

THE CHALLENGE OF THE INTERPRETER IN INTERPRETING NON-NATIVE ENGLISH SPEAKERS A Case Study - EIT Case at Court of Gianyar – Bali

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Abstract

The aim of this research is to find out the challenges faced by the interpreter in interpreting Bulgarian Accused for the ATM Case. To discuss the problems of this research, eclectic theories are applied. But facial Pochhaker's theory is applied as the main theory for interpreting and other theories of syntax, semantics and pragmatics as well as semiotics. The data used for this research were taken from court examination at the District Court of Gianyar in the case of two Bulgarians charged engines with Article 30 paragraph (2) and Article 33 of Law No. 11 of 2008. Based on the result of the analysis, it was found that there are some challenges faced by the interpreter in charge for foreign accused in the District Court, such as, weak voice of the accused, poor and unclear features of English, incorrect grammar and limited vocabulary. To cope these difficulties, the strategies applied in interpreting English to English are paraphrasing with addition and simplification of information, shift of information as well as non-technical strategy, by using hand illustration while to understand their English the interpreter observed the Accused facial expressions and gestures, and noticing the mouths and forms of lips.

Keywords: Interpreting, addition, provisions and shift

Introduction

The island of Bali is very famous as a tourist destination in the world. Even many tourists get to know better about Bali Island than Indonesia. This is because of its beauty, hospitality of the people and its culture which is very unique in the eyes of the tourists. Thousands of tourists both domestic and foreign tourists come to Bali to see and enjoy directly the beauty and uniqueness of this Island of God (the predicate given to Bali Island). These blessings of tourists contribute positive effect for the development of economy and raise the standard of living for Balinese in general and particularly the community located in the tourist destinations and those involved in the world of tourism.

Not all tourism activities in Bali, however, give positive proceeds. Balinese, on the other hand, are also faced with negative impacts brought by the tourists. The negative impacts cannot be separated from the lives of Balinese people, such as the influence of dressing culture, the

decreasing role of Balinese Language as a regional language supporting Balinese culture and the changes of ways of life. In addition to the impact of local language and cultural deterioration, the impacts having special attention to the society and government is the influence of drug abuse (narcotics), electronic transaction crime, human trafficking and even recently was murder. The perpetrators are not only Indonesian, but many foreigners became the perpetrators of crimes, especially narcotic crimes.

Many foreigners were involved in criminal cases in Bali within last five years. The crimes mostly committed by foreigners were still dominated by the narcotics crimes, followed by the criminal offenses of fraud and embezzlement, murder case occurred in August 2015 and within recent two years is EIT (Skimming Case).

In handling the legal process for the foreigners engaged in criminal offenses from investigation stage at the police office, prosecution at the level of prosecutor office

to the judicial process in the court, interpreter has a key role. The interpreter bridges the communication from the law enforcers to the accused (Cao, 2007) and vice versa from the accused to the law enforcers. This is clearly governed under the Law No. 24 of 2009 on Flag, Language and State Symbol as well as the National Anthem.

This article tries to discuss about the criminal offense of Electronic Information and Transaction (EIT) pursuant to the Law No. 11 of 2008. This article is not intended to rise up legal point of view or the reasons why the perpetrators committed the offense, however it merely views the linguistics aspect of the perpetrators, particularly the English language of the foreigners (Bulgarian) who are not native speakers of English. Why the linguistic aspects of non-native English speakers need to be noted? Most Indonesian citizens contend that foreigners can speak English, but it turns out that many foreigners coming to Indonesia, Bali especially have less English language competence, cannot speak English fluently, not even understand English at all. Similarly as the two Bulgarian who became the accused in the criminal case of ATM Skimming in the territory of District Court of Gianyar as the object of this study. Even though they had been back and forth Bali-Bulgaria repeatedly, and had been living in Indonesia for more than a year, their English language competence were very limited and only related to the general activities in their daily life. In this case, an interpreter did not only encounter the difficulties of access and English legal terminology, but the much more serious challenges is to understand their poor English and limited vocabularies, and to convey legal nuance message from judges, prosecutors and lawyers of the accused.

This article intends to highlight the techniques and strategies of an interpreter in apprehending the intent of the accused in order to convey the message to the law enforcers to avoid distortion of message, and

on the other hand to convey the message from law enforcers to the accused since it is a severe case with threat of sentence of a maximum of 10 (ten) years. The failure in conveying the message can affect the fate of the accused to possibly stay for longer period in prison (penitentiary).

Methodology

This research applied a descriptive method. This descriptive method is applied to describe the challenges faced by the interpreter in understanding the utterances of the foreign accused who were non-native English speakers (Bulgarian) and the tricks used by the interpreter in the effort to minimize the deviation of messages communicated.

