.

During the same case, however, I noted the interpreter used the first or third person inconsistently and often switched to reported speech. The fact that he was dismissed from the case in the end, having failed to interpret crucial information, suggests to me that his use of the third person was more likely a result of unprofessionalism than a strategic choice. But in another example from observation sheet No. 20, the interpreter used reported speech strategically to prevent confusion about who said what. Thus, the choice between first and third person in interpreting may serve either as a marker of the interpreter's professionalism or as a strategic discursive act that shapes the perception of the speaker's agency as well as the interpreter's role in the legal proceeding.

4.5.2.2 Interpreter silence

Drawing on conversation analysts such as Sacks *et al*. (1978) and Schegloff (1995), Wood and Kroger (2000) maintain that silence in discourse analysis deserves special attention as a significant non-verbal communication element that conveys meaning beyond spoken words. They argue that silence is not just an absence of sound; it signifies that this absence is "unexpected and inappropriate" (Wood and Kroger, 2000: 62). Not talking is an action and can be seen as a sort of "mathematical zero" in discourse analysis (Wood and Kroger, 2000: 62). In the case of interpreter silence, this notion is more than just a pause or a failure to respond to someone's request or question. When interpreters remain silent despite expectations to carry on interpreting, this represents an act of withholding information – whether intentionally or not – from the participant for whom the interpreting is intended.

In my observation notes, I often use the phrase "the interpreter remained silent" when I noticed that someone in court was speaking, but the interpreter did not interpret. This observation arises from the expectation that interpreters must faithfully interpret everything said in court, without adding or omitting anything. However, as I reviewed my field notes, I observed that interpreters often remained silent. From a discourse analysis perspective, an interpreter's silence in court is a significant communicative act that can be analysed for its impact on interactional and power dynamics of the courtroom. An interpreter's silence can be a strategic choice that serves functions ranging from

focusing on the relevance of the information and influencing power relations to controlling the flow of information, with the interpreter acting as a gatekeeper.

4.5.3 Institutional language

Another interesting and important aspect of courtroom interaction worth examining from a discourse analysis perspective is institutional language and procedures alongside their role in constructing the interpreter's role and identity within the courtroom.

The institutional language in my field notes can be roughly broken down into the following categories:

- **Formal and legal terminology.** Courtroom interaction is rich with formal and legal terms specific to the court environment, such as indictment, restraint order, plea, jury empanelment, appeal, plaintiff, legal submissions, cross-examination, and many others. These are reflected in my field notes on my courtroom observations. Terminology is used not only as a tool of communication, but also as a tool of power. Legal terminology is often unfamiliar to lay people and its use signals strict boundaries between legal professionals and "the other", those outside their professional circle. However, interpreters are well-versed in this language and serve as a bridge between the lay defendant and the legal professionals in the courtroom. Knowledge of legal terminology is like a special code that helps interpreters enter the closed circle of legal professionals and establish their role as vital agents of communication, enabling non-English speakers to access justice.

- **Directives and instructions.** These include expressions uttered by judges, magistrates, and barristers to manage and control the flow of proceedings. Directives and instructions are usually aimed at defendants, interpreters, and other court actors. In observation sheet No. 26, for example, the judge says to the interpreter, "Let him answer the question". In observation sheet No. 25, the judge tells the Home Office representative, "Please give the interpreter the chance to follow you". Additionally, the phrase "I'm sorry?" is frequently used by judges and magistrates as a request for clarification or explanation. These expressions

demonstrate the authority of the court and its expectation of compliance with courtroom rules. At the same time, they also show that court personnel occasionally acknowledge the interpreter's presence and their needs to perform their professional duties.

- **Specific speech acts.** The field notes document specific speech acts within the courtroom, such as swearing an oath, giving evidence, making statements, pleading, delivering speeches, delivering a verdict, and cross-examination, which involves questioning, answering, and so on. These speech acts reinforce the formal and ritualistic nature of court settings as well as demonstrate the power asymmetry in the courtroom. Each specific speech act has its own purpose, format, and discursive structure. Each poses a different challenge for the interpreter, and through the sequence of these speech acts, the interpreter role and identity is negotiated and constructed as they assert their agency and influence on the proceedings (discussed earlier in this section).

- **Address and reference.** As discussed earlier, how people are addressed and referred to in the courtroom reveals power dynamics and the relationships between communication actors. Judges are often addressed as "Your Honour" and lawyers are addressed as Mr or Ms, followed by their last name. However, interpreters are usually addressed by title only ("the Interpreter") or, as documented in my field notes, often not addressed directly at all. This suggests a lack of recognition or respect for their role and professional status. Nevertheless, sometimes interpreters are addressed as "Mr/Madam Interpreter"; in contrast to the above-mentioned forms of address, the address signifies respect and higher status. This theme will be discussed further in Chapter 5.

To sum up, evaluation of the field notes from a discourse analysis perspective reveals that the discourse surrounding interpreters presents complex and often contradictory constructions of their role, identity, and status across various courts. These constructions are not static, but fluid and shaped by the interactions, institutional language, and power dynamics within each court. The language used in reference to interpreters frequently reflects their subservient position and a lack of recognition of their role and status in the courtroom. This is reflected in how they are addressed, the lack of consideration for their professional needs, and sometime their invisible status within the hierarchy of court

actors.

At the same time, the field notes show that interpreters assert agency through their actions, such as requesting pauses, clarifying statements, or prioritising what to interpret and what to omit. The professional practices interpreters employ in the courtroom also shape the construction and perceptions of their role. These actions emphasise their active role in negotiating their status and visibility within the institutional framework. In doing so, interpreters demonstrate the importance of their role as mediators who bridge linguistic and cultural gaps, enabling non-English speakers to access justice despite the challenges imposed by the courtroom's strict power structures.

The findings derived from the discourse analysis align closely with those from the thematic analysis and suggest that the role of the interpreter extends beyond the mere translation of words. Interpreters are active participants in courtroom interaction and contribute significantly to the construction of their role, identity and status. This will be discussed further in the next chapter.

4.6 Chapter summary

To sum up, this chapter has presented a comprehensive analysis of the ethnographic field notes. It began with an explanation of the rationale behind the selection of observation categories that were subsequently implemented in the design of the observation sheet template. The chapter also included a self-reflection on observational practices and how my own background may have influenced both the observation and the subsequent analysis. It then transitioned to an analysis and on-the-fly discussion of each pre-defined observation category on the observation sheet as well as critical incidents and other field notes, followed by an additional discourse analysis of the field notes

The thematic analysis of critical incidents and general field notes sheds light on various aspects of court interpreting, such as the interpreter's possible roles, their interactions with defendants, and their engagement in the legal process. Notably, the analysis uncovered patterns related to the working conditions of court interpreters, attitudes towards them in the courtroom, and the broader issue of the deterioration of professional standards in the field.

In addition to this thematic analysis, discourse analysis of the field notes further contributed to a better understanding of the complex dynamics surrounding court interpreting in the legal setting. The analyses carried out in this chapter set the stage for a detailed discussion of the challenges and opportunities faced by court interpreters in England and Wales along with an exploration of their role and identity in the changing landscape. The next chapter will delve into this subject.

5 ETHNOGRAPHIC OBSERVATIONS: DISCUSSION

This chapter presents a detailed discussion of the themes identified through analysis of the general ethnographic field notes, along with critical incidents, highlighted in Chapter 4. I will only focus on a discussion of my actual notes, foregoing mention of all the categories listed on the observation sheet as a comprehensive discussion of those categories was conducted briefly in Chapter 4. By the end of this chapter, I aim to achieve a better understanding of the interpreter's professional role and status in real legal settings through the lens of my focused observations.

5.1 Critical incidents: discussion

It is interesting to note that the two most prevalent themes (observed in over nine different cases) are "Failings of the interpreter" and "Interpreters take on additional roles". The fact that these critical incidents came up repeatedly suggests that interpreters face multiple challenges and often have to take on different roles that go beyond mere interpreting and facilitating communication in the courtroom. These themes highlight the complex dynamics and multifaceted responsibilities interpreters face in the courtroom, warranting further examination and discussion.

In this section, I will discuss eight out of the ten themes identified from the analysis of critical incidents. Theme No. 3, "Interpreters swear an oath unprompted", and theme No. 6, "Conference interpreting", will not be addressed here as they were thoroughly discussed in the previous chapter as part of the category analysis based on the observation sheet template. As for unique critical incidents, they will be included in the discussion of general field notes.

5.1.1 Failings of the interpreter

My first example is drawn from the observation sheet No. 5. This hearing took place at the Birmingham Crown Court and involved a case of assault with a kitchen knife. The defendant was an Arabic speaker, and the interpreter was arranged through Capita TI, the translation and interpreting agency with a contract from the MoJ for the provision of PSI services at the time. In this case, the interpreter kept silent most of the time and only

occasionally clarified some points upon the defendant's request.

> The interpreter kept silent and observed the court most of the time and only occasionally was saying something to the defendant as if to clarify things for him. The defendant initiated conversations with the interpreter when something needed to be clarified.
>
> The interpreter said to me that he was interpreting absolutely everything, but that clearly was not the case, and his English did not sound very strong. He looked anxious when I tried to talk to him as he probably thought I was there to QC his work. He asked me if I could understand Arabic. (Observation sheet No. 5)

What I found particularly interesting about this incident, and this is the reason why I recorded it as a critical incident, is that the interpreter's proficiency in English seemed limited. Outside the courtroom, he was reluctant to engage in conversation with me and consistently claimed that he was interpreting everything said in the courtroom to the defendant. However, it was evident to me that this was not the case. He also enquired whether I could understand Arabic, possibly indicating some concern about the quality of his work.

The next example is from observation sheet No. 6. This was a pre-trial review for an assault case at the Crown Court involving a Lithuanian-speaking defendant and the interpreter, wherein the interpreter was engaged in a conversation with the defendant and did not interpret that back to the court.

Similar situations where the interpreters did not interpret everything said in the courtroom or what was said to them by defendants back to court were observed at Birmingham Crown Court during VAT fraud hearing, which involved a few defendants and interpreters. In this case, however, the interpreters admitted to not interpreting everything by explaining that they focused solely on what was relevant to their client's case.

> There were a few interpreters in the dock, but not all of them were interpreting at the same level or spoke the same amount. Some interpreters remained silent most of the time while one interpreter only was working in simultaneous mode throughout the whole hearing. When I questioned other interpreters on this, they replied that they only interpreted the information relevant to their client's case and they had already been through this many times so there was no need to interpret all that to them again. They [d e f e n d a n t s] asked if they

> needed something or required a clarification on any matter. (Observation sheet No. 10)

A similar instance occurred in a civil court, where the interpreter did not seem to be a professional and did not interpret everything in the courtroom to the claimant. The claim was dismissed in the end, which could have possibly been a result of the claimant's language barrier. The defendant was a native speaker of Pashto, and his evidence did not appear consistent. However, he won the case (see notes in observation sheet No. 26).

Another instance of an interpreter not interpreting everything said in court was observed during an immigration appeal case in the immigration tribunal at Sheldon Court. In this case, it was explained that the appellant could speak some English and required an interpreter only as a back-up to occasionally clarify specific points.

> When the Home Office Presenting Officer (and the barrister) presented their speeches, the interpreter did not interpret much. Later, during the interview the barrister explained to me that the interpreter did not interpret much because his client could understand a bit of English. (Observation sheet No. 22)

A significant instance of interpreter failure was observed in another appeal case at the immigration tribunal, when the interpreter failed to convey to the court that a witness was ready to present evidence in support of the appellant. Furthermore, the interpreter completely failed to interpret the judge's question to the appellant and used the third person when interpreting what was said by the client to the court.

> The interpreter failed to alert the court to the fact that his client's friend was waiting in the corridor. There were a lot of questions referring to the friend and it was crucial to the case to get a witness statement from her. As a result of this failure, the case will be adjourned until 12 June 2015 and the interpreter has been dismissed from this case as per the appellant's request.
>
> The interpreter makes a comment on behalf of the client in the third person. The judge asks a question, but it does not get interpreted. (Observation sheet No. 23)

Owing to the interpreter's failure, the case had to be adjourned, and another interpreter appointed for the next hearing.

A similar situation occurred in another immigration tribunal hearing at Sheldon Court, where the appellant had a problem with the interpreter. The interpreter struggled to

convey to the court what the appellant was saying. The appellant's legal representative, who was a Farsi speaker along with an appellant and the interpreter, requested permission from the judge to intervene, pointing out the interpreter's difficulties. However, the judge declined the request. During the defence submission, the legal representative raised the issue of poor interpreting during the asylum seeker's interview with the judge. In that interview, certain terms were inaccurately interpreted, potentially altering the meaning of the appellant's statement completely (see observation sheet No. 29).

An interesting incident was recorded at the Crown Court, where the interpreter was late for the hearing after a break, so the defence barrister had to look for him and bring him back to the courtroom (see observation sheet No. 31).

The second most prevalent theme that emerged from the analysis of critical incidents pertains to interpreters taking on various roles beyond mere interpreting. These roles involve a broader spectrum of activities and auxiliary tasks both within and outside the courtroom.

5.1.2 Interpreters take on additional roles

One of the most striking incidents of an interpreter taking on additional roles occurred at Birmingham Crown Court and involved a Lithuanian-speaking defendant and the interpreter. The interpreter was talking and reassuring the defendant before the trial while waiting in the corridor (see observation sheet No. 2). She seemed to be providing psychological support for the defendant, acting as a counsellor or even a friend. This observation aligned with the previously discussed perspective in the academic literature, suggesting that the interpreter's role involves being an advocate for the witness/defendant, offering help and support throughout the daunting legal process (Barsky, 1996; Morris, 1999; Hale and Gibbons, 1999).

Another interesting observation was made at Birmingham Magistrates' Court, where the interpreter was assisting his client in completing some paperwork outside the courtroom upon the court's request (see observation sheet No. 3). Once again, this involved an additional auxiliary administrative task imposed on the interpreter by court personnel, and the interpreter seemed to have accepted it without hesitation. It appeared to be a task that the interpreter routinely took on as part of his role.

Another instance of the interpreter taking on an auxiliary task of assisting with paperwork outside the courtroom was observed in the magistrates' court with a different interpreter. In this case, the interpreter was also helping a probation officer with filling in forms for the defendant (see observation sheet No. 11). I had an opportunity to have a follow-up conversation with the interpreter and during that conversation, he admitted to me that he usually lowered the register when interpreting back to the client. From my notes:

> He makes sure they understand what is said and/or asked of them [as they] (Afghani people, who his clients mostly are) do not have a concept of a legal system at all, since they don't have one in their home country. Therefore, the interpreter has to lower the register and sometimes explain them the terms used by the court officials as otherwise not only would it be nearly impossible to render the meaning into the target language (Pashto) due to the absence of legal terminology in this language, but also the client would not be able to understand what is said to him at all. (Observation sheet No. 11)

I also observed the following situations where the interpreter was taking on additional tasks:

- A Romanian interpreter speaking to another client, clearly helping him to make a telephone call (see observation sheet No. 14).
- A defendant saying something; the interpreter calls the barrister by his last name and the barrister comes to them to answer the defendant's question (see observation sheet No. 21).
- The interpreter provides cultural explanation to the judge regarding differences in the calendar in Iran: "Madam, the appellant is confusing December and September because, as you know, we have a different calendar system in Iran" (see observation sheet No. 23).
- The interpreter invites the other witness to take a seat by him and explains to her what is going to happen during the proceeding (see observation sheet No. 27). During some misunderstanding between the defendant and prosecution, and the interpreter steps in straightaway on his own initiative to clarify the question for the defendant (see observation sheet No. 32).
- An interpreter interpreting for the defendant outside the dock (courtroom) (see observation sheet No. 34).

Thus, through an analysis of the critical incidents observed in civil and criminal courts in

Birmingham, it becomes evident that interpreters frequently go beyond the conventional role of merely conveying messages between languages in order to remove language barriers for non-English-speaking witnesses/defendants. Instead, their role is more complex and diverse. It often includes handling administrative tasks, offering cultural explanations, rectifying communication inaccuracies, explaining legal proceedings to non-English-speaking participants, assisting with making phone calls and even providing emotional support. The interpreter's responsibilities encompass a broad spectrum of activities, reflecting a multifaceted role in facilitating communication within legal settings.

The next theme for discussion relates to booking an interpreter or failure to do so, and the consequences that may have followed as a result of not having an interpreter in proceedings involving non-English-speaking litigants.

5.1.3 Failure to book an interpreter

I observed several instances where an interpreter was not provided either due to failures in the booking system or, at times, because the non-English-speaking participant in the proceeding could indeed speak and understand (some) English. In such cases, it was believed that the provision of an interpreter was unnecessary. This would often result in a hearing being adjourned or a decision being made to the detriment of the non-English-speaking litigant. In the Crown Court, for example, the hearing related to assault and a threat with the weapon was adjourned because Capita TI failed to provide an interpreter (see observation sheet No. 4). On another occasion, however, two interpreters were booked for the same hearing; this caused confusion and a delay in the proceeding (see observation sheet No. 7).

In another instance, a non-English-speaking witness did not have an interpreter during a civil court proceeding related to a personal injury claim. He appeared to be struggling with understanding and speaking English. However, the court took no notice and proceeded with the examination and cross-examination.

> The witness is not a native speaker of English but does not have an interpreter. His English is not very strong, and he clearly struggles to understand questions. Also, the examiner does not always understand what he's saying. The witness (claimant) is clearly struggling with English.

> The judge says, “His answer is not consistent with his evidence” (but no one notices that he clearly struggles to understand and speak English). The witness does not understand very well and can’t express himself clearly. (Observation sheet No. 28)

The next example is drawn from my field notes, specifically observation sheet No. 31, on a sexual assault trial at Birmingham Crown Court. The defendant was a speaker of Tigrinya/Amharic, which are considered rare languages. This means that sourcing a qualified interpreter in these languages may pose a challenge. Although an interpreter proficient in these languages was provided for the court hearing, no interpreter had been available during the police interview:

> The defendant was interviewed at the police station under caution, but without the help of the interpreter. It is clear from the tape that the defendant does not understand the caution. The second officer steps in and explains to him that her colleague officer is trying to explain what the caution means for him. It is clear he still doesn’t understand, and the first officer is explaining the condition of the caution to him before proceeding to the allegation and detailing the reason why he was there. (Observation sheet No. 31)

From my observations of interpreter-mediated hearings, I can conclude that the absence of an interpreter at any stage of the justice process, be it during a police interview or a proceeding in a criminal or civil court involving a non-English speaker, holds the potential for severe consequences. These consequences go beyond the financial implications of wasting taxpayer money on adjourning and rearranging court hearings, filing for appeals, and so on. The absence of an interpreter when required is fraught with the risk of miscarriages of justice, potentially leading to life-altering outcomes for the individuals involved.

5.1.4 The interpreter engages in conversation and social interaction with the defendant

Under the umbrella of this theme, I grouped the observed instances of interpreters engaging in social interactions with the defendants they were hired to interpret for. I noted such instances as critical in my field notes. In these instances, interpreters appeared to exceed the conventional boundaries of their professional duties by engaging in social interaction and displaying a degree of personal involvement.

For example, at Birmingham Crown Court, a Lithuanian interpreter continued talking to the defendant, who was released on licence, after the hearing finished and the defendant left the courtroom (see observation sheet No. 6). On a different occasion, also at Birmingham Crown Court, I observed an interpreter exchanging comments with the defendant, and they were both laughing over something (see observation sheet No. 10). A similar situation occurred where the interpreter and the appellant exchanged comments during the hearing in the immigration tribunal court (see observation sheet No. 29).

Another instance of interpreters' talking and laughing with the defendant in the dock was observed at Birmingham Crown Court during a hearing related to fraud:

> At that point, interpreters and defendants in the dock were also talking and even laughing there. There was a clear interaction in the dock that was not part of the proceeding or interpreting process. It looked like a social rather than a professional interaction. (Observation sheet No. 35)

A particularly interesting incident occurred at Birmingham Magistrates' Court, where the interpreter attended the hearing of a Romanian defendant and was sitting in the public area, expressing sympathy to the defendant and exchanging comments with the usher who also attended the hearing and took a seat in the public area next to the Romanian interpreter. Although the interpreter was not hired for this particular case, she must have known him socially or possibly via interpreting for him earlier. In any case, it was an interesting observation from the perspective of the interpreter's personal involvement in the defendant's case, and I recorded it as a critical incident in my field notes:

> The Romanian interpreter from the previous hearing also attended as she was interested in the outcome, and she did sympathise with the defendant and commented that he must have been very "pissed off" with the magistrates' decision.
>
> There was another interesting moment during this hearing: the usher entered the room after the magistrate announced the fine and he asked the interpreter next to me for a quick update and she replied that he was found guilty, and a penalty was issued. The usher exchanged another line with her and took a seat. To my surprise, it looked like both the interpreter and the usher were not indifferent to what was going on in the courtroom and to some extent cared for the defendant. (Observation sheet No. 15)

From the observed instances of interpreters engaging in social interactions with defendants during court proceedings or outside the courtroom, it is evident that some interpreters may overstep the conventional boundaries of their professional duties. Recorded as critical incidents, these interactions raise concerns about potential impacts on the impartiality and objectivity of the interpreting process in the legal setting. Interpreters are expected to maintain a neutral stance to ensure fair an accurate communication between non-English-speaking individuals and the court. When interpreters become socially involved with defendants, there is a risk of compromising their professional integrity and introducing bias into the interpreting process as well as the perception of their role in the courtroom.

5.1.5 Lack of consideration and respect for the interpreter's role

Under this theme, I grouped instances where, in my view, various actions or lack thereof implied a somewhat inferior position for interpreters in the courtroom. This included a lack of consideration and even lack of respect for their role. For example, poor audibility in the courtroom coupled with the absence of basic interpreting equipment (hearing loops) along with court actors speaking rapidly and/or in a low voice makes it difficult for the interpreter to hear, and therefore perform, their prescribed professional role. This suggests very little consideration given to the presence of the interpreter in the courtroom and their basic needs for a successful performance.

An example of poor audibility in the courtroom and lack of consideration for the interpreter's presence is drawn from observation sheet No. 4 at Birmingham Crown Court:

> Judge's speech wasn't very loud, could be hard to hear from behind the glass in the dock.
>
> Court clerk was talking to the judge quietly. That must have been something not to be heard by other court actors and certainly not to be interpreted to the defendant.

Another incident of a similar kind I observed at Birmingham Crown Court was as follows:

> The interpreter had no equipment, and it was clear that he could not hear very well.

> The judge was speaking quietly, and I am not sure the interpreter in the dock could hear him very well. The interpreter did not have an ear loop, and I could see him struggle to hear what was said. He was, however, interpreting consecutively most of the time. He was craning in the attempt to lean forward so he could hear better through the glass in the dock. I also noticed he was gesticulating a lot, which suggested to me that he was trying to fill the gaps in meaning that he might have missed with gestures. (Observation sheet No. 16)

Hale and Napier (2016) report a similar issue in Australian courts, where interpreters are often not supplied with headphones or hearing loops that can help to amplify the sound received from other speakers' microphones. This problem is often exacerbated by the fact that lawyers often mumble, speak in a low voice, and so on. This makes the interpreter's job more difficult and inevitably impinges on their performance (Hale and Napier, 2016).

In the example below, drawn from the observation sheet No. 8, it is evident that the interpreter was not given much consideration by the judge and was not even given an opportunity to finish interpreting for her client before they had to go back to the dock. Moreover, the defendant and the interpreter were both instructed to "clear up the witness box":

> At the end of the session, the judge asked to clear up the witness box (paperwork was scattered all over it) and asked the defendant and the interpreter to proceed to the docks. The interpreter did not finish interpreting at that point, but she had to stop and proceed to the docks to sit by the defendant. The judge continued talking to the defence barrister with no consideration given to the interpreter's duty to interpret everything that was said to the defendant. The interpreter and the defendant take their seats in the docks, and the judge and the barrister continue talking. The interpreter started interpreting simultaneously as soon as they sat down in the docks; she was trying to catch up with what was missed. No consideration was given to the interpreter's presence from this point and the judge continued talking to the defence barrister at their normal speed. (Observation sheet No. 8)

As can be seen from the above example, no consideration was given to the interpreter's need to do her job either by the judge or by other legal professionals in the courtroom. They carried on with the proceeding, paying no attention to the fact that the interpreter was meant to interpret everything said in the courtroom to the defendant.

Another incident where no regard was given to the presence of the interpreter in the courtroom was observed in the same court (viz., Birmingham Crown Court) but this time, the interpreter intervened to assert her role.

> The prosecutor shot off with his speech and the interpreter had to stop him with the request to give her the opportunity to do her job. After that, he stopped, apologised, and gave her an opportunity to swear an oath and proceed to the dock to take a seat next to the defendant. (Observation sheet No. 9)

In the below example, drawn from observation sheet No. 31, the prosecutor and another legal professional silently reprimanded the interpreter by giving him a condemning look for doing whispering (chuchotage) in the dock and raising his voice slightly:

> The prosecutor is role-playing a phone call to the police with the witness. At this time, the interpreter's voice can be heard from the witness box interpreting the telephone conversation with the police (the phone call) from the transcript (sight translation), and the barrister along with another present court actor (his role in court is not established, but I think he must be a lawyer) both turned around and gave an angry look to the interpreter, as if reprimanding him silently for raising his voice slightly. (Observation sheet No. 31)

This incident suggests that not only did the legal professionals present in that courtroom fail to acknowledge the interpreter's role, but they actually expressed non-verbal disapproval of his efforts to fulfil his duties. They rather viewed the interpreter as a source of irritation, an unwanted intruder, someone who was there to disturb their work (cf. Fowler, 1997; Morris, 1999).

All the aforementioned incidents were observed and documented in the criminal courts of Birmingham. However, during a hearing at the civil court, I was left with the impression that even less consideration was given to the presence of the interpreter, particularly during a family dispute (divorce) hearing:

> The judge asked for names of all present parties, including mine. As soon as he confirmed the names of all the present parties the opposite side solicitor (the wife) started speaking very very fast with her points regarding the case with no consideration to the presence of the interpreter.
> My view was that the county judge accepted the role of the interpreter even less than this is the case for the crown and magistrates' courts. The interpreter was

> not given any consideration by the solicitors, no respect shown for their work. (Observation sheet No. 20)

As indicated by my field notes, the interpreter's role was neither acknowledged nor respected during this hearing. However, I cannot extrapolate this view to all civil proceedings as the majority of my observations were conducted in criminal courts.

After the hearing, I had a follow-up conversation with the interpreter to discuss her experience during that hearing and whether she felt her role was acknowledged by the participants in the proceeding. She confirmed that she did not feel acknowledged in her professional capacity during the hearing. Furthermore, she shared additional examples of how she had been treated by certain legal professionals. It is worth noting that she is Asian, and the treatment she described was received particularly from Asian male legal professionals. This may have been influenced by cultural factors within the Asian community and their views on gender roles in general:

> While we were waiting for the hearing, she told me that once, one of the Asian male solicitors in the Crown Court asked her to make him tea as he felt at ease with her and thought it was okay to give her orders or errands. She had to politely refuse. She said, "You should be really alert all the time otherwise they will walk all over you and will boss you around". This [observation] particularly applies to Asian males. They do not take Asian female interpreters seriously.
>
> During the big fraud trial at Crown Court, Birmingham that I attended a few times, one of the defendants told her she did not look very intelligent. He was also an Asian male and a schoolteacher. (Observation sheet No. 20)

As evidenced from my observations, a consistent pattern thus emerges, revealing the occasional lack of consideration and respect for interpreters within the courtroom setting. Instances of poor audibility, the absence of essential interpreting equipment, and procedural oversights indicate a potentially systemic neglect of interpreters' basic needs for successful performance. Moreover, actions such as non-verbal reprimands coupled with dismissive attitudes from legal professionals imply a certain degree of disregard for the interpreter's role. Such instances not only impact the interpreter's ability to fulfil their duties but also contribute to an atmosphere where their professional significance is overlooked. The lack of consideration for the interpreter's role in the courtroom inevitably halts effective communication between the participants of the proceeding, as

well as raises questions about the fairness and integrity of legal proceedings involving non-English speakers. Addressing these issues is crucial for upholding the principles of a fair trial and ensuring equal access to justice.

5.1.6 Lack of awareness of the interpreter's role among court personnel

This theme overlaps with the previous one ("Lack of consideration and respect for the interpreter's role") in that it also, to some extent, suggests a lack of recognition of the interpreter's professional status in the courtroom. This lack of recognition stems from insufficient awareness and understanding of the interpreter's role among legal professionals. Lack of awareness of the interpreter's role is often manifested in instructions given to interpreters by court personnel. For example, on one occasion at Birmingham Magistrates' Court, the interpreter was instructed to leave the dock where she had taken a seat next to the defendant and stand in front of the dock to talk to the defendant through the glass (see observation sheet No. 14). Although this seems to be a common practice in a magistrates' court, unlike Crown Courts where the interpreter is seated next to the defendant in the dock, talking to the defendant through the glass may pose additional challenges for the interpreting process.

A similar situation was also noted at Birmingham Magistrates' Court where the interpreter was initially instructed to take a seat away from the defendant in the courtroom. However, the interpreter moved back to the dock to interpret simultaneously for the defendant, and no one objected or took notice of the interpreter's move:

> On one occasion after a break, an interpreter and a defendant were called in into the courtroom again. The defendant went straight to the dock, but the interpreter was shown to take a seat separately. The conversation regarding the report was resumed by the magistrates and attorneys. At this point, the interpreter stood up and went to the dock, took a stand by the window, and started to interpret simultaneously. No one gave any notice to that fact, and it was taken as a normal situation. (Observation sheet No. 11)

On one occasion at Birmingham Crown Court, I observed a situation where the prosecutor was explaining to the defence barrister the interpreter's presence, how to work through the interpreter, and other court rules (see observation sheet No. 31). During the same hearing, there was another interesting incident that I recorded as critical: the defence

barrister approached the dock and whispered through the glass to the interpreter, "Could you check with him…could you make sure…?" He addressed the defendant in the third person, asking the interpreter to clarify something for him on his behalf. This suggests that the barrister was not aware of the interpreter's role and how to work through the interpreter.

A particularly interesting incident I observed in the immigration tribunal at Sheldon Court in Birmingham occurred when every time a new witness was called into the courtroom, the judge asked the interpreter to explain the procedure to him/her and the interpreter did so under the judge's instruction (see observation sheet No. 22). This again indicates a lack of awareness of the interpreter's role, resulting in assigning interpreter's tasks and responsibilities that extend beyond their primary role of providing interpretation from one language to another in order to facilitate communication in the courtroom.

5.1.7 Interpreters exercise control over the proceeding

I observed a few instances where the interpreter actively participated in the proceedings as one of the key players, to some extent exercising a degree of control over the proceeding. Although these instances were not numerous, I found them rather interesting and even striking enough to note them as critical incidents. It should be noted that all of them were observed in the immigration tribunal and not in any other court. Here are a few examples drawn from my field notes:

- The interpreter gestures to the Home Office representative when to pause so she can interpret back to the client (see observation sheet No. 24).
- The defence barrister prepared a very long question for the witness; the interpreter asked her to repeat it and when she went on again, the interpreter gave her a signal with his hand to stop (pause) while he was interpreting the first part of her question (see observation sheet No. 26).
- The judge offered a break, and everyone stood up; the interpreter gave me a sign with his hand that I should stand up as well (see observation sheet No. 27).

The examples provided, including making gestures to coordinate with a Home Office representative, signalling a pause during a lengthy question from the defence barrister, and participating in non-verbal cues for breaks initiated by the judge, illustrate the

interpreter's active involvement in the procedural aspects of the courtroom. In these instances, it appears that the interpreter is taking on the role of a conductor or coordinator of the proceeding. A similar role (interpreter as coordinator) was described by Wadensjö in her taxonomy (1998: 105). However, as noted earlier, I found this trend to be specific to the immigration tribunal, suggesting a unique dynamic in this setting compared to the other observed courts. This also indicates that the interpreter's role goes beyond being a mere language conduit and is largely influenced by the specific courtroom environment.

5.1.8 Adversarial Interpreting

The term and concept of "adversarial interpreting" were introduced by Kredens (2017) and refer to situations where "an interpreter's output is monitored and/or challenged, either during the speech event or subsequently" (Kredens, 2017: 18). Kredens (2017) notes that in public settings in England, usually only one interpreter is provided to assist a non-English speaker in communicating with public service agents – even in situations where a team of interpreters would be recommended (such as in lengthy court hearings). This is primarily driven by financial constraints in the public sector (Kredens, 2017).

However, there are situations where more than one interpreter, or an individual with knowledge of the same language as the provided interpreter for the given event, may also be present, "monitoring it and/or volunteering unsolicited input" (Kredens, 2017: 18). Kredens (2017) points out that adversarial interpreting is not considered to be an anomaly, but it is not very common either and it inevitably impacts an already complicated situation involving non-English speakers and often (but not always) institutionally appointed interpreters. Therefore, I recorded such encounters as critical incidents during my observations.

During a murder trial at Birmingham Crown Court, for example, there was an individual sitting next to me in the public area taking notes. Later, I found out that he was an interpreter and was there incognito to quality-check the interpreting process during the trial (observation sheet No. 12). The next day, I attended the same trial with the same participants and learnt from the interpreters I spoke to that one of the interpreters hired to do conference interpreting for the trial was, in fact, not proficient enough in the language in question. An independent interpreter was taking notes to gather evidence for a subsequent appeal on the grounds of incompetent interpreting:

> There was another interpreter sitting next to me in the public area taking notes. The most interesting thing happened after the hearing, when I spoke to one of the interpreters who told me in secret that his colleague was taking notes during the hearing to appeal on the grounds of incompetent interpreting. One of the conference interpreters was not proficient enough in the language he was recruited for and there were many mistakes. (Observation sheet No. 13)

When I attended this trial four weeks later, I found that the conference interpreter whose proficiency was in question was no longer there and instead, the interpreter who had been taking notes substituted for him:

> As for the conference interpreters, one of them was different from previous sessions I attended. He was replaced by the interpreter who had been taking notes next to me when I attended the hearing at the end of the end of March. When I asked them during the break what happened to that interpreter, I was told that he had gone on holidays to Pakistan and did not answer calls or text messages. (Observation sheet No. 19)

Putting all the clues together, I can speculate that the quality-checking interpreter eventually challenged the work of the interpreter in question and was appointed to take over for the interpreter who allegedly was not proficient enough for the job.

