Dealing with legal terminology in court interpreting

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▼ Table of contents

1.Introduction

Court interpreting may be considered a type of legal interpretation that happens in court settings (Hertog 2015, 21; ISO 20228 2019, 1), a type of community interpreting (Ng and Creeze 2020, 1), a completely independent profession (González et al. 2012; Mikkelson 2017, 1) or even a genre (Ortega 2011, 43). For the purposes of this chapter, it refers to the interpreting that takes place in a court of law and aims, using the words of the ISO standard for legal interpreting, at "ensuring equal access to justice to all persons as well as fair trials" (ISO 20228 2019, 1).

Court interpreters can work in law offices, law enforcement offices, prisons and other public agencies associated with the judiciary (Mikkelson 2017, 13). Of all these possibilities, this chapter is devoted to the work done by court interpreters when dealing with legal terms in courts of law and, specifically, in criminal proceedings. The main difference between civil and criminal proceedings is that in the former there are individuals or organizations that seek to solve legal disputes, whilst in the latter there is a public prosecution of a person/s by the government for an act that is considered a crime. In the former the persons involved, if found liable, can be made to pay money, or give up assets, whilst in the latter the person/s convicted of a crime may be incarcerated, fined, or both (Mikkelson 2017, 41–45).

Another important distinction regarding court interpreting is that of the legal tradition where the proceedings take place. For instance, the main difference between Common law and Civil law traditions regarding criminal proceedings is that the former usually follow the "adversarial" system, whilst the latter follow the "inquisitorial" system. According to González et al. (2012), in the adversarial system there are two sides, the prosecution and the defense, who present their version of the events and do all the questioning of witnesses, defendant/s and victim/s, after which a judge or jury choose the side that seems more plausible and credible. In the inquisitorial system, lay and professional judges question and listen to accounts of an alleged criminal event from witnesses, defendant/s and victim/s and control the flow of information (González et al. 2012, 345). The basic participants in criminal proceedings are the defendant/s, the witnesses, the victim/s, the judge or jury, the defense lawyer/s, the public prosecutor and, sometimes, there is also a private prosecution. Regarding the type and stages of trials, they vary according to the judicial system of the country, but there are some basic features that are common in Civil law countries, such as the main two phases of the trials, known as summary and plenary

proceedings, and the second stage -the plenary proceeding phase- is analogous to the criminal trial in the Common law tradition (González et al. 2012, 399).

The interpreters' role in this setting is "to attempt to remove the language barrier and to the best of their skill and ability place the non-English speaker in a position as similar as possible to that of a speaker of English" (Hale 2004, 10). Of course, English needs to be replaced here by any other language that might be the one mainly spoken in the courtroom. The person who is not fluent in the language spoken in the criminal proceeding can be the defendant, the victim or a witness, and has received many names in the literature, including "limited language proficient" (Mikkelson 2017, 1), "persons who are not sufficiently proficient in the language of service used in the specific legal setting" (ISO 20228 2019, 6) and "user" (Gile 1995; Pöchhacker 2001, 411). The latter is the one adopted in this chapter.

Regarding the interpreter, as Mikkelson (2017, 2) points out, "despite the almost universal right to an interpreter in criminal cases, most countries do not have laws specifying who is qualified to act as an interpreter in court proceedings". According to González et al. (2012), Mikkelson (2017) and Ozolins (1998), the first country to specify who is qualified to act as a court interpreter and to introduce a state examination for interpreting in the judiciary was Sweden, in 1976, followed by Australia and the federal courts of the USA in 1978, and then Canada and several individual states of the USA in the early 1980s. In the European Union, the right to translation and interpretation in criminal proceedings was officially adopted in 2010, through Directive 2010/64/EU, which requires all Member States to enact national legislation clarifying this right for criminal defendants and providing explicit guarantees. However, this regulation does not require the countries to have a state or official examination, and there are many Member States, such as Spain, where these regulations have not really changed (Blasco Mayor, and del Pozo 2015; Ortega 2015). In the UK, former Member State of the EU, court interpreting practice has even worsened during the last 15 years (Fowler 2012; Hertog 2015). In other countries such as Russia, there are simply no clear recommendations, qualifications, or professional associations for court interpreters (Babanina 2015, 18).

The ISO 20228 2019 standard for legal interpreting also acknowledges that, although standards of legal interpreting training and practice vary widely around the world, current trends in several countries "go in the direction of de-professionalism due to shortage of financial means, absence of specialized training and lack of awareness of the risks of using non-professional legal interpreters" (ISO 20228 2019, 1). The lack of consensus and regulation regarding the accreditations or examinations to be court interpreters can also be seen in the standards for what must be interpreted and how -i.e. in which interpreting mode, simultaneous interpretation (SI), consecutive interpretation (CI) or just giving a summary at the end of the hearing. For instance, the recommendations included in ISO 20228 are very vague, and only mention that "consecutive interpreting, chuchotage (whispered interpreting), and sight translation should be used throughout the hearing" and that "simultaneous interpreting can also be used, depending on equipment availability in court rooms"; it also indicates that "distance interpreting (remote interpreting) through video-conference can also be required in some situations" (ISO 20228 2019, 18).

According to González et al. (2012) and Mikkelson (2010, 2017), interpreters in the US are expected to do SI of every word heard in the courtroom, while in many other countries, interpreters are not allowed to provide SI but are asked to give summaries of evidence in CI or, in some cases, just a CI of the judge's summary of the proceedings after the trial has concluded. Even inside the US, there are important differences regarding the place where the interpreter should be sitting -next to the defendant or far from him/her- and the existing equipment to provide SI changes a great deal among courts.

