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When the role of the court interpreter intersects and interacts with new technologies

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When the Role of the Court Interpreter Intersects and Interacts with New Technologies

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Abstract

Videoconference (VC) systems have been used in courts in England and Wales for more than fifteen years. However, it can be argued that research into how new technologies and interpreters interact in legal settings is still in its infancy. The aim of this article is to analyse whether court interpreters perceive their role differently when they interpret through VC systems, and whether the location (i.e. if they are present in court or in prison) has an impact upon their perception. This article will adopt an innovative approach by using Actor-Network Theory (ANT), and more precisely the sociological construct of *Translation*. This framework will be applied to three interviews that were conducted with practising legal interpreters in the UK. It will be posited that interpreters create small networks in an interpreted communicative event, in which they *Translate* only some of the court actors. To do so, they deploy various devices to influence and rally the other actors behind the interpreters' perceptions of their roles. It will also be argued that although *Translation* has rarely been applied in Translation and Interpreting Studies, it offers new, innovative avenues for research in Interpreting Studies, especially when new technologies are under scrutiny.

Key words: Videoconference Interpreting, Court Interpreting, Role Perception, Actor-Network Theory

Introduction

Scholars such as Hermann (2002) argue that interpreting is an age-old profession that dates as far back as Ancient Egypt. Despite its long history, scholars only started examining Public Service Interpreting (PSI) as a research field in the late 1980s. Since then, research has taken various directions, from a linguistic approach focusing on pragmatics and discourse markers for instance (Hale 2004), to the use of sociology that questioned the conduit model ideology (Bot 2009). However, most studies have been carried out in a face-to-face context, although innovation and the advent of new technologies such as the use of videoconferencing (VC) systems in interpreting have opened up new horizons.

Moreover, the role of the court interpreter has also been the subject of various PSI studies in face-to-face settings. However, the effect of new technologies on the court interpreter's perception of their role has attracted very little research in Interpreting Studies. Through the sociological construct of Actor-Network Theory (ANT), this article will demonstrate how court interpreters perceive their role when working via VC systems, and it will identify what strategies they actually implement to ensure that their role is validated by the other court actors.

To achieve such aims, the current literature regarding the use of new technologies in interpreting and the role of the court interpreter will be briefly reviewed. ANT and the four phases that constitute *Translation*,[1] namely problematisation, interessement, enrolment, and mobilisation will then be defined. Finally, *Translation* will be applied to interviews that were conducted with three court interpreters in England. This article will argue that although court interpreters perceive themselves as being passive actors in main networks, they create sub-networks in which they influence other court actors, and they determine their roles and deploy interessement devices differently, depending on their physical location.

Contextual Background

The use of VC systems

Braun and Taylor (2012b:32-34) define Videoconference Interpreting (VCI) as the setting where the court is in attendance, and the defendant or the witness are either in prison or at another location, respectively. Braun and Taylor (2012b) distinguish between VCI A, when the interpreter will be sitting in court with all the parties, but the defendant/witness is at another location, and VCI B, where the interpreter will be at another location with the defendant/witness, and the court will be in attendance with all the other court parties present. The courtroom and the other location are connected through a videoconference system, which includes a screen and microphones in both locations so that participants can see and hear one another. Other technological permutation types exist such as remote interpreting where all the parties are in the same room, with the exception of the interpreter who is in a different location, or a combination of VCI and remote interpreting, where all the parties are at

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[1] In this article translation will refer to the act of translating from one language into another, whereas *Translation* will be understood as the sociological construct that is anchored within ANT.

different locations. However, for the purpose of this study, only VCI A and VCI B settings will be examined.

