

# JUST

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OF LANGUAGE RIGHTS  
& MINORITIES

REVISTA DE DRETS  
LINGÜÍSTICS  
I MINORIES

Language  
Policies  
for Social Justice

Edited by  
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D. Mellinger &  
Esther Monzó-Nebot

Les polítiques  
lingüístiques  
i la justícia social

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Càtedra de  
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Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i  
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Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i  
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## SPECIAL ISSUE/NÚMERO MONOGRÀFIC

Language Policies for Social Justice—Translation, Interpreting, and Access

Polítiques lingüístiques i justícia social: Traducció, interpretació i disponibilitat  
lingüística

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# \_ I N D E X / Í N D E X

## PRESENTACIÓ

Just. Journal of Language Rights & Minorities 7  
Revista de Drets Lingüístics i Minories

## ARTICLES

Language policies for social justice – Translation, interpreting, and access 15  
*Esther Monzó-Nebot & Christopher D. Mellinger*

Language rights and linguistic justice in international law: Lost in translation? 37  
*Jacqueline Mowbray*

Should raw machine translation be used for public-health information? 71  
Suggestions for a multilingual communication policy in Catalonia  
*Anthony Pym, Nune Ayvazyan & Jonathan Maurice Prioleau*

“It’s just another added layer of difficulty”: Language access equity and 101  
inclusion in pediatric interpreted medical encounters – Provider and  
interpreter perspectives  
*Amy Olen, Paulina S. Lim, Kathryn A. Balistreri, W. Hobart Davies,  
Matthew C. Scanlon & Charles B. Rothschild*

Unfolding occupational boundary work: Public service interpreting in 137  
social services for structurally vulnerable migrants in Finland  
*Camilla Nordberg & Hanna Kara*

The right to an interpreter – A guarantee of legal certainty and equal 165  
access to public services?  
*Kristina Gustafsson, Eva Norström & Linnéa Åberg*



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**Presentació de**  
**Just.**  
***Journal of Language Rights & Minorities***  
***Revista de Drets Lingüístics i Minories***

I. *Just* i la Càtedra de Drets Lingüístics

Aquest número inaugura *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories (Just)*. *Just* és una revista científica que publicarà en obert estudis originals sobre la protecció, l'observança i el foment dels drets de les minories lingüístiques. L'abast de la revista inclou temes connexos sobre les confluències entre el dret, el llenguatge, la llengua i les dinàmiques socials de dominació i opressió. L'objectiu és fomentar l'estudi dels drets de les minories lingüístiques i ètniques des de perspectives diverses, que en permeten destacar la complexitat i la necessitat d'incorporar la perspectiva dels drets lingüístics als debats polítics, acadèmics i públics sobre tot tipus de planificació i diagnòstic socials.

*Just* és una revista editada per la Càtedra de Drets Lingüístics de la Universitat de València. Aquesta Càtedra és el resultat de la col·laboració entre la Universitat de València i la Generalitat Valenciana, a través de la Conselleria d'Educació, Cultura i Esport. Els objectius de la Càtedra són impulsar activitats formatives, culturals, d'investigació, d'extensió universitària i divulgació científica que estiguen orientades al coneixement i la difusió dels drets lingüístics i del valor del multilingüisme.

En aquest sentit, destaca que el primer dels objectius establert en el conveni de la seua creació és l'impuls de «la investigació científica universitària en matèria de drets lingüístics i multilingüisme». La Càtedra ha de ser un espai «d'intercanvi, debat i reflexió» (tercer objectiu), alhora que duu «a terme activitats de divulgació científica» (cinquè objectiu). Totes aquestes activitats han d'estar «orientades al coneixement i la difusió permanent dels drets

lingüístics i de les polítiques de foment del multilingüisme arreu del món, i de manera més específica en l'àmbit de la Unió Europea, d'Espanya i de la Comunitat Valenciana».

Des de la seua creació, en juny del 2019, la Càtedra ha desenvolupat una activitat molt intensa en l'organització de seminaris, congressos i cursos universitaris especialitzats. Així mateix, publica en obert la col·lecció «Quaderns d'Estudi», amb treballs sobre planificació i drets lingüístics i sobre la situació sociolingüística de llengües minoritzades des d'una perspectiva global. Amb aquesta trajectòria, en un breu espai de temps, la Càtedra de Drets Lingüístics ha obert un nou espai per al debat i avanç del coneixement sobre els seus àmbits d'actuació. Aquesta revista és un pas més, amb una clara orientació internacionalitzadora.

## II. Ciència: una responsabilitat compartida

Fer ciència, també en ciències socials, és un esforç cooperatiu de gran abast. Des de la generació d'idees per a la creació de coneixement fins a la difusió de les obres com a artefactes culturals, les publicacions científiques van signades per persones que es beneficien (ens beneficiem) de la col·laboració d'una multitud d'agents imprescindibles. La feblesa de la ciència sense aquesta cadena ha estat malauradament notòria en els darrers temps, quan articles sense arbitrar han generat actuacions polítiques que han malbaratat recursos (vegeu Koerber 2021).

Coneixedores dels riscos, les persones que col·laborem amb *Just* compartim la voluntat ètica d'oferir una recerca fiable que pugua fonamentar polítiques (Wager & Kleinert 2021). Per oferir recerca de qualitat a la societat i a les persones que prendran les decisions d'aplicar el coneixement, cal ser curoses. La correcció i el rigor de les propostes, l'avaluació científica i els estàndards ètics de la ciència conformen un engranatge base per donar certesa a les persones responsables de les polítiques socials, incloses les polítiques lingüístiques i de comunicació. Tot i la impossibilitat d'arribar a certes absolutes i definitives, la societat ha de poder confiar que les conclusions de les recerques científiques són les més



avançades possibles perquè les polítiques tinguen l'impacte desitjat i milloren el funcionament de les societats.

És per això que cal comptar amb la col·laboració d'àrbitres especialistes en els distints temes per fer un control científic previ i adequat de tot article o col·laboració que es publiqui en la revista. Els nostres comitès científic, assessor i de redacció tenen una responsabilitat decisiva en la publicació dels articles i el manteniment de la revista en el futur. El treball d'avaluació i control previ de les col·laboracions, però, recau en un gran nombre de persones especialitzades en les diferents àrees de coneixement científic que, de manera voluntarista, són la base del progrés científic. La política d'avaluació de *Just* és cooperativa, com entenem tota l'activitat científica. El coneixement científic és provisional i està permanentment en discussió, avança gràcies al debat de les proposicions i els estudis abans i després de la seua publicació. La nostra funció serà alimentarlo amb el màxim rigor, per a la qual cosa les pràctiques de la revista es guiaran per les directrius del Comité d'Ètica de Publicacions, conegut com a COPE, per les seues sigles en anglès, i per altres col·laboracions que fixen estàndards internacionals per a la publicació d'obres científiques.

### III. Ciència: oberta, accessible

Entre moltes altres transformacions, el món ha incrementat el talent dedicat a generar coneixement, i molt d'aquest talent no té els recursos per accedir al coneixement generat i publicat en les revistes del mercat editorial. Vivim una època que, a més a més, multiplica el coneixement de manera exponencial i en terminis de temps cada vegada més curts. És per això que, en la recerca inter i transdisciplinària, la varietat de les fonts i materials exigeix un accés ampli a aquest coneixement en expansió, que, en bona mesura, es troba fora de l'abast de la gran majoria. La primera implicació d'aquesta dinàmica és que la desigualtat en les possibilitats de generar i accedir al coneixement camina de la mà de la resta de grans iniquitats que afecten les nostres societats (Bourdieu 1984, 1999). Una part del món acadèmic ha pres consciència de les injustícies que reproduïx i, en la mesura de les seues possibilitats, tracta de fer realitat

l'accés a una ciència oberta i interdisciplinària com a estratègia de coneixement i democratització.

*Just* ompli, des del compromís amb la disponibilitat del coneixement, un buit en un camp especialment necessitat de comunicació oberta dels avanços científics. La recerca en drets lingüístics i minories ha d'acarar la necessitat d'oferir coneixement rigorós perquè les persones responsables de construir el nostre futur puguin accedir als resultats i les implicacions de les opcions i alternatives que se'ls plantegen. Alhora, la responsabilitat del món acadèmic és que aquest coneixement estiga a l'abast de totes les persones perquè la societat pugui participar en el debat acadèmic (Burawoy 2005).

La voluntat que regeix *Just* és, per tant, oferir els resultats de la recerca a tota persona que vulgui accedir-hi, sense impediments i sense sacrificar-ne la qualitat, i amb una política de transparència sobre els processos i mètodes de les recerques quantitatives i qualitatives, empíriques i crítiques. Ho fem també com una manera de democratitzar el coneixement i amb el desig que aquest coneixement, com en tot procés científic, pugui tenir conseqüències en la societat i hi generi canvis qualitatius en el respecte de les minories i els drets lingüístics. A més a més, la revista s'editarà només de manera digital entenent que d'aquesta manera l'impacte per al medi natural és menor i reduïm la nostra empremta en els processos de desforestació i escalfament climàtic. Som conscients que és una mesura aïllada i simbòlica; però l'estimem necessària i coherent amb els propòsits de la revista.

#### IV. Diversitat, equitat i inclusió

La política de *Just* és necessàriament la de l'obertura, la de la inclusió interdisciplinària i intersectorial. Volem que les persones que treballen en els diferents àmbits de les ciències socials dialoguen entre si i aprenguen mútuament. L'especialització en una disciplina no pot significar ignorar els avanços de les altres, ja que, sovint, els descobriments o les reflexions d'altres ciències socials o de les ciències físiques, poden ser decisives per a altres dimensions del

coneixement humà. Necessitem mirades científiques amb orientació holística o, si més no, no exclusivament autoreferencial.

*Just*, per tant, ha de ser una revista compromesa amb la diversitat, l'equitat i la inclusió. Des del benentès que es tracta de principis que epistemològicament milloren i fan avançar el coneixement científic, també som conscients del seu valor normatiu en la promoció d'una societat més justa. L'amplitud de la mirada, la diversitat de veus i punts mira, com també la participació plural en els debats són principis que fan de la ciència el millor mètode conegut per la creació de coneixement (Wagensberg 2017). I, a més, la justícia reivindicada per raons de llengua no pot aïllar-se de la justícia reclamada per raons de classe, sexe, ètnia o ciutadania. Així, doncs, la revista ha d'estar atenta a la transversalitat dels drets i deures de la ciutadana, i adoptem una política de cerca de col·laboracions més enllà de l'horitzó occidental i amb un compromís per usos lingüístics no discriminatoris.

## V. (G)locatitat

*Just* es publicarà dues vegades l'any, l'una per la diada de Sant Jordi (23 d'abril) i l'altra per la diada de Sant Donís (9 d'octubre). La tria de les dates de publicació s'ha fet amb l'objectiu de marcar el compromís de la revista amb les tradicions culturals valencianes. D'una banda, el 23 d'abril és la diada d'homenatge a Sant Jordi, que va ser el patró del Regne de València fins a la pèrdua dels seus Furs en la Guerra de Successió, i que ha marcat també la data de la Festa del Llibre. De l'altra, el 9 d'octubre es commemora la conquesta de la ciutat de València, data simbòlica de naixement del Regne de València, que és a l'origen de la realitat valenciana actual.

*Just* naix amb referències valencianes i ho fa al País Valencià amb voluntat d'ajudar a entendre la nostra realitat immediata. Igualment des dels inicis, la revista té una vocació internacional inequívoca, amb un gran interès en la incorporació de veus geogràficament i culturalment diverses, que n'enriqueixen el debat amb punts de mira distants, amb voluntat de mirar al món des de la desconstrucció de les jerarquies vigents.

Pressuposem, a la manera d'una hipòtesi de treball, la fractalitat de la realitat (Wagensberg 2013), que totes les dinàmiques locals tenen aspectes que les fan singulars i alhora globals (Castells 2000), amb components compartits amb altres realitats distants geogràficament, perquè les dinàmiques globals d'una època acaben afectant totes les societats. No és possible l'aïllament social en un món interconnectat i global. Els humans són éssers interdependents i aquesta interdependència també és cultural i lingüística, intercultural i interlingüística.

## VI. Ciència pertinent

*Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories* té un interès especial per fomentar recerques específiques, per a la qual cosa donarà prioritat a la publicació de números monogràfics sobre temes d'actualitat, sobre desenvolupaments conceptuals determinats, sobre territoris o poblacions concretes, o sobre altres eixos que permeten establir diàlegs intra i interdisciplinaris en la generació de coneixement. Pretenem aconseguir, d'aquesta manera, un impacte creixent en termes intel·lectuals, culturals i socials. Ho fem sense ànim de benefici directe per a les persones que participen en l'impuls de la revista i que hi publiquen els seus treballs; però conscients dels beneficis socials i, per extensió, econòmics que les societats on hi vivim poden obtenir si aconseguim acostar-nos als nostres objectius.

És per això que treballarem de forma rigorosa perquè es complisquen els criteris de qualitat exigibles a qualsevol publicació científica, amb l'objectiu que *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories* obtinga les millors valoracions per les agències qualificadores, i pugui aparèixer en repositoris i bases de dades de revistes científiques nacionals i internacionals.

Només ens resta encoratjar-vos perquè ens feu arribar els vostres originals, perquè tindreu la garantia que el vostre treball serà avaluat de forma rigorosa, amb un sistema de doble cec. La visibilitat de la vostra recerca estarà garantida per les activitats de difusió i divulgació de la revista i de la Càtedra de Drets Lingüístics.

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## Language policies for social justice – Translation, interpreting, and access

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## Language policies for social justice—Translation, interpreting, and access

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### Abstract

This is the introduction to the special issue on Language Policies for Social Justice. Using the ultimatum game as a lens through which to view resource allocation and language policies, the guest editors argue that dominant language communities are placed in an advantageous position to decide on the offer to be made to non-dominant language communities. This approach allows fairness norms to be explored in traditionally or emergently multilingual communities by drawing on translation and interpreting studies scholarship. Finally, the guest editors articulate how the articles in the special issue are positioned to advance social justice. It is argued that the articles achieve this aim by articulating how translation and interpreting studies scholarship can contribute at the law-making, policy-making, and practice level, impacting translation and interpreting practitioners as well as professionals working in situations which necessitate mediation and public services users.

**Keywords:** translation, interpreting, language access, language policies, social justice, ultimatum game, game theory

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## 1. Translation, interpreting, and the ultimatum game

In the ultimatum game, two players are given a certain amount of goods or money to share. One player, called the proposer, is given 50 euros and must decide how much to offer to the other player, called the responder. The proposer can decide on any amount to offer, be it nothing, everything, or something in between. If the responder accepts the offer, then the money is split between both players, based on the proposal. If the offer is rejected, neither player receives any money. Described initially in the early twentieth century (Guth, Schmittberger & Schwarze 1982), this game has grown in utility as an experiment in economics and as a behavioral test that elucidates the logics of distribution in asymmetric situations. The game implies power dynamics and differentials, particularly since each player can only influence a portion of the outcome. Whereas the proposer starts in a position of considerable advantage by dictating the terms of the offer, the responder ultimately has to choose whether to accept an offer even if it is less than ideal. The game has been replicated across disciplines to various ends (see Atkinson & Bourguignon 2000), yet the results tend to be consistent regardless of the study – proposers tend to offer forty to fifty percent of the goods in their initial offer, and responders reject any offer lower than thirty percent (Klein 2011).

Integral to this game are questions of fairness, cooperation, and justice. For instance, responders may reject what is deemed to be an unfair proposal. In contrast, proposers might act out of a sense of justice or altruism or in an effort to establish mutual cooperation maximizing potential benefit or fairness between players. The game, and its variants, provide a snapshot into human decision-making and a potential understanding of what might be considered irrational behavior. Based on the consistent results of the ultimatum game, humans working within these conditions can behave irrationally. On the one hand, players of the game seem not to take advantage of others when given the chance to maximize direct material benefits, and rather pursue (relatively) equal relationships (Fehr & Schmidt 1999). On the other hand, they turn down deals that would increase their current resources and prefer to reject what is perceived as unfair. It would seem, then, that human decision-making,

particularly when faced with decisions about whether or not to cooperate, is not always about increasing resources, but rather involves more complex ideas like fairness, dignity, and equality (Fischer 2014, 180). Fehr, and Schmidt (1999) refer to some of these situations as inequity aversion, that is, the preference to establish a balance between the interests of the self and those of others—and between those of others and one's own interests.

If this game models how humans behave in interaction, one may question how or why there are such significant resource disparities across populations, particularly if inequity aversion has been documented in these simulated situations. While the outcomes of the ultimatum game experiments may be optimistic in principle with relation to human behavior, the game reduces the complexities of negotiation and resource allocation that occur in socially embedded interactions. Negotiation is an ongoing endeavor that is not confined to a single offer and decision to accept or reject. Similar complications arise with respect to the primary focus being on a single resource, such that competing needs for different resources cannot figure into the decision to accept or reject an offer. As such, this primarily economic game, while illustrative of a potential desire to establish equity in resources, may not be sufficient to describe the complex realities of resource allocation when embedded in a social context.

Moving the game into a more socially conscious and embedded context, members of any given society cannot act as a unified responder as they do not have homogenous needs and wants. The plurality of voices in a collective society ultimately leads to heterogeneous perspectives on what constitutes fairness — as Edwards (2015, 147) notes, “[a]ttempts to homogenize humanity on the basis of some imagined species-wide normative right to shared fairness are forlorn.” In that vein, the outcome of the game has proven to be influenced by the affinity between participants (Cram et al. 2018). Recent research has shown that when players are given the opportunity to interact prior to the game, the outcome results in disparities in behavior, with responders being more generous to individuals who share key identity aspects, such as cultural values (Chai, Dorj & Sherstyuk 2019). Conversely, results show how cooperation can be frustrated when participants do not share identity aspects (Apps et al. 2018).

This extended example raises questions about social justice, particularly when considering the human element. In recent years, social justice has become central in translation and interpreting studies, especially within the field of public-service interpreting and translation (Garber 1997; Prunč 2012; Bancroft 2015). Within the international community, translation is increasingly revealed as the means to create fair conditions for language minorities to access their human rights (Angelelli 2012; Mowbray 2017; Tesseur 2022). Despite this recognition, many societies have designed their institutions based on monolingual principles that eschew the complex, linguistic realities in which they operate (Preece 1997). In order to provide meaningful social experiences, governments and societies need to provide for ways in which those who do not speak the predominant language can access government services and programs. Translation has been said to be central to any language regime (Diaz Fouces 2002; Meylaerts 2011; Gazzola 2014), not only because communication is a human need (Angelelli 2012), but also for reasons of equal dignity and self-identity (see Peled 2015). As Ninyoles (1969) describes, language is simultaneously the social glue that holds together multilingual communities and a source of conflict by which communities are divided and separated. Scholars have remarked that translation has historically allowed democratic relationships to be established between and among linguistic communities while respecting their differences (see Fishman 1993).

The institutionalization of translation as a social practice and translation studies as an academic discipline (Bassnett 1998; Gile 2012) has brought international attention to phenomena that had been neglected or out of focus in translation studies. Following the evolution of societal values (Inglehart & Welzel 2010), one area that has come into sharper focus is the needs and voices of underprivileged groups. Whereas the translation and interpreting needs of diplomats and the parties to the global geopolitical arena had remained adequately provided despite remaining largely out of the reach of academic scrutiny (Kadrić, Rennert & Schäffner 2021), some outside of the diplomatic arena have remained underserved (see, e.g., Stapleton, Murphy & Kildea 2013; Gallez 2018; Tipton 2018). This inequity in the provision of language services has ultimately hindered and impeded access to social and personal development and wellbeing. This special

issue questions the underlying reasons for this mismatch and offers some insights into how translation and interpreting operate in societies, how the academic, social, and legal definitions of translation and interpreting clash across disciplines and stakeholders, and how those clashes may shed light on the reasons why some of our collective translation and interpreting needs are still unmet.

## **2. Commodification of language access**

Questions of language access are often framed as an ultimatum game in resource distribution. Providing access to services and social spaces for non-dominant language groups is negotiated on the basis of resources that are made available for the game, even among major players. In international organizations, issues with the cost of the international system tend to focus on the cost of translation and interpreting, framed politically rather than economically (Gazzola & Grin 2013). Taking the number of beneficiaries per investment or the overall savings involved, facilitating language access seems like a logical decision, as the costs would continue, and multiply, even if institutions stopped translating—only borne by different social actors, usually with less resources and on multiple occasions (Piller 2016, 190).

Discussions related to the provision of translation in multilingual arenas have never been an issue of questioning the value and need for translation to facilitate communication among different linguistic groups. On the contrary, States have historically shown that they appreciate the strategic advantage and the dignity of speaking and being spoken to in their own language (see Fishman 1993), and they continue to show such appreciation by funding their own translation sections at international organizations or by the translations of instruments of special interest. Instead, questioning the act or provision of translation has involved challenging whether specific groups framed vis-à-vis languages should be granted access to specific spaces of communication. These decisions presuppose a power imbalance which is leveraged in these decisions. Ultimately, the relative positions of the various parties involved (i.e., who is the proposer and responder in the ultimatum game) remain a crucial element to understand the potential outcomes.

If we consider the access to various services as a resource, we are able to see these dynamics in play. For instance, those people whose needs and wants are satisfied by the use of a dominant language in education systems, cultural promotion, public information resources, court and health systems, and by advancing its knowledge and use in other countries (linguistic-policy actions commonly taken by states as regards their dominant language) are given an advantage insofar as they already have access to the majority of the resources. Reviewing language policies throughout history, a trend emerges where modern societies have wanted to reinvent themselves as monolingual and monocultural (see Gogolin 1994). In so doing, they have developed regulations to generate the tradition of the monopoly of one language and one culture, precisely those characterizing the groups that control the production of legislation (Lambert 2009), their particular “manner of imagining the real” (Geertz 1983, 184). This has allowed resources to be channeled to meet the needs of the dominant monolingual population, leaving other language communities, both those permanently established in the spaces that became (at least regulatorily) monolingualized—such as the signed languages or the non-dominant national languages—and those who are starting to live their lives in the same communities, as the responder, in hopes of an offer.

As a hypothetical scenario, let's consider what the ultimatum game might look like in relation to language communities and resource allocation. If the proposer were given 100 euros, how much money should be given to a language community that has been traditionally established in the area, has teams broadcasting news in their language and teachers at public schools? Would this number change if that language community was a non-dominant language community traditionally established in the area? Or is there a potential difference if the community used the dominant language? How much might be allocated if these structures were not in place but the community still lived in the same area? Can an equilibrium be reached between the three languages? These questions make sense in that game theorists believe that fairness norms are contextual (Andrejević et al. 2020), and that part of that context are the current distributive conditions. In a sense, the outcomes for newcomers to the game are likely to be unfavorable, who will receive lower offers if only because they

are starting the game without resources or very few. While this may make sense from a purely economic perspective, the question of whether these outcomes are fair is another matter. The answer may lie with the whole purpose of fairness. Also game theorists believe that fairness norms have evolved “for the purpose of giving one society an edge over its competitors in exploiting new sources of surplus” (Binmore 1994, 316). As it happens with the outcomes of the ultimatum game, we are faced with the question of whether societies feel related to other language communities, if they consider the non-dominant language communities as members or competitors.

Within translation studies the ingroup/outgroup question has been framed as for whom translation is responsible. The ethical models developed to date have shown considerable disparities in this regard. Some contributions have advocated for translators’ being responsible to those directly involved in the translation situation (Chesterman 2001; Pym 2012). However, other contributions have described the role of translators as involving agency and the role to serve the political purposes of their larger societies (Cronin 2003; Drugan 2017), while the self has been incorporated within interpreting studies (Inghilleri 2011). Still others have introduced all those involved in the equation (Prunč 1997, 2008), instructing translators to ponder “also any foreseeable long-term social and cultural effects” (Monzó-Nebot 2020, 20). Rather than straddling different cultures, these latter positions represent translation as managing them. Rather than positioning translation as being in-between, they represent translation as being both. From a cooperative stance, this viewpoint would maximize results, but not necessarily monetary results— “[I]t is important in intergroup competition that a group not allow internal dissension to obstruct the opportunity to exploit a new resource to the full” (Binmore 1994, 394).

### **3. Resourcing translation for language access**

The status quo has often dictated how language access is resourced for the linguistically and socially non-dominant, particularly in societies that position strangers as non-members and that other non-dominant language communities as competitors. Much in the same way that evolving circumstances and contexts have driven the development of the ethics of translation, so

too have global changes altered the composition of societies, leading to our current superdiversity with more numerous and interrelated groups (Vertovec 2007; Blommaert & Rampton 2011). In an increasingly post-industrial and post-materialist world in which people are more accustomed to expressing their own diverse identities while recognizing the right for others to do the same (Inglehart 2018), what constitutes fairness has been called into question. Those who had been traditionally silenced, whose needs and preferences had yet to be normalized (Foucault 1963), the strangers who are no longer supposed to remain transient (Simmel 1950), are increasingly seen as legitimate parties to the collective negotiation of how our shared social spaces and experiences will look in the future.

Yet hierarchies still organize resources unequally across language groups, distributing different degrees of dignities and esteem, allowing access to different spaces, and limiting the possibilities of some to benefit from social cooperation, and engage with the development of society. This special issue explores how societies, their members and their institutions, are facing those changes when offering resources to non-dominant language groups, particularly the resources to integrate translation as a means to offer symbolic and material integration.

This special issue of *Just. Journal of Language Rights & Minorities, Revista de Drets Lingüístics i Minories* starts with a look at the international legal system and its understanding of translation. The international legal system developed largely during the twentieth century in the aftermath of two world wars. In response to what Levene (2000) terms “the century of genocide,” international law and human rights were developed with the aim to protect individuals and groups from multiple forms of state oppression. In international discourse on human rights, politics is understood as group preferences and state policy, and human rights so that individuals are protected against particular preferences and policies, and also to create a shared imaginary of the future that can be enacted by all the agents involved.

How that discourse frames language diversity, translation, and access becomes relevant as international discourse permeates national systems through binding and non-binding documents that shape the aims of national policies.

As Mowbray (2022) convincingly argues in this special issue, the expectations set on translation by the international system frame translation unrealistically, as a universal and omnipotent solution that can place any individual on equal footing with the dominant-language population. By revealing the assumptions taken in international law discourse—that translation is straightforward or easy; that translation is expensive and impractical; that translation is just about words; and that translation is neutral or apolitical—, Mowbray harnesses the work of scholars in sociolinguistics and translation studies to challenge the assumptions related to what constitutes translation in these international spaces. The results show the lack of knowledge of what translation is and what it can achieve. This questions (or explains) the inefficiency of international law in protecting language communities.

Bringing attention to national systems national systems, Pym, Ayvazyan, and Prioleau (2022) focus on how a particular political system faces its translation needs. The authors study the use of machine translation to deliver health-related information during the COVID-19 crisis in Catalonia. Recent scholarship has focused on how policies enacted in this context have largely misunderstood translation and interpreting. An essential dimension of the global pandemic has been the multilingual circulation of information and the need to make policy messages reach all linguistic communities as quickly as possible. The health of every member of a community had never been more clearly responsible for the health of the community as a whole. Like any other management mechanism, borders have been forced to bend before the empirical world (DeGooyer & Murthy 2022), and the right to health has been valued as truly universal—and hopefully inalienable, as individual waivers have evinced their risk for the species.