2.Main difficulties

Fulfilling the aim of delivering an accurate rendition to place the user in a position as similar as possible to that of a speaker of the language of the court is not an easy task. In this chapter, we are addressing the issue of dealing with legal terminology, which is an important difficulty for court interpreters, but it is certainly not the only one.

The numerous studies and surveys conducted so far in court interpreting practice around the world[1] describe habitual problems such as misunderstanding of the court interpreters' role by lawyers and users alike (Hale 2004; Matoesian 2005), poor working conditions (Hale 2004; Mikkelson 2017; Vigier Moreno 2020b), low remuneration (Hale 2004; Ortega 2011, 2015), and the low level of proficiency of the user in the language of communication between user and interpreter (Angermeyer 2021; Du 2019;

Rickford and King 2016). In this sense, as Mikkelson (2017, 10) points out, currently there are record levels of international migration and court cases involving multiple languages, due to "the relative ease of travel and rapid communication, the globalization of trade, as well as ethnic strife and international border disputes". This constant demographic change has made it very difficult or impossible to predict - let alone train and monitor- court interpreting in languages which are not the "major languages", and this is what happens with most native speakers of African languages, who are asked to communicate with the interpreter in English or French, not only in Europe, but also in China, for instance (Angermeyer 2021; Bestué 2019b; Chromá 2016; Du 2019).

Regarding the problems related to dealing with legal terminology, it is important to start by defining what is meant by "legal terminology". The legal language used in the courtroom is system-bound and falls clearly under the phraseological continuum in the language of the law proposed by Biel (2014, 36–48). This continuum includes not only what has traditionally been understood as terms and phraseology (collocations, multi-word lexical units and lexical bundles or phraseological patterns) but also phrasemes (the linguistic environment of terms) and what has been called "non-terminological word combinations". The following sections include examples of all the continuum. For the purposes of this chapter, this continuum is considered "legal terminology" since the court interpreter needs to deal with all of it.

The perception of professional court interpreters is that dealing with legal terminology is a clear difficulty and that they would benefit from more specialized training, as can be seen in surveys such as the one conducted by Wallace (2015, 182) among practicing court interpreters in the US. This survey found that 81% of the respondents said they were "likely" to attend interpreter training opportunities and, when asked to choose in which areas, the most mentioned ones were terminology and specialized areas, such as criminal terminology. These findings are coherent with Hale's (2004) survey in Australia. In that study, court interpreters said that the main difficulty for interpreting accurately in the courtroom was witness's incoherent language and then, in the second place, legal terms and witness's colloquial language.

These findings are also confirmed by what has been observed in descriptive studies such as TIPp ("Translating and Interpreting in Criminal Proceedings"),[2] where the practice of interpreters in 55 criminal proceedings in 2015 in three different language combinations in Spain was analyzed. The findings of the TIPp study showed that on average there were 2.7 inadequate solutions regarding terminological issues (i.e. omissions, additions and major shifts of meaning) per minute. Of these inadequate solutions, there were an average of 21 'critical' errors per hour, 'critical' meaning that the error could affect the outcome of the trial. Figure 1 shows an example of a critical error observed in the TIPp study. As the reader can appreciate in the back translation into English of the judge's utterance, the underlined part, which is omitted by the interpreter, contains terms with legal consequences which are essential information for the defendant to be able to answer the question of the judge.

Figure 1.Example of critical error of omission observed in the TIPp study

Judge	– *Y la responsabilidad civil de 200 euros que debería de abonar con el otro acusado si nunca saliera condenado. Bueno. Entonces le pregunta si reconoce los hechos y si acepta estas condenas que pide la acusación.* [Back translation: And the civil liability of 200 euros that should be paid by you and the other defendant if you were found guilty. Fine, then, ask him if he acknowledges the facts and accepts the penalties that the private prosecution is asking for].
Interpreter	– So, you accept the charges?

The following sub-sections focus on specific problems faced by court interpreters when handling legal terminology.

2.1Lack of access to case-related materials

When looking for the most accurate equivalent for a legal term, the interpreter does not have access to the whole text, as would be the case in a written translation, and thus can only guess the terms that will appear in the following assignment. Therefore, although the resources available to search for legal terms definitions and equivalents for the translator and the interpreter are the same, the interpreter needs to

research extensively beforehand and create specific glossaries covering all the possible terms that could be of help while performing in court.

Sometimes, this is a great difficulty because, as Bestué explains (2019b, 162), much of the oral discourse which takes place during a trial is in fact written discourse intended to be read out loud, with a high density of legal concepts -and thus legal terms- used "to reinforce the arguments put forward by each of the parties rather than to address the attention of the defendant or the defendant's interpreter".

Although the ISO standard for legal interpreting establishes that "judicial and other authorities (…) are encouraged to provide legal interpreters access to case-related and other reference materials in order to enable them to prepare for the interpreting service" (ISO 20228 2019, 7), the reality is very different. In most countries the interpreter does not have access to case-related materials that are readily available to the prosecutors, counsels and judges, as many scholars point out (see, for instance, Bestué 2019b, Ortega 2011 and 2015 regarding Spain; González et al. 2012 regarding the USA; Hale 2011 and Wong 2020 regarding Australia, and Kinnunen and Vik-Tuovinen 2013 regarding Denmark). If the interpreters had previous access to the case-related materials, they could prepare glossaries with the terms included in those documents and carry out the necessary research, but unfortunately, this is usually not the case, so there is a lot of "unexpected" legal terminology in most court interpreting assignments and the interpreter must learn to deal with it in the best possible way, by preparing and researching in as many legal domains as possible, besides procedural and criminal terminology.