Furthermore, the use of VC systems has been underpinned through various pieces of EU legislation such as the European Convention on Mutual Assistance in Criminal Matters between European Countries (2000) or the European Directive on the Right to Interpretation and Translation in Criminal Proceedings (2010). The aim of such legislation has been threefold: to reduce costs, to speed up the legal process, and to enhance security. The UK has been one of the first EU countries to implement the use of such systems. As Fowler (2013:226) argues, Section 57 of the Crime and Disorder Act (1998) provided a framework to use videoconferencing systems as early as 1998. However, it limited the use of VC systems to pre-trial hearings, and it gave court actors the possibility to decline such a use, if the reason put forward was deemed acceptable. The Youth Justice and Criminal Evidence Act (1999) widened the framework within which the use of VC systems was deemed appropriate. Witnesses could then be allowed to give evidence via what is referred to in the Act as a 'live link.'[2]

However, as already mentioned above, at the time when laws were adopted in England and Wales to use videoconferencing systems, research concerning the extent of their impact was very limited. Plotnikoff and Woolfson, two consultants in Management, IT and Law, were commissioned by Her Majesty's Prison Service to carry out pilot studies to assess the feasibility of VC systems in court. They carried out two studies (1999; 2000) based on court observations, questionnaires, and interviews with the main court participants. Similar to Plotnikoff and Woolfson's work, the impact of VC systems has been studied mainly in a mono-lingual setting with the work carried out by Fullwood et al. (2008) and Hodges (2008). These studies argue that although VC systems do not have any consequence on the legal process at the overarching macro-level (i.e. the use of VC systems will not change whether a defendant is found guilty or not guilty), they could have an impact upon perceptions, such as whether some participants treat the legal process with the same gravitas. They also highlight the lack of intimacy cues (such as eye-contact and body language) and various issues associated with the use of new technologies (for instance, where a speaker should stand, and making sure that the picture and sound are of the highest quality).

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[2] Live-link and video-link are to be understood here as synonyms of videoconference systems.

Moreover, in a multi-lingual setting, pioneering studies have focused primarily on remote interpreting in conference settings, and they have examined issues such as quality and perceived quality in interpreting or fatigue (Moser-Mercer 2003). In PSI settings, research in VCI has been carried out especially through the seminal work of the AVIDICUS project (Braun and Taylor 2012a). This project focused on various aspects such as linguistic (e.g. the increased number of linguistic errors when interpreting via VCI) or paralinguistic features (VCI requires more turn-taking and overlapping speech than in a face-to-face context). Through observations Fowler (2012; 2013) also studied the court actors' behaviour and environmental working conditions when the court interpreter is working via VCI.

The majority of these studies were conducted in a mono-lingual setting, and the current body of research in VCI does not particularly focus on the court interpreters' perceptions of their role in such a setting. However, as will be discussed in the following section, the public service interpreter's role in a face-to-face setting has been the focus of considerable research.

The Role of the Interpreter

It can be seen that in the 1990s, the role of the public service interpreter was already a thorny issue. Indeed, Fritsch-Rudser (1988) stated that "interpreters do not have a problem with ethics, they have a problem with their role" (cited in Roy 1990:347). Further light is shed on this by some scholars such as Wadensjö (1998), Angelelli (2003), Inghilleri (2003; 2005) who have used Goffmanian and Bourdieusian sociological frameworks to examine the interpreter's role. Although there are many roles that can be adopted, often depending on national and institutional factors, their studies have demonstrated that the role of the interpreter varies not only from one interpreting field to another, but various roles can be adopted within the same interpreted-communicative event (ICE). In addition, Bot (2009) describes the role of the interpreter in psychotherapeutic sessions along the lines of a continuum, where the interpreter will be a machine, an interactive interpreter, and/or a participant. Mason (2009) also highlights the fact that the interpreter can adopt various roles within the same ICE, and he introduced the notion of positioning in Interpreting Studies. According to Mason (2009), the role of the interpreter is to interpret. However, the manner in which they interpret will depend on the positioning they adopt.

As far as court interpreting is concerned, many studies concentrated on the perception of the interpreter's role as a conduit or a machine (Laster and Taylor 1994; Moeketsi and Wallmach

2005; Martin and Ortega Herráez 2009). Interestingly, these studies demonstrate that the conduit model is an ideology. Moving away from this conduit model, other studies depict the court interpreter as a more interactive participant. For instance, Hale (2008) argues that the interpreter can adopt four different roles: the advocate for the minority language speaker, the advocate for the institution or the service provider, the interpreter as a gatekeeper, and the interpreter as a faithful renderer.