Another instance of adversarial interpreting occurred at the immigration tribunal in Birmingham. I am not aware of whether the intervening individual was a professional interpreter or simply a Farsi speaker proficient in English, but she was present during the immigration appeal taking notes and later provided unsolicited input concerning the quality of the institutionally appointed interpreter for that case. She intervened a number of times during the hearing and eventually, it was suggested that another Farsi interpreter should be hired for this case owing to numerous alleged inaccuracies and inconsistencies revealed during the proceeding.

> There is a lady in the room who speaks the language of the appellant and she's taking notes.
>
> The solicitor asked a question: "When you were in prison in Iran and your family came to visit you there in prison, did you ever ask them about your brother…?"
>
> The interpreter interprets that to the appellant but the lady steps in, raises her hand and says, "I'm sorry, this has been misinterpreted".

> As the interpreting goes on, the lady at the back looks a bit agitated as she clearly does not agree with the interpreter's rendition. She raises her hand again, but no one notices that and the proceeding continues. She keeps taking notes.
>
> The lady makes a sign to the judge with her hand that the interpreter does not interpret accurately. At this point, she raises her hand and states, "I'm sorry, I have to stop him; he's misinterpreting completely. She says eight, he says nine, and this is misleading for her. This is not the first time I noticed that".
>
> The judge says that she doesn't like the way things go due two lots of cross understanding and evidence is not clear. The solicitor suggested to get a second Farsi interpreter. (Observation sheet No. 30)

These instances highlight the importance of considering adversarial interpreting as one of the important factors that can impact interaction in the courtroom, the accuracy of interpretation, and even the outcomes of trials/hearings. They also underscore the importance of the interpreter's role in proceedings involving non-English speakers and the need for qualified interpreters. At the same time, such encounters indicate the need for thorough quality checks and potential consequences when interpreter proficiency is questioned.

Kredens' (2017) study shows that the added pressure of the presence of individuals with knowledge of both languages may have a negative impact on the interpreter hired for the particular event, which in turn may lead to inaccurate interpretation and even result in communication failure. But on the other hand, corrective interventions from third parties may help ensure accuracy. In any case, Kredens (2017) surmises that adversarial interpreting deserves further investigation, which is beyond the scope of the current research.

In conclusion, the critical incidents discussed above contribute to an understanding of a complex nature of the interpreter's role in the courtroom, which is influenced by interactions with legal professionals, defendants, and court personnel. In essence, the critical incidents discussed here serve as entry points into a broader discussion about the evolving nature of courtroom interpreting.

The next section will delve into the discussion of the themes identified in the analysis of the general field notes.

5.2 Other (general) field notes: discussion

In Chapter 4, I conducted a thematic analysis of critical incidents and other (general) field notes as separate categories. Through the analysis of general field notes, new themes emerged that were not identified in the analysis of critical incidents. I will discuss these themes in more detail in this section. However, there were a few overlaps in the identified themes between critical incidents and general field notes. The primary overlapping theme with the critical incidents analysis was "Adversarial interpreting". Because this theme received due attention earlier in this chapter, I will not discuss it further.

Most of the themes identified through the analysis of critical incidents overlap with the subthemes in the thematic structure of the generic field notes and will be incorporated into the final thematic structure at the end of this chapter. For example, theme No. 3, "Interpreters swear an oath unprompted", can be incorporated as a subtheme into theme No. 7, "Interpreter role performance". The theme that has no overlap with the generic field notes is "Lack of awareness of the interpreter's role among court personnel". This theme will be added as an additional one to the final thematic structure.

5.2.1 Theme 1 – Possible roles for the interpreter in the courtroom

The most prominent theme identified through the analysis of the field notes pertains to the potential roles of the interpreter in the courtroom. This theme has seven subthemes:

a. "[The] interpreter is just a machine"
b. "The interpreter was there just to clarify things" (a back-up)
c. The interpreter does not interpret everything and at time keeps silent (gatekeeper)
d. The interpreter as a friend/helper
e. Interpreters interact with the defendants socially
f. Interpreters intervene in the process
g. Interpreters take on additional roles.

5.2.1.1 "The interpreter is just a machine"

The name for this subtheme derives from a conversation I had with an interpreter after a trial, where she expressed the belief that such a role (being a machine) was expected of her in the courtroom.

In several hearings, I also observed interpreters adopting a manner of conduct akin to machines or robots. In these instances, they refrained from making eye contact with their clients and aimed to be as invisible as possible. It's important to note that this behaviour was observed in a minority of cases. Nevertheless, the finding aligns with existing interpreter role descriptors in academic literature, where concepts such as the translation machine, neutral conduit, or electric transformer have been extensively researched and discussed by Morris, (1999; 2010a), Berk-Seligson, (2002), Mikkelson, (2008), Lee (2009b) and many others.

As discussed in Chapter 1, this understanding of the interpreter's role is particularly prevalent among legal professionals who expect accurate and often verbatim translation (Morris, 1999; Morris, 2010a; Mikkelson, 2008). Although this view is less common among practitioners, as illustrated in my observations, some practitioners do perceive themselves as machines or conduits.

5.2.1.2 "The interpreter was there just to clarify things" (a backup)

I observed a number of cases where the interpreter was required as a back-up and to "be there just in case". For example, from observation sheet No. 5:

> I fell under the impression that the interpreter was there just to clarify things the defendant did not understand as on a few instances, the defendant initiated the conversation with the interpreter. The interpreter kept silent most of the time and just provided brief explanations from time to time.

The above excerpt from my observation of a hearing at the Crown Court illustrates the interpreter's role in the courtroom as auxiliary, being there primarily to clarify points from time to time at the defendant's request. Although the defendant had some understanding of English, he relied on the interpreter as a back-up, especially considering the complexities of legal language, in case of any misunderstandings during the proceedings.

The next example is also taken from an observation at the Crown Court, where the defence barrister made it very clear that the interpreter was called in as back-up for the defendant.

> The interpreter is called in as back-up for the defendant. The defence barrister

> explained this to the interpreter before the trial starts. He emphasised that it was particularly important for the defendant to address to the jury directly rather than via the interpreter. (Observation sheet No. 31)

A particularly interesting point in this observation was that the defence barrister wanted the defendant to address the jury directly, because he believed this would give his statement more credibility than if he addressed the jury via the interpreter. This observation is consistent with the findings of Fowler's (1997) study, which illustrated legal profession beliefs about the impact of interpreters on the perception of witnesses and/or defendants and the credibility of their statements. So, they may choose to strategically decline the use of an interpreter.

The example from another Crown Court hearing observation below shows that the defendant did not require the interpreter's assistance with the translation of the transcript and stopped him from getting involved:

> The transcript of the police interview is given out by the usher to the defendant and the rest in the room. The interpreter reaches out to get it, but the defendant stops him and puts the transcript to one side while looking at page three, suggesting to the interpreter that he was okay to read this document without his help on this occasion. (Observation sheet No. 32)

In the same hearing (observation sheet No. 32), I observed the defence barrister questioning the defendant without the help of the interpreter and only occasionally asking the interpreter for help. Sometimes, he addressed the interpreter directly when addressing the defendant in the third person. Other times, he addressed the defendant in the second person and asked the interpreter "to interpret this bit" for him.

It is worth noting that the subtheme "The interpreter was there just to clarify things" (a back-up) to some extent falls under Hale's (2008) description of "To ensure effective communication between the participants", involving filtering, embellishing, and clarifying language for the defendant. However, based on my observations, this role is more akin to the back-up or auxiliary function described by Colin and Morris (1996: 92) as "stand-by interpreting" where the interpreter is present "just in case".

5.2.1.3 The interpreter does not interpret everything and at times keeps silent (a gatekeeper)

The interpreter as a gatekeeper is widely discussed in the academic literature (Morris, 1993; Hale, 2008, Edwards, 2012). By assuming the role of a gatekeeper, the interpreter acts as "an active third participant in the interaction and decides on what should and should not be uttered", i.e. the interpreter "becomes the only powerful participant" in the courtroom (Hale, 2008:102).

This subtheme overlaps to some extent with the above discussed subtheme of serving as a back-up for the defendant. Even more so, it overlaps with the theme "Failure of the interpreter" discussed earlier in the critical incidents section. Interpreters sometimes do not interpret everything said in court, either to the defendant or when the defendant speaks, and they may omit interpreting this back to the court. In this section, I discuss this from the perspective of the interpreter making strategic choices and acting as a gatekeeper. The interpreter decides what should be interpreted to the defendant or to the court and what can be left out. This can be seen as an interpreter's failure to perform the role faithfully, or as the interpreter exercising control over communication in the courtroom.

The examples from my field notes below illustrate that interpreters make decisions about what is relevant to the case and what should be interpreted along with what is not pertinent. In the example below from a hearing observed at the Crown Court, the interpreters I spoke to during breaks admitted that they only interpreted what they considered was "relevant to their client's case":

> The interpreters admitted that they don't interpret everything but only what is relevant to "their client's" case or if "their client" asked a question and wanted to hear interpretation. (Observation sheet No. 10)

In the next example, the interpreter chose not to interpret the character reference read aloud to the jury by the defence barrister. It was not clear why; perhaps it had been agreed with the defendant in advance that the defendant had knowledge of the contents of the character reference and therefore it was not necessary for the interpretation to take place there and then.

> The defence barrister is reading out character references to the Jury. The interpreter does not interpret this bit but just sitting with the defendant.

> (Observation sheet No. 32)

Another example illustrates interpreters choosing to omit anything related to the administrative side of the process, including oaths given by witnesses:

> The interpreters did not interpret anything related to organisational or admin side of the process, neither did they interpret oaths given by witnesses in the witness box. (Observation sheet No. 35)

The subtheme "Interpreter as a gatekeeper" is well described in the academic literature as an active participant in the interaction. Many authors (Morris, 1993; Wadensjö,1998; Pöllabauer, 2012) warn against assuming or assigning this role to interpreters as it achieves nothing, but "confusion and disempowerment" for both parties (Hale, 2008: 112).

5.2.1.4 The interpreter as a friend/helper

This role perception has been widely discussed in the academic literature and often referred to as "advocate for the minority language speaker" or "advocate for the powerless participant" (Hale, 2008: 102). Lee (2009a: 38) refers to this type of role as "advocate for the witness". Barsky (1996) favours this role, particularly when it comes to interpreters working in immigration tribunals and maintains that interpreters should be permitted "the latitude to assist by intervening with questions and clarifications that are pertinent to the case and likely to improve the claimant's chances of obtaining refugee status" (Barsky, 1996: 46).

Morris (1999: 9) observes that non-English-speaking litigants tend to "cling" to interpreters "as their potential saviours". Wadensjö (1998) describes a similar situation in medical settings in Sweden, where patients see the interpreters as their friends and helpers. The study conducted by Hale and Luzardo (1997) reports that 56% of their respondents (speakers of Arabic, Spanish and Vietnamese) perceived interpreters as "compatriots who were there to help them" (cited in Hale, 2008: 103).

There is some overlap with the above discussion of the theme identified during the critical incidents analysis, "Interpreters take on additional roles", but this subtheme (the interpreter as a friend/helper) is a bit more specific to various types of assistance and

"help" interpreters provide to defendants.

One of the most frequently observed types of "help" that interpreters admit to providing to the defendants is simplifying the language for them and lowering the register to help them understand complex legal language. Although some languages are more susceptible to this practice due to the lack of developed legal terminology (Pashto, for example, as discussed in observation sheet No. 11 in the section 5.1), I would not say this is a language-specific phenomenon as it observed across a variety of languages. For example, a Romanian interpreter said to me during a follow-up chat after a hearing held in the Crown Court in Birmingham that she often simplifies the language when interpreting from English to Romanian. She mentioned that her clients, who are non-English-speaking litigants, typically struggle to understand complex legal language. If she did not simplify it for them, they would not understand anything (see observation sheet No. 9).

Furthermore, interpreters of Urdu and Punjabi admitted they do this all the time for their clients "to ensure their understanding", and this appears to be a common practice among interpreters across various languages. This excerpt is taken from an observation at the Crown Court (observation sheet No. 10):

> Interpreters also noted that very often they "lower the register" for their clients to ensure their understanding, as otherwise the client may not even understand what they're talking about in their native language. Also, they feel that it's impossible to completely distance themselves from the client as it is only natural for a human being and they do find themselves sometimes talking to them or supporting, assisting in any other way. Simplifying the language for clients who are illiterate is a very common practice as they reported, and they do that nearly all the time.

It is interesting to note the interpreters admit to talking to defendants socially, providing support to them, or assisting them in any other way simply because it is human nature, and it is hard to completely distance themselves from the defendants to maintain complete neutrality. This aspect suggests that interpreters are not machines, even if the code of conduct tells them to stay neutral and keep professional distance; the human factor is hard to remove completely and will always play a role in human interaction.

Another example of interpreter involvement was discussed above in the critical incidents sections, where the interpreter explicitly sympathised with the defendant, assisted him

with making phone calls (observation sheet Nos. 14, 15), helped fill in forms (see observation sheet No. 11) or in other ways, such as by getting the attention of the defence barrister, asking a question on their behalf, or even asking for a toilet break (observed in observation sheet Nos. 10, 11, 17, 20, 21, 23, 24, 26, 29).

Defendants also often see interpreters as a helper and someone they can rely on for assistance. One of the most interesting incidents observed at Birmingham Crown Court was the revelation by a bilingual defendant that he regretted his decision not to have an interpreter during his trial, as interpreting allows additional time for contemplating a response.

> One of the defendants I had a chance to speak to during the break admitted that [they] would rather give evidence through the interpreter as this had clear benefits and advantage due to extra time for thinking over the answer. As well, the cross-examiner could not use direct aggressive tactics as that blow could be softened by interpreting. (Observation sheet No. 10)

This confession is in line with the views of some legal professionals and academics that interpreters can indeed soften a lawyer's aggressive tactics in questioning and hence act as a protective shield for the defendants. In doing so, they can even (to an extent) put the non-English-speaking defendants in an advantageous position compared to that of native speakers, who do not have an opportunity to think through their answers to achieve a more favourable result on their case (Cooke, 1995b; Berk-Seligson, 1999; Hale and Gibbons, 1999).

Another perspective to consider is that legal professionals also often refer to interpreters as someone who is there to help. As discussed earlier, the online HMCTS (2020a) Guidance to "Who's who" at Crown Court refers to interpreters as "assistance for the witness". In one of the hearings at the Crown Court, I observed the prosecutor advising the defendant to use the interpreter for help:

> "If you don't understand my question, use the interpreter for help" (the prosecutor says to the defendant). The interpreter switches on immediately at this indirect form of address and interprets a question to the defendant into his language immediately. (Observation sheet No. 32)

This observation resonates with the existing research (Pöchhacker, 2004; Hale, 2008). Hale (2008) also notes that it is not uncommon for members of the judiciary to instruct

interpreters to help or assist the defendant in the courtroom as in this example: "Magistrate (to interpreter): Uh… Would you assist the defendant please?" (NSW Local Court Case, cited in Hale, 2008: 103)

Thus, the interpreter is often seen as a helper for the defendant by court personnel, defendants, and interpreters themselves, who not infrequently find themselves offering support and assistance to defendants, perhaps without even realising it. Despite the professional obligation to maintain neutrality, the human aspect inevitably comes to the surface and leads interpreters to provide assistance and support to defendants in various ways, highlighting the fine balance between their professional duties and the natural inclination to help others regardless of setting.

5.2.1.5 Interpreters interact with the defendants socially

This subtheme overlaps with the previously discussed theme in the critical incidents section (Section 5.1.4), "The interpreter engages in conversations and social interactions with the defendant". It was thoroughly discussed and there is not much more to add here, except to emphasise the frequency of this occurrence with additional examples from my field notes that were not covered in the critical incidents analysis:

> Interpreters interact with the defendants socially (being friendly with them outside the courtroom, laughing with them, one of the defendants joined them for lunch in the Asian fast-food shop. (In fact, he introduced me to them in court and asked them to look after his Russian friend). (Observation sheet No. 10)

As discussed earlier, the interpreters I met during this court observation (see observation sheet No. 10) shared that it felt nearly impossible to completely distance themselves from the defendants. Consequently, they often found themselves engaging in conversations with them, offering support, and/or providing assistance in one way or another.

Subthemes 1b, 1d, 1e (discussed in Sections 5.2.1.2, 5.2.1.4, and 5.2.1.5 respectively), and some aspects of Subtheme 1g (discussed below in Section 5.2.1.7) align with the role description provided by Hale (2008: 102) and discussed earlier as "advocate for the minority language speaker" or "advocate for the powerless participant". In these instances, the interpreter tends to simplify the language for the defendant, as seen in the examples above and interpreter "confessions". Additionally, interpreters may provide

additional information to questions if they feel the service provider did not offer an adequate explanation. The interpreter might also modify the tone of the original speaker's utterances to soften them and make them sound less aggressive, as noted by Hale (2008).

5.2.1.6 Interpreters intervene in the process

This subtheme exhibits a degree of overlap with the theme identified in the critical incidents analysis, "Interpreters exercise control over the proceeding" (Section 5.1.7). However, it is more comprehensive, encompassing numerous instances of interpreters making their presence known in various court settings. In contrast, the theme "Interpreters exercise control over the proceeding" was specific to immigration tribunal settings, where interpreters seemed to receive a higher degree of acknowledgement in the courtroom.

Within the scope of this subtheme, I have gathered numerous examples where interpreters requested pauses and repetitions, asked court actors to slow down or speak up, and provided cultural explanations among other instances of making themselves "visible" (see observation sheet Nos. 10, 20, 21, 22, 24).

For example, in one of my follow-ups with an interpreter at the Crown Court, she reported that she had to intervene in the proceeding and raise her hand when the barrister was speaking too fast and ask him to slow down for her to be able to interpret (see observation sheet No. 10).

Another example was observed in the immigration tribunal when the interpreter signalled to the appellant with her hand to stop, allowing her to interpret back to the court (see observation sheet No. 24).

This subtheme is an interesting one. There is no known role descriptor in the academic literature under which this category would fall. Rather, it contributes to existing discussions about the interpreter as an "unwanted intruder" in the courtroom (Cooke, 1995b; Fowler, 1997; Morris, 1999). The subtheme also demonstrates that interpreters are not passive, silent, and/or invisible actors, but active participants in the courtroom interaction who must be acknowledged and factored into the course of the proceeding.

5.2.1.7 Interpreters take on additional roles

Although the same theme was identified through the analysis of the critical incidents (Section 5.1.2) and discussed comprehensively earlier in this chapter, it came up again during the analysis of the rest of my field notes aside from critical incidents. This reaffirms the significance and high-frequency occurrence of this particular pattern, suggesting that interpreters very often go beyond the remits of their prescribed/expected roles and take on many additional tasks. In this section, I offer and discuss more examples of how versatile the interpreter role can be.

Below, I have complied a list of additional tasks the interpreter may perform in the courtroom in addition to what has been discussed so far:

- The interpreter provides explanations to the judge/court (see observation sheet Nos. 17, 23, 27, 29). This example is derived from the field notes (see observation sheet No. 27):

  > The interpreter said: "She can't tell differently what I can do differently". The judge asked him to repeat this, and he switched to third person to explain what the client was trying to say.

- The interpreter helps the defendant make phone calls and is friendly with him (she later denied this when I gently queried the incident; see observation sheet No. 14 discussed already).
- After the hearing was over for that day, the interpreter went away with the defendant and his barrister to continue interpreting outside the courtroom (see observation sheet No. 34).
- The interpreter takes on additional roles, such as inviting witnesses waiting outside the courtroom to join the proceedings and explaining the procedure (see observation sheet No. 22).
- The interpreter makes a comment to the court regarding differences in the calendar in Iran: "Madam, the appellant is confusing December and September because, as you know, we have a different calendar system in Iran" (see observation sheet No. 23).
- The interpreter is rather active and apparently aware of the order of the proceedings. He actively invites the next witness to sit next to him and explains the procedure without being prompted to do so (see observation sheet No. 27).

A particularly interesting example occurred in the immigration tribunal, where the interpreter asked the defence barrister whether he should interpret the submission to the appellant. The barrister replied, "She has the right to know" (see observation sheet No. 27). In this instance, the barrister seemed to grant permission for the interpreter to interpret a significant part of the proceeding to the appellant, emphasising the appellant's right to know. This raises the question of whether the interpreter is acting as a coordinator on the council's side, seeking guidance on what should be interpreted and what should not.

The above example aligns with the role description discussed by Hale (2008) as "advocate for the institution or for the service provider" and "advocate for the powerful participant". Some studies suggest that interpreters may assume this role in legal settings when they prioritise the needs of the institution over those of the service user (e.g. witness, defendant) (Berk-Seligson, 2000; Hale, 2008).

To sum up, the subtheme "Interpreters take on additional roles" is rather diverse, covering various additional roles that may fall into different role descriptors existing in the literature. In some cases, it may be "an advocate for the witness"/"a friend or helper"; in other cases, interpreters may take on administrative roles such as filling in forms. They may also play the role of an usher by inviting witnesses into the courtroom and explaining the procedure, as discussed earlier in the chapter in the critical incidents section. Other possible additional roles include providing psychological support, practical assistance with making phone calls, and, in some cases, assuming a role as an advocate for the institution or the service provider.

The subthemes explored in this section reveal the multifaceted nature of the interpreter role in the courtroom. Subtheme 1a highlights the perception of interpreters as mere machines, aligning with the role descriptor of a "neutral conduit for language" or a "translation machine". This perspective is particularly prevalent among legal professionals who prioritise accurate and verbatim translation. Subtheme 1b explores the interpreter's role as a clarifier or back-up, somewhat falling under Hale's description of ensuring effective communication between participants or a "stand-by" interpreter as per Collin and Morris (1996) and Angermeyer (2008). Subtheme 1c delves into the critical role of interpreters as gatekeepers, actively deciding what should and should not be uttered. While some align with roles identified by Hale as advocacy for the minority language speaker, subthemes 1b, 1d, 1e (discussed in Sections 5.2.1.2, 5.2.1.4, and

5.2.1.5 respectively), and aspects of 1g (discussed in Section 5.2.1.7) are discussed as advocates for the powerless participant. The subtheme 1f (Section 5.2.1.6) sheds light on situations where interpreters may intervene in the process, challenging the traditional notion of interpreters as passive entities. Finally, subtheme 1g demonstrates that interpreters do take on diverse additional roles ranging from advocates for witnesses to administrative tasks.

5.2.2 Theme 2 – Working conditions for court interpreters

As discussed earlier, court interpreters face challenging working conditions that can impact the task of interpreting. These conditions include being positioned in the dock alongside the accused, lack of essential equipment such as hearing loops, poor acoustics, and often even the absence of a chair, requiring interpreters to stand for extended periods. These challenges, combined with the demand for sustained concentration, make it difficult for interpreters to work continuously without breaks. Breaks are inconsistently provided and basic amenities such as refreshments are often overlooked, all of which highlights the need for improved working conditions for court interpreters (Gibbons, 2003).

This theme encompasses four subthemes related to the availability of equipment for interpreters, catering and provisions for interpreters (like water or snacks), as well as the seating position of the interpreters in the courtroom, and the provision of breaks.

5.2.2.1 Availability of necessary equipment (hearings loops and microphones) for interpreters

This subtheme overlaps to some extent with the theme discussed earlier in this chapter in the critical incidents section (Section 5.1.5), "Lack of consideration and respect for interpreters", where I considered the lack of equipment for the interpreters and poor audibility in the courtroom as neglect of the professional needs of interpreters. In Chapter 4 (Section 4.4.5), there was a comprehensive discussion about audibility in the courtroom as "audibility" was one of the categories on the observation sheet template. However, this theme has also been identified as part of a wider field notes analysis. Unfortunately, as seen from the previous discussion, interpreters are not always provided with the necessary

equipment for their work. This adds strain to their working conditions.

5.2.2.2 Catering and provisions for the interpreters

During my observation, I noticed that interpreters were always provided with water. However, no other provisions were made for them. This was unlike other court actors such as counsels, who had their own chambers with catering provided. In the immigration tribunal, there was an interpreters' room similar to the chambers for counsels. I had the opportunity to be invited into that room and have a cup of tea alongside the interpreters in the room.

5.2.2.3 Position/location of the interpreter in the courtroom or absence of designated space

There was some discussion regarding the seating position of interpreters in the courtroom in Chapter 4 (Sections 4.4.3.2 and 4.4.4), where I touched upon this subject in the context of the internal layouts and positions of other actors in civil and criminal courtrooms. This subject was also mentioned earlier in this chapter in the discussion of "Lack of awareness of the interpreter's role among court personnel" in the critical incidents section (Section 5.1.6). Below, I provide a few more examples from my field notes to illustrate that the absence of a designated seat for the interpreters in the courtroom may present an additional challenge and add further strain to their working conditions.

> The interpreter did not seem comfortable in the witness box as clearly there was not enough room there for two people. However, water and glasses were provided. (Observation sheet No. 8).

> The interpreter noted that it was very uncomfortable to stand in front of the dock and talk through the glass, but the magistrate had to follow safety procedures. Therefore, he did not allow her to stay in the dock with the defendant. (Observation sheet No. 14).

> The witness sits down at the witness desk and the interpreter remains standing by the desk. He has to bend over the desk to interpret the files (they identified the witness statement and confirmed it was his signature there). (Observation sheet No. 26).

The above examples demonstrate that interpreter comfort is not given much consideration

by the courts. These instances highlight a broader issue in which the physical well-being and professional needs of interpreters appear to be overlooked or not prioritised by the legal system. Such neglect may contribute to an uncomfortable working environment for interpreters, potentially impacting their ability to perform to the best of their ability and raising questions about the broader awareness of court authorities to the specific requirements of interpreters in legal settings.

As mentioned earlier, Hale and Napier (2016) conducted a study examining the working conditions and professional status of court interpreters in Australia. Drawing on the concept of professional needs, one of the questions in their questionnaire for interpreters asked about their seating position in the courtroom. Specifically, it asked "whether they are instructed to sit or stand in particular spots in the courtroom" (Hale and Napier, 2016: 16). Over half of their sample (54%) indicated that "they are usually or always instructed" on where to take the seat (Hale and Napier, 2016: 16). Hale and Napier (2016) conclude that the absence of a designated spot for interpreters to sit in the courtroom (unlike conference interpreters who work in booths) suggests the low status of interpreters "who are often somewhat of an afterthought, rather than being considered a crucial part of the proceedings in the planning of a trial" (Hale and Napier, 2016: 16).

In my observations, I encountered a very similar situation to Australia. As I reported in a previous chapter, interpreters do not have a designated seat and are usually instructed by the court where to sit or to stand. This typically is in the dock with the defendant (usually in Crown Court), outside the dock talking to the defendant through glass (in a magistrates' court), or in the witness box. In other courts, the interpreter is typically seated next to the defendant in the courtroom.

An exception to these observations was a trial in the Crown Court involving multiple defendants where it was considered more cost effective to arrange conference interpreting for that particular trial. The interpreters thus had assigned seats outside the dock and were provided with the necessary equipment for conducting simultaneous interpreting (see observation sheet No. 12).

My field notes observe that "[t]he interpreter was instructed to move and take the position on the defendant's side from the left" (see observation sheet No. 7). Another example from observation sheet No. 11 reports that "[t]he interpreter was instructed to take a seat by the usher and not by the door". These examples reveal that unlike other key players of

the legal system, court interpreters in England and Wales do not have a dedicated workplace.

Hale and Napier (2016: 16) note that the lack of a designated place for interpreters to work suggests their low professional status, as they are often seen "somewhat of an afterthought, rather than being considered a crucial part of the proceedings in the planning of the trial".

5.2.2.4 Breaks for interpreters

Another aspect contributing to interpreter working conditions is the provision of breaks. Regular breaks are essential for interpreters to sustain their mental and physical capability and well-being in order to ensure the accuracy of their work. As discussed earlier, conference interpreters typically work in pairs and take breaks every twenty to thirty minutes. However, court interpreters usually work alone and are not allowed breaks during the proceedings unless the judge grants one to everyone in the courtroom. Interpreters sometimes have to work for hours, interpreting consecutively and simultaneously (whispering) without a break.

The below examples from my field notes illustrate the lack of breaks for court interpreters in England and Wales:

> When the jury were allowed to take a break (a few times), the interpreter and defendant remained standing in the witness box from 10:00 AM until 1:00 PM. They were allowed to take a ten-minute break only once. At 1:00 PM the court left for lunch. (Observation sheet No. 8)

Another example from observation sheet No. 10 notes "[n]o breaks provided for the interpreters".

An interesting observation was made in the Crown Court during a murder trial where conference interpreting was arranged. As discussed earlier, conference interpreting allowed the interpreters to take regular breaks. In follow-up discussions with them, they reported that regular breaks were facilitated by a defence barrister as and when requested by them (observation sheet No. 13). Yet this was an exception rather than the rule as in the majority of cases, interpreters work alone and are not permitted to take regular breaks during a trial.

In conclusion, the working conditions of court interpreters pose significant challenges that impact their ability to perform effectively. These challenges include the availability of necessary equipment, catering provisions, the position of the interpreter in the courtroom, and the provision of breaks. The lack of designated seating for interpreters and inadequate considerations for their comfort highlight broader issues related to the neglect of interpreter well-being and professional needs within the legal system (Gibbons, 2003; Hale and Napier, 2016).

5.2.3 Theme 3 – Attitude towards interpreters in the courtroom

This theme encompasses the attitudes towards interpreters that I observed in the courtroom, typically manifested in acknowledgement of their presence and professional needs. This includes making pauses to allow the interpreter to perform their job as well as direct or indirect comments and remarks by legal professionals that contribute to understanding the role and status of interpreters in the courtroom. This theme consists of three subthemes:

a. Positive acknowledgement of the interpreter's presence in the courtroom.
b. Lack of consideration/acknowledgement given to the presence of the interpreter in the courtroom.
c. Interaction between interpreters and court personnel.

It is interesting to note that positive acknowledgement was observed in fewer cases than the lack of acknowledgement of interpreters in the courtroom.

5.2.3.1 Positive acknowledgement of the interpreter's presence in the courtroom

In the context of this study, "Positive acknowledgement of the interpreter's presence in the courtroom" (Subtheme 3a) refers to consideration given to the interpreter's professional needs. As discussed already, this includes the provision of necessary equipment, speaking loudly enough, breaking up sentences into manageable chunks for the interpreter to handle consecutive interpreting, and speaking at a pace that allows the interpreter to follow when interpreting simultaneously. I noted and recorded such positive acknowledgement in eleven (31%) cases out of the thirty-five attended. Out of

these eleven cases, four (36.4%) were observed in the Crown Court, another four (36.4%) in the immigration tribunal, and three (27.2%) in the magistrates' court.

The example below was observed in an immigration tribunal hearing wherein the judge stepped in and instructed the Home Office representative to slow the pace of his speech so the interpreter would be able to follow him:

> "Please give [the interpreter] the chance…to follow you", the judge says to the Home Office representative. [The latter] slows down and makes pauses for the interpreter. The interpreter follows him closely. (Observation sheet No. 25)

Another example of positive acknowledgement of the interpreter's presence in the courtroom was recorded in the Crown Court during a VAT fraud hearing (see observation sheet No. 8). But in this case, the judge's attitude towards the interpreter was somewhat inconsistent: while he tried to speak clearly, breaking up his sentences into manageable chunks for the interpreter to handle CI in the witness box, he also did not let her finish interpreting in the witness box and rushed to proceed with the trial. I noted this example in both positive acknowledgement (Subtheme 3a) and lack of acknowledgement (Subtheme 3b). I also believe this example vividly illustrates persistent inconsistencies in perceptions of the interpreter's role in the legal system in England and Wales as well as echoes the wider academic literature (Morris,1995, 1999; Berk-Seligson, 1988, 1990; Hale, 2004; Lee, 2009a).

The next example that I found noteworthy was recorded in Birmingham Magistrates' Court (see observation sheet No. 33) when the magistrate said to the counsel, "Today, he has the benefit of the interpreter who can interpret your comments on this matter, sir". This was a rather positive evaluation of the interpreter, who was considered a benefit to the proceeding, ensuring that everything said in the courtroom would be interpreted to the defendant and vice versa.

In contrast to numerous instances (below) where the interpreter's role was undervalued by court personnel, I observed a different situation. Here, a magistrate asked the prosecutor to slow down for the interpreter and gave him her notes so the interpreter could follow her (see observation sheet No. 21.) Coupled with the other examples discussed already, this suggests that the overall attitude towards interpreters is not uniform and varies across different courts and even individuals.

5.2.3.2 Lack of consideration/acknowledgement given to the presence of the interpreter in the courtroom

Subtheme 3b contrasts with Subtheme 3a (Section 5.2.3.1), indicating the absence of elements suggesting positive acknowledgement or the presence of those associated with a negative evaluation of the interpreter's role in courtroom interaction, including perceptions of the practitioners themselves. Lack of consideration and/or acknowledgement of the interpreter's presence in the courtroom was recorded in fourteen (40%) cases out of the thirty-five attended for observation. Out of these fourteen instances, seven (50%) were recorded in the Crown Court, four (29%) in the immigration tribunal, two (14%) in the magistrates' court, and one (7%) in the county court.

Below, I provide examples I found most interesting from different court types. The below example was observed in the immigration tribunal:

> The barrister goes very fast without making pauses for the interpreter. The interpreter can't catch up and does not interpret the final part of his speech. (Observation sheet No. 27)

This was the most frequent and common occurrence throughout my observation of different court types. As discussed earlier, interpreters sometimes rectify the situation themselves by raising a hand and requesting a repetition, slower pace, or broken sentences. Alternatively, other court actors, such as the judge or council, might instruct adjustment of their speech for the interpreter.

Another example of inconsistent attitude from a judge was observed in the Crown Court. While the judge typically paused for the interpreter, on one occasion he did not allow the interpreter to finish interpreting and continued with the proceeding at the usual speed (see observation sheet No. 6).

