

An Analysis of Politeness Theory in Courtroom Speech's Pragmatic Equivalence across Cultures

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Abstract: Illocutionary force is a difficulty in the courtroom speech interpretation as subtle differences between languages could lead to a noticeable change of illocutionary force in the target text. This paper uses the framework of politeness theory to investigate politeness markers and modality in dialogue interpreting and analyse how the illocutionary forces were modified by interpreters in their translations into Chinese and Spanish.

1. Introduction

There is a misconception that addressing legal jargons is the main challenging part for court interpreters, and relatively little studies pay attention to pragmatic constraints on courtroom interaction. However, interpreters can find the appropriate equivalence for the source speeches' words but they fail to 'perceive or otherwise misrepresenting the illocutionary force of the utterance in context' (Mason, Hatim 1990: 63-4) [20]. Based on a testimony from a Spanish speaking witness, Rigney (1997:14) [23] found interpreters had a tendency to change 'the pragmatics of certain types of English questions when translating them in Spanish.' Berk-Seligson (1999:50) [2] also found the same phenomenon in the U.S that even if interpreters were able to achieve the equivalence of question content, they 'inadvertently alter the pragmatic force of attorney's questions.' Therefore, in a series of works (1996,1997, 1999, 2001) [8], Hale critically develops that the discourse's pragmatic aspect is the most challenging part for interpreters, such as how to maintain the source text's illocutionary force, how to achieve equal levels of politeness and coerciveness in interpreting. Given that 'cases are based primarily on oral evidence which must be presented in the form of questions and answers', achieving equivalence of the discourse's pragmatic aspect is especially critical for dialogue interpreting between the witness and the attorney in courtrooms (Hale 2001: 1) [11].

This paper will draw on Hale's studies about pragmatic considerations of interpreting in courtrooms, aiming to examine the interplay between politeness and the illocutionary force in courtroom speeches. The analysis will begin with an introduction of the purpose to ask questions in courtrooms, as well as question types in courtrooms, with an aim to present the way the dialogue interpreting unfolds. Then it will use Brown and Levinson's politeness theory as the framework to explore the importance of politeness in the dialogue interpreting in courtrooms. Furthermore, this paper will analyse how politeness affects the illocutionary force by examining the dialogue interpreting in pre-trial cross-examination of O.J Simpson case. The English language transcripts of this dialogue interpreting are supplied by Walraven (n.d.) [24], while the Spanish transcripts are provided by Miguel (1998) [22].

2. Overview of Courtroom Questions

2.1 Why ask questions in Courtroom?

In the adversarial courtroom, there is a ritualized speech event where the lawyers and the Bench (the powerful participants) need to ask questions to the witness/defendant/accused (the less powerful participants) orally. Each lawyer asks questions in examination-in-chief to introduce his

argument that favours his case, which is followed by a challenge by the opposing lawyer in cross-examination. It will be regarded as contempt of court if the witness/defendant/accused refuse to answer questions. In this sense, the relationship between questioner and respondent is unequal in courtrooms. This imbalance power allows the lawyers to ‘control a witness’s line of testimony’ (Walker 1987:57) [25]. Asking question is a helpful method for lawyers to exert such control, with an aim to influence results of their cases. Therefore, asking question in courtroom is a strategy used by the lawyers to ‘elicit information or responses that would either favour or discredit a particular case’ (Hale 2001:1) [11]. In other words, most of the lawyers’ courtroom questions are not to look for new information but to order a response. In this sense, it is important for courtroom interpreters to portray the lawyers’ illocutionary force and coerciveness in order to maintain the original intention behind them.

2.2 Question Types in Courtroom

Analysing question types used in the courtroom is important for analysing whether certain question type influences the entire presentation of evidence, and how it constrains answers if it shapes the presentation of evidence. This point is argued by Loftus as ‘the form in which a question is put to a witness exerts a strong influence on the quality of the answer’ (1979:90-91) [18]. Four studies show different classifications of questions: Loftus (1979) [18] categorized questions into Narrative Form Question and Controlled Narrative Questions; Maley and Fahey (1991) [21] categorized questions into Confirmation Seeking Questions and Information Seeking Questions. According to Danet and Bogoch (1980) [5], there are four small groups: Declaratives, Interrogatives, Yes/No Questions, Interrogatives Wh-questions and Requestions, whereas Woodbury (1984) [26] classified questions into more specific groups: Tags, Prosodic Questions, Grammatical Yes/No Questions, Alternative Questions and Wh-questions. Additionally, according to Hale’s research result, ‘question type differs according to the type of examination’ (2001:6) [11]. This research result found that positive polar interrogative was the most commonly used question in both examination-in-chief and cross-examination. Information Seeking Question was more popular in the examination-in-chief while Confirmation Seeking Question was more popular in the cross-examination, which corroborated the results of Rigney’s (1997) [23] as well as Maley and Fahey’s research (1991) [23].

