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NON-ENGLISH SPEAKING CLIENTS

MODERATOR: YOLI REDERO

YOLI REDERO: Susan Berk-Seligson is an Associate Professor at Vanderbilt University, appointed jointly in the Center for Latin American and Iberian Studies and in the Department of Spanish and Portuguese. Her book, *The Bilingual Courtroom: Court Interpreters in the Judicial Process*, published by the University of Chicago Press in 1990, was given the British Association for Applied Linguistics annual award for Outstanding Book in the Field of Applied Linguistics. An expanded edition of the book was published by the Press in 2002.

Her most recent articles in the field of language and law have appeared in the *Forensic Linguistics: The International Journal of Speech, Language and the Law and Language In Society*; and she serves as a member of the editorial board of the “International Journal of Speech, Language and the Law” and of the advisory board of *Interpreting: International Journal of Research and Practice in Interpreting*.

She's a research associate of the National Center for State Courts and serves on the advisory board of that Center’s projects on domestic violence against the Limited English Speaking.

She also serves on the advisory board of the Federal Court Interpreters Examination.

She has worked as an expert witness involving linguistic issues regarding the interrogation of Spanish-speaking criminal defendants, as well as plaintiffs in class action suits who have been subjected to discriminatory English-only policies in the workplace.

In the latter capacity, she has worked on a number of occasions with the U.S. Equal Employment Opportunity Commission.

And I will introduce Professor Muneer Ahmad after Dr. Berkseligson is finished.

DR. BERK-SELIGSON: I'd like to talk about court interpreters and their role in judicial proceedings, and I would like to review some basic points that have been raised and the people who have done research in this field. My discussion is heavily based on a
forthcoming article of mine (Berk-Seligson 2006), which is to appear in the *Encyclopedia of Language and Linguistics*.

What I have found on my survey of the research is that there’s very little consensus on what the interpreter’s role should be.

My own study, which was ethnographic in nature carried out in federal, state and municipal courts in the USA found that the American legal system would prefer that the court interpreter not have her own persona; that is, she should not exist as a distinct verbal participant in her own right; rather, she should simply be an instrument through which one language, the source language, enters and another, the target language, exits.

In short, judges and attorneys would like the interpreter to be merely a conduit, something like a mechanical device which converts all speech that is not English into English for the benefit of the judge, attorney and the court record and turns English into the language of the limited English proficient (LEP) defendant, plaintiff or witness, for their benefit.

The interpreter’s function from the standpoint of the court is to enable the LEP person to participate in question/answer exchanges and to follow the examination of others who are being questioned. The conduit model of court interpreting is shared by professional interpreter practitioners. Evidence of this is the widespread inclusion of wording and court interpreter codes of ethics which caution interpreters that the output of interpretation must be, “a faithful,” rendition of what was said in the source language.

The code of ethics and professional responsibilities of NAJTT (National Association of Judiciary Interpreters and Translators), for example, includes the following wording under its first canon accuracy: “Source language speech should be faithfully rendered into the target language by conserving all the elements of the original message while accommodating the syntactic and semantic patterns of the target language. The rendition should sound natural in the target language, and there should be no distortion of the original message through addition or omission, explanation or paraphrasing. The register of style and tone of the source language should be conserved.”
The model code of interpreter ethics for the U.S. federal courts, while it’s far less explicit, has the same thrust—same thrust as this, as you can see in the Ace canon of their code, and they say: “The official court interpreter is to fulfill a special duty to interpret accurately and faithfully without indicating any personal bias, avoiding even the appearance of partiality.”

The National Center for State Courts has its own model guide for policy and practice in the state courts, and they have as their first canon accuracy and completeness. Specifically Canon One states: “Interpreters shall render a complete and accurate interpretation or cite translation without altering, omitting or adding anything to what is stated or written and without explanation” (Hewitt 1995:200).

One aspect of faithfully and accurately rendering source language speech into the target language is preserving speech style or register. This is expected of interpreters working both in federal courts and state courts alike.

The rationale for conserving register in the target language is the court’s desire that the LEP person be put on equal footing with a monolingual English speaker.

