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# Contents

*L'interprete a Tabl* vii  
*AN l* ix

**Introduction: The Changing Role of the Interpreter  
Contextualising Norms, Ethics and Quality Standards** 1  
MARTA BIAGINI, MICHAEL S. BOYD AND CLAUDIA MONACELLI

**PART I**  
**A Dynamic Sociocultural Perspective of the Interpreter's Role** 5

**1 Fictional vs. Professional Interpreters** 7  
NITSA BEN-ARI

**2 Interpreting as a Postmodern Profession:  
A Socio-Historical Approach** 32  
PAOLA GENTILE

**3 Professional Self-Perception of the Social Role  
of Conference Interpreters** 52  
CORNELIA ZWISCHENBERGER

**PART II**  
**Ethical Challenges in a Changing Professional Role** 75

**4 Professional Roles and Responsibilities in Designated  
Interpreting** 77  
ANNETTE MINER

**5 On Motivational Ethical Norms: From Defensive  
Interpreting to Effective Professional Practices** 102  
GRAHAM TURNER AND BRETT BEST

- 6 The Interpreter as Observer, Participant and Agent of Change: The Irresistible Entanglement Between Interpreting Ethics, Politics and Pedagogy** 122

! EBNEM BAHADIR

**PART III**

**Norms and Quality in Changing Professional Practices** 147

- 7 Self-Awareness, Norms and Constraints: Dealing with Metaphors in Interpreter-Mediated Press Conferences** 149

CHRISTINA SCHÄFFNER

- 8 Research on Television Interpreting: A Case of Flouted Norms** 173

EUGENIA DAL FOVO

- 9 Professional Role, Norms and Ethics in Interpreting Studies Research** 203

CLAUDIA MONACELLI AND MICHAEL S. BOYD

**PART IV**

**Norms, Quality and Ethics: A Discussion** 217

- 10 Norms Revisited** 219

CARLO MARZOCCHI

- 11 Interpreter Role, Ethics and Norms: Linking to Professionalization** 228

HELLE V. DAM

- 12 Norms, Ethics and Quality: The Challenges of Research** 240

DANIEL GILE

- Afterword: The Changing Role of the Interpreter Contextualising Norms, Ethics and Quality Standards: A Way Forward** 251

MARTA BIAGINI, MICHAEL S. BOYD AND CLAUDIA MONACELLI

- B* : *A* , *D* *Ñ* *a* , *E* 257

- I* 260

# 9 Professional Role, Norms and Ethics in Interpreting Studies Research\*

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## 1. Introduction

In her groundbreaking study, Monacelli (2009) puts forth convincing evidence of distancing, de-personalization and the mitigation of illocutionary force in moves by professional conference interpreters in their struggle for professional survival. This involves subjects in a position of detachment with respect to both the source text and their own text. The overarching trends prevalent in her data are based on the analysis of personal reference, patterns of transitivity and the attribution of agency, mood and modality, and the interpreter's behaviour in relation to threats to face. This overriding trend, however, does not emerge in other settings. Interpreters employed in legal contexts, for example, often work behind closed doors in confidential settings and are required to adhere to a completely different set of norms. For example, Kalina (2015: 66) discusses norms and ethics in varying contexts and highlights the marked difference among professional settings:

In some settings, such as court and medical interpreting, codes of practice are established by providers, i.e. the authorities that are responsible for the functioning of the service and/or for the accreditation of interpreters; this is the case in the U.S. and some other countries.

This chapter considers the role of ethics and norms in Interpreting Studies on a number of different interrelated levels with a focus on the contextual constraints encountered by interpreters in a specific legal context, that of civil proceedings mediation. As its point of departure, the study draws on simulated data from the EU-funded project Understanding Justice<sup>1</sup> whose remit is to distinguish bilingual mediation (using mediators in the role as interpreters) from the use of interpreters in the same role. The discussion is framed by the notion that the role of interpreting<sup>2</sup> in civil mediation may contemplate the necessity of more prescriptive norms. Crucially, the present study highlights the dominant role played by the mediator in establishing and maintaining interpreting norms and ethics in these encounters. We argue that the interpreters occupy a secondary and often subordinate role in

the encounters, raising further ethical issues especially as regards normative stance. Whereas in cases in which bilingual mediators act as interpreters possibly empowering the other language client by 'advocating' the concerns and interests of the weaker and disadvantaged party in the communication situation, interpreters in the same capacity are not accorded such latitude.