The instrumental nature of translation in this universal human right to health and the need to implement translation policies had been pointed out before the pandemic by, among others, Mowbray (2017). The author points to Article 12 of the International Covenant on Economic, Social and Cultural Rights and the interpretation made by the United Nations organization (Izsák 2013)—“In such crucial areas as health-care information and access, minorities may be placed in a position of disadvantage and vulnerability if information is not provided



in their languages.” The pandemic has only stressed that human rights are universal and indivisible (Annan 2006). Whether in a crisis or otherwise, health requires the provision of economic, social, and cultural rights (Pūras 2020), and adequately observing any right requires a protection system integrated into the work of all public services (United Nations Special Rapporteur on minority issues 2017). Monolingual inertias, however, have been and continue to be an obstacle. As Piller, Zhang, and Li (2020) attest, “Global public health communication is characterized by the large-scale exclusion of linguistic minorities from timely high-quality information.” Minorities, whose right to health has been undermined by structural disadvantages (Marmot & Friel 2008), have seen these challenges exacerbated by the ways in which governments have implemented their emergency communication plans, stressing the place of language as a social determinant of health (Federici 2022). As a result of the lack of information in minority languages combined with the imperative need for up-to-date information in an environment of accelerated changes, these communities have often turned to unofficial media and social networks for information. The unfortunate reality that these means of communication facilitated the spread of false, inaccurate, or confusing news has been especially damaging for minorities (see Piller, Zhang & Li 2020). The mistrust resulting from contradictions, gaps, and constant changes in information derived from these sources has resulted in what some have termed an infodemic (Zarocostas 2020).

Even before the start of the current pandemic, translation studies had seen in the analysis of emergency situations that access to translation services could be a social determinant of health (O’Brien et al. 2018). Technologies had been seen to reshape humanitarian action (Slim 2015), particularly humanitarian informative action (Greenwood et al. 2017). In their paper, Pym, Ayzazyan, and Prioleau (2022) focus on how the government in Catalonia used translation technologies, more specifically, machine translation to deliver key messages in non-official languages. By analyzing the translated messages, the authors show the failure of the policy in communicating efficiently with the target audience. In analyzing the possibilities to improve the use of machine translation, the authors point out the need for translation policies to thoroughly plan the use

of all translation-related resources, including machine translation. Rather than using technologies as a magical all-in-one solution that fits the needs of the powerful, a move to a rights-based approach that prioritizes the populations at risk is required (Greenwood et al. 2017).

Nevertheless, even well-designed or well-intended policies can fall short of the mark. The creation of a shared imaginary of how translation-related situations are to be addressed requires a careful implementation of specific measures in cooperation with all stakeholders offering the support they will need to implement changes and listening to their daily issues that impede actual implementation. Olen et al. (2022) set out to specifically investigate the overlaps of multiple stakeholders in relation to policies. By listening to both medical interpreters and pediatric critical care medical providers, the researchers explore the difficulties in providing translation and interpreting services for limited-English-proficient patients and families in pediatric interpreted medical encounters in the United States. Their analysis clarifies how system-level, interpersonal, and intrapersonal factors compound a situation that poses a number of challenges to implement existent policies, thereby risking the perpetuation of inequities for non-dominant language communities.

Distilling further the traces of the unrealistic perceptions on translation, Nordberg and Kara (2022) examine how national systems frame translation and interpreting under the pressures of neoliberalism, and the expectations created across professional groups, especially those that are supposed to cooperate with translators and interpreters. Stressing the transformations in public service provisions, the authors investigate the specific case of Finland to highlight the conflicts between the expectations and possibilities for professional interpreters to contribute to the fair treatment of migrant populations. Drawing on Fraser's (2008) perspectives on misrecognition as an inherited negative social capital that places some individuals at the bottom of the social ladder, the authors explore the structural changes in Finland along the narratives of public-service interpreters. They identify the obstacles interpreters face to fulfil their missions both in interaction with other social actors and structurally, describing the conditions that have been created by policy and social changes. Their discussion points back to the unrealistic expectations on translation and the

ontological differences between those who are required to regulate its use and those who will be delivering the services. Especially relevant in their account is how the social welfare system restricts the resources offered perpetuating social asymmetries across linguistic groups.

Even though traditionally relegated from language policies and stigmatized as a sign of lack of autonomy of those in need of translation (von Busekist & Boudou 2018, 201), translation and interpreting are integral in approaches to diversity (Diaz Fouces 2002; Meylaerts 2011). In many cases, professional language mediation is met with resistance when non-dominant members of societies require linguistic mediation despite its ability to reconcile communication challenges. Learning languages is presented as a sign of goodwill rather than a cognitive and cultural effort, and failure to learn the language is presented as the fault of migrant populations who risk the continuity of the system. In their contribution, Gustafsson, Norström, and Åberg (2022) offer insight into how that discourse impacts migrants' self-perceptions and their initiative to claim their recognized rights to translation and interpreting. By waiving their rights to professional services, individual actions have an impact on the system where translation and interpreting vanishes under the inaction of social service providers, who rather than claiming their own right to translation and interpreting fail to use the means at their disposal to improve the lives of vulnerable populations.

#### **4. Earning cooperation**

This introduction opened with a game that is driven by the principles of fairness and cooperation. In laboratory situations and with single participants, fairness and distribution imply rather straightforward divisions of resources. However, the complex realities of multilingual societies in which the human element has established inequities prior to the start of the game complicates our understanding of how resources are allocated. As societies continue to change, translation and interpreting studies will keep reflecting on the policies and practices of translation and interpreting to address emerging realities. By establishing a dialogue with international human rights discourse, national policy-makers, professional groups, and disadvantaged groups,

the contributions in this special issue show paths to allow translators and interpreters to meet their assumed and presumed responsibilities within societies.

A common thread throughout the articles in this special issue is the question of translation as a right, and these contributions show how all the stakeholders involved, including interpreters and translators, evidence their own detachment from that idea. Yet these articles also show the explicit relationship between the ability for all individuals to communicate and the experienced inequities of these groups. As such, translation and interpreting squarely figure into the ability to reconcile disparities. This recognition of language services as an integral element of human rights presupposes that disadvantaged groups necessarily require their provision, and that their provision is not necessarily an allocation of resources to one group, but rather to both to facilitate communication for both dominant and non-dominant language groups.

With this special issue, the first of *Just. Journal of Language Rights & Minorities*, *Revista de Drets Lingüístics i Minories*, the guest editors have aimed to represent the various groups that need to cooperate when ensuring the right to translation and interpreting. As one of the primary aims of the journal, the issue engages scholars from a variety of disciplines, draws on participative methods to engage all stakeholders, and addresses issues at decision-making and policy levels in an effort to effect social and political impact. We are confident that the articles in this special issue help achieve that aim.

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## Language rights and linguistic justice in international law: Lost in translation?

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## Language rights and linguistic justice in international law: Lost in translation?

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### Abstract

A range of international legal provisions guarantee rights to translation for linguistic minorities in certain circumstances, but these do not always lead to linguistic justice. This article explores why this may be the case, focusing on how assumptions embedded in international law as to the role of translation and interpretation limit the extent to which international language rights can deliver linguistic justice. Drawing on insights from other disciplines, particularly sociolinguistics and translation and interpreting studies, I identify four flawed assumptions about translation embedded in international legal discourse: that translation is straightforward or easy; that translation is expensive and impractical; that translation is just about words; and that translation is neutral or apolitical. Each of these flawed assumptions limit the ability of international law to achieve justice for minority language speakers.

**Keywords:** international law, human rights, language rights, linguistic justice, translation

### 1. Introduction

While there is no single *right* to language in international law, a range of international legal provisions protect languages and their speakers. These include minority rights, which protect the rights of minorities to use their own

language; non-discrimination rights; rights to freedom of expression; rights to culture; and other rights, such as the right to a fair trial, which can be used incidentally to protect language interests in certain situations. Yet there is a significant body of literature demonstrating that these language rights do not necessarily deliver *linguistic justice*, understood loosely as justice between speakers of different languages, and may even exacerbate some of the difficulties faced by those who speak minority languages (Mowbray 2012).

This article explores why this may be the case, focusing on how assumptions embedded in international law as to the role of translation and interpreting limit the extent to which international language rights can deliver linguistic justice. Translation and interpreting are key mechanisms through which international law seeks to deliver linguistic justice. However, insights from other disciplines, particularly sociolinguistics and translation and interpreting studies, reveal that the conceptualisation of translation within international law is deficient in certain key respects. In particular, I identify four flawed assumptions about translation embedded in international legal discourse: that translation is straightforward or easy; that translation is expensive and impractical; that translation is just about words; and that translation is neutral or apolitical. In identifying these problematic assumptions, I build on work which has reached similar conclusions with regard to the operation of translation within domestic legal orders. The pervasiveness of these assumptions at the level of international law, however, raises its own particular issues which are worth considering separately. International law in general, and international human rights law in particular, should function as a check on the power of nation-states and a mechanism for protecting the rights of individuals and minorities when domestic legal systems do not. International law should therefore be a forum for addressing the defects in domestic legal orders identified in the existing scholarship. If international law itself is based on flawed assumptions about translation, however, its ability to achieve justice for minority language speakers is limited. As a result, the promise of international language rights fails to translate into linguistic justice.

## 2. A note on terminology

Before going further, I should say something about the terminology I will be using in this article, including my use of the word *translation*. For the purposes of this article, I use the word translation in a general sense, to cover the provision of both translation and interpreting services. And I will generally describe those to whom these services are provided as *minority language speakers or linguistic minorities*, to reflect the fact that they do not speak the dominant or official language of the state. I acknowledge that those who do not speak the official language are not always in the minority, and do not always form an identifiable group. However, I will use the terminology of *minority* for ease of reference. I further acknowledge that not all states have a designated official language, and accordingly will also use the term *dominant language* to capture both official and quasi-official state languages.

I should also note that I adopt a broad approach to what constitutes *international law*. In what follows, I therefore consider not only binding legal rules, but also the broader discourse of international law, including a range of non-binding international legal instruments, jurisprudence, norm-setting and legal commentary. I will also consider the law developed under regional systems, such as the human rights and other instruments developed under the auspices of the Council of Europe. While there are differences between these systems, there are also common themes and practices of cross-reference which justify treating them together, in order to present a comprehensive overview of international legal discourse on language rights and translation.

## 3. Translation in international law

Translation is one of the key mechanisms through which international law seeks to address injustice faced by linguistic minorities. A number of legal provisions explicitly mandate translation as a means of ensuring language rights. The most significant of these are those which require translation in order to ensure that linguistic minorities receive a fair trial. So, for example, the International Covenant on Civil and Political Rights (ICCPR) provides in Article 14(3) that:



In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) to be informed ... in a language which he understands of the nature and cause of the charge against him;

...

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

Similar rights are contained in a large number of international legal instruments.<sup>1</sup> Although these instruments all have a slightly different scope of application, certain legal principles are common to all of them. The first is that individuals are entitled to be informed of criminal charges and reasons for arrest in a language which they understand (ICCPR, Article 14(3)(a)). Secondly, individuals charged with criminal offences have the right to the free assistance of an interpreter to assist with court proceedings if they cannot understand the language used by the court (ICCPR, Article 14(3)(f)).

Other areas of international law explicitly require communication with individuals to take place in their minority language, or in a language which they understand, effectively mandating the use of translation to accommodate linguistic minorities. Thus Article 10(2) of the European Framework Convention for the Protection of National Minorities requires states, in certain circumstances, to establish “conditions which would make it possible to use the minority language in relations between those persons [national minorities] and the administrative authorities.” The Advisory Committee, the body responsible for monitoring state compliance with the Convention, has confirmed that the “conditions which

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<sup>1</sup> See, for example: Convention on the Rights of the Child, Article 40(2)(b)(vi); International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Articles 16(5), 16(8), 18(3)(a) and (f); ILO Convention No 169, Article 12; Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), Articles 5(2), 6(3)(a); EU Directive on the Right to Interpretation and Translation in Criminal Proceedings; EU Directive on the Right to Information in Criminal Proceedings; American Convention on Human Rights, Article 8(2)(a)).

would make it possible to use the minority language in relations between those persons and the administrative authorities” include the availability of translation and interpreting services (Advisory Committee Opinion on Denmark 2011, pars. 95 and 96).<sup>2</sup>

International labour law similarly contains provisions designed to ensure that workers receive safety and other information in a language which they understand.<sup>3</sup> International law on the rights of prisoners, including prisoners of war, also requires that individuals be given information in a language which they understand (Mowbray 2017, 34), noting that “the services of an interpreter” shall be used “whenever necessary” to achieve this (Organization for Security and Co-operation in Europe (OSCE), Oslo Recommendations 1998, Article 20).

In a different context, the European Charter for Regional or Minority Languages (“European Charter”) lists a variety of measures which states can take to promote minority or regional languages, a number of which refer to translation. Article 9(1) lists measures that states can take to allow the use of regional or minority languages in criminal, civil, and administrative proceedings “if necessary by the use of interpreters and translations.” Article 9(3) refers to states making “available in the regional or minority languages the most important national statutory texts and those relating particularly to users of these languages.” Article 10 sets out steps which states can take to encourage the use of regional or minority languages in dealings with administrative authorities and public services, and Article 10(4) specifically provides that one way of doing this is through “translation or interpretation as may be required.” Article 12, dealing with cultural activities and facilities, indicates that states can promote access in other languages to cultural works produced in regional or minority languages (and vice versa) “by aiding and developing translation, dubbing, post-synchronisation and subtitling activities” (Article 12(1)(b) and (c)). Although states are not required to adopt

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<sup>2</sup> Interestingly, however, the Advisory Committee has also expressed a preference for functional bilingualism over translation in some circumstances: see, for example, the Advisory Committee’s Opinions on Sweden (2012), pars. 87 and 182, and Georgia (2015), par. 78.

<sup>3</sup> See, for example, International Labour Organization (ILO) Convention No 180, Article 5(8); ILO Recommendation No 151, Articles 7(1)(a), 21-2; and ILO Recommendation No 86, Article 5(2).

these particular provisions, as the scheme of the Charter gives states a choice as to which obligations they will accept, states are required (by Article 2(2)) to take at least one measure under each of Articles 9 and 10, and at least three measures under Article 12. In this way, the Charter encourages states to embrace translation as a way of protecting regional or minority languages.

In addition to these provisions of international law, which more or less explicitly require the use of translation, other language rights in international law implicitly require translation. International law prohibits discrimination on certain bases, including on the basis of language (ICCPR, Articles 2 and 26; International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 2).<sup>4</sup> This means that, in appropriate circumstances, states should provide translation in order to protect individuals from discriminatory treatment, or in order to ensure equal access to other rights. So, for example, Article 25 of the ICCPR guarantees the right to vote and stand for election. This has been interpreted to require that “positive measures should be taken to overcome specific difficulties, such as ... language barriers” and that “information and materials about voting should be available in minority languages” (UN Human Rights Committee 1996, par. 12). Similarly, Article 12 of the ICESCR, which guarantees the right to health, has been interpreted as requiring states to provide translation in order to ensure that minorities who do not speak the language used by doctors and in hospitals are nonetheless able to access medical services, and to ensure that public health information is available in minority languages (UN Special Rapporteur on Minority Issues 2017, 25–26; Report of the UN Independent Expert on Minority Issues 2012, par. 68). And the right to education under Article 13 of the ICESCR may require translation programmes for students who do not speak the classroom language (UN Special Rapporteur on Minority Issues 2017, 19, 21).

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<sup>4</sup> See also Universal Declaration of Human Rights, Articles 2 and 7; Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), Article 14 and Protocol 12; American Convention on Human Rights, Articles 1 and 24; African Charter on Human and Peoples’ Rights, Articles 2 and 3.

Overall, then, it is clear that international law both explicitly and implicitly mandates the use of translation to protect the rights of linguistic minorities. More fundamentally, the possibility of translation underwrites international law's guarantee of equal treatment for linguistic minorities: in states where a particular language dominates, it is through translation from and into this language that minorities can participate in public life and enjoy rights on a basis of equality. International law therefore positions translation as an important *solution* to the problem of linguistic diversity and linguistic inequality. In doing so, international legal discourse makes a number of assumptions about translation and its effectiveness in enabling justice as between speakers of different languages. In what follows, I identify four key assumptions about translation embedded in international legal discourse and argue that these are, in various ways, flawed. As a result, the ability of language rights under international law to contribute to linguistic justice is constrained.

### *3.1 Assumption 1: Translation is straightforward/easy*

In the provisions of international law set out above, there is an assumption that translation is possible: that evidence in criminal trials, workplace safety requirements, health information, education resources and so on *can* effectively be translated into minority languages in order to protect rights. The view embodied by such provisions is that "languages are always in principle translatable" (Haviland 2003, 769). From this perspective, translation is a straightforward, technical task of taking words in one language and *converting* them into another.

This assumption as to the nature of translation is particularly evident in those provisions of international law mandating translation in order to ensure that an individual receives a fair trial. Since these provisions are also the most detailed and specific in terms of when translation is required, and have been subject to some judicial and other consideration, they make a good case study. The relevant international legal provisions essentially provide that where individuals "cannot understand or speak the language used in court,"

their right to a fair trial will be protected by giving them “the free assistance of an interpreter” (ICCPR, Article 14(3)(f)). In other words, translation – and translation alone – will be sufficient to prevent injustices arising from the fact that individuals do not understand the language in which court proceedings are taking place. As Haviland has put it in the context of similar provisions under US law, “[u]nder the law, at least, a linguistic handicap can be adequately addressed simply by supplying the requisite officially approved translations” (Haviland 2003, 769).

This assumes that translation is straightforward and effective: translation is the solution, which ensures a fair trial for minority language speakers. Indeed, the way in which the relevant legal provisions have been interpreted by judicial and other authorities assumes that translation is not only possible, but that it is so effective that the scope of what requires translation, under international law, can be narrowed in very significant ways. So, for example, it has been held that the law does not require that all relevant documents and proceedings be translated into the accused’s language (*Husain v Italy*; *Hermi v. Italy*; most recently affirmed in *Bokhonko v Georgia*). This is particularly the case if the accused is represented by counsel competent in the language of the court (*Harward v Norway*), or if “as a result of ... [an] oral explanation given to him, [the accused] sufficiently understood” the nature of a document (*Kamasinski v Austria*, par. 85). Similarly, it has been held that individuals are not entitled to the assistance of an interpreter merely because they cannot understand legal technical terminology in the language of the court (*Isop v Austria*). As long as the accused understands the “gist” of proceedings, there is no violation of the right to a fair trial (Brannan 2010, 11).

In limiting an accused’s rights to translation in these ways, these decisions assume that minimal translation is effective to convey meaning and to allow an accused to present their legal case. In doing so, they not only assume that translation is straightforward and effective, but also assume that conveying the essential meaning of proceedings or texts is relatively easy: an oral explanation of a document, sufficient for the accused to understand the “gist,” will be enough; the fact that the accused’s counsel understand a document and can ask their client about it will suffice.

We do not have to be experts in translation studies to realise that this vision of translation as straightforward, even easy, is problematic. The BBC's fascinating list of "the greatest mistranslations ever" (Macdonald 2015) demonstrates that even at the highest levels of international diplomacy, translation difficulties arise. The very existence of the phrase "lost in translation" reflects the common and intuitive sense that translation is not always (or perhaps ever) capable of conveying the full meaning of the original expression in another language.

This common-sense understanding is confirmed by scholarship in fields including translation studies, sociolinguistics, and linguistic anthropology. This scholarship demonstrates that the conduit model (see Reddy 1979) or verbatim theory of translation – that expressions in one language "can be rendered for legal purposes, without loss and exactly" (Haviland 2003, 768) into equivalent expressions in another language – is based on a fundamental misunderstanding of language and how it operates. In particular, it fails to take account of the phenomenon of indexicality, that is, the fact that the same linguistic expression may have different meanings in different contexts (Braun 2015). It similarly fails to account for the fact that "meaning is a social phenomenon" (Muñoz Martín & Rojo López 2021, 62) not merely a linguistic one, with cultural and social frameworks playing an important role in the creation of meaning (see Lambertini Andreotti 2016 for an interesting analysis of how this influences the way in which the target-language receiver comprehends interpreted text). Empirical analyses have thus demonstrated that "the common assumption that competent interpreting can put a person in the same position as a speaker of the official language would be" is problematic on both linguistic and pragmatic grounds (Angermeyer 2013, 105; see also Berk-Seligson 1987; Mason 2015).

The idea that translation is a straightforward and technical activity is similarly refuted by scholars in translation studies, for whom the concept of "translation problems" is axiomatic (Nord 2006, 263). Within this field, it is accepted that the idea of "equivalence" between expressions in different languages is "imaginary" (Leung 2014, 57). Problems with translation in the legal sphere specifically have been documented from diverse perspectives by writers including Leung (2014),

Monzó-Nebot (2018), and Cao (2019). Particular issues arising in the context of courtroom translation have been identified by scholars including Hale (2004), Stern (2018), and Moore (2021).

In light of this popular and scholarly evidence, the “legal fiction” (Leung 2014, 57) that translation is straightforward and easy is problematic in two ways. First, and most obviously, it limits the ability of linguistic minorities to communicate effectively in situations where their human rights are at stake, thus limiting their ability to enjoy those rights. So, for example, in the context of the right to a fair trial, as outlined above, the assumption that expressions in one language can be unproblematically translated into another has repeatedly been shown to have negative effects on parties who do not speak the language of the courtroom (Berk-Seligson 1989; Angermeyer 2013; Mason 2015). The translation process itself creates a barrier to their ability to present their case; yet the existence of this barrier is actively denied through court processes which instruct judges and juries to attach legal consequences to the translated words as if they were identical to the original (Haviland 2003, 768). This is problematic given that law is an inherently linguistic activity and it is through the language of the trial – the presentation of evidence and argument, the assessment (through linguistic exchanges, such as cross-examination) of the credibility of witnesses and evidence – that the judge or jury reach their conclusion. Perceived inconsistencies in the accused’s account, which may result from the complex process of translation, can lead to them being found not to be a credible witness. Mistranslations can have even more profound consequences. This is of huge significance in the context of a criminal trial, where what is at stake is a criminal conviction, with the possibility of imprisonment or other sanctions attached.<sup>5</sup>

While the discussion above has focused particularly on the right to a fair trial, the operation of the “legal fiction” that translation is straightforward limits linguistic justice in all areas where translation is the means through which

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<sup>5</sup> For further discussion of this issue in another context, namely applications for asylum, see Smith-Khan 2022.

international law seeks to protect the rights of linguistic minorities. In the healthcare context, for example, a significant literature has demonstrated that language barriers to effective healthcare result from the “centrality of language to health beliefs, attitudes, practices, cultural scripts, and conceptual frameworks” (Peled 2018, 1), such that assuming healthcare barriers faced by linguistic minorities can be unproblematically overcome through translation is fundamentally flawed. Similarly, the assumption that meaning, including the meaning of complex written documents, can effectively be conveyed through informal, oral interpretation affects the rights of linguistic minorities in the context of dealings with administrative authorities. So, for example, in its 2018 report in respect of Germany, the Committee of Experts of the European Charter for Regional or Minority Languages noted that regional and minority languages are used “mainly in oral exchanges” (17) with local administrative authorities, without more fulsome translation services being provided.

The second problem with the assumption that translation is straightforward is that it positions problems with translation, and injustices which result, beyond the scope of international law. In focusing on translation as a primary means of protecting language rights and addressing injustices associated with language use, international law therefore conceals injustices which can result from the process of translation itself. Translation is the *solution* to problems of linguistic injustice; once translation is provided, international law tends not to look beyond to consider injustices arising from the process of translation itself. Thus, the jurisprudence demonstrates that, in the fair trial context, for example, there is no requirement for translators to be registered (Brannan 2010, 8), and very little legal redress in cases of poor-quality translation (Brannan 2010, 10–11). The European Court of Human Rights has found that as long as the accused understands the “gist” of proceedings, it does not matter if the translation provided is “somewhat inaccurate” (Brannan 2010, 11, discussing *Khatchadourian v Belgium*). While the question of inaccurate translation is frequently raised before international bodies – and some commentators have optimistically suggested that “this is an area in which we might see further developments” (Vogiatzis 2022, 21) – as of July 2022, there were no cases in which this concern had been upheld. Rather,



complaints about the quality of translation are generally held to be “improper” or “belated” (in the sense that they should be raised before the domestic courts in the original proceedings, not at the international level) and therefore not capable of consideration under international law (Brannan 2010, 10).

To claim that international law assumes that translation is straightforward or easy is, of course, something of an oversimplification. As the very cases identified in the previous paragraph indicate, international courts have to grapple with evidence of the imperfections of translation on a regular basis. I am not suggesting that international lawyers and judges are blind to the problems of translation. Perhaps it would be more accurate to characterise the relevant assumption as being that, despite all the difficulties associated with translation, it is a sufficient means of protecting rights such as the right to a fair trial. However, even this assumption is, as the theoretical and empirical work discussed above shows, flawed. In relation to the right to a fair trial, for example, miscarriages of justice can and do occur as a result of translation issues. Further, while individual lawyers and judges may be aware of the limits of translation, there is still a bias within the discourse of international law as a whole towards essentialising translation, viewing it in simplistic terms as the straightforward and obvious *solution* to the problem of linguistic diversity. As the scholarship discussed above shows, this is not necessarily the case.

### *3.2 Assumption 2: Translation is expensive/impractical*

The second assumption which can be seen to inform international law in this area is that translation is expensive and widespread use of translation impractical. The relevant legal provisions, and the cases which have interpreted them, contain significant limitations and caveats on the translation rights which they confer on minorities. As noted above in the context of translation to guarantee the right to a fair trial, the extent of translation provided is strictly circumscribed: translation of documents and legal terminology is heavily limited and there is preference for brief, oral explanations over full translation. The implicit assumption here is that providing translation is administratively difficult or impractical, and that

the extent of translation provided should be limited to the bare minimum necessary to enable an accused to participate in criminal proceedings. This perception is reinforced by the fact that (except perhaps in relation to indigenous peoples) there is no international legal obligation on states to provide translation in civil, as opposed to criminal, proceedings at all (Mowbray 2017, 38–39).

Translation rights are strictly circumscribed by international law in other contexts as well. For example, Article 10(2) of the Framework Convention for the Protection of National Minorities, which seeks to give national minorities rights to use their own language in dealings with administrative authorities, provides that:

In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.

It is immediately evident that the *rights* to translation (and, more generally, to use minority languages in communications with administrative authorities)<sup>6</sup> contained in this provision are heavily qualified: they arise only in “areas inhabited by persons belonging to national minorities traditionally or in substantial numbers,” “if those persons so request,” and “where such a request corresponds to a real need.” Even if those conditions are met, the obligation imposed on states is simply “to endeavour to ensure,” “as far as possible” that it is possible to use the minority language in communications with administrative authorities. As Thornberry and Martín Estébanez have concluded, this right is so heavily qualified that it “struggles to escape its chains” (2004, 105).

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<sup>6</sup> As noted in footnote 2 above, the Advisory Committee interprets Article 10(2) as requiring direct communication in the minority language, through functional bilingualism, wherever possible.