Regardless of the setting in which the ICE occurs, it appears that scholars agree that the interpreter will be adopting various roles or positionings within one assignment. The above list is not exhaustive, and it could partially explain Fritsch-Rudser's quote above, whereby an interpreter stated that they had a problem with their role and not ethics. However, all of these studies were carried out in a face-to-face context, and one could question the extent to which, if any, the use of a VC system may have an impact on the court interpreter's perception of their role or positioning. In order to examine this question, it can be argued that a framework that gives full consideration to the potential impact of technological equipment should be used when examining the role of the interpreter in VCI. Furthermore, as argued by Hekkanen (2009) from the perspective of Translation Studies, ANT can become a relevant framework where humans' realities and new technology intersect and interact. The next section of this article will analyse how ANT and *Translation* can help shed more light on how court interpreters perceive their role in VCI.

Actor Network Theory

Actor-Network Theory is a sociological framework whereby an actor, who can be a human or non-human entity, associates with other actors, and thus they create a network. ANT is mainly associated with the work by Latour (1984; 1988; 2005), Callon and Law (1988), and its aim is to unravel how actors associate with others, and the tensions and pressures that are exercised within a network. It is based on three methodological tenets: agnosticism (the researcher cannot censor an actor, and they cannot let their perception of reality colour the actors' views), symmetry (the same mode of analysis should be applied to any object observed, whether it forms part of Society or Nature, that is whether human beings or non-humans are under scrutiny), and free association (when carrying out field work, the researcher should not predefine the actors, but let them freely associate with others). Instead of trying to make actors fit in a pre-defined analytical grid, running the risk of distorting or

omitting some of the actors' characteristics and as a consequence, blurring their identities, the ANT researcher must, in abiding by the above three tenets, 'follow the actor', as Latour (2005) reiterates frequently.

ANT in Translation and Interpreting Studies

ANT has been used as a framework in many interdisciplinary studies such as computer and information systems (Monteiro 1998), engineering (Bowker and Kaghan 2001), pedagogy (Tatnall and Wong 2010), socio-material history (Nimmo 2011), and tourism (van der Duim 2007; Ren 2011). It has also been used in Translation studies (TS), although to a much lesser extent. For instance, Buzelin (2005) adopts an ANT approach to study the work of literary translators in Canada, and the network that they create. Abdallah (2012) examines the translators as forming part of production networks. She takes an ANT approach when scrutinising the role and the definition of agency, quality, and ethics in these networks. Hekkanen (2009) also applies ANT in literary translation by examining how networks between authors, publishing houses and translators are created. Finally, Kung (2009) calls upon ANT to examine the impact of translator-led versus financially-sponsored networks created in translating and exporting Taiwanese literature. Kung (2009:126) argues that "ANT provides a useful framework for examination of production as a process of negotiation and tension between actors. (...). Most importantly, it asks how various agents with different social power interact with each other and develop the networks." Although ANT remains unexplored in Interpreting Studies (IS), it can be posited that ANT is a relevant framework in IS as the aim of this article aligns, to some extent, with those in the above-mentioned studies in Translation Studies. Indeed, the notion of roles within networks and of interaction between agents (i.e. the interpreter, the defendant or the judge for instance) with different social power is at the heart of this study.

Translation

Methodologically anchored within ANT and building upon ANT's network creation, the aim of *Translation* is to analyse how a main actor in a network deploys strategies to ensure that the other actors in the network rally behind the main actor. *Translation* occurs in four phases that can happen consecutively or simultaneously. The first step is problematisation. Callon (1986:6) argues that the main actor "must determine a set of actors and define their identities in such a way as to establish themselves [as] an obligatory passage point in the network of relationships they were building." The main actor must then interest the other actors in the network in supporting the main actor's aim. Callon (1998:8) asserts that "[e]ach entity

enlisted by the problematisation can submit to being integrated into the initial plan, or inversely, refuse the transaction by defining its identity, its goals, projects, orientations, motivations, or interests in another manner." To ensure actors are integrated, interessement devices are created. Callon (1986:9) mentions possible devices such as seduction, solicitation, or even applying physical force. The next phase is enrolment which "designates the device by which a set of interrelated roles is defined and attributed to actors who accept them" (Callon 1986:10). This stage may entail further negotiations so that the relevant actors indubitably side with the main actor's plan or reject it. Finally, mobilisation is the phase where the actors will be defined as representatives for their collective. In other words, each actor will speak on behalf of the group that they are supposed to represent. This phase ensures that the network is stable and that the *Translation* process does not have to occur again.