As for the county court, although I did not have a chance to attend many hearings there, those I did have an opportunity to observe suggested that the presence of the interpreter was not very well acknowledged by the judge. During a follow-up chat, an interpreter admitted that county court staff were more ignorant of the interpreter's role than staff in criminal courts (see observation sheet No. 20).

Finally, some interpreters reported a lack of acknowledgement and respect for their role

by courts and legal professionals (further discussed in Chapter 6).

In conclusion, Subtheme 3b sheds light on the insufficient acknowledgement and often negative evaluations of the interpreter's role in various courtroom interactions, including the self-perceptions of practitioners. Lack of consideration or recognition of the interpreter's presence was noted in 40% of the observed cases, to varying degrees of frequency across court types. Notably, the Crown Court exhibited the highest instances of such disregard while the immigration tribunal, magistrates' court, and county court also demonstrated varying degrees of neglect. Examples from different courts illustrate instances where barristers spoke too quickly for interpreters to catch up, leading to incomplete interpreting.

Additionally, judges exhibited inconsistent attitudes. The county court, in particular, seemed to display less awareness of the interpreter's role, as indicated by both observation and feedback from interpreters themselves. Overall, the consistent theme of insufficient acknowledgement and respect for the interpreter's role emphasises the need for increased awareness and recognition within the legal system.

5.2.3.3 Interaction between interpreters and court personnel

Through my observations of interpreter-mediated hearings, I recorded a few noteworthy examples of rather friendly social interactions and decided to include them into a subtheme titled "Interaction between interpreters and court personnel" (Subtheme 3c) under the theme "Attitude towards interpreters in the courtroom" (Theme 3). I believe that interaction between interpreters and court personnel also contributes to understanding the overall attitude towards interpreters in the courtroom.

Here is an example of friendly interaction between an interpreter and court personnel outside the courtroom at Birmingham Magistrates' Court:

> After the hearing, the interpreter was talking to and laughing with the court usher and other court personnel and being very friendly with them. (Observation sheet No. 14)

An interesting episode was documented at the Crown Court in Birmingham. One of the interpreters hired for the VAT fraud trial brought homemade cakes into the courtroom to

treat her colleagues (other interpreters) as well as other participants of the proceeding, including legal professionals and possibly defendants (I cannot be sure about the defendants, but I can infer this from the friendly interactions I observed between the interpreters and defendants during that trial). This episode was initially documented as a critical incident but included here for discussion as a pertinent example.

> During one of the breaks, a member of court personnel came out of the courtroom and made a comment about the "nice cakes" one of the interpreters brought into the courtroom the other day and said he wished she had brought some more. This was a very friendly comment, like one would make to a colleague at any other workplace, which suggested to me that interpreters had become more or less equal actors of the courtroom and were seen as colleagues, as part of the team. (Observation sheet No. 10)

This episode could indicate that interpreters who work on long trials over many days – sometimes weeks or even months – become an integral part of the team. The friendly comment from court personnel about the interpreter's homemade cakes suggests that interpreters are perceived as more than just service providers; rather, they are seen as colleagues and valued members of the courtroom team. However, while friendly interactions between interpreters and court personnel can contribute to a positive working environment, there is a potential downside: excessive familiarity or informality could blur professional boundaries and, in some cases, lead to challenges in maintaining the interpreter's impartiality and neutrality. It is essential for interpreters to maintain professional conduct and avoid any appearance of bias or favouritism. A balance between a friendly atmosphere and maintaining professional boundaries is thus crucial to upholding the integrity of the interpreting process in the courtroom.

I observed the most interesting instances of friendly and social interactions at the Birmingham immigration tribunal. On a few occasions, I observed an interpreter being friendly with the court staff (interpreters' clerks), giving a hug to one of them (observation sheet No. 27). Here is another example of an interpreter's rather informal interaction with the court personnel in the immigration tribunal:

> The interpreter gives a slight smack to the back of the interpreter clerk's head as a joke and another interpreter gave her a hug like to a close friend. (Observation sheet No. 25).

Below are two more examples observed in the same court during the same visit:

> The interpreter was greeted by the home officer rep as he entered the room and made a joke: "Oh, not you again, you follow me around" and then turned to me and said, "He is good". (Observation sheet No. 25)

> "Good afternoon, Mr..." and they both smiled, which suggested familiarity between them, and [that] the interpreter is known to the court. The judge was the same as in a previous hearing (see notes above). Similarly to the previous case, the judge asked both sides to go slowly in submission to give the interpreter a chance to follow them. (Observation sheet No. 25)

In the above examples, the interpreter was greeted by the Home Office representative and by the judge upon entering the courtroom. During the proceeding, the judge further took care to ensure the interpreter could follow what was said in the courtroom.

To sum up, during my observations, I noted instances of friendly social interaction between interpreters and court personnel that suggest a positive rapport and the integration of interpreters into the courtroom team. Yet while these interactions contribute to a positive working environment, it is crucial to balance friendliness with professionalism. Excessive familiarity could risk compromising the interpreter's impartiality and neutrality. Nevertheless, these instances (particularly at Birmingham Immigration Tribunal) reveal that interpreters can become integral members of the courtroom team. This promotes a collaborative atmosphere, which can be considered a positive trend.

5.2.4 Theme 4 – General deterioration of professional standards in the field

Through observing interpreter-mediated hearings in various court settings and conversing with practitioners, legal professionals, and defendants, I noted a consistent decline in the overall quality and professional standards of PSI, especially in court settings, over recent years. My field notes document various examples that suggested this trend. These examples were analysed and categorised under the theme "General deterioration of professional standards in the field".

This theme consists of four subthemes:

a. Status of interpreters (changed for worse), the profession is no longer

respected.

b. Qualified interpreters leaving the profession.
c. Drop in standards of court interpreting (poor-quality interpreting).
d. Absence of the interpreter (not provided/didn't turn up) when needed.

Subthemes 4a and 4b regarding the declining status of interpreters and the departure of professionals were primarily identified through conversations with practitioners. Some expressed their sentiments about the profession, with a few confessing their plans to change careers. Subtheme 4c was identified through observation of interpreter failings in the courtroom. It was also supplemented by follow-up conversations with legal professionals and practitioners.

Subtheme 4d may appear unrelated at first glance. However, in the context of overall declining standards and the departure of qualified interpreters from the profession, there is a shortage of interpreters. This shortage sometimes results in unavailability when needed or the use of untrained interpreters who may fail to show up for assignments.

These subthemes exhibit some overlap with the themes identified through the analysis of critical incidents (Section 5.1), such as "Failings of interpreters" (Section 5.1.1), "Failure to book an interpreter" (Section 5.1.3), and to some extent, "Lack of consideration and respect for interpreters" (5.1.5). All these themes will be integrated into the final thematic structure later in this chapter.

Below, I discuss these subthemes in more detail and provide examples from my field notes.

5.2.4.1 Status of interpreters (changed for worse), the profession is no longer respected

Many interpreters I spoke to, expressed a sense of disappointment with the new booking system that followed privatisation of the PSI industry and a private company (Capita TI at the time, and thebigword at present) taking over the MoJ contract. The below example is an excerpt from a follow-up conversation with a practising Polish language interpreter at the magistrates' court in Birmingham:

> Attitude to interpreters had got worse with the Capita [TI] taking over the MOJ

> contract, as lots of incompetent interpreters are used in court, which inevitably had a negative effect of the professional standard. (Observation sheet No. 3)

A similar sentiment was expressed by Urdu and Panjabi interpreters I had a chance to speak to at the Crown Court in Birmingham:

> The interpreters feel that the status of the interpreter has tremendously changed following the takeover by Capita [TI]. They feel that the profession of the interpreter in court is no longer respected, and this is not only reflected in their pay, but also in the attitude from the court personnel. (Observation sheet No. 10)

A Romanian interpreter commented on general deterioration in the PSI field following Capita TI's takeover (see observation sheet No. 15). Another Romanian interpreter made an interesting comment about Capita; in a follow-up chat, she referred to the organisation as "Crapita",[10] maintaining that this is how it was known and often referred to in the interpreter community (see observation sheet No. 7).

To sum up, privatisation of the PSI industry and the subsequent takeover of the MoJ contract by private companies (such as Capita TI and thebigword) seem to have led to widespread disappointment among interpreters. Practitioners have voiced concerns about a deteriorating attitude toward interpreters as well as significant decline in the status of and respect for interpreters, affecting both pay and attitudes from court personnel. This decline is attributed to the use of incompetent interpreters under the new agency system, which has adversely affected professional standards.

5.2.4.2 Qualified interpreters leaving the profession

A number of interpreters shared with me that they were planning to exit the profession altogether due to the declining standards, pay, and status of PSI interpreting. A Romanian interpreter confessed to me that she was planning to move to conference interpreting and was doing courtroom interpreting temporarily to keep her skills up (see observation sheet No. 7).

A Pashto interpreter, whom I had an opportunity to speak to in the magistrates' court,

[10] I have no way of evaluating the accuracy of this statement. I am only reporting what was said by an interpreter during our conversation.

said to me, "I can accept low rates, but I cannot accept the lack of respect for the profession and skills I bring to this job" (observation sheet No. 11). He was also considering leaving the profession altogether due to a lack of acknowledgement of his professional role by the courts.

However, despite some interpreters boycotting Capita TI, many reluctantly returned, accepting lower rates and standards because they felt they had no alternative. In a follow-up with the interpreters, one said, "Many interpreters who had been boycotting Capita are coming back to business as they have no choice" (observation sheet No. 10).

5.2.4.3 Drop in standards of court interpreting (poor-quality interpreting)

There were instances where I could infer the poor-quality of interpreting from the interpreter's failings in the courtroom, which led to cancelled or adjourned hearings. In some cases, other interpreters were present, taking notes and later raising concerns over the quality of interpreting (adversarial interpreting, as discussed earlier in this chapter). I have presented a few examples and engaged in a comprehensive discussion on the failings of interpreters in Section 5.1.1 on critical incidents. Here, I would like to offer additional examples drawn mainly from follow-up conversations with interpreters and legal professionals.

During our conversation at Birmingham Magistrates' Court, for example, a Polish interpreter stated:

> "Professional standards have gone down since Capita had taken charge over PSI".
>
> He also said that the attitude towards interpreters had gotten worse, with Capita taking over the MoJ contract as lots of incompetent interpreters are used in court, which inevitably had a negative effect on professional standards. (Observation sheet No. 3)

An interesting comment was made by a Lithuanian interpreter I spoke to before a hearing in the Crown Court in Birmingham, when she said, "It is better than doing an office job or working at the factory and pays better than that as well" (see observation sheet No. 4). This interpreter joined Capita TI after it took over the MoJ contract and was happy

with all the conditions it offered. She carried on, saying, "Old system interpreters are coming back and can be seen in immigration or other tribunal courts. They all moan about 'old system' conditions of pay, etc.". She added that if I wanted to hear their stories, I should go there.

A Romanian interpreter said that she knew interpreters who did some court interpreting on the side of their cleaning job (see observation sheet No. 9). Another Romanian interpreter noted:

> "…some of them are really not competent enough to interpret in court and do exhibit at times unprofessional behaviour, like discussing their personal information with the client, not wearing a badge or [not] adhering to the dress code" (turning up in jeans to court or wearing very casual clothes). (Observation sheet No. 7)

The barrister in the immigration tribunal in Birmingham also complained about interpreting, saying that standards certainly dropped (from the follow-up conversation; see observation sheet No. 22).

Thus, instances of poor interpreting quality leading to cancelled or adjourned hearings were evident in the courtroom, with some interpreters and legal professionals expressing concerns over declining standards and quality following the privatisation of the PSI industry and the takeover of the MoJ contract by companies such as Capita TI and thebigword.

5.2.4.4 Absence of the interpreter (not provided/didn't turn up) when needed

As mentioned above, the absence of interpreters where required was discussed earlier in this chapter (Section 5.1.3). Here, I would like to provide additional examples from my field notes illustrating that interpreters are not always provided, or do not always turn up, for assignments (see observation sheet No. 26), which can have grievous consequences for the accused.

The below example is drawn from my observation of the VAT fraud trial at the Crown Court in Birmingham:

> The defendant made a few comments regarding the absence of the interpreter on

> a few occasions in the past (when he called the police, for example, they did not bring the interpreter; when his statement was taken at the beginning there was no interpreter provided. There were some inconsistencies in his statement and his responses to the prosecutor. He blamed that on the absence of the interpreter at the time when this statement was taken of him. (Observation sheet No. 8)

The example above illustrates that the defendant's statement to the police was made without the presence of an interpreter and displayed numerous inconsistencies. Although it was not possible to establish its precise impact on the trial's outcome, the questions raised about his original statement during the trial suggested it could have had an adverse impact.

To sum up, the discussion of critical incidents (Section 5.1.3) highlighted the significant issue of interpreters not being provided or failing to turn up for assignments. This was further evidenced by examples from my field notes. Such an oversight can have severe consequences for the accused, as illustrated in the observation of a VAT fraud trial at the Crown Court in Birmingham. As noted by (Mikkelsen, 2000) failure to provide an interpreter for a non-English speaker at any stage of the legal process deprives them of the right to a fair trial and could result in miscarriage of justice.

In conclusion, my observations identified the theme of the general deterioration of professional standards in the field of PSI, particularly in court settings. These observations were complemented by my discussions with legal professionals and defendants. The decline is characterised by a significant change in the status and respect for interpreters, qualified professionals leaving the profession due to dissatisfaction with pay, a drop in the standards of court interpreting, and lack of respect and recognition of the profession.

The privatisation of the PSI industry followed by the takeover of the MoJ contract by private companies, such as Capita TI and thebigword, is considered a major factor contributing to this decline. Yet despite their concerns, some interpreters reluctantly returned owing to a lack of alternatives. The consequences of this decline include potential miscarriages of justice, as illustrated by instances where interpreters were not provided or failed to turn up for assignments, affecting the accused's statements and trial outcomes. This highlights the urgent need to address these issues in order to uphold the right to a fair trial for non-English speakers in legal proceedings.

5.2.5 Theme 5 – Forms of address towards interpreters

As noted earlier, the way that individuals are addressed is a crucial indicator of social identities and discourse roles. Addresses play a role in establishing, modifying, or confirming social relationships – and they also indicate a set of conventional expectations (Johnstone, 2008). Brown and Ford (1961) argue that the selection of specific linguistic forms, particularly those related to addressing others in conversation, is influenced by the relationship between the speaker and the person being addressed. Thus, the form of address can provide valuable information about the relationships between the interlocutors as well as indicate the hierarchical positions and status of all parties involved in the interaction.

During my observations, I noticed that the most common form of address towards the interpreter was "Mr or Madam Interpreter". The below examples were recorded in a Crown Court hearing:

> "Mr Interpreter, from time to time, I want you to clarify a question for me", a defence barrister said to the interpreter at the beginning of the hearing.
>
> "Now I would like to turn to our Mr Interpreter to speed up a bit" (the defence barrister says when questioning the defendant). (Observation sheet No. 32)

On a number of occasions, the interpreter was addressed as just "interpreter". Another example was observed in the Crown Court, where the usher approached the interpreter and asked, pointing at him, "Interpreter"? (see observation sheet No. 31)

Another common form of address was indirect, through reference to the presence of the interpreter when his/her assistance was required:

> "If you don't understand my question, use the interpreter for help" (the prosecutor says to the defendant). The interpreter switches on immediately at this indirect form of address and interprets a question to the defendant into his language immediately. (see observation sheet No. 32)

Only on one occasion did I record that the interpreter was greeted and addressed by the judge in the immigration tribunal by his title and name:

> "Good afternoon Mr..." and they both smiled, which suggested familiarity between them, and the interpreter is known the court. (Observation sheet No. 25)

In most cases, then, the interpreters are addressed in the courtroom as follows:

- Mr/Madam Interpreter
- Interpreter
- An indirect form of address

The address "Mr/Madam Interpreter" indicates that interpreters are acknowledged by their profession and job title. However, the court does not typically address them by their last name (unlike counsels, who are usually addressed by their title and last name). It's noteworthy that the judge is commonly addressed as "Your Honour", symbolising the highest status in the courtroom hierarchy. An exception to this norm was observed in the immigration tribunal (see observation sheet No. 25), where interpreters were occasionally addressed by their last name, although this was not the standard practice.

The other two forms of address indicate a lower status in the courtroom hierarchy, and this might suggest a lower degree of acknowledgement and respect towards the interpreter.

To sum up, the prevalent use of "Mr/Madam Interpreter" indicates recognition of interpreters by their profession, although the omission of last names may imply a different level of acknowledgement compared to other court professionals. Another common practice was simply addressing the interpreter as "Interpreter"; indirect forms of address referencing the interpreter's assistance were also frequent. Variation in forms of address reflect the complex dynamics of the courtroom hierarchy and may be indicative of the interpreter being an outsider rather than an integral part of the courtroom.

5.2.6 Theme 6 – Differences between types of courts

As discussed in the previous chapter (Sections 4.4.2, 4.4.3, 4.4.4, 4.4.6, and 4.4.7 respectively), during my observations at various types of court I identified the following differences:

- Degree of formality and power representation
- Physical settings of courtrooms
- Participants of trials (hearings)

- Procedural differences
- Linguistic differences

In Chapter 4, I discussed in detail the different types of courts in terms of their physical settings, degree of formality and power representations, trial participants, dress code, and so on. In this section, I mainly focus on how interpreters feel about different types of courts and relevant comments, all of which are from a follow-up chat with the speaker (interpreter).

> "At magistrates' [court], they stop and pause for the interpreter whereas at Crown Court, no one gives any consideration to the presence of the interpreter". (It appears that the role of the interpreter is more recognised and valued at magistrates' court than at Crown Court). (Observation sheet No. 7)

> As for different courts, they both replied that the Crown Court is the most difficult and challenging with regards to vocabulary, pressure, speed of delivery, and the whole atmosphere. Family court is very hard emotionally but linguistically easier, and the immigration court is the easiest to work at/with and generally they are the most relaxed in terms of the atmosphere. (Observation sheet No. 10)

> The interpreter noted that [they] cope better with the family court atmosphere as [they] find it more relaxing and less adversarial than criminal courts. (Observation sheet No. 20)

The above three examples illustrate that interpreters perceive civil courts as less adversarial and more relaxing than criminal courts. Additionally, they find civil courts easier linguistically but sometimes more challenging emotionally, particularly when dealing with personal and family matters, children, etc. A noteworthy observation from an interpreter regarding the magistrates' court is that it tends to accommodate the interpreter's presence more than the Crown Court, pausing for the interpreter and allowing them to perform their job. I also observed this trend, which indicates that the interpreter's role is more recognised by the magistrates' court than by the Crown Court, and even less so by the civil court.

The next example is drawn from my very first observation of the immigration tribunal, which struck me with its completely different setting and atmosphere. In this tribunal, visitors are welcomed in many different languages (Figure 12, Chapter 4). For visitors

with children, there is a playground (Figure 13, Chapter 4) and interpreters have their own room similar to chambers for legal professionals (Figure 14, Chapter 4) where I was offered a cup of tea by one of the interpreters. The courtroom layout is significantly different, with participants seated around a table (Figure 11, Chapter 4), promoting and facilitating dialogue rather than inviting a contest. I noted that it was a

> Completely different setting. Although the judge was positioned slightly above and centrally in the room, all the rest [of the] participants were sitting at the table going round. (Observation sheet No. 22)

Another example concerns the overall atmosphere and relationships between interpreters and court personnel in the immigration tribunal. As noted above, the atmosphere in the tribunal is very different from that of all the other courts. Interpreters seem to be more valued and acknowledged by court personnel and legal professionals, including judges:

> On a separate note, I noticed the relationships of interpreters with the interpreter clerks who sit at the interpreter call point; they are very informal and friendly. One of the interpreters gave a slight smack on the back of the clerk's head as a joke [and] another interpreter gave her a hug as a dear friend. Overall, the setting in this court is very informal and friendly. There is a playground for children and at the reception area on the ground floor, the greetings are in different languages. This makes this court stand out from any other court I have been to so far. (Observation sheet No. 25)

Overall, my observations of interpreter-mediated hearings in different types of courts suggest that immigration tribunals are very different court settings compared to criminal and even civil courts. Interestingly, Pöllabauer (2004) expresses a similar view. She argues that interpreting in asylum hearings is different from other court settings due to the nature of the cases heard for asylum. She further argues that interpreters working in asylum hearings should receive special training to be well-prepared to work in those settings where the atmosphere is so charged, and people's lives are at stake (Pöllabauer, 2004). This idea suggests that courtroom interpreting may not be as homogeneous in nature as widely accepted. Further research is required to establish the degree of disparity between various courts and whether that exerts an impact on interpreting practices.

5.2.7 Theme 7 – Interpreter role performance

I labelled this theme "Interpreter role performance" because it pertains to interpreter actions and conduct in the courtroom, providing insights into their understanding of their role. Ultimately, how they "perform" their role is based on that understanding.

Examples of role performance I observed and will discuss in this section are:

- Using direct speech in interpreting (first vs third person)
- Interpreting everything said in the courtroom without being prompted
- Seeking clarification where appropriate
- Swearing an oath in the courtroom (particularly without being prompted)

For example, professional interpreters tend to use direct speech (speaking in the first person) when interpreting the speaker, acting as the so-called voice of the speaker. Some interpreters shift to the use of indirect speech (referring to interacting participants in the third person), but this is usually associated with a lack of knowledge of the interpreting process/protocol and generally with a lack of interpreter training and qualification (Dubslaff and Martinsen, 2005; Angermeyer, 2009).

In my observations, I noted that most competent and confident interpreters would always stick to the use of the first person (direct speech) unless the interpreter's intervention (such as a cultural note or explanation) was required.

Here are a few examples of use of the first vs third person (direct vs indirect speech) by interpreters in the courtroom:

- The interpreter uses the third person (see observation sheet Nos. 20, 23, 27)
- The interpreter shifts to using the third person to save everyone confusion (from the follow-up with the interpreter, observation sheet No. 20).
- The interpreter uses the first person (see observation sheet Nos. 27, 32)
- When asking the interpreter for assistance, the defence barrister addresses the defendant in the third person, but the interpreter interprets using the first person (see observation sheet No. 32).

Here is an example of an interpreter's role performance wherein the interpreter intervenes without being prompted:

> The interpreter looks very alert and listens carefully to the defence barrister and

> the defendant and steps in. His body is turned towards defendant, so he directly faces the defence barrister and the prosecutor. (Observation sheet No. 32)

The interpreter clarifies matters with the appellant before interpreting back to the court:

> The interpreter said, "one second, sorry", and she clarifies the point with the client and then interprets it back to the judge. (Observation sheet No. 24)

The next three examples illustrate how the interpreter is interpreting everything happening in the courtroom. I inferred this from their attempts to render the language as closely as possible to the original, including mimics, gestures, intonation, etc. Additionally, the interpreter does not speak to the defendant if no one else is speaking in the courtroom at that time and only starts speaking in tandem with the next speaker, suggesting their professionalism:

> The interpreter renders everything what is happening in the room to her client. (Observation sheet No. 28)[11]

> The interpreter is being faithful to the original, trying to replicate the speaker as closely as possible. (Observation sheet No. 28)

> The interpreter would only start talking when anyone else would start talking (which suggests to me that she was interpreting everything she could hear in the courtroom). (Observation sheet No. 34)

Swearing an oath by interpreters can also be considered a facet of their role performance. When they do so unprompted, this suggests familiarity with courtroom protocol as it is becoming an integral part of their role. I will not provide further examples of interpreters swearing an oath as this has already been comprehensively discussed earlier.

In conclusion, the theme of "Interpreter role performance" reflects the interpreter's actions and conduct in the courtroom, shedding light on their understanding of their role which ultimately dictates how they execute their responsibilities. As noted by Hale (2004, 2008), the challenge often lies not in the interpreter's performance but in their role. Professional interpreters typically employ the first person when interpreting, embodying

[11] The interpreter in this observation was not registered with Capita TI and was wearing a NRPSI badge.

the voice of the speaker. Through extensive observations, it became evident that competent and confident interpreters consistently adhere to the use of direct speech, deviating only when specific interventions, such as cultural notes, are necessary. The provided examples highlight instances where interpreters perform their role by clarifying points with clients, intervening without prompting, and faithfully replicating speakers. Their professionalism manifests itself in refraining from speaking to the defendant and interpreting only when someone speaks in the courtroom.

5.2.8 Theme 8 – Adversarial interpreting

This theme was also identified in the analysis of critical incidents (Section 5.1.8) and comprehensively discussed earlier in this chapter. Therefore, I will skip discussion of it here.

5.2.9 Theme 9 – Interpreter dress code in the courtroom

In many workplaces, a professional appearance is essential. This typically involves wearing clean, neat, and well-fitted clothing. Formal business attire, such as suits, ties, and business dresses, may be required in more formal or corporate environments.

As discussed in the previous chapter, the dress code in legal settings in England and Wales depends on the court type, occupied position, and occasion. For consultations outside the courtroom (chambers and/or offices), advocates can wear a suit or business dress. But in the courtroom, all English courts except for magistrates' and family courts require legal professionals and court personnel, whether judges, barristers, solicitors, court clerks, recorders, or ushers, to wear court dress (Isani, 2006).

Unlike legal professionals, court interpreters do not have a set dress code to wear in court and are not required to wear a business suit or dress. Thebigword interpreting service agreement (2018) states the following:

> 32. You shall dress appropriately for all assignments undertaken by you. If your appearance could be considered inappropriate, you may be removed from the assignment. We reserve the right to classify this as a non-attendance.

It is unclear from the above paragraph what is considered "appropriate" or

> "inappropriate" dress. I observed interpreters wearing jeans, a shirt, and a jumper (smart casual style) in the courtroom on several occasions without facing reprimand or removal from the assignment (see observation sheet No. 32). It can be concluded that smart casual wear is acceptable for interpreters in the courtroom, although this dress style might not be acceptable for other court actors. I also saw interpreters wear business suits and a tie. However, this is not a requirement but their own decision to dress that way (see observation sheet Nos. 11, 35). I noticed that male interpreters tended to dress smarter and more professionally than female interpreters; usually, the former wore a suit and tie, etc. (see observation sheet No. 11).

To sum up, my observations revealed interpreters wearing jeans and a shirt or a jumper (smart casual style) in the courtroom without facing consequences. This suggests that smart casual wear is deemed acceptable for interpreters, although it may not be suitable for other court actors. Interpreters, at their discretion, may choose to wear business suits and ties. There is also a noticeable trend wherein male interpreters tended to dress more professionally, often opting for suits and ties, compared to female interpreters. This observation points to a degree of individual choice and flexibility in the courtroom interpreter's attire. The flexibility and absence of specific requirements for interpreter dress code in the courtroom further suggest that by not adhering to a standardised dress code, interpreters maintain an auxiliary status and are perceived as outsiders within the wider legal community.

5.3 A finalised list of themes

Themes identified during the analysis of critical incidents were integrated into the thematic structure that encompasses all themes identified through analysis of ethnographic field notes as follows:

Theme 1 – Possible roles for the interpreter in the courtroom

Subthemes

a. "[The] interpreter is just a machine" (from the follow-up with the interpreter, noted in observation sheet Nos. 4, 28).
b. "The interpreter was there just to clarify things", or the interpreter as a back-up (noted in observation sheet Nos. 5, 26, 31, 32).
c. The interpreter does not interpret everything and at times keeps silent, or the

gatekeeper (noted in observation sheet Nos. 8, 10, 16, 23, 26, 27, 32, 35).

d. The interpreter as a friend/helper.
e. Interpreters interact with the defendants socially (noted in observation sheet Nos. 10, 35).
f. Interpreters intervene in the process (noted in observation sheet Nos. 10, 20, 21, 22, 24)
g. Interpreters take on additional roles (noted in observation sheet Nos. 14, 21, 22, 27, 29
h. Interpreters exercise some control over the proceeding (CIS)

Theme 2 – Working conditions of the court interpreters

Subthemes

a. Availability of necessary equipment (hearings loops and microphones) for the interpreters (Noted in the observation sheets No. 2, 4, 5, 12, 14, 16, 17, 35).
b. Catering and provisions for the interpreters (noted in the observation sheets No. 6, 8, 19, 27).
c. Position/location of the interpreter in the courtroom/ the absence of the designated place for the interpreter in the courtroom. (Noted in the observation sheets No. 7, 8, 11, 12, 14, 26, 31, 33, 34, 35).
d. Breaks for interpreters (noted in the observation sheets No. 8, 10, 13).

Theme 3 – Attitude towards interpreters in the courtroom

Subthemes

a. Positive acknowledgement of the interpreter's presence in the courtroom (noted in observation sheet Nos. 6, 7, 8, 16, 23, 24, 25, 29, 33, 34).
b. Lack of consideration/acknowledgement given to the presence of the interpreter in the courtroom (noted in observation sheet Nos. 3, 5, 6, 8, 10, 11, 20, 23, 24, 27, 29, 31, 34, 35).
c. Interaction between interpreters and court personnel (noted in observation sheet Nos. 14, 25, 27).
d. Lack of awareness of the interpreter's role among court personnel (noted in observation sheet Nos. 17, 20, 31).

Theme 4 – General deterioration of professional standards in the field

Subthemes

a. The status of interpreters (changed for worse), the profession is no longer respected (noted in observation sheet Nos. 3, 4, 7, 10, 11, 24).
b. Qualified interpreters leaving the profession (noted in observation sheet Nos. 7, 11).
c. Drop in standards of court interpreting (poor-quality interpreting).
d. Absence of the interpreter (not provided/didn't turn up) when needed (noted in the observation sheet Nos. 4, 8, 28, 31).
e. Failings of the interpreter (CIS)

Theme 5 – Forms of address towards interpreters

Theme 6 – Differences between different types of courts

Theme 7 – Interpreter role performance (confident and competent interpreting/professional behaviour of interpreters (noted in observation sheet Nos. 3, 11, 14, 15, 21, 28, 33, 34, 35).

Subthemes

a. Interpreters swear an oath unprompted (in CIS)

Theme 8 – Adversarial interpreting (noted in observation sheet Nos. 12, 13, 19, 30)

Theme 9 – Interpreter dress code in the courtroom (noted in observation sheet Nos. 11, 32, 35)

5.4 Role and status of the interpreter in the courtroom

As mentioned in Chapter 4, the final two categories on the observation sheet were "Interpreter's roles" and "Interpreter's status in the courtroom". I typically completed these two fields after the observations had taken place, and the notes in the fields comprised my reflections and a summary of what I had observed in a particular hearing. Similarly, I have left these two fields to the very end of my discussion as a final accord in my ethnographic observations. They complete the picture by presenting a comprehensive view of the interpreter's roles and status in the courtroom.

As demonstrated in the exhaustive earlier discussion, interpreter roles in the courtroom are highly varied and complex. They comprise multiple aspects and elements at different

levels: linguistic, cultural, ethical, practical, behavioural, and so on. However, ultimately, all these different roles largely pursue one goal – to make communication between two parties possible and to ensure understanding between the parties involved. Thus, when reflecting on my field notes at the end of each observed hearing, I more often than not noted the role of the interpreter as a "facilitator of communication". This particular role description appeared in thirty-three (94%) out of thirty-five observed cases. Other role descriptors I used in order to capture the observed were:

- friend/advocate for the defendant
- psychological support
- admin role
- machine/conduit/robot
- back-up ("stand by")
- gatekeeper
- helper
- faithful renderer of the original utterances
- cultural expert
- coordinator of the proceedings (usher?)

Each of these roles was discussed in Chapter 1.

Most of the aforementioned roles were recorded along with "facilitator of communication"; often, more than one role descriptor would apply to each hearing I observed. This further reaffirms the intricate nature of the interpreter's role. The complexities arise from the interpreters' understanding of their own roles, conflicting expectations imposed by legal professionals, and expectations imposed by various codes of conduct that also lack consistency, clarity and uniformity – coupled with the adversarial nature of the legal context, various court settings, and unfavourable working conditions. All these factors play a role in the interpreter's performance of a diverse array of roles. Adding to the complexity is the factor of human nature, where individuals may naturally incline toward helping and supporting, or becoming emotionally involved and taking sides without realising it, and so on.

Hale (2008: 102) argues that the only "adequate role" for the interpreter is a "faithful renderer of the original utterances". She warns against interpreters assuming the role of "facilitator of communication" because, in her view, it combines two roles: "advocate for the powerless participant" and "advocate for the powerful participant". Both lack

impartiality. By assuming this role, interpreters are essentially trying to help both sides to communicate effectively (Hale, 2008: 102). However, as my findings suggest, the reality is different and far from the proposed ideal role of "faithful renderer of original utterances".

As for the field titled "Interpreter's status in the courtroom", I recorded "professional" in twenty cases (57%), recognising the interpreter in a professional capacity. In five cases (14.4%), I noted "professional, but not much consideration given to the presence of the interpreter", or professional but auxiliary or inferior and subservient status compared to other court actors. For the remaining ten cases (28.6%) I recorded the interpreter's status as follows:

- "outsider"
- "not recognised"
- "professional status questioned"
- "no consideration or barely any respect shown to the interpreter"
- "invisible"

Thus, although the status of the professional interpreter was acknowledged and recognised in over 50% of the cases (although not as an integral part of the courtroom), in nearly one third of the observed cases, the status of the interpreter was not very clear – or worse, it was inferior and subservient to other court actors. This is concerning as status is a very important aspect of the professional standing and has a direct impact on professional performance (Hale and Napier, 2016).

5.5 Chapter summary

Ethnographic observations of courtroom interpreting in England and Wales and analysis of critical incidents and other ethnographic field notes provide a comprehensive understanding of the interpreter's role in the legal system of England and Wales. The identified themes shed light on the multifaceted nature of this role, revealing both positive and concerning aspects within the courtroom environment.

One significant theme revolves around the possible roles of interpreters in the courtroom. These range from the interpreter being perceived as a mere machine to taking on additional responsibilities beyond their traditional role of a conduit for language. My

observations show that interpreters frequently adopt multiple roles, sometimes acting as a friend/helper, gatekeeper, coordinator, and so on. Still, the role of "facilitator of communication" emerges as one of the most prevalent despite some academics warning against it (Hale, 2008).