2.2General terms that become legal terms

Another important problem for court interpreters when dealing with legal terminology is that, sometimes, what is usually perceived as a *general* term acquires legal meaning because of the context. Bestué (2019a, 142) gives a practical example taken from the trials observed during the TIPp study: under Spanish law, crimes against women committed in the marital home are accorded an aggravating factor of criminal liability. In the following example, the prosecutor is using the very precise term *domicilio* (domicile, place of residence), which is inadequately translated merely as "flat". The example is rather significant since the defense counsel was trying to prove that there was no marital relationship or marital home in the case:

- "Prosecutor: ¿Estaban Uds. en su *domicilio* cuando la discusión comenzó? [Back translation: Were you at your *domicile* when the argument started?]
- Interpreter: Were you at the flat when the argument started?
- Witness: Yes, we were at the flat.
- Interpreter: Sí, estábamos en el *piso*. [Back translation: Yes, we were at the *flat*]." (Bestué 2019a, 142).

Figure 2 shows another example observed in the TIPp study, where the interpreter fails to see that a *general* term, "*discutir*" (argue) becomes a legal term in the context of domestic violence. By inadequately translating the term as "discuss" instead of "argue" to the defendant, the interpreter changes the legal consequences of the defendant's statement, who really says they had a discussion, not an argument. This misunderstanding created by the interpreter makes the prosecutor, who thinks that the defendant argued with the victim, ask if the defendant pushed the victim. The defendant starts his answer with a sign of surprise or hesitation, since he does not understand what pushing somebody has to do with discussing.

Figure 2.Example of an inaccurate rendition of a *general* term with legal meaning observed in the TIPp study

Prosecutor – *¿Discutió usted y Heba? ¿Discutieron?*
[Back translation: Did you argue with Heba? Did you two argue?]
Interpreter – If, if you and Heba had a discussion?
Defendant – Yes.
Interpreter – *Sí.* [Back translation: Yes]
Prosecutor – *¿Usted le propinó empujones, a ella?*
[Back translation: Did you push her?]
Interpreter – Did you push her?
Defendant – Ehm…. no.
Interpreter – *Que no.* [Back translation: No]

2.3General language features used as legal strategy

Another problem faced by court interpreters is that sometimes counsels use "general" language features, such as questions, as a strategy. In those cases, the interpreter needs to realize and treat them as legal language, as thoroughly explained by Liu and Hale (2018, 300). Failing to do so can be detrimental to the effectiveness of counsel's questioning strategies and to the credibility of defendants, victims or witness's testimonies, thus potentially affecting the outcome of a case, as shown in the studies by Berk-Seligson 1990; Burn and Creeze 2020; Hale 2004 and Teng et al. 2018. In the words of Edwards (1995, 64), "there is no such thing as an innocent question from an attorney, a detective or an investigator". In this sense, for instance, the World Health Organization affirms, regarding gender violence, that most women who have suffered from this kind of violence are keen to reveal the details of the aggressions if asked in a direct way, instead of a way that makes them feel judged (WHO 1998, 29). Therefore, if a counsel, a judge, or a prosecutor is being careful in asking questions in a way that makes the victim feel safe to explain what happened, it is of paramount importance that the interpreter creates the same effect in the target language, taking into account the possible cultural differences that might change the perception of the user.

This does not only apply to whole questions, but sometimes to smaller features, such as tag questions. For instance, Hale (2004, 44–59) explores the six types of tag questions used in the courtroom in English and their pragmatic effects. Of the six types, only one has a direct equivalent in Spanish, the invariant tag question (either positive or negative, like "…, is that right?" or "…, isn't that right?"). The other types, such as the constant polarity tag ("…, did you?" or "…, didn't you?") need to be rendered using a pragmatic equivalent that sometimes is not easy to find, so the interpreter needs to research beforehand and include the pragmatic equivalents in the glossaries. The same thing happens with other language combinations, such as English and Polish (see Wierzbicka 1991, quoted in Hale 2004, 46).

Other authors who have explored the use of apparently non-legal language features as legal or power strategies in the courtroom include Aldridge and Luchjenbroers 2007; Angermeyer 2021; Berk-Seligson 1999; Chromá 2016; Conley et al. 1978; Fraser and Freedgood 1999; Gibbons 2003; Hale 2001; Jacobsen 2004; Lee 2009 and 2010; Matoesian 2005; Moeketsi 1998; O'Barr 1982; Rigney 1999 and Tiersma 1999.

2.4Domain-specific knowledge

In order to be accurate when rendering legal terminology, it is necessary to have domain-specific knowledge or legal knowledge, otherwise it is impossible to transfer the legal intent of terms. This competence is reflected in the UK's National Register of Public Service Interpreters (NRPSI) Code of Professional Conduct, that establishes that "practitioners shall ensure that they understand the relevant procedures of the professional context in which they are working, including any special terminology" and that "practitioners shall disclose any difficulties encountered with dialects or technical terms and, if these cannot be satisfactorily remedied, withdraw from the commission of work" (NRPSI 2016, 5). The competence is also included in ISO 20228 2019, where the list of competences required mentions "full

understanding and mastery of the legal systems involved in the interpreted communicative event" and "ability to make quick linguistic decisions regarding word choice or terminology and register selection" (ISO 20228 2019, 7).