Similar limitations are inherent in other international legal provisions in this area. States are generally given a wide discretion in determining when to provide translation, through formulations such as “wherever possible” (OSCE, Oslo Recommendations 1998, Article 14), “as far as this is reasonably possible” (European Charter, Article 10(1)), and “where practicable” (UN Special Rapporteur on Minority Issues 2017, 13, 18, 19, 23, 27, 35, 36). Often provisions only apply where there are a sufficient number of minority language speakers (European Charter, Article 1(b)).

Rights to translation are therefore exceptional and limited. The implicit assumption is that translation is impractical, and in particular that widespread use of translation is an unreasonable cost for the state. This is explicitly confirmed in the Explanatory Report to the Framework Convention, which notes, in relation to Article 10(2), that: “in recognition of the possible financial, administrative ... and technical difficulties associated with the use of minority languages,” and therefore translation, Article 10(2) “has been worded very flexibly, leaving Parties a wide measure of discretion” (Council of Europe 1995, par. 64). Emphasising concerns about the expense involved in translation, the Explanatory Report goes on to provide that “[a]lthough contracting States should make every effort to apply this principle, the wording ‘as far as possible’ indicates that various factors, in particular the financial resources of the Party concerned, may be taken into consideration” (par. 65).

From one perspective, of course, it is true that translation is expensive and widespread translation impractical. States must pay for translation services, and it would be difficult for states to offer free translation services in every language for all dealings with public bodies. For this reason, states develop policies and guidelines as to when translation will be available (see, for example, re courtroom interpreting in the US, Killman 2020). At the same time, however, this idea of *practicality* requires some closer consideration. From the perspective of the state, it may well be most practical, or efficient, to limit the scope of translation. However, if we shift perspective and consider the issue from the point of view of minority groups, the costs of such arrangements outweigh the benefits. These groups are precluded from

accessing state services, or are required to bear the costs of translation in order to do so. In this sense, limiting translation by state authorities simply passes on the costs, such that they are borne by minority language speakers rather than the state.

Furthermore, as Ingrid Piller has beautifully demonstrated in her analysis of the translation policy of the EU, the *overall* costs of not providing translation are far greater than the costs of providing it.<sup>7</sup> Writing in 2016, Piller notes that maintaining 24 official languages costs the EU about 1.1 billion euros a year in translating and interpreting. On a per capita basis, this is 2.2 euros per person per year, “about the price of a cup of coffee” (Piller 2016, 190). However, if the EU introduced an English-only policy:

Most Europeans would be paying much, much more than the equivalent of a cup of coffee for linguistic provision. To begin with, the British and the Irish would not be paying anything at all. Those 7% of continental Europeans who already speak ‘very good’ English would not be paying, either. That would leave everyone else—around 80% of Europeans—out of pocket for English language learning if they wanted to exercise their democratic right to understand what is going on in the European parliament and to participate in the European project in any other way. ... [F]or all these individuals language costs would be much, much higher than is currently the case. Furthermore, it would no longer be a public expense shared by all, but their own private expense. (Piller 2016, 190)

As Piller’s extract suggests, this assumption that translation is expensive and impractical, and should therefore be strictly limited, has significant implications for linguistic justice. In particular, it shifts the costs of accommodating linguistic diversity from the state to minority language speakers, who must bear a cost which those who speak the dominant language do not. In reflecting and reinforcing this assumption, international law not only fails to address such linguistic injustice, but implicitly authorises it. It goes without saying that this limits the ability of

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<sup>7</sup> Killman (2020) also discusses the issue of the value added by interpreters relative to expense, in the US context.

international law to contribute to linguistic justice. Ultimately international law reinforces a model of translation policy that is, as Piller has demonstrated, both unjust and more costly overall.

### 3.3 Assumption 3: Translation is just about words

A third assumption which seems to underpin international legal discourse on translation is that the purpose of translation is simply to ensure effective communication; in other words, translation is just about the words. The broader significance of translation as a nuanced exercise in intercultural communication is obscured by provisions of international human rights law, for example, which focus on the instrumental significance of language as a tool for communication and tend to ignore the intrinsic significance and meaning that language may have to members of linguistic minorities. So, for example, the relevant provisions do not give individuals the right to use their own language, but only to use a language which they “understand” (ICCPR, Article 14(3)(a), (f)), or are presumed to understand (ILO Convention No 180, Article 5(8)). And where members of minorities are “able to understand” the official language, even if imperfectly, there is no obligation on the state to provide translation at all. In the case of *Guesdon v France*, for example, the applicant, whose mother tongue was Breton, complained that a French court had refused to allow him to present his defence to criminal charges in Breton rather than French. The UN Human Rights Committee found:

The provision for the use of one official court language by States parties to the Covenant does not, in the Committee’s opinion, violate article 14 [of the International Covenant on Civil and Political Rights]. Nor does the requirement of a fair hearing mandate States parties to make available to a citizen whose mother tongue differs from the official court language, the services of an interpreter, if this citizen is capable of expressing himself adequately in the official language. Only if the accused or the defence witnesses have difficulties in understanding, or in expressing themselves in the court language, must the services of an interpreter be made available.

The author has not shown that he, or the witnesses called on his behalf, were unable to address the tribunal in simple but adequate French. In this context, the

committee notes that the notion of a fair trial ... does not imply that the accused be afforded the possibility to express himself in the language which he normally speaks or speaks with a maximum of ease. If the court is certain ... that the accused is sufficiently proficient in the court's language, it is not required to ascertain whether it would be preferable for the accused to express himself in a language other than the court language. (*Guesdon v France*, pars. 10.2–10.3)

The finding in this case has been repeatedly confirmed in other fair trial cases before international tribunals (*Cadoret and Le Bihan v France*; *SG v France*; *Isop v Austria*; *Bideault v France*). A similar approach, of requiring translation only where there is an instrumental purpose for it, is evident throughout international human rights law (Mowbray 2017, 36–37). There is no right to translation unless it is necessary to overcome communication barriers affecting the achievement of *other* human rights: rights to a fair trial, rights to fair treatment in prison, rights to safety at work, rights to health and education, and so on. Translation is provided to the minimum extent necessary to ensure those other rights are adequately protected: so as long as an individual is “sufficiently proficient” (*Guesdon v France*, par. 10.3) in the dominant language to prevent “difficulties in understanding,” there is no need for translation. Language is significant, in this context, solely for its ability to enable or hamper effective communication.

In reality, of course, language has not only instrumental significance but also intrinsic significance, as a marker of identity and an aspect of culture. From this perspective, requiring translation only where there is an instrumental purpose for it is problematic because it fails to recognise minority identity and the significance of language to that identity. Particularly in the “high stakes” context of a criminal trial, an accused may prefer to use their own language as a matter of cultural safety (see Ramsden 1992). They may also attach a particular symbolic significance to being able to use their own language to defend themselves in criminal proceedings brought against them by the State. More generally, failure to allow an individual to use their own language before public authorities functions as an important form of symbolic exclusion, a failure to recognise and accommodate minority identity, which constitutes a

particular form of linguistic injustice. Take, for example, the Breton speakers in cases like *Guesdon*. They did not want to use Breton because they did not speak French; rather, they felt that as the traditional inhabitants of Brittany, they should be able to use their own language before the courts. Their claims to use Breton were about expressing and protecting Breton identity – a claim that the French state should recognise and accommodate the Breton community within it (Mowbray 2012, 143). However, international human rights law does not respond to these claims. By allowing translation only for instrumental purposes, it reinforces the status quo, under which courts reflect only dominant identity and culture, together with the injustices inherent in that arrangement. And it fails to address cultural and symbolic barriers to justice faced by minority groups.

Not all provisions of international law focus solely on the instrumental significance of language. Bodies of international law dealing with the protection of cultural diversity and the rights of minority groups both acknowledge the significance of language to culture and minority identity. Thus, the European Charter for Regional or Minority Languages encourages states to take steps to protect regional or minority languages, including through translation, because they are “an expression of cultural wealth” (Article 7(a)) and “a living facet of Europe’s cultural identity” (Council of Europe 1992, par. 10). Similarly, the European Framework Convention for the Protection of National Minorities acknowledges the intrinsic significance of language for minority groups, as an “essential element” (Article 5) of minority identity and culture. The 1998 OSCE Oslo Recommendations Regarding the Linguistic Rights of National Minorities go further and suggest that minorities should have the right to defend themselves in their own language during judicial proceedings “with the free assistance of an interpreter and/or translator” even where they speak the language of the court (Article 18), thus acknowledging that minorities have interests in using their own language which extend beyond effective communication.

Even in these instruments, however, the significance of translation is understood narrowly, with a focus on the translation of words rather than the broader process of intercultural communication. Thus, the fora in which

the law requires translation to be available are generally those in which effective communication is legally significant, that is, in dealings with public authorities and before the courts (Framework Convention, Article 10; European Charter, Articles 9(1) and 10(4)). And the focus is on translation in individual cases: the legal provisions speak, for example, about the right of “every person” to “the free assistance of an interpreter” (Framework Convention, Article 10(3))<sup>8</sup>. The need for translation outside these instrumental contexts, to facilitate intercultural communication among different groups in society more generally, largely falls outside the scope of the relevant international instruments.

Even where these instruments raise the possibility of translation in the context of culture, the focus remains on translation as a means of ensuring access to cultural *works*, rather than as a medium for mediating between cultures themselves. Thus, the provisions of the European Charter for Regional or Minority Languages provide for the translation of cultural works from and into regional and minority languages (Article 12(1)(b) and (c)). The Explanatory Report explains the rationale behind these provisions as follows:

By reason of their limited number of speakers among the population, regional and minority languages do not have the same cultural productivity as the more widely-spoken languages. In order to promote their use and also allow their speakers access to a vast cultural heritage, it is therefore necessary to have recourse to the techniques of translation, dubbing, post-synchronisation and subtitling (paragraph 1.c). The avoidance of cultural barriers implies, however, a two-way process. It is therefore essential to the viability and status of regional or minority languages that important works produced in them should become known to a wider public. That is the purpose of paragraph 1.b. (Council of Europe 1992, par. 116).

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<sup>8</sup> Of course, it is logical for these provisions to be cast in these terms, given the focus of the relevant instruments on individual rights. Nonetheless, it is both striking and significant how such formulations structure the international legal discourse on translation. For related observations about the way in which international law limits the availability of translation to formal contexts and participation in government, see Mowbray (2017, 48–49).



Although such commentary implicitly acknowledges the connection between language and culture, it nonetheless seems to overlook the intrinsic significance of language as an aspect of cultural identity in favour of an emphasis on the instrumental significance of language as a barrier to accessing cultural works. *Culture* and *cultural heritage* are here understood in narrow terms as cultural productions or commodities (films, novels, and so on), to which translation enables access by overcoming communication problems. The broader concept of culture as a way of life, and the intrinsic significance of language to culture in that sense, seems to be obscured. So, for example, the European Charter encourages translation of minority language works into dominant languages, including through practices such as dubbing (Art 12(1) (b) and (c)). Yet this could function as a form of erasure: dubbing effectively involves removing the minority language from a cultural work altogether and replacing it with the dominant form of expression. However, concerns such as these find no expression in the scheme of the Charter. Even in these provisions, which concern the use of minority languages in the cultural sphere, the intrinsic significance of the minority language, as an important element of minority culture, is poorly accounted for.

In failing to recognise fully the intrinsic significance of language, international legal discourse limits the role of translation to enabling communication (translation is just about words), without considering the important cultural and symbolic work which translation can do to address injustice. This limits the ability of international law to address the range of injustices faced by linguistic minorities and thus the extent to which language rights under international law translate into linguistic justice.

#### *3.4 Assumption 4: Translation is neutral/apolitical*

Scholars in translation studies have comprehensively demonstrated that the act of translation is never neutral, but invariably reinforces the relations of power between dominant and minority languages: “translators, either willingly or inadvertently, contribute to distributing the symbolic power of languages by implementing certain translation policies that impact those hierarchies” (Monzó-

Nebot 2020, 14). The politics of translation is much-discussed in the literature (Evans & Fernández 2018) and the way in which translation relates to power is a subject of active study across a range of fields, including international relations (Caplan, dos Reis & Grasten 2021). Substantial theoretical and empirical work has demonstrated how practices of translation, and the linguistic and pragmatic choices involved, disadvantage minority language speakers in a variety of ways (Berk-Seligson 1988; Angermeyer 2013; 2015; Mason 2015; Mellinger 2017). This is equally true across different contexts, ranging from translation of public signage (Angermeyer 2017) to translation of court forms (Mellinger 2017) to interpreting in legal proceedings (Angermeyer 2015).

Awareness of the politics of translation is, however, almost completely absent from international legal discourse. This discourse, as noted above, constructs language as a barrier to the enjoyment of rights and justice, and positions translation as the solution to this problem. Building on the assumptions that translation is straightforward and *just about words*, this discourse assumes that this solution is a neutral, technical one. The idea that translation itself might involve the exercise of power relations, and contribute to injustice, finds no reflection in the international legal provisions. Thus, injustices associated with the translation process itself are not recognised by international law, with questions of quality of translation generally considered beyond the scope of international legal consideration. But more significantly, the way in which international law deploys translation to address linguistic injustice is blind to the power dynamics at work in that process. This is exemplified by the way in which international law prefers, or at least allows the preference of, informal oral interpretation over formal translation of documents. We do not have to be sociolinguists or translation scholars to appreciate that providing only informal, oral interpretation of formal, written documents reinforces the marginalisation of minority languages and their speakers in a range of practical and symbolic ways. Yet in many cases international law specifically limits rights to translation in this way.

This is problematic, from the perspective of linguistic justice, because it means that international law uncritically reproduces the power dynamics between dominant and minority languages (and the corresponding injustices

which these create for linguistic minorities). Taking this a step further, a close analysis reveals that international legal discourse in fact reinforces those power dynamics in important ways. First, by treating minority language use as a barrier to accessing rights and justice – a difficulty which is to be overcome through translation into the dominant language – the relevant legal provisions implicitly devalue minority languages. Knowledge of such languages is structured as a disability, not, for example, as “an asset for cultural diversity” (Paz 2013, 164). Thus, linguistic minorities are only to be accommodated through translation until they have learnt to communicate in the official language; once they can understand the official language, albeit imperfectly, there is no obligation to provide translation. The bias, then, is towards linguistic assimilation, rather than recognition of minority identity as an important and valuable part of the character of the state.

This suggests a second way in which international legal discourse on translation reinforces the power dynamics between dominant and minority languages, namely by reinforcing the privileged position of the dominant language. By providing for translation only where it is necessary for effective communication with authorities operating in the official language, the law implicitly suggests that only the official language (and the ability to understand it) has value. It also takes as given the status of the dominant or official language, obscuring broader questions about the appropriateness or otherwise of the state’s language policy which confers this status (Mowbray 2017, 40). In this way, international law on translation precludes more radical challenge to the structures of linguistic injustice embedded in the choice of official language itself.

International law on translation precludes more radical challenge to linguistic injustice in other ways, too. Overwhelmingly, the vision of translation justice presented by international legal discourse focuses on isolated use of translation in individual cases, particularly where necessary to protect other human rights. Translation here is a short-term, ad hoc fix to practical problems created by linguistic diversity.<sup>9</sup> The possibility of more far-reaching, systemic change is

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<sup>9</sup> A similar point is made in relation to sign language interpreting by De Meulder & Hualand (2021).

not contemplated by these provisions. This not only precludes the possibility of achieving such change through international law, but may actively undermine claims by linguistic minorities for more emancipatory change through, for example, policies encouraging multilingualism in public institutions. Ng, for example, has argued for a policy of “language matching” in US courtrooms, allowing for the creation of Spanish-language courtrooms with proceedings conducted entirely in Spanish (Ng 2009). But this vision of “linguistic justice” finds no reflection in international human rights law, which offers no language in which to articulate such a claim to institutional multilingualism. And while instruments such as the European Framework Convention for the Protection of National Minorities (in, for example, Article 10(2)) and the European Charter for Regional or Minority Languages (in, for example, Article 10(1)(a)(i)) do contain provisions encouraging multilingualism, these are both limited in scope (in terms of geography and languages covered) and, as noted above, heavily qualified through caveats such as “where possible.” As a result, claims for far-reaching multilingualism are largely not reflected in the general discourse of international law.

More generally, international legal discourse obscures the politics of translation by characterising both the problems faced by linguistic minorities, and the solution to those problems, narrowly. In constructing language as a barrier to the enjoyment of rights and justice, and suggesting that this barrier can be overcome through translation, the law simplifies the nature of the disadvantage suffered by minority language speakers. It suggests, for example, that translation can ensure that linguistic minorities access the legal process on the basis of equality, that is, that “competent interpreting can put a person in the same position as a speaker of the official language would be” (Angermeyer 2013, 105). In reality, linguistic minorities often face multifaceted, systemic, and institutionalised forms of disadvantage. As a result of their limited knowledge of the dominant language, they are often socially and economically marginalised, with limited access to good jobs and education, and virtually no political power or representation in public institutions. Translation may provide these groups with the appearance of equality before the law, but in reality, their participation in the legal process may be hampered by a range of other factors. Focusing

on language as a barrier to be overcome through translation tends to obscure broader questions of the structural disadvantage suffered by linguistic minorities across the board. It suggests that linguistic difference is just a technical problem to be overcome, thus masking the way in which such difference can provide the basis for entrenched, institutionalised inequality and injustice.

In all these ways, international law fails to attend to the political consequences of translation, as well as the political background against which translation policies take effect. Doing so not only limits the ability of international law to translate language rights into linguistic justice. It implicates international law in reinforcing the structures of power which disadvantage minority language speakers.

#### **4. Conclusion**

Translation is key to international law's promise of linguistic justice for minority language speakers. Across diverse fields of international law and throughout the accompanying legal discourse, translation is implicitly or explicitly mandated as the primary means of addressing injustices faced by linguistic minorities. Yet the way in which this discourse conceptualises the practice of translation is limited in a number of ways. In particular, it is possible to identify four flawed assumptions about translation embedded in international legal discourse: that translation is straightforward or easy; that translation is expensive and impractical; that translation is just about words; and that translation is neutral or apolitical.

Each of these assumptions undermines the ability of international law to respond to linguistic injustice, by obscuring the true extent of the injustices suffered by linguistic minorities and the real costs and consequences of offering translation to remedy them. As a result, international law not only fails to achieve its emancipatory potential, but in fact contributes to affirming the power relations between dominant and minority languages that disadvantage linguistic minorities.

Addressing this issue will require international lawyers to be much more attentive to insights from other disciplines, such as sociolinguistics and translation studies, regarding the practice and politics of translation. It will also

require a willingness to embrace more “radical” solutions to the problems of linguistic diversity, including institutional change and policies of multilingualism. Without such a shift, the promise of linguistic justice inherent in international law will remain always lost in translation.

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## Should raw machine translation be used for public-health information? Suggestions for a multilingual communication policy in Catalonia

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### Abstract

As Catalonia becomes increasingly multicultural as a result of immigration on many levels, official government communications are received by speakers of numerous different languages. For some languages, this is achieved through the employment of qualified translators. For the non-official languages, however, there is increasing reliance on the use of free online machine translation, explicitly without human correction (“post-editing”). Here we survey the use of Google Translate on the official website of the Catalan health service, focusing on COVID-19 vaccination information in 2021 and 2022. We identify the strategic advantages of machine translation and then survey the nature of the main errors made, some of which border on the incomprehensible and self-contradictory. It is proposed that a multilingual communication policy is needed for the mitigation of errors not just through the judicious use of translation memory software and efficient post-editing, but most especially by editing texts in such a way that the machine translation problems are solved before they appear (“pre-editing”). In the relative absence of policies for non-official languages, strategic planning is required in order to ensure that the benefits of machine translation can work towards a more inclusive society, rather than alienate users who merely see their language being abused.

**Keywords:** machine translation, post-editing, pre-editing, social inclusion



## 1. Introduction

The COVID-19 pandemic presented new challenges for many social practices, among them basic language policies. Traditional territorial policies would seek to ensure the rights of long-term social groups to official-language status over a temporal dimension measured in generations: in the case of Catalonia, this fundamentally concerns relations between Spanish, Catalan, and Aranese Occitan. In times of a pandemic, however, communication is needed with all the people actually living in a territory, no matter what their language, since collective well-being depends on actions such as limiting mobility, wearing masks, and accepting vaccination. Territorial policy thus has to address complex issues of mobility and inclusion (cf. Grin 2022). Only when *all* the people in the territory change their behavior can collective well-being be enhanced to the fullest extent. So what happens when traditionally territorial policy meets an urgent communication challenge that involves mobility and inclusion? Here we look at the communication practice of the Catalan government health service, particularly its public website, where the prime solution to this particular problem was to use raw machine translation output.

Within the field of healthcare communication, vaccination information is of particular interest in that it requires a high degree of trust on the part of the receiver of the communication (Pym 2020b; Pym & Hu 2022). The complexity of the raw medical information is such that the general public does not have direct access to it in terms of interpretative skills. The actual risks are thus very difficult for the individual to assess, and in this case the issue was further complicated by the circulation of conspiracy theories for all tastes (Gualda et al. 2021). There are few kinds of communication that are so dependent on the perceived trustworthiness of not only the message, but more particularly the sender of the message. We are thus particularly interested in the quality of texts that are visibly mediated by unedited machine translation. What kinds of errors are involved and how might those errors be mitigated so as to produce translations that are more trustworthy?

## 2. Previous research

Our own interest in these questions stems from data collected within the large research project *Mobility and Inclusion in Multilingual Europe* (2014–2018), where we were looking at the mediation strategies used by speakers of marginalized or minoritized languages. Asylum seekers were found to be using machine translation to access official information in detention centers in both Leipzig (Fiedler & Wohlfarth 2018, 279–280) and Ljubljana (Pokorn & Čibej 2018, 297–298). This typically involved short-term communication solutions such as looking up key terms prior to a visit to the doctor, thus enhancing communication in the host language, and as a tool for language learning. In our interview study of the Russian community in Tarragona–Salou (Ayvazyan & Pym 2018, 2022), we found that 78% of our 50 respondents reported using machine translation, especially the younger community members, even though they were generally aware of the possible errors. Such widespread use of machine translation is sprinkled with occasional comments that the resource could be used to check on human mediators who were not entirely trusted (Ayvazyan & Pym 2018, 350; Pym 2018, 261). Machine translation might make mistakes, but it offers relative independence (the user is in control of the input) and confidentiality (what you say might not be reported to an authority). Many of the asylum seekers come from countries where public officials are quite likely to be biased and might indeed operate as spies (Allaby 2018). User-initiated machine translation thus offers clear advantages over mediation via interpreters, for example, with respect to speed, cost, user independence and ostensible confidentiality (Pym 2018, 260–261). These virtues are to be counterbalanced by a lack of translation quality, which the user may or may not perceive adequately.

This pragmatic use of machine translation would appear to have become a general social phenomenon. It has been calculated that human translation accounts for less than 0.69% of the words translated in the world (Pym & Torres-Simón 2021, working from Wood 2018), although little is known about how well or badly all those users actually interact with the output. The need for some basic training in the area is underscored by growing attention to machine translation literacy, which would include knowing when and where *not* to use machine

translation and how to negotiate clear translation errors (cf. Bowker 2009, 2019; Bowker & Buitrago-Ciro 2019).

There is some evidence on the way machine translation is used in provider-initiated healthcare communication. A literature review by Al Shamsi et al. (2020) compares 14 studies on communication solutions in healthcare and finds that cost and time delays are major factors in medical consultations. They further conclude that online translation tools present viable solutions in some situations and can be combined with the provision of interpreting services. Flores (2005) reviews 36 studies on English-language health services and concludes that “multiple studies document the positive impact that both trained, professional interpreters and bilingual providers have on LEP [Limited English Proficiency] patients’ quality of care” (2005, 255). A large study by Lindholm et al. (2012) suggests that the savings of professional mediation are most pronounced when interpreters are present at admission only or at both admission and discharge; there may be no savings at all when there is a less targeted use of human mediation (cf. Wallbrecht et al. 2014). This suggests that in the more run-of-the-mill low-stakes medical encounters, there are situations when provider-initiated machine translation could provide workable solutions, alongside intercomprehension, medical staff who speak something of an L2, and volunteer mediators such as family members. As Al Shamsi et al. (2020) conclude, machine translation is indeed being used in low-stakes exchanges, although there is still little empirical evidence of its actual effects.

A similar literature review by O’mara and Carey (2019) looks at seven recent studies on government information for culturally and linguistically diverse communities in Australia. Although the survey generally finds that effective strategies mix translation and interpreting services with other communication strategies, the reviewed studies that included machine translation were almost exclusively restricted to the education field. There was very little empirical evidence on the actual effects of machine translation: “At present, it is not clear whether information technology is effective for translating government information” (2019, 19).

These studies are to be placed against a background of industry claims that parity has been reached between neural machine translation and human

translation (Hassan et al. 2018). That assessment is nevertheless based on assessment of the content (not form) of isolated sentence pairs, where non-professional users could not distinguish between the two with significant frequency. Real-life usage tends to concern texts rather than isolated sentences (Läubli, Sennrich & Volk 2018), and harm can come from actual translation errors rather than a receiver's incapacity to distinguish between human translation and machine translation.

Considerable academic attention has been paid to how translators correct raw machine translation output ("post-editing") (see, for example, volume 38 of the *Journal of Specialised Translation* in 2019), which would constitute a mode of machine translation literacy that requires specialized training to be carried out effectively (Nitzke, Hansen-Schirra & Canfora 2019). In a review of empirical studies prior to the advent of neural machine translation, Koponen (2016) concluded that post-editing *can* give results similar to professional human translation. More recent research, however, tends to find that the inclusion of machine translation in the work process has mixed but generally negative effects on the final translation quality, although it tends to offer some time gains (cf. the reports in Moorkens et al. 2018; Macken, Prou & Tezcan 2020).

In comparison, there are fewer empirical studies on the way texts can be edited especially for machine translation ("pre-editing"). This involves removing instances of "negative translatability indicators," in other words elements that are likely to be problematic for machine translation (O'Brien 2006, cf. Pym 2020a). There are general guidelines for pre-editing (see for example the "translation-friendly writing" outlined in Bowker & Buitrago 2019). The guidelines in many respects follow those of controlled language, which might be dated from Ogden's project for Basic English (1932), so on one level the principles are by no means new. Marzouk and Hansen-Schirra (2019) nevertheless report that their use of controlled language made no significant improvement to neural machine translation output between German and English. There are also other principles that seem more language-pair-specific (for example, Hiraoka & Yamada 2019 for Japanese-English). Ideally, specific indicators should be identified for specific domains and for particular language pairs or language families. Further, our informal classroom experiments over the years (Pym 2019, 333-334) suggest

(but do not prove) that pre-editing usually takes more time than post-editing, which implies that it is only worth doing when a given start text is to be translated into more than a few target languages.

Despite these various studies, there is widespread belief that machine translation should not be used for high-stakes texts. Even the most innocuous and well-intentioned errors can leave speakers of a language feeling relegated to an inferior status (cf. Angermeyer 2017; Bowker 2009, 147). Hale and Liddicoat (2015), writing just prior to the use of neural machine translation, claimed that machine translation was basically unsuited to situations where accuracy and cultural values were important, especially in healthcare. When press reports made it known that the Australian government used machine translation in the early stages of its COVID-19 messaging (Dalzell 2020), there was considerable outrage across the community of professional translators (cf. American Translators Association 2020). It became general Australian government practice to avoid machine translation in healthcare messaging.