The phenomenon of adversarial interpreting introduces an added layer of complexity wherein third parties monitor or challenge the interpreter's output. While this may facilitate quality assurance, it could also impose additional strain on the interpreter and impact their performance to the point of influencing the outcome of the trial. Perhaps more rigorous quality-checking and vetting procedures could be considered at the recruitment stage of employment rather than during a live performance.

Another significant theme was the working conditions of court interpreters, which encompassed issues such as the availability of necessary equipment, catering provisions, the interpreter's physical position in the courtroom, and breaks. The findings reveal challenges interpreters face in maintaining optimal working conditions in more detail, emphasising the need for improved support structures and recognition of the interpreter's professional needs.

Furthermore, the social and professional status of interpreters appears compromised. As mentioned earlier, this is reflected in a lack of recognition and dismissive attitudes from court officials, reduced pay, and worsened working conditions. At times, interpreters seem to be on the periphery of court proceedings. Their professional needs are often an afterthought, as evidenced in poor audibility, the absence of essential equipment or a designated workplace (seat), and procedural oversights. This consistent pattern of neglect of the professional needs of interpreters implicates the low status assigned to interpreters in the courtroom. In addition, variation in forms of address (or lack thereof), along with the absence of dress code requirements for courtroom interpreters, illustrate the complex dynamics of the courtroom hierarchy. There, interpreters are often perceived as outsiders rather than as integral members of the courtroom.

The lack of consideration and respect for interpreters within the courtroom setting is a prevalent issue. Descriptors in my field notes such as "outsider", "not recognised", and "invisible" highlight instances where the interpreter's professional standing was either not acknowledged or diminished. Non-verbal disapproval and dismissive attitudes from legal professionals further hinder effective communication, raising concerns about the

fairness of legal proceedings involving non-English speakers.

The general deterioration of professional standards in the field – evidenced by changes in the status of and respect for interpreters, qualified professionals leaving the profession, and instances of poor interpreting quality – should give rise to significant if not urgent concern. This study identifies the privatisation of the interpreting industry as a contributing factor to the general deterioration of professional standards and quality of interpreting as well as a significant decline in pay and working conditions for interpreters, all of which lead to diminishment of the interpreter's social status. These issues highlight the need for reforms to address the challenges and ensure the right to a fair trial for non-English speakers.

In conclusion, the interpreter's role in the legal system of England and Wales is complex and multidimensional. It encompasses various roles, challenges in working conditions, diverse attitudes from various stakeholders, and concerns about professional standards. This complexity is further exacerbated by a lack of awareness, understanding and recognition of the interpreters' role in the courtroom by court personnel. This finding highlights the need for education of the legal professionals and court personnel on the remits of the interpreter's role to promote effective collaboration between all parties involved in the proceedings.

The identified themes contribute to a broader understanding of the interpreter's evolving role and professional identity within the legal system and in the context of superdiversity. They invite further research, policy considerations, and initiatives to address the specified challenges and promote the fair administration of justice.

6 DATA ANALYSIS: SURVEYS AND INTERVIEWS

This chapter will analyse and discuss the survey conducted with interpreters and legal professionals. Additionally, I will compare their views on the role and status of the interpreter in the courtroom. In the second half of this chapter, I will discuss the themes identified in the audio transcripts and explain the thematic maps created from this analysis. I will also explore the professional identity of the interpreter and how it is constructed through interaction using Bucholtz and Hall's (2005) framework.

As a researcher with theoretical and practical background in interpreting, I acknowledge that my positionality in designing survey questionnaires and conducting follow-up interviews may have been influenced by a certain degree of professional bias. Despite my attempts to remain detached, neutral and objective, the structure of the survey questions and those posed in follow-up interviews suggest that my position as a researcher may have unintentionally shifted towards aligning with and sympathising with the interpreters. For example, I used terms such as "professional role", "professional recognition", "status of the interpreter in the UK legal system", and whether this status has changed in recent years (implying the MoJ reform to privatise PSI), which may have led participants to align their responses with these suggested themes.

Similarly, during follow-up questions, I found myself probing areas that resonated with my own professional experiences and views. This would inevitably have had an impact on the responses elicited from the survey participants, as my phrasing and emphasis may have subtly guided their answers in ways that reflected my own perspective. These factors should be carefully considered when interpreting and analysing the data.

6.1 Questionnaire for interpreters

As discussed earlier, my original research question was concerned with the role of the courtroom interpreter as well as differences across court types. I aimed to uncover whether the interpreter's role might be influenced by a particular court type. Later in the research, however, I developed an interest in the professional identity of interpreters and how it is constructed in the new superdiverse context. While my interest in the role of interpreters remained constant, it slightly shifted focus toward the professional identity

of courtroom interpreters. With this shift in mind, I revised a questionnaire for the interpreters and included questions that would help me better answer the research questions outlined in Chapter 2.

This chapter primarily focuses on the revised (second-round or main) questionnaire for interpreters and the questionnaire for court officials. I also selectively address questions from the first-round questionnaire that offer valuable information and contribute to answering the research question in the context of the revised study. Both questionnaires are provided in Vol 2, Appendix 2.

Alongside the analysis, I discuss the survey results under each analysed question to maintain the cohesion of the findings and their interpretation.

For my survey analysis, I employ to the practical guide provided by Hale and Napier (2013) in their book *Research methods in interpreting*. This comprehensive guide offers valuable insights and methodologies relevant to the field of interpreting research, aiding the effective analysis and interpretation of survey data.

6.1.1 First-round questionnaire for interpreters

The first-round questionnaire for interpreters consisted of twelve questions. Three were multiple choice, asking respondents about their age, number of years of experience in court interpreting, and court types they had interpreted for. The remaining questions were open-ended and phrased so as to elicit answers concerning the interpreter's experience, practice, and views on their own role, their status in the courtroom, and several other problems they may have encountered in the courtroom (for responses, see Vol 2, Appendix 7).

In the first round, conducted between 2015 and 2016, twenty-six practitioners participated in the survey. Seven interpreters underwent follow-up interviews based on their responses. These were recorded and transcribed for further thematic analysis (see Appendix 11, Section 11.1).

6.1.1.1 Background information for participants

Out of the twenty-six participants in the first round of the interpreters' survey, there were eleven (42%) males and fifteen (58%) females. All participants were accredited interpreters with appropriate qualifications; twenty-one (80%) were DPSI (Diploma in Public Service Interpreting or Metropolitan Police Test) holders, Law option. Eight (31%) UK interpreters were registered on the NRPSI list. All participants were based in the United Kingdom, mainly in West Midlands, but a few were from other parts of England. The majority of the participants for the study were approached directly in court and invited to participate in the research. Some participants were recruited through my personal network.

Age

During the first round, the majority of participants were between fifty to fifty-nine years old (35%), followed by another group between thirty and thirty-nine years old (23%).

Years of courtroom interpreting experience

The majority of participants in the first-round questionnaire (eleven or 42%) had over ten years of experience in court interpreting, while six (23%) reported having between three to five years of experience. The smallest group consisted of two participants (8%) who had less than one year of experience.

Types of court

Figure 16 below contains a pie chart illustrating the types of courts where the participants primarily worked. As evident from the chart, the magistrates' court, Crown Court, and tribunal were the most popular, requiring interpreters most frequently, followed by the county court. The youth and coroners' courts are the least common among the named court types.

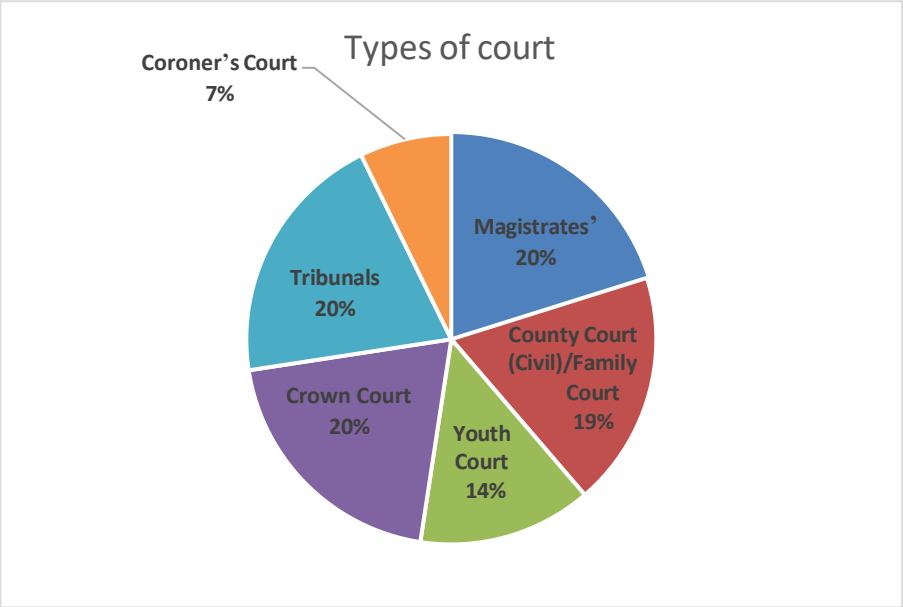

Figure 16: Interpreter workplace, by court type

Languages

This study is not language specific. Given that the United Kingdom is a multinational country, comprised of different cultures and languages, participant selection aimed to encompass a diverse array of languages. The research sample in the first round of questionnaire included: Panjabi, Urdu, Pashto, Dari, Farsi, Mirpuri, French, Mauritian Creole, Russian, Italian, Polish, Arabic, Romanian, Slovak, Czech, Turkish, Portuguese, and British Sign Language (BSL).

Next, I explore participant responses to the following questions (Q) in the questionnaire:

- Q4 – How do you describe your role in the courtroom?
- Q5 – Do you feel recognised and appreciated as a professional by the court officials? (Do you feel that you belong to the courtroom as part of the team?)
- Q6 – How do the clients view your role in the courtroom? (Do you need to establish your role with them from the very beginning? Do they accept your explanations?)
- Q7 – How would you evaluate the status of the interpreter in the UK legal system at the current moment? (Has this changed over the last few years?)

Q4, Q6, and Q7 were preserved in the revised questionnaire for interpreters. However, the term "Client" in Q6 was replaced with "non-English-speaking litigants" following

feedback from the interpreters (examples will be provided later in this section). I will explore the responses to these questions from the first-round questionnaire as they add valuable information to further discussion of the role, identity, and status of interpreters in the courtroom.

Q5 was removed from the revised questionnaire and replaced with the question: "How do you think legal professionals view your role in the courtroom?" But in hindsight, I believe I should have retained it as it elicited interesting responses that shed light on the interpreter's views of their position and status in the courtroom. So, I will explore the responses to this question from the first-round questionnaire and consider them in further discussion.

6.1.1.2 Q4 – How do you describe your role in the courtroom?

All participant responses can be roughly grouped into the following categories:

- A facilitator or channel for communication or language facilitator – eleven respondents (42%)
- "An officer of court whose job is to bridge the communication gap between speakers of two different languages" – one respondent (4%)
- Transmitting device/vessel to open up the channels of communication – two respondents (8%)
- Mouthpiece of the non-English-speaking person – one respondent (4%)
- Provider of linguistic support to participants – one respondent (4%)
- Vital/essential part of the process/crucial – five respondents (19%)
- Impartial – one respondent (4%)
- "I am there to interpret" (interpreter) – two respondents (8%)
- Provide a close rendition/convey a message in another language – two respondents (8%)

Although I did not provide the respondents with role descriptors, their responses came very close to the categories adopted in the literature on courtroom interpreting (Lee, 2009a: 43):

- neutral conduit for language ("translation machine")
- facilitator of communication in the courtroom

- cultural expert in the courtroom
- language expert in the courtroom
- advocate for the witness

Most of the responses above can be categorised into at least three out of the five role descriptors provided by Lee (2009a: 43) 1) "neutral conduit for language" ("translation machine"), 2) "language expert", and 3) "facilitator of communication in the courtroom". The latter appears to be the most popular perception among the practitioners of their role. One practitioner answered that his role was as "an officer of court whose job is to bridge the communication gap between speakers to two different languages" (Respondent 1). This response can also be categorised as the "facilitator of communication in the courtroom" role descriptor. However, I singled it out as a separate category because the practitioner perceives himself as a court officer – not an impartial outsider, but someone who belongs to the court.

It is also interesting to note that some practitioners focused on the importance of their role in the courtroom rather than what it involves. Five respondents emphasised the importance of the role rather than its practical aspects.

Two respondents (8%) said they were there "just to interpret" without providing further clarification on what that meant or involved in their view.

The remaining two respondents (8%) replied that their role was to provide a "close rendition" and to convey the message into the foreign language:

> To provide a close rendition of all that is said directly to and indirectly about the non or limited English speaker and to provide a close rendition into English of anything said by the same. (Respondent 25)

I categorised this as "provide a close rendition/convey a message into another language", which closely aligns with Hale's (2008: 102) descriptor of "faithful renderer of the original utterances". Hale (2008) advocates for this role descriptor as the most adequate for interpreters and suggests all professionals should strive for it.

It is worth noting that there is no direct correlation between the demographic backgrounds of participants and their role perceptions. Experience may be a contributing factor, although there is no explicit link between the number of years of experience and specific role perceptions. However, more experienced interpreters appear to be more critical of

changes in the field and are more likely to express concerns about a decline in their professional status owing to outsourcing.

Court type may also influence role perceptions, as different types and their specific requirements could play a role in shaping interpreter experiences and, consequently, their views. This was also noted during my courtroom observations and in follow-up interviews with the interpreters – and may present opportunities for further research.

6.1.1.3 Q5 – Do you feel recognised and appreciated as a professional by the court officials? (Do you feel that you belong to the courtroom as part of the team?)

I divided responses to this question into three categories:

- Mostly yes/definitely – nine participants (35%)
- Not always/it varies/"depends" – seven participants (27%)
- No or "I felt respected before Capita took over"/"In the old system, we used to be" – six participants (23%)

Four participants skipped the question.

From participant responses, it can be concluded that just 35% of practitioners feel respected, recognised, and consider themselves part of the so-called courtroom team. About 27% of practitioners express that perception of their role "varies" from court to court and depends on particular individuals – some judges and legal professionals appreciate their role, while others do not or are inconsistent in their recognition. This can be seen in the following responses:

> This varies from "we couldn't have done all that without you" to "he can speak English perfectly well. He doesn't need an interpreter", and "waste of public money. They should have learnt to speak English". (Respondent 3)

> The Crown Court's staff do acknowledge interpreters as professionals and educated people. My experience from magistrates' courts and police station varies. (Respondent 21)

The remaining 23% of the participants feel that they are not, or are no longer, respected. This sentiment is particularly prominent among interpreters from "the old system" who compare their current experience to the period before external agencies, such as Capita

TI, were involved. They explicitly connect the lack of respect and recognition in the court with the outsourcing of PSI to a private agency (Capita TI at the time). For example:

> Yes, very much so – that is I how I used to feel (before CAPITA and other agencies stepped in). (Respondent 7)

> No. Interpretation is (obviously) required for those who cannot communicate in English, in the most cases it is a defendant/respondent who is accused of something. An interpreter is often seen as somebody who speaks "on behalf of" the accused person being his/her "voice". Although I have never been treated badly by any court officials, in fact they have been usually very polite and friendly, nevertheless I have almost never felt appreciated as a professional but was rather perceived as somebody who represents/accompanies the accused person (who could have been equally their English-speaking relatives or friends). (Respondent 9)

> Before Capita took over, I felt much more respect. Since Capita came into play, they started to think that it is all about money, it is very degrading. (Respondent 17)

Responses to Q5 on whether interpreters feel recognised and appreciated as professionals by court officials and if they feel part of the courtroom team thus reveal a lack of consensus in the professional community. A significant portion, 35% of practitioners, expressed positive sentiment, stating they felt respected and integrated into courtroom dynamics. However, 27% noted a varying perception that depended on specific individuals within the legal system, with some acknowledging and appreciating the interpreters' role while others remained indifferent or inconsistent in their recognition. Notably, 23% of the participants (especially those from the pre-outsourcing era) expressed a sense of diminishing respect and recognition. This group reported a perceived decline in appreciation since the involvement of external agencies, emphasising the impact of the change on their professional standing within the courtroom.

As noted above, the experience gained before the industry reform took place is a likely factor contributing to an interpreter's views and perceptions of their role and status in the courtroom. Also, it is worth noting that the diverse role descriptions provided in responses to Q4 do not always correlate with the experiences of professional recognition in responses to Q5. While some interpreters view themselves as integral to the legal process,

many do not feel valued or respected by court officials – especially after outsourcing.

6.1.1.4 Q6 – How do the clients view your role in the courtroom? (Do you need to establish your role with them from the very beginning? Do they accept your explanations?)

The answers to this question I have grouped into the following categories:

- Need to establish the role with "them"/"they except my explanations from the start" – ten respondents (38.5%)
- "They consider you on their side" – eight respondents (31%)
- "It varies"/some accept the role of the interpreter, and some do not – three respondents (11.5%)
- "They are familiar with the interpreter's role and accept it" – four respondents (15%).

Here, the majority of respondents (38.5%) feels the need to establish their role with non-English-speaking litigants from the very beginning, and they usually find that litigants readily accept their explanation.

The second most popular category of responses (31%) indicates that interpreters are often perceived by non-English-speaking litigants as a friend or someone who is on their side. Some defendants continue to struggle with accepting the impartial aspect of the interpreter's role, even after the interpreter has provided an explanation.

The following excerpts from the questionnaire for interpreters exemplify the perceptions of non-English-speaking litigants regarding the interpreter's role:

> If the "client" is the defendant/victim/witness, quite often they view the interpreter as their "friend". I never get into discussion with anyone in these categories in order not to compromise my position of neutrality (especially if waiting in the main waiting area). The situation is not helped when the usher points to the interpreter stating, "here's YOUR interpreter". I'm not their interpreter, rather the court-appointed interpreter. (Respondent 4)

> The clients usually view me as a Godsend: they are very grateful and eager to make me see their side of their situation in the time before their court appearance.

> Sometimes they think that somehow, I can influence the court decision which is obviously not the case. (Respondent 5)

> Defendant/respondent, witness or expert: many of them have never been in court (or in the UK courts) before. They usually expect interpreters to not only translate, but also to support them. (Respondent 9)

Three interpreters (11.5%) reported that this depends on the individual. Some people are aware of the interpreter's role and appreciate it, while others require an explanation and begrudgingly accept it. Some think they do not need an interpreter at all but misjudge the complexity of the legal terminology and proceedings. This is demonstrated in the below example:

> Most of them are aware of the importance of interpreting in the courtroom, but not all. There are clients who think they know English and think they don't need an interpreter; they don't realise how difficult legal language is and how important it is to convey the correct meaning and understand every word. (Respondent 16)

Four practitioners (15%) reported that in their experience, most non-English-speaking litigants were familiar with the interpreter's role and did not need any explanation unless there were specific incidents that required interpreters to clarify their role.

Finally, one respondent stated the following:

> By "client" I understand the person who "foots the bill" and books me, i.e. the court/the police. They often lack even the very basic understanding of the interpreters' role. (Respondent 21)

In this case, the word "client" was understood as the service provider rather than the non-English-speaking litigant. Nevertheless, the response still offers an interesting perspective, pointing to the lack of awareness of the interpreter's role by court personnel and police. This viewpoint aligns with the previously discussed findings from my court observations, where this lack of awareness was identified as one of the themes in the analysis of critical incidents. This comment from the interpreter, along with the feedback from other practitioners with regards to the term "client", prompted me to rephrase this question. I replaced "clients" with "non-English-speaking litigants" in the subsequent survey round conducted online via Google Forms.

6.5.1.1 Q7 – How would you evaluate the status of the interpreter in the UK legal system at the current moment? (Has this changed over the last few years?)

Responses to this question can be largely divided into four categories:

- Status is low (worsened) – eighteen respondents (69%)
- Interpreters are recognised and valued – three respondents (11.5%)
- It is variable – one respondent (4%)
- No comment – four respondents (15%)

What I find particularly interesting in the responses to this question is that they are mostly at odds with the responses to Q5, where practitioners were asked whether they feel recognised and appreciated as professionals in the courtroom. The majority of responses to Q5 (35%) were positive, and one would expect this sentiment to be reflected and confirmed in the responses to the question about status. However, 69% of respondents expressed very negative views regarding interpreter status in the courtroom, with only 11.5% feeling positive about it, and 4% feeling that it varies. Fifteen per cent preferred not to comment at all, with one practitioner asking for clarification on whether the question referred to the status of PSI, conference, or business interpreters. This question itself suggests that the status of the three branches of interpreting is not the same.

Negative responses about the status of court interpreters can be further categorised into the following:

- The position/status of interpreters has worsened since Capita TI and other private agencies have taken over.
- There is less respect, less money, and less tolerance towards interpreters.
- Professional standards have dropped (unqualified, untrained, and unprofessional interpreters are employed by courts).
- Professional interpreters are leaving the profession.
- There is no formal recognition of the profession.
- There is demeaning treatment of interpreters.
- There is low status, low pay, low standards.

Examples from the questionnaires include:

> I have only been working as interpreter for four years; I started doing this job after the big changes caused by MoJ. However, many professionals (magistrates,

> legal advisers, solicitors) treat interpreters as inferiors who are there to "assist and help those other stupid foreigners who can't speak English". It's really demeaning. (Respondent 21)

> Since the [M]inistry of [J]ustice have opted for a "one-stop-shop" solution (clarion interpreting) the fees and terms and conditions have been forced down and eroded. This has led to many experienced and skilled interpreters boycotting legal work. However, the demand is still there so less experienced and less competent interpreters who are willing to accept lower rates of pay are taking this work. It has been observed that the quality of court interpreting work is now lower. (Respondent 24)

> Somewhere between agency cleaner and carpark attendant. (Respondent 25)

> Yes, it has changed a lot since an Agency took over the contract. Before, [t]he [l]isting [o]fficer or the [c]ivil [s]ervants would call us directly. It used to work very well, everyone was happy, and the Interpreters used were qualified and paid fairly and correctly. We are self-employed, we pay our own taxes, and we do not get paid if we are off sick or on holidays. Unfortunately, this [p]rofession is not regulated, with a standard (minimum) rate like most of the [s]elf-[e]mployed [p]eople are. Now, some agencies offer us a rate lower than what a [c]leaner gets, without any disrespect. (Respondent 26)

To sum up, responses to Q7 on the status of interpreters in the UK legal system present a notable discrepancy with the responses to Q5 that inquired about practitioner feelings of recognition and appreciation within the courtroom. While 35% of practitioners responded to Q5 by expressing positive sentiments, 69% responded to Q7 by conveying negative views about the status of interpreters. This stark contrast indicates that, despite feeling recognised and appreciated on a personal level, many interpreters perceive their lower professional status within the broader legal system.

Another interesting relationship can be noted between responses to Q6 and Q7 suggesting that the interpreter is often seen as being on the non-English-speaking litigant's side. This need to constantly negotiate their role with their clients may further contribute to the negative views expressed about their overall status in Q7, particularly given a significant number of interpreters feel they are seen as a representation of their non-English-speaking

clients rather than as an independent professional.

It is important to note that the findings from this survey align with my ethnographic observations, suggesting a consistent narrative across different sources regarding the challenges and perceived decline in the status of court interpreters in the United Kingdom following the outsourcing courtroom interpreting to private agencies.

6.1.2 Second-round questionnaire for interpreters: revised (main) questionnaire

As discussed earlier, throughout the course of my research, I slightly shifted my focus towards professional identity while maintaining my interest in the role of the courtroom interpreter. With this in mind, I revised the questionnaire to incorporate the following question:

- How do you think legal professionals view your role in the courtroom?

With this question, I effectively replaced Q5 from the first-round questionnaire ("Do you feel recognised and appreciated as a professional by the court officials? (Do you feel that you belong to the courtroom as part of the team?"). I removed the element of "feeling a sense of belonging to the courtroom" to focus primarily on interpreter perceptions of the projections of legal professionals about the interpreter's role. I shifted from being more specific by asking about recognition to being more general about the views of legal professionals to generate a broader range of responses and identify general trends in the professional community.

I also included questions regarding the interpreter's perspective on agencies, professional organisations, and membership with trade unions. I enquired about their sources of professional standards, challenges, and motivation to remain in the profession despite challenges. Additionally, I asked about interpreters' about "dos and don'ts" and whether they feel they receive enough feedback, exploring its significance to them as professionals. Inclusion of these questions aimed to provide a deeper understanding of the role and professional identity of interpreters in the legal system of England and Wales, aligning with the revised research question.

Next, I eliminated questions concerning the facilities in the courtroom. I also removed the question about court type and its potential impact on their professional practice as I

steered away from this aspect in order to focus more on identity exploration. During the research, however, it became apparent court type may actually have an impact on interpreters and their professional practices. This became evident both from my observations as well as in follow-up conversations with practitioners. Although the revised questionnaire did not specifically address this aspect, it became clear that exploring the influence of court type could be valuable. Nevertheless, delving into this area goes beyond the scope of the current research.

I thus kept the question about clients' views on the interpreter's role but, as previously discussed, modified it to "non-English-speaking litigant" based on feedback from practitioners who participated in the first-round questionnaire. I also preserved the questions about interpreter perspectives on their role and the status of the profession in the UK legal system, along with those on their demographic details and experience.

Although I will selectively refer to the most pertinent findings from the first-round questionnaire (the questions discussed above), the second-round questionnaire was the primary instrument for data collection (completed by participants via Google Form, and available in Vol 2, Appendix 10).

6.1.2.1 Participant background information

For the second-round questionnaire, there were forty female (69%) and eighteen male (31%) participants. Out of fifty-eight respondents, fifty-three (91%) had relevant qualifications in languages, interpreting, and translation (BA, MA), Metropolitan Police Test, DPI, or DPSI qualifications. Specifically, thirty-seven respondents (64%) held a DPSI; eleven (19%) held a DPI; and nine (15.5%) had a Metropolitan Police Test (or equivalent) along with other relevant qualifications. This high level of qualification suggests a commitment to professional standards among the participants. Five respondents (9%) did not list any qualifications, which may indicate some differences in their role perceptions or professional identity.

Age

Unlike with the first-round questionnaire, the majority of participants in the second-round questionnaire were over sixty years old (nineteen or 33%), followed by the second and third largest groups of participants between fifty to fifty-nine years old (seventeen or 29%) and between forty and forty-nine years old (twelve or 21%). Nine respondents

(15.5%) were between thirty and thirty-nine years old, and only one respondent (2%) was under twenty-nine years old.

Most respondents (59%) had over ten years of experience in courtroom interpreting. This suggests that the second-round sample consisted of a more experienced and older cohort of practitioners compared to the first round, which could potentially correlate with stronger and more established views on their professional identity.

Years of courtroom interpreting experience

Similar to the first-round questionnaire, the majority (thirty-four participants or 59%) had over ten years of experience in courtroom interpreting. This was followed by the second-largest group (sixteen participants or 27.5%) with experience from five to ten years. The smallest group was comprised of relatively new members of the profession who had less than one year of experience (two participants or 3.5%).

Languages

This research is not language specific, so a wide range of languages was represented in the study. The survey reached out to interpreters from a variety of ethnic and language backgrounds, namely: Portuguese, Polish, Russian, Ukrainian, Latvian, Spanish, Italian, French, Romanian, German, Hungarian, Bulgarian, Czech, Slovak, Turkish, Urdu, Indonesian, Arabic, Farsi and Dari, Tamil, Mirpuri, Punjabi, Kashmiri, Pahari, Chinese (Cantonese and Mandarin), and BSL.

NRPSI registration

Forty-four respondents (76%) were registered with NRPSI.

Types of court

All fifty-eight respondents (100%) had worked for criminal courts while fifty-seven respondents (98%) had worked for criminal and civil courts as well as tribunals. Below is the breakdown of all court types reported by participants in the main questionnaire:

- Magistrates' court – fifty-eight respondents
- County (civil) court – forty-nine respondents
- Youth court – thirty-four respondents
- Crown Court – fifty-three respondents
- Coroner's court – twenty-two respondents
- Tribunals (e.g. employment tribunal, immigration) – fifty-five respondents

- International arbitration – two respondents
- High Court of Justice – five respondents
- Office for Traffic Commissioner – one respondent

As with the responses to the first-round questionnaire, the most popular types of court where the majority of the respondents had worked were magistrates' courts, Crown Courts, and tribunals followed by county courts. Other types of courts appear less common for interpreter-mediated hearings.

Below, I thoroughly review and discuss the content of each question on the questionnaire and provide the most pertinent and interesting examples from the interpreters' responses.

6.1.2.2 Q8 – How would you describe your role in the courtroom?

Fifty-five respondents (95%) answered this question, with three leaving the field blank. All responses can be roughly divided into three categories. Some responses highlighted the functional aspect of the interpreter's role. Others focused on the importance of the interpreter's role (evaluation) and/or partiality. A few provided mixed responses that could be placed into more than one category. Below I identify the following categories:

Functional aspect of the role

Forty-six respondents (83%) highlighted the functional aspect of the role, construing their role perception in terms of what they actually do in the role. These perceptions closely align with the concept of role performance suggested by Llewellyn-Jones and Lee (2014), who maintain that a role can be enacted but cannot be occupied. Below is a breakdown of practitioner views on their role as an action:

- Facilitator of communication – eighteen respondents (31%)
- Interpreter – eleven respondents (19%)
- Conduit/voice – six respondents (10%)
- Cultural broker – two respondents (3.5%)
- Intermediary – two respondents (3.5%)
- A link/language bridge between court professionals and non-English speakers – two respondents (3.5%)
- "Faithful renderer of the original utterance" (Hale, 2008:102) – two respondents (3.5%)

- Helper/supporter for the defendant – two respondents (3.5%)
- Linguist – one respondent (2%).

The most popular response among practitioners, with 31% providing this answer, is that they see their role as the facilitator of communication:

> I would describe my role as crucial because the interpreter is the medium that facilitate communication between the parties involved, while making sure the non-English-speaking individual is appropriately informed in his/her native language of the court process and the matter in hand. (Respondent 21)

> Facilitating the participation of Spanish speakers. (Respondent 22)

> Impartial enabler of communication between the parties (Respondent 56)

As seen in the examples above, the majority of practitioners view their role in terms of "enabling" or "facilitating" communication in the courtroom. Through this facilitation, they define their role as "crucial" (Respondent 21 above). This aligns with the first-round results, where a similar sentiment was expressed by 42% of respondents and indicates a consistent view among interpreters of their role as primarily enabling communication.

The second most popular response was "the interpreter", with 19% of respondents describing their role in this way without further elaboration. This could suggest either a lack of a developed professional identity or strong adherence to a more traditional view of the interpreter as a conduit. This is a significant increase compared to the first round, where 8% expressed a similar view.

Only two responses (3.5%) can be categorised as "faithful renderer of the original utterances" in this round. Two respondents described their role in similar terms in the first round but proportionally, this category is higher in the first round (8%), yielding an average result of 6% across two data sets.

"Linguistic support" or "linguist" was mentioned by one participant in each round, averaging to 3% in both rounds.

Evaluation

Unlike the previous group of practitioners who focused on their role as an action, 25.5% of respondents highlighted the significance of their role. Some interpreters emphasised the

crucial and vital nature of their role. In contrast, a smaller percentage (5%) conveyed a sense of being undervalued, considering their role "fundamental and not appreciated by the courts" (Respondent 48). Below is a breakdown of the responses marked with evaluative connotations:

- highly important/crucial/vital/essential – eight respondents (14%)
- important but undervalued – three respondents (5%)
- integral – two respondents (3.5%)
- effective – one respondent (2%)

This is a more strongly represented category than in the first round, suggesting that the more experienced practitioners in the second-round place more emphasis on the value of their function in the legal process.

Partiality

Interestingly, seven practitioners (12.7%) brought up the partiality aspect in response to the question about their role. This means that a considerable proportion of interpreters understand their role primarily in terms of being an "independent" or "impartial" (5%) agent. However, the response "at the court's disposal" provided by one respondent may indicate their alignment with powerful court actors rather than complete independence.

- Independent party – three respondents (5%)
- Impartial – three respondents (5%)
- At the court's disposal – one respondent (2%)

In the first round, a similar proportion of respondents (4%) highlighted impartiality as a key aspect of their role.

To sum up, Q8 aimed to explore how interpreters perceive their role in the courtroom. The responses varied, reflecting a diverse array of perspectives within the interpreting community. Such a wide range of perceptions among practitioners reaffirms the absence of consensus on their role, as demonstrated by numerous studies on court interpreting carried out in different countries (see Morris, 1995, 1999; Berk-Seligson, 1988, 1990; Hale, 2004; Lee, 2009; Aliverti and Seoighe, 2017; Wang, 2017; Angermeyer, 2023).

6.1.2.3 Q9 – How do the non-English-speaking litigants usually view your role in the courtroom? (Do you need to establish your role with them from the very beginning? Do they accept your explanations?)

Not all interpreters provided a clear answer or understood the question correctly. Also, some responses contained aspects from different categories. All responses to this question can be categorised into the following patterns:

- Friend/ally/confidant/support/someone who speaks their language/"a shoulder to cry on" – nineteen responses (33%)
- Interpreter – fourteen responses (24%)
- Legal representative/advisor/advocate – six responses (10%)
- Independent/impartial – six responses (10%), mostly after interpreter's initial explanation
- Communication tool – four responses (7%)
- It varies (lack of role awareness) – seven responses (12%)
- Important – two responses (3.5%)
- Unnecessary – one response (2%)

As can be seen from the results, the most popular response (33%) is that the interpreter is often perceived by non-English-speaking litigants as their friend or ally. Respondent 20 stated, "I am the shoulder to cry on, etc.". This perception is further exemplified in the following excepts from the questionnaire for interpreters:

> Usually, they would see the interpreter as a friend. A person to whom they can speak in their own language. I try to establish my role at the first opportunity to avoid misunderstandings. (Respondent 22)

> They tend to see me as an ally/confidante, and I sometimes need to remind them I am independent. (Respondent 57)

The below example from Respondent 38 suggests that some non-English-speaking litigants may also see the interpreter as part of the legal establishment, but not as an independent party. Only 10% of respondents mentioned that an interpreter can be perceived as an independent party, usually after the interpreter's introduction and explanation of their role.