In particular, it’s the desire of the courts that those with limited English proficiency not have their speech improved upon by court interpreters; just as there are some monolingual English-speaking witnesses who may testify in a nonresponsive rambling or incoherent manner, sometimes peppered with obscenities. The LEP witness speaking in his or her mother tongue may do so as well, and his or her speech should not be cleaned up by the interpreter in a conversion to English, court administrators believe.

Improving upon the speech of an LEP person would be giving him or her an advantage over a monolingual English speaker of a similar socioeconomic background.

So court interpreters are advised to render in the target language all hesitation, phenomena, repetitions, slang words and expletives.

In sharp contrast to the concept of the interpreter as an impartial translation machine is the notion of the interpreter as linguistic and cultural bridge.

In contexts, other than legal ones, like medical settings and social service settings, interpreters often find themselves explaining to
healthcare and social service providers relevant differences between the culture of the service providers and that of the client.

In legal settings, however, particularly the courtroom, and I quote from an expert in the field, Ruth Morris (1999:18: "It is not normally acceptable in court for an interpreter to point out to an examining lawyer that, for cultural reasons, a particular form of questioning is either impossible to render in the target language or would be understood erroneously by the non-English speaker, nor for the interpreter to explain the cultural implications of the witness’s reply.”

Nevertheless, as Morris points out, formal guidelines given to interpreters and police officers in one jurisdiction of Great Britain explicitly state that there are occasions where interpreters should bring to the attention of authorities, as well as to those being questioned, that some unstated cultural inference has been missed in the interaction.

The code of ethics governing community interpreters, including court interpreters in New Zealand, for example, similarly instructs interpreters to interrupt questioning whenever issues related to culture, creed and language arise.

My own ethnography of the U.S. bilingual courtroom demonstrates that, in fact, some interpreters regularly halt the questioning routines of attorneys to either clarify for them cultural differences that are causing communication problems or to inquire with the LEP witnesses about the meaning of certain terms with which they’re not familiar.

Despite the legal system’s desire that the court interpreter not intrude upon court proceedings, the need for cultural explanations and culture-based clarifications does arise.

For example, anthropologist, Keith Basso, now retired, formally of the University of Arizona, was an expert witness in a case involving a native American Indian woman who accused a man of European background of raping her. And while she was undergoing cross-examination by the defense attorney, she would repeatedly not answer his questions.

Basso explained that in this native American culture, to repeat a question immediately one after the other is equivalent to an assault. And the culturally appropriate reaction to being assaulted verbally in
this way is to become silent. So this woman, by not answering the lawyer’s questions, was behaving in an appropriate manner, from the perspective of her cultural norms.

Thus, sometimes an expert is needed to explain such unusual behavior. In this case, however, it wasn’t the interpreter who did the explaining, it was an anthropologist.

People who have worked on developing the federal court interpretative exam take precisely this position, namely, that giving cultural explanations is not in the domain of the interpreter but should be done by experts other than the interpreter. This is but one position on the issue.

Similar problems have arisen in Australia, for instance, where Aboriginal people frequently are not provided quality interpreting services in their contact with judicial authorities.

According to Eades (1994), Mildron (1999), and Walsh (1994, 1999), the issue is not merely one of finding interpreters who are qualified to interpret between English and the various Aboriginal languages. The issue is also one of culture.

All three of these scholars demonstrate that the culturally different ways of speaking that distinguish Australian Aboriginal people from middle class white Australians disadvantage Aboriginal English speakers when they’re questioned by legal authorities.

Examples of communicative behavior used by Aboriginal people that are misunderstood and negatively evaluated by non-Aboriginal Australians are, first of all, avoiding direct eye contact with those speaking to them, because staring is considered to be impolite. Secondly, falling into long lapses of silence, whether during legal questioning or an ordinary conversation. And thirdly, gratuitous concurrence; that is, answering questions in the way that the person conducting the examination suggests that they be answered or simply agreeing with what is being asked; in other words, the “yea” saying.