Little did the Australians know that precisely the opposite communication solution was being adopted in Catalonia at the same time.

### **3. The GenCat website as an application of non-policy**

Language policy in Catalonia is squarely focused on the defense of Catalan in terms of historical territorial rights. The official status of Catalan is implied in Article 3 of the Spanish Constitution of 1978 and has been developed in Catalan legislation on language normalization in 1983 and on language policy in 1998. Public education adopts a basic policy of immersion in Catalan, with ongoing debates and legal decisions about the relative use of Spanish. There appears to be no policy specifically dealing with the provision of government services in non-official languages, although there is indirect mention in some provisions for bilingual education (Ali & Ready 2021). There is, however, a general policy trend towards the use of artificial intelligence in government services, and particularly towards online solutions in healthcare. The Digital Spain 2025 initiative (Ministerio de Asuntos Económicos y Transformación Digital 2022), embedded in the wider European agenda for digital transformation, includes goals such as “empowering

patients with telemedicine tools, self-diagnosis and *greater accessibility*" (emphasis ours). The use of automated language services is part of that vision.

Here we focus on the official website of the health services of the Catalan government, the Generalitat de Catalunya (GenCat). This is the site to which most municipal websites refer in Catalonia; it gives the official updates on all aspects of health services, from how to deal with mosquito bites through to how to survive COVID-19. The COVID-19 information is regularly updated in Catalan as the start text. A drop-down menu at the top of the page invites speakers of Spanish, English, and French to select their language and then see the page as translated by Google Translate. Speakers of other languages can do the same if they know how to go to the Google Translate site and insert the URL (133 languages are currently provided for by Google) but the GenCat page limits its healthcare menu to Spanish, English, and French.

Why should official healthcare communication be given in raw machine translation? Apart from the advantages of speed and cross-language coherence (since only one language version needs to be updated), a policymaker might argue that only a negligible percentage of the population actually need these translations. It is difficult to estimate the number of people concerned. Since the start texts (STs) for the translations are indicated as being always in Catalan, the users could be anyone in Catalonia who does not understand that language. According to official statistics for 2018, that number would be 512,068 people, some 6.6 percent of the population (Idescat 2018a). We note, however, that the official survey asked respondents whether they were "able to understand a conversation on an everyday topic" in Catalan (Idescat 2018a), which would be the operative definition of "understand" here. One doubts that official COVID information really counts as an everyday conversation, so the potential population could be considerably greater than 6.6 percent – enough to compromise attempts at universal vaccination.

Here we are not focusing on Spanish because the quality of the machine translation between Catalan and Spanish tends to be high: the two languages are highly cognate and the paired databases are very extensive (daily newspapers are machine translated from Catalan to Spanish). This leaves the English and French versions of the COVID-19 information provided by GenCat, which are the

machine translations made available to people in Catalonia who say they do not speak Spanish or Catalan. How numerous would those people be?

According to the official 2018 language survey, only 0.2 percent of the total population say they do not understand Catalan or Spanish (Idescat 2018b). This percentage is perhaps small enough for a policymaker somewhere to have dismissed it as not worth including in a developed communication strategy, even though it is still a sizeable population of 15,507. There are several reasons to suspect that the actual number is considerably greater.

First, once again, the 0.2 percent only represents the people who say they understand an *everyday conversation* in Spanish or Catalan. But healthcare directives are not everyday conversations.

Second, in 2021 there were 30,270 interpreting services rendered in the Catalan courts, almost twice the number of people that the language survey records as not speaking Spanish or Catalan (Suport Judicial 2021, 2). One notes that some 43 percent of those services were actually for Arabic (Suport Judicial 2021, 2, 8), for which the lingua franca on the GenCat website would tend to be French.

Third, the speakers of non-official languages form relatively transitory social groups, based on wealthy mobility from the North and economic migration from the South. This means their presence is likely not to be fully reflected in the official language surveys. These are also groups that tend to use English as a lingua franca, significantly among retirement immigrants (Gustafson & Laksfoss Cardoso 2017). In fact, the language survey itself indicates that many speakers of languages other than Spanish and Catalan turn to English as a second or third language: some 52 percent of non-Spanish citizens in Catalonia say that they understand English, as opposed to 44 percent for Spanish citizens (Idescat 2018b). This is another reason to suspect that the number of potential users of the raw machine translations is greater than 0.2 percent of the population.

#### 4. Methodology

Here our mission is to use text comparison to identify errors in the raw machine translations and to test post-editing and pre-editing as ways of mitigating those errors.



The GenCat website for COVID-19 information has been studied by our research students Marc Anguiano Musons in 2021 and Jonathan Prioleau in 2022. Both surveyed the entire website, although here we focus only on vaccination information. The 12-month difference between the two studies allows us to track certain changes made to the site, especially with respect to the correction (and mostly non-correction) of errors. Prioleau (2022), who was employed at the time as an interpreter at a clinic in the United States where COVID-19 vaccinations were given, also undertook post-editing of the site from Catalan to English, which we have compared with the raw machine translation available in 2022.

The information provided by these comparisons affords a general overview of the use of raw machine translation. In broad terms, the translations are surprisingly readable, to the extent that almost all the basic information could be understood correctly. The advances made in neural machine translation since 2016 are palpable. At the same time, however, there are errors that stand to impair the comprehension and sometimes the actionability of the texts. Our focus is on those errors.

A methodological difficulty here is the fact that not all errors are of the same magnitude and many have different consequences for different receivers, who have variable bilingual skills, health literacy, machine translation literacy, and culture-specific propensities to trust. We have conducted a small reception study with 19 subjects, using eye-tracking and questions about comprehension and trust with respect to a few of our examples, but the significant subject variables extend well beyond the scope of the present report. For example, in follow-up interviews, our university exchange students were particularly skilled at navigating around errors (they have good machine translation literacy) but approached the problems in very different ways: a German-speaking student was not too flustered by contradictions in the machine translation (“I would speak with friends to clear that up”) whereas a Japanese-speaking student assumed the errors were with her language skills and there was nothing wrong with the machine translation (“I trust it because it is from the government”). We leave those subject variables for another day. We nevertheless draw on that input implicitly in privileging the errors that are most obvious to both us and to our subjects, proceeding as would



a grammarian who fundamentally relies on their own internalized language competence.

We thus basically fall back on textual comparison to ascertain: 1) how human post-editing can repair errors (by comparing the 2022 raw machine translation with Prioleau), and 2) how minimal pre-editing can avoid some machine translation errors before they occur.

## 5. The variable need for post-editing

Here we present an overview of the main types of translation errors. Prioleau (2022) offers a bottom-up categorization of errors, which we adopt here. Since our interest is in how the errors might be avoided by post-editing and pre-editing, we offer illustrative examples rather than a quantitative analysis. Our presentation goes from the most obvious errors that concern actionability as well as comprehension, to those around which there is more scope for interpretation and some receivers can construe correct readings.

### *Untranslated images blocking actionability*

One of the guidelines for effective healthcare information is that images be used to lead readers through the text (Shoemaker et al., 2014). Unfortunately, machine translation will usually not render text that is embedded in images. In some cases, this can lead to a loss of actionability. In 2022, the GenCat website included an image with a text announcing information on who was eligible to receive a booster shot of the COVID-19 vaccine. Here is the image with the accompanying machine translated text in English:



Clearly, the translated text below the image did not make mention of the key linguistic information: that this announcement concerns the booster shot. For the English-language user, this instruction is entirely readable (a group has opened, somewhere) but wholly unactionable (what is it open for?). The recommendation for website managers is clear and simple enough: do not embed text in images. At best, the user will wonder what they are missing.

### *Omissions blocking actionability*

Neural machine translation can make minor omissions in order to smooth a text and enhance its readability. The omissions are often inconsequential, but not always. In the following case, an important negation goes missing:

ST: Fes gestions de forma no presencial amb el sistema sanitari.

MT: Make arrangements in person with the healthcare system.

Human PE: Access your healthcare system online.

In other words, the machine translation omission of “no” to qualify “presencial” effectively produced the opposite meaning, in this case with consequences for actionability.

A similar reversal occurs with the Catalan preposition “a,” which can mean “to” but also “at”:

ST: Descarrega el teu certificat COVID a La Meva Salut

MT: Download your COVID certificate to My Health.

Human PE: Download your COVID certificate at My Health (La Meva Salut).

These are examples of cases where some degree of post-editing is essential, if only to have a pair of human eyes check the text and authorize it, as might a notary in the legal field.

### *Hallucinations with potential legal consequences*

Perhaps the most high-stakes translation error comes in the webpage where the use of machine translation is explained. Here is a screen shot from June 2022:



This disclaimer appropriately informs the user that the translation “may contain errors,” which might offer some degree of legal protection in the case of harm ensuing from misinterpretations. The text also identifies the legitimate advantages of the strategy: a basic understanding of the information and real-time updating of the contents. The translated text, however, refers to “the Catalan language versions of this website,” whereas the Catalan start text makes it clear that it should refer to all the versions *except the one in Catalan*: “Les versions en idiomes diferents del català d’aquest web es fan amb el traductor de Google” (italics ours). This could be one of those mysterious errors that are called “hallucinations” in research on neural machine translation (for example, Raunak et al. 2021), since the pathology is clear but the causes are not. One doubts the disclaimer will offer much legal protection.

### *Domain misidentification challenging comprehension*

Since Google Translate is designed for very general use, it can fail to identify the specific terms used in a given field. The most egregious example of this is the rendering of “dosi de record” as “record dose” and occasionally “memory dose,”

rather than the accepted English term “booster shot.” The machine translated names are simply not recognized by users who do not speak Catalan or Spanish.

Similar examples include the Catalan term “quarantena” (quarantine) rendered as “forties,” which it can also mean sometimes but not in this context: “If you are in your forties because you have become in close contact with someone with COVID-19 . . .” Another instance concerns the word “convocatòria,” which can elsewhere be translated as “call” but not here:

ST: Si ja tens administrada una primera dosi de la vacuna contra la COVID-19, descobreix com es duu a terme la convocatòria de la segona dosi.

MT: If you have already received a first dose of the COVID-19 vaccine, find out how the second dose is called.

Human PE: If you already have your first COVID-19 shot, find out how to get your second COVID-19 shot.

A rather more innocent example of the same problem is found in the subheading “Salut A-Z,” where the healthcare information is presented in alphabetical sections, from A to Z. The word “salut” has multiple meanings in Catalan, including not just “health” but also “cheers” or even “hello.” The machine translation unfortunately went for the last-mentioned option: “Hi AZ.” The website is apparently greeting an unknown interlocutor by the name of AZ.

In these examples, the use of machine translation leads to merely useless pieces of language. Although comprehension is made difficult, there is little risk of a false action being taken. A moderately socialized reader is unlikely to, assume that contact with COVID changes their age, fret over a secret name for a second vaccination, or wonder who AZ is. We would hope that basic machine translation literacy enables users to filter out these infelicities.

In all these cases, the problems could be avoided by preparing a field-specific glossary and/or translation memory, feeding it into any standard translation memory suite, then selecting settings that allow it to override the general machine

translation feed or otherwise instructing post-editors to apply the glossary, not the machine translation proposals. The same GenCat website lists several such glossaries under “recursos” (resources).

### *ST polysemy challenging comprehension*

There are also cases where the potential polysemy of the start text creates problems:

ST: Dispensadors de gel hidroalcohòlic

MT: Hydroalcoholic ice dispensers

This is a simple mistranslation that appeared in 2021 (Anguiano-Musons 2021, 16). The Catalan term “gel” can mean both “gel” and “ice,” and the machine translation preferred the latter. In 2022, the term was replaced on the Catalan website by “solucions hidroalcohòliques” (hydroalcoholic solutions) or “preparats hidroalcohòlics” (hydroalcoholic preparations), both of which successfully avoid the suggestion that people should be washing their hands with ice. But the cat was out of the bag. When we searched for “hydroalcoholic ice dispensers” in July 2022, we found some 67 hotels and public institutions that had repeated the same error, perhaps because they copied the official terminology. We nevertheless have no reports of people washing their hands with ice.

### *Complex grammar challenging comprehension*

A general rule of thumb in machine translation assessment is that the longer the sentence, the more likely the errors of syntactic reference. An example:

ST: Totes les persones, incloent-hi els infants, si són un cas positiu de COVID-19 o si estan realitzant una quarantena per contacte estret no es poden vacunar.

MT: Not all people, including children, can be vaccinated if they have a positive case of COVID-19 or if they are undergoing close contact quarantine.

Part of the problem here lies in the tortuous logic of the Catalan sentence, but the technical problem for the machine translation is that the negative particle “no” comes near the end of the sentence and the algorithms have a tough time knowing what it applies to. In principle, “Not all people can be vaccinated if they have a positive case” implies that some people who have been exposed to COVID-19 can, in fact, be vaccinated. This is not the case, as can be made clear in a human translation that applies considerable syntactic simplification:

Human PE: If you are COVID-19 positive or in quarantine due to close contact, you cannot be vaccinated. This includes children.

The remedy here is clear and well-known: avoid long sentences and keep the logic simple.

## 6. The discrete presence of human translations

Despite the overriding reliance on machine translations in this website, there are a few fully human translations to be found. Our search conducted in June 2022 required quite a few clicks to locate a well-translated brochure *The COVID-19 vaccination guide*. Here the medical terms are generally correct (“vaccination shot” instead of “dose,” for example). But when we looked for the term “booster shot,” it was nowhere to be found. The brochure was published in October 2021, so when we were looking for information in June 2022, it was woefully out of date. This serves to illustrate the major theoretical advantage of machine translation: updates are made to the Catalan text, and all other versions are updated automatically.

A second human translation was found in quite a different part of the website. Under information for “people from Ukraine with temporary protection,” we find a PDF with the basic Catalan information, an English translation that might

be human (it correctly refers to the “booster shot”), and a human translation into Ukrainian. All foreigners are equal, but some are more equal than others, it seems.

<b>Atenció sanitària a les persones d'Ucraïna amb protecció temporal</b>	<b>Охорона здоров'я громадян України в ситуації тимчасового захисту</b>	<b>Healthcare for people from Ukraine with temporary protection</b>
Si necessites atenció sanitària, tindràs la mateixa que tenim els ciutadans de Catalunya. L'atenció sanitària es gratuïta.	Ви маєте однакові з громадянами Каталонії права на охорону здоров'я та медичну допомогу. Медичне обслуговування є безкоштовним.	If you need healthcare, you will have the same coverage as Catalan people. Healthcare is free of charge.
També tindràs accés a les vacunes que hi ha al calendari de vacunes sistemàtiques i també a la vacuna contra la COVID-19, o la dosi de record, si ja la tens administrada.	Ви також маєте право на вакцинацію згідно з календарем систематичних щеплень, а також на вакцини проти COVID-19 або на бустерну дозу, якщо ви вже вакциновані.	You will additionally be able to get the vaccines on the routine vaccination schedule and also the Covid-19 vaccine, or alternatively the booster shot if you have already received it.

The intriguing thing about the texts here is that the last sentence is potentially nonsensical in English if read as follows: “you will be able to get [...] the booster shot if you have already received it.” The same apparent contradiction is in the Catalan – this is a case of challenging writing, not bad machine translation. But the Ukrainian here uses explication to make the meaning clear: it back-translates as “or the booster shot, if you are already vaccinated.” Here, as in many of the examples above, the basic cause of the problem is the way the Catalan start text is written. And that is something that could be changed.

## 7. The virtues of pre-editing

The above examples include the most common pitfalls of machine translation: domain-inappropriate terminology, lack of contextualization, grammatical confusion, pronoun misattribution and unwarranted smoothing, all of which is well-known. One could also argue, however, that the problems lie not with machine translation as such but with the way it has been used as a once-and-for-all solution. This concerns more than the kind of poor workflow management that results in untranslated images. It also has to do with not testing the translated website before publishing it. And it further ensues from not considering any of the many ways in which relatively simple technologies and workflows could have removed most of the errors we have just seen.

Most of the solutions are within easy reach. The most obvious and perhaps expensive kind of improvement involves translators regularly checking the machine translation output, doing post-editing before mistranslations are released to the population. A more cost-effective solution is to use translation memory software into which one has not only whatever machine translation feeds one wants but also authenticated propositions from all previous translations, within which the new updates stand out and can be focused on immediately. The software also includes domain-specific glossaries that can be set to override the proposals coming from raw machine translations, thus solving the problem of indiscriminate terminology. The translation automation association TAUS provided free translation memory databases at the beginning of COVID-19, including for Spanish–English, but there is no sign of them here. The political decision to use Catalan as a start language, understandable enough in political terms, meant that the extensive resources available for work between Spanish and English could not be used.

An alternative solution is to edit the start text in such a way that the MT problems are avoided before they appear. This basically involves simplifying text. It is technically called “pre-editing,” as opposed to “post-editing,” which is an intervention *after* the passage through machine translation. As noted, our classroom experiments find that pre-editing typically takes more time than post-editing and might thus appear less cost-effective. Its benefits, however, can automatically appear in *all* the languages into which machine translation is carried out. If one is going into three languages, as is the case here, pre-editing is likely to be more cost-effective than post-editing. And if it is done well, then there is no reason why machine translation should not be provided in many more languages as well, especially those that are relatively cognate.

To illustrate the virtues of pre-editing, here we use a little reverse engineering. In the examples below, we take the problematic cases we have seen in the start texts above (ST in Catalan), we give the raw machine translation with the problems indicated in italics (MT in English), we revise the Catalan input so as to avoid the machine translation problems (Revised ST in Catalan), and finally we present the raw Google Translate version of that revised text as it was rendered in July 2022 (New MT), without applying any special glossary or translation memory. Here we



also add the raw French MT of the original ST and the revised ST, to indicate that the problem can potentially be solved not just for English but for other languages as well (and bearing in mind that many speakers of Arabic, as mentioned, are likely to use French as a lingua franca). It is important to note here that this activity has been carried out bottom-up, working from the errors in order to remove their causes, rather than as a top-down application of an abstractly defined controlled language – one recalls that Marzouk & Hansen-Schirra (2019) found that controlled language had no significant effect in a similar situation. This is because we want to capture the kinds of solutions that can work in this particular domain, for this kind of text, and for more than one target language. After each case below, we nevertheless give a guideline that might apply more generally when healthcare messaging is being written.

And so to the examples:

ST: Descobreix com es duu a terme la convocatòria de la segona dosi.

MT-EN: Find out how the second dose is *called*.

MT-FR: Découvrez comment s'effectue l'appel pour la deuxième dose.

Revised ST: Descobreix quan i com pots rebre la segona dosi.

New MT-EN: Find out when and how you can receive the second dose.

New MT-FR: Découvrez quand et comment vous pouvez recevoir la deuxième dose.

Proposed guideline: Since the term “convocatòria” is problematically ambiguous, spell out what it means in this context. (Note that if we want “dosi” to be rendered as “shot,” we would have to add a specialized glossary or translation memory.)

ST: Salut A-Z

MT-EN: *Hi* A-Z

MT-FR: Santé de A à Z

Revised ST: Temes de salut de A a Z

New MT-EN: Health issues from A to Z

New MT-FR: Les thématiques santé de A à Z

Same principle: Explicitate the potentially ambiguous terms. Note that the first French MT was fine here but was not excessively harmed by the pre-editing.

ST: Fes gestions de forma no presencial amb el sistema sanitari.

MT-EN: Make arrangements *in person* with the healthcare system.

MR-FR: Prendre des dispositions *en personne* avec le système de santé.

Revised ST: Fes gestions en línia amb el sistema sanitari.

New MT-EN: Make arrangements online with the healthcare system.

New MT-FR: Prendre des dispositions en ligne avec le système de santé.

Proposed guideline: Opt for a more clearly distinguished term – admittedly at the risk of an Anglicism in this case, but that might be considered a valid trade-off.

ST: Totes les persones, incloent-hi els infants, si són un cas positiu de COVID-19 o si estan realitzant una quarantena per contacte estret no es poden vacunar.

MT-EN: *All people*, including children, if they are a positive case of COVID-19 or if they are undergoing close contact quarantine *cannot be vaccinated*.

MT-FR: *Toutes les personnes*, y compris les enfants, si elles sont un cas positif de COVID-19 ou si elles sont en quarantaine en raison d'un contact étroit *ne peuvent pas être vaccinées*.

Revised ST: Ningú que tingui COVID-19 o que faci una quarantena per contacte estret pot vacunar-se. Això també s'aplica als nens.

New MT-EN: No one who has COVID-19 or who is in close contact quarantine

can be vaccinated. This also applies to children.

New MT-FR: Personne qui a le COVID-19 ou qui est en quarantaine en raison d'un contact étroit ne peut se faire vacciner. Cela s'applique également aux enfants.

Proposed guideline: Write short sentences in order to avoid syntactic complexity. Here the obscurity is reduced by moving the embedded clause away from the verb.

ST: Descarrega el teu certificat COVID a La Meva Salut.

MT-EN: Download your COVID certificate *to* My Health.

MT-FR: Téléchargez votre attestation COVID à La Meva Salut

Revised ST: Descarrega el teu certificat COVID des de la web de La Meva Salut

New MT-EN: Download your COVID certificate from the My Health website.

New MT-FR: Téléchargez votre certificat COVID sur le site Ma Santé.

Same guideline: The ambiguous preposition has been replaced by one that is not so ambiguous.

ST: Si el teu fill o filla és un cas positiu de COVID-19 no es pot vacunar. Tampoc si està realitzant una quarantena per contacte estret.

MT-EN: If your son or daughter is a positive case of COVID-19 you cannot be vaccinated. *Nor if you are performing a quarantine by close contact.*

MT-FR: Si votre fils ou votre fille est un cas positif de COVID-19, ils ne peuvent pas être vaccinés. Ni si vous êtes mis en quarantaine pour contact étroit.

Revised ST: Un nen no es pot vacunar si té COVID-19 o si fa una quarantena per contacte estret.

New MT-EN: A child cannot be vaccinated if they have COVID-19 or if they are in quarantine due to close contact.

New MT-FR: Un enfant ne peut pas être vacciné s'il a le COVID-19 ou s'il est en quarantaine en raison d'un contact étroit.

Guidelines: Position the subject first and as close as possible to the verb; avoid pronouns.

ST: Tindràs accés a la vacuna contra la COVID-19, o la dosi record, si ja la tens administrada.

MT-EN: You will have access to the vaccine against COVID-19, *or the record dose, if you already have it administered.*

MT-FR: Vous aurez accès au vaccin contre le COVID-19, *ou à la dose de rappel, si vous l'avez déjà reçu.*

Revised ST: Tindràs accés a la vacuna contra la COVID-19. Si ja ets vacunat, tindràs accés a la dosi de record.

New MT-EN: You will have access to the vaccine against COVID-19. If you are already vaccinated, you will have access to the booster dose.

New MT-FR: Vous aurez accès au vaccin contre le COVID-19. Si vous êtes déjà vacciné, vous aurez accès à la dose de rappel.

Guidelines: Split long sentences; avoid pronouns. There is also a domain-specific trick here: "dosi record" gives "record dose," but "dosi de record" translates as "booster dose," which is more likely to be understood.

From such bottom-up reverse engineering, one can extract some quite logical desiderata: short sentences, no grammatical complexity, no pronouns, and explicitation in cases of potential ambiguity. These principles all appear in the general guidelines for pre-editing (for example, Bowker & Buitrago-Cirio 2019, 55–78), so we claim no novelty on that level. At the same time, though, there are language-specific and domain-specific changes that go beyond the general guidelines: small changes in some start-text wordings can successfully avoid items like "alcoholic ice" for washing hands and a download that sounds like an

upload. We thus propose that at least one round of pre-editing should be done with the MT target text in live view (as can indeed be done in Google Translate and DeepL).

Of course, it might be argued that some of these results tend to sound like they come from English. At the end of the day, though, the aim of this messaging is to save lives, perhaps at the expense of a few items of deceptively autochthonous syntactic complexity. When you write the original Catalan messaging in such a way that it is easy to understand and act upon, that is good for Catalan users as well, in addition to the benefits it brings for machine translations of use to end users in other languages.

## 8. Conclusions

The use of machine translation for time-sensitive healthcare information seems not to correspond to any major policy decision in this case: territorial policies simply look the other way. The practice is nevertheless not without some justification. Its advantages include immediate updating of information, reduced costs, general understandability of basic information, and perhaps a reasonable level of acceptance among users who have basic machine translation literacy, particularly in situations where the translation connects with further checking processes and spoken exchanges.

If one wanted to isolate only the translation errors, especially the more comical ones, it would be easy to condemn machine translation out of hand. One could be quite reasonably outraged and then declare that machine translation should never be used for official communication, especially in the case of supposedly actionable healthcare messaging. One might further claim that, even if machine translation does not actually infringe on language rights, in this case it certainly risks alienating a considerable number of residents in the territory, thereby losing trust, reducing behavior change, and effectively compromising public health. It nevertheless seems more judicious to view these linguistic problems as hazards that, first, stand in a trade-off relationship to the several clear advantages of machine translation, and second, appear in machine translation as just one element in a more complex and ongoing communication practice.

Our proposal here is not to exclude translation technologies, but to work with them in order to find solutions to their current shortcomings. Basic translation memory software can override terminological and phraseological errors, highlighting updates, and allowing reasonably quick post-editing. In this particular case, however, with translation into three or more languages, the most cost-effective solution is certainly pre-editing, or just a start text written in clear, simple language, produced by professionals who are properly trained to write it.

If there is one policy recommendation to be made with respect to the use of machine translation for official messaging, it would be to have a policy. Territorial language debates, not just in Catalonia but generally across Europe, tend to sideline non-official languages as a problem for the speakers of those languages, who need to learn the official languages. In the case of urgent healthcare information, however, those priorities no longer apply: there is no time for learning languages; behavior changes are needed quickly. It is there, under time pressure, that policy is needed to regulate situations where technology can come to the fore. Such a multilingual communication policy must be designed to protect lives, not just languages.

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## **“It’s just another added layer of difficulty”: Language access equity and inclusion in pediatric interpreted medical encounters – Provider and interpreter perspectives**

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## **“It’s just another added layer of difficulty”: Language access equity and inclusion in pediatric interpreted medical encounters — Provider and interpreter perspectives**

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### **Abstract**

Limited English proficient or language-diverse patients and families in pediatric interpreted medical encounters (IME) are susceptible to health disparities and inequities in the US compared to English proficient patients and families in language-concordant medical encounters. Policies to improve access to language services intend to bridge this gap, yet evidence suggests that significant inequities still exist. This study explores perspectives of interpreters and pediatric critical care medical providers to better understand the complexities of IME in pediatric settings. Qualitative data were analyzed from two interview studies with medical interpreters and providers using thematic coding and inductive analysis. Several factors were identified by both interpreters and medical providers that negatively affected communication, equity, and inclusion. These included systems-level factors (e.g., time constraints and language variety), interpersonal factors (e.g., difficulties with communication and mistrust), and intrapersonal factors (e.g., implicit biases and judgements). These results highlight multiple layers of potential inequities which adversely affect patients and families in pediatric IME.