Although used in various inter-disciplinary studies, ANT has rarely been applied to Translation Studies, and no studies in Interpreting have capitalised on the benefits that this framework may have to offer. Indeed, it was argued in the previous section that the interpreter's role and working environment have been observed through a Bourdieusian or Goffmanian prism. Unlike other sociological frameworks, ANT, and more specifically *Translation*, are innovative approaches that pave the way for an examination of how interpreters perceive their roles, but it also provides tools to analyse devices that interpreters put in place in order to persuade other actors in the network to align with the interpreters' perceptions.

Field Study

The field work is based on three semi-structured interviews. They were conducted in the ANT's methodological spirit of agnosticism, symmetry, and free association with three qualified public service interpreters (P1, P2, and P3) in the UK, who each had over 10 years of experience in court interpreting.

Participants were first asked to confirm how many times they had interpreted in an English criminal court setting in VCI, and whether it was in VCI A or VCI B. The three participants had experience in both settings, and they interpreted on 2, 4 and 3 occasions in VCI, respectively. They were then encouraged to narrate their experience in VCI A and then in VCI B from the moment that they arrived at the location to the end of the assignment.

The Interpreters' Narratives

After data coding and analysing the interview transcripts, it transpired that the interpreters built their narratives and their role perception around four main themes: introducing yourself as an interpreter, impartiality, back channelling and body language, and managing the interactions. Salient features of the themes will be now discussed for both VCI A and VCI B.

Introducing Yourself as an Interpreter

In VCI A, the interpreters commented on the fact that they cannot always introduce or be introduced to all court parties as the interpreter. This was mainly due to logistical issues. For instance, P1 stated that the VC system started once they had already been sworn in. Therefore, the defendant did not see this process. According to P1, the consequence of not being introduced to all parties was that "you could be the cleaner, or the [person] with the microphone (…) there wasn't an obvious interpreter in the room". P2 and P3 shared the same experience. Interestingly, the situation is similar in VCI B as they reported that although they could be introduced to the defendant or the witness before the VC system started, they were not sworn in or formally introduced to the court on the other side of the screen.

Impartiality

First of all, it was reported that the absence of a formal introduction has a direct impact on impartiality. P1 argued that by not being able to introduce themselves to the defendant in VCI A, "I think it had an impact on his perception of my neutrality".

Also, in VCI A, interpreters highlighted the importance of where they were physically positioned. They considered that by sitting in one of the locations with one party, there was a risk that they could be seen as not being impartial, especially when they were asked to sit next to the prosecution barrister, as it happened with P1. When narrating this experience, P1 stated: "It made me feel very uncomfortable because I thought I was sending out the wrong signal (…) I just felt like this made me look like I am siding and I wasn't."

Impartiality was also highlighted as problematic in VCI B. P1 stated that they were waiting for the video-link to start in a small room with the defendant and a prison guard, and as a consequence, "the whole idea of not fraternising with the client goes out of the window." Interestingly, P2 did not share a similar experience as the defendant was brought into the

room once the video-link started and as such, there was no opportunity for the defendant to fraternise. P3 also highlighted the issue of being left on their own with the defendant. P3 declared that:

> Where you are on your own with the defendant who can't speak English or only speaks very limited English and you feel there are extra responsibilities creeping into that job. You know, there is this whole area of erm becoming an advocate, as well as an interpreter.

They perceived this situation as conflicting with their role perception, and P3 said "how can you maintain your independence and objectivity if you are trying to [be an advocate] as well as an interpreter?" The fact that interpreters are also with the defendant in VCI B exacerbates impartiality issues as voiced by P1: "you are with the one person vs. like about 7 different groups of people that are involved in the process".

It is worth noting that although interpreters seem to be in agreement with the fact that VCI may have an impact on impartiality or at least on the other court participants' perceptions of impartiality, the careful timing of when the defendant is brought in may reduce such an impact.