In light of the problems of intercultural communication in socio-legal settings, the questions that we have to ask ourselves is, is it the interpreter’s responsibility to be an intercultural mediator. For some people, the answer is yes.

Barsky (1994, 2000), for example, takes this position. His investigation of political refugee hearings in Canada leads him to the
conclusion that if such hearings, "the competent interpreter could, and in my sense, should, play a role far beyond that of simply rendering the words of one language into another" (Barsky 2000:62).

For Barsky, the political refugee hearing interpreter should be an intercultural interpreter, a facilitator, someone who can compensate for the shortcomings of the hearing and who can interpret language and intention, the verbal and the nonverbal, and then assist in the difficult process of contextualizing testimony and rendering it appropriate to the circumstance" (Barsky 2000:78).

Barsky (2000:73) gives the example of one Canadian-born English-Russian interpreter who would bring narratives, even dull narratives, to life, adding relevant detail to the short terse utterances of Russian-speaking claimants in the process of making their stories compelling and more believable. In effect, Barsky calls for extending the role of the interpreter, and he argues that, "The desire on the part of judges and lawyers to have interpreters who limit themselves to verbatim translating can work against the interest of the accused person or the claimant, particularly when he or she testifies before foreign judiciary, like the Immigration and Refugee Board" (Barsky 2000:63).

There are risks involved in allowing interpreters to go beyond faithful adherence to the source language text. One risk is that the interpreter may not act in good faith and may act against the interests of the party for whom he or she's interpreting, Barsky (1994:48) admits. Another risk, says Holly Michelson (2000:46), a California-based expert in court interpreting and interpreter trainer, is that: "The interpreter may be perceived as favoring one side or the other by speaking for them or explaining their attitudes and would be acting as a witness rather than an interpreter" (Mikkelson 200:46).

One frequently held expectation among countries that practice common law jurisprudence is that interpreters should be impartial or neutral with respect to the parties for whom they're interpreting. This means that they're not supposed to side with either the defendant or plaintiff or with witnesses, whether the witnesses are testifying on their behalf or against them.

The prescription for interpreter impartiality is evidenced in interpreter codes of ethics around the world. And the notion of
impartiality, in turn, is intertwined with the concept of conflict of interest. And codes of ethical conduct for court interpreters specify that interpreters must excuse themselves from assignments whenever conflict of interest on their part either exists or merely has the appearance of existing.

One guide for interpreters from Great Britain (Institute of Linguistics Educational Trust 1996:24) says: “The interpreter must be reasonably satisfied that... s/he is, and is seen to be, in a position of neutrality. Interpreters should not accept assignments involving relatives or people with whom they’re closely involved at work or at home or in situations where the interpreter’s impartiality might be challenged without prior consent of both the English and non-English speaking clients.”

Despite the existence of numerous ethical codes of conduct for the judiciary interpreters, and they are found all over the world, it may come as a surprise that reality comes nowhere near to the norms laid out in these canons of these codes.

In my own review Berk-Seligson (2000) of the appellate cases involving interpreting for the police, for example, I found that police officials routinely make use of persons who are not likely to be impartial in their ad hoc role as interpreters, specifically, other police officers, friends or relatives of detainees. In the context of police interrogation, such a practice can lead to a violation of a person’s Miranda Rights. This is what I find in Berk-Seligson (2001;2002).

Even when interpreters live up to the judicial expectations, the persons for whom they interpret see them as being there to help them, as if they were members of the defense team or even their savior, a linguistic and psychological haven, Morris (1999) found.

In some legal systems, such as that found in Malaysia, the interpreter typically is called upon not only to interpret but to provide legal and procedural advice in open court to unrepresented accused, Ibrahim (2004) finds. And this is so because many defendants cannot afford professional and legal representation in these countries. In short, interpreters in Malaysian courts are permitted and required to act as advocates, according to Ibrahim (2004).

Since ethnographic observation of court interpreters has shown that, in fact, interpreters in various ways depart from the canons
established for them by the judicial system, such a normative view of interpreting has been rejected as an ideal that not only cannot be attained but should not be aimed at.