**Keywords:** language access equity, language access inclusion, pediatrics, medical interpreters, interpreted medical encounters

## 1. Introduction

English is not federally recognized as the national language of the United States, yet it is the common language used in institutions in the US, including the medical system. In this context, majority-language speakers use English to navigate health systems, while language-diverse communities navigate systems in non-English languages for a variety of reasons (e.g., degree of comfort or proficiency in English). In US pediatric hospitals and other medical settings, health disparities are well documented among language-diverse populations (often designated as Limited English Proficient in clinical practice and research) when compared with English-dominant populations (e.g., Eneriz-Wiemer et al. 2014, 133–134; Jimenez et al. 2014, 7–8; Zurca et al. 2017, 12).

Medical interpreters bridge the language and cultural gaps between English-speaking medical providers and language-diverse patients and their families to mitigate inequities stemming from language barriers. Studies demonstrate that interpreting services improve patient and family understanding of medical problems (Flores 2005, 295), quality of care, and health outcomes (Karliner et al. 2007, 743–744). However, underuse of language services “creates and perpetuates disparities” for language-diverse populations (Lion et al. 2021, 2) and maintains barriers to accessing health information (Diamond et al. 2008, 260). As such, language access and health literacy have been argued to be social determinants of health in these populations (Mellinger 2022, 117).

The foundation for language access rights in the US lies in Title VI of the Civil Rights Act of 1964, which prohibits discrimination in federally funded programs based on “race, color, or national origin” (Pub. L. 88–352, title VI, §601, July 2, 1964, 78 Stat. 252). Title VI’s national origin stipulation covers discrimination based

on language proficiency in English (US Department of Justice 2020) and paved the way for executive orders and other regulations that increased interpreting services provision in healthcare and other settings. The Affordable Care Act (ACA) of 2010 specifically identifies the need for hospitals to provide “qualified” interpreters who abide by “interpreter ethics and confidentiality,” have “proficiency in English and at least one other spoken language,” and have “the ability to effectively and accurately use the necessary terminology required by a certain interpreting situation” (United States 2010, Public Law 111-148). The ACA’s “qualified interpreter” guidance is essential for protecting patients and families against discrimination based on language use and promoting equity for linguistically-minoritized patients and families. Hospital systems support health equity by allocating resources, such as interpreting services, that promote equal access to healthcare and counteract historical injustice, minoritization of patient populations, and inequitable practices (Brownson et al. 2021, 2).

Despite the provision of language services, language-diverse communities interacting with the health system may experience minoritization due to language-based racialization and discrimination in clinical settings. Racialization is a process by which “racial meaning is attached to something that is perceived as ‘unracial’” (Gonzalez-Sobrino & Goss 2017, 505), such as language use. Linguist and educator Tove Skutnabb-Kangas (1990, 77) asserts that racialization of language use is a “sophisticated form of racism” in which linguicism (discrimination based on language use), racism, and ethnicism (discrimination based on ethnicity) work together to uphold unequal divisions of power within and among communities. Additionally, language-diverse communities in the medical system may experience racialization based on perceived immigrant status or assumptions of illegality (Anderson & Finch 2017, 220). Consequently, language-diverse communities may be multiply minoritized in US medical settings, where language use “has been solidly placed in the cultural category of racial/ethnic indicators” (ibid.) and intersects with elements of racial, ethnocultural, and socioeconomic identities.



Discrimination based on intersecting identities has been shown to result in inequitable access to health services (Anderson & Finch 2017) and may exacerbate health and health communication inequities (López & Gadsden 2016, 2–3). Even when language services are provided, discrimination, inadequate health communication, and provider dismissal of patient and family concerns may persist in medical encounters. Researchers have identified encounter-level inequities and systemic factors that represent obstacles to health equity for language-diverse communities; these include the underutilization of interpreters (Diamond et al. 2008, 259–260; Lion et al. 2021, 6–8) and provider trust concerns regarding interpreter neutrality and accuracy (Hsieh et al. 2010, 15–17). Such inequities persist in clinical settings despite the availability of interpreting services. Another obstacle to language access equity in interpreted medical encounters (IME) is securing quality interpreting services for languages of lesser diffusion (LLDs), which are languages used by small numbers of native speakers, ethnic minorities, asylum seekers or refugees who may also have limited written resources (Mikkelsen 1999, 362) and special healthcare needs (Gmünder et al. 2020, 7; Brandenberger et al. 2021, 2). Additionally, systems barriers to language access include a lack of training for diverse hospital staff on working with interpreters, provider and staff ignorance of mandates for providing language services (Rodrigues 2020, 175–176), ineffective interpreter scheduling processes (ibid. 198–200), and a lack of both federal and institutional funding for language services programs (ibid. 31, 164). Apart from these issues, little is known about other factors that exacerbate language access inequities in pediatric medical contexts, especially interpersonal (i.e., relational) and intrapersonal (i.e., within the individual) considerations at the encounter-level.

To address the above-mentioned gaps in research, this study analyzes data from two independent qualitative interviews, one with medical interpreters and the other with critical care providers from the same pediatric hospital. The two interviews were designed separately to understand the perspectives of each group regarding distress communication and emotional wellness in pediatric hospital settings. Although these interview studies were designed and analyzed separately, researchers with crossover research team

membership intended to compare responses to obtain a better understanding of stressful IME from various stakeholder perspectives. The combined analysis of interpreter and provider data discussed here revealed systemic, interpersonal, and intrapersonal factors that impede equity and inclusion in IME despite the provision of language access resources, such as interpreting services. These factors include provider and interpreter concerns about language resources, appraisals of IME, biases and stereotypes, mistrust, and concerns about teamwork in IME. Based on the results, the authors conclude that the presence of interpreters in IME is not sufficient for equitable language access for language-diverse patients and families. Medical providers and interpreters must work together to understand each other's communication aims and processes. Moreover, providers and systems administrators must advocate for interpreters to be viewed and treated as integral parts of the treating team, and systems administrators must promote a culture of language access equity and inclusion, which includes fostering appreciation of interpreters and their work as access facilitators. Results from interpreter and provider interviews are presented together below and are summarized in Appendix A.1.

## **2. Methods**

### *2.1 Positionality*

Positionality refers to the “stance or positioning of the researcher in relation to the social and political context of the study—the community, the organization or the participant group” (Coghlan & Brydon-Miller 2014, 628). Positionality influences assumptions about the study, as well as research and methods design (Creswell 2014, 3) and is interconnected with the researcher's personal and philosophical views. The research team involved in this project included diverse perspectives and clinical experiences, which allowed teams of practitioner-researchers to conduct transdisciplinary research in interpreting studies (Mellinger 2020, 96). Yet, researcher positionalities that aligned with participant positions in this study risked

introducing “implicit biases in the research, including what is commonly referred to as confirmation bias,” as Mellinger suggests (*ibid.*). Thus, the research team regularly revisited their positionalities and biases during the research process. Research team positionalities are described as follows: Amy Olen is a White, American, multilingual woman who has worked as a Spanish-English medical and community interpreter since 2005, and who researches and teaches Translation & Interpreting Studies at a US university; Paulina Lim is a predominantly English-speaking, multilingual Asian-American woman, a 1.5 generation immigrant, and a pediatric psychology resident; Charles B. Rothschild is an English-speaking, White, American man and a physician practicing Pediatric Palliative Care and Critical Care Medicine; Matthew Scanlon is an English-speaking, White, American man and physician in Pediatric Palliative Care and Critical Care Medicine; Kathryn Balistreri is a White, American, cisgender woman and a clinical psychology graduate student; W. Hobart Davies is an English-speaking, White, American man and a pediatric psychologist. PL, CBR, MS, and KB have experience working with interpreters in pediatric clinical settings. AO has worked as a medical interpreter in both pediatric and adult population healthcare settings.

## *2.2 Procedures*

The research described in this article originated in the interdisciplinary research group Pediatric CREWS (Collaborative for Resilience and Emotional Wellness Science) and was conducted by two research teams with crossover membership (PL, CBR, MS, WHD were on both teams; AO was on the interpreter-focused team, and KB was on the provider-focused team). The teams independently developed mixed-methods, qualitative interviews on communication with distressed families in pediatric settings and drew from two participant pools (interpreters and medical providers) from the same pediatric hospital. Both participant groups were asked about identification and communication of family distress, their emotional wellness in distressing pediatric encounters, and the resources they use to cope with distressing

content. The procedure for participant recruitment and data collection for qualitative interviews with interpreters was approved by the University of Wisconsin–Milwaukee Institutional Review Board (IRB # 20.124). Interviews with medical providers were part of a quality improvement initiative. The Children’s Wisconsin Institutional Review Board reviewed the project and determined it to be exempt.

One research team conducted interviews with 13 Spanish–English medical interpreters who had between 3–20 years of interpreting experience in pediatrics and who mostly identified as Latina or Hispanic women. One question in the interpreter interview was: “What are things medical providers do that make your job easier or more difficult?” Another research team conducted interviews with 37 pediatric critical care medical providers, consisting of 12 nurse practitioners, 13 fellow physicians, and 12 attending providers. Interviewed medical providers mostly identified as White (73%) and female (78%) and had between 3–39 years of clinical experience. One question in the provider interview was: “Tell me about your experiences working with distressed families while using an interpreter.”

Although these research questions were analyzed separately, researchers with crossover membership intended to compare responses to obtain a better understanding of stressful IME from various stakeholder perspectives. These two questions were analyzed together in the present study because participant responses described working with the other party in IME. The research team identified aspects of these descriptions as interpersonal factors affecting health communication access for language-diverse populations.

### *2.3 Data Coding and Analysis*

AO and PL coded both data sets separately and in two cycles: In vivo coding was used in first cycle coding to prioritize and honor the participant’s voices (Saldaña 2016, 105–110), and focused coding was used in second cycle coding to develop salient categories in the data (Saldaña 2016, 239–244). Once codes were categorized and finalized for each data set, comparative analysis was

used to compare codes from interpreter and provider responses. After this analysis, AO, PL, and CBR used an inductive thematic analysis approach. Additionally, AO, PL, and CBR discussed affinities among provider and interpreter responses to minimize confirmation biases (Mellinger 2020, 96). Themes were then shared and discussed with the broader research team (AO, PL, CBR, MS, WHD, KB) using a consensus building approach to finalize parallel themes in the two data sets.

### 3. Results

Interpreters were asked about helpful and unhelpful provider behaviors. Participants mentioned both types of behavior in their interviews, but they elaborated almost exclusively on unhelpful provider behaviors. Providers' responses to the open-ended question about working with interpreters were almost exclusively negative (one out of 37 providers responded that working with interpreters was helpful for understanding diverse patients' needs, but even this participant later articulated challenges of working in IME). The few instances of positive descriptions are reported in section 3.7 Interpreter-Provider Teamwork. Shared themes that emerged in the two data sets presented below are divided into interpreter perspectives followed by provider perspectives per theme. Transcriptions of participant quotes below use ellipses to signal elided false starts, filler words, and clauses (e.g., "like, um," "you know"), self-corrections, redundancies, and asides that researchers determined did not impact the meaning of the point being made in the cited quotation. Brackets are used to specify pronouns, nouns, verbs, and conjunctions referred to in participant speech segments which could be unclear to readers (e.g., "they're" is specified as [the doctors are]).

#### *3.1 Language services resources and use concerns: interpreter perspectives*

Interpreters expressed concerns regarding factors that impact medical providers' use, or failure to use, interpreting services. First, interpreters noticed providers' time constraints and their health communication as linked

and as affecting how interpreting takes place in IME. For example, one interpreter noted,

“I don’t want the doctor to feel like, ‘Oh my God, the interpreter’s here. This appointment is going to take . . . double of time because they’re just talking double.’ So, I’m always trying to use the space between their conversation to just add my information there, interpreting there . . . You need to be able to get into the empty spaces the doctor used to talk and be able to [interpret] right there.”

Another interpreter said,

“What makes it harder, I feel, are the providers who . . . you can tell they’re very, very, very busy people and [they] just stop by for five seconds and they blurt everything out and they leave, and I feel they don’t take those few extra seconds to make the family feel comfortable. They come in and out and they speak very fast and they dump all this information and then they leave. That makes it harder . . . I can tell you that most of the time it leaves the family . . . with questions but I think that behavior intimidates families to ask anything because they feel [the doctors are] in a rush and they don’t want to take any more of their time and then they don’t want to ask any questions. But then they’ll make comments afterwards like, ‘well he was in a rush, so I didn’t want to ask anything.’”

Another subtheme emerging from the interpreter data was interpreters’ concerns that providers make assumptions about a patient or family’s language proficiency, which then affects whether providers use language services. These concerns may also relate to providers’ time constraints. For example, an interpreter said,

“I had a situation where a dad understood but mom didn’t, so I had to talk to the provider. I was like, ‘yeah dad understood but mom doesn’t understand and, you know, both of the parents have to understand so it’s not ok for you to go in there without an interpreter there.’”

Another interpreter said that some providers think families understand English, which may not be the case. The interpreter commented that, nonetheless, based on this assessment, some providers don't use interpreters. The interpreter said,

"I would have situations where the provider wants to speak to a family without an interpreter present just because they think they [the family] have some understanding, but that doesn't mean they fully understand what they [the providers] are saying."

Another interpreter noted providers' disregard for families' language preferences, which may extend to how providers perceive interpreters' roles as language facilitators. This interpreter said,

"A lot of providers don't have much appreciation for the role of an interpreter and so they will just have a complete conversation with the patient. Especially if they [the pediatric patient] speaks English, and they think that parents should speak English too. There's a lot of opinionated doctors like that and so they have no regard for the parents and their language barrier."

### *3.2 Language services resources and use concerns: provider perspectives*

Providers expressed concerns regarding interpreting services related to availability of interpreters, length of the appointment, means of accessing an interpreter, and interpreting services quality. Providers also acknowledged differences in communication practices depending on whether they are treating language-diverse or majority-language patients and families.

Regarding availability of interpreters, providers identified that the time required to get interpreting services or services in LLDs is a challenge. For example, one provider said,

"Some languages are very difficult to find, especially the refugee ones. There are even some indigenous people from Guatemala or other countries—we speak Spanish to them, expecting them to know Spanish, but they may not. They may actually be from an indigenous native tribe that speaks their own language. And that's really difficult because now you're interpreting twice."

Another provider said,

“Sometimes you need [the interpreter] there and it’s going to be 15 or 20 minutes. Not usually, but once in a while, there’s a delay in getting them there, and so I think that can be hard if a parent is really distressed; they need someone there now to have that conversation. If you have to wait on the technology piece for that, that’s not ideal.”

Regarding concerns about the length of the appointment with interpreters, providers noted that the general rule of thumb that appointments take double the amount of time does not hold, and sometimes “it takes four times or even five times as long as an appointment in English.”

Next, providers had uniformly strong opinions regarding the means of accessing an interpreter and the quality of interpreting services. Almost all providers preferred in-person interpreters to video remote or telephonic interpreters, in that order. Providers expressed frustration related to accessing interpreters. For example, a provider shared,

“It’s a nightmare to try to use the phone interpreter. It’s not user friendly at all and it’s usually a 20-minute process and now I’m already feeling behind on stuff I [have to] get done for the patient and so by the time I actually get to talk to the interpreter, I’m annoyed.”

Providers noted a difference in the quality of interpreting LLDs. One provider noted that while Spanish interpreters, for example, “are easier to work with,” interpreters working with languages that are “not as common” or that are “more obscure are a little bit harder because those individuals don’t [interpret] as frequently . . . it does make it a lot more challenging because of the language barrier. It’s just another added layer of difficulty.”

Finally, providers commented on difference in communication practices with families that use interpreting services compared to families that do not. One provider said,



“I don’t have any data to back this up, but I do feel like people who are harder to interact with because you need an interpreter probably get less face-time in general than straight English-speaking families.”

While another provider reported,

“We spend less time with families just because the setup to get an interpreter there takes time and it’s all these added steps. We spend less time talking to families and making sure that they understand what’s going on. Or we give them [a lot] of information, and it’s a lot to handle, but we do it all because we have the interpreters here, so we get it all out in one conversation . . . A family that’s English speaking, we can give a little bit of information, come back, update with more information, come back, and so they can absorb it in smaller pieces. And that’s just really difficult to do with a family that doesn’t speak English and you have to use an interpreter.”

### *3.3 Appraisals of working in IME: interpreter perspectives*

Despite being asked different questions in the interviews, both providers and interpreters indicated appraisals (e.g., assessments, estimations, or value judgements) about working in IME. Interpreter appraisals emerged in response to the question, “What are things which medical providers do that make your job easier or more difficult?” Interpreters appraised provider behaviors in IME in both positive and negative terms (e.g., it is helpful when providers speak in short phrases, versus it is unhelpful when providers speak in long, rambling sentences). Interpreters who elaborated on appraisals overwhelmingly discussed medical provider behaviors in IME that negatively affect families and health communication. Therefore, the results here focus on those negative elaborations. Interpreters reported provider lack of respect, provider microaggressions and bias toward families in IME, instances of provider linguicism, and provider dismissal of family concerns. Regarding microaggressions and linguicism, microaggressions were classified as such when they were insults directed toward the language-diverse person that were not clearly and directly related to language use (e.g., education level, immigrant status). The research team decided to keep microaggressions and linguicism as separate codes after determining that the team did not have

enough information to suggest that microaggressions were acting as a proxy for linguisticism or language bias.

Regarding respect, one interpreter said that providers' lack of respect is exclusionary toward families IME, for example when providers direct communication toward interpreters in IME, as opposed to patients and families. The interpreter noted,

"Some providers that don't show the level of respect that they potentially show to an English-speaker. So just the way that they relate to the patient, like looking directly at the patient versus looking at me as the interpreter, that level of connection, human being to human being, should be between the provider and the patient or the guardian of the patient, not with the interpreter."

Interpreters also discussed instances of medical provider microaggressions and biases; how they impact families and interpreters; and whether interpreters convey provider microaggressions and biases to families in IME. Regarding an encounter with a provider, an interpreter disclosed,

"That doctor was being very inconsiderate to this mom. I've worked with her in . . . several clinics, and I know that . . . mom doesn't read English or Spanish. The doctor was a little nasty. He asked, like, 'So you don't know how to write?' . . . 'That's what happens when you don't go to school,' . . . and I think I skipped it because mom was very humble, and she was very concerned."

In this case, the interpreter may have omitted the provider's comment because of a perceived need to minimize harm to the mother.

Interpreters also reported provider linguisticism, understood as linguistic discrimination or unfair treatment based on language use and characteristics of speech, including first language, accent, size of vocabulary, modality, and syntax. On this topic, an interpreter said,

"A provider made a comment about the mom needing to learn English because she had already been here in the US for 20 years and it was about time she learned English. This was really tough . . . that made my job difficult, but I did what I had to

do. I did report that situation. Disrespectful to the mother and degrading as she felt really bad.”

Finally, interpreters described provider dismissal of family concerns in IME. For example, one interpreter said,

“Caregivers feel like, ‘Certain medication, I feel, is not good for my child, or it’s not doing the job that it’s supposed to do,’ and the providers kind of just brush it off instead of addressing the concerns and approaching it in a more caring way. It’s just kind of, ‘Give it some time. It’ll be fine.’ [These are] instances where the families don’t feel like they’re being heard.”

### *3.4 Appraisals of working in IME: provider perspectives*

Provider appraisals were overwhelmingly negative (only one provider had an initial positive appraisal of working in IME) and manifested in the terms they used to describe working in IME (which include negative expressions) and in their perception of different kinds of loss when communicating through interpreters.

When providers were asked, “Tell us about your experience working with distressed families while using an interpreter,” providers responded by stating that it is “tough,” “tricky,” “challenging,” “it sucks,” “it’s the worst,” and “it never goes well.” Providers also said, “honestly, I hate it,” and “I hate that I can’t understand everything they’re saying and respond in kind.”

Providers expressed experiencing loss when communicating with families in IME, which included a failure to establish rapport or connection with the family (which was characterized as a “loss” in IME), loss of emotional content being conveyed or understood, and/or a loss of meaning through tone or intonation. In terms of failure to establish rapport, a provider said, “You will lose a lot of that personal connection that you’re trying to establish with a family when working with an interpreter.” Similarly, another provider said, “so much of the relationship building happens [when] you’re just making conversation . . . That builds relationship and trust and so I think . . . sometimes it’s just not there” when communicating with interpreters.

Regarding loss of emotional content, one provider commented, “I think that you definitely can lose a lot of the empathy that is provided in conversations over an interpreter,” while another provider noted, “I think some emotions can be missed.” Finally, providers also appraised working in IME through loss of emphasis. One provider said,

“The biggest problem with an interpreter can be that things get toned up or toned down in that the adjectives I use are not communicated exactly in that I might say the child is very sick, and they might just drop the very. And that makes a difference.”

Another provider stated,

“I think there’s like different inflections in our language that we definitely pick up on, but if it’s somebody else, if it’s another language, I’m not able to pick up on that. And the interpreters aren’t able to communicate that to me either so, I think [that] definitely makes it more difficult.”

### *3.5 Mistrust and strangers to the care team: interpreter perspectives*

Another common theme among interpreters and providers regarding working in IME is the view of the interpreter as an outsider vis-à-vis the medical treating team. Interpreters expressed that medical providers do not treat them like part of the care team, and they feel that medical providers do not understand or appreciate their role and work as interpreters.

Interpreters also reported that they anticipate provider mistrust when working in IME and they explained how they attempt to manage mistrust among provider colleagues. One interpreter described,

“Like if [providers] ask, ‘What did you drink,’ and then I translate that, and then [the parents] say, ‘a sandwich,’ then I’m like, they didn’t hear me right. That’s not what I asked, so I would say, ‘Oh, what did you drink?’ Otherwise, the provider might look at me and they might think that I interpreted wrong.”

Interpreters also felt that providers may lack a sense of teamwork when working with interpreters. Some interpreters reported feeling they are viewed as an annoyance or a hinderance, as opposed to a colleague. This can affect health communication. One interpreter said,

“Sometimes they just give a long rattle and if there’s complex medical terms in there, depending on how familiar I am with those medical terms, I have to work backwards in my mind to figure out how to say the word or term. If I haven’t it used for a while, I have to dig deep in my brain to surface the right translation for that word, so if they’re respectful of my time, that helps. Sometimes providers will cut me off while I’m still interpreting what they just said. They’re not patient enough. So that doesn’t help with clear communication if they’re cutting me off.”

### *3.6 Mistrust and strangers to the care team: provider perspectives*

Provider responses implicitly or explicitly indicated mistrust of or frustration with perceived interpreter inaccuracy and interpreter neutrality in IME and a view of interpreters as strangers to the care team. Regarding interpreter inaccuracy (sense/meaning loss), one provider said,

“We often feel on our side that the interpreter didn’t say things the way we wanted them to or didn’t say everything we meant and we judge that mostly by, well, I don’t speak any foreign languages with any fluency, so I can’t say this from my own knowledge of the language, but I’ll say what I think is two sentences and the interpreter will say what sounds like much less than two sentences.”

Another provider, who did not indicate having language proficiency in a non-English language, reported that, “you have to always question, do they really just say what I said because it seems like they said three words and I said 20.” Other providers report proficiency in the non-English language and critique interpreters’ interpretations based on their perceptions. For example, a provider noted, “Having some proficiency in Spanish, sometimes I’ve noticed that I can follow what they interpret for me and they’re not saying the right thing, and I find that really frustrating.” Providers also noted

that perceived interpreter inaccuracy is frustrating expressly because providers are intentional about the ways they communicate and the words they use when speaking with families. For example, a provider said, “I get so mad. They’re not saying what I’m saying. I try to be so deliberate with what I say and how I say it. I get frustrated when they don’t stick to that because I chose those words and that delivery for a reason.”

Next, some providers expressed mistrust in the form of doubting interpreter neutrality in IME, believing interpreters’ agendas are contrary to those of providers in IME. For example, a provider expressed, “Even if they’re a known interpreter . . . I don’t know if our trust is the same in them and they’re perhaps inserting their own, I don’t know if bias is quite the right word, but their own piece of what we’re saying and that may not be what we mean.” More directly, a provider shared that “part of the struggle is that the interpreters can have their own agenda.”

Providers perceived interpreters as outsiders to the care team and described interpreters (even hospital-employed interpreters or “known interpreters”) as a third person, as “strangers,” “outsiders,” and “an extra or random person in the room.” Another provider said, “I think the difficult part is really gauging how much [families] understand . . . because you’re using a third person and it’s really hard.” Finally, another provider shared,

“I just feel like I’m not actually having a conversation with the family . . . there’s this other random person in there and so it also is kind of hard to have conversation about emotional aspects when there’s a third person in there that’s not really involved in the situation but they’re still there and I just think it’s kind of like having an outsider watch a more intimate conversation.”

### *3.7 Interpreter-provider teamwork*

A minority of interpreters and providers provided examples of positive working relationships between providers and interpreters, in which interpreters were consulted on their experiences with a given patient or family circumstance, or when providers understood the role of the interpreter and best practices for

communicating with patients and families in IME. For example, one interpreter highlighted providers who consult with interpreters, and said,

“Sometimes the provider will ask me questions. As the interpreter, they’ve asked me if I worked with the family before and, like I said, most of the time I am very familiar with some of our families so . . . they will ask me, ‘what do you think has landed so negatively’ or ‘what do you think of this’ . . . We know all of this information because we interpret for different providers and different people throughout the hospital. So, I think the providers have questioned me and if I feel there’s something that needs to come to light, then I’ll discuss it with the provider.”

A provider discussed having learned best practices for communication in IME and an understanding of interpreting as a practice,

“I’ve learned along the way, ideally, how you work with an interpreter. I think generally it is—especially if I’m alone with a parent and interpreter—I think it goes well. I’ve learned that ideally you talk to the interpreter without the parent beforehand especially if you’re talking about end of life or other sensitive topics, and I’ve learned to [use] the standard ways of pausing, and talking to the parent and not the interpreter, and that type of thing. But also, not using euphemisms or gray areas because that often doesn’t translate and, even in English, it often doesn’t translate, but I’ve learned with different languages you need to be even more concrete, and also trying to ask the parent to explain back to us what their understanding was.”

Another provider articulated the importance of preparing interpreters for difficult discussions so that they aren’t traumatized, thus viewing them as a member of the care team,

“One thing that I do think we could do better . . . is [to] have a little huddle before we go into the room because I think if the interpreter doesn’t know what bomb is about to be dropped on that family, they’re still human, they . . . could be a mom or dad themselves.”

## 4. Discussion

### 4.1 Modeling levels of inequities in IME

Data in this study indicate that providing interpreting services alone in pediatric medical encounters is necessary but insufficient for attaining equitable and inclusive health communication for language-diverse families. Inequities persist due to language resource concerns, mistrust, and biases about interpreting services, interpreters, and families in IME, all of which prevent equitable language access despite language services provision. These sources of inequities manifest within a nested ecological system, such that inequities exist in and across systemic, interpersonal, and intrapersonal levels. Multilevel factors work together to deepen language access inequities and differential levels and depths of health communication for language-diverse families. Below we discuss several of these sources of inequities in more detail and suggest approaches for mitigating them.

