

***Does English Work as the Universal Language?
- Judging from the Current Trend of World Englishes -***

Masako Mouri, Toyohashi University of Technology, Japan

The IAFOR International Conference on Education – Hawaii 2019
Official Conference Proceedings

Abstract

Japan has faced numbers of foreign national suspects, defendants and/or witnesses (criminals and civil cases) along with the globalization. Not only major-spoken language speakers such as English or Spanish but also minor-spoken language speaking suspects/defendants have increased in Japan. When the suspects, defendants and/or witnesses are those language speakers, it is quite difficult or impossible to find legal interpreters in Japan. On those cases, it often happens that the legal institutes allocate English speaking interpreters for them, since their second or third languages may be English. It is a tendency that they may think English is “just” English at legal institutions and don’t pay any attention to the variation or difference of discourses or utterance, even though speakers (suspects, defendants and/or witnesses) come from many different countries. English, however, is not the same in the world, and they don’t understand that there are “World Englishes” and they are different respectively. English speaking interpreters in any legal situations try to convey and translate message from the original “English”, but the utterance or discourse are different depending on speakers or their native countries and/or educational background. Even though those circumstances, no attention or little attention has been paid to languages or interpreters from legal participants, i.e. judges, prosecutors or attorneys, as they think English is “just” English and don’t think there are differences. This paper explains the current situation in Japan, in particular, conditions at legal institutions, and focuses on challenging issues that legal interpreters have to face as well as possible solutions.

Keywords: Court Interpreting, Language Equivalency, World Englishes, Minor-spoken Language Speakers

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Introduction

For decades, Japan has encountered various types of crimes by foreign nationals, in addition to globalization and economic development. It is, however, difficult to find interpreters who speak the native languages of the suspects/defendants because the number of represented countries and nationalities has increased. Several of the suspects and defendants can have interpreters who speak their native tongues, whereas others are unable to locate such interpreters. Most of defendants who are with English Interpreters in Japan at courtroom are non-native speakers, whose situation is quite different from other languages. They, for example, cannot find interpreters who speak their native languages. In the case of those who cannot find interpreters who speak the proper (native) languages, they must have interpreters who speak their second or third language, such as English, which is more frequently spoken in Japan than their mother languages.

Communicating in English with the suspects/defendants is possible using simple or easy conversation, although it is difficult or nearly impossible in legal settings because they do not understand the legal terms in English or do not have the same concept in their language. The legal interpreters attempt to make them understand or explain using simple or plain English, although it is difficult because the interpreters are expected to communicate both with the suspects/defendants, even in the second or third language, and with other legal participants, such as police officers, prosecutors, legal counsellors and judges or lay judges. Legal interpreters for individuals who speak languages that are less frequently used are not as numerous in Japan; therefore, they often use English as the second or third language to communicate.

1. Current Statistics of Court Interpreters in Japan

For the year 2017 in total, there were 2,996 foreign national defendants with interpreters in court, representing 75 nationalities and 35 languages (there was an increase in the number of speakers of languages less often used). The most often used language was Chinese (30.3%), followed by Vietnamese (23.6%), Pilipino/Tagalog, Portuguese, English, Thai, Spanish and Korean. As of April 2018, 3,788 were registered as court interpreters who spoke 62 languages throughout Japan, according to statistics of Ministry of Justice of Japan (2018). If the courts cannot find a proper interpreter, they contact embassies, universities or international exchange organizations for those languages. Anyone who would like to be an interpreter or candidate, however, can register because there is no official examination and certification system. Additionally, other legal interpreters, such as those who work with the police, prosecutors' offices, immigrations and customs, are recruited by each regional office, and they have not disclosed detailed information concerning recruitment or examination.

1.1 Legal System Changes in Japan

Since lay judge system was introduced in 2009 in Japan, the task of court interpreters has increased drastically. Before 2009, there was no lay judge system in Japan, and the examination for all cases/incidents were based on documents submitted to the court. This means that court interpreters didn't need to translate all documents and were required to translate/interpret the discourses and utterance in the court.