> Some view me as a friend as we speak the same language. Others view me as an

> authority figure - as part of the legal establishment; I establish my role as an independent interpreter at the outset if the court hasn't already done this. (Respondent 38)

As discussed in Chapter 1, Morris (1999) described this phenomenon as "gum syndrome", wherein the interpreter is seen as a friend or even saviour by non-English-speaking litigants. The more the interpreter tries to stop this from happening, the more attached the non-English-speaking litigants get in a manner akin to gum on a shoe sole.

The second most prevalent perception is "the interpreter", as indicated by fourteen respondents (24%). Similar to the previous question, no additional details were provided regarding what is implied by "interpreter". I can only infer that they mean a professional facilitating effective communication between two parties: the non-English-speaking litigants and the court or legal professionals in the courtroom.

Six respondents (10%) shared that they are often perceived as "legal representative [or] adviser [or] advocate", which, I would say, is close to the perception of a friend. Another six respondents (10%) see interpreters as an independent party. Seven respondents (12%) reported that "it varies", indicating lack of awareness of the interpreter's role among non-English-speaking litigants. This is not unexpected in a context where they have to communicate with the legal system in a language they do not speak or speak very little. Only four respondents (7%) reported that they are seen as a communication tool, two respondents (3.5%) believe they are seen as "important", and only one respondent (2%) indicated that non-English-speaking litigants may sometimes perceive them as unnecessary.

The findings from the second-round questionnaire resonate with the results obtained from the first-round questionnaire, where the interpreters were asked the same question regarding their views on the perceptions of their so-called clients (non-English-speaking litigants). A similar proportion of responses (31%) indicated that they are perceived as a friend or "someone on their side". The answer "it varies" was given by 11.5% of respondents in the first round and by a similar percentage (12%) of respondents in the second round.

The only notable difference between the survey rounds is that in the first, the majority (38.5%) indicated that they do need to establish their role from the start and in most cases, their explanations are accepted. This finding from the first-round questionnaire does not

contradict the obtained results from the second-round questionnaire but rather complements them, adding to the diversity of views and perceptions of the interpreter's role in the courtroom and reaffirming a lack of awareness of the interpreter's role.

6.1.2.4 Q10 – How do you think the legal professionals view your role in the courtroom?

Out of the fifty-eight participants in the survey, one left this field blank. One replied, "I am not in a position to comment on this issue" (Respondent 9, who had over ten years' experience in courtroom interpreting). All other responses (fifty-six in total) mostly revolve around the evaluation of the interpreter's role by legal professionals (important vs inconvenient) rather than the functional aspects of the role. All responses to this question can be grouped into the following categories:

- Important/helpful/essential (positive evaluation) – fourteen respondents (25%)
- Inconvenience/nuisance/necessary evil (undervalued, not appreciated) (negative evaluation) – thirteen respondents (23%)
- Varies enormously (from highly valued facilitator of communication to a hindrance/nuisance and necessary evil)/"from blatant disregard to highly respectful" – eleven respondents (20%)
- Interpreter – seven respondents (12.5%)
- Facilitator of communication – four respondents (7%)
- Lack of awareness of the role – three respondents (5%)
- Aware of the role – two respondents (3.5%)
- Conduit – one respondent (2%)
- Cultural consultant – one respondent (2%)
- Linguist – one respondent (2%)
- Intermediary – one respondent (2%)
- Psychologist – one respondent (2%)
- Representative of a non-English speaker (advocate) – one respondent (2%)
- Independent, impartial and equal – one respondent (2%)
- Court office clerk – one respondent (2%)

Responses to this question are highly diverse, spanning from considering interpreters as

"highly valued facilitators of communication" to perceiving them as a "nuisance and a necessary evil". Identifying a clear leading trend is challenging, as most responses can be summarised as "it varies" or "it depends". The perception appears to be dependent on factors such as the specific court, proceeding, or even the individual judge, prosecutor, or other representatives of the courtroom and legal profession. Nevertheless, the overall trend suggests a slight inclination towards a more positive perception rather than a negative one, which is reassuring. Below are the excepts exemplifying the positive trend:

> They value my role and respect me as a professional. (Respondent 7)

> The legal professionals feel that is a very necessary service that we provide and as a whole and in most cases if we were not there, they would not be able to proceed with their work as efficiently as they could. (Respondent 32)

However, there were also expressed negative views by the practitioners:

> They used to view my role with importance. However, since the MoJ introduced agencies, that has changed. (Respondent 43)

In this example, the interpreter is referring to a shift in the perception of the interpreter's role by legal professionals following the MoJ's outsourcing of public PSI. Another respondent also feels undervalued and not appreciated, writing, "Often referred to as 'just an interpreter', I feel undervalued and not appreciated" (Respondent 3).

> Increasingly that an interpreter is a professional, but lower down the pecking order than themselves; many are not expecting me to do a good job perhaps through poor previous experiences, including judges. (Respondent 26).

In the above example, the interpreter is indicating that they are seen as professionals but considered inferior in status to all other courtroom actors. This perception is reflected in the attitudes they receive from legal professionals, including judges. The interpreter also suggests that this could be related to negative experiences they may have had with other interpreters who perhaps lacked competence and qualifications.

The next two quotes illustrate varied experiences in the courtroom:

> Varies enormously. Some are impressed with my skills, others, like a recent judge, gave me the impression it was annoying to have to work through an interpreter. He treated me indifferently and ignored me at the end of the case while others have both praised and thanked me when summing up. (Respondent

> 2)
> It is varied – from blatant disregard, underdog-type addresses to highly respectful. (Respondent 51)

It is interesting to note that despite statements in the academic literature suggesting interpreters tend to be seen as "conduits" and "neutral transmitters" by many legal professionals (Morris, 1995, 1999, 2010a; Mikkelson, 2008), only one respondent in the second-round questionnaire used that metaphor to describe their perception of legal professionals:

> As a conduit. A professional who transfers language A into language B and vice versa, but who should not express opinion. (Respondent 1)

Four respondents (7%) feel they are seen as "facilitators of communication" by legal professionals and court officials. Respondent 15 provided a very interesting answer, wherein the role of the interpreter goes beyond the linguistic domain: "linguist, cultural consultant, intermediary, psychologist (when asked to establish whether the client is able to understand and has the capacity to answer questions)". This also suggests the diversity of perceptions and views among legal professionals that are translated to interpreters.

In the first-round questionnaire for interpreters, I did not specifically enquire about the views of legal professionals. However, I did ask about their overall sense of recognition in the courtroom. A similar positive trend was observed in their responses, with 35% of respondents stating, "mostly yes/definitely". This was followed closely by 27% of respondents indicating "not always/it varies"/depends". The remaining 23% of respondents replied "no" or shared sentiments such as "I felt respected before Capita took over" or "in the old system, we used to be". This data suggests a range of perspectives among interpreters regarding the level of recognition they feel in the courtroom and further complements the findings from the second-round questionnaire.

Overall, a positive trend can be observed in the perceptions of interpreters regarding the views of legal professionals on their role. To draw a more definite conclusion, however, I will now examine the perceptions of interpreter status in the courtroom and explore the most salient relationships between practitioner responses to various survey questions. Later in this chapter, I will also explore the views of legal professionals on the interpreter's role in the courtroom that will help to shed light on this matter.

6.1.2.5 Q1 – How would you evaluate the status of the interpreter in the UK legal system at the current moment? (Has this changed over the last few years?)

Out of the fifty-eight participants, two left the field blank, and one response was dismissed due to a misunderstanding of the question by the participant. This left fifty-five responses to Q11 available for analysis. All responses can be split into three categories:

- Interpreter status has deteriorated over the last years – forty-five respondents (82%)
- Interpreters feel valued and things have improved – eight respondents (14.5%)
- No change – two respondents (4%)

Responses to this question indicate that the majority of the respondents (82%) perceive a decline in their professional status while only 14.5% feel it has improved, with the remaining 4% noting no change. Negative perceptions of the professional status are exemplified in the following excerpts from the first three respondents participating in the questionnaire:

> Unfortunately, more and more interpreters are felling disrespected and not appreciated. I love being a PS interpreter, but decided to do a MA as I cannot see a prosperous future for our profession. (Respondent 1)

> Very low and it gets worse because of government legislation. (Respondent 2)

> Until the MoJ outsourced the service, I felt valued, and my role was seen as important. Since agencies took over, legal professionals lost any respect they had for us. I lost respect for the legal system, too. I am completing my law degree next year (at the age of forty-two) and hoping to move away from interpreting as soon as possible. (Respondent 3)

These examples also illustrate references to the negative consequences of outsourcing, leading professional interpreters to opt for a career change and further contributing to the decline in the status of interpreters in the legal system. Respondent 6 expresses a similar sentiment: “It was rather difficult even ten years ago, but since the MoJ outsourcing saga, status is down [on] the floor”.

A few more interesting excerpts that further exemplify this negative trend are:

> Yes, the role has become more shambolic, interpreters are less valued.

> (Respondent 15)
>
> The low status of interpreters is reflected in the poor remuneration and conditions we are offered. I think this is getting worse. (Respondent 22)
>
> Under paid and disrespected worker without a professional status. (Respondent 27)
>
> It's an absolute mockery, shockingly, and it's going from bad to worse. (Respondent 41)
>
> Rather low. Yes, it has deteriorated after the service was outsourced to thebigword and unqualified unprofessional people started showing up instead of interpreters. (Respondent 42)

Similar to the previous examples, there is clear consensus that interpreters perceive a decline in their professional status since the outsourcing of PSI to private agencies such as Capita TI and thebigword. The issue of low remuneration is highlighted as one of the indicators of their diminished status. Additionally, concerns about the use of unqualified interpreters are mentioned, and this sentiment is echoed in other responses and in my follow-up chats with the interpreters.

In contrast, a minority of respondents (14.5%) express positive feelings about their professional status while a small percentage (4%) feel no change. Even though they are in the minority, I would like to highlight a few quotes from their responses:

> Very important as all communication in court is via an interpreter. Yes, many judges and barristers acquired the skill to work with interpreters making interpreter's task easier. (Respondent 35)
>
> I feel more valued/respected that when I started in 1999. (Respondent 57)
>
> The same as it has been during the past years. No change. (Respondent 7)

What I find particularly interesting and noteworthy is that, similarly to the first-round questionnaire, there is a discrepancy in the number of negative responses to Q10 (perceptions about the views of legal professionals) and Q11 (perceptions about the interpreter's status in court). The responses to Q10 overall suggest a positive trend in interpreter perceptions of the views held by legal professionals, while their responses to

Q11 suggest the opposite. The same situation was observed and discussed earlier in the first-round questionnaire, indicating a surprising conflict between interpreter perceptions of being valued at a personal level and their perceptions of their professional status within the legal system as a whole. It would seem reasonable to expect that the responses to Q10 and Q11 to converge rather than diverge. However, the data suggest otherwise. This finding deserves further attention and exploration.

It is also worth noting that there is a salient relationship between the number of years of experience and the evaluation of an interpreter's status. The responses suggest that interpreters from "the old system", those with over ten years of experience who worked prior to the outsourcing of PSI, express a strong sense of diminished respect and recognition and are more likely to report a decline in their professional status. This could be attributed to the fact that many experienced interpreters left the profession due to low pay and poor working conditions following outsourcing, whereas less experienced interpreters may lack a baseline for comparison and therefore may not hold strong opinions on the status of the profession.

6.1.2.6 Q12 – How do you feel about agencies?

Out of the fifty-eight participants, two left the answer field blank. So, the analysis examined fifty-six responses to Q12. All responses can be grouped into the following patterns:

- Negative attitude towards agencies ("parasites", Respondent 43) – forty-eight respondents (86%)
- Positive attitude towards agencies – three respondents (5%)
- It varies and largely depends on the agency (there are good and bad ones) – five respondents (9%)

With 86% of respondents expressing a negative attitude towards agencies, I can conclude that there is largely consensus in the professional community when it comes to evaluating the role of agencies. The agencies seem to have earned a bad reputation among the interpreters and are viewed as an unnecessary middleman by a large proportion of the practitioners. Here are a few examples from the questionnaire:

> They are profit-making organisations which, for making a phone call to an interpreter, take around 70% of our fees. They are completely unnecessary as listings officers told us that they were more than happy with arranging interpreters through the National Register. (Respondent 3)

> Despise them, [they're] the reason for the huge decline in the profession and the decrease in quality of services. (Respondent 5)

> Money-making enterprises. They do not care at all about maintaining standards or providing a quality service to service users, but they rather care more about lining their own pockets and driving rates down for professional interpreters by using anybody who claim to speak two different languages. No quality checks are thoroughly carried out. (Respondent 21)

As seen from the above examples, interpreters tend to view agencies as one of the reasons for the decline in their professional status, pay, and overall quality and standards in the profession. Another respondent names the agencies that do not value interpreters, provide no training, security or benefits, or any other support, and pay very low rates:

> The big agencies (Big Word, Capita TI, etc.) do not value linguists. They offer us very little - low rates, no security, no incentives, no training. They do not offer support when we encounter difficulties during assignments – in fact it is almost impossible to contact them by phone and emails are often ignored. (Respondent 22)

This negative sentiment about agencies, PSI outsourcing, and use of unqualified interpreters is further echoed in the following responses:

> There are very professional agencies who employ serious professionals. They are rare. There are those, including ALL government-appointed agencies who employ "housewives" who can barely speak English and who are willing to work for peanuts!!! I speak for my languages. (Respondent 2)

> They should not be allowed to enter into any public service interpreting tenders. (Respondent 39)

> MOJ outsourcing agencies often use unqualified and/or poorly qualified "interpreters". (Respondent 53)

Another interesting comment about the current MoJ agency, thebigword, is presented in the following comment:

> Varied. Some are fantastic and employ real professionals; others employ anyone who will work for peanuts. The Big Word sent an Indonesian speaker to an asylum case in Glasgow. Her English was inadequate!!!! (Respondent 24)

The above example illustrates that even those respondents who did not provide a clear negative response and said "it varies" are also inclined to strongly criticise the agencies appointed by the MoJ. In tandem with the above responses, this suggests that PSI outsourcing may have saved some money at the cost of professional standards and quality of interpreting services in the legal domain.

There is a significant relationship between interpreter status evaluations (Q11) and respondent attitudes towards agencies. Those who feel their status declined expressed negative views about agencies, which are often seen as the primary cause for the decline. Many interpreters believed that PSI outsourcing to private agencies led to a decline in professional status, pay, and working conditions.

Thus, the negative impact on the professional status of interpreters, the quality of service, and their overall satisfaction within the profession seems to be a recurring theme throughout the responses. The apparent consensus among practitioners regarding their negative attitude towards agencies indicates a pressing need to address the issues associated with outsourcing and its impact on the interpreting profession within the legal system. These findings highlight the importance of re-evaluating the current approach to interpreting services in the legal setting and exploring solutions to improve the professional standing and working conditions of interpreters.

6.1.2.7 Q13 – How do you feel about professional organisations such as CIOL, ITI, etc.?

Out of the fifty-eight participants, two left the answer field blank. So, fifty-six responses to Q13 were analysed. All responses can be grouped into the following patterns:

- "With a degree of scepticism" (negative attitude towards professional organisations such as CIOL, ITI, etc.) – twenty respondents (36%)

- "They add status" (positive attitude towards professional organisations such as CIOL, ITI, etc.) – thirteen respondents (23%)
- "Mixed feelings" (in general, it is good to have them but they need to do more for the interpreters) – eighteen respondents (32%)
- No information ("don't know them") – five respondents (9%)

The responses to Q13 provide insights into interpreter perceptions of professional organisations such as CIOL, ITI, and others. The findings reveal a diverse range of attitudes, with respondents expressing varying degrees of scepticism, positivity, mixed feelings, or lack of information about these organisations.

A significant proportion of respondents (36%) expressed a negative attitude toward professional organisations, particularly in light of perceived shortcomings in protecting interpreters – especially during the government's decision to outsource court interpreting. This sentiment highlights a level of dissatisfaction and suggests a need for these organisations to be more proactive in advocating for interpreter interests, particularly during significant industry changes.

> They have not done anything to protect us the interpreters when the government decided to outsource court interpreting. (Respondent 1)

> Unfortunately, they don't support interpreters. (Respondent 23)

> Not of any use or of any help. (Respondent 28)

On the other hand, a proportion of respondents (23%) indicated a positive attitude, viewing professional organisations as entities that added status to their profession. Some respondents highlighted the value of these organisations, such as providing networking opportunities and continuing professional development (CPD) resources. However, concerns were raised about the effectiveness of these organisations in improving interpreter status and working conditions.

> Gives kudos and status for a fair price. The NRPSI, however, charge too much and require an annual registration which is tedious. They are essential to interpreters finding work. (Respondent 2)

> These are organisations that represent our profession and value professionalism and good standards. (Respondent 21)

> It is good we have them. Would be great if they could do more for the profession. Sometimes I feel they need to take on the role of a unison to protect interpreters' interests. They seem to charge membership fees, run a bit of club activities in small groups, but generally stay aside of any work on public service interpreting arena. (Respondent 6)

A substantial number of respondents (32%) expressed mixed feelings. While acknowledging the importance of having professional organisations, they suggested that these entities could do more to actively protect interpreter interests, acting as advocates or even unions. This suggests a desire for greater engagement from these organisations in addressing challenges within the PSI field.

> CIOL has some good CPD and networking opportunities. They do little to improve interpreters' status and conditions. (Respondent 22)

A smaller group of respondents (9%) admitted to having no information about these professional organisations, indicating a potential gap in awareness or engagement among interpreters regarding the role and activities of CIOL, ITI, and similar entities.

There is also a salient relationship between how interpreters evaluate their status and how they feel about professional organisations. Those who feel their status has declined tend to be sceptical of professional organisations and express disappointment, believing that they have not done enough to protect the profession from the negative consequences of outsourcing.

In summary, the responses to Q13 reveal diverse perceptions among interpreters regarding professional organisations. There is a clear call for these organisations to play a more active role in safeguarding interpreter interests, particularly during industry changes. Addressing the concerns and expectations outlined by respondents could contribute to enhancing the effectiveness and relevance of these professional organisations in supporting and advocating for interpreters in the legal system as well as promoting the professional standards and the status of the profession.

6.1.2.8 Q14 – What is the source of your professional standards?

Q14 aims to elicit practitioner views on the sources of their standards, or, in other words,

what guides them in their professional practice.

Out of the fifty-eight respondents, forty-nine (84.5%) responded to this question while nine (15.5%) either left the field blank or stated they did not understand the question. Over half of those who did answer (twenty-seven respondents or 55%) referred to various professional bodies, organisations, and their codes of conduct as the primary source of their professional standards. It's worth noting that, despite sceptical and critical comments regarding CIOL in the previous question, NRPSI and CIOL are the most frequently mentioned organisations for setting professional standards. Here is a breakdown of the professional organisations noted by participants in relation to the codes of conduct they adhere to:

- NRPSI – seventeen respondents (63% of participants in the group mentioned various professional organisations as a source of their professional standards, and 35% of all respondents who answered Q14 in the questionnaire)
- CIOL – fourteen respondents (52% and 28.5%, respectively)
- ITI – three respondents (11% and 6%, respectively)
- AIIC – one respondent (4% and 2%, respectively)
- NRCPD – one respondent (4% and 2%, respectively)
- APCI – one respondent (4% and 2%, respectively)
- AIT – one respondent (4% and 2%, respectively)
- CILT – one respondent (4% and 2%, respectively)

The next most popular response was "training and experience", with reference to various qualifications (DPSI, MA) and CPD. Twelve respondents (24.5%) relied on this as their source of professional standards.

The third most popular source of professional standards for the practitioners is their own "inner morals" and "conscience", with seven respondents (14%) referring to them.

Five respondents (10%) stated "interpreters' code of conduct" with no reference to any particular one. Four respondents (8%) drew on relevant agency codes of conduct and agreements. One respondent (2%) mentioned faith, and another (2%) mentioned impartiality as sources of their professional standards.

To sum up, responses to Q14 highlight the diverse sources that guide practitioners in their professional practice. The majority (55%) refer to various professional bodies, such as

NRPSI and CIOL, and their respective codes of conduct. Despite some scepticism towards CIOL expressed earlier, it remains one of the frequently mentioned organisations for setting professional standards in the industry.

Training and experience emerge as the second most popular source (24.5%), indicating the value practitioners place on qualifications such as DPSI and MA, along with CPD. Additionally, practitioners rely on their own "inner morals" and "conscience" (14%) as a source of standards, reinforcing the subjective nature of ethical considerations. The variety in responses suggests a complex combination of external guidelines and codes of conduct, personal values and beliefs, experience, and training in shaping the professional standards of interpreters.

6.1.2.9 Q15 – What do you find most attractive and inspirational in court interpreting?

Q15 explores motivations for staying in the profession despite challenges, particularly following the industry change.

Out of fifty-eight participants, fifty-one responded to this question. All responses can be categorised into the following patterns:

- "It's never boring" (human interest, "drama") – nineteen respondents (37%)
- "Highly skilled job" (challenging/rewarding/sense of achievement) – fifteen respondents (29%)
- "Making the difference" (helping the community, the vulnerable, etc.) – eleven respondents (21.5%).
- Gaining respect and recognition from legal professionals – six respondents (12%)
- Participating in justice" – five respondents (10%)
- "Being a key part of the communication between parties" – five respondents (10%)
- "Passion for languages" and interpreting ("it's what I was born to do") – four respondents (8%)
- "Nothing anymore" – two respondents (4%)

The responses to Q15 provide valuable insights into the factors that motivate court interpreters to remain in the profession despite the reported and experienced challenges.

The most commonly cited motivation is the dynamic and human-interest nature of the job, with 37% of respondents expressing that "it's never boring". This suggests that the inherent drama and unpredictability of court interpreting contribute to job satisfaction.

Additionally, 29% of respondents find their inspiration in the high level of skill required for the job, which they find rewarding, that brings them a sense of achievement. Another significant theme is the fulfilment derived from making a difference, with 21.5% highlighting the opportunity to help the community and vulnerable individuals. Respect and recognition from legal professionals, participating in the pursuit of justice, being a key part of communication, and passion for languages are also identified as motivating factors. In the study by Clarke and Kredens (2018) on the identity construction of forensic linguistics, participants also reported contribution to justice as one of key elements of their professional identity construction.

However, it is noteworthy that two respondents (4%) expressed a sense of disillusionment, stating that there is "nothing anymore". This conveys a profound disappointment that may be associated with the industry changes imposed by the MoJ or simply indicative of professional burnout.

To summarise, professionals have a wide range of motivations to remain in the field of court interpreting. Factors such as personal fulfilment, professional challenges, societal impact, and the opportunity to participate in the pursuit of justice all contribute to interpreter commitment to the profession and fosters loyalty. These motivations also play a crucial role in helping interpreters persevere through the current turbulent phase in their field.

6.1.2.10 Q16 – What do you find most challenging in court interpreting?

Q16 seeks to identify the most significant challenges interpreters face in their professional practice in legal settings. Interestingly, the responses provided correlate with answers to questions about interpreter role perceptions and professional status. All respondents who mentioned a lack of consideration and respect for interpreters, ignorance from court personnel, low pay rates, and poor working conditions (such as the absence of regular breaks and briefings) also stated that interpreter status had deteriorated over the past few years. Additionally, most of the challenges mentioned by the interpreters in this

survey were also observed in various courts and documented in my field notes.

Fifty-two participants (90%) answered this question. All responses can be categorised into the following patterns:

- Lack of consideration for the interpreters (speaking too quickly or quietly, etc.) – twelve respondents (23%)
- Technical issues (poor acoustics, lack of audio equipment) – ten respondents (19%)
- "Ignorance" (Lack of understanding and awareness of the interpreter's role among legal professionals) – eight respondents (15%)
- Terminology – seven respondents (13.5%)
- Lack of respect towards interpreters ("being treated like I am a nuisance") – six respondents (11.5%)
- "Hardly any briefing or preparation for the case" – four respondents (8%)
- Aggressive cross-examination – four respondents (8%)
- Emotional load – three respondents (6%)
- Lack of breaks for interpreters – three respondents (6%)
- No designated seat for interpreters in the courtroom – two respondents (4%)
- Accents – two respondents (4%)
- Ensuring effective communication – 2 (4%) responses.
- Atmosphere in the courtroom – 2 (4%) responses.
- Adversarial interpreting – 1 (2%) response.
- Low renumeration – 1 (2%) response.

The foremost challenge highlighted by 23% of respondents as the lack of consideration for interpreters, which encompassed issues such as speaking too quickly or quietly. This issue was also observed during my court visits and backed up by follow-ups with practitioners after or in between hearings.

Technical issues, including poor acoustics and a lack of audio equipment, emerged as the second most commonly mentioned challenge brought up by 19% of respondents. Such issues can hinder the interpreter's ability to hear and interpret proceedings accurately, making their job impossible. This highlights the need for adequate technical support in courtrooms.

The issue of "ignorance" refers to a lack of understanding and awareness of the

interpreter's role by legal professionals, as reported by 15% of respondents. This theme ("lack of awareness of the interpreter's role") was also identified in my ethnographic observation and reaffirmed by the survey findings. This points to a need for increasing education and raising awareness among legal practitioners about the vital role interpreters play in ensuring access to a fair trial.

Linguistic challenges, including dealing with complex legal terminology, were also listed as one of the difficulties interpreters face in the courtroom as reported by 13.5% of respondents. This again raises the question about the importance of specialised training for interpreters that would allow them to handle the complexities of legal language (Fowler, 1997, 2013; Liu and Hale, 2018; Valero-Garcés, 2019, 2023).

Lack of respect towards interpreters, as indicated by six respondents (11.5%) who felt treated as a nuisance, was also seen as a challenge by the practitioners as this can be rather degrading. The sentiment reinforces the repeated narrative about lack of recognition across the survey and interviews with interpreters and is supported by my ethnographic observations of interpreter-mediated hearings. A similar finding was reported in the study conducted by Hale and Napier (2016).

Other challenges include lack of briefing information ahead of the hearing, aggressive cross-examination tactics, emotional load, lack of breaks for interpreters, the absence of a designated seat for interpreters in the courtroom, the atmosphere in the courtroom, low pay, and even accents can pose additional challenges for interpreters in the courtroom.

The numerous challenges faced by court interpreters thus range from technical and logistical issues to deeper challenges related to respect and recognition of their role. As Valero-Garcés (2023) notes, lack of recognition of public service interpreters implies a lack of professionalisation. This inevitably has an impact on professional status. It is not just a challenge that interpreters face on a personal level, but rather a systemic issue that requires, first and foremost, recognition of the interpreter's crucial role and addressing their professional needs through the provision of adequate specialised training, fair working conditions, and competitive pay rates. Ensuring high-quality interpreting services in the legal system requires a collaborative effort to create an environment that fosters professional growth and development for interpreters.

6.1.2.11 Q17 – Is there anything in particular the interpreter should/should not do in your opinion?

Out of the fifty-eight participants, only forty-eight participants responded to this question. There was a wide range of responses; the most popular, "do not offer opinion or advice", was chosen by sixteen respondents (33%). The second most popular answer, selected by eleven respondents (23%), highlighted impartiality as the primary aspect of the interpreter's professional conduct. The third most popular response emphasised interpreters staying within the boundaries of their role, interpreting everything said in court truthfully and faithfully without adding or omitting anything; this answer was chosen by ten respondents (21%).

Below, I categorised all responses into "do's" and "don'ts" based on practitioner views regarding their professional conduct. Some categories are presented as direct quotes from the questionnaire and noted with quotation marks:

Do

- be impartial
- maintain confidentiality
- follow the professional code of conduct and stay within professional boundaries
- ask permission to go "off-piste"
- interpreting and nothing else
- interpret absolutely everything said faithfully and truthfully without adding or omitting anything
- ask for clarification where necessary
- be helpful
- "value [your] own worth" ("have some dignity")
- "know your limit and ability"
- "dress up professionally and arrive on time"

Don't

- advise
- provide opinions
- jump to conclusions
- "work for agencies who pay low rates; have some dignity"
- discuss anything with the judge or other legal professionals

- intervene
- engage in conversations with non-English-speaking litigants
- befriend the non-English-speaking litigants
- become involved in cases
- use the third person when interpreting
- "come dressed in a red shirt and sandals"
- "do legal interpreting if [you] don't hold a law degree and a language degree!!!"

The responses to Q17 reflect a variety of perspectives on the role and conduct of interpreters in the courtroom. The majority of respondents emphasised the importance of refraining from offering opinions and/or advice as well as impartiality, confidentiality, and adherence to a professional code of conduct. Maintaining professional boundaries and interpreting everything faithfully without adding or omitting information were also commonly highlighted as essential practices. Some respondents noted the need for interpreters to seek permission before deviating from the main proceedings and to ask for clarification when necessary.

"Do's" included reminders for interpreters to know their limits, dress professionally, and arrive on time. The importance of interpreters valuing their worth and maintaining dignity was also stressed. On the other hand, "don'ts" emphasised that interpreters should not offer opinions, provide advice, or jump to conclusions. There were additional warnings against working for agencies with low pay rates, engaging in conversations with non-English-speaking litigants, and becoming personally involved in cases.

The diverse range of responses indicates that practitioners have varying opinions on what interpreters should or should not do in the courtroom. The lack of consensus on the interpreter's role in the courtroom aligns with findings from numerous academic studies (for example, see Morris, 1996; Nakane, 2007; Hale, 2008). Still, common threads around impartiality, professionalism, and adherence to ethical standards emerge, suggesting a shared understanding of the core principles guiding the interpreter's behaviour in legal settings.

6.1.2.12 Q18 – Do you feel you receive enough feedback? What does it mean for you as a professional?

Q18 aims to delve into interpreter perceptions of their own professionalism via feedback

on their performance. Feedback can be an important aspect of constructing professional identity, as demonstrated in studies on the construction of professional identity by Ibarra (1999) and Svennevig (2011).

Fifty-two respondents (90%) answered this question. Of these, twenty-two respondents (42%) stated that they never receive any feedback while fifteen respondents (29%) replied that they receive insufficient (very little or very rare) feedback. Another fifteen respondents (29%) shared that they do receive feedback, and it is usually positive.

Those who receive feedback mentioned that it usually comes from legal professionals in the form of "thank you" or other forms of praise. However, they express a preference for written feedback and value feedback from those who genuinely understand the interpreter's role. The feedback received allows them to feel appreciated and encourages their professional growth.

Thus, the responses to Q18 reveal a significant concern among interpreters regarding the adequacy and nature of the feedback they receive. A considerable portion, 42% of participants, indicated they had never received any feedback. An additional 29% of participants felt the feedback they had received was insufficient. This lack of feedback, particularly in terms of constructive criticism, seemed to be a widespread issue, leaving interpreters isolated in their professional growth.

Several respondents highlighted the challenge of receiving linguistic feedback due to the nature of their role, as they operate in a unique linguistic space that few can access to adequately assess their performance. The absence of quality control mechanisms is acknowledged, and the interpretation process relies heavily on subjective perceptions of understanding, creating an environment of trust. These sentiments are presented in the following responses:

> There is very little, if any, linguistic feedback as the purpose of your presence is to ensure parties who would/might otherwise not understand each other can communicate.
>
> Generally, no one else speaks both languages so there is very little quality control. It's normally a matter of the parties "feeling" and "believing" that they understand each other, and you have done a good job. There is a lot of trust involved on all sides.
>
> Professionally, it's quite isolating not to have any constructive feedback on

> linguistic aspects although it's always nice to be told you're a great interpreter! (Respondent 26)

> No. That's a big issue. Never received any constructive feedback. There should be an assessment of quality, but there is none. (Respondent 58)

An interesting response was provided one respondent who made a critical connection between the receipt of feedback and lack of recognition for interpreters as professionals:

> I have instances where I get feedback, but this only come from legal professionals who by their conduct during proceedings have demonstrated that they need our expertise and that they respect our profession as a whole. Without this attitude, there is no feedback because we are simply not viewed as professionals the majority of the time. (Respondent 55)

The above example suggests a relationship between receiving feedback and the interpreter's perceived status. The absence of feedback may further reinforce a sense of low status and lack of recognition among interpreters.

In conclusion, the findings suggest a general dissatisfaction among interpreters with the current state of feedback in their profession. The limited and often informal nature of feedback received, coupled with the absence of constructive criticism necessary for professional growth, poses challenges to the interpreter's professional development. Addressing this issue could contribute to fostering a more supportive professional environment for interpreters in legal settings.

6.1.2.13 Q19 – Are you a member of any trade union? If so, what was your primary reason for joining? If not, why?

Q19 seeks to gauge the overall sentiment regarding trade unions in the field of PSI with a specific focus on court interpreting. Understanding the perception of trade unions within the interpreting community is crucial for exploring the potential role of such organisations in advocating for interpreter rights, addressing professional challenges, and shaping the future of the interpreting profession.

Out of the fifty-eight participants, fifty-four (93%) responded to this question, and four left it blank. Among the fifty-four responses, eleven respondents (20%) answered "yes"

while forty-three (80%) indicated that they are not members of any trade unions. All responses can be categorised as follows:

Reasons for joining a union

- To find people sharing similar concerns about the current situation
- To stop the profession from being destroyed
- To stand up for interpreter rights and defend the profession
- To be stronger with others for protection from exploitation
- To consider joint strike action
- A belief in trade unionism

Reasons for not joining or leaving a union:

- "There is not any visible successful united group representing interpreters' interests".
- Trade unions are unable to protect interpreters against unfair treatment or stand up for their rights.
- Freelance work cannot be protected by unions as it is "by definition uncertain and with no guarantees".
- "We are too few as a profession to be taken notice of, as opposed to other trades"
- Lack of awareness of trade union options
- "A lot of talk, no action!"
- "Lack of trust and no need"

Some examples include the following excerpts:

> Yes, I joined in an attempt to find people who like me are so unhappy with the current situation and are willing to do something about it. (Respondent 1)

> No, there is not any visible successful united group representing interpreters' interests. I believe that this function needs to be in the professional bodies' hands. (Respondent 6)

> NUPIT because I believe in trade unionism and because our profession (PSI) is being constantly downgraded by government policy and unscrupulous agencies. (Respondent 22)

> No trade union have the will or the agenda to fight for the rights of the interpreters, in any case we are too small in numbers for any consideration and mostly self-employed freelances. We are, in most cases, alone. (Respondent 39)

As seen from the examples above, practitioners who seek protection against government policies and so-called unscrupulous agencies, or who are looking for like-minded individuals to stand up for their rights as a united front, join unions with the belief that this can advance their agenda. However, a considerable proportion of respondents do not believe that unions can do much for them simply because the profession is not well represented in numbers and, in most scenarios, interpreters are isolated even within their professional community.