However, observation of reality provides an important contrast with these regulations and standards. The lack of this kind of knowledge is probably the cause for a large number of the inaccurate renditions found in the literature as well as the in the TIPp study, where many legal terms are omitted, simplified, or summarized. An example of simplification found in the TIPp study is rendering "*incurriría en un delito de quebrantamiento de condena*" ("you would be committing a crime of breach of sentence") as "you would be committing another crime". Another example of inaccurate rendition of legal terms due to lack of procedural terminology and domain-specific knowledge, also observed in the TIPp study, can be seen in Figure 3. In the example, besides the omission of the penalty, the interpreter renders "acknowledgement of the facts" as "acceptance of the charges".

Figure 3.Example of an inaccurate rendition due to lack of procedural terminology and domain-specific knowledge, observed in the TIPp study

Judge	– *Que si reconoce los hechos y acepta esta condena que hemos dicho con la expulsión*. [Back translation: Do you acknowledge these facts and accept the penalty of expulsion we have mentioned?]
Interpreter	– And you accept the charges, and what they're offering you, do you accept that?

All the difficulties mentioned in this first section are no excuse for not performing well as court interpreters, they are just a reminder that court interpreters need to train and research a great deal to overcome obstacles and be able to achieve a good level of quality in their performances. The following section touches on what is meant by good quality in court interpreting.

3.Standards for quality in court interpreting

In a previous research (Orozco-Jutorán 2019), court interpreting quality was operationalized into two indicators in a theoretical framework inspired by Wadensjö's (1998) dialogic discourse-based interaction paradigm. Wadensjö's approach goes beyond the monologic view (what she calls "talk as text") and complements it with the dialogic view ("talk as activity"), understanding interpreting not only as a translation task, but also as mediation and coordination. In this way, she accounts for the double role of dialogue interpreters: relaying original utterances (renditions) and coordinating conversation (non-renditions).

This approach is actually very close to most official practice standards for court interpreting in different countries, although they might use other names. For instance, Mason (2018, 663) mentions "accuracy and protocol/demeanor" as the features of good quality court interpreting set in the US by professional associations as the National Association of Judiciary Interpreters and Translators (NAJIT) and the entity that certifies who may serve as an interpreter in the federal court system, the Administrative Office of the United States Courts: "The standards of accuracy and protocol/demeanor are aimed at maintaining both the quality of the interpreter's renditions and the discursive relationship of the main actors in a courtroom proceeding" (Mason 2018, 664).

Fidelity (e.g. Mikkelson 2017), loyalty (e.g. Chen and Chen 2013) or accuracy (e.g. Hale 2004), referring to the same concept with slight variations, are mentioned in all models of court interpreting quality. The definitions and indicators chosen by scholars to explain what is meant by accuracy, fidelity or loyalty include several aspects that are important to bear in mind when interpreting legal terms.

For instance, Pöchhacker (2001, 413), after a thorough review of the literature on models of quality in any kind of simultaneous interpreting, suggests four common criteria to observe accuracy, which range from the lexico-semantic core – "accurate rendition" and "adequate target language expression" – to the socio-pragmatic sphere of interaction – "equivalent intended effect" and "successful communication". Lee (2008, 169), referring specifically to court interpreting, adds that the level of accuracy may be reflected in the extent to which deviations, such as omissions, additions and unjustifiable changes or

misinterpretations of the meaning and intention of the speaker, are observed in interpreting performance. ISO 20228 2019 states that interpreters shall "accurately, faithfully, and impartially interpret the substance of all statements without any additions, omissions, or other misleading factors that could alter the intended meaning of the speaker's message" (ISO 20228 2019, 7).

Also regarding accuracy for court settings, Mikkelson (2017) talks of a fidelity continuum where a full rendition involves conveying every element of meaning of the source message, without adding, omitting, editing, simplifying, or embellishing, that is, maintaining the tone and register of the original message, even if it is inappropriate, offensive, or unintelligible and maintaining also comments, pauses, hesitations.

As Liu, and Hale (2018) affirm, it is generally agreed by scholars (they quote Benmaman 1997; Berk-Seligson 1990; De Jongh 1992; González et al. 2012; Laster and Taylor 1994) that only verbatim (word for word) interpretation does not enable real communication in court interpreting settings, something most necessary in a trial. They affirm that accuracy should include the complete transfer of content, style and illocutionary force used by the speaker: "quality interpreting in court should accurately relay both the content of original utterances and the style of the speaker" (Liu and Hale 2018, 300). To back this idea, these authors quote the most recent Code of Ethics of the Australian Institute of Interpreters and Translators (AUSIT 2012, 10), which establishes that interpreters are required to preserve "the content and intent of the source message or text without omission or distortion". This means that, to be considered accurate, a rendition requires "the complete transfer of the propositional content, as well as the illocutionary force of the source language. In this way, the pragmatics of courtroom interaction may be maintained" (Liu and Hale 2018, 300). To observe accuracy in court interpreting, they suggest four main dimensions to be considered: propositional content, linguistic accuracy, illocutionary point (Austin 1975) and degree of strength (Searle and Vanderveken 1985). They describe propositional content as the informational content of an utterance, at the semantic level, while illocutionary point refers to the speaker's communicative intention. They give the following example of inaccuracy in illocutionary point:

Prosecutor:

And you are telling us that no one in your family or your neighbourhood told you about it, are you? ↗

Interpreter:

您的意思是您的家人. . .或者您的邻居没有一个人告诉你关于这件事吗？ [Back translation: Did you mean that. . . none of your family, or your neighbours, told you about it?] (Liu and Hale 2018, 309)

Liu and Hale (2018, 309) explain that, in this example, the prosecutor uses sarcasm, expressed in the form of a constant polarity tag question, to discredit the accused and imply that it would be highly unlikely for him to not be aware of the fact that his friend was a notorious drug dealer, "given that the news of his arrest was 'all over the newspapers'". The authors suggest that a pragmatic translation could have been achieved in this case "by employing additional linguistic devices, such as adding an adverb 难道 (emphatic adverb) which can imply the speaker's disbelief and mockery of the addressee" (Liu and Hale 2018, 309).

By degree of strength the authors mean "the strength with which the illocutionary point is portrayed" (Hale 2004, 6) and give the following example:

Prosecutor:

Well, didn't Mr Valdez hire you? ↗

Interpreter:

是Vles…是Valdez先生雇的你吗？ [Back translation: Was it Mr. Vles…Valdez who hired you?] (Liu and Hale 2018, 310)

Here, the prosecutor used a negative yes-no question, which is different from the positive yes-no question, is always conducive and often accompanied by an emotion of surprise or disbelief (Quirk et al. 1985, 808). The authors point out that in the example the interpreter fails to show conduciveness and

disbelief by using a neutral positive yes-no question, mitigating in this way the degree of strength of the utterance (Liu and Hale 2018, 310). Finally, according to these authors, linguistic inaccuracy can be seen in aspects such as grammar and pauses or hesitations.

Other scholars place more emphasis on the pragmatic aspect of accuracy (e.g. Angermeyer 2009, 2021; Fraser and Freedgood 1999; Hale 1996; Jacobsen 2004, 2008). An example of a pragmatic aspect in court interpreting accuracy is whether interpreters translate another person's speech in the first person (direct speech), or in the third person (indirect or reported speech). This implies that they speak as the person whose speech they are translating, or that they speak about him or her. Angermeyer (2009, 5) affirms that these variants differ considerably in their implications for the interpreter's participant role in the interaction and his or her stance towards the user. He also states that other participants may not always recognize the participant role of the interpreter and at times may falsely attribute responsibility for translated talk to the interpreter, as in an example given by Wadensjö (1998, 239), where a rejected visa applicant perceived the interpreter as the co-author of the translated message "we have decided not to give you permission to stay in Sweden."

Dhami et al. (2017) provide yet another model for accuracy in court interpreting and highlight the manner of delivery, the force of the utterance, the register chosen by the speakers and the discourse strategies used by law enforcement agents, including rapport-building features, as accuracy elements. O'Barr (1982) emphasizes special linguistic structures and legal terminology due to the effect they have on the interaction and on evaluations of credibility. Figure 4 shows an example observed in the TIPp study of an inaccurate rendition of all the features mentioned in the models of Dhami et al (2017) and O'Barr (1982). The prosecutor says "arrest" and "crime of theft", and the interpreter lowers the register and uses colloquial language to translate these legal terms as "caught by the police" and "taking something", thus losing the legal force of the utterance.

Figure 4.Example of inaccurate rendition observed in the TIPp study

Prosecutor	– *¿Y, y usted fue detenida por este, por estos hechos?, ¿por un delito de hurto?* [Back translation: And, and you were arrested because of these facts? Because of a crime of theft?]
Interpreter	– Were you caught by the police because of this? Did police catch you because of taking anything?

With this inaccurate rendition, the interpreter changes the way in which the user, who is the defendant, perceives the prosecutor. The prosecutor is not seen as a legal expert who uses legal terms, as the original utterance suggests, but as someone who speaks in a standard or even colloquial register, and this could have consequences in the language used by the defendant to answer the prosecutor's questions and in turn influence the perception the judge and the other counsels have of the defendant. As stated by Angermeyer (2009, 3): "sociolinguistic studies of variation in the courtroom have shown that individuals whose language variety or speech style differs from that of legal professionals are likely to be evaluated negatively by judges or jurors".

Perhaps one of the widest descriptions of accuracy in court interpreting is the one by Hale et al. (2019, 115). They mention accuracy of propositional content, accuracy of manner of delivery (pragmatic force, register and style), accuracy of legal discourse and terminology, including a specific use of question types, specific grammatical structures and institutional standardized phrases, besides legal terms referring to specific acts, names of illegal substances and terms relating to the criminal justice process. They give an example of an inaccurate rendition with major omissions, change of style and inaccuracy of illocutionary force (Hale et al. 2019, 118):

Defendant:

'*¡Es que yo soy inocente! Yo no soy culpable, yo no tengo nada que ver con drogas, yo . . . qué está eh eh yo necesito defenderme en la corte o algo así? ¿Necesito un abogado o alguna cosa así?'*

[Back translation: But I'm innocent! I'm not guilty, I have nothing to do with drugs, I d-, what is uh uh do I need to defend myself in court or something like that? I need a lawyer or something like that?]

Interpreter:

‘He’s asking if in court he has to defend or he d- he needs a solicitor too?’

They also give some examples of incorrect legal terminology renderings observed in court. For example, the rendering into Spanish of the term “caution”, in the sentence “before we commence, I must inform you of the caution”, as “*precauciones*” (precautions), thus completely changing the legal meaning of the term (Hale et al. 2019, 118).