The technique used to collect data is a recording technique, namely by recording hearing process by using a recorder in the form of camcorder. The results of the recording were then transcribed. The transcribed data were carefully analyzed to find the existing challenges in the data corpus and matched with moving image (video) to see whether there were non-verbal communicative techniques used by the interpreter in addition to verbal techniques.

Theoretical Framework

As noted above, this research is focused on the challenges of interpreters in the hearing of EIT (ATM Skimming) committed by two Bulgarian Citizens. This data for this research was taken on hearing for the examination of the accused. Since both accused were foreigners (Bulgarian Citizens), it was compulsory for them to be assisted by an interpreter. Without the presence of an interpreter at the proceeding, the hearing cannot be performed. Jacobson (2001) stated that:

“The interpreter is present in the court of the room to ensure that the other participant may communicate the United States if the proceedings were monolingual. The goal is to ensure the success of the communication, i.e. screened all details as well as the

message of a amalgamation dialog is understood by all participant.”

The role of the interpreter is very important in the proceedings of the abovementioned case especially, and other cases involving foreigners. Jacobson (2001 in Puspani, 2010, p. xiii) mentioned that the interpreter must be subject to the four principles, as stipulated in the *instruction for the Interpreters*, namely: (1) *accuracy and completeness*, (2) *impartiality*, (3) *confidentiality*, and (4) *conflict of interest*. Therefore, an interpreter only translates and must translate all things accurately. But, it is necessary to note that in addition to the difference language and legal system, the culture between the source language and target language is also different, then an interpreter sometimes needs to add or reduce the information in order to produce accurate, acceptable translation and can be easily understood by the accused and law enforcers, without affecting the contents of the message.

Verbal (oral) interpretation in the court is a phenomenon involving two different languages with the purpose of getting an equivalence of meaning of the source language and target language. Therefore one theory is not sufficient to cover the existing phenomenon, eclectic theories should be applied. As the basic theory applied is the theory of oral translation (interpreting) which is combined with the theory of syntax, semantics, pragmatics and semiotics. Seligon (1990) stated that an interpreter often encountered with the problems associated with oral translation in the court focusing on the interpreter and court personnel: prosecutors, judges, accused, lawyers and witnesses. Pochhaker 2004 stated that:

“An activity consisting mainly in the production of utterances (text) is presumed to have similar meaning and/or effect as the previous existing utterances in another language and culture.”

From this quotation it is obvious that an interpreter is required to produce interpretation which is considered to have a equivalent meaning and effect in accordance/similar to the previous utterance in a different language and culture (Altay, 2004 in Samadi, 2011).

The role of syntax, semantics, pragmatic and semiotics theories are very important for the interpreters, as in producing their verbal interpretation firstly they will consider the form of sentences and then observe the meaning to find out equivalence and in order that the equivalence matches with the intended message, pragmatics theory takes its role. However it is not as easy as what is imagined as the accused was often unclear in uttering words, phrases, sentences and even without any utterance at all, only in the form of gestures (body movement). To comprehend and interpret things like this, semiotic theory holds an important role.

Interpreting pattern commonly used by the interpreters in Bali is "flat or calm", namely utterance with a flat intonation pattern without any difference of intonation between up or down intonation (angry or sad or happy). A legal interpreter, again, does not only transfer the message from the source language (SL) to the target language (TL), but his are required to convey the message to the target language at the accurate level of equivalence, which is faithful to the style, tone and register of the source language. This means that an interpreter could convey the message in accordance with the speech acts of the source language. When a judge is angry which is shown with a high tone, an interpreter should also have an angry tone, or when the accused is in grieve, the interpreter should also show sad tone associated with sad facial expression (which we call as to "dramatize").

Findings and Discussion

Based on the aforementioned description, this study will discuss about the modes used

by an interpreter in carrying out his duty as a legal interpreter in the court, the challenges encountered during undertaking his duty as well as the strategies applied in interpreting activities, which will be described as follows:

1. The Modes of Interpreting Used

The modes of interpreting (oral translation) can be distinguished into three, namely simultaneous, consecutive and liaison interpreting (Hatim, 1997; Venuti, 2000). However, the mode of interpreting used by the interpreter in proceeding of EIT case above was consecutive. The Consecutive Mode is used when the utterance of the participants involved in communication is in the form of the short utterances of questions and the response in the form of declarative sentences from the parties interacting the proceeding in the trial, among others, judges, defendants, lawyers and prosecutors. Generally there is a pause in the speaker or an interpreter determined a pause to start the interpretation into the target language, as seen in the following quotation:

- Judge : *“Jam berapa saudara berangkat ke Ubud, dengan siapa dan apa tujuan Saudara ke Ubud?”*
- Interpreter : *“What time did you leave for Ubud, with whom and what was your purpose to go there?”*
- The accused 1 : *“I go Ubud one thirty with K... to party”*
- Interpreter : *“Saya pergi ke Ubud jam satu tiga puluh dengan K... untuk berpesta.”*
- Interpreter : *“And You K..”*
- Judge : *“He ask for party and me go.”*
- Interpreter : *“Terdakwa 1 yang mengajak saya ke pesta dan saya mau ikut.”*

In the above quotation consecutive interpreting was used where the utterance uttered both by the judges in the form of short sentences of question and the statement and the response from the accused in the form of declarative sentences were delivered in turn or in other words an interpreter applied consecutive interpreting model. Consecutive mode was not only applied by the interpreter when examining the accused, but also on when the examination of the witnesses. But at the time of examining the witnesses, the consecutive mode was performed with the technique of whisper. Why whisper? This technique was used by the Interpreter so that the voice of the interpreter and the accused did not interfere the question and answer process in the examination of the witnesses which may affect the process of witness examination.

In addition consecutive mode as described above, the interpreter also interpreted using simultaneous mode (simultaneous) namely at the reading of charge by the public prosecutor), the reading of the demands by the prosecution team), the defense by attorney at law and the reading of the order by the Judge Panel.

There is one mode that slips from the attention of the interpreting experts and researchers, namely "sight interpreting mode" generally performed at the time of the prosecutors and judges or lawyers shows evidence in the form of documents in English. During that time the judges asked for the interpreter to translate verbally the content of this document used the evidence. It is called as "sight interpreting" since the interpreter must translate directly and verbally the document shown to him before the court room to the law enforcers.

2. The Challenges encountered by the Interpreter

The duty of an interpreter at the proceeding in the court is not easy. There are various challenges encountered by an interpreter. The challenge is sometimes from the context outside the language competence

and translation. It necessary to note that the proceedings involving the foreigners will be always attended by dozens of journalists both from the country as well outside the country searching for news for their newspapers, magazines, or online news, or directly broadcasted (live) in their country. Therefore, an interpreter must be physically and mentally prepared to various TV Camera, Video and various types of microphone. An interpreter should show professional attitude, without any glimmer of nervous attitude and expression on the face of an interpreter.

The other challenge is the very weak utterances and even could not be heard by the judge panel, prosecutors, lawyers, visitors including journalists and reporters. As shown in the conversation above:

- Judge : “*Apa tujuan saudara berhenti di ATM Clandis Batubulan?*”
- Interpreter : “What was your purpose to stop at the ATM of Klandis Batubulan?”
- The accused 1 : “Wanttake money.”
- The accused 2 : “Normal take money.”
- Judge : “*Suruh terdakwa agar suaranya keras, dan bicara jujur dan tidak berbelit-belit yang bisa menyulitkan dirinya sendiri.*”
- Interpreter : “Please speak louder and be honest.”
- The accused 1 : “K... want take money, card me have.”
- Interpreter : “*K... mau mengambil uang Pak Hakim, tetapi kartunya Terdakwa 1 yang punya.*”

When the accused uttered "*this Take money*", the judge considered that the voice of the accused was less clearly heard by the judges and seemed in doubt and impressed not to tell truth, therefore the judges requested to the interpreter to ask the accused to speak louder and be honest in giving the testimonies.

In addition to a very weak utterance, the accused as the foreigners who are non-native English speakers have no good English competence in term of grammar and limited vocabularies, as seen when the accused said: *K... want take money, card me have*. So, the interpreter encountered difficulties in the effort to reconstruct the sentence uttered by the accused 1 and as a result, there was a difficulty to understand the meaning of message delivered by the accused 1, moreover the sentence uttered by the accused 2 "*normal take money*". From the interpretation of message delivered by the interpreter, namely "*K... mau mengambil uang Pak Hakim, tetapi kartunya Terdakwa 1 yang punya*" to the Judge Panel, seemed that the message is reconstructed from the context of question from the judge panel and the words uttered by the accused 1 and 2. It is clear that the interpreter tried his best in order that the message conveyed by the accused could be clearly and easily understood by the Judge Panel, Prosecutor as well as Legal Adviser in natural expression.

3. The Interpreting Strategies Applied

There were three translation strategies used by the interpreter in performing their duty as an interpreter at the court in this Bulgarian case, namely: paraphrase with addition, simplification, shift of information and non-technical strategies by illustration of hand movement to convey the message and pay attention to the facial expression, the shape of mouth and lips to understand the message of the accused.

a. Paraphrase strategy with addition

This strategy is often used by the interpreter in doing his duties as an interpreter in the court room. The aim is to clarify the equivalent word in the target language, and support in order that the context is acceptable in the target language.