Back Channelling and Body Language

In VCI A, interpreters unanimously reported that it was impossible to read the defendant's body language on screen or to obtain any feedback, although this is of particular use when they interpret. As P3 indicated:

> I look often at my client's feet because they are often a give-away. Erm, I look particularly at their feet. That's always a give-away. Are they nervous or you know? People often manage to control their faces and their hands but often not their feet, you know. And all that kind of information is quite useful to me when I am interpreting, you know, trying to mirror, you know.

The interpreters' perceptions were the same in VCI B in terms of reading the body language or obtaining any feedback from court participants. Interpreters indicated that back channelling and body language were crucial elements for adapting their performance in terms of the delivery pace or crossing cultural differences. However, they could not access all of these interpreting cues in VCI.

Interaction Management

The interpreters argued that VCI A renders interactions with the defendant impossible. P1 asserted that "it was as if [the defendant] was not part of it. Like he could have been my granny projected in to watch a trial out of interest." However, as P3 argues, interpreters can still manage the interaction in court in VCI A. When discussing the fact that the defendant seemed not to be involved, the interpreter "put a little note in front of the solicitor and he did vice-versa in front of me."

In VCI B the interpreters reported that it was easier for them to manage turn-taking and the interaction as they are standing next to the defendant or the witness. As P1 stated, if a defendant would like to speak to you, it is "easy to say shush", a feeling that was shared by P2 and P3. However, as indicated by P2, it is more difficult to manage court participants' pace on the other side of the screen: "I normally do that with my hand, a gesture to say carry on. In videoconference interpreting, there is no way that I could have done that." It follows that the interpreters felt that they had some control over the interaction with the person(s) with whom they were in the room. However, they believed that VCI made it impossible to manage the interaction with the participants at the other location.

To summarise, the interpreters perceived that depending on whether or not VCI A or VCI B was used, they could influence, to some varying degree, the introduction, have some control over impartiality and participants' perceptions of it, use back channelling and body language in their performance, and manage the interaction.

Applying ANT and *Translation*

During the first phase of problematisation, the three participants identified various actors as part of their network when they interpreted in VCI. Typically their network includes human and non-human actors, as indicated in Figure 1.
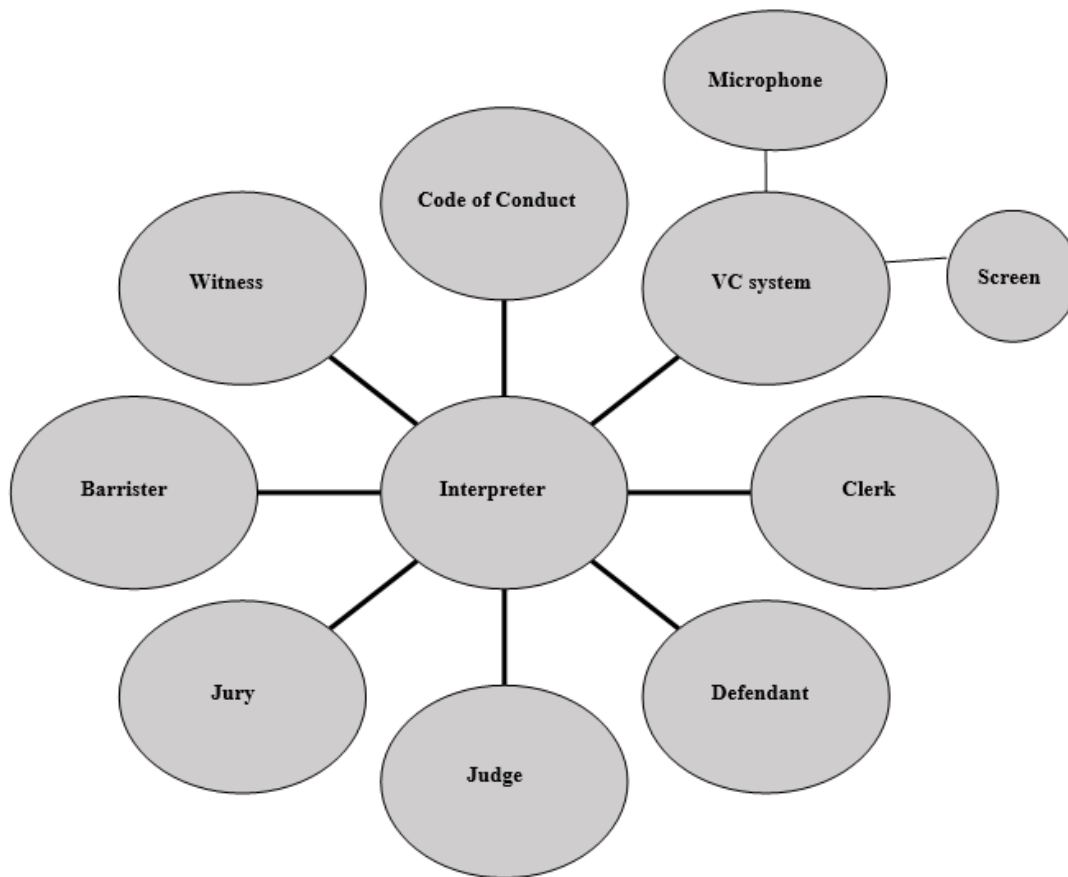
Figure 1: the actors in the court interpreter's network