4.Training court interpreters to handle legal terminology

As many practitioners and scholars explain (e.g. González et al. 2012; Mikkelson 2010, 2017; Edwards 1995) court interpreters work with bilingual glossaries or terminological records, with greater or lesser degrees of complexity and depth according to the characteristics of the event in which they are going to perform. They study and memorize such glossaries/records before the event, so as to enter the courtroom already prepared. Therefore, when training court interpreters, learning how to create these glossaries is of great importance. The pedagogical suggestions and materials in this section are based on the training experience acquired for years on the master’s degree on legal translation and court interpreting at the Autonomous University of Barcelona in the English-Spanish language combination.

The resources that can be used to create these glossaries are both primary or direct resources and secondary resources, which provide access to primary resources: monolingual and bilingual specialized dictionaries and glossaries, both on paper and online, thematic lexicons, terminology databases, corpora, legal texts, including civil and penal codes, handbooks and textbooks on subjects such as forensic pathology, scientific articles, annual reports, legislation such as rules of criminal procedure, websites of international organizations, national judicial institutions, professional associations, universities, public libraries, and so on.

Among the existing bilingual lexicographical resources, there are some created especially for English-Spanish court interpreters, such as Benmaman et al. 1991; Mikkelson 2000 and Stromberg 2013. They cover specialized terms, some legal -basically criminal and procedural- and some in a range of areas that are not legal *per se* but which are very likely to appear in trials (traffic and automotive terms, drug-related terms, weapons terms and medical terms). Edwards (1995, 53–62) also provides some helpful sources for terminology search and glossary building. However, they are all limited to one English variety (American) and one Spanish variety (Mexican), so they could not be used in any other context. This limitation of resources is also true for other language combinations, in which there are even less bilingual resources available. Therefore, as Mikkelson (2017, 132) affirms: “Bilingual dictionaries (…) should be supplemented with more specialized dictionaries and reference works, as well as non-traditional sources of information”. In this sense, besides terminological databases and lexicographical sources, in the research to build glossaries, other useful sources can be specialized websites and blogs by professional associations, scholars (e.g. Abril and del Pozo 2015, who provide a website including terminology, legal background knowledge and recommendations for interpreters in domestic violence cases) or experts (e.g. Jowers 2015, a thematic lexicon, and Jowers 2017, a blog on legal terms).

4.1Working with monolingual legal terminology

The phraseological continuum is specific to every language, system, and country, but, in this case, also to every specific jurisdiction. Sometimes, in one country there is more than one jurisdiction and there might be important differences in the legal language used in courts in those different jurisdictions (for instance, between England and Scotland, or amongst different states in the USA). Sometimes legal terms can also vary according to the type of court inside one jurisdiction, depending on the rank of the court. “Prosecutor” is a good example of the level of variability there can be in one single common legal term. In English, the legal party responsible for presenting the case in a criminal trial against an individual accused of breaking the law has at least 15 denominations depending on the jurisdiction: Crown prosecutor, prosecutor or prosecutor counsel in Australia; Crown attorney or Crown counsel in Canada; procurators’ fiscal or advocates depute in Scotland; district attorney, county attorney, city attorney, county prosecutor, prosecuting attorney, state’s attorney, commonwealth’s attorney or even solicitor (in South Carolina) in the US, depending on the rank of the court and the state; Crown prosecutor, prosecutor or public prosecutor in England and Wales. The case with this term in Spanish is very similar: the public prosecutor in a criminal trial can be called *Ministerio Fiscal, fiscal*, *Ministerio Público* in Spain and Argentina, but s/he is called *procurador* in Mexico or Colombia. This can be especially challenging if wrongly translated because a *procurador* in Spain has a very different meaning in this

same court context. As Jowers (2017) explains, in most legal proceedings in Spain it is mandatory that a party be defended by an *abogado* (lawyer or attorney) and represented by a *procurador* who serves as a liaison between the lawyer, the client and the court, filing pleadings and other documents, receiving court orders, and generally checking up on the status of the cases assigned to him/her. There is no equivalent in Anglo-American courts, and *procurador* has been mistranslated variously as "lawyer," "attorney," "barrister," "solicitor," "legal representative," and even "paralegal".

Another example would be the translation of some terms relating to the phase of the trial. According to González et al. (2012, 398), in civil law-countries, when the examining magistrate or prosecutor who has conducted the preliminary investigation determines that there is reason to do so -what would be called "probable cause" in common law-countries- the first phase called "*sumario*" ends and the criminal court receives a file so that the proper trial or "*plenario*" can start. However, while in Spain and many countries of Latin America the "*sumario*" includes all this first phase, in Mexico the same term refers only to a part of it. In Mexico there are two "*sumarios*": the pretrial investigation and the procedures conducted by the examining magistrate.

Bestué (2019b, 163) gives another example, this time with common formulae used in the criminal proceedings in Spain: during the hearing, when the public prosecutor and the defence proceed *to elevate* the initial pleadings to final pleadings, it is common practice for both the prosecution and the defence attorneys to propose that the initial pleading be converted to a final pleading without elaborating on the content or their arguments. If no modifications are proposed to the pleadings, the members of the judiciary merely say "*¿A definitivas*?" ("*Converted to final*?"), and when a modification is proposed, they simply mention the specific paragraphs they wish to modify without providing any kind of relevant contextual information. Consequently, anybody who has not had access to the case records is totally excluded from the dialogic exchange and therefore cannot fully contextualize the interventions. This formula is not used in any other Spanish-speaking country, therefore *a definitivas* would be not understood by any counsel or judicial operator in Mexico or Argentina, for instance.