The findings from Q19 thus reveal a lack of engagement with trade unions among the interpreters. A large majority of respondents are not members of any trade union as they do not believe such organisations can adequately represent their interests. While some practitioners see trade unions as a means to unify and protect their rights, others express scepticism about their efficacy in addressing the unique challenges faced by interpreters – especially those in freelance roles. Further exploration into the potential role and impact of trade unions within the PSI field is warranted to better understand how these organisations can align with interpreter needs and contribute to the overall development of the profession.

To sum up, the responses gathered from the second-round questionnaire for courtroom interpreters paint a complex picture of their professional identity. Their role perceptions are closely linked to their professional experiences and views on relationships with legal professionals and other stakeholders. The data indicates that many interpreters are highly qualified and experienced professionals who demonstrate a strong commitment to their profession, despite all the challenges they face in the courtroom.

However, the data also suggests a strong correlation between their perceptions of declining professional status, working conditions, and the outsourcing of PSI services to private agencies, leaving many professionals feeling undervalued and disappointed. There is a notable sense of scepticism toward and mistrust of professional organisations (CIOL, ITI, NRPSI) and trade unions, pointing to a lack of unity and the atomisation of interpreting as a profession.

It is essential to address the complex interplay of factors shaping the interpreter's

professional identity and working conditions in order to promote the profession and ensure the quality of interpreting services in legal settings.

6.2 Questionnaire for court officials: findings and discussion

As discussed in Chapter 3, the questionnaire for court officials consists of nine main questions. A tenth question enquiring about contact details was added to the online version of the questionnaire launched in April 2018 via Google Forms. Until April 2018, the questionnaire was distributed either by e-mail or by hard copy handed to respondents for manual completion (all completed questionnaires by the legal professionals, including the online survey, are available in Vol 2, Appendix 9).

6.2.1 Background information for participants

Twenty-seven representatives of the legal profession participated in the survey. The most represented group were solicitors, with fifteen participants (55.5%). This was followed by barristers, with six participants (22%). Additionally, three court clerks (11%), one paralegal (4%), one legal linguist (4%), and one judge (4%) participated in the survey.

Fifteen respondents (55.5%) reported having worked with interpreters in their legal career, which exceeded ten years. The remaining respondents (44.5%) experienced working with interpreters for a time period ranging from three months to six years.

The courts where the respondents mainly practised were:

- Crown Courts (Birmingham, Wolverhampton)
- Immigration tribunals (Sheldon Court, Birmingham; other immigration tribunals across England and Wales)
- First tier tribunal (Stoke, London, Newport)
- Magistrates' (Dudley, Sandwell, Wolverhampton, Warwickshire, Coventry)
- County and family courts (West Midlands)
- Old Bailey, Blackfriars, Wood Green, Snaresbrook, Southwark
- Royal Courts of Justice
- High Court of Justice of England and Wales

Below I will review and discuss the responses provided by participants to every question

in the questionnaire for court officials (and legal professionals).

6.2.2 Q4 – What is the role of the interpreter in the courtroom in your view?

This question aimed to explore the perspective of legal professionals on the interpreter's role. As with the survey for interpreters, legal professionals were not provided with role descriptors. Their responses can be grouped into the following patterns:

- To facilitate communication between two parties ("to strive for optimum communication among all participants"/"to bridge the communication gap") – nine respondents (33%)
- To interpret verbatim what is said (neutral conduit) – three respondents (11%)
- "To accurately interpret what they hear from the witness" but not provide a literal translation (faithful renderer of the message) – three respondents (11%)
- "To assist in translation"/"to translate speech from one language to another" (i.e. "interpreter") – three respondents (11%)
- Linguistic support – three respondents (11%)
- Essential/important – three respondents (11%)
- Integral – two respondents (7%)
- Cultural expert – one respondent (4%)
- Professional – one respondent (4%)

As can be seen from these patterns and as with the interpreters themselves, legal professionals have a wide range of views on the role of the interpreter in the courtroom. Among legal professionals, the leading view of the interpreter is as a "facilitator of communication". Approximately 33% of respondents described the interpreter's role in a way that falls under this category. For example:

> To bridge the communication gap between the appellant and the rep, Home Office [and] judge. To enable the appellant to understand everything in court. (Respondent 4, a court clerk)

> To assist both the client and the court in relaying accurate information from the client for the information of the court. (Respondent 20, a paralegal)

> To facilitate communication from and to the defendant and the court. (Respondent 22, a solicitor)

All other categories are more or less equally distributed among the respondents with no clear trend for any of them. So, 11% of respondents described the interpreter's role as a "neutral conduit", as in the example below:

> To literally translate everything said in [c]ourt. (Respondent 13, a barrister)

Three respondents (11%) believe that the interpreter's role is "to accurately interpret what they hear from the witness" – but this should not be a literal translation. I think this understanding of the interpreter's role closely aligns with the role descriptor "faithful renderer of the message" provided by Hale (2008), which emerges in a below example:

> The interpreter's primary role is to interpret faithfully for the person in question. The interpreter should as accurately as possible, translate the exchanges between the assisted person and their legal team. That should be a "warts and all" interpretation. If there is an ambiguity in the question or the answer, then that should be highlighted. (Respondent 15, a barrister)

Another 11% of respondents said the interpreter should simply translate from one language to another while 11% explicitly mentioned the "linguistic" element of the role, which I labelled "linguistic support" in my analysis. I split these two descriptions into two separate categories, although they are quite close in meaning.

> To translate speech from one language to another. (Respondent 14, a solicitor)

Here is an example favouring the "linguistic support" role description:

> To ensure defendant fully understands linguistically all that is happening during his/her proceedings. (Respondent 16, a barrister)

Similar to the interpreters, 11% of legal professionals highlighted the "importance" of the role as opposed to its function:

> The Interpreter is the essential link allowing an [a]appellant or witness to understand what is happening in the case. (Respondent 19, a barrister)

> The role is of crucial importance in making sure everyone understands what is being said. It is a dramatic breach of anyone's right to justice and fairness of process if there is language barrier. (Respondent 21, a legal linguist)

Two respondents (7%) stated that interpreters are integral to court proceeding, as in the

below example:

> An interpreter is integral to court proceedings when the case is not in the defendants first language, it is necessary for a fair legal system. (Respondent 26, a solicitor)

In summary, the responses to Q4 reveal a wide range of views held by legal professionals regarding the role of interpreters in the courtroom. The most prevalent view, expressed by approximately 33% of respondents, is that interpreters primarily function as "facilitators of communication". This emphasises the interpreter's role in bridging linguistic gaps and ensuring effective communication among all participants in legal proceedings.

While this dominant view aligns with the central theme identified among the practitioners themselves, legal professional perspectives on the interpreter's role vary significantly. The responses collected from legal professionals suggest that a complex combination of factors influences and shapes their views – starting with their professional background, such as their position in the legal system. For example, a barrister, judge, or court clerk will have different experiences with court interpreters and their perspectives are likely to differ accordingly. Other factors include their exposure to different court settings, personal experiences with interpreters, attitudes, and even their broader views on the legal system. Another significant factor is their understanding of the interpreting process and its complexity. This will be discussed later in this chapter.

The varied nature of these responses further reveals the complexity and depth of the interpreter's role in the legal setting, reflecting the dynamics of triadic communication and cultural mediation within the courtroom. The findings also suggest a degree of alignment between the perspectives of legal professionals and the interpreters themselves, which will be discussed in more detail in the next section of this chapter.

6.2.2.1 Comparing views on interpreter roles: interpreters vs legal professionals

When compared with the responses of interpreters regarding their role, a strong overlap is evident in the view the role of the interpreter as "a facilitator of communication". A similar proportion of interpreters (31%) describe their role in these terms compared to 33% of legal professionals. It appears that among legal professionals, this role perception is marginally more prevalent than among interpreters. However, two practitioners (3.5%)

in this round mentioned that they see their role as "a link/a language bridge between court professionals and non-English speakers". I put this description in a separate category, but arguably it can also suggest facilitation of communication. In addition, 42% of responses favouring "facilitator of communication" from the first round, averaging to 36.5% across the two data sets, indicates that this role perception is more widespread among interpreters compared to legal professionals.

A similar trend can be observed when it comes to understanding the role of the interpreter as a neutral conduit who should translate everything said verbatim. Ten per cent of interpreters see their role as a neutral conduit, compared to 11% of legal professionals. As for the first-round questionnaire, two participants (8%) described their role as a "transmitting device" and one (4%) as a "mouthpiece of the non-English-speaking person", which could also be regarded as a conduit role. In total, this averages to 11% across the two data sets, which is proportionally equivalent to results obtained from legal professionals.

However, it is also important to note there is a difference in understanding the concept of a neutral conduit among legal professionals and interpreters. Interpreters who see their role in this way usually refer to themselves as "machines" or "a voice/mouthpiece for the defendant", but do not necessarily mean verbatim interpreting. In contrast, legal professionals leaning towards this role perception usually add word-for-word or verbatim interpretation, which may suggest a lack of understanding of what the interpreting process means and involves.

A larger proportion of interpreters (19% vs 11% of legal practitioners) described their role as "interpreter" without further clarification. Eleven per cent of legal professionals were a bit more specific by saying the interpreter's role is "to assist in translation"/"to translate speech from one language to another"; in effect, however, this can be seen as what the interpreters labelled "interpreter". In contrast, 11% of legal professionals highlighted the linguistic aspect of the interpreter's role, whereas only 2% of practitioners described themselves in these terms.

It is interesting to note that 11% of legal professionals described the role of the interpreter in a manner that closely matches the description provided by Hale (2008), "faithful renderer of the original utterances", as opposed to only 3.5% of interpreters whose perception could be aligned with this category. In the first round of the interpreters'

survey, 8% attributed this role perception to themselves. This averaged to 6% across the two rounds, with legal professionals still leading the trend.

"Cultural broker" or "cultural expert" does not seem to be a popular role perception among either group of respondents (interpreters or legal professionals), with 3.5% and 4% of respondents in their respective groups describing the interpreter's role in these terms.

As for the evaluative aspect of the role, only 11% of legal professionals described it as "essential" or "important" (as opposed to 14% of interpreters). However, two legal professional respondents (7%) stated that the interpreter's role was "integral" to the court proceeding. That could be considered an additional positive evaluation of the role to bring the total to 18.5% in this group, which is very close to the interpreters' perceptions.

Another interesting observation to be made here is that none of the legal professionals mentioned "impartiality" in response to this question, whereas 5% of interpreters highlighted this aspect as important.

To sum up, comparison of the views of interpreter roles among interpreters and legal professionals reveals a notable convergence around the perception of the interpreter's role as a facilitator of communication. A similar trend emerges regarding the understanding of the interpreter as a neutral conduit. However, differences emerge in interpretations across the two groups of respondents; interpreters often emphasise being a "voice for the defendant" while legal professionals associate them more explicitly with word-for-word" or verbatim interpretation. Additionally, 19% of interpreters simply identify as "interpreters" while 11% of legal professionals highlight the "linguistic" aspect. Notably, legal professionals (11%) align more closely with Hale's (2008) descriptor of "faithful renderer" than interpreters do (3.5%).

The evaluative aspect varies, with only 11% of legal professionals perceiving the role as "essential" or "important" compared to 14% of interpreters. However, 7% of legal professionals noted the that the interpreter's role is integral to the legal proceedings. Interestingly, none of the legal professionals mention "impartiality", a key aspect highlighted by 5% of interpreters.

Overall, these findings demonstrate both differences and similarities in perceptions among interpreters and legal professionals in understanding the interpreter's role in the

courtroom.

6.2.2.2 Interpreter perceptions of how legal professionals view their role vs. actual legal professional views of the interpreter's role

In the previous section, I compared and discussed views on the interpreter's role among practitioners and legal professionals. In this section, I aim to compare the perceptions of interpreters with the actual views on their role by legal professionals.

So, 25% of practitioners believe that their role is viewed as "important", "helpful" and "essential" (positive evaluation) by legal professionals. However, only 11% of the legal professionals confirmed this view. Even when adding the 7% stating that the interpreter's role is "integral" (positive evaluation), that total is 18.5% – still 6.5% less than 25%.

Furthermore, 23% of interpreters stated that they are often seen as "an inconvenience" or "a nuisance" (negative evaluation) and 20% said that they feel it "varies enormously" from highly valued facilitator of communication to hindrance/nuisance and a necessary evil". While legal professionals did not express anything explicitly negative about the interpreter's role (aside from the time necessarily added to the proceedings), the relatively low proportion of explicitly positive evaluations may suggest that interpreter perceptions, though subjective, are not entirely unfounded.

Additionally, 12.5% of practitioners believe they are simply seen as "interpreters", and 11% of legal professionals echo this perception. In contrast, 33% of legal professionals considered interpreters "facilitators of communication" in the courtroom whereas only 12.5% of interpreters believed they were viewed that way. Likewise, 11% of legal professionals perceived interpreters as a "neutral conduit", while only 2% of interpreters confirmed this perception. The same can be said about the role "linguistic support": 11% of legal professionals described the interpreter's role in these terms, while only 2% of interpreters thought they were viewed as "linguists".

The perception of the interpreter's role as a "cultural expert" seems unpopular in both groups as it was mentioned by only one respondent from each.

The interpreters also mentioned they were viewed by legal professionals as an "intermediary", "psychologist", "a representative of a non-English speaker (advocate)",

a court clerk, or "independent, impartial, and equal". None of these perceptions were confirmed by legal professionals.

In summary, comparison of interpreter perceptions and the actual views of legal professionals on the interpreter's role reveals notable disparities. While 25% of practitioners believed their role was positively evaluated by legal professionals, only 11% of the latter group confirmed this perspective. Additionally, the interpreters often felt their role varies from valued facilitators to hindrances, which contrasted with the absence of explicitly negative views among legal professionals. The identification of such a perception gap draws attention to potential misunderstandings. Notably, legal professionals see interpreters more as facilitators and neutral conduits while interpreters have diverse views that include roles such as intermediaries or advocates. None of these latter roles align with the perceptions of the legal professionals who participated in the survey. These findings reaffirm the lack of consensus and conflicting perceptions of the interpreter's role noted in the academic literature (Gibbons, 2003; Mikkelson, 2008; Hale, 2008; Kredens, 2016).

6.2.3 Q5 – Is there anything in particular the interpreter should/shouldn't do in your opinion?

This question seeks to explore the legal professional view on what interpreters should or should not do in the courtroom. It is closely related to the role of the interpreter, or role performance (Llewellyn-Jones and Lee, 2014).

All responses to this question can be summarised as follows:

Interpreters should

- be impartial
- interpret everything said without adding, omitting, or filtering anything
- be professional ("[t]he interpreter should behave in a way that no one feels is discriminatory or humiliating. They even should be very careful about their tone" (Respondent 25)
- always interpret verbatim what is being said
- "…practise integrity [throughout the session] and try to speak clearly and try their

best to provide the same understandable equivalents for the words and sentences to avoid any misunderstandings" (Respondent 21)

- "…be able to assess the session and the person they are going to interpret for" (Respondent 21).

Interpreters should not

- offer opinion/views/advice or any assistance to the defendant
- make up evidence or fill in the gaps in what has been said
- get involved personally
- give advice on the law or evidence or mislead the court
- elaborate on what has been said
- engage in personal conversations with the defendant
- become emotionally involved.

Thus, the responses from legal professionals regarding what interpreters should or should not do in the courtroom shed light on their expectations of the interpreters and complement their views on the interpreter's role discussed earlier in this chapter. A recurring theme in their expectations appears to be the importance of impartiality. Interestingly, impartiality was not brought up by the legal professionals when asked about the role of the interpreter in the courtroom, but it is clearly one of the central themes in the discussion of the interpreter's role performance. The impartiality factor aligns with interpreter views on their own role, as discussed earlier. Also, it was emphasised by the practitioners when asked what they should and should not do in the courtroom.

Furthermore, the legal professionals emphasise that interpreters should maintain neutrality, refrain from offering opinions or advice, and avoid personal involvement in the proceedings. Professionalism emerges as a key aspect of the expectations of legal professionals. Beyond linguistic competence, they emphasise the need for interpreters to conduct themselves in a manner that upholds the dignity of the court and ensures a fair and unbiased process. All these expectations are reflected in the interpreters' understanding of their conduct in the courtroom.

The legal professional expectation for verbatim interpreting is another notable theme, with some legal professionals stressing that interpreters should faithfully translate everything said without adding or omitting information, and a few demanding word-for-word translation. For example, Respondent 13 (a barrister) stresses literal translation as

number one requirement for the interpreter in the below excerpt:

> **The interpreter should**
>
> - Recognise that they are there to literally[12] translate what is said, without adding their own spin or explanation.
> - Be fluent in both languages.
> - Have no personal connection to the party/witness who requires the translation.
> - Ask for assistance from the Court if the party/witness says they are unable to understand the question.
> - Adopt the tenor of the advocate.
>
> **The interpreter should not**
>
> - Rephrase questions or answers, unless at the specific instruction of the Court/advocate.
> - Discuss matters with the party/witness in their own language, unless at the specific instruction of the Court/advocate, and only if all such discussions are translated word-for-word for the benefit of the Court.
> - Assist the witness in providing their answers.
> - Suggest possible answers to the witness.
> - Seek to justify the witness's answers to the Court.

An expectation among some legal professionals for the provision of literal translation enters into a conflict with the practitioners' understanding of "interpret absolutely everything said faithfully and truthfully without adding or omitting anything". As Hale (2008) argues, there is a general consensus that literal interpretation does not equal accurate rendition; professional interpreters would not engage in word-for-word translation even if courts anticipated verbatim interpretation as this is deemed an unattainable task (Hale, 2008: 114). The conflict reveals a misunderstanding of what the interpreting process means by some representatives of legal professionals, leading to the imposition of unrealistic expectations on interpreters. These findings resonate with numerous studies in the field of courtroom interpreting (for example, see Morris, 1995; Nakane, 2007; Mikkelson, 2008; Hale, 2008) and call for the need to raise awareness of

[12] Further clarification from the respondent: "By "literally", yes, I mean word-for-word translation (or as close to as possible – I realise this is not possible for every word/phrase in every language). I find a real problem with interpreters re-phrasing the questions and answers – often simply trying to be helpful – not realising that they are changing the nuances or the impact of the evidence".

the interpreter's role among legal professionals.

To sum up, both interpreters and legal professionals agree on the fundamental principles of impartiality, confidentiality, and ethical conduct. Nevertheless, legal professionals tend to focus on literal aspects of interpreting while interpreters focus more on practical and ethical considerations related to their role. These differences in focus result in misunderstandings and unrealistic expectations from legal professionals regarding the interpreting process.

Overlapping concerns about neutrality, ethics, and professional boundaries suggest a shared understanding of the essential aspects of the interpreter's role and conduct. However, lack of awareness of the complexities inherent to the interpreting process suggest room for improvement in collaboration and communication between the two groups.

6.2.4 Q6 – Does the presence of the interpreter have an impact on your work in the courtroom? If it does, what impact does it have?

Twenty-five respondents (92.5%) replied that the presence of the interpreter has a significant impact on their work. Their responses can be further broken down into the following:

- Interpreting quality is key. The barrister's job is a lot easier if the interpreter is articulate and much more difficult if not.
- Yes, absolutely. Interpreters win or lose cases.
- Interpreters are vital to most hearings.
- Interpreting slows the process down, which is inevitable.
- Interpreters are not always on time (it's crucial to have a back-up).
- Interpreters help to bridge the gap (it's very important).
- Interpreting dampens the effect of cross-examination ("nuances are lost, the force of questions is lost, the tenor of questions is lost").
- Interpreters can give the "assisted person" confidence in the proceedings.
- Interpreters are immensely valuable.
- Interpreters help communication and the client's comprehension.

As can be seen from the above summary and in the examples below, the majority of the

respondents acknowledge the impact of the interpreter on their work. However, most note the valuable role of interpreters despite the added time to the proceedings:

> Yes. They are immensely valuable when dealing with clients (defendants) who cannot speak English. They also provide support for understanding the context of the offending (criminal matters) where culture is a relevant factor. (Respondent 17, a solicitor)

> Of course, presence of an additional party always has its impact. However necessary it is to have an interpreter; it does slow the process down and often leads to an emotional detachment of the witness. In turn, it may lead to different picture of the account to be created. (Respondent 25, a solicitor)

> Yes. It makes proceedings take longer. It also dampens the effect of cross-examination – nuances are lost, the force of questions is lost, the tenor of the questions is lost. Equally, the nuance and tenor of the answers are lost. It is far more difficult to put witnesses under pressure in XX when the questions have to be translated for them, and far more difficult to use the answers to demonstrate the unreliability of the witness as it is rarely clear whether they are ducking the question or have simply misunderstood it as a result of the limits of translation/poor translation. (Respondent 13, a barrister)

Two respondents (7.5%) replied that the presence of the interpreter in the courtroom does not have an impact on their work.

The overwhelming response from the legal professionals is notable, with 92.5% stating that the presence of an interpreter has a significant impact on their work while only 7.5% deny such an impact. The responses reveal both positive and challenging aspects associated with the interpreter's presence in the courtroom. It is also important to note that the responses of legal professionals to this question suggest a rather positive view of the interpreter's role, as opposed to the interpreters' perceptions discussed earlier. Legal professionals acknowledge the interpreter's value in ensuring the accurate relay of information for defendants who may struggle with the language spoken in the courtroom. This aligns with the broader goal of promoting access to justice for individuals from diverse linguistic backgrounds.

Yet challenges are also evident, particularly in terms of the impact on the pace of proceedings. Acknowledgement that the presence of an interpreter can slow the process

down reflects the practical implications of incorporating interpreting into legal proceedings. The comments regarding the impact on cross-examination display a notorious conflict between safeguarding access to a fair trial for the non-English-speaking litigants and maintaining a legal strategy. Language subtleties, the force of questions, and the tenor of answers along with other rhetorical devices used in cross-examination by lawyers may be compromised in interpreting process, posing challenges for legal professionals seeking to scrutinise witnesses/defendants.

The responses to Q6, which address the impact of interpreters on the work of legal professionals in the courtroom, relate to several other categories within the questionnaire for court officials. These relationships highlight how the presence and actions of interpreters influence both the legal process and the perceptions of legal professionals. For example, legal professionals who view the interpreter's role primarily as a facilitator of communication acknowledge their positive impact on the legal process and their work in the courtroom. Conversely, those who see the interpreter more as a neutral conduit tend to focus more on the challenges associated with interpreting, such as the slowing down of proceedings and weakening of interrogation tactics.

Another interesting relationship can be observed between responses to Q5 (what interpreters should or shouldn't do) and those to Q6. In Q6, legal professionals note that the quality of interpreting is "key" for effective court proceedings and that any missteps or deviations on the part of the interpreter can negatively affect their work. Some even state that interpreters can "win or lose cases". As a result, there is an expectation that interpreters adhere to the "do's" and "don'ts" specified by legal professionals, which shapes their perceptions of the interpreter's role and impact on their work.

6.2.5 Q7 – Is the interpreter part of the legal process or is he/she outside of it in your view? (What is the status of the interpreter in the courtroom?)

Out of the twenty-seven participants, twenty-six (96%) responded to this question. Twelve respondents (46%) stated that interpreters are an integral part of the legal process ("part and parcel"), while thirteen respondents (50%) said they are not (considering interpreters independent or outsiders). One respondent (4%) mentioned that interpreters should be neutral in the process. Below are examples from the questionnaire illustrating

both views:

> The interpreter is not part of the legal process. They are totally independent. They are there to aid communication. (Respondent 4, a court clerk)
>
> Part of the legal process. (Respondent 5, a judge)
>
> I would say outside the process as not all legal cases require this service. The status of the interpreter in the courtroom is to uphold the law, act justly and in good faith. (Respondent 20, a paralegal)
>
> The interpreter is a part of legal process and has physical and visual presence. If the interpretation is contested, the interpreter himself might become a witness at court. However, the most efficient interpreters would ensure the interpretation runs so smoothly that the [c]ourt/[c]ourt participants pay almost no attention to the interpreter and instead fully concentrate on the facts of the case. (Respondent 25, a solicitor)

Thus, the responses to Q7 reflect diverse views on the status of interpreters in the legal process. The responses are nearly split 50/50 between considering interpreters as an integral part of the legal process or as outsiders with an independent role.

Those who perceive interpreters as "part and parcel" of the legal process emphasise their crucial role in facilitating communication and ensuring that legal proceedings are accessible to individuals with limited proficiency in the language of the court. This perspective aligns with the understanding that interpreters contribute directly to the functioning of the justice system by enabling effective communication.

On the other hand, participants who view interpreters as being outside the legal process may see them as neutral entities independent of the legal proceedings. This perception could stem from the notion that interpreters should maintain impartiality and avoid influencing the course of legal events. The idea of interpreters being independent resonates with the belief that their primary function is to aid communication rather than actively participate in legal decision-making.

The participant who suggests interpreters should be neutral introduces an additional layer to the discussion. This perspective highlights the importance of interpreters maintaining a neutral stance to ensure the integrity of the legal process. It implies that interpreters should not be seen as taking sides or influencing the outcome of the proceedings.

It is worth noting that the responses to Q7 are closely linked to responses from other questions in the survey for court officials. Whether legal professionals view interpreters as part of or outside the legal process affects their perceptions of the interpreter's role, their expected conduct, their impact in the courtroom, the changes to their professional status over the years, and the complexities of the interpreting process. These relationships are salient and highlight the complex dynamics of interpreter-mediated communication in legal settings and the need for a deeper understanding of the interpreter's role among legal professionals.

6.2.6 Q8 – Has the status of the interpreter in the UK legal system changed over the last few years?

Out of the twenty-seven participants in the survey, only twenty-one respondents (78%) answered this question. Six respondents (22%) either left the field blank or did not understand the question correctly, and their responses were disregarded as irrelevant. Among those who answered the question, twelve (57%) believed there had been no change in the status of interpreters over recent years; five (24%) expressed concerns that interpreters were no longer as valued as they used to be (indicating a degraded status); and four (19%) believed that interpreters had received global recognition and overall, their status had improved.

The below example illustrates a widespread view among legal professionals regarding interpreter status, emphasising that they are respected as a profession and there has been no change in that regard over the recent years:

> An interpreter is usually treated by the court with respect. As a profession they are respected (No change in their status). (Respondent 1, a barrister)

The next two excepts raise concerns over interpreter status as these respondents believed it had been downgraded, and this may be associated with outsourcing:

> It has since Capita took over. I have seen a definite fall in standards. (Respondent 2, a solicitor)

> I think they have been downgraded. They were on a good wage, but due to outsourcing they are on a lower income. (Respondent 4, a court clerk)

And finally, an illustration of the minority view that interpreter status had improved with the global recognition of their profession:

> An interpreter is and always has been an integral part of the right to a fair trial in the UK legal system. Although this has always been the case, this is now more important than ever in the UK as the non-British population of the UK has increased over the last few years and an estimated one in seven people living in the UK today was born outside the country. (Respondent 24, a solicitor)

Thus, the responses to Q8 provide varied perspectives on whether the status of interpreters in the UK legal system has undergone changes in recent years. Respondent views reflect a range of opinions with a majority observing no change, some perceiving deterioration, and a minority indicating improvement have been achieved.

Those who believed there had been no change in interpreter status pointed out the continued respect and recognition interpreters received within the legal system. This perspective suggests that, despite potential challenges or changes in the working conditions, the fundamental acknowledgement of the importance of interpreters in ensuring a fair trial has remained the same in their view.

Participants who expressed concerns about a perceived decline in the status of interpreters pointed to issues such as reduced pay, diminished job perks, and outsourcing as contributing factors. These concerns may stem from broader changes in the landscape of interpreting services following privatisation of PSI in 2011, which potentially impacted the overall working conditions and remuneration for interpreters.

Conversely, a subset of participants believed that interpreters had gained global recognition, and their status had improved over the years. This positive outlook suggests a perception that the role of interpreters is increasingly acknowledged and valued, possibly as a result of a growing awareness of the importance of linguistic and cultural support in the legal process.

However, what is particularly notable is that the legal professional view on the status of courtroom interpreters contrast starkly with the views on their status expressed by the interpreters in both survey rounds. If some overlap and convergence in their views on perception could be observed in previous questions, their views are polar opposite when it comes to status. So, 82% of respondents in the second-round survey and 69% of

respondents in the first-round survey (averaging to 75.5% across the two data sets) stated that interpreter status had deteriorated over the last few years. In contrast, 57% of legal professionals believed there had been no change, 24% noted a decline, and 19% believed it had improved. Conversely, 14.5% of interpreters in the second-round survey felt valued and/or believed their status had improved while only 4% in this round survey believed there has been no change. In the first-round survey, 11.5% felt valued (or felt their status had improved), 4% said "its variable", and 15% declined to comment.

Thus, a stark contrast in the views of legal professionals and interpreters on the status of courtroom interpreters is evident. While the majority of interpreters perceive a decline in status, legal professionals believe by a significant margin that there has been no change or even an improvement. This divergence in perception highlights a significant disconnect between the two groups, pointing to a need for further exploration and understanding of the factors influencing such contrasting views on interpreter status in the legal system.

6.2.7 Q9 – What does the interpreting process involve in your view?

This question assesses the level of awareness among legal professionals regarding the interpreting process and its complexities. Responses to this question may provide further insights into the conflicting views and expectations surrounding the interpreter's role in the courtroom.

A total of twenty-five participants responded to this question. Their responses can be summarised into the following patterns:

- A demanding and difficult process
- A very complex process that requires knowledge of legal terminology ("an amazing skill to have")
- Accurate translation of the evidence
- Interpreting verbatim what is said in the courtroom.
- "Booking interpreting on the system"
- Understanding the language, availability, and being able to do the job in a professional manner
- Excellent knowledge of both languages, the ability to convey the different

connotations of what is being said

- Listening, understanding, interpreting accurately, legal and general knowledge in all relevant languages
- Acting professionally, dressing in the right manner, and being on time
- Making the defendant's accessible to the jury in the clearest possible way, which involves a high degree of competence (the interpreter is a conduit of communication and vital ingredient of a fair trial)
- Listening, comprehending, and conveying literally what is being said by all parties during the proceedings
- A clear mind, no bias, a passion for delivering accuracy

Below are two examples from the questionnaire illustrating the respondents' understanding of the interpreting process:

> What it most certainly does NOT involve is the interpreter as a mere conduit. Irrespective of paymaster, the task of the interpreter is to enable to the best of her/his ability complete comprehension for all relevant parties. That process itself requires the conveyance of meaning where that of necessity precludes ANY attempt at a word-for-word interpretation. Also, there must be scope for an awareness of serious impropriety on the part of other participants in the process just as with any other citizen. (Respondent 12, a solicitor)

> Probably assessing and understanding that firstly the interpreting is to be conducted in a commonly spoken language between the interpreter and the recipient of the interpreting services; secondly, that the interpreting can be conducted impartially; thirdly, the interpreter can demonstrate high professional standards for courtroom demeanour and is in a position to appropriately assist the court. (Respondent 25, a solicitor)

To sum up, responses to Q9 revealed diverse perspectives on the interpreting process within the legal context. These ranged from "a complex, demanding process" to viewing it as simply a "booking process". The wide range of responses highlights a lack of unity, understanding, and awareness of the intricate nature of the interpreting process among legal professionals. While some individuals display a decent understanding and appreciation of the complexities involved (as seen in the above examples), others reduce interpreting to mere administrative tasks such as booking or highlight the importance of an appropriate dress code and punctuality.

This diversity in views among legal professionals is reflected in the interpreters' perceptions of their role and status in the courtroom, with 20% stating that the view of their role among legal professionals "varies enormously". This variability may stem from lack of awareness of what the interpreting process involves among legal professionals.

As mentioned earlier in this chapter, the understanding of the interpreting process by legal professionals shapes their perceptions of the interpreter's role, their expectations, their evaluation of the interpreter's impact on their work, and interpreter status in the legal system. If a legal professional views interpreting as a complex process requiring linguistic expertise, legal knowledge, and cultural understanding, for example, they are more likely to see the interpreter's role as a facilitator of communication, a linguistic support, or a cultural expert. Conversely, if they view interpreting as a simple act of word-for-word translation, they are more likely to define the interpreter's role as a neutral conduit or merely that of a "translator"/"interpreter".

Furthermore, a legal professional who understands that interpreting goes beyond literal translation is more likely to value the interpreter's role in ensuring effective communication and treat professional interpreters with due respect. In contrast, lack of awareness of what the interpreting process entails among legal professionals contributes to the existing confusion, miscommunication, and at times even tension between legal professionals and interpreters. There is thus a need for better training of legal professionals regarding interpreters and the interpreting process to improve understanding between two groups and ensure fair access to justice for non-English-speaking litigants.

In conclusion, this section comprehensively analysed surveys of interpreters and legal professionals to contrast and compare their perspectives on the interpreter's role in legal settings. The findings revealed a broad spectrum of expectations imposed on interpreters, which were often diverse and even conflicting. These included, but were not limited to, expectations of linguistic expertise, familiarity with legal terminology, and the imperative for professionalism and impartiality. At the same time, interpreters were recognised as playing the pivotal role in facilitating effective communication and ensuring access to justice for non-English speakers within the legal system.

Alongside the wide-ranging expectations placed on interpreters in the courtroom and diverging views over the interpreter's professional and social status, lack of consensus

over the interpreter's role within both groups of survey participants indicates a lack of understanding and confusion surrounding the function of interpreting. Needless to say, such confusion leads to miscommunication between all parties involved in the proceeding – miscommunication that could, in turn, result in miscarriages of justice.

6.3 Analysis and discussion of the follow-up interviews

This section presents and discusses the findings from analysis of transcripts of the follow-up interviews with interpreters and legal professionals along with the thematic maps created from the analysis of these interview transcripts and some of the surveys (see below).