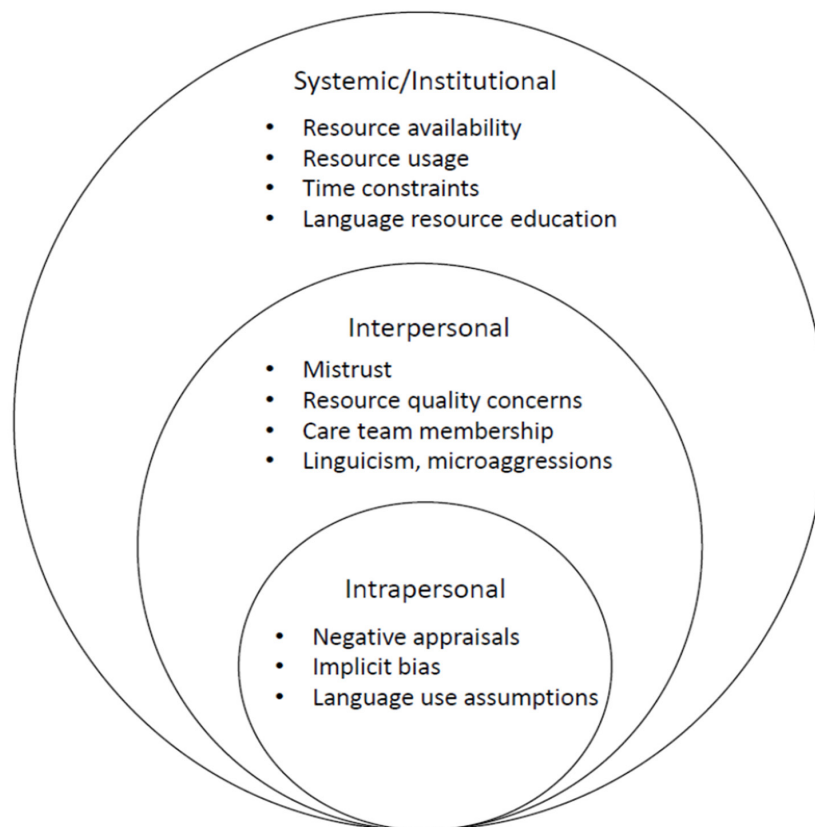


Fig. 1. Sources of inequities at systemic, interpersonal, and intrapersonal levels



#### 4.2 Time concerns

Studies in adult and children's hospitals indicate underuse of interpreting resources attributed to medical provider time constraints and concerns (Davidson 2000, 380; Diamond et al. 2008, 260; Lion et al. 2021, 6; Granhagen Jungner et al. 2021, 1988). Pediatric providers in this study have similar concerns, particularly regarding the length of IME and the time needed to wait for or schedule an interpreter, suggesting that these are systemic or institutional issues affecting the interpersonal level in IME. Interpreters and providers in this study recognized that time constraints resulted in inequitable health communication since providers reported spending less time or giving less information to families in IME than to English-speaking families. Study participants also reported that providers give large amounts of information to families that may not be fully understood, and interpreters noted that family questions are not addressed due to provider time limitations. Interpreters also noted that provider time constraints affected how interpreters convey information to families, and that accommodating provider time concerns led to abbreviated or gist interpretations that could be quickly conveyed in pauses. Prior research has shown that provider time constraints are placed on interpreters in encounters, which forces them to edit content (Davidson 2000, 380). Such practices may be used to "keep the interview 'on track' and the physician on schedule" (ibid. 400) but may also result in inadequate or incomplete interpretation and/or patient and family understanding. Hospital systems should direct resources to hiring additional providers and interpreters, and/or increasing time allotted for pediatric IME to mitigate time constraints. Interdisciplinary teams should also study and create interventions to address time usage and concerns in both language-concordant and interpreted encounters.

#### 4.3 Resource quality concerns

Providers identified remote interpreting resources (e.g., video and telephonic) as less effective and resulting in lower quality health communication for families in IME compared with in-person interpreter services. Providers said that accessing interpreters via remote modalities is still a time-consuming,

frustrating endeavor even though such resources are often provided to minimize time constraints, a finding that is reflected in other studies on interpreting service modalities (Rodrigues 2022, 216–217). Providers also suggested that unreliable availability of LLD interpreters and poor quality of LLD interpreting in all modalities affected interpersonal interaction in IME and resulted in diminished health communication.

Interpreter concerns regarding resource use focused on providers' underuse of interpreting services, an observation that aligns with existing data in adult population hospitals (e.g., Rice 2014; Hsieh 2015; Basu, Phillips Costa & Priyank 2017), and pediatric settings (Kuo et al. 2007, e925). However, interpreters in this study connected provider assumptions about family language needs to their underuse of interpreting services, which links to studies suggesting that providers incorrectly gauge patient language needs (Davidson 2000, 400). Together, providers and interpreters highlighted resource quality concerns that can be difficult to solve and that require significant investments at the systems level, such as hiring more in-person and on-site interpreters, mechanisms for managing provider time with families, and systems for accurately identifying appropriate language needs. Efforts to create trainings and resources for LLDs, such as those by the National Council of Interpreting in Healthcare LLD Working Group, may provide pathways toward easing LLD resource concerns, yet more work is needed.

Providers in this study also identified interpreter accuracy as a resource concern. Literature has documented inaccuracies in interpreted content (Pham 2008, 6–8), however, Davidson (2000, 400) suggests that interpreter alterations in content and form are part of the broader linguistic and social roles interpreters play in medical encounters. Therefore, a narrow focus on linguistic accuracy as a determinant of interpreter quality misses key contextual considerations regarding interpreting work (e.g., conveying meaning in the context of provider time constraints or in fast-paced emergency situations). Provider concerns about accuracy may also relate to providers' lack of understanding of the language transfer process (addressed in section 4.4 below). Provider accuracy concerns may also reflect uneven training requirements for interpreters on ethics, standards of practices, and language-specific content in both common

non-English languages and LLDs in the United States. Together, the medical interpreting certification options in the US offer language-specific certification in Arabic, Cantonese, Korean, Mandarin, Russian, Spanish, and Vietnamese. Interpreters of other languages who seek certification are tested on knowledge of ethics, standards of practice, and medical terms in English only. Until language-specific certification becomes available in more languages, uneven access and quality of interpreting may continue to present concerns for both providers and interpreters. However, equally important is education and socialization at the systems level so administrators and providers understand the complexities of interpreting linguistic and cultural content while also balancing social, relational, and environmental factors specific to a given IME context. Systems leadership and provider advocacy for education on the interpreting process and for LLD interpreter development could steer resources toward research and interventions to address these concerns.

#### *4.4 Interpreting loss*

Interpreting loss, or a deficit view of interpreting, for service users has been documented in medical settings, especially in the case of non-professional interpreters (Flores et al. 2012, 551). Providers in this study expressed concerns about loss when working with interpreters in IME (e.g., loss of connection, meaning, emotional expression) yet it is unclear what providers base these perceptions on, except in the case of meaning loss. Providers perceived meaning loss based on the length of statements interpreted, a measure that has been used in research to determine health communication quality in IME (Thornton et al. 2009, 3–4). However, this measure is problematic from a translation and interpreting studies vantage point because service users may report a sense of loss in interpreted statements even when language professionals have “done a remarkable job” (Gandin 2009, 77). The results of this study align with prior research citing that a lack of training in working with interpreters leads to provider “difficulties in evaluating the interpreter’s professional abilities” (Granhagen Jungner et al. 2021, 1988). In the present study, providers expected “word for word” or “literal translation,” yet interpreters know that due to structural, grammatical, and

other differences among languages, such approaches result in nonsensical content. Interpreting requires balancing different communicative (e.g., meaning, emphasis, emotional expression, register, culture-specific concepts, etc.) and grammatical features in one language in order to gain sense accuracy in the other language. For these reasons, interpreted statements do not match source statements in, for example, length, lexical cognates, sentence structure, etc. Thus, service users may perceive meaning loss even when interpreters accurately and completely convey statements into the target language.

A lack of provider understanding of how interpreters convey meaning, but also of what interpreters are trained to convey, is clear in this study (e.g., regarding emphasis, one provider reported that “the interpreters aren’t able to communicate that to me,” which interpreters can and do communicate in their work). Without this knowledge, providers may become frustrated if they perceive that their communication goals are not being met, which is concerning given the care with which providers report choosing their words and crafting their statement delivery. This suggests that providers’ notions of loss (e.g., of sense, emphasis) in interpreting may be eased if medical providers better understood the language transfer process.

Further, it is likely that providers and interpreters are unaware of each other’s communication goals and aims, and that the flow and quality of communication in IME could improve if providers understood the interpreting process and interpreters understood providers’ communication aims and rationale for delivery choices. Joint trainings in which interpreters and providers dialogue about and role play their communication approaches and aims are imperative for mutual understanding and better health communication. Such dialogue could help raise awareness of communication best practices across languages and cultures at the interpersonal level and could foment advocacy for education on the interpreting process, interpreter roles, and standards of practice at the systems level. Providers might also advocate for more resources to train interpreters on language-specific concepts and vocabularies in specialized hospital clinics.

Shifting thinking from interpreting as loss to interpreting as gain or a value added may help providers shift the deficit lens through which interpreting is viewed. The authors suggest that to build collaboration between providers and

interpreters, researchers should move away from publishing work that highlights inaccuracies in interpreting and should move toward studying the linguistic and contextual complexities of interpreting in hospital settings (Meyer 2002, 169). This is a way to raise awareness among provider populations regarding factors affecting interpreting (e.g., linguistic, extralinguistic, contextual) and to work toward developing joint trainings that address perceived loss and the interpreting process in IME.

#### 4.5 Mistrust

Data from this study suggest that mistrust between providers and interpreters shifts IME stakeholders' attention away from patients and families onto one another. Provider mistrust of interpreter neutrality (e.g., interpreters having "agendas" or changing content) may result in providers becoming hyper-focused on interpreters in IME. Additionally, providers' perceptions of their own abilities in languages other than English, coupled with a misunderstanding of language proficiency and the interpreting process, may exacerbate provider mistrust of interpreters. When providers mistrust interpreter accuracy and completeness, they may become distracted and forget what they want to communicate next, omit instructions or additional information, forget to ask families if they have questions, or experience feelings of frustration, anger, or disempowerment due to their perceptions of interpreter inaccuracy. These experiences may affect provider health communication with families, and present additional language access inequities and exclusion of families in IME.

In this study, interpreters noted adjusting how they interpret (e.g., directing families to answer "correctly") to mitigate provider mistrust. These practices may affect language access equity and family inclusion in IME when interpreters independently repeat or restate questions to elicit what they believe providers will perceive as appropriate responses. Such interpreting practices limit both families' and providers' abilities to address one another directly and may also exacerbate providers' beliefs that interpreters are interpreting inaccurately or adding their own content to their renditions.

To address the above, interpreters should be trained to navigate situations in which they perceive provider mistrust so they don't feel the need to compensate for it in their interpreting practice and so it can be addressed appropriately outside of the IME. Interpreters must have the backing of language services managers and systems directors because, as other studies have demonstrated, they may not feel they have systems-level support to address trust concerns with providers (Rodrigues 2022, 220–221). Additionally, hierarchical power dynamics among providers and interpreters may dissuade interpreters from addressing mistrust. For their part, providers should have outlets for discussing their concerns about interpreting quality in meaningful ways that lead to further education on the process of interpreting or to rectifying uneven quality in language services resources. Whether at the individual or institutional level, providers and interpreters should have opportunities to get to know one another, understand each other's communication aims, and build trust, as trust is essential in facilitating health communication (Crezee & Roat 2019, 3) for all parties in IME. Finally, consistency in interpreter-provider teams could also build trust through familiarity among providers and interpreters.

These suggestions depend on increased or redirected resources and systems-level support to grow and strengthen interpreting programs and their appropriate use in hospitals. Further, hospital management advocacy is key to creating a culture of understanding and appreciation of interpreters and interpreting services across system departments and units. Educating hospital staff about roles interpreters play in facilitating language access and their importance for improved health communication could foment a culture of trust among providers and interpreters that is rooted in patient care.

#### *4.6 Care team membership*

In line with provider perceptions of mistrust, providers in this study referred to interpreters as “outsiders,” indicating that some providers do not view interpreters as members of the medical care team. Interpreters expressed feeling like outsiders to the care team when they expressed feeling mistrust. It is plausible that interpreters are perceived as outsiders to the medical care team due to

social group identification based on intersecting social identities (i.e., profession, language use, gender, race, ethnicity), and due to a misunderstanding of their professional training and roles. As the othering of individuals based on perceived social group membership is a well-documented phenomena (Tajfel & Turner 1979, 38–43), interpreter otherness to the care team could be mitigated by fostering a shared sense within care teams of ensuring patient and family language access. Moreover, systems-led interpersonal and intrapersonal explorations of social and professional identities, as well as professional and cultural communication approaches, can further promote mutual understanding and respect, leading to stronger teamwork in IME and better health communication for patients and families. As noted in the results, a minority of providers and interpreters discussed experiencing positive teamwork, such as briefing interpreters before appointments, practicing best communication practices, and soliciting interpreters' cross-cultural expertise. Systems leadership should promote these practices as care team norms so that providers recognize and utilize the value interpreters bring to cross-cultural provider-patient communication. If systems do not value interpreters, providers may not perceive a mandate to value them either (Davidson 2000, 402).

## **5. Call to action and advocacy**

One way to address language access inequities is simply getting interpreters in the room, yet this cannot address language access inequities in pediatric systems and among pediatric IME stakeholders. The authors argue that to disrupt discriminatory practices in IME, care team members should be trained to identify and acknowledge their own biases regarding language use and language access services. Training should include recognizing how those biases result in discriminatory practices while working to prevent discriminatory practices from occurring. Research has documented that microaggression training decreases the frequency of provider microaggressions against patients of color (Kanter et al. 2020, 9–10). Trainings that address microaggressions toward language-diverse communities could improve health communication and language access equity and inclusion in IME.

While individual change at the encounter level is fundamental, it is equally important for systems-level leaders and management to allocate their power, influence, and leverage to promoting a cultural shift throughout the health institution regarding language access rights and services. The authors call on systems leaders to educate themselves on interpreter roles and practices, and to develop trainings for hospital personnel that emphasize language access services as a civil right and a prerequisite for improved health outcomes for language-diverse communities. Training on working with interpreters and their contributions to ensuring equitable, inclusive healthcare must begin early in providers' careers, in medical schools and training programs (Granhagen Junger et al. 2021, 1989). In a similar vein, hospital leaders ought to prioritize research funding, training, and education on language access services as a key component of hospital and medical school diversity, equity, and inclusion efforts.

Increased allocation of resources to language access services on the systemic, interpersonal, and intrapersonal levels is imperative to improving language access equity. At a minimum, hospital systems should invest in research to determine the language services needs in the system and evaluate whether the resources currently allocated to language services are adequate for covering needs. Once basic needs are met, systems should invite all stakeholders in IME (including administrators, interpreters, medical providers, and families using the services) to the table to develop opportunities to understand stakeholders' communication needs and goals, and interventions aimed at these needs. Finally, the authors call for interdisciplinary teams to undertake community-engaged research on provider, interpreter, administrator, and family perspectives regarding language access services to create interventions that strengthen language access equity and inclusion.

## 6. Limitations and future directions

Limitations to this study include the small sample size of both interpreters and medical providers. Providers and interpreters were from a single institution, which might impact the generalizability of findings to other centers. Interpreters who participated were exclusively Spanish-English interpreters, so further study



is needed to delineate whether these themes apply similarly to other language pairs. Participant group responses were not based on the same questions and thus explore different, albeit related, aspects of communication with families in pediatric IME. The present work is exploratory and developed in response to parallel themes emerging in data sets. Further studies with focus groups in which interpreters and providers dialogue about working in IME, or interviews with both groups that ask the same questions might reveal additional insights. Additionally, many observations made by interpreters in this study regarding provider communication practices likely occur in language-concordant encounters. Further research should delineate similarities and differences of these phenomena in IME versus in language-concordant encounters, as other studies have (e.g., Hsieh & Terui 2015; Davidson 2000). Such research could identify provider communication characteristics that occur in language-concordant encounters but that represent special challenges in communication across languages and cultures. Inclusion of patient and family perspectives in this research is imperative for understanding patient/family experiences of language access barriers and working with interpreters and providers in IME, as “the use of interpreters may be viewed differently by health care workers and patients” or families (Brandenberger et al. 2019, 8). Additionally, a medical records review to gauge the time providers are billing for IME compared to language-concordant encounters may shed light on provider time constraints in these settings.

Further research on the layers of inequities noted in this paper can help delineate the relative contributions of the identified themes, their generalizability across different settings and language pairs, and factors that may exacerbate or reduce these inequities. Ultimately, this knowledge should serve to improve existing systems, and where necessary, build new ones to better support language-diverse patients and families.

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## Appendix

### A.1. Summary of interpreter & physician themes

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#### Theme 1: Concerns with language resources and their use

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Interpreter perspectives:	Time constraint and communication linked Patient/family language assumptions Disregard for family language preference
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Physician perspectives:	Availability of interpreters Length of appointment Means of accessing interpreter Interpreting service quality Difference in communication practices
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#### Theme 2: Appraisals of working in IME

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Interpreter perspectives:	Lack of respect for families Provider microaggressions and bias Provider linguisticism Provider dismissal of family concerns
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Physician perspectives:	Negative expressions Failure to establish rapport Loss of emotional content Loss of emphasis
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#### Theme 3: Mistrust & outsiders to the care team

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Interpreter perspectives:	Interpreter as an outsider Anticipate provider mistrust Lack sense of teamwork
Provider perspectives:	Interpreter inaccuracy (sense/meaning loss) Interpreter neutrality Interpreters as strangers to the care team

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 Theme 4: Interpreter-provider teamwork
 

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Interpreter & physician perspectives:	Consult with interpreters
	Best practices for communication in IME
	Understanding the interpreting process

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## Unfolding occupational boundary work: Public service interpreting in social services for structurally vulnerable migrant populations in Finland

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## Unfolding occupational boundary work: Public service interpreting in social services for structurally vulnerable migrant populations in Finland

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### Abstract

This article explores occupational boundaries in the context of public service interpreting with structurally vulnerable migrant populations, raising questions about what kind of knowledge becomes valued and what kind of intersectional hierarchies are produced within a transforming social service landscape. Drawing on conceptualisations of boundary work and occupational (mis)recognition, we analyse written and oral diaries produced by public service interpreters in spring 2022. The research participants are of diverse professional and ethnic backgrounds and based in different urban and rural regions of Finland. We show how occupational misrecognition, at the structural and at the floor level, impacts on the possibilities of public service interpreters' professional and ethical conduct. As such, it ultimately also affects the right to fair and equal treatment for structurally vulnerable service users who are dependent on interpreter-mediated social services.

**Keywords:** public service interpreting, Finland, social work, linguistic justice, boundary work, migrants

### 1. Introduction

Since the 1990s, Finland has undergone a rapid linguistic diversification, with increasingly heterogeneous groups of social service users. Many of these

service users need language services, including translation and interpreting. Despite emerging research on linguistic rights and justice, much of this research has been conducted within the fields of law and correctional systems, health care, and education, while social services have received less attention (for a discussion on Finland, see, e.g., Koskinen, Vuori & Leminen 2018). This article seeks to fill this gap by investigating occupational boundary work and misrecognition from the point of view of public service interpreters in social service encounters with structurally vulnerable migrant populations.

Occupational boundary work has important material and symbolic consequences (Lamont & Molnar 2002, 168) that are linked to misrecognition as a form of 'institutional status subordination' (Fraser 2008, 332). Typically, occupational boundary work offers strategies to distinguish oneself from others (Norris 2001), and to differentiate outside as well as within a profession (Svahn et al. 2018). Within both the fields of public service interpreting and social services, boundary work has been marked by continuous struggle for self-definition (Banks 2004; Inghilleri 2005; Jönsson 2019; Sela-Sheffy 2011). This article draws on a contextual understanding of interpreter-mediated social service encounters being defined by certain ambiguities in roles and responsibilities (Tipton 2016). Here we understand occupational boundary work as being primarily linked to public service interpreters' negotiation of occupational status recognition. The notion of (mis)recognition builds on Nancy Fraser's (1995, 2008) multifaceted analytical framework on social justice, acknowledging its cultural and material underpinnings.

The context of our analysis is shaped by the neoliberalist restructuring of public social services taking place in the Nordic countries and beyond, alongside with a migration-driven diversification of the population. The neoliberal shift in the organisation of welfare services builds on new ideals of managerialism and marketisation of services and the responsabilisation of the individual in relation to structural vulnerability (Dahl 2012; Ferguson, Ioakimidis & Lavalette 2018; Kamali & Jönsson 2018; Nordberg 2018). In Finland, marketisation and projectification have been particularly intensified in paraprofessional work and services, which have not been considered as central to public welfare service delivery (Tuori 2013; Nordberg 2018). This cultural-institutional setting arguably sets limits for

occupational collaboration and ultimately for recognising and meeting the diverse needs of service users.

Within the above-described context, this contribution investigates the position and role of public service interpreting as welfare professional practice and as one linked to precarious, ethnicised labour markets. Multilingual welfare service work constitutes a daily professional reality in the Finnish society that is nevertheless challenged by narrow understandings of linguistic diversity as otherness and as a state of temporality and transience that can be surpassed and resolved (see, e.g., Piller & Takahashi 2011; Intke-Hernández & Holm 2015; Holzinger 2020). Drawing on reflective diaries produced by public service interpreters of different backgrounds, we seek to address the following question: how do occupational boundaries and misrecognition play out for public service interpreters in the context of social service encounters?

## **2. The Finnish context of migration, linguistic rights, and public service interpreting**

The increasingly heterogeneous group of service users in Finland creates a complex matrix of needs, which runs parallel to an evolving set of expectations regarding the provision of services. In turn, this heterogeneity paves the way for multi-professional collaboration across occupational boundaries. In social service work involving people in structurally vulnerable positions who do not understand and speak the dominant local languages, the right to high quality public interpreting is key to accessing socially just and equal services.

There has been a growth of the foreign-born population in Finland since the early 1990s when the number of asylum seekers increased due to wars and conflicts, especially from Somalia and former Yugoslavia. Still, in 1990, only 0.5% of the population in Finland had another native language than Finnish, Swedish, or Sámi. At the end of 2020, it was 7.8% or 432,847 persons (Official Statistics of Finland 2022a). The largest language groups were Russian (84,190 persons), Estonian (49,551), Arabic (34,282), English (25,638), and Somali speakers (23,656), followed by Persian/Farsi (16,432) and Kurdish speakers (15,850) (Official Statistics of Finland 2022b). This roughly reflects the list of most commonly interpreted

languages in the country, with Russian, Somali, and Arabic being the most required (Määttä 2017; Koskinen, Vuori & Leminen 2018). Alongside an increasing number of asylum seekers, the population who speaks languages other than Finnish, Swedish, or Sámi has increased due to labour migration, family migration, and international student migration. In 2020, 21,160 persons applied for a first residence permit based on family grounds (39.6%), work (41.4%), studies (16.6%), and other grounds (3.4%) (Finnish Immigration Service 2022).

Language policy in Finland has traditionally established different approaches for: 1) the national languages: Finnish and Swedish, 2) the separately mentioned languages, Sámi languages, Romani, and sign languages, and 3) all other languages (The Constitution of Finland, section 17). Those residents belonging to the category of other languages have the “right to maintain and develop their own language and culture” (The Constitution of Finland, section 17). However, languages used in public authority interaction are Finnish, Swedish, and in some cases stipulated by the Sámi Language Act, the Sámi languages. For other language speakers, linguistic rights are often granted through the right to interpretation and translation of documents. These rights to interpretation and translation are regulated by several Acts governing specific administrative sectors. However, there are some common underlying principles across languages. Access to interpreting or translation services should be granted in all situations that may affect the person’s civil rights. Moreover, access should be granted in situations initiated by the authorities, even though the right to interpretation does not necessarily imply interpretation into their preferred language (e.g., Tallroth 2012).

Public service interpreting therefore has its own legislative framework, and costs are covered by the municipalities and the state. Yet, this regulatory framework does not provide clear guidelines as to the authorities’ responsibilities to procure interpreting or to the qualifications of interpreters (Karinen et al. 2020). Public service interpreting remains an unregulated occupation (see also Vuori et al. 2022). Despite the existence of undergraduate and professional degree programmes in public service interpreting, there is no requirement for licensing or certification to serve as a public service interpreter. Many interpreters who work in the field lack training and are inexperienced, and many suffer from poor

working conditions and a devaluation of their occupation (Koskinen, Vuori & Leminen 2018; Karinen et al. 2020; Vuori et al. 2022).

While there is no register of qualified public service interpreters, the situation is slightly better for legal interpreters. Since 2016, the Finnish National Agency for Education has maintained a Register of Legal Interpreters. The purpose of this register is to “help authorities and private individuals find a legal interpreter who is sufficiently qualified to serve in legal matters” (Finnish National Agency for Education, 2022). However, the register only includes some languages and it does not prevent public authorities from using non-registered interpreters within the legal and correctional system (see also European Union 2010).

With the marketisation of the welfare state, public service interpreting has been outsourced to private companies and subject to regular tendering processes (Koskinen, Vuori & Leminen 2018; Karinen et al. 2020; Vuori et al. 2022). The failure of companies to procure stable and secure working conditions for interpreters and deliver quality services has further contributed to the destabilisation of the professional status of interpreters within the social services sector.

This trend has also been identified in other national contexts, such as the UK and the Netherlands (e.g., Gentile 2017), although research remains scarce in the Finnish context. A Swedish study (Tiselius 2022) concludes that while public action has contributed to the provision and professionalisation of interpreters, the same public bodies have contributed to salary stagnation and market disruption. When qualification is not linked to education, interpreters are not trusted as qualified professionals. When interpreting is not valued by the purchasers, “the market is easily disrupted as the will to create stability in the provision of the service lacks” (Tiselius 2022, 14). A report by the Finnish Ministry of Economic Affairs and Employment (Karinén et al. 2020) shows that tendering practices have been criticised for not paying attention to the conditions and quality of the services, only to the costs.

### **3. Conceptualising occupational boundaries and (mis)recognition**

Theoretically, we build on the scholarly literature on professional boundary work that is in dialogue with the sociology of professions literature (Lamont &

Molnar 2002; Gúery 2014; Colley & Guéry 2015; Biagini, Boyd & Monacelli 2017; Valero-Garcés & Tipton 2018) by conceptualising public service interpreting as welfare service work (Tipton 2016). As such, the notion of boundary work in this study is concerned with the ambiguities of working at the crossroads of two independent yet interdependent occupational fields—social service work and language interpreting—in a time of neoliberal restructuring of welfare services. Social welfare services as well as public service interpreting can be seen to aim at counteracting structural vulnerabilities. Language can be understood as constituting a form of social action in both fields, operating to promote social justice and inclusion and create more egalitarian societies (Piller & Takahashi 2011; Avineri et al. 2019; see also Pohjola 2016; Hall & Valdiviezo 2020).

Ideas of boundaries have also been developed in translation and interpreting studies in previous research (e.g., Dam & Koskinen 2016). Such research has typically related to professionalisation and authorisation processes, drawing on a trait approach (e.g., Ruokonen 2018), a jurisdictional approach (e.g., Monzó-Nebot 2009), or a power approach (e.g., Grbić 2010). There has been a strong focus on large-scale, quantitative investigations of professionalisation projects in different countries, even though some studies have been based on in-depth examination of the agency of individual actors (Svahn et al. 2018). Here, we build on a power approach when we address occupational boundaries in the context of welfare service interpreting, emphasising the street-level processes within which boundaries are negotiated and the way they are interlinked with broader social structures (Svahn et al. 2018). For example, Grúery (2014: 5) has emphasised the importance of conducting research on public service interpreting that seeks to “understand the relationship between the micro-level subjective experiences of individuals and macro-level institutional and structural factors.” Public service interpreting has also been featured by internal boundaries of class, gender, ethnicity, and other intersectional divides.