All these examples go to show that students need to start by recognizing, understanding and being able to use all these terms, bundles and phrasemes monolingually, in the language of the court of law where they will be acting as interpreters. To acquire this competence, our pedagogical suggestion is to work with lists of terms in context, always with examples of the ways they are used in complete sentences. Figure 5 shows an example of a fragment of one such list proposed to familiarize the students with usual vocabulary in courts of justice in Spain. The fragment shown in Figure 5 is adapted from a series of monolingual lists of terms (in Spanish) grouped in lexical fields or thematic lexicons created by Bestué (2021), from the oral corpus of the TIPp study. It compiles different ways to refer to the people appearing in court in any capacity (judge, counsels, defendant, witnesses, etc.). The first column displays the terms, and the second column displays different contexts where the terms are used, taken from the corpus. In this way, the term can be understood and studied together with the phrasemes and usual collocations.

Figure 5.Fragment of a monolingual list of terms and phraseology including different ways of referring to people appearing in court in Spain (adapted from Bestué 2021)

Términos	***Fraseología***
Acusación particular	*Comparece por la acusación particular la letrada señora Manuela Fernández.*
Acusación pública	*De conformidad con el escrito presentado por la acusación pública.*
Fundamentar la acusación	*Comparece en calidad de acusado*
Acusado	*El resto de acusados o bien ya han sido juzgados o bien están en rebeldía*
Acusado en rebeldía	*El declarante se fue al baño.*
Declarante	*Por tanto, tampoco la presencia de mi defendido era como para considerar que pudiera estar cogiendo ningún objeto del interior.*
Defendido/a	*¿La defensa tiene alguna cuestión previa?*
Defensa	*¿Desea añadir algo más en su defensa?*
Denunciante	*El denunciante manifiesta.*
Designa particular/ oficial	*¿Es una designa particular o es la designa oficial del turno de oficio?*
Encausado/a	*Para solicitar la libre absolución de la encausada.*
Fiscal	*Está de acuerdo con los hechos que explica el fiscal.*
Ministerio Fiscal	*¿Conclusiones del Ministerio Fiscal?*
Letrado/a	*El ministerio fiscal interesa la suspensión de la pena.*
Letrado/a de la defensa	*¿Usted es el nuevo letrado?*
Letrado/a de la acusación	*¿Alguna pregunta por parte de la letrada?*
Letrado/a de oficio	*¿El letrado del acusado dirá su nombre?*
Patrocinada/o	*Se designó un letrado de oficio*
Perjudicado/a	*¿Por parte del letrado de la defensa?*
Principal	*¿Por parte del letrado de la acusación?*
Señoría	*Mi patrocinada, Amy Wilson.*
Testigos:	*118 € a satisfacer conjunta y solidariamente en favor del perjudicado.*
Testigos directos	*No ha quedado acreditado que mi principal quisiera ofender el principio de autoridad.*
Testigos de referencia	*No hay más preguntas, señoría.*
Ley de Protección de Testigos	*Con la venia, señoría, para adherirnos a lo manifestado.*
	No dejan de ser unos meros testigos de referencia.
	J.W y R.G, que fueron los testigos directos…
	Que prevé la Ley de Protección de Testigos.
	Comparecen únicamente los testigos policías.
	No existen testigos directos.

Términos	*Fraseología*
Víctima	*Pide disculpas a la víctima y al estado español.*
	Prohibición de comunicarse con la víctima

Another aspect to be considered regarding the creation of glossaries or resources is that the terminology changes for every different type of crime or offence. This means that a different monolingual resource or list should be created for every type of offence, including at least the most frequent types that the students are likely to encounter in courts.

4.2Working with bilingual equivalents for legal terms

Once the monolingual work is completed, our pedagogical suggestion is to work on how to render each of the terms and sentences of the lists created into the target language, encouraging the students to create their own bilingual resources. This can be done in two steps: research and practice in context.

4.2.1Research

Step one is a phase of research, asking the students to consult the existing lexicographical and terminological resources to come up with possible renderings for the terms included in the monolingual lists created previously. For instance, the students can be asked to prepare for an English-Spanish trial related to a drug dealing offence. Besides looking for the usual procedural terminology, they could find a reliable and consistent multilingual glossary on drug-related matters, such as Zarco et al. 1997. This resource would be very useful, since it includes a wide range of terms in Spanish on different drug-related matters and their implications for the health and human behaviour, accompanied by their equivalents in German, English and French. Main substances, natural or synthetic, capable of causing drug dependence, toxicity or abuse, their empirical formula, synonyms, trade names, and lay or scientific denominations are covered. Terms related to the physical, mental and social consequences of drug misuse, the types of treatment and detoxification programs are included as well. The sources for this glossary come from the funds of the Library of the Scientific Information and Documentation Center (CINDOC), which is part of the Spanish National Research Council, and the terminology database of the EU (IATE), so they are solid and reliable. However, in this glossary, there are no slang or colloquial terms that are very likely to appear during the trial, since witnesses and sometimes defendants often use this kind of colloquial language when recalling what they said or did regarding drug use or drug dealing. Therefore, the students still need to consult other sources to complete the glossary for the drug-related trial assignment. Once the students come up with suggested equivalents, they can be discussed in class.