Most of those who reject the 'conduit' view of interpreting, considering it to be normative (i.e. prescriptive), hold an 'interactional' perspective on the field. These scholars include Wadensjo, Lastra & Taylor, Roy, Mason, Jacobson, and Davidson.

Wadensjo (1992:54) rejects the metaphor of the interpreter as a photocopy machine, someone who duplicates in the target language what was uttered in the source language without any personal engagement. Instead, she sees the interpreter as someone who relays and coordinates talk. According to Wadensjo, these relaying procedures and coordinating moves, in effect, make the interpreter a gatekeeper in the interaction.

Roy (2000), like Wadensjo, sees interpreting as dialogic discourse-based interaction. Mason, seeing interpreting from a similar perspective, considers the interpreter to be a gatekeeper, a coordinator, a negotiator of meanings within a three-way interaction.

And Jacobson (2004), basing her conclusions on her empirical study of court interpreting in Danish district courts, finds that the Danish judicial system, too, considers interpreters to be mechanical devices, like photocopying machines, but she considers this view is misconceived.

In sum, all of these scholars reject the normative view of interpreting, including court interpreting.

What I would like to do now is to provide some data to demonstrate what happens when interpreting functions are carried out by ad hoc, untrained interpreters, volunteer-interpreters-in-training, and trained staff interpreters. This analysis comes from Berk-Seligson and Trinch (1999a, 1999b), and draws on a data set that comes from a domestic violence clinic in a large state courthouse where, over a period of four months, 15 temporary restraining order interviews were tape-recorded involving six interpreters. All of the interviews involve Latina applicants, because of the large concentration Hispanics living in that region.

Of the six interpreters, two were state-certified staff interpreters of the court. Two were volunteer interpreters who were not
connected to the court in any formal capacity, but would regularly come to the court to do interpreting on a volunteer basis; and two were volunteers of a different nature—they were ad hoc interpreters. One was a relative of the person asking for the temporary restraining order, and one was a friend of another person applying for the restraining order. So two of them were either friends or relatives.

What Trinch and I found, was that only the staff interpreter of the court made a concerted effort to follow court interpreter guidelines, like the ones I just mentioned (i.e. trying to render in the target language the nearest equivalent of the source language utterance without adding to, subtracting from or altering the sense of the original).

Volunteer interpreters, in contrast, whether they were regular volunteers (one was enrolled in a college level interpreting course at the time), or whether they were family members or friends of the TRO applicants, all departed radically from the norm. In the process, they become: (1) interviewers themselves, something that is not part of their job description; (2) interlocutors of the interviewer, another role not envisioned by the interpreting profession; and (3) supportive co-conversationalists of the applicants. The following textual extracts, transcribed from tape-recording of temporary restraining orders (TRO) application interviews, demonstrate these phenomena. In every case, the official interviewer was a paralegal working for a domestic violence clinic that was located inside a courthouse.

(Text 1) (state-certified interpreter)
1. C: No más acá porque le quedó hinchado de la nariz y el ojo.
2. I: Only his nose because his nose was swollen and his right eye.
3. P: And, and the nose was from Thursday?
4. I: Y la nariz, ¿El, el daño de la nariz era de 10 que sucedió el jueves?
5. C: Sí.
6. I: Yes.
7. P: Um, on Saturday, he didn’t hit him, he threw him, he grabbed him
8. I: [El sábado no le pegó, sólomente lo aventó?]
9. P: and threw him?
10. C: Si.
11. I: Yes.
12. P: But he still has the um, nose, so they, they took it, took a picture of it.
13. I: Pero todavía tiene la nariz dañada y le tomaron foto de la nariz?
14. C: Si porque ya no más () le sale sangre.
15. I: It’s with any little thing he starts bleeding from the nose. ¿Y le tomaron fotos
16. P: [O.K.]
17. I: en la hospital?
18. C: Si.