The empirical data come from simulated mediations using interpreters, which adds yet another dimension to our ethical considerations—namely, can simulated data be used for research purposes on ethics and norms in interpreting studies? And, more importantly, if they can, to what extent? A sociolinguistic and critical discourse analytical approach is applied to analyse simulations of the process produced by the EU project Understanding Justice.

In the next section (§2), we provide a definition of mediation within our frame of reference for this chapter. We then provide the analytical framework (§3) we employ to examine our case study and pose a number of important research questions. We introduce our case study based on a simulated bilingual encounters in civil mediation using an interpreter (§4) and discuss the ethical issues concerning the use of simulated data in Interpreting Studies (§5). Finally, conclusions are drawn (§6) on the basis of our discussion.

## **2. Mediation**

Civil mediation as a social process is informed by structures, rules and norms that constrain the environment within which it operates. Mediators are invited into the negotiation as third parties. They create the process of

*Tabl* 9.1 The Mediation Process (Adapted from Roberts 2013)

<i>D</i> <i>l</i>	<i>Ob</i> <i>Ń</i>	<i>A</i> <i>a</i>
<b>Phase 1</b>	Establishing the arena	First contact and reception Facilitating communication
<b>Phase 2</b>	Clarifying the issues	Agreeing and defining the agenda Facilitating communication
<b>Phase 3</b>	Exploring the issues	Managing differences in the early stage Managing high conflict Facilitating communication
<b>Phase 4</b>	Developing options	Facilitating communication Further information exchange and learning
<b>Phase 5</b>	Securing agreement	Concluding the session

of who has decision-making roles. In this phase, the issue of confidentiality is addressed. Information is then gathered and investigated in Phase 2, where the subject matter is distinguished, the issues are clarified and the agenda is agreed upon. Phase 3 covers an area in which it is expected that conflict will arise, where the differences between the parties present are most expressed. Oftentimes, these sessions see highly escalated conflict dynamics, lack of trust, feelings of anger and betrayal, the pressure to make far-reaching decisions at short notice. There is also a high level of insecurity and all this leads to very intense sessions. Even so, this is a fact-finding phase where establishing and defining differences are fundamental in the process in order for mediators to determine a movement forward by exploring options and developing solutions in Phase 4. Mediators here facilitate discussions and give evaluative feedback. This, then, ultimately leads to securing—and finalizing—an agreement among parties via a process of bargaining in Phase 5. Roberts (2013, 2015) stresses that the transition from one stage to another results as being the most delicate moment for mediators. As seen in Table 9.1, parties negotiate a mutually acceptable agreement (Phases 5). This is done in the presence of impartial co-mediators who facilitate the process. Although flexible, the process is highly structured, confidential, voluntary and is held in a neutral setting.

One can only surmise that, in reality, the process outlined may become quite complex when there are parties that represent more than one cultural background and/or when one or more parties intend to change residences, giving rise to international mediation, or cross-border mediation. This 'messiness' of reality (Gulliver 1988) becomes compounded when the need for language assistance arises.

In bilingual mediation, people communicate with each other, each using their own language. In Europe, the difficulty in this context lies in the fact that bilingual mediators cover both roles, mediating and interpreting.

Needless to say, what results is a blurring of boundaries with respect to both the service provider and the other language client. Even in the most consensual and constructive of mediation contexts, however, such as, e.g., social services finding housing for a refugee or health care providing treatment to a patient, the inherently active stance of the interpreter-mediator tends to move far beyond the established professional practice of interpreting proper and the traditional tenets of the codes of conduct or of national standards.<sup>3</sup>

### **3. Analytical Framework**

Through the lens of a combined theoretical approach (§3.1), which draws on elements from Critical Discourse Analysis (CDA) and the related branch of the Discourse-Historical Approach (DHA) as well as the Interpreting Studies literature on ethics in confidential settings (§3.2), this chapter aims to address the following fundamental questions:

1. How do we account for the fact that analysts do not have access to authentic interlingual/intercultural settings which require the presence of an interpreter?
2. What can CDA and DHA offer in terms of its tenets on social critique, ethical standards and validity claims of truth?
3. Can an assessment of ethical issues be based purely on simulated encounters in confidential settings?