In total, eight interpreters and five legal professionals were interviewed. All interviews were recorded with consent. Out of the eight interpreters, seven also participated in the first-round survey discussed earlier in this chapter while one interviewed interpreter participated in the second-round survey. I did not apply the thematic analysis proposed by Braun and Clarke (2006) to the analysis and discussion of the surveys and instead opted to follow the guide proposed by Hale and Napier (2013). However, I did apply the thematic analysis to the surveys that included follow-up interviews. The reason for this is that those surveys are integral to the interviews and, combined with the interviews, constitute a discrete and additional data set.

As discussed in Chapter 1, the analysis of the interviews with interpreters and legal professionals will also be partially informed by Bucholtz and Hall's (2005) framework. Unlike questionnaires, which are more structured and steer responses in a particular direction, interviews allow for a more free-flowing conversation where identity construction may arise spontaneously. As supported by numerous studies on identity, interviews provide more revealing clues about various facets of identity as they emerge in the process of interaction (Clarke and Kredens, 2018; Li and Ran, 2016). In this analysis, I will refer to the five principles of identity construction proposed by Bucholtz and Hall (2005) and discussed in Chapter 1.

The analysis of the interview transcripts was conducted following the six-step process of thematic analysis proposed by Braun and Clarke (2006), which includes the following:

1. becoming familiar with the data,
2. generating initial codes,
3. searching for themes,
4. reviewing themes, and
5. producing a report (a discussion of the findings in the current study)

During the data coding stage, I employed coding techniques outlined by Saldaña (2021) in the *Coding manual for qualitative researchers*. The coding phase of the data analysis was performed in two stages as per Saldaña's (2021) coding framework:

- **First-cycle coding.** Applies the vivo coding method wherein codes are derived "from the actual language of the participant" for more evocative effect (Saldaña, 2021, p. 95).
- **Second-cycle coding.** Applies the pattern coding method of clustering initial codes and searching for themes.

After completing the first- and second-cycle coding, I searched for patterns and themes. For the final (third stage of data coding, I collapsed codes generated during the first two stages into overarching themes and subthemes.

The figure below, extracted from Saldaña's *Coding manual* (2021), illustrates and summarises the coding process I closely followed to analyse my transcripts. As mentioned earlier, in vivo codes generated from the data were subsequently collapsed into categories/patterns and finally transformed into themes:

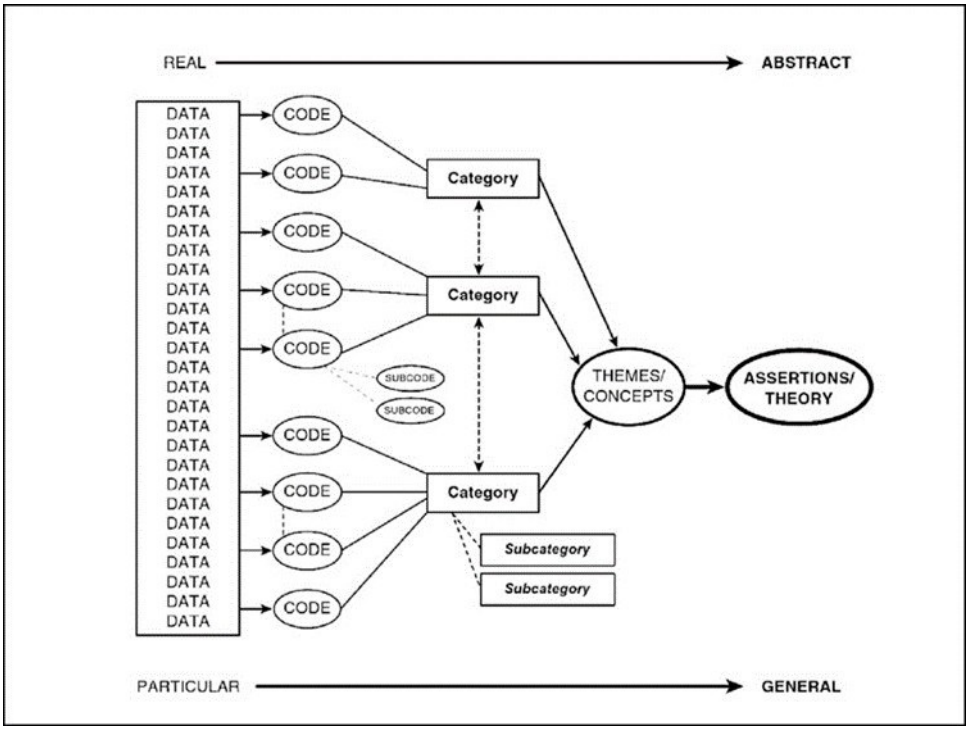

Figure 17: Coding process (Saldaña, 2021: 18, Figure 1.1)

At this stage, I also explored overlapping and additional themes in the questionnaires completed by the participants prior to the interview. Below are lists of overlapping themes identified across the interview transcripts and the questionnaires of relevant participants.

Overlapping themes identified across the survey and interviews with interpreters:

1. Pressure/strain
2. Respect/lack of respect
3. Physical settings/environment
4. "They don't know" (about the legal professional view of the interpreter's role)
5. Interpreter as a friend
6. Interpreter as device/tool
7. Interpreter as a channel (facilitator of communication?)

Overlapping themes identified across the survey and interviews with legal professionals:

1. Interpreter as a neutral conduit
2. Interpreter as a facilitator of communication
3. Challenges of courtroom interpreters as seen by legal professionals (e.g. [it's]

"hard work to be an interpreter")

4. Expectations and obligations (what interpreters should and shouldn't do), ethics
5. Recognition of the interpreter's role (status/importance of interpreters)
6. Impact on the [legal] process (i.e. it becomes slower/the interpreter as an intervening party)
7. Provision and sourcing of interpreters
8. Views of legal professionals as to whether interpreters are integral part of the legal process or rather outsiders
9. Issues of competence
10. Criticism of the system

All stages of transcripts and relevant survey analysis are presented in Vol 3, Appendices 12 and 13 of this thesis.

Finally, the themes identified across all interview transcripts and relevant questionnaires were transformed into thematic maps, which are presented and explained below. Overlapping themes served as access points for creation of the thematic maps.

6.4 The thematic maps

This section explains the thematic maps created from the transcripts analysis through use of the Braun and Clark (2006) thematic analysis framework.

6.4.1 Thematic Map No. 1

Derived from follow-up interviews with interpreters, Thematic Map No. 1 below (see Figure 18) consists of five overarching themes:

1. "It's a very complex role", or the various facets of the interpreter's role (role perceptions).
2. "The pressure we feel", or the pressures and challenges of interpreters in the courtroom.
3. "Because the system is faulty from the start", or systemic flaws.
4. Role performance

5. New reality

The titles of Themes 1, 2, and 3 are direct quotes from the interviews. Some of the subthemes, enclosed in quotation marks, are also direct quotes.

Three out of the five main themes also include first- and second-order subthemes. The relationships between overarching (main) themes are shown in black coloured arrows, while the relationships of second and third orders within the theme are depicted with blue coloured arrows. When the subthemes of the second order are connected to the overarching external theme (i.e. not within the same theme family), these arrows are also presented in black.

Each overarching theme has its unique colour to distinguish it from other themes. Subthemes of the second order match the colour of the main theme they are related to, and subthemes of the third order are shown in a different colour to visually distinguish them from all other subthemes (analysis of the transcripts is available in Vol 3, Appendix 12).

I discuss each theme and explain its relationship to the other themes depicted in Figure 18 below.

6.4.1.1 Theme 1 – "It's a very complex role"

Subthemes

a. The interpreter as a channel for communication (also knows in academic literature as "facilitator of communication", Lee, 2009a: 43)
b. The interpreter as a friend (or advocate)
c. The interpreter as a tool/device (neutral conduit)
d. The interpreter as "linguistic support"
e. "A very important role"
f. "Almost a legal role"

This theme, identified in a majority of the interviews, is one of the most distinct. It is supported by both rounds of the survey results as well as by my ethnographic observation. The name for the theme derived from the interview with Respondent 16 and it perfectly encapsulates the meaning of the theme: the role of the interpreter is very complex and multifaceted.

The top five subthemes were identified across all surveys and ethnographic observations and discussed in detail earlier. What drew my attention here, however, was the quote from the interview with Respondent 16, who said that the interpreter's role is "almost a legal role". Here is the excerpt from the interview transcript:

> Respondent 16: It's almost a legal role because…
>
> Interviewer: A legal role?
>
> Respondent 16: Yeah. We are involved in the legal process as well. I mean what we say is very important for the outcome of the case. We cannot add anything, and we also have to swear an oath which is also a moral duty I would say. So, it's a very complex role.

This excerpt emphasises the complexity of the role but also draws attention to procedural and legal aspects. Interpreters are required to swear an oath in the courtroom, and interpreting may impact the outcome of the trial. This means interpreting can have legal consequences for the defendant or witness, and potentially for the interpreter. At the same time, it can be inferred from the excerpt that the interpreter is highlighting the requirement for accuracy and touching upon the moral aspect of the role. This adds another level of complexity to the understanding of the interpreter's role in the courtroom.

Furthermore, the above excerpt demonstrates how Respondent 16 actively constructs and negotiates her professional identity through interaction. Her statements reflect an effort to position herself within the legal process and elevate the interpreter's role beyond traditional perceptions. By describing her work as "a legal role", she aligns herself with legal professionals rather than accepting the role of a merely neutral conduit (Lee, 2009a). This identity positioning suggests a desire for professional recognition and acknowledgement of the interpreter's role and status as comparable to those of legal professionals. The respondent's repeated references to legal procedures, oaths, and moral duty serve as indexical cues, linking her identity to the legal domain.

As Bucholtz and Hall (2005) argue, identity does not pre-exist but rather emerges through discourse. The interaction between the interviewer and Respondent 16 provides a discursive platform where professional identity is not only claimed, but also validated, contested, or redefined. The interviewer's question seeking clarification ("a legal role?") serves as an act of identity negotiation, prompting the respondent to further assert the

complexity of the interpreter's role. This exchange reaffirms the collaborative nature of identity construction, which is shaped through dialogic exchange rather than individual assertion alone.

This theme ("It's a very complex role") has a demonstrable relationship to Theme 2 – "The pressure we feel", and Theme 4 – Role performance. Theme 2 encapsulates the challenges interpreters face in the courtroom, which are closely linked to perceptions of the interpreter's role. As observed in the surveys, role perceptions define role expectations and influence the attitudes of legal professionals. When combined, these factors add further challenges and "pressure" to an already the complicated situation and complex role of the interpreter in the courtroom.

Role performance is defined by role perceptions and multiple aspects of the role itself. Llewellyn-Jones and Lee (2014) argue that role extends from the underlying service model, which is reflected in the interpreter's worldview and their perceptions of what their role is. Unless they change their perceptions, their service model or "expression of the role" will remain the same (Llewellyn-Jones and Lee, 2014). As Turner (1956:317, cited in Llewellyn-Jones and Lee, 2014:31) puts it, "[r]ole refers to behaviour rather than position, so that one may *enact* a role but cannot *occupy* a role". It can thus be concluded that role performance is closely linked to role perception.

6.4.1.2 Theme 2 – "The pressure we feel"

Subthemes

a. Impact of physical settings
b. Expectations placed on court interpreters
c. Attitude of legal professionals
d. Lack of recognition for court interpreters

This is another clearly distinct and recurring theme that encapsulates the challenges interpreters face in the courtroom. The name for this theme derived from an interview with Respondent 16 from the first round. Challenges range from physical setting to the negative attitude of legal professional towards interpreters.

Subtheme 2a, "Impact of physical setting", incorporates two additional subordinate themes (I labelled them "third-order subthemes"): "differences across court types" and "courtroom facilities".

These themes and subthemes were also highlighted in the survey for interpreters. Among various challenges, they mentioned the absence of regular breaks and designated seats for interpreters, poor acoustics, and a lack of necessary facilities and equipment. Insufficient briefing before hearings and a lack of recognition and respect from legal professionals were identified as additional challenges. These findings are further supported by my ethnographic observations and align with academic studies, such as the survey of Australian interpreters wherein similar issues and challenges were identified (Hale and Napier, 2016).

The below excerpt from the interview with Respondent 7 in the first-round survey explains what she finds particularly challenging in different courts. She stresses that family courts present more challenges to her than criminal courts due to the lack of briefing before hearings. Crown Courts are more challenging that magistrates' courts owing to the seriousness of cases, wherein every word uttered there carries even more weight and is fraught with potentially more grievous consequences compared to other types of court:

Respondent 7: Also, it also depends, another thing is, if you work in the magistrate court, they don't have that kind of rigorous attention in the magistrate court because the cases are quite simple. But if you work in Crown Court, it's much more demanding on the part of the interpreter. You have to be absolutely clear when you work with a client. You have to be absolutely clear what the client said, how he said it, so that's it.

Interviewer: Anything else?

Respondent 7: Family court is different, as well. The problem with family court…to all courts, any court, interpreters quite often come unprepared – not because they're lazy, just because nobody is bothered to give them sufficient information about the case. And this is typical for family court cases. You come, social services come with these huge documents, they read them quickly. It's so difficult to get a copy from social services. There is a solicitor as well. So, it just becomes, how do I say…? It becomes very stressful… So, family court cases are the most difficult ones.

As discussed earlier, Respondent's 7 identity in this excerpt is also actively constructed through the interaction with the interviewer. The use of terms such as "magistrate's court", "Crown Court", and "family court" indexes how her professional identity as an interpreter is shaped by the institutional context in which she works. The specific language used in discussing her work reflects how identity emerges in response to different court environments. When describing her role in Crown Court, for instance, Respondent 7 talks about the need for clarity and precision ("you have to be absolutely clear"), constructing the interpreter's identity as someone who must maintain high standards of accuracy.

The phrase "…interpreters quite often come unprepared – not because they're lazy, just because nobody is bothered to give them sufficient information about the case" is of particular interest as it demonstrates the relationships between different actors in the system and indexes the interpreter's position within it. Through this statement, the respondent positions herself and her fellow interpreters in opposition to social services and solicitors who fail to provide the briefing needed for interpreters to perform their job effectively. This suggests that interpreters are often treated as an afterthought by other key actors. The lexical choice for "nobody is bothered" conveys a sense of powerless resentment and frustration, indicating the interpreter's inferior position in the system. In addition, the use of words such as "difficult" and "stressful" index how interpreters must perform their role under challenging circumstances, often with limited resources.

As the above excerpt demonstrates, the respondent's identity is constructed through interaction with other key actors in the system, the specific demands of each court type, and the challenges interpreters face on a personal and professional level. This serves as another example of the complexity of the interpreter's professional identity as a dynamic and situational process.

This theme is related to Theme 3 – "Because the system is faulty from the start", which encompasses various drawbacks at the systemic level. These, in turn, add pressure and create challenges for interpreters.

6.4.1.3 Theme 3 – "Because the system is faulty from the start"

Subthemes

a. Insufficient training for interpreters

b. Use of unqualified interpreters
c. Payment issues
d. Booking issues
e. Qualified interpreters leaving the profession

The name for this theme was derived from the second-round survey interview with Respondent 58. It encompasses five subthemes that highlights areas of systemic[13] failures.

These issues were identified throughout my data, including the surveys and my ethnographic observations, and reaffirmed in the interviews with interpreters. The below excerpt from the first-round survey interview with Respondent 13 exemplifies some of the issues and complaints against the system following privatisation of PSI:

> Respondent 13: The whole system, yeah. I don't think it's working effectively because the system has been privatised and the government and everyone just cares about saving money rather than delivering effective and quality services.
>
> Interviewer: Effective and quality services. How do you think that affected the status of the profession? The status of the interpreter in the legal system in the United Kingdom?
>
> Respondent 13: Because since the system has been privatised, most of the professional qualified interpreters, they don't get enough jobs, so they left the profession. So, one day we will come to a point that there will be no professional interpreters, just anyone being recruited by this agency.

As seen in this excerpt, the interpreter addresses the most recurring issues that can be traced across other data sets. This includes quality issues caused by professional interpreters leaving the profession due to reduced pay rates and other negative consequences of privatisation. This negative trend is reinforced by untrained and unqualified interpreters pushing out professionals as they are willing to accept lower rates and are therefore given preference by the agencies who are mainly focused on profits and not quality. This further leads to issues with staff shortages, booking, and quality because in order to fulfil their contract obligations, agencies have to supply unqualified and

[13] Here, the word "system" is understood the reference to the legal system in England and Wales.

untrained interpreters.

In the above excerpt, Respondent 13 constructs his professional identity in opposition to systemic changes – particularly the privatisation of interpreter services, which has led to a loss of status and recognition of professional interpreters. His statements illustrate how identity is shaped by broader institutional and economic forces. This aligns with Bucholtz and Hall's (2005) relationality principle, which suggests that identity is constructed in relation to external structures and other social actors.

The respondent positions himself as a qualified professional by distinguishing between "professionally qualified interpreters" and unqualified individuals who may have entered the profession due to privatisation. This distinction reinforces his identity as part of a skilled workforce while also constructing a divide between trained professionals and unqualified interpreters. In doing so, he deconstructs their identity to construct his own as a "professional" (Li and Ran, 2016).

The language used by Respondent 13 contains indexical cues that signal professionalism, expertise, and dissatisfaction with the system's failures. The statement "the system has been privatised and the government and everyone just cares about saving money rather than delivering effective and quality services" reflects the respondent's concerns about declining standards and deteriorating working conditions driven by profit-oriented motives.

Similarly, the respondent's remark about "professional qualified interpreters" versus "just anyone being recruited by this agency" indexes a devaluation of expertise and erosion of professional identity resulting from privatisation. With Bucholtz and Hall's (2005) framework in mind, this excerpt from the interview transcript reveals how professional identity is an emergent, relational, and context-dependent process rather than a fixed category.

The interrelations between all overarching themes and subthemes converge in a "new reality" (Theme 5) created by all the factors discussed above. Neither Theme 4 – Role performance nor Theme 5 – New reality contains subthemes, as they effectively result from all of the other categories and themes presented in the thematic map.

In sum, Thematic Map 1 (Figure 18) below illustrates the construction of a "new reality" for courtroom interpreters in England and Wales. This new reality consists of complex

role perceptions and conflicting role expectations affecting role performance coupled with the numerous challenges interpreters face in the courtroom that resulted from and added to systemic (i.e. the legal system) oversights and failings directly or indirectly stemming from the changes in government policy that led to the privatisation of PSI.

In the next section, I explain Thematic Map No. 2 based on the follow-up interviews with legal professionals.

Thematic Map No. 1

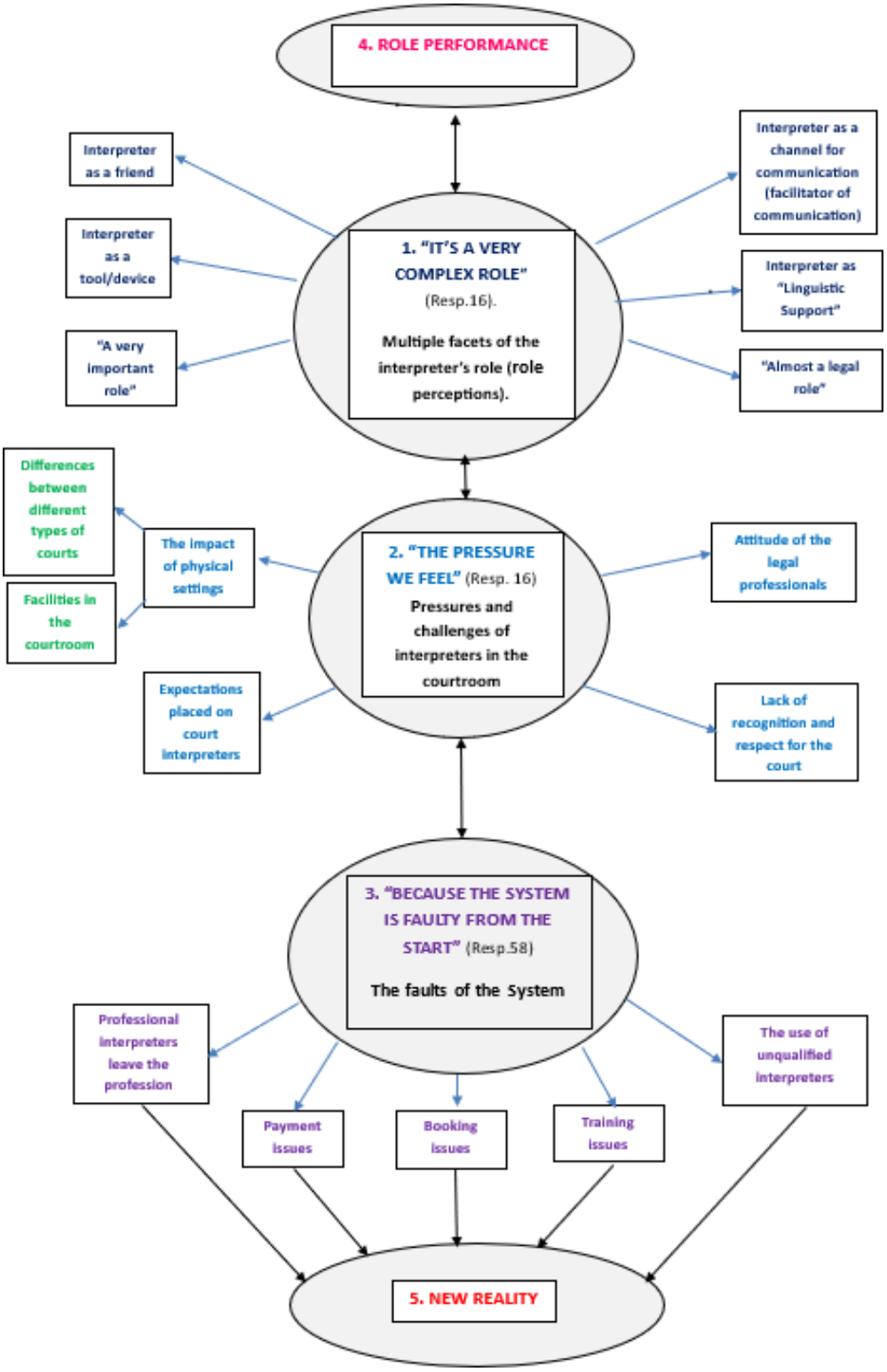

Figure 18: Thematic Map No. 1[14]

[14] Based on follow-up interviews with interpreters.

6.4.2 Thematic Map No. 2

Unlike Thematic Map No. 1, Thematic Map No. 2 (see Figure 19 below) derived from follow-up interviews with legal professionals is centred around one main category: "Interpreter". All other themes are subordinate to the central theme. Their relationship with the central theme is depicted with blue arrows, and relationships between subordinate themes are presented with black arrows (five legal professionals were interviewed. Interview transcripts are available in Vol 3, Appendix 11, Section 11.2; analysis of the transcripts is available in Vol 3, Appendix 13, Section 13.3).

There is a standalone theme at the bottom of the thematic map, "Criticism of the System and Suggestions for Improvement". I chose a different colour (red) for this theme to visually distinguish it from the rest of the themes because it is not directly related to the central theme (Interpreter). Rather, it follows from the views and suggestions of legal professionals on the "System" as a whole. Accordingly, relationships with this theme are also depicted in red-coloured arrows.

I did not number the themes because the central theme is the only one in this thematic map. So, all subordinate themes simply represent different aspects of the interpreter's role from the perspective of legal professionals. The square boxes under (or above) each category are illustrations of the related theme derived from the interviews with the legal professionals. They are direct quotes and therefore enclosed in quotation marks with a reference to the related respondent.

Thematic Map No. 2 represents the following views on the interpreter's role from the perspective of legal professionals:

- Importance of the Interpreter in Legal Proceedings: Recognition and Status
- Outsiders vs Integral Part of the Process (are interpreters integral to the legal process?)
- Impact on the Legal Proceeding.
- Expectations of Legal Professionals (what the interpreter should or should not do).
- A Neutral Conduit vs Facilitator of Communication (the two most prominent roles identified in follow-up interviews with legal professionals)
- Challenges interpreters face in the courtroom, according to legal professionals
- Competence issues with interpreters (in the context of the new provision

system for interpreters)

- Provision and Sourcing of Interpreters (in the context of the new system)

And finally, as discussed above, there is the standalone theme of "Criticism of the System and Suggestions for Improvement".

Figure 19 shows the relationship between all categories through differently coloured arrows to help the reader visualise the diverse nature of these relationships. For example, "Expectations of Legal Professionals" is mutually related to the central theme of "Interpreter"– but also connected to "Importance of the Interpreter in Legal Proceedings: Recognition and Status" as well as to "Challenges interpreters face in the courtroom". All elements in the system are thus not only interlinked, but also interdependent and mutually influential. They converge at the central point of the interpreter's role.

The subtheme "Challenges", in turn, is linked with "Criticism of the System and Suggestions for Improvement" because the systemic issues raised by legal professionals in their interviews and survey have a direct impact on the challenges interpreters face in the courtroom. Likewise, "Criticism of the System and Suggestions for Improvement" is linked with "Competence Issues" and "Provision and Sourcing of Interpreters", both problematic areas that require review and improvement.

Below, I provide some quotes from the interviews with legal professionals to illustrate the most salient themes identified. It is interesting to note that all five respondents (100%) I interviewed after they had completed their surveys emphasised the importance of the interpreter's role in legal proceedings. However, only 11% of all legal professionals who participated in the survey confirmed this view. This discrepancy suggests that in direct interaction, participants may be more likely to align with the interviewer and express more positive views of interpreters than those who completed the questionnaire online.

> Respondent 1: I think an interpreter is always actually usually, I mean again there are… I'm trying to think. Usually, an interpreter is treated by the court with respect, always. Because they have an important role to play. If they weren't there, you couldn't have a trial.

> Respondent 26: Yeah, without an interpreter it wouldn't be a fair trial unless we did everything possible to assist somebody whose first language is not English with their language barrier.

Respondent 25: So, they really are people that we cannot be without, [but 0:15:21] they are paramount to some parts of our job that cannot be conducted without them, and they have to appreciate that, and they have to conduct themselves accordingly.

And again, as I say, they have to be impartial, as much as possible. We're all human; we all have feelings; and we all try to emphasise, whether we want it or not. But as much as emotions is taken out of the context, it's better for both sides.

Interviewer: So, would you say it's an important role?

Respondent 25: Extremely important. Extremely important. For someone who doesn't speak the language, there is no other way to transmit the information from their side to mine, and from mine to them. It's one of those things that you can't be without. You can be without legal assistance, if you understand the language, because somebody can help you. But without language, you cannot understand anything at all.

The above examples illustrate recognition of the interpreter's professional status and their crucial role in legal proceedings. However, this finding conflicts with the results of ethnographic observations, surveys with interpreters and other legal professionals, and some other studies (Hale, 2008; Morris, 2010b; Hale and Napier, 2016; Tipton, 2017b). In her study of court interpreting in California, England, Wales, Ireland and Scotland, for example, Morris (2010b: 52) states that court interpreting is an "undervalued and misunderstood" profession.

As mentioned above, this discrepancy could be partially explained by the face-to-face interaction with the interviewer and the personal views held by the participants. As discussed earlier in this chapter, there is a wide range of views among legal professionals and no consensus on the interpreter's role in either group of participants.

It is also interesting to examine the above excerpts from the perspective of the interpreter's professional identity construction by legal professionals using Bucholtz and Hall's (2005) framework. As discussed earlier, identity is not static but emerges through discourse (Bucholtz and Hall, 2005). In these excerpts, the professional identity of the interpreter is constructed through emphasis of their "important" role in the legal process. Repeated use of "important," "paramount," and "essential" indexes the high value placed

on interpreters by the respondents.

For instance, Respondent's 1 statement "an interpreter is treated by the court with respect, always, because they have an important role to play" demonstrates how the interpreter's professional identity is validated through recognition by legal professionals. Respondent 26 also explicitly states that without an interpreter, a trial wouldn't be fair – reaffirming the interpreter's key role in ensuring access to fair trial.

Similarly, Respondent 25 stresses "they really are people that we cannot be without", reinforcing the interpreter's role as a core element of a judicial process. By using "we", the respondent not only positions herself as speaking on behalf of the entire profession – "we" (legal professionals) vs "them" (interpreters) – but also implies that despite the importance of their role, interpreters remain outsiders in the legal system.

At the same time, Respondent 25 suggests that interpreters must "conduct themselves accordingly" and remain impartial, implying that certain expectations of professionalism, as viewed by legal professionals, are tied to their identity. The contrast between legal assistance and language access is particularly noteworthy. Respondent's 25 statement that "you can be without legal assistance...but without language, you cannot understand anything at all" reinforces the interpreter's indispensable status, positioning them even above legal representation in certain cases. This assigns a duality to the interpreter's position. On the one hand, interpreters are powerful facilitators of justice who play an important role in the legal system. On the other, they are constrained by expectations of "proper conduct" as defined by other actors in the legal system.

The respondents thus collectively construct the identity of the interpreter within the legal system as indispensable, highly valued professionals who ensure fairness in legal proceedings. However, this identity is also contingent on the expectations of legal professionals. The discourse suggests a potential conflict between the recognition of the interpreter's importance and regulation of their role by more powerful actors within the legal system. This aligns with Bucholtz and Hall's (2005) framework demonstrating that identity is not a fixed category, but an ongoing process shaped by discourse, context, and power dynamics.

Another salient theme I would like to discuss in more detail is "Outsiders vs. Integral Part of the Process." In the survey of legal professionals, responses were split roughly 50/50 between those who consider interpreters integral ("part and parcel") to the legal

process/courtroom and those who view them more as outsiders. The follow-up interviews also confirmed this trend.

> They're not part of the legal profession, but they are professional people playing a part in the trial process, and an important part because they are making the evidence accessible to the jury. (Respondent 1)

> It depends on the circumstances; it depends on what I'm asking of the interpreter to speak to my client about. If I want them to give me instructions, then I would say yes, part of the legal process. But again, it's your own interpretation of what the legal process is. (Respondent 27)

The above excerpts illustrate that while the respondents acknowledge the importance of the interpreter's role in the proceedings, they are hesitant to consider the latter an integral part of it. This is also consistent with Morris' (2010b: 55) study, wherein she states that "[i]n all settings, court personnel may treat court interpreters as complete outsiders, even if they regularly work in the court system…".

This theme, "Outsiders vs. Integral Part of the Process" thus foregrounds the ambiguity of the interpreter's position within the legal system. As mentioned earlier, while they may be recognised for their "important" role in legal proceedings and for ensuring access to fair trial, nearly 50% of respondents still view interpreters as "outsiders" (as reflected in Respondent's 25 distinction between "we" and "them"). In the same vein, Respondent 1 explicitly differentiates interpreters from legal professionals by stating "[t]they're not part of the legal profession, but they are professional people". This sentiment reinforces the interpreter's status as external to the legal system while also acknowledging them as professionals in their own right.

Similarly, Respondent's 27 statement that "[i]t depends on the circumstances" demonstrates how the interpreter's identity is context-dependent rather than fixed. This is consistent with the partialness principle, which posits that identities are never wholly stable or absolute but always "partial accounts" (Bucholtz and Hall, 2005: 605).

Additionally, use of phrases such as "playing a part in the trial process" and "making the evidence accessible to the jury" signal the interpreter's essential function within the legal process without being fully integrated in the legal system. The variability in perceptions of the interpreter's role and status is reflected in the phrase "part and parcel" used by some legal professionals in the survey. This variation demonstrates how the interpreter's

professional identity is sometimes perceived as integral and other times as peripheral, depending on context and the participants in the interaction. This further aligns with Bucholtz and Hall's (2005) framework, which emphasises identity as a dynamic and interactional process.

The extract below from an interview with a criminal barrister illustrates that representatives of the legal profession appreciate and understand the challenges inherent in the interpreter's job.

> Respondent 1: I think it's a very difficult job. You're there, aren't you, in a way representing the defendant. You're there as a conduit of communication for a defendant. And so, you should look good, you should do it efficiently and well and look as if you're alive to the job.

The standalone theme in Thematic Map No. 2, "Criticism of the System and Suggestions for Improvement", deserves special attention because it presents a critical reflection on the current situation and acknowledges systemic weaknesses that need to be addressed. One respondent brings up the outsourcing issues by the MoJ that resulted in pay cuts for the interpreters, among other issues:

> And so, you have this filter of, as it happens, Capita, the outsource company. They actually pay the interpreters, they actually pay them far, far less than used to be the case before the framework agreement, but that's another story. And so, the paymaster, in a direct sense, has shifted. But the responsibility to arrange it all is still that of the Ministry of Justice. You can't contract out the responsibility for there being interpreting services provided. You can contract out the function, but not the responsibility. (Respondent 12)

Another respondent suggests that interpreter working conditions should be given due attention and reviewed for improvement (e.g. allowing interpreters regular breaks, providing food and drinks, etc.):

> It's something that should be looked at. No, I think it's very hard. I think if they're interpreting all day, I think that's very tough. (Respondent 1)

The theme "Criticism of the system and suggestions for improvement" thus highlights the systemic challenges interpreters face, particularly concerning outsourcing, pay cuts, and working conditions. These issues not only affect interpreter livelihoods but also shape

their professional identity construction in relation to institutional structures and power dynamics within the legal system. Applying Bucholtz and Hall's (2005) framework helps to unpack how the interpreter's professional identity is shaped through these systemic and structural issues and the discourse surrounding them.

In the above excepts, the interpreter's professional identity is constructed in relation to outsourcing companies such as Capita TI (and later thebigword), who act as intermediaries between interpreters and the legal system. Respondent 12 explicitly points out that while the MoJ remains responsible for the provision of interpreting services, the direct paymaster has changed. This shift in the system led to the introduction of far less favourable working conditions for interpreters than before, which resulted in a deterioration of their professional status and other negative consequences stemming from the outsourcing.

Respondent 1 also raised similar concerns about interpreter working conditions, which are indexed by expressing the need for them to "be looked at". The discourse surrounding these concerns suggests a conflict between acknowledging interpreters as essential actors in the legal process and treating them as an afterthought in the system. This discussion contributes to the construction of the interpreter's identity as "a professional, but lower down the pecking order".