Tipton (2016) understands both social service workers and interpreters as potential change agents, facilitating social change and inclusion in different ways. Therefore, it is fruitful to reflect on the positioning of interpreter–social service worker collaboration, addressing questions of professional recognition, the division of professional knowledge and authority, or the willingness and

possibilities to share professional territory to meet the needs of service users (Tipton 2016; see also Masterson 2002). While the nature of this interdependence is context-bound and under constant (re)negotiation, earlier research suggests that the interpreters are primarily visitors to the field of social service work, rather than entering the field per se (Tipton 2016; see also Tipton 2012).

Public and scholarly debates have typically seen both occupations in different ways as 'semi' or 'quasi' professions. In relation to public service interpreting, the attention to legalism has been argued to downplay its legitimation in other human service work (Ozolins 2010; Tipton 2016). However, currently in Finland, social workers are licensed and registered (Finland. The Parliament of Finland 2015; see also Manssila 2020).

#### **4. Data and data production**

The analysis builds on reflective diaries produced during spring 2022 by 16 public service interpreters and interviews with one interpreter. The data constitute written and oral solicited diary entries (N=250) and interviews (N=3) on professional status and identity, everyday work situations in social services, and interaction with social service practitioners and service users.

Research participants were of diverse professional and ethnic backgrounds and based in different urban and rural regions of Finland. They worked in altogether 13 languages and were from both native-Finnish and migrant backgrounds. Not all participants reported their studies or degrees in interpreting, but the vast majority had a professional degree in public service interpreting or they were enrolled in a public service Interpreting degree program. Some also had a degree in court interpreting. Many participants had additional professional or university studies. For the purposes of this study, participants were recruited from a range of languages, backgrounds, and education. While the final sample was varied in many respects, the research participants were comparatively highly educated.

Potential participants were approached with an information letter of the research via personal contacts, immigrant associations, two interpreters' Facebook and WhatsApp groups, and the Finnish Association of Translators



and Interpreters (SKTL). We met individually via Zoom with the interpreters who had responded to our announcement. In the Zoom meetings, we discussed the research and the content and practicalities of data production as well as research ethics, including the voluntary nature of participation, confidentiality, and data protection.

Each participant was given a consecutive numerical code for further data anonymisation (such as P1 for participant 1). Further communication and file exchange for the data production was conducted through a protected and secure site provided by the Information and Communication Technology services at Åbo Akademi University. In accordance with the general guidelines of ethical review in the human sciences in Finland, the study design was not submitted to separate ethical board review (TENK 2019).

The participants each produced on average 15 diary entries during approximately two months. Participants had the option of whether to create their entries in written or audio format and could do so in Finnish, Swedish, or English. The participants received monetary compensation for their participation. During data production, participants were able to have Zoom discussions with the researchers and had the opportunity for a feedback conversation at the conclusion of the data production process. They were also offered the possibility to participate in a collaborative data analysis workshop to discuss and further contribute to the analysis of the data, during the fall of 2022.

Broadly speaking, the work situations and experiences described in the entries occurred in social work and social services, which included service meetings in settings such as adult social work, child welfare services, the Social Insurance Institution, Unemployment Office, or reception centres. A typical diary entry was half a page to one page in length. In these diary entries, participants were encouraged to reflect on, among others, the following themes: collaboration with social service practitioners, collaboration with social service users, emotions in interpreting in social services, professional identity and status, and interpreting as work and career. Participants could produce more general reflections on these themes or consider them by focusing concretely on a specific workday or work encounter.

Previous studies that have shown the utility of diaries as data, particularly their ability to prompt reflective thinking, which, in addition to producing data for research may also provide fulfilment for participants (Hewitt 2017). As data, solicited diaries are narrative records of activities and experiences, typically building on a sampling of time. Diaries also have the potential to reduce the recall bias of other research methods, for example interviews (Barlett & Milligan 2021). In this study the aim was, on the one hand, to gather reflective diary records of events and encounters as they occurred during the stage of data production, and, on the other hand, gather reflective diary records of the research participants' general experiences of public service interpreting in social services (Alaszewski 2006). This approach offered greater flexibility and allowed for more rich and nuanced experiences to become part of the data.

Our analysis began by reading the material in connection to our research interest about the interpreters' professional role. We identified and discussed points in the interpreters' accounts in which we recognised boundaries being drawn around the role of the interpreter, either by the interpreters themselves or by the social service officials or service users. We then focused our attention on examples of misrecognition of the professional role, and analysed these at two levels, the structural and the floor level.

In the following, we present our results using extracts from the data that we have chosen as concrete illustrative examples. The original data is in Finnish, albeit one participant wrote in English. The extracts originally in Finnish have been translated into English by the authors. We have adapted the extracts when necessary to ensure anonymity or increase readability.

## **5. Occupational boundary making as misrecognition in public service interpreting**

This study is situated within the wider context of cultural and institutional transformations taking place in the Nordic welfare state, which raises questions related to what kind of knowledge becomes valued and what types of intersectional hierarchies are produced and maintained within the social service landscape. Research participants articulate how different modes of occupational

boundaries are made and negotiated in public service interpreting. These boundaries are discussed from the lens of misrecognition, on the one hand at the structural level and on the other hand at the floor level.

### *5.1 Structural-level misrecognition*

As an essentially unregulated field that lacks uniform standards, public service interpreting takes place where occupational boundaries operate through structural-level misrecognition. The research participants all shared experiences of low and insufficient pay, leading to pressure to accept all the offered assignments and having to work for multiple companies.

My work situation is good now, there is enough work, but conditions and pay are miserable. I work with five companies at the moment and some of them pay well, some don't. Unfortunately, the company that offers more assignments also pays worse. It's frustrating when you have to negotiate prizes and submit to their conditions or be left without work. (P8)

This interpreter shares how, despite working full days, there is a constant struggle to be compensated for their work given the unregulated and fragmented occupational field. Austerity politics and constant tendering processes without educational or quality requirements have disincentivised companies to prioritise the contracting of trained interpreters—presumably at a higher cost. In addition to sharing their frustration regarding the precarious working conditions and low pay, the research participants write about how these neoliberal structures (including the fact that “Anyone can work as an interpreter, even without appropriate training” (P2)), create a sense of devaluation of their professional knowledge.

I am a professional interpreter; I have worked a lot in order to gain a good position. (--) I see my role as an interpreter in that I am an official interpreter; I am not anyone's friend or assistant. (--) In Finland, an interpreter is not considered as an official, it is more like, well, someone came to interpret. This has to change, in my view, and it

will only change if there is an official register, and after that we can get rid of all the incompetent interpreters that ruin the role [of the interpreter] for the rest of us. (P12)

As seen in the above extract, while education and training are a way of counteracting occupational misrecognition, further boundaries are simultaneously drawn against low-skilled, often newcomer interpreters. However, there are also divides in the access to training. Research participants pointed out that it is difficult to organise and receive training especially for rare languages in Finland.

The current transformations have brought with them increasingly stressful and hectic working conditions with a lack of recovery time and breaks. An observable consequence of the tendering processes is the growing share of companies offering interpreting assignments based on immediate response, particularly in the Helsinki area.

The competition in this field is fierce and instant interpreting jobs are distributed according to the reaction time of the interpreter, so you have to have your phone with you even in the toilet if you wish to get assignments. (--) Previously, in interpreting there was such a concept as recovery time, but nowadays that is not considered as something interpreters are entitled to. (P2)

Research participants also reflected on how on-demand interpreting services are challenging the professional code of ethics and the quality of interpreting services since there is no time to prepare for the work event. The harsh competition between the dominant companies on the market is reflected already in their marketing language: "The only interpretation service you need—available in seconds," "The world's fastest interpretation app," "From 8 hours waiting time to 12 seconds" (<https://tulka.com/>), referring to an app for finding interpreters quickly.

Moreover, research participants write about how the outsourcing of public interpreting from municipalities to private companies has implied a general sense of insecurity following from a lack of support or collegial network and a lack of work counselling.

Interpreting work is very lonely. An interpreter has no work community or counselling. I work for several companies. Not one of them organises work counselling. Interpreters have many WhatsApp groups, and I also belong to them, but most of the interpreters are only a list of names to me. I have known some interpreters since training, and some I have gotten to know in waiting rooms while we wait for an interpreting event to begin. (--) Nowadays, with more distant interpreting, you never meet interpreters. (P3)

The work is lonely, and no employer offers us work counselling. We have to deal with the situations we encounter at work by ourselves. There is a lot of change, situations change, people change, places change, so I need to adapt all the time, and that is a challenging feature in my work. (P15)

As shown in the above excerpts, many participants wrote that they felt isolated in their work, not having an occupational community within which to share the experiences and challenges they face. This sense of community was lacking in the companies for which the participants worked. Earlier research has shown that interpreters form a heterogeneous group which poses challenges to community formation, a situation that has exacerbated due to the increase in distance or remote interpreting (Määttä 2017; Vuori et al. 2022).

In the second quote, the sense of loneliness is contrasted with a constant flow of people, places, and situations. This juxtaposition coincides with the reported experience of having to “adapt all the time” to settings managed by others, referring to limited agency and autonomy. Additionally, the sense of loneliness is linked to the insecurity caused by recurrent interruptions in collaboration created with welfare service providers, due to constant tendering procedures. Therefore, the restructuring of social services and public service interpreting seems to reinforce existing constraints to professional capability, agency, and autonomy (see, e.g., Bischoff, Kurth & Henley 2012).

While most research participants have had to acquiesce to working under these precarious working conditions, there are also examples of protest and mobilisation in an effort to draw the professional borders and influence working conditions.

(-- ) there are a lot of positive signs: interpreters have finally woken up and become activated, they are more organised now than ever before, and the union and Kieliasiantuntijat ry [Language Experts—an organisation for people specialising in multilingual communications] have also reached out to [public service] interpreters for collaboration. The issue has been in the media a lot during the last year. Even parliament members and officials have woken up and become concerned and aware of the problems in the field of interpreting. [There is] willingness to fix these problems. This is a great thing and it gives hope. (P15)

Interestingly, in this excerpt, the participant writes that the union and other advocacy organisations in the field of professional interpretation and translation have only recently started to reach out to public service interpreters. This seems to suggest professional boundaries and bordering from and within the field itself. In the quote below, the interpreter protests by not accepting assignments through companies that decrease prices.

I don't get work offers every day, but this might also be because I am not in the lists of the biggest companies. If I were, I might get more work offers. However, the conditions and pay with these companies are an insult, and I refuse to work in a way that is harmful for my profession. Should I accept the conditions and pay in these companies, it would damage my profession. (P15)

However, this strategy comes with a cost—one is forced to choose between contributing to the worsening of the working conditions or not working, highlighting the limited agency or autonomy of the interpreters.

In addition to the predominantly negative experiences of precariousness, the research material also includes examples of how the transition from being an employee to becoming a freelancer brought a sense of self-sufficiency and flexibility:

At least for now I'm satisfied. If I get a phone call from the day-care, for example, that my child has caught a cold and I have to pick [them] up... this happens all the time... (--) Then I might be at the Social Welfare Office from 10 to 11 and they call me

at 10.30. (--) I can tell them that I will be there in half an hour. When the interpreting has finished, I pick up my child, I call the interpreting company and tell them that the rest of the day I only accept phone-interpreting jobs. (P16)

That way, interpreting could become a portfolio career fulfilling a variety of roles and demands and offering flexibility for some interpreters who were able to make the neoliberal structures work for them.

### *5.2 Floor-level misrecognition*

Alongside structural-level misrecognition, occupational boundaries operate at the floor level through the misrecognition of public service interpreters as potential change agents or facilitators of change. As discussed above in relation to the work of Tipton (e.g., 2016) and others (e.g., Masterson 2002), the division of professional knowledge between social service professionals and interpreters is complex and under constant (re)negotiation, and, at the same time, marked by public service interpreters being considered visitors to the field of social work.

Our research participants shared experiences on occupational misrecognition and professional hierarchies in the form of being closed out by public service professionals.

We went through medicine receipts and gym receipts, vouchers and the Social Insurance Institution decision. We phoned the Social Insurance Institution, but the social worker forgot to include the interpreter in the phone call, and I was left on hold. Later the social worker was sorry about this. The social worker told the interpreter what the worker at the Social Insurance Institution had said and asked me to tell this to the service user. (P8)

The above example describes a situation in a service meeting in which the public service official reaches out to another official to ensure some issues or for consultation, and does this over the interpreter (and the service user). Moreover, the interpreters wrote about a constant lack of prior information on work encounters—on the issue to be addressed, the professional field in question,

contact information of the social service worker, and information about the service user.

Onsite interpreting during a house call. I only receive the address, not the phone number of the worker or the subject of the meeting. (--) Interpreters can work without preparing vocabulary. However, it is emotionally important to know the subject of the meeting. I find that interpreters are respected when they are informed what the meeting is about. (P5)

In this example, the participant indicates that receiving prior information is a sign of respect, and therefore, not receiving information reflects lack of respect. Research participants wrote about how interpreters are not seen as experts and professionals who “commit to the same confidentiality requirements as they [social and health care professionals] do” (P15), emphasising that they are entitled to further information in order to do their work well. This is also against the ethical code of interpreters and therefore forces the interpreters to work against it:

It is stated in the [Finnish] ethical code of interpreters that interpreters should prepare for the interpreting assignment thoroughly and with sufficient time. Prior information is essential for that. It is, however, a general practice in the field that the interpreters do not receive much information beforehand, other than the name of the person who has ordered the interpreting and the service. (P2)

These examples connect with professional recognition and the quality of the service, and ultimately, the rights of the service user. Expressions of occupational misrecognition ultimately contain negotiations on the actual role and position of the interpreter in relation to social services.

Sometimes I feel that very few social officials understand how demanding my work is. I sometimes feel that some officials think that an interpreter is only a person who knows two languages, but this is not the case. As a trained interpreter, I am much more than just a person who knows more than one language. I am not, however, a walking dictionary. (P15)



Here the research participant touches upon the difficulties many expressed in demarcating the boundaries of their professional role (see also Martin & Valero-Garcés 2008; Bischoff, Kurth & Henley 2012) as a rather mechanical tool of translation or something more than that. These negotiations typically concern ambiguous expectations related to the interpreter as a neutral vehicle of information and/or as a cultural interpreter to both directions. In the example that follows, the research participant emphasises the strict language interpreting role of the encounter:

The interpreter is contracted by the public authority for the service user. That way the role of the interpreter is clearly to interpret the discussion between the purchaser and the non-Finnish speaking service user. The interpreter is not a support person, adviser, babysitter or a driver, not even a translator in the context of interpretation. I have come across all kinds of desires and requests, more so in face-to-face interpreting. (P2)

I have been in situations where a social service worker has not been able to give advice on how to fill in a form for the Social Insurance Institution for example (--) Even though I have known how to do it I have thought that I will not intervene, because it is not my job to give advice but to interpret from one language to the other. From time to time this has felt frustrating, that I have not been able to intervene or comment on something, especially when the service user looks somewhat helpless and does not get help from the professional. (P15)

The second quote above shows how positioning oneself strictly within the ethos of neutrality may lead to situations that challenge the rights of the client. However, a reference to neutrality seems to be a marker of professionalism to many participants. It serves as a boundary against non-educated newcomers who typically are portrayed as not following the code of conduct by being non-neutral during interpretation—even though neutrality is vaguely and sometimes contradictorily articulated in the diaries. However, there are also examples of situations in which the interpreter has pushed the boundaries, bringing interpreting closer to cultural brokering:

The service user did not understand the term 'tiliote' [bank account statement]. In this situation it is not the job of the interpreter to open these concepts and I turned to the social worker to explain this. For the word 'maksusitoumus' [financial obligation or bond] there is no equivalent concept in Arabic, so in this case the interpreter has to explain the meaning. (P8)

Some participants explicitly stated that "As an interpreter, I am not merely a language expert but also a cultural expert. In addition to interpreting, I can also explain to the Finnish service provider why the service user might be nervous" (P15). The participants therefore produced contradicting accounts over whether they, as interpreters, should only convey what is being said, in which case it would be the task of the service provider to unravel any unclear situations or concepts, or whether their role as interpreters includes cultural interpreting and/or a more explicitly active role to intervene in unclear or conflicting communication. In the latter case, the interpreter would open up different terminology to the service user and, also, explain to the social service official differences in the meanings of concepts, or why the service user might be reacting in a certain way (see also Bischoff, Kurth & Henley 2012). Tipton (2016) has argued for a shift towards more holistic approaches, beyond an ethos of neutrality, recognising the coordinating role of the interpreter. However, this seems to be not so straightforward in the Finnish context of unregulated public service interpreting.

The officials' knowledge, experience, and understanding of the interpreter's role and how to work with interpreters varied considerably. According to participants, it is never possible to know whether an official will know how to work with an interpreter unless the interpreter had previous knowledge working with a particular official. Participants wrote more broadly about how the unclear position of public service interpreters challenges collaboration and gives rise to uncertainties in relation to the responsibility for governing the interpreter-mediated space.

The officials have the responsibility to know the legislation concerning interpreting and translation (--) I do not, however, feel that it is my duty to educate officials in these matters in an interpreting assignment. (P2)

Interpreting by phone, instant interpretation [no time to prepare] (--) Child welfare services, social worker and service user (mother), emergency placement of the child. The social worker talked very quickly and in long segments. I tried to pause the talk but did not manage very well. Also, the mother talked a lot and furiously. Finally, she started to cry, and I could not understand what she was saying. The social worker has to proceed quickly when arranging the placement. However, it would be important to try to speak calmly and take pauses in order to make sure that the interpreter is able to interpret everything. The process is unknown to most parents. (P5)

The second quote is an example of a situation in which the state enters into the private life of a family and exerts heavy authority by carrying out an emergency placement of the child. The situation unfolds quickly. Talk is intense, and there is a need to proceed rapidly while still fulfilling a certain procedure. The interpreter is significantly limited in their ability to interpret since the social workers are not incorporating interpreting, its meaning, conditions, or prerequisites into their professional practice and communication strategies. The training social work students receive on working with interpreters generally varies from non-existent to limited/sporadic, and may depend on individual programmes and even teachers, something which can partly explain the narrow space left for interpreting.

Similar to findings in previous research (Tipton 2016; Vuori et al. 2022), our data has shown how, at the floor level, the professional role of public service interpreters becomes drawn and shaped by public service officials in their daily encounters and interaction with service users. In addition, we have discussed how interpreters themselves understand and produce the confines of their professional role, at times as a direct response to the expressed assumptions by officials or the service users.

## 6. Concluding discussion

Situated within the wider context of cultural and institutional transformations taking place in the Nordic welfare state, this article examined the ways in which

occupational misrecognition occurs for public service interpreters working in social services at the crossroads of two independent, yet interdependent, occupational fields. We argued for the fruitfulness of investigating occupational boundary work from the perspective of public service interpreters, addressing questions of professional recognition, division of professional knowledge, and the willingness and possibilities of sharing professional territory to meet the needs of service users (Masterson 2002; Tipton 2016).

At the structural level, the analysis showed how the research participants articulate experiences of occupational misrecognition as precarious work. They refer to poor working conditions and low pay, increasingly stressful and hectic work environments, a limited sense of autonomy, and a general sense of insecurity and loneliness. Furthermore, at the floor level, they refer to experiences of being closed out by public service professionals, a lack of prior information on work encounters, ambiguous expectations related to the interpreter role, and uncertainties in relation to the responsibility for governing the interpreter-mediated space.

This study has also provided evidence related to the ways in which occupational misrecognition impacts the public service interpreters' ability to conduct their work professionally and ethically. As such, it ultimately affects the right to fair and equal treatment for structurally vulnerable service users who are dependent on interpreter-mediated discussions in the social services. This impact may also have deeper implications for the forming of trust in social institutions. Officials' misrecognition may also translate into service users' mistrust in the interpreter.

Hence, based on our analysis, instances of occupational and linguistic injustices seem to be insufficiently identified and addressed by institutional strategies and actors (see also Fraser 1995; Holzinger 2020). The occupational boundary work of public service interpreters falls in the larger context of professional hierarchies within welfare state professions and social and health care services, in which social work itself battles for professional role clarification and professional status recognition (Tipton 2016; Nordberg 2018; Jönsson 2019). Many of these interpreters are themselves of migrant background, something which risks reproducing intersectional occupational hierarchies. We argue, in line with Norström, Fioretos, and Gustafsson (2012), that the devaluation of interpreters can be linked to a

general misrecognition of non-dominant language speaking individuals and subsequently to wider questions of democracy, equality, and justice (see also Vuori et al. 2022).

Interestingly, professionalism and occupational recognition and the cultural/ethnic 'other' were presented as mutually exclusive also in the reflections produced by the interpreters in our data. While education and training were identified as ways to counteract occupational misrecognition, new boundaries were simultaneously drawn against newcomers interpreters, often described in terms of cultural othering. We agree with Bonotti, Carlsson, and Rowe (2021), who, in a recent special issue on linguistic justice, migration, and the nation-state, write that individual and state-centred approaches to linguistic injustices, which have been predominant in liberal perspectives, risk overlooking deeper forms of intersectional hierarchies and disadvantage that would require other theoretical perspectives building on critical race theory, feminism, and postcolonialism.

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## The right to an interpreter – A guarantee of legal certainty and equal access to public services in Sweden?

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## The right to an interpreter — A guarantee of legal certainty and equal access to public services in Sweden?

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### Abstract

In Sweden, the Administrative Procedure Act regulates authorities' obligation to use interpreters *if needed* in contact with persons who do not speak Swedish, with impaired hearing, sight, or speech. Hiring an interpreter is stated as a guarantee of transparency, participation, and legal certainty. The article aims to investigate these language duties and rights from the perspective of non-Swedish speaking clients. Guiding theoretical concepts are formal and substantive legal certainty as a primary condition protecting the client as a rights holder. Three main themes were found in an analysis of migrants' narratives about interpreting experiences: mistrust in interpreting services, self-regulated minimization of language rights, and absence of professional interpreting and translation services. These factors may be compounded and lead to situations in which clients decline the use of interpreting services. Based on the clause "if needed" in the law, it might be legitimate to acknowledge such wishes and skip interpreting services. Yet, this means that public services undermine the client's position as a rights holder, formal and legal certainty, as well as their own possibilities to fulfill their duties.

**Keywords:** formal legal certainty, language rights, public service interpreting, rights holder, substantive legal certainty

## 1. Introduction

Since the 1970s, the Public Administration Act in Sweden has regulated the public service obligation to use interpreters when in contact with persons who do not speak Swedish and persons with impaired hearing, sight, or speech (SSB 2017: 900 section 13). Hiring an interpreter is stated as a guarantee of transparency, participation, and legal certainty while handling individual cases and making decisions. Hence, employing interpreting services could be framed as a duty among Swedish authorities but also as a right for individual public service providers who are responsible for fairness and equal access to welfare in their contacts with non-Swedish speaking clients (Norström, Gustafsson & Fioretos 2011; Fioretos, Gustafsson & Nordström 2020).

Previous research in different disciplines, such as health and medical care, social work, asylum investigation, and interpreting and translation studies, shows that public service providers lack confidence in interpreting due to extensive experience of having to rely on dysfunctional services (Chand 2005; Kriz & Skivenes 2010; Hsieh 2014; Westlake & Jones 2017). These studies describe the perspective of public service providers and the problem of having a legal duty and right to use interpreters as well as having access to interpreting services but lacking trust in them (Edwards & Alexander 2005). Therefore, this mandated configuration might cause problems in their contact with clients since they might avoid using interpreters, or use other non-professional brokers, for example, the clients' relatives, friends, or children, thereby putting clients at risk and undermining their possibilities for equal access to public services (Prunč 2012; Weisskirch 2017; Gustafsson, Norström & Höglund 2019; Gustafsson 2021). Another reason that may explain why public service providers perceive interpreting services as dysfunctional is that they usually have no specific budget to fund interpreting services and, when they do, this budget is insufficient. As a consequence, the funding necessary is reallocated at the expense of other purposes. As Dominelli (2018, 93) describes of the British context: "High quality translation resources are integral to delivering appropriate services to families with limited knowledge in English. Demands for these services are rising, but funding for them is scarce."

Based on these problems pointed out by researchers in different public service areas, we seek to turn to the other party involved in interpreted encounters and investigate the issue of the right to interpreting services in Sweden from the client's perspective (Keselman 2009; Gustafsson, Fioretos & Norström 2012a; 2013). The point of departure for this research is the same – i.e., existing legislation acknowledges the right to interpreting, and there are interpreting services available – but we seek to understand what the clients' experiences regarding interpreting and translation in their contact with public services. Moreover, this study seeks to address how these experiences support or undermine their language rights. To investigate these questions, we scrutinize the principles of transparency, participation, and legal certainty as addressed in the aforementioned Swedish legal framework. The guiding theoretical concepts are formal and substantive legal certainty as a primary principle protecting the client as a rights holder.

The analysis is based on migrants' narrations of interpreted encounters in Swedish welfare institutions. The empirical data comprises observations of 50 lectures conducted by public service interpreters in dialogue with refugees and migrants who take Swedish language courses. In these dialogues, the interpreter describes the regulations and ethics of interpreting and their experiences of interpreting in various public service settings. The participants, that is, the refugees and migrants, react and comment on this information, sharing their experiences of interpreting services.

The article first introduces the legal framework and context for interpreting services in Sweden. Then, a brief explanation of the theoretical concepts used in the article is provided, focusing specifically on legal certainty and the position of clients as rights holders. In the next section, the methods and materials used to elicit narrative data are described, followed then by a discussion of the thematic analysis and the three main themes that emerge from the data. To conclude, we discuss these themes and the implications of the related experiences in a broader perspective to clarify the impact of public service interpreting on legal certainty.



## 2. Background

Two laws are of particular interest for understanding the position of clients as language rights holders in public service environments in Sweden: the Language Act and the Administrative Procedure Act. The Language Act (2009:600) stipulates the following (translation by the Ministry of Culture 2009. Emphasis added):

### Section 1

This Act contains provisions on the Swedish language, the national minority languages and Swedish Sign Language. *The Act also contains provisions on the responsibility of the public sector to ensure that the individual is given access to language and on the use of language in the public sector and in international contexts.*

### Section 2

The purpose of the Act is to specify the position and usage of the Swedish language and other languages in Swedish society. The Act is also intended to protect the Swedish language *and language diversity in Sweden, and the individual's access to language.*

The Language Act establishes Swedish as the official language in Sweden. Furthermore, in line with the National Minorities and Minority Languages Act (2009:724), the European Charter for Regional or Minority Languages Committee Directives (1995:84), and the Nordic Language Convention (1981), national minority languages and Swedish Sign Language are recognized as holding particular rights. Other languages used in Sweden due to global migration, which are of primary interest in this article, are also addressed in the first section of the Act by stating the responsibility of the public sector to provide access to public services. The second section defines Sweden as multilingual and recognizes access to language as an individual right. This legal right gives the individual protection against discrimination based on language. The category of migration languages is treated in line with Patten's (2009) definition of accommodation rights, one of the five different categories of language rights in his analysis. Patten notes that accommodation rights are designed for people who lack sufficient proficiency

in the dominant language and that they might imply the provision of interpreting and translation services. Thus, these rights are linked to other entitlements, such as social justice and fair trials (Alcalde 2015).