#### **3.1 Ethics and Norms in CDA and DHA**

CDA is a branch of discourse analysis that is underpinned by a number of ethical principles. Crucially, it envisions discourse as both a product of social interaction and a powerful force in reshaping social practices (Fairclough 1995, 2010; Fairclough and Wodak 1997; Wodak and Chilton 2007). Furthermore, researchers who adhere to this current are consciously



Reisigl (2014: 69) sees discourse as being defined on the basis of the following elements:

1. It is a network of “context-dependent semiotic practices that are situated within specific fields of social action”, such as politics or, in our case, civil mediation.
2. It is both socially constituted and constitutive.
3. It is linked to both a macro-topic and argumentation about validity claims (truth and normative rightness), involving social actors that have different perspectives.

We argue that these three notions can also be applied to the field of civil mediation. First, as we shall see in the following discussion, the semiotic practices that are, crucially, both verbal as well as nonverbal, are dependent on contextual constraints within the highly regulated field of civil mediation. Second, there is a dialectical relationship between a specific civil mediation event and “the situation(s), institution(s) and social structure(s), which frame it” (Fairclough and Wodak 1997: 258) so that this event is dynamic and is moulded by these contextual features through an ongoing process while also playing a part in reshaping them. Finally, part of the last point made by Reisigl is also applicable to the current study. Without going into too much detail about argumentation theory, which is well beyond the scope of this chapter (for further discussion see, e.g., Walton 2007), what is important here is how a so-called validity claim of truth is related to knowledge, epistemic certainty, or normative rightness, in other words “to questions of practical norms or ethical and moral standards, to questions of what should be done or must not be done or what is recommended or forbidden” (Reisigl 2014: 70). Thus we argue that participants in civil mediation are also influenced by such validity claims in that they determine the ethical standards of what should or should not be done, which are clearly laid out at the beginning of the encounter. As we shall see in what follows (§3.2), however, these ethical and normative issues are also framed by factors influenced by the dynamicity of authentic interpreting contexts in confidential settings.

### ***3.2 Ethics and Norms in Interpreting Studies Research on Confidential Settings***

In essence, all ethically based questions fundamentally concern the construct of agency, in this case interpreter agency. Bandura (1997: 6) describes human agency as “a transactional view of self and society, internal personal factors in the form of cognitive, affective, and biological events; behaviour; and environmental events all act as interacting determinants that influence one another bidirectionally”. This transactional view of self and society provides insight into what is at stake during professional practice.



are excluded from the genre, as Boyd and Monacelli explain, not all of these documents remain classified, so that at least some of the texts are accessible to—and therefore inclusive of—all professionals working at the MoD, regardless of their security clearance. Boyd and Monacelli interview professionals and all respondents mention using the Memorandum of Understanding (MOU) since unclassified MOUs, in fact, become important reference documents for both in-house and freelance professionals and can be used for purposes of recontextualization and general genre-building during other stages of the genre chain in the MoD.

Monacelli (2016b) adds both an analytical layer to the aforementioned study (Boyd and Monacelli 2012) and a reflexive turn in her discussion of the position of the analyst in studies conducted on confidential settings. She applies Goffman's theatre metaphor (1990/1959) to describe the 'staging' of

power, the Understanding Justice project organised and 'staged' simulated mediation sessions with interpreters where members of the project team have also partaken in the simulation (cf. Monacelli 2016a). Participation was voluntary and all parties were guaranteed anonymity. All interpreters in the sessions were professional.



there's dialogue going on between you two and from us two, there's very little happening for Jim"). Yet the party (Jim) does indeed respond in video clip 6 that he is used to waiting for the process (interpreting) before intervening, but they still apologise to him for making him listen to everything twice.

Interestingly, in video clip 7, we see that both mediators make a point of explaining to the Spanish party (while the interpreter works into English for the other party) that indeed the interpreting will also be effected for her when the other party speaks. In terms of what the Spanish party will hear with respect to the interpretation, the co-mediator says, "Many times you will notice it is shorter because we try to condense the information, but you will get a literal translation". He further explains that "we will all have to adapt to these dynamics" using a first-person plural pronoun that indeed includes the interpreter linguistically but—on a pragmatic level—excludes the interpreter from any procedural decision making. This clip also highlights the importance of seating arrangements for the mediation and interpreting, further exemplifying the mediator's fundamental gatekeeping function ("you can sit here").

Video clip 8 highlights the rather delicate nature of using whisper interpreting (Allal & ) in the mediation process. Since the interpreter is whisper-







that concerning the role of the mediator in establishing and maintaining the

Kalina, Silvia (2015) Ethical challenges in different interpreting settings. *M T I S* *Kal*  
*I*