Lay judge system, however, requested all court interpreters to translate all documents including investigative reports at prosecutors' office or police stations with little information or short notice just before the court proceedings.

1.2 Court Interpreters for Foreign Nationals

Court interpreters are assigned by each court (Ministry of Justice) based on request by defendants/suspects/witness for their best language to speak. However, the most possible closest language or their second or third language interpreters are assigned, when their native languages interpreters or requested language interpreters are not found. This happens sometimes, when they are minor-spoken languages speakers in Japan. This, however, does not check language equivalency or justice between those languages; i.e.

- Afghanistan (Pashto, Farsi)
- Uganda (Luganda)
- Ghana (Twi, Mfantse, Dagbani)
- Netherlands (Dutch)
- Albania (Albanina)

2. Challenging Issues in Japan

Regardless of English education, cultural or educational background, legal systems or legal term understanding, the second or third language interpreters are assigned when native language interpreters for defendants/suspects/witness are not found. It is, however, unidentified or unknown whether they actually understand English or English translation through interpreters and there is no check interpreter at the court.

3. Problems Faced by Interpreters

Legal participants at the court, such as judges, prosecutors, or legal counsellors, tend to think that interpreters are just "word-changing machines", and don't pay attention to language equivalency, meaning of messages, cultural difference caused by language, correctness of interpretation. Some researchers, such as Gonzáles, Vásquez and Mikkelson (2012) discuss the interpretation with cultural differences as follows:

The potential for misunderstanding is exacerbated when communication takes place between people from cultures that have different customs and worldview. (707)

Gile (1995: 24), in addition, noted that in interpreting, unlike translating, all of the parties concerned are aware of the communication situation, including the likely difficulties associated with the interlingual and sometimes intercultural transfer. Pöchhacker (2004: 53) also reported that the overall idea of the interpreter's communicative activity found its most poignant expression in the meme of making sense, which conceptualizes the interpreter's task as grasping the intended meaning ('sense') of an original speaker and expressing it in another language for listeners. Hatim and Mason (1990) explained the process as follows:

The translator has not only a bilingual ability but also a bicultural vision. Translators mediate between cultures (including ideologies, moral systems and socio-political structures), seeking to overcome those incompatibilities which stand in the way of

transfer of meaning. What has value as a sign in one culture community may be devoid of significance in another and it is the translator who is uniquely placed to identify the disparity and seek to resolve it (223-24).

At present, scholars consider legal interpreters not to be simply conduits or word-changing machines, but instead consider the interpreters' role to involve intercultural communication or brokerage to convey cultural messages and meaning as well as to avoid any cultural barrier or misunderstanding. Mikkelsen (2000: 2), however, reported the following:

Even in countries where public proceedings are the norm, laypersons who observe or participate in court cases are frequently confused and mystified by the language and behavior of legal professions. In many societies, lawyers are reviled for their tendency to obfuscate and manipulate by using arcane language. It is often noted that the court interpreter's role is to level the playing field by overcoming the language barrier, not to put the interpreter at an advantage over other litigants.

3.1 Requirements for Legal Interpreters

Legal interpreters, including court interpreters, are required to translate/interpret with no addition, omission or editing, even though the speakers, i.e. defendants/suspects/witness come from different countries or cultures. It means their utterance with the same words or phrases should be translated in the same Japanese, but this is not always correct. This is because their language or word usage may be different from their background and sometimes grammar may be different. Interpreters, however, are not allowed to add comments or edit the meaning. Therefore, there may be misunderstanding, which may lead to miscommunication or lack of justice or fairness.

Conclusion

English is a language that people understand, but there are "Englishes" all over the world. Now it is necessary in Japan to set up official exam/certificate/training system not only for court interpreters but also for legal participants including judges, prosecutors and legal counsellors so that they should understand the importance of language and "Englishes".

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Contact email: masakom@naa.att.ne.jp