An important point to bear in mind when looking for equivalents is to consider which variety of language and jurisdiction it is advisable to render the terms into. For example, when looking for equivalents from Spanish into English, it is important to remember that the interpreters usually do not know the nationality of the user beforehand. In fact, it is very possible that the user turns to be a defendant, a victim or a witness coming from an African or Asian country, for whom English is the second or even third language. Therefore, the recommendation in this case is to render the term into the most general or "neutral" English possible, that is, not linked to a specific variety of English or a specific jurisdiction as far as possible (Chromá 2016). For instance, for the term *fiscal*, mentioned previously, the best option would be the neutral *prosecutor* or, at most, *public prosecutor*, avoiding all the other system-bound terms. We can see another example of this recommendation with the rendering into English of the terms categorising offences according to their seriousness. In Spain, these are classified as *delitos* (crimes or offences) when they are more serious and thus involve more important penalties, and as *delitos leves* (literally, *light* crimes or offences) when they are not as serious and thus involve less important penalties. The recommendation here is to avoid using terms such as *misdemeanor*, *infraction* – originating from US jurisdictions – or *summary offenses* – originating from England and Wales – and, instead, using *minor offence* or *minor crime* for *delitos leves*, making it explicit that the offences are not as serious. In the case of specific types of offences, the same recommendation applies. For instance, the term *petty theft* or *minor theft* would be the recommendation to render *delito de hurto* into English, instead of using *larceny*, which is related to a specific jurisdiction.

Another thing to bear in mind when looking for the best equivalent is that, whenever necessary, it is recommended to state explicitly the important information that might otherwise be lost. This would be

the case with the term *sentencia firme*, which, although most dictionaries suggest translating in English as *final judgement*, we recommend translating as *final, non-appealable judgment*, according to Bestué's (2019a, 143) suggestion. As she thoroughly explains, when a plea bargain agreement has been reached, the Spanish judge pronounces an oral final judgment called *sentencia in voce*, that cannot be appealed by the parties. The closest functional equivalent in English is *final judgement*, but this term does not convey the meaning that the judgment cannot be appealed. By combining the functional equivalent and a lexical expansion (*non-appealable*) the distinguishing element of the Spanish term is emphasized.

Therefore, a thorough terminological research that goes beyond bilingual dictionaries when creating the bilingual glossaries is recommended.

4.2.2Practice in context

Once the research phase has been completed and the equivalents for the terms have been discussed in class, step two of the bilingual work is to ask students to study/memorize the glossaries they have created and put them into practice in class exercises such as role plays that include these terms, where students play the role of the interpreter. These exercises have proven to be most useful when students can be recorded, their renderings commented on and assessed by the teacher and then they are asked to interpret the same role-play a second time. The ideal situation is to have role plays based on real trials, so that they reflect real scenarios, including all hesitations, grammar mistakes, repetitions, illocutionary force and other features that the students will encounter, as explained and exemplified by authors like Burn and Creeze 2020; Hale and Gonzalez 2017; Hunt-Gómez 2019; Mikkelson 2013; Ortega 2015; Stern and Liu 2019; Vigier Moreno 2020a; Wadensjö 2014. The role plays, of course, need to reflect the reality of the linguistic, social and cultural context of the judicial system and jurisdiction where the interpreter will be performing. An example of freely accessible, online pedagogical materials recommended for this kind of exercises are two videos based on the problems faced by interpreters observed in the trials of the TIPp study. The videos were filmed with actors and actresses and reproduce the real situations in a courtroom,3 but, besides the scenes filmed with actors depicting parts of the trial, the videos also feature the teachers, who comment on the situations seen in the acting parts and explain the pitfalls and how they can be tackled.

5.Conclusion

Court interpreters face many difficulties, so to be competent and offer good quality court interpreting is not an easy task, as has been commented and exemplified along this chapter. In this context, dealing effectively with legal terminology is crucial to interpret accurately and to keep the legal intent of the message. To do that, the need of creating glossaries has been established and some suggestions have been given regarding how to create them, starting with monolingual research and then adding the bilingual work to provide equivalents in the target language.

Although we have tried to cover the most important points to give an overview of court interpreting, focusing in dealing with legal terminology, there are obviously many important matters that could not be covered in a single chapter. Court interpreting is a field in need of practice improvement and has a great research potential as well. More descriptive studies and specialized training programs would be very beneficial to increase and ensure equal access to justice to all persons who are not proficient in the language spoken in a court of law all around the world.

Notes

1.For instance, Berk-Seligson 1990, 1999; Biernacka 2019; Christensen 2011; Dhami et al. 2017; Fraser and Freedgood 1999; González et al. 2012; Goodman-Delahunty et al. 2014; Hale 1997, 1999, 2001, 2004; Jacobsen 2004, 2008; Lee 2009, 2010, 2011; Liu and Hale 2018; Mason 2015, 2018; Mason and Stewart 2001; O'Barr 1982; Rigney 1999; Teng et al. 2018; Wong 2020.
2.For a detailed explanation of the research project and the findings, see Orozco-Jutorán 2018 and 2019.
3.The videos were directed and filmed by Zoe Catsaras, of Tripwire Video, and were funded by the Directorate General for Interpretation of the European Commission. The versions with English subtitles can be accessed in these two links: https://www.youtube.com/watch?v=2ahncM7puz8&feature=emb_title and https://www.youtube.com/watch?v=lMl5Wk5tSZA&feature=emb_logo.

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