However, they did not define themselves as an obligatory passage point (OPP). They do so from a linguistic viewpoint, and they are all in agreement when they say that multi-lingual hearings would not happen if they were not present. However, they believe they do not have any influence on the manner in which hearings are conducted, especially with regards to what happens at the other location. They tend to identify the court, meaning maybe the judge, as the obligatory passage point. As a consequence, it seems that *Translation* fails at the first phase.

When examining interview transcripts more closely, it appears that what dictates how actors behave in VCI is the videoconference system itself. Although interpreters do not consider themselves as OPP at the main network level, they create sub-networks where they see themselves as the OPP. In VCI A, the OPP is the VC system but the interpreter is the OPP for participants in court, but not for the defendant, as indicated in Figure 2.
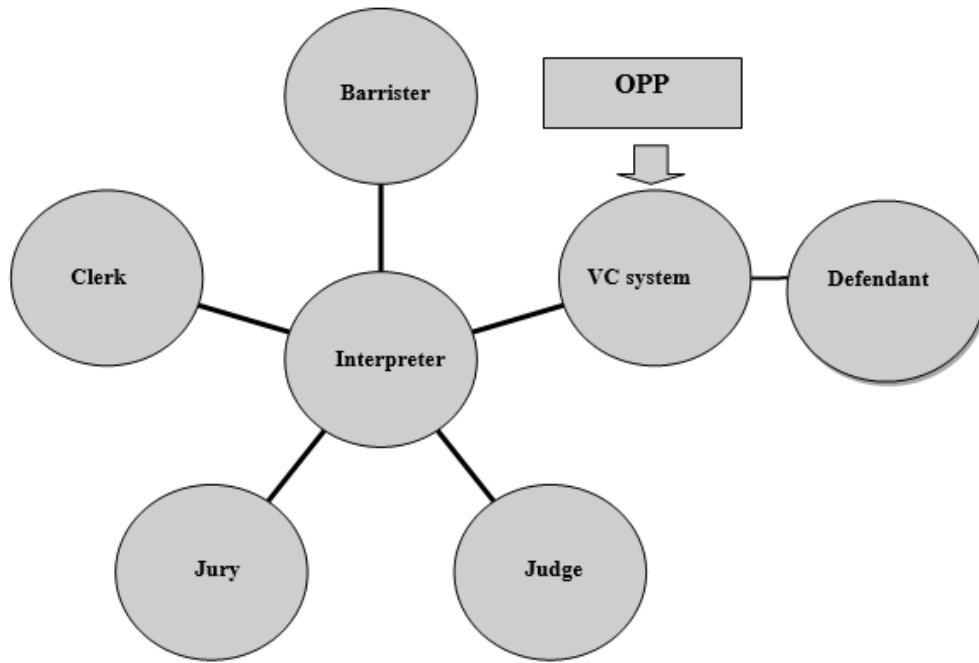
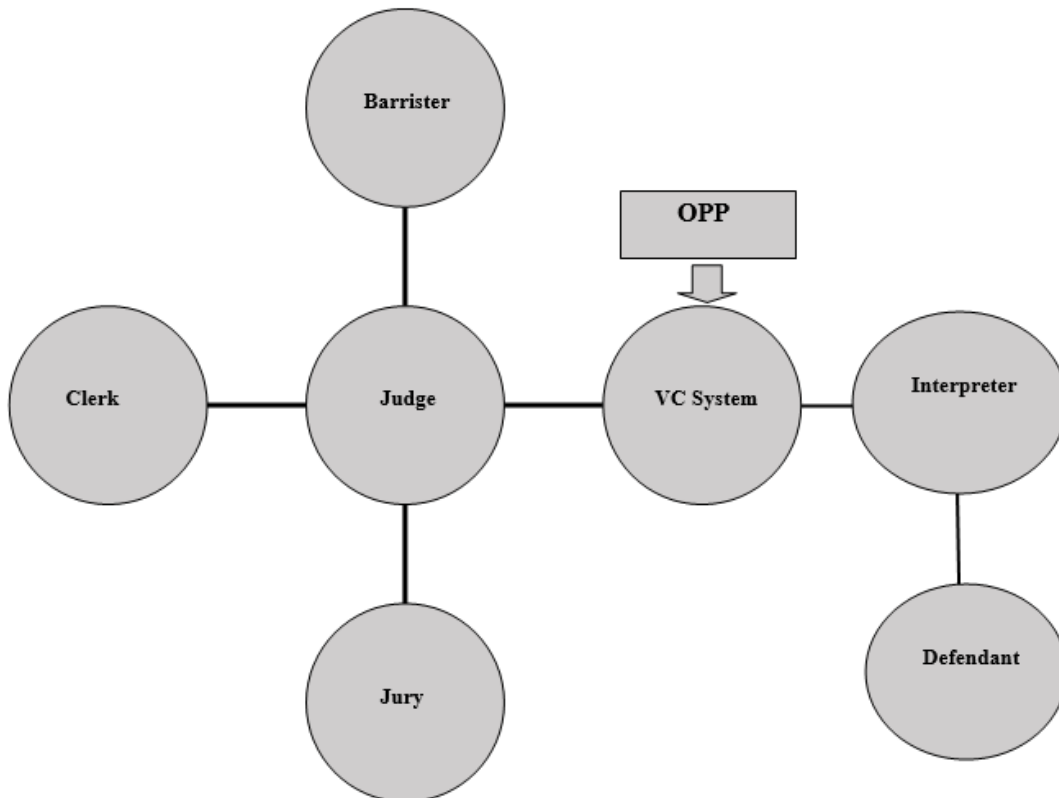Figure 2: the court interpreter's network in VCI A

Figure 3: the court interpreter's network in VCI B

In VCI B, the results are mirrored images in the sense that the OPP is the VC system in the main network. However, the interpreter will be the OPP for the defendant, but not for the other court actors, as represented in Figure 3. The problematisation phase therefore occurs at the sub-network level, where the interpreters define themselves as the obligatory passage point.

The next phase is interessement. The interpreters listed various interessement devices that they use in order to interest the other court actors. When a defendant asked P2 to give her some advice, the interpreter replied: "if I did that, I would lose my job. I would never be employed again. I am sure you don't want that to happen to me", which could amount to some sort of professional blackmail to prevent the interpreter from infringing upon what they perceived as their role not to advise the minority language speaker. Interestingly, P2 was referring to a case when they interpreted in a face-to-face setting but it was noted that this interessement mechanism could also be used when interpreting via VCI. Another interessement device is body language. In VCI A, P1 was sitting next to the prosecution, and they believed that they would not appear neutral to the defendant on the other side of the screen. So in order to restore some appearance of neutrality, they decided to turn their back to the prosecution, and look at the screen that was on the courtroom side, believing that by acting in such a manner, the defendant would be informed that the interpreter is not supposed to take sides.