3. Politeness in Interpreting Questions in Courtrooms

Why Politeness is Important in Interpreting Questions? In previous studies, there is relatively little attention paid to politeness in interpreting. However, politeness, which is one of ‘pragmatic constraints on interpreting’, influences the way ‘the meanings are exchanged and negotiated’ (Mason & Stewart 2001: 1) [20]. Lang’s observation in Papua-New Guinea courtroom settings (1976, 1978) [16, 17] also found politeness plays a prominent role in dialogue interpreting as it represents the interpreter’s inclusiveness or exclusiveness in exchange. The following content will present reasons to explain the importance of politeness in courtroom interpreting.

First, dialect, language difference, and accent are not the only variations that shape listeners’ judgements about the speaker; delivery styles and those smaller speech usages can also influence listeners’ impressions to the speaker (Addington 1971) [1]. This point is supported by O’Barr’s study (1982) [19], in which witnesses’ speaking styles are divided into two different types: powerful testimony and powerless testimony. The research outcome (ibid.) shows that powerless testimony produced negative evaluations of witnesses and the use of the polite form is one of the defining linguistic features of powerless testimony. In contrast, Berk-Seligson (1988: 430) [3] finds that politeness markers can ‘give more positive ratings of a social/psychological nature to a witness’ compared to those speeches are lacking in politeness. Therefore, these two opposite points regarding whether politeness is favourable to witnesses’ speeches suggest the multiple functions of verbal politeness. As Ide (1983) [13] introduces the dual function of politeness: on the one hand, politeness helps speakers show their subservient positions; on the other hand, politeness’s function

is to suggest the speaker's demeanour and the good understanding of his/her place. In this sense, it can be concluded that politeness represents a critical variable in the verbal relationship among witness, lawyer and interpreter.

Second, based on Goffman's studies (1967, 1971) [6], Brown and Levinson argue that issues of politeness have the prominent importance because they 'raise questions about the foundations of human social life and interaction' (1987:1) [4]. This point means that politeness has its great sociological significance than those common etiquettes. Brown and Levinson further explain politeness's sociological significance from the ethological perspective, writing as 'problem for any social group is to control its internal aggression while retaining the potential for aggression both in internal social control and, especially, in external competitive relations with other groups' (1987:1) [4]. This point is then introduced by the term 'face' which refers to people's basic wants of not being threatened (ibid) [7]. In general, people cooperate with each other to maintain faces, and people are expected to protect their faces by threatening others' faces if their own faces are threatened. In this sense, in the interaction, people's cooperation in maintaining faces is of the great relevance with politeness.

Brown and Levinson categorize face into two types: negative face refers to 'the want of every competent adult member that his actions be unimpeded by others', while positive face means 'the want of every member that his wants to be desirable to at least some others' (1987:62) [4]. Obviously, cross-examination inherently threatens the witness's positive face since the purpose of cross examination is to prove the witness's testimony is unreliable. This is to say, the witness's 'public self-image' (1987:61) [4] is destroyed. However, in such a face-threatening event, issues of how the witness give face-protective responses are worth investigating. From Brown and Levinson's politeness theory, it can be observed that the sociological significance of politeness decides it is the investigation focus in the context of court interpreting.

4. How Politeness Affects Question Interpreting in Courtrooms?

Berk-Seligson finds that a court interpreter can hugely affect the politeness in the witness's testimony, which means 'the interpreter is a powerful filter through which a speaker's intended meaning is mediated' (1988: 433) [3]. This essay confines its analysis to the cross-examination in which yes/no question and the conformation-seeking question are commonly used. These two types of questions are 'the great majority of questions in cross-examination (87.5%)', which are used to avoid lengthier and narrative answers in cross-examination (Hale 2001:1) [11]. The following content will discuss how politeness devices can affect the illocutionary force through examining these two types of questions in pre-trial cross-examination of O.J Simpson case.

4.1 The Use of Politeness Markers in Yes/No Questions

Compared to wh-type questions that elicit narrative answers, Yes/No questions 'constitute a more favourable environment for the addition of 'sir' and 'ma'am' (Berk-Seligson 1988) [2]. For example, the attorney asks a yes/no question and the interpreter fails to include the politeness markers, such as 'Sir,' 'Madam' in the interpretation, then the interpreter places the witness in an unfavourable situation. In other words, a brief 'yes' or 'no' answer is face-threatening to the questioner as it is lack of mitigating force, especially when the witness's yes/no answer indicates that he admits to something unfavourable to him in the court. On the other hand, answering 'Yes, Sir'/'No, Sir' has a softening effect on the admission, which leaves an impression of greater defence and politeness to the questioner.

To further investigate how politeness influences the illocutionary force in yes/no questions, the following analysis will examine the pre-trial cross-examination in which the witness Rosa Lopez is accused of being a material misrepresentation (Miguel 1998:11) [22]. In this instance, Lopez were asked a series of yes/no questions by the attorney.

Extract 1:

Attorney: You are not sure of the time?