The need to recognize multilingualism and different language minorities in Sweden, old and new, is also addressed in the Administrative Procedure Act, which dates to the 1970s. In the latest version (2017:900; unofficial English translation from [www.government.se](http://www.government.se). Emphasis added):

#### Section 13

An authority shall use an interpreter and arrange to translate documents *if this is needed* to enable a private person to look after their rights when the authority is in contact with someone who does not have a command of Swedish.

In the same circumstances, an authority shall use an interpreter and make the content of documents accessible when it is in contact with someone who has a disability that severely limits their ability to see, hear or speak.

The first version of the Administrative Procedure Act (1971:290) used the words “can use an interpreter if needed,” the second version from (1986:233) used the words “should use an interpreter if needed,” which is reinforced in the present version by the imperative “shall.” The statement that it is the duty of the authority to secure the rights of the private person in their contacts with them, was added in the latest 2017 version. Overall, the act implies awareness of the need to employ an interpreter when public service providers do not share a language with the client or patient and this is stated as a guarantee of transparency, participation, and legal certainty. Rather than the individual’s right, the act underlines the duty of the authority and its responsibility for robust investigations and fair decisions. Thus, public employees must request interpreters also for their own sake when they do not share a language with the client.

As stated in the introduction, the two acts, the Language Act and the Administrative Procedure Act, lay the groundwork for the State’s responsibility to provide public services with adequate interpreting and translation services. How these acts have been practiced in Sweden has been described in our previous work (Norström, Gustafsson & Fioretos 2011; Gustafsson, Norström & Fioretos

2012b). For example, state-funded training programs in public service interpreting are available at two Swedish universities and several other adult education providers. There are authorization possibilities, provided by the state-governed Kammarkollegiet (the Legal Financial and Administrative Services Agency). Procurement practices of interpreting services following the Procurement Act (2016:1145) could also be defined as a guarantee for good quality in interpreting and translation services.

However, previous research shows several factors undermining the quality of interpreting services in Sweden (Fioretos, Gustafsson & Norström 2020; SOU 2018:83). Precarious working conditions for public service interpreters is one factor, the ambiguity embedded in the Administrative Procedure Act by the words “if needed” is another. The above-mentioned lack of trust in interpreting services as well as low competences among both interpreters and public service providers described in previous research is a third factor. Lack of adequate resources is a fourth. These problems have been addressed and investigated in for example, social work (Chand 2005; Kriz & Skivenes 2010; Dominelli 2018; Gustafsson, Norström & Höglund 2019; Gustafsson 2021), legal and court settings (Torstensson 2010; Elsrud 2014; Elsrud 2017; Elsrud, Lalander & Staaf 2017; Staaf & Elsrud 2018) health and medical care (Gerrish et al. 2004; Kale and Syed 2010; Hadziabdic 2011; Plejert et al. 2015; Silva et al. 2016; Åkerman et al. 2017; Haralambous et al. 2018; Granhagen et al. 2019), in the area of migration and asylum investigation (Herihly & Turner 2007; Kjelsvik 2014; Akin 2017; Puumala, Ylikomi & Ristimäki 2017), and in the field of interpreting and translation studies (Prunč 2012; Tipton 2016; Westlake & Jones 2017; Skaaden 2019).

A negative factor in the Swedish case is that only a third of all 5000–6000 active public service interpreters in Sweden have adequate training and/or authorization (SOU 2018:83), which is suggestive of uneven quality of interpreting services. Constantly changing demands due to changes in global migration combined with the above-mentioned lack of resources and the reluctance to link education to the qualification of interpreters in legislation undermines the quality and status of the profession (Norström, Gustafsson & Fioretos 2012; Prunč 2012; Tiselius 2022). The lack of trained professional interpreters becomes even more troublesome in combination with present Swedish integration policies

suggesting limiting access to public service interpreting to two years (Jakbo 2022). These suggestions are based primarily on discussions about costs and what is the most efficient use of Swedish tax money. Embedded is also the argument that access to public service interpreting would prevent people from learning Swedish (Fioretos, Gustafsson & Norström 2020; Elsrud, Gruber & Lundberg 2021). The same arguments have been critically discussed by researchers in other European countries (Schäffner 2009; Pokorn & Jaka 2018; Dominelli 2018).

Despite several limitations with public service interpreting as noted above, and based on the current legislation, individual clients who do not speak the majority language of Sweden nevertheless have solid arguments for claiming their right to public service interpretation to gain access to their human and social rights in meetings with public services.

### 3. Theories and concepts

The concept of legal certainty is used in this article in an empirical and explorative way as a tool to conceptualize the experiences of interpreting as described by this study's participants – i.e., migrants attending the SFI classes during the interpreters' lectures. In their narratives and questions they asked the interpreters, discrepancies emerged between the intention of public service interpreting as stipulated in law and how public service interpreting is perceived in practice. The most common comment among the participants about interpreting services was that it is "both good and bad." In order to understand the context of this ambivalent expression, four core concepts must first be introduced, namely *rights holders, formal legal certainty, substantive legal certainty, and language rights*.

In its most simple form, being a rights holder refers to rights of individuals as they are agreed on in a particular community or society. Rights could refer to human, social, and legal rights and are primarily defined in conventions, by policy documents and other collective agreements. These rights are protected by the society that stands as a guarantee for the fulfillment of the rights of the rights holders (individuals). The rule of law is the main medium for protection and fulfillment and is also the cornerstone for trust and legal certainty (Ivaylova 2017).

The concept of legal certainty is often associated with the judiciary, although it applies to all authorities and public service institutions (Bendz 2010). When public services maintain legally secure procedures that are governed by generally applicable and predictable rules and practices, clients can anticipate the consequences of their actions and what they can expect from the state. Such predictability thus gives public service authorities legitimacy as long as they apply the law in a way that service users and the general public perceive as equal and impartial.

However, there are situations in which laws are established that go against fundamental values—in liberal democracies, the equal value of people and everyone’s right to equal treatment. An example is the proposal to limit access to interpreting services to a maximum of two years for refugees and migrants (Jakbo 2022). Even if such legislation has been enacted according to applicable rules and correctly applies the legislator’s intentions, it harms people. Therefore, formal legal certainty requires supplements that guarantee fair and ethically based decisions, namely, substantive legal certainty (Bendz 2010).

Substantive legal certainty contains an ethical component which means that the authority must consider overriding values such as human rights, equal value for all, and fair handling of cases and decision-making. The material component thus gives authorities certain freedom of action in connection with interpretation of the law. However, the decisions must still be perceived as predictable and fair to be given legitimacy by public service users. Bendz (2010) shows that the authorities’ freedom of action and other difficulties, that is, lack of trained interpreters, may still affect the possibility of fulfilling legal certainty. In summary, the core values in formal legal certainty are predictability and universality, while in substantive legal certainty, these are efficiency in relation to the particular case and the upholding of fundamental ethical values. Bendz (2010) shows how these two aspects of legal certainty are not always possible to combine.

Based on these concepts, we define the refugees and migrants participating in the lectures as rights holders. Due to their status as residents, asylum seekers, or as holders of temporary or permanent permits, they are covered

by the Swedish legal system and have *language rights*, that is, a legal right to public services as well as to interpreting and translation services. These services can be seen as tools for providing access to the prescriptions of the law. Here, we will focus on the right to interpreter and translation services as it is established in the Administrative Procedure Act (2017:900). To analyze the experiences of the rights holders, the non-majority language speaking client in our study, we use the concept formal legal certainty to support our analysis of correctness, universality, and predictability, for example how public services understand the word “shall” as used in Administrative Procedure Act when there is a need to provide interpreting. We will use the concept of substantive legal certainty to support our analysis of efficiency and ethical considerations when the provision of interpreting is negotiated by public service in relation to the particular case in line with the open demand of “if needed.”

#### 4. Methods and materials

Migrants’ narrations of interpreted encounters in Swedish welfare institutions form the basis of the analysis in this article. The empirical data were collected during an intervention and research study, “Cultural dialogue via interpreter.” The project was conducted as part of a collaboration between Linnaeus University and two interpreting agencies. Eleven specially trained public service interpreters gave lectures for two groups: (1) professionals in public services and (2) refugees and migrants who are students in the Swedish language classes. The purpose of this intervention was to discuss the role of interpreting and experiences of interpreted encounters on a meta-level. The goal of this intervention was four-fold: (1) to find ways to take care of the experiences and expertise of public service interpreters by giving lectures, (2) to increase awareness about the impact of language and communication skills for access to public services among public service professionals based on these lectures, (3) to facilitate interpreted encounters by problematizing issues of power asymmetries, discriminatory as well as fair practices, and (4) to find long-term ways to promote legally certain and just encounters from the perspective of non-Swedish speaking public clients.

The project developed a course to prepare and train interpreters to give lectures. Narrative methods such as storytelling were used to verbalize their experience-based knowledge, to find generalized themes that were recurring dilemmas in interpreted encounters, to de-identify examples, and to use didactic skills for lecturing (e.g., Napier 2010; Nicodemus, Cole & Swabey 2015). The course included training in rhetoric, didactics, and the pros and cons of using the complex concept of culture (e.g., Gustafsson, Norström & Åberg 2022). During the project, the eleven interpreters conducted a total of 216 lectures. In an extensive ethnographic study, we observed 71 lectures, 50 of which were in SFI (Swedish language classes for Immigrants). In addition, we conducted 34 interviews with 47 participants, both public service professionals and refugees and migrants at SFI.

Here we focus on the material collected during observations of lectures in Swedish language classes and the dialogues between the lecturing interpreters and participants. Most participants were part of the Swedish two-year resettlement program, in which Swedish language classes are the cornerstone element. Once the migrants have completed the program, which includes individual labor market measures and civic orientation, they are expected to speak Swedish and be self-sufficient. This expectation is a complex and politically normative ideal, and many migrants do not achieve this outcome within the two-year resettlement program. Those migrants need to continue their studies in Swedish, and their dependency on social assistance and benefits is extended. Consequently, participants we met during our fieldwork at SFI could have lived in Sweden longer than two years.

The general framework for the lectures was that the interpreters lectured in pairs. The lecture was either in plain Swedish or a particular target language – e.g., Arabic, Somali, Persian – depending on which interpreters were lecturing and on the background of the participants in the Swedish language class. Due to restrictions implemented as a result of the COVID-19 pandemic, many lectures took place over digital platforms such as Zoom and Microsoft Teams. Participants were often present in the classroom and accompanied by one or two teachers while the interpreters attended on Zoom. Several teachers were active during the lectures and asked questions. The interpreters met with the classes for four

hours, divided into two sessions (2x2). In the first two hours, they introduced themselves and described their profession, public service interpreting in Sweden, and the rights of the service users/clients/patients to have an interpreter. They also explained the role and the ethical principles guiding interpretation, namely using the first person, being impartial, neutral, and respecting confidentiality. This presentation was supported by specific anonymized and generalized examples to illustrate how interpreting works in practice. An exchange of experiences often followed this part of the lecture. To initiate discussions, the interpreters could ask: According to your experiences, is it good or bad to use interpreting? Consequently, the most common and immediate answer was that all students had both good and bad experiences of using interpreters when interacting with public service providers.

When observing monolingual lectures, we had an interpreter who knew the target language as a co-listener and observer. In these cases, we focused more on the interaction. On one occasion, for example, the participants were present in the classroom, and the lecturing interpreters were on Zoom (due to pandemic-specific restrictions). After the initial presentation and the first part of the lecture about the role and ethics of interpreters, the lecturing interpreter opened the floor for questions. Each participant, one at a time, went forward to the camera in the classroom. They presented their experiences and asked their questions. Each stayed in front of the camera until the dialogue with the interpreter was finished. Each participant was given the opportunity to present and discuss their dilemmas.

All of these encounters were later translated and explained to the researchers by our co-observing interpreter. Participants described problematic situations when interpreting had failed in their interactions with public service providers as well as when interpreting services were not used at all. Their examples covered a wide range of situations in various public service settings. One woman had been silenced by the interpreter when she was consulting a doctor. Another indicated that an interpreter approached her after a meeting with social services in the parking lot. The participant recounted that the interpreter was angry, and that the interpreter told her not to ask stupid questions next time. A third participant had a complicated case. She explained that the teachers had suddenly informed



her that her son had an appointment at the child and youth psychiatry due to suicidal tendencies. She was shocked that no one had ever mentioned this before. In the dialogue, it emerged that the school had tried to inform her to discuss the situation with the son, but interpreting services had not been used.

All observed lectures were documented in field notes, by hand, and later written as word documents (Davies 2008). We discussed the possibility of video and/or audio recording but decided that it would be too much interference in the classroom, especially since several participants were in vulnerable situations due to their legal status as asylum seekers or with temporary residence permits. It is also a matter of confidentiality and handling sensitive personal data (GDPR 2018). Yet we have followed good research practice with informed consent and the research is ethically vetted and approved by the Swedish Ethical Review Agency (Dnr 2020-04713).

As observers, we impacted the situation although we were not actively participating in the lectures (Davies 2008; O'Reilly 2012; Mellinger 2020). Our position as outsiders, listening instead of interacting, is essential to indicate in order to understand the quality of the material. The participants talk to a representative for the service that they evaluate by sharing narratives and posing questions. It is difficult to generalize how this affects them. Still, it was striking how respectful the conversation between participants and interpreters was and how frank both parties were, sharing a willingness to be constructive and improve interpreting services. The participants were also expecting advice and solutions from the interpreters, which would not have been the case if they had talked to us in semi-structured interviews.

Two questions guided the analysis of the written documentation from 50 lectures: What experiences of interpreting services do non-Swedish speaking service users express? What impact do these experiences have on how they perceive their legal right to interpreting? Statements, exchanges of experiences in dialogues, and individual narratives that addressed how the participants responded when the interpreters informed about the clients' legal rights to be assisted by professional interpreting in their contact with public service authorities to access social rights, such as healthcare, school, and social care were consequently coded in several stages until we had identified and labeled

three dominating themes (Ripley 2011). In the next section these are presented as results and further discussed by employing the above-described theories on legal certainty as a primary condition that protects the service user as a rights holder.

## 5. Analysis and results

In what follows, we reproduce situations from selected lectures that illustrate the three main themes that emerged in the thematic analysis and that have an impact on the migrants' position as rights holders and both formal and substantive legal certainty. These themes are labeled: *mistrust in interpreting services*, *self-regulated minimization of language rights*, and *absence of professional interpreting and translation services*.

### *Theme 1. Mistrust in interpreting services*

An interpreter in Swedish/Somali starts his lecture by discussing the ethical rules interpreters are bound to follow. While talking, he writes on the whiteboard: "Impartiality – Neutrality – Confidentiality." He explains that if interpreters do not follow the ethical rules, they are sanctioned and that they may lose their authorization, their assignments, or even be fined. He then asks the participants: Have you spoken through an interpreter in meetings with public services? What are your experiences?

One of the participants immediately raises her hand and describes a locally based interpreter who told stories about a woman who used to live in the neighborhood but had moved elsewhere. The interpreter had told her that the woman was very ill and that he had interpreted for her at the hospital. However, this was not true, as the participant later found out. The interpreter had lied about the woman's condition and talked about her to people who had no business knowing about the woman's situation. The lecturing interpreter validates the participant by saying that this is an example of an interpreter who does not follow the ethical rules. He goes on to tell the participants that they should tell the service providers if they end up in similar situations and that they have a right always to demand a better interpreter.

Another participant introduces himself as coming from Eritrea. He starts talking about the situations for Eritreans and says that many Eritreans do not trust the

interpreters as they might be spies for the regime. He continues by giving a personal example of how he is anxious about this and how this affects him. He tells about his asylum case at the Migration agency, and that it is pending. He has a feeling he cannot get rid of, that something may have gone wrong in his case because he has got an interpreter that works for the government in Eritrea. He says that he has been waiting and waiting for a long time, he wonders if the interpreter had said something that was not correct about his situation. He says that he does not know whether it is the Migration Agency or the interpreter who might have misunderstood his case.

A third participant continues and talks about the time when she did not understand Swedish. She says that now she understands Swedish, and she has realized that an interpreter does not interpret everything, and that is the reason why she prefers to communicate without an interpreter (Fieldnotes Lecture, 24 November 2021).

The examples reveal a widespread problem, namely when clients do not trust interpreters. Several participants speak of situations when interpreters have questioned their statements or when the interpreter has silenced them by whispering “you are lying,” or “you cannot say this!” in their language. Sometimes the interpreter has refrained from interpreting what is said. As shown in the example above, other clients are afraid of their compatriots.

It often happens that clients perceive that the interpreter is affected by political or religious views or shows anger, a perception which becomes a hindrance for the participant to speak about personal matters. One participant stated that “I do not want an interpreter – I prefer to speak in English.” Another says that she prefers to talk for herself in poor Swedish and to interpret for her mother. The lecturing interpreter gives advice– “you must tell the authorities,” “you can request a specific interpreter if there is someone you trust,” and “ask for distance interpreting over the telephone if you do not trust the interpreter at hand.” The participants respond by asking how they can complain if they do not speak the language. A common comment is that they do not want to ruin the situation for the interpreter who might lose their job.

Based on these situations, we can conclude that the mistrust in interpreting services, which was described in the introduction as prominent from the perspective of public service providers, is also prominent among clients (Chand

2005; Kriz & Skivenes 2010; Westlake & Jones 2017; Gustafsson, Norström & Åberg 2019; Skaaden 2019). Whether these experiences are authentic or not is not an issue. Regardless, the mistrust expressed towards interpreting and interpreters constitutes an obstacle to delivering public service to service users (Gustafsson 2021; Prunč 2012). It also leads to many situations where service users prefer to continue contacting authorities and public service providers without interpreting, using plain language, English, or a relative or child as a language broker.

### *Theme 2. Self-regulated minimization of language rights*

An interpreter in Swedish/Arabic gives a lecture, introduces a topic about an interpreter's work, and asks the participants in the room: "Do you have any experiences with interpreters?" "Do you use interpreters?" The questions position the participants as users of interpreting services. The following conversation shows how the participants perceive themselves as clients and translatable subjects.

Several people in the room become engaged in the conversation. One woman who speaks quite good Swedish (according to the teacher) starts by expressing that she has chosen not to have an interpreter because she does not see herself as worthy of one due to the time she has spent in Sweden and the fact that she is an adult. She explains: "I came from Bosnia and moved here two years ago. I have had the chance to learn Swedish for two years, but I haven't made it all the way. They asked me if I needed an interpreter. I said I don't need an interpreter; I'm old, I'm 50 years old, and I shouldn't have an interpreter. I need to work in Sweden to take care of my children." Another woman joins in. She says interpreters cost a lot of money for the State and are not good to use. Several in the room agree. There seems to be a consensus among the participants that interpreters should be used as little as possible. They discuss and conclude that they should only use an interpreter when they are with the doctor because there are so many difficult words, and it is essential to understand precisely what the doctor is saying (Fieldnotes Lecture, 16 November 2021).

The participants in this dialogue assume the responsibility of whether or not to use an interpreter. In their narratives, the participants expressed several arguments about why they are not eligible for provision of interpreting services. Most obvious is the normative standpoint that learning Swedish is the only way

for accessing social and medical assets, and the idea that they as refugees and migrants should not burden society and tax money. This echoes the political debate in Sweden and elsewhere in Europe, described above. Yet, established political parties suggest limitations in access to interpreting and translation services and demand more repressive actions for those who do not learn Swedish (Fioretos, Gustafsson & Norström 2020; Elsrud, Gruber & Lundberg 2021). Note that the woman in the example states that she has lived in Sweden for two years and should not need an interpreter, in line with the two-year window suggested by some politicians as a limit for when one should not be allowed to use an interpreter (Jakbo 2022/06).

From a theoretical perspective these standpoints reflect how integration policies reproduce oppressive assimilatory ideas in which one part integrates the other. It is the refugee and migrant who are the passive part that need to change, often rhetorically explained by their perceived lack of skills and competences. In other words, the dominant discourse is that lack of access to their rights, to just meetings, to the labor market, to the housing market can be fixed if the migrant learns Swedish (Pripp 2005). This might seem reasonable, but research has shown that language learning alone is not enough for integration. People learn Swedish, but they remain unemployed and with statistically verified worse living conditions and health situations than the majority population (ibid.). By internalizing these normative discourses, the participants self-regulate and minimize their position as rights holders and thus their language rights as they are formulated in the Language Act (2009:600) and Administrative Procedure Act (2017:900).

### *Theme 3. Absence of professional interpreting and translation services*

In this section, we present additional narrative excerpts and questions raised by the participants during different lectures related to the absence of professional interpreting and translation services. The absence of interpreting and translation was a common topic in Swedish language classes and related to the self-regulating minimization of language rights and the normative discourse of learning Swedish. The absence of interpreting and translation was

also conspicuous in the focus on learning Swedish as an emancipatory force that the participants were aiming for.

The migrants regularly described occurrences in which public service interpreting and translation services were not provided. For example, most of their interactions with authorities and public service providers took place in their homes on the computer. During the lecture, there was often a moment during which the lecturing interpreter showed the participant different websites, such as, the websites of the Swedish Tax Agency, the Public Employment Agency, and the Social Insurance Agency. They showed where to find English versions or translations of these websites in other languages. One participant indicated that this demonstration was the most useful information he had gotten since he came to Sweden. Until then, he had relied on his teenage son as a translator or interpreter, and he had also offered the son's services to fellow countrymen.

Another difficulty that several participants indicated was the inability to contact public service providers or make or change appointments since they do not speak Swedish. The lecturing interpreter then advised how to learn Swedish and provide concrete instructions about how the participants can reach public service providers by wading through the digital options offered by a machine voice and finally reach a receptionist.

Another commonly-recounted situation that falls within the scope of the theme of an absence of interpreting services is related to a mismatch between the language spoken by the interpreter and the client. In some cases, the language was entirely distinct from the needed language for interpreting; in others, the interpreter did speak the requested language but did not speak the same dialect. This is a sensitive situation to address, since participants feel they jeopardize future assignments for the interpreter if they complain about the service being provided. Another argument for not mentioning the mistake was that if "you complain about the interpreter speaking the wrong dialect and the meeting is canceled, you might have to wait for two-three months until you get a new appointment."

Finally, the teachers raised questions such as "Can you choose not to have an interpreter?" or made related comments including "It is so important to learn Swedish," and "Interpreting is not necessary – we can get so far by using gestures

and body language.” This type of question ultimately reveals a pervading view that confirms or legitimates the absence of translation and interpreting services, particularly since it suggests that these services are unnecessary if Swedish is learned sufficiently.

## 6. Discussion and conclusion

In this article we have focused on the experiences of the non-majority language speaking clients and the analysis has shown three main areas that might lead to situations where both formal and substantial legal certainty is undermined, as well as the position as a rights holder. To summarize the results, in the dialogues with the interpreters the participants gave examples of *mistrust in interpreting* along with different solutions to this issue. One solution was to submit but remain silent; another to decline the use of interpreting or speak for themselves in broken Swedish or English; a third to bring a friend or relative with them for language brokering. The advice from the lecturing interpreter, that they had to tell the authorities about their mistrust, was met with skepticism. Firstly, it seemed complicated when they did not speak Swedish. Secondly, to complain about the interpreter would be rude and perhaps devastating for the interpreter’s career (they did not want to ruin their work). Thirdly, if the meeting was cancelled due to the complaint, it might take two to three months before a new appointment was set up.

Similar problems appeared within the theme of the *self-regulated minimization of language rights*. Here the participants stressed their own responsibilities which shows a self-discipline where one has internalized ideas of not being worthy of interpretation. They did not want an interpreter due to the societal costs and their own failure in learning Swedish and getting employed. They did not want to burden the state. The more fragmented theme of *absence of professional interpreting and translation services* included the same kind of understanding that either they were responsible but lacked competence in Swedish language and therefore could not read official websites or call the public service provider to make an appointment, or that the interpreting services were responsible, but were perceived as

not good enough. Furthermore, the narratives and questions raised by the participants do not only reflect individual experiences or perceptions. They were often repeated in different lectures in similar ways, and they also reflect contemporary normative discourses about language and integration. One thing that struck us was that the participants did not seem to think of their negative experiences as the responsibility of the authorities, but as their own problems to solve, or the responsibility of bad interpreting services. As described above, such standpoints were supported and legitimated by the teachers who said things like: "It is not the authority that is problematic, it is the fact that they are provided with bad interpreting services and that they do not speak Swedish—that is the problem. Never the authority."

Here, we return to the question of what these findings might mean for the authorities and public service providers, as they are the ones who use interpreting and translations services if needed according to the Administrative Procedure Act (2017:900). Returning to the division between formal and substantive legal certainty, it can be argued that the formal legal certainty is fulfilled in a general and predictable way every time an interpreter is employed, following the strong imperative of "shall use" in the Act. The normal procedure is that the public service provider notes the use of interpreters in their official documentation, acts, and journals. However, the fulfillment of formal legal security does not necessarily mean that the substantive legal certainty is fulfilled (Fioretos, Gustafsson & Norström 2020; Bendz 2010). As noted above one problem might be that the authority cannot find a trained and/or authorized interpreter or an interpreter in a specific language at all. If they employ a non-professional interpreter, that is, someone with no adequate training or authorization, they fulfill the "shall" and "if needed" and secure formal legal certainty in line with the legislation. Simultaneously, the employment of inadequate interpreting services might undermine the quality of the service and thus the substantive legal certainty (ibid).

Another problem for the fulfillment of legal certainty is embedded in the ambiguous formulation, "if needed," leaving it open up to the authorities exercise of discretion. According to the law the authority is responsible



to decide whether interpreting and translation services are needed. Yet, previous research has been corroborated by this article's findings that clients often are defined as the ones in need of interpreting services rather than the authority (Skaaden 2019; Fioretos, Gustafsson & Norström 2020). This implicit assumption might lead to situations when clients, as was told in the lectures, decline the use of interpreting based on mistrust, self-regulated minimization of language rights, or absence of interpreting services. Due to the professional discretion of the authority, it might seem as an ethically legitimate decision to acknowledge the wishes of the client (Gustafsson, Norström & Höglund 2019; Gustafsson 2021). A short but important conclusion, though, is that they are then responsible for undermining the position of the client as a rights holder who will not enjoy equal access to their human and social rights if interpreting and translations services are not employed.

Nevertheless, to go against the client's request to employ interpreting could undermine trust and ruin a case, complicating an already complex situation. Therefore, we need to instead focus on the legitimacy of the authority, as the one in need of interpreting and translation in order to make robust investigations and take fair decisions. Not using an interpreter impinges on public service workers' rights and possibilities to fulfill their duties, and as primary interpreter users, this situation is not negotiable.

As a final conclusion, we provide a brief methodological reflection. By listening to the dialogues between interpreters and participants and their interactions during lectures, we have gained knowledge about experiences of interpreting among non-majority language-speaking clients. In the analysis, we have focused on the negative and problematic experiences, yet we note the ambivalence of their comments in some cases, insofar as the provision of services is recognized as positive. Our point of departure is that by analyzing in what ways legal certainty, both formal and substantive, risks failing and how the position as a rights holder might be limited, we can learn more about how to improve these areas. In doing so, these insights provide opportunities to incorporate feedback into interpreters' lectures and to invite critical discussion among authorities about the relation between their legitimacy and the use of interpreting services.

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