Text 1 demonstrates the facilitator role that even professional, staff court interpreters play at sociolegal proceedings such as protective order application interviews. As facilitator, the interpreter clarifies the language of the TRO applicant, for the benefit of the paralegal, and the language of the paralegal for the benefit of the applicant. Thus, when the applicant says (line 1) acá (‘here’), pointing to her nose, the interpreter renders the deictic term acá as ‘his nose’, knowing that deictic adverbs used without their referent will be semantically opaque for the court record—if this had occurred in a formal courtroom proceeding either a lawyer or the judge would have had to make a statement to the court reporter clarifying whatever was being referred to. Similarly, when the paralegal refers to ‘the nose’ rather than ‘the injury to the nose’ or ‘nose injury’, the interpreter renders ‘the nose’ as el daña de la nariz (‘the nose injury’), for the sake of clarity, and continues to refer to ‘the injured nose’ (line 13) (la nariz dañada) even when the paralegal sticks to the more elliptical phrase, ‘the nose’.

Another aspect of taking on the role of facilitator is slipping into interviewer mode. In lines 15 and 17, the interpreter asks the TRO applicant whether photos had been taken of the child in the hospital. This question was not asked by the paralegal, rather, it was asked by the interpreter, speaking for himself. In the process, of course, the information that was forthcoming could have been helpful to the
interviewee’s case. In effect, the interpreter has taken on one of the functions of the paralegal interviewer.

(Text 2) Semi-trained, Volunteer Interpreter
1. P: So, you don’t live together any more, does he know where you live, does he know where you live now?
2. I: El sabe dónde vive ahora?
3. C: Con mi hermana, sí, él sabe.
4. I: Yes, he knows.
5. P: He knows where you live, O.K. Are there any children involved?
6. P: Would you say that he is five-foot seven inches, roughly? How,—do you know how much he weighs?
7. I: Cuánto pesa?

The interpreter in Text 2 is not yet professionally trained. She was taking a college course in interpreting at the time when this interview was being conducted, and served as an interpreter in a volunteer capacity. The discrepancy between the client’s answer in line 3 and the interpreter’s rendition in line 4 (omission of the non-trivial piece of information that the applicant was now living with her sister), on the one hand, and between the paralegal’s question in line 6 and the interpreter’s reduced rendition of it in line 7 (‘How much does he weigh?’), which entirely omits the question concerning the height of the applicant’s partner—demonstrates the danger of utilizing nonprofessional interpreters in sociolegal settings. Clearly, this volunteer interpreter is not adhering to the norm disallowing the omission of source language material in its conversion to the target language.

(Text 3) Relative as Interpreter
1. C: 0 seas, dile que me dio una patada aquí en la panza.
2. I: And he kicked her in the stomach.
3.
4. P: Does he also, ah, yell and scream at the kids?
5. I: ¿También les grita a los niños?
6. C: ( )
7. P: Are they afraid?
8. C: Dile que no más al más chiquito le dice que me diga “perra” y “puta” y esas cosas así.
9. I: ( ) to want to like to call her a “bitch” or uh
10. P: OK
11. ... ... ... ...
12. P: O.K., uh, did you, ah, OK, prior to that, prior, um, before the twenty-second, was there another incident where he
13. I: [Ha habido incident, incidentes antes del, del veintidos?
14. C: Um, ¿Como?
15. I: Como, como si que te ha pegado más antes, o de urn...
16. C: Pues cuando vivíamos en ((name of city))
17. I: She had a lot of problems when they were living at their ah, in-law’s house also.
20. P: O.K., ah, so you were, you live, is that ah, an apartment or a house?
22. “..”
23. P: About how old is he?
24. C: Es como en...
25. I: ¿El tiene como veintiocho años?
26. C: Sí, es como en, en abril
27. I: [He’s twenty-eight.
28. C: del setenta y dos es.
29. I: He’s, she believes that he was born in seventy-two.