As clearly shown in the quotation of the following example:

- Lawyers : “*Apa saudara bisa ambil uang pada saat itu?*”
 Interpreter : “Could you take the money at that time?”
 The accused 2 : “Card no in, no money take.”
 Interpreter : “*Karena kartu ATMnya tidak bisa masuk, maka Terdakwa 2 tidak bisa mengambil uang.*”

In the above example, the interpreter has to reconstruct the words uttered by the accused 2, by giving additional information, such as, “ATM” and “*the accused 2*”. If the interpreter translated directly the words uttered by the accused 2, for instance into “*the card does not go no money taken*” then the result of interpretation would be rigid and cause multiple meanings about what card is inserted, who enter the card. By adding this information, the interpreter intends that legal advisers, judges and prosecutors could understand easily the message conveyed by the accused 2. In this context, the law enforcers were expected to be able to understand the circumstance of the shortage English language competence of the accused. The addition of this information did not affect the message conveyed at all.

b. Informative Simplification Strategy

This strategy is also often used by the interpreter when the context in the target language is covered, its means that the meaning of the message delivered was appropriate, although no word or more words are not interpreted by the interpreter. In addition, the message delivered by the accused to the interpreter, although it was not interpreted word per word, it is pragmatically considered to have been implied in the target language, as seen in the following quotation:

- Judge : “*Suruh terdakwa agar suaranya keras, dan*

bicara jujur dan tidak berbelit-belit yang bisa menyulitkan dirinya sendiri.” (in angry tone)

- Interpreter : “Please speak louder and be honest.” (in angry tone)

It is clear from the above example that the interpreter did not interpret all the words uttered by the judges. In this instance the interpreter only said “*please speak louder and be honest!*” Pragmatically, however, the message of the source language has been implied in the target language message with the implications of the same meaning. This can be seen from the perlocutionary act of the accused who then repeated the same sentences and more complete with stronger voice.

- The accused 1 : “K... want take money, card me have.”

- Interpreter : “*K... mau mengambil uang Pak Hakim, tetapi kartunya Terdakwa 1 yang punya.*”

c. Shift Strategy

This strategy is usually used in the court proceedings, not only in the EIT case but also in other criminal and civil cases. In general the shift occurs at the level of the word, phrases or even sentences. A shift in interpreting (oral translation) is very common, because a interpreter does not have the opportunity to look up at the dictionary, access to Internet or ask anyone else and therefore sometimes the words he did not know, but he knows the meaning are paraphrased only.

Let’s see the quotation below:

- Judge: ; “*Dimana saudara membuka rekening dan rekening apa saja?*”

- Interpreter : “In what bank did you open account and what

- account did you open?”
- The accused 2 : “Me no bank account, he... I don’t know.”
- Interpreter : “*Terdakwa 2 tidak memiliki rekening bank, Yang Mulia, tetapi Terdakwa 2 tidak tahu apakah Terdakwa 1 mempunyai rekening bank atau tidak.*
 What about you? In what bank did you open account and what account do you have?”
- The accused 1 : “MayBank ... Me have account for Indonesia money and dollar.”
- Interpreter : “*Di MayBank yang mulia... Terdakwa 1 mempunyai rekening rupiah dan rekening dolar.*”

It is obvious that shift occurs on the level of phrase *what account* to *what account did you open*, and even on the utterance of the accused 2 above the interpreter did not just use shift strategy but also provided elaboration by reconstructing the utterance. This was used to simplify and clarify the message delivered by the judges and by the accused with the same pragmatic nuance without affecting the meaning is conveyed from the source language into the target language.

There is a non-technical strategy that should be known by the interpreters particularly in interpreting foreigners having low and weak voice or intentionally weakened and their words are inter-related to each other, that is, by observing the movement and the shape of lips, always paying attention to facial expression of the accused.

To help and ease the accused to understand the message of the source language which was conveyed to him, the interpreter also provided hand gestures to support illustration.

Conclusion

Based on the discussion above, it can be concluded that the interpreter in interpreting foreigners encountered various challenges such as: many media that you wanted to hunt and cover the case for their news and as the effect the interpreter felt nervous and less confident to be lack of professional in the court room. Another challenge is the weak voice of the accused whether intentionally or not with an indication to hide behind the interpreter or other motifs. And the challenge which cannot be considered less important is the interlinked words in the sentence within the utterance. Regarding this EIT case, the challenge was not from the interlinked utterance as from Native English Speaker, as in American, British, and Australian accent or other Native English speakers, but it tended poor English language competence, and limited vocabularies. Such conditions exacerbated the difficulties encountered by the interpreter in the proceeding at the court room.

The strategies adopted by the interpreter to overcome such challenges are information addition, simplification and shift of information. But it is also important and practical strategy is observing the gestures and facial expression of the accused, including the attention to the movement and form of his lips. In less English language competence of the foreigners, it can be supported by providing illustration of limbs, particularly hands.

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