In order to establish some professional distance between the interpreter and the defendant, P3 also used some lexis in their other language. For instance, if the defendant is saying "tu", they would always reply by using "vous".[3] P3 also argued that being dressed professionally helped towards establishing some professional distance. Finally, in order to interest other actors, all interpreters mentioned the use of inscription that is in ANT terms, written material for instance that will be used to inform or guide the actor. The three interpreters would use codes of conduct by which they would abide in order not to perform a task that would fall outside the remit of their perceived role.

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[3] In French (France), *tu* and *vous* are both subject pronouns that can be translated as you. However, *vous* is the formal pronoun used to address someone, especially in a more formal situation, whereas *tu* tends to be restricted to people with whom the speaker is more familiar.

Once the interpreters have deployed their interessement devices, none reported that further negotiation was needed, and therefore the interessement and enrolment phases occurred simultaneously.

Finally, the mobilisation phase is the phase where interpreters should stabilise their network, and they ensure that each actor present in their given role will be representatives of their own collective. This seems unachievable as different participants will have different expectations from one case to another. Therefore the network that the interpreter created is ephemeral, and its lifespan could be as short as a single hearing. It is also interesting to note that the interpreters did not define themselves as representatives of their own professional collective. They mention that due to differences between interpreting standards and their perception of the interpreter's role (among the interpreters' community itself), they felt that they had to renegotiate their roles every time they interpreted.

Future Research

It could be argued that the limitations of the study are the size and homogeneity of the sample. The data presented includes only three participants who had similar profiles, and they only interpreted in VCI on a few occasions. As interpreters on the National Register of Public Service Interpreters (NRPSI), their narratives were anchored within the NRPSI's Code of Professional Conduct, and they used it to define what they perceived as professionally acceptable or not in terms of their role. In line with Seidman's (2006) principles of sufficiency and saturation, more interviews with interpreters presenting different profiles in terms of years of experience, qualifications, or professional organisation membership, could be conducted so that the sample is more representative of the interpreting community. Also, this study focused solely on the interpreters' perception of their role and as such, it cannot claim to be representative of other actors' perceptions of what happened in their court narratives. Therefore, this article calls for further empirical studies examining more actors which present a more representative range of profiles.

Conclusion

Overall, interpreters expressed mixed feelings with regard to the use of VCI in court settings, to the point that some would now refuse an assignment if they were asked to interpret in such a context. However, they could all pinpoint some advantages, mainly regarding safety and an

attempt to reduce procedural cost, although some mentioned that cases had to be cancelled as the equipment was not working. In cases like this, they questioned the extent to which VCI was a cost-effective approach to run court proceedings. They also agreed that VCI was beneficial in cases where vulnerable witnesses had to give evidence, and they all preferred to interpret in VCI A rather than VCI B settings.

It also became evident that role perceptions were greatly influenced by the setting (i.e. VCI A or VCI B) in which the interpreters worked. The interpreters' perception of their role could be likened to a continuum. At one end, they perceived themselves as non-participants in the interaction, whereas, at the other end, they saw themselves as fully-fledged participants. A means to explain partially the reason why their role perceptions differed, depending on the setting, could be that the interpreters did not perceive themselves as OPP in the main network, but they operated at sub-network level where they *Translated* only some actors. As such, they perceived their role as more active participants within the sub-network where they were physically present, and where they defined themselves as OPP.

As in Callon's study (1986), the main actor (here the interpreters) created various interessement devices but failed to mobilise all the other participants as they were not defined as representative of the interpreters' collective. As a result, the interpreters' perception of their role in VCI cannot be stabilised. In order to stabilise the network in Callon's study, more inscriptions in the way of negotiation between the participants' unions, promoting research, values, training and CPD were needed. This could lead to further avenues of research if interpreters were to stabilise their networks.

Finally, these conclusions were drawn by introducing an innovative sociological framework in Interpreting Studies, which allowed humans and non-humans to be explored through the same prism. This approach was essential in this study as VC systems were not just a means for actors to communicate, but new technologies were actors that could influence human participants in networks. As a consequence, ANT, and more specifically *Translation*, offers new tools and new avenues for research to conduct studies where interpreters' social realities intersect and interact with new technologies.

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