Text 3 demonstrates the sorts of phenomena that can occur when a party’s relatives or friends serve as interpreters in the context of a sociolegal interview. In the case labelled Text 8, the interpreter is the cousin of the TRO applicant. Her renditions in lines 2 and 9 show how much less vivid an interpretation can be compared to its source language counterpart. An element in the applicant’s description of the violence purportedly perpetrated against her which contributes to its convincingness is the use of the deictic marker ‘here’. She points to her abdomen, where she says her partner kicked her, simultaneously
saying ‘here’. That lexical element is lost in the interpretation. In line 9, the cousin hesitates, not wanting to say the word ‘whore’ (the equivalent of Spanish *puta*). The paralegal, seeing how uncomfortable the interpreter is, resolves the problem for her by intervening with the expression, ‘O.K.’

Relatives and friends of interviewees can, at the same time, be helpful to the interviewer, seeing themselves as advocates for the applicant. In the case of the cousin in Text 3, she adds information that she believes will help the TRO applicant (line 17). In line 21, the cousin/interpreter answers for the applicant, rather than to wait for the latter to respond to the question. In addition, relatives and friends can come to take on the role of interviewers themselves, as in line 25. Note, however, that rather than rendering the paralegal’s query as an information-gathering wh- question, the cousin produces a more restricting type of question, one that limits the answer to either ‘yes’ or ‘no’. This sort of question gives the interviewee less leeway with which to answer.

In conclusion, the use of untrained persons to fill the interpreter’s role in sociolegal interviews is problematic. Whether it is a volunteer who appears regularly at such proceedings, or a friend or family member of the interviewee, in either case, the expectations of the interpreting profession are not likely to be met, and this often can come at the expense of the person who is trying to narrate a story in his or her own way. Even courthouse staff interpreters diverge from interpreting guidelines in the semiformal context of a temporary restraining order application interview, as we have seen. This therefore leads us to consider the viability of professional interpreter guidelines in settings where what is said is not noted verbatim for a future record, but rather is massaged into official documents such as affidavits. In the case of TRO applications, such sworn statements do not bear a one-to-one correspondence to what was uttered in the course of the interview (Trinch and Berk-Seligson (2002)). Thus, one has to question the utility of the ‘conduit’ model of interpreting for sociolegal interviews.

**YOLI REDERO:** Hopefully, we’ll have a little bit of time at the end of the—after Professor Ahmad speaks so that you can ask more
detailed questions. I’d like to introduce Muneer Ahmad, and he’s an associate professor of law at American University, Washington College of Law in D.C. He teaches human rights law clinic and immigration law.

Recent scholarship includes racial constructions of Arab, Muslim and South Asian communities after 9/11.

His current work addresses both practical and theoretical challenges of providing legal services to LEP community.

Prior to joining the faculty, he was a staff attorney at Asian-Pacific-American Legal Center in LA; and this is the largest civil rights organization in the country dedicated to serving low income Asian-American and Pacific islander communities.

His work in LA included litigation, community education, community organizing on behalf of Latina and Latino and Asian immigrants, garment workers exploited in LA sweat shops, as well as policy work regarding the impact of welfare reform on immigrant communities.

He has worked in the South Asian network, a nonprofit social service agency, committed to improving health and welfare of low income South Asians in LA.

Prior to LA, he clerked with the Honorable Williams K. Sessions III, U.S. District Court in Vermont.

He’s a Harvard Law School graduate in ‘96 and a Harvard College graduate of 1993. Professor Muneer Ahmad.

MUNEER AHMAD: Thank you, Yoli for inviting me to be on this panel. Thanks to Susan for providing what I thought was a really excellent context for this discussion.

I want to start by, I guess, distinguishing the focus of my comments today from what we just heard from Susan. Susan provided a great deal of information that was, I think, largely ethnographic in nature about interpreters in courts and to some extent in law enforcement context.

My focus is on the lawyer/client relationship, and particularly within the normative framework of client-centeredness that this morning’s discussion was about as well and what the complications
that are introduced when there’s a language difference between lawyer and client in that relationship.

Although linguistic diversity has been a feature of American society for much of our history, there exists today a demographic imperative for concerted examination of how language difference affects the lawyer/client relationship.

And so as the size of the limited English proficient or LEP population in the United States grows, the challenges of lawyering for LEP individuals are garnering increased attention from practitioners and scholars.

This has been especially true among poverty lawyers, immigration lawyers, immigration rights and civil rights lawyers in light of the strong correlations that now exist between language, class, immigration status and race. We might consider, for example, the lawyering challenges that might exist or must exist in representing the workers of this hotel in their ongoing labor dispute with the Hilton Corporation.

Scholars like Angela McCaffrey, Sue Bryant and Jean Koh Peters, among others, have made really important contributions in this area, but much remains to be done; and the gap leaves many lawyers ill-equipped to understand and address effectively and ethically the needs of their LEP clients, and precisely the moment when lawyering for LEP clients is becoming an unavoidable, if not indispensable component of social change.

Now, as will become clear, my focus is on a different class of interpreters in many ways than the ones that I think Susan spent most of her conversation focusing on in that I’m looking primarily at volunteer interpreters, what I refer to as community interpreters, who are largely untrained, largely unpaid, as opposed to the paid, more professionalized class of interpreters that Susan addressed in the context of the courts.

I do so because I think it’s this use of community interpreters that predominates in lawyering for poor people, if only because of how underresourced or, perhaps, undernourished that type of lawyering continues to be.

Language difference poses fundamental challenges to the traditionally conceived lawyer/client relationship and to the normative
principles of client-centeredness that have been developed over the past three decades.

Specifically, I want to suggest that lawyering for LEP clients poses three sets of challenges. First, the inherent complexity of language ensures a number of linguistic failures to an effective lawyer/client relationship.

Second, introduction of an interpreter into the lawyer/client relationship challenges prevailing lawyer and client roles and transforms the dynamic of the lawyer/client relationship.

And third, as a result of these prior two complexities, fundamental values of client-centeredness, such as client voice, autonomy and empowerment, are likely to be compromised.

I’m going to talk about each of these sets of challenges briefly, but in order to do so in some context, let me provide you some information drawn from a case that we had in our International Human Rights Clinic last year. And let me say, this is largely based on true events. I suppose that the television version of this is inspired by true events. There’s a certain amount of fictionalization that I’ve engaged in; so I hope you’ll indulge me with this.

Two of our students were representing a young woman who had fled to the United States from Burma. At the first client meeting, the client, whom I’ll call May, was accompanied by a local Burmese reverend; and the students were relieved that he was there to serve as an interpreter, because they’d been unable to find an interpreter on their own.

Now, in addition to ministering to May, the reverend and his church provided May with food, shelter and some sense of community.

Through the course of several meetings with May and the reverend, the students came to discover several things. First, May had been raped by Burmese soldiers and on that basis, among others, had a meritorious claim for political asylum.

Second, May clearly felt indebted to the reverend.

And third, the reverend did not have confidence in the students and, instead, viewed himself as an expert on the asylum claims from Burma, as several of his parishioners had obtained asylum in the past.
Thus, when the students asked May a question, the reverend would sometimes refuse to interpret until the students first explained to him why the question was relevant.

In some instances, the reverend merely answered questions, the questions himself; in others, he translated May’s answer, but amplified it with such statements as: Let me explain to you about Burmese culture.

Sometimes it appear that May was asking a question, which the reverend then answered himself without providing the students the opportunity to do so.

I think that these must sound familiar to many of you who’ve worked with interpreters in the past.

And so with so much talking by the reverend and the students, May said comparatively little. And the students request that the reverend, “only translate what we say” were unavailing.

Well, eventually the students determined that a pelvic exam would be helpful to May’s case in order to build the evidentiary record for her asylum claim. And with the reverend as her interpreter, they explained this to the client, who seemingly agreed to the medical exam.

A couple of weeks later, the students had found another interpreter, this time a woman, to accompany May for her doctor’s appointment; and they all show up in the doctor’s appointment and begin to talk, at which point May becomes distraught; and the students discover for the first time that May had not understood previously that a pelvic exam would be involved.

Well, in this vignette, I think we can see the outlines of the three tensions I mentioned earlier.

First there are questions concerning the semantic integrity of the interpretation