I have selected a few extracts to discuss the most salient and interesting themes identified in the interviews with legal professionals. However, this does not suggest that other themes are less important or unworthy of attention. All themes are presented with relevant quotes from the interviews in Thematic Map No. 2 (Figure 19), which captures the broader context and range of perspectives in the data.

To sum up, Thematic Map No. 2 illustrates complex relationships between different constituents and facets of the interpreter's role in the legal system of England and Wales in view of legal professionals. The findings from the interviews overlap with the survey results but also complement them with additional nuances and details. Taken together, these findings shed light of the interpreter's status and professional identity in the changing landscape.

6.5 Chapter summary

This chapter has explored the views of interpreters and legal professionals (court officials) on the role of the interpreter in the courtroom. Data collection was conducted through surveys and follow-up interviews with participants. Both data sets overlap significantly and complement each other, contributing to a more comprehensive understanding of the overall picture concerning the role and identity of the interpreter in legal settings.

First and foremost, there is a clear trend in favour of viewing the role of the interpreter as a facilitator of communication. This seems to be a prominent trend across all data sets, including the ethnographic observation of interpreter-mediated hearings. The second most prominent trend is assigning the interpreter to the role of a neutral conduit, although the understanding of what encompasses this role appears to differ across the two groups of participants. Other role perceptions include the interpreter as a friend/advocate, linguist, interpreter, faithful renderer of the original utterances, and cultural broker. Additionally, "important role", "impartial", and "integral" were common responses in both groups. As discussed earlier, the diversity of perceptions not only suggests a lack of clarity and consensus over the interpreter's role but also reflects the complexity inherent in the interpreting process within the highly challenging legal context.

The challenges interpreters face in the courtroom often go beyond linguistic proficiency, requiring interpreters to deal with the complexities of legal proceedings, unfavourable working conditions and technical issues, lack of consideration for their presence and even lack of respect, emotional load, and many other issues. However, they are still expected to deliver a high-quality service and adhere to rigorous ethical standards. The theme of "pressures and challenges" that interpreters face in the courtroom is one of the most prevalent across all data sets, indicating the existing gaps in the system. Many challenges arise from the systemic-level faults such as payment issues, inadequate training, the use of unqualified interpreters, professionals leaving the PSI industry, and so on. Many of these issues could be addressed through careful review of existing government policies and procedures currently in place to shape the new reality in the UK justice system.

As the chapter unfolds, it also becomes evident that despite some overlaps in the views of the interpreters and legal professionals on certain aspects of the interpreter's role, there is a notable discrepancy in perception of the interpreter's social and professional status.

Only 24% of legal professionals raised concerns over the diminished status of court interpreters, which is primarily reflected in reduced pay rates and worsened working conditions. In contrast, 82% of interpreters testified to a considerable negative change in their status following PSI outsourcing. This suggests a significant disconnect between the two groups that could be overcome by raising awareness and understanding between interpreters and legal professionals in order to promote effective collaboration – and ultimately to ensure equitable access to justice for all.

In addition, I examined the interpreter's professional identity and how it is constructed through interactions during the interviews with the interpreters and legal professionals themselves through the lens of Bucholtz and Hall's (2005) framework. This analysis revealed that the interpreter's professional identity is very complex, multidimensional, intertwined with other key actors of the legal process, and heavily context dependent. It is also situational, grounded deeply in institutional structures, systems, and power dynamics. It is not fixed and depends on multiple factors that include individual perceptions and the broader views of other stakeholders within the system as well as the system itself. The analysis thus affirms that the interpreter's professional identity is fluid, shaped by both internal and external forces, and remains subject to the evolving nature of the legal process.

Thematic Map No. 2

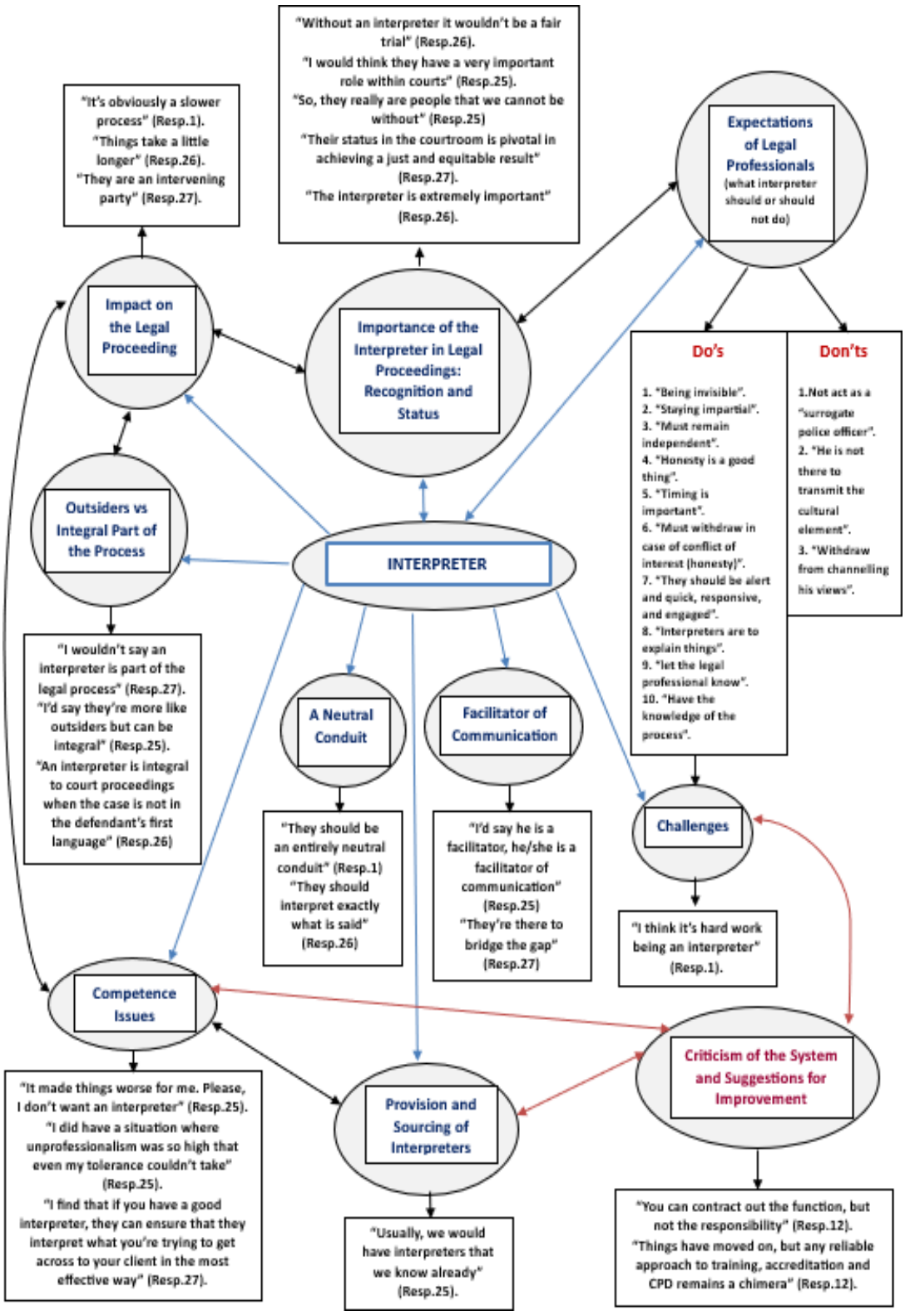

Figure 19: Thematic Map No. 2[15]

[15] Based on follow-up interviews with legal professionals.

7 CONCLUSION

The current study has aimed to explore the role and professional identity of the courtroom interpreter in the legal system of England and Wales from the perspective of Social Constructionism. The focus of the study encompassed various aspects of the courtroom interpreter's role, professional identity, and status in order to understand how they are constructed in the context of superdiversity and the changing social and linguistic landscape.

The study has sought to answer the following research questions:

- What is the professional role and identity of the courtroom interpreter in England and Wales in the countries' superdiverse landscape?
- How do interpreters view their own role in the courtroom and how do their views correlate with reality?
- How do *all* the court actors/legal professionals view interpreters?
- What is the social/professional status of court interpreters in England and Wales?

Below, I will address each question based on the findings obtained during the course of this research.

7.1 What is the professional role and identity of the courtroom interpreter in England and Wales in the superdiverse landscape?

The study reaffirmed the problematic nature of the court interpreter's role arising from conflicts in expectations held by different participants in interactions and within the larger context of new developments in the field. The analysis of the extant literature also revealed a lack of consensus on the role of the interpreters in a legal setting.

The findings derived from my observations and surveys suggest persistent confusion in the perception of the interpreter's role that inevitably has an impact on the interpreter's professional identity. Conflicting views over the role of the court interpreter, which led to conflicting and at times unrealistic expectations, were expressed by all

parties involved. Similar findings about the lack of clarity in expectations placed on interpreters were reported by Monacelli and Boyd (2017) in their study, which was based on simulated mediations using interpreters in civil proceedings.

As discussed in previous chapters, the role of court interpreters often extends beyond the traditional one of a language conduit. Alongside the surveys and interviews, my ethnographic observations illustrated how interpreters often adopt multiple roles. They may sometimes simplify language for non-English-speaking litigants to ensure understanding, assist with filling out forms or other ad hoc tasks outside the courtroom (for example, making telephone calls), provide emotional support, or make decisions about what should be interpreted and what can be omitted as irrelevant in their view. They may also act as coordinators of proceedings or as cultural experts, among their other responsibilities.

The wide range of roles that interpreters can and do assume is not a surprising outcome of the study, given the lack of clarity and consistency that surrounds the role at multiple levels. This is also reflected in existing documents, such as various codes of conduct, service agreements, and guidelines, that impose certain expectations on interpreters and those who come into contact with them. The findings of this study align with those of Ortega-Herráez et al. (2009: 149) in Spain, who conclude that "interpreters seem to shape their role according to institution, and the majority would seem to go beyond the function that most codes of ethics stipulate". Their results further reveal a significant lack of awareness regarding interpreting as a "specialised professional activity" (Ortega-Herráez et al., 2009: 149).

As discussed in Chapter 2, the thebigword service agreement, the MoJ code of conduct for interpreters, the Home Office's (2021) *Interpreter's code of conduct,* and the relevant codes of conduct of profession organisations (namely, NRPSI and ITI) as well as PACE, 1984, Code C all lay out different expectations and impose conflicting requirements on interpreters. For example, the NRPSI code of conduct (2016, paragraph 5.10) instructs interpreters or members to withdraw from the assignment if the working conditions are not conducive to "effective interpreting", whereas the MOJ code of conduct only requires reporting any impediments and interpreters to "remain for the entire duration of the assignment until released by the Commissioning Body" (2016, paragraph 1.12). The thebigword service agreement goes even further and imposes charges and penalties if interpreters withdraw from an assignment for any reason.

Furthermore, the thebigword (2018, Appendix 1, paragraph 24) Code of conduct stipulates that interpreters must "raise concerns" if they are involved in "a potential Safeguarding issue involving a child or vulnerable adult", or "provide a witness statement after completing a booking and before leaving the premises" if the "client" requires them to do so. These expectations are inconsistent with other professional codes of conduct and with the fundamental principles of interpreter confidentiality and impartiality, as outlined in all the codes of conduct I examined during the course of this study.

As Llewellyn-Jones and Lee (2014: 49) note, different expectations lead to different behaviours and therefore directly influence role and role performance. In their argument on role performance, they draw on Turner's role theory (1956: 317, cited in Llewellyn-Jones and Lee, 2014: 31), which posits that "role refers to behaviour rather than position" – meaning that roles are enacted or performed rather than merely occupied. This is consistent with Marra and Angouri's (2011: 3) observation that "roles come with expectations of performance that influence behaviour". Thus, when expectations are conflicting and inconsistent, they inevitably lead to confusion over role and role performance, as demonstrated by the findings of this study.

As Marra and Angouri (2011: 1) further point out, there is a strong "conceptual relationship between role and identity". Regarding identity theory (Hogg et al., 1995: 264, cited in Marra and Angouri, 2011: 3) Marra and Angouri maintain that roles are considered as a resource for self-identity. Professional identities are negotiated and co-constructed between participants in a specific setting through role performances "within the wider socio-cultural context of their group, department or company" (Marra and Angouri, 2011: 3).

With the above in mind, it can be argued that identity is manifested in role performance. Because there are no clear guidelines for PSI interpreters to follow and they are often torn between divergent requirements and expectations, their professional identity is also somewhat blurry. In the survey, interviews, and follow-up discussions in courts, interpreters often described themselves as "important but undervalued". On the one hand, interpreters play a crucial role in safeguarding access to a fair trial but on the other, they often feel they do not receive sufficient recognition and their presence in the courtroom is not given much consideration.

7.2 How do interpreters view their own role in the courtroom and how do their views correlate with reality?

To answer this question, I conducted a survey with interpreters and recorded interviews with eight interpreters. The survey with interpreters was conducted in two rounds. The questions in the second round were revised with a greater focus on identity; however, the question regarding the role remained unchanged in both rounds. In total, eighty-four interpreters provided an answer to a question on their role.

The responses received to this question revealed that interpreters perceive their role in the courtroom in multifaceted ways. Some showed a greater focus on its functional aspect, such as facilitating communication and serving as a language bridge between court officials and non-English speakers. Others highlighted the importance of their role in safeguarding access to justice, while other participants emphasised neutrality and impartiality as key elements of their role. A considerable number of practitioners (19%) labelled their role as "interpreter" without further elaboration on what this involves, which may suggest they see their role in its core function of conveying the message from one language to another. It could also indicate that they struggle to define their role beyond what is assigned to them by institutions and the wider society.

In summary, the interpreters provided a wide range of responses that confirmed a lack of uniformity and consensus on their role within the professional community. This finding aligns with numerous studies on court interpreting carried out in different countries (for examples, see Morris,1995, 1999; Berk-Seligson, 1988, 1990; Hale, 2004; Lee, 2009a).

To answer the second part of the question, I conducted a survey with other participants in legal proceedings, mainly legal professionals, and carried out seventy-eight hours of ethnographic observation of interpreter-mediated hearings in England (mainly Birmingham). Regarding the role perceptions of the interpreters, there were points of overlap and divergence across practitioners and legal professionals. For example, legal professionals more often tended to view interpreters as "faithful renderers of the original utterances" compared to the interpreters themselves. At the same time, both groups of participants expressed similar views on the interpreter's role as a facilitator of communication, above all, followed by the second most common perception of the interpreter as a neutral conduit. But across interpreters and legal professionals, there is a difference in understanding of the neutral conduit concept; the latter emphasise

verbatim interpretation, which Hale (2008: 114) describes as an "unattainable task".

As discussed in Chapter 6, comparison of interpreter views on how their role is perceived by legal professionals and the actual views of legal professionals reveals considerable disparities. The gaps identified in these perceptions indicate a lack of understanding and agreement on the interpreter's role in the courtroom across the two professional groups.

My ethnographic observation further revealed that interpreters tend to go beyond the roles they defined for themselves in the survey and interviews. For example, they tend to assume the role of a gatekeeper, interpreting only what is pertinent to the case of their client. There were also situations where interpreters intervened in the process, got involved in social interactions with the defendants, and took on the role of a friend or helper. They often engaged in ad hoc administrative tasks, such as filling out forms or helping make phone calls. A few interpreters I spoke to after the trial admitted that they often simplify the language and lower the register for the defendant to ensure understanding. One of the interpreters confessed that she finds it extremely difficult, if not impossible, to completely distance herself from the defendant as it is in human nature to empathise and want to help. Although this seems to be at odds with the existing codes of conduct, which are also problematic and confusing, it stands at variance with the interpreters' own perceptions of their role. Nonetheless, this appears to be the reality.

7.3 How do all the court actors/legal professionals view interpreters?

To answer this question, I initially planned to conduct a survey of all court actors, including legal professionals and non-English-speaking litigants (defendants, witnesses, etc.). However, the latter group proved to be very problematic to access and I only managed to speak to two defendants. Although their answers were very interesting in many aspects, I could not include them in the analysis due to the low representation rate of this group (one of the limitations of the current study).

Nonetheless, I believe it would be noteworthy to demonstrate a defendant's response regarding the role of the interpreter. Q7 in the survey reads as follows: "What is your understanding of the role of the interpreter in the courtroom?" The defendant provided the following response: "To understand the language of the proceedings as I do not understand English, [and] everything was explained to me" (Vol 2, Appendix 8).

Although this response is not representative of a wider group, it is still interesting to note that the defendant highlights everything having been explained to him. This response may align with the confessions of some interpreters about ensuring their client's understanding by simplifying language, lowering the register, and possibly "explaining things" rather than merely conveying the message from one language to another.

As for the legal professionals, twenty-seven representatives of this profession took part in the survey, and five were interviewed (recorded). Similar to the interpreters, the legal professionals provided a wide range of responses regarding the interpreter's role in the courtroom. The most prevalent view, expressed by 33% of respondents, was that the interpreter's primary role is to facilitate (effective) communication between all parties in the proceeding when a non-English-speaking litigant is involved. This view was supported by my ethnographic observation as well as by the practitioners themselves. So, it seems to be the most agreed-upon function of the interpreter among all groups involved in the survey. It is further reflected in the codes of conducts of professional organisations such as NRPSI and ITI.

As discussed earlier, Hale (2008: 102) argues that the "facilitator of communication" role should be avoided, because, in her view, it combines two roles: "advocate for the powerless participant", and "advocate for the powerful participant", both of which lack impartiality. However, the findings of this study suggest the facilitator role is widely accepted among various stakeholders in in England and Wales. Nonetheless, acceptance does not imply that the assumption of this role is a perfect solution to the problem concerning the interpreter's role in the courtroom, and further research may be required.

Other roles legal professionals ascribe to interpreters include that of the:

- neutral conduit, where interpreters are expected to interpret verbatim everything that is said
- "faithful renderer of the message", meaning "to accurately interpret what they hear from the witness" (but not literal translation)
- interpreter, i.e. "to assist in translation"/"to translate speech from one language to another"
- linguistic support
- cultural expert
- essential/important/integral

As discussed in Chapter 6, the diverse perceptions of the court interpreter's role held among legal professionals underscore lack of agreement over their role as well as the complex and varied nature of interpreting in a legal setting. One of the findings of this study is that the interpreter's role cannot be reduced to being a mere conduit or channel for communication. Rather, it encompasses numerous aspects and is as multifaceted as the nature of human communication. The findings further indicate a certain level of agreement between the viewpoints of legal professionals and interpreters themselves, but disparities in their views were also identified.

7.4 What is the social/professional status of the court interpreters in England and Wales?

In the extensive literature review on role and identity construction, I found that the concepts of role and identity are very closely related to the concept of status. As Linton (1936: 114, cited in Llewellyn-Jones and Lee, 2014: 14) puts it:

> A role represents the dynamic aspect of a status. The individual is socially assigned to a status and occupies it with relation to other statuses. When he puts the rights and duties that constitute the status into effect, he is performing a role.

Drawing on Llewellyn-Jones and Lee's (2014: 15, Figure 2.1) concept of presentation of self (or high and low presentation of self), I built on their original visual representation to identify a strong interrelationship between role, identity and status. This is depicted schematically in Figure 20 below.

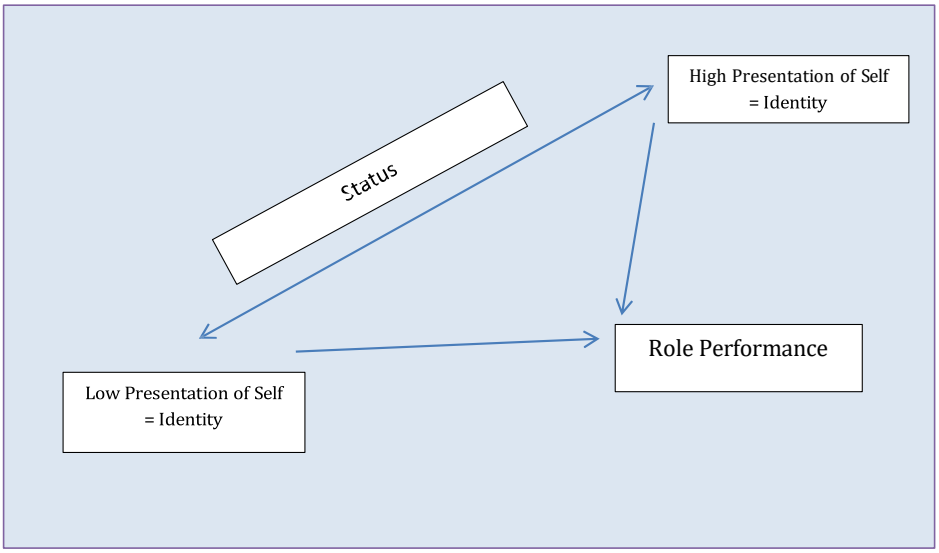

Figure 20: Status, identity, and role performance

It can thus be argued that status is integral to role performance and identity and therefore influenced by the role perceptions of the interpreters as well as by the perceptions of other court actors.

To address the question regarding the interpreter's status in the courtroom, I posed this question to the practitioners as well as the legal professionals. This is where the most notable disparity in the views and perceptions between the two groups of professionals was identified. The overwhelming majority of respondents in both rounds of the survey for interpreters (75.5% across two data sets) raised concerns over the diminished social and professional status of interpreters in recent years. In contrast, 57% of the legal professionals believed there had been no change, 24% noted a decline, and 19% believed it had improved.

My ethnographic observations revealed that interpreter concerns over their diminished status are not unfounded. The decline in interpreter's status is reflected in reduced pay rates compared to before PSI privatisation, the deterioration of working conditions, and a lack of respect and consideration for interpreters in the courtroom. One of the findings of my ethnographic observation is that in 40% of the observed cases, I noted a negative or dismissive attitude from legal professionals towards interpreters (compared to 31% of cases involving positive evaluation and recognition of their role).

The professional needs of interpreters in the courtroom often appear to be an afterthought as the necessary equipment is not always provided. Provisions such as snacks and drinks,

readily available to legal professionals in their chambers, are not extended to interpreters. Additionally, interpreters do not have a designated seat in the courtroom, receive no breaks them, and sometimes have to intervene in the courtroom process and ask court actors to slow down, speak up, or pause when speaking in order to allow the interpreter to do their job as no consideration is given to their presence.

Less obvious indicators of the somewhat inferior or auxiliary status of interpreters in the courtroom include inconsistent forms of address towards interpreters ("Mr/Madam Interpreter" or often just "Interpreter"), the absence of a set dress code for interpreters compared to other court actors, and even a lack of feedback, as reported by the practitioners. As Respondent 55 in the online survey for interpreters noted, "…there is no feedback because we are simply not viewed as professionals the majority of the time".

Another implicit indicator of the interpreter's lower status in the courtroom is the use of SI in the mode of whispering, which is associated with lower status compared to CI in the courtroom (Berk-Seligson, 1988, 1999, 2017; Hale, 1997, 2004, 2007; Liu and Hale, 2017; Wadensjö, 1998, 2022). As Colin and Morris (1996) note, whispering or chuchotage can be quite tiring for the interpreter. This is true particularly when audibility in the courtroom is poor and the interpreter is not provided with audio equipment, as the interpreter "must strain to hear what is being said" (Colin and Morris, 1996: 19). Additionally, this type of interpreting may also involve sitting in an uncomfortable position for an extended period of time. My ethnographic observations showed that the whispering mode was used by interpreters in 91.4% of the observed cases while the consecutive mode was used in 83%. This indicates a heavier reliance on the whispering mode (which is cheaper and less intrusive for the proceedings) in the courtroom, contributing to the perceived lower status of interpreters in the legal setting.

Finally, I recorded "professional" and "recognised" status on the observation sheet in 57% of the observed cases. In the remaining 43% of the observed hearings, I noted that the interpreter's status was questioned or not recognised at all.

Hale and Napier (2016) conducted a study in Australia that examined the link between the working conditions of court interpreters and perceptions of their professional status. The study revealed that court interpreters felt their professional status lacked recognition in the courtroom, and these perceptions were influenced by unfavourable working conditions. Hale and Napier's (2016) study emphasised that the perception of

professional status has a direct impact on professional performance.

The findings of the current study resonate with those of Hale and Napier (2016), especially concerning the connection between poor working conditions and perceptions of the low status of court interpreters. However, one notable difference is that the majority of court interpreters in the present study attributed their diminished professional status and worsened working conditions to industry changes resulting from outsourcing PSI to the private sector in the United Kingdom. Similarly, the findings of the current study may have implications not only for the provision of court interpreters but also for the larger administration of justice in England and Wales.

7.5 Additional findings

In addition to addressing the research questions directly, I would like to highlight the following findings:

- The type of court appears to have an impact on role performance and even the perception of the interpreter's status and professional identity. This merits further investigation.
- In over 50% of the observed cases, interpreters swore an oath; in 22% of the cases, they swore an oath unprompted. This may indicate that interpreters are not merely auxiliary figures or outsiders, but essential elements of courtroom proceedings comparable to counsels, magistrates, and other legal personnel.
- The responses of legal professionals split 50/50 when it came to perceiving interpreters as integral versus an outsider in legal proceedings. Coupled with the above finding, this suggests that the interpreter's status in the courtroom is quite complex and not uniform, requiring further investigation.
- A general deterioration of professional standards and the quality of interpreting following the outsourcing of PSI was identified through ethnographic observation and confirmed by surveys with both professional groups (interpreters and legal professionals).
- Professional interpreters have left the profession due to worsened working conditions, reduced pay rates, a drop in professional standards, and an overall diminished social and professional status of court interpreters following the outsourcing of PSI.

- Over 50% of interpreters who participated in the survey referred to various professional bodies, organisations, and relevant codes of conduct as the primary source of their professional standards.
- Over 60% of interpreters who participated in the survey find interpreting interesting, challenging, and rewarding. This motivates them to remain in the profession despite all the existing challenges.
- The most prevalent challenge faced by interpreters in the courtroom is the lack of consideration for their presence (participants of the proceedings speak too quickly or too quietly, etc.). This is followed by technical issues such as poor acoustics and lack of necessary equipment. The third top challenge reported by the practitioners is ignorance (lack of understanding and awareness of the interpreter's role by legal professionals).
- The majority of interpreters (80%) chose not to join the union as they have no trust the union can do much to protect their working rights.
- Adversarial interpreting appears to be accepted as an institutional practice for quality assurance in court interpreting.

In conclusion, addressing the questions about the role, professional identity, and status of interpreters in the courtroom in England and Wales reveals a complex and multifaceted landscape. The various aspects involved in the construction of the interpreter's identity do not form a uniform picture. While some elements align, others diverge and point in different directions, adding extra levels of complexity to understanding who interpreters are today.

The absence of consensus on the interpreter's role has resulted in various stakeholders having conflicting expectations in addition to a lack of awareness among legal professionals. Both have contributed to confusion, potentially leading to miscommunication for all parties involved. At the same time, practitioners appear to accept their ill-defined role and blurred professional identity given the lack of agreement over these concepts even within the professional community. Furthermore, my ethnographic observations showed that interpreters often go beyond their own definitions of their role. This constitutes a co-created reality that everyone seems to agree to.

An additional layer of complexity is introduced into this picture by industry changes stemming from government policies, such as the outsourcing of PSI. This appears to have adversely affected interpreter pay rates and overall working conditions, inevitably leading

to a decline in their social and professional status. As a consequence, many professionals have either left the profession entirely or are planning to do so, leading to unqualified and untrained bilingual individuals stepping in to fill the gaps and compensate for shortages in supply. In the context of insufficient regulation of the profession, this trend contributes to a reduction in the quality of interpreting and the deprofessionalisation of PSI – an outcome that is potentially fraught with grievous consequences in a legal setting.

7.6 Contribution to the field

In the field of courtroom interpreting, numerous studies have explored various aspects of the interpreter's role and role performance, challenges, and ethical dilemmas in the courtroom, their working conditions and how they impact professional status, and the impact the interpreter has on counsel's questioning tactics and strategies, the overall impact of interpreting on the flow of the proceeding, and more (for a survey, see Wadensjö, 1992; Morris, 1993, 1999; Bird, 1995; Barsky, 1996; Birk-Seligson, 1999; Mikkelson, 2000, 2008; Fenton, 2004; Hale, 2004, 2007; Lee, 2009b). What sets the current study apart is that, in essence, it has taken a snapshot of a newly constructed reality following changes introduced into the field of PSI in England and Wales, making it an original contribution to the field.

This study offers further contributions with theoretical, methodological, and practical value to the field.

7.6.1 Theoretical contributions

The study documents the evolving reality shaped by recent changes in PSI in England and Wales. This positions the research within the broader discussion on how systemic changes influence the professional role and identity of interpreters in the legal setting and enriches theoretical discussions in the field.

The study suggests that courtroom interpreting is not a homogenous phenomenon as different courtroom settings have an impact on interpreting practices, role performance, and interpreter status and identity. This finding challenges the existing assumption of

uniformity in courtroom interpreting and calls for further investigation.

The study introduces the concept of the critical incident, widely used in qualitative research on language education, into interpreting studies, expanding the theoretical frameworks available for analysing the role and identity of interpreters. The concept could also be applied to other professional contexts.

7.6.2 Methodological contributions

Unlike previous ethnographic studies that targeted specific areas of interpreting in particular court settings (Fowler, 2012), this ethnographic study spanned six years (2014–2019) and involved observations of interpreter-mediated hearings across various courts in Birmingham, providing a broader and more comprehensive perspective on different courtroom settings.

The research employed a multi-method approach combining ethnographic observations, follow-up interviews, and surveys with interpreters, legal professionals, and defendants, offering a panoramic view of the role and identity of the courtroom interpreter.

By incorporating the concept of the critical incident into my research on the professional role and identity of courtroom interpreters, I introduced a valuable analytical tool to both courtroom interpreting and interpreting studies as a broader discipline.

7.6.3 Practical contributions

The study explores how changes in PSI policies impact the interpreter's role and status, which can inform policymakers, professional associations, training programmes, and other relevant stakeholders. These findings may contribute to positive changes that benefit all parties involved.

Findings suggest that courtroom setting and structure influence interpreting practices and professional identity, which could be useful for legal professionals, interpreter training programmes, and service providers in tailoring their approaches to different legal contexts.

The research highlights challenges faced by interpreters in various court settings, which can help in advocating for improved working conditions and ethical guidelines within the profession.

7.7 Limitations of the study

As with any ethnographic research, this study is subject to the inherent limitations of this research method. The primary limitation is the potential for bias and subjectivity arising from my background and experience as an interpreter, which may have influenced data collection and interpretation. To mitigate these biases, I made a conscious effort to maintain analytical distance from the research subject. Further details on self-reflection are provided in Chapter 4.

Ethnographic observations in this study were limited to the Birmingham area. Given the time-consuming nature of ethnographic research and the need to maximise data collection time available, I opted to minimise travel to more remote parts of the country. Instead, I focused my observations on the location where I was based at the time. While Birmingham's superdiversity is a strength of this research, conducting observations in areas with predominantly white populations may have yielded different results and presented a bigger picture with different findings and outcomes.

As noted by Goodson and Vasser (2011), the time-consuming nature of ethnographic observation limits the sample size. In total, I spent seventy-eight hours observing interpreter-mediated hearings in various court settings and I only managed to attend thirty-five hearings. This sample includes the Birmingham Magistrates' Court, Crown Court, civil court, family court, and immigration tribunal.

Furthermore, the initial research goal was to conduct interviews with interpreters, legal professionals, and non-English-speaking litigants (or service users) and three questionnaires were designed at the beginning of my research journey. However, gaining access to the latter group (non-English-speaking litigants) proved to be the most challenging, resulting in an unrepresentative sample of only two participants. Although their responses offered an interesting perspective, they had to be excluded from the data analysis and discussion.

In hindsight, if I were to conduct this study again, I would extend my research observations to other areas of England and Wales to gain a broader perspective and a more comprehensive understanding of interpreter roles and identities across the country. Additionally, I would seek access to prisons to expand the research sample to include more non-English-speaking litigants. I would also aim to include a wider range of court types, such as youth and coroners' courts, as well as different types of hearings, to further enrich the research sample.

With these limitations in mind, below I will outline implications and recommendation for future research.

7.8 Recommendations for further research

Notwithstanding the limitations of this study, the findings indicate numerous issues that should be further investigated to advance the profession of court interpreting:

- Court type may influence the interpreter's performance, indicating that courtroom interpreting may not be a homogenous phenomenon. This insight may have implications for training both interpreters and legal professionals.
- Explore the influence of professional organisations, such as NRPSI, CIOL, and ITI, etc. on shaping interpreters' professional identity and their role in setting and maintaining professional standards as well as safeguarding the profession through establishment of quality assurance practices may need further exploration.
- The role of educational institutions in establishing professional standards, regulating the profession by determining entry requirements and protecting service users from unqualified bilinguals falsely claiming expertise in the field should be examined.
- Research with a larger sample of legal professionals and non-English-speaking litigants could provide more in-depth perspectives on the role and identity of interpreters in the legal setting in England and Wales.
- Involving professional agencies as additional key stakeholders in the research may offer valuable insights into understanding the interpreter's role and identity in the current climate.
- Extending the research to more locations across England and Wales will ensure a

broader coverage and may lead to additional valuable discoveries in the field of courtroom interpreting.

- Conducting a corpus analysis of existing codes of conduct and other regulatory or advisory documents designed to instruct and guide interpreters, agencies, and institutional representatives in their work with interpreters could help reveal how the interpreter's role and identity are constructed discursively in the institutional context.

To sum up, the complex and intricate nature of court interpreting and the interpreter's role in court proceedings warrant careful and urgent attention. While the professional competence of interpreters is crucial for delivering quality interpreting in the courtroom, institutional support and a wider awareness of the interpreter's professional needs and understanding their role are equally vital. Moreover, there is a need to enhance awareness among legal professionals regarding the challenges and requirements of court interpreting. Engaging in open discussions between interpreters and legal professionals can further foster mutual understanding and promote effective cooperation in the courtroom, ensuring access to fair justice for all members of a linguistically diverse society.

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