Interpreter: ¿ No está segura de la hora? (Are you not sure of the time?)
Witness: Eso más o menos. (That more or less)
Interpreter: That is more or less.
Attorney: You were not watching the clock?
Interpreter: ¿ No estaba viendo el reloj? (You were not watching the clock?)
Witness: Claro que no. (Of course not.)
Interpreter: Of course not.

(in Miguel, 1998:111; Mason, 2001:59) [20, 22]

Obviously, the preferred response for these two questions is ‘no’. Had Lopez answers ‘no’ to ‘you are not sure of the time’, her answer may demonstrate that she is equally unreliable of other facts in relation to this case. Therefore, her response of ‘no’ to the question ‘You were not watching the clock?’ indicates she may be unaware that her ‘no’ response potentially implicates her. Within Brown and Levison’s framework of politeness theory, Lopez’s response ‘Of course not’ is face-threatening because it lacks politeness markers and suggests her interlocutor should have known the answer, in other words, she regards this as an inappropriate question. In this sense, Lopez threatens the questioner’s face in order to defend her own face in such a face-threatening speech event. However, the illocutionary force in Lopez’s statement will be altered if her statement is interpreted into Chinese. Here is the Chinese back translation of the same excerpt and then this essay will explore why the illocutionary force will be changed if Lopez’s testimony is in Chinese.

Extract 1

Attorney: You are not sure of the time?
Interpreter: 你不确定这个时间点吗? (Aren’t you sure of this time?)
Witness: 大概是那个时间点. (It is at that time or so.)
Interpreter: It is about at that time.
Attorney: You were not watching the clock?
Interpreter: 你没看表吗? (You were not watching the clock?)
Witness: 当然没有. (No, for sure)
Interpreter: Of course not.

(in Miguel, 1998, back translation me) [20]

Compared to Spanish and English, ‘of course not’ in Chinese does not establish the same illocutionary force of threatening the interlocutor’s positive face. In contrast, although there is no politeness address term in ‘of course not’ in Chinese, it inherently expresses the speaker’s willingness and commitment to cooperate with his/her questioner. In this sense, as a positive politeness device, the utterance ‘of course not’ in Chinese greatly defuses the confrontation between Lopez and attorney. However, if the interpreter gives a strict literal translation, the utterance’s original face-protective potential will be changed into the face-threatening potential and Lopez will not benefit from her answer’s face-protective potential. Consequently, from this instance, it can be seen that since language’s illocutionary force varies in different cultures, ‘the requirement to translate literally conflicts with the fact that language do not encode politeness in strictly equivalent ways’ (Manson and Stewart 2001:61) [20].

4.2 The Use of Modality in Confirmation-Seeking Questions

Except politeness markers, modality also has the pragmatic implicature in interpretation of conformation-seeking question. According to Mason and Stewart(ibid.), ‘modality is conveyed by a range of devices in different languages, which may or may not coincide’. Consequently, although interpreters intend to produce a literal translation, they may alter modality without realising its potential significance. The following analysis will investigate how the adjustment of modality can modify the illocutionary force of witness utterances. As Extract 2, this paper reproduces the witness’s defence for being accused of giving false statement about reserving an airline ticket

(Lopez's defence is changed from Spanish into Chinese).

Extract 2

Witness: 但我会订票并且离开, 先生。(However, I am going to reserve the ticket and I am going, that is for sure, sir.)

Interpreter: But I will reserve the ticket and leave today, sir.

(in Miguel, 1998, back translation me) [20]

In Chinese, there are no morphological tenses and people utilise words in relation to time, such as noun, modality, adverb to indicate tense (Juan, Zhou 2013:128) [15]. In Chinese, '会' ('to be going to') is a commonly used modality for expressing both intention and prediction, which not only refers to future events but also 'marking commitment to the proposition through stress' (Manson and Stewart 2001:62) [20]. In this case, when Lopez uses '会' ('to be going to'), she is stressing her 'absolute commitment to the proposition' (ibid). However, the use of modality is replaced by a simple future tense when it is translated into English, which greatly weakens the witness's commitment to the proposition. Consequently, Lopez loses her advantage from her statement's face-protective potential due to the absence of pragmatic dimension in the interpretation. It can be concluded from this analysis that 'the degree of commitment by a speaker to a given proposition is not necessarily conveyed by the same structural means in each language' (ibid).

5. Conclusion

This paper has explored the results of analysing the use of politeness markers and modality in dialogue interpreting and compared how the illocutionary forces were modified by interpreters in their translations into Chinese and Spanish. It was found that even if the interpreters achieved a highly appropriate equivalence for the source texts' words but the illocutionary force of the source speeches were changed due to small speech usages, namely politeness markers and modality, and as a result, the speeches' face-protective and face-threatening potential are affected. Moreover, in different languages, although their words are the same, they are not semantically equivalent. In this sense, different languages cannot convey the same illocutionary force even if they achieve the equal level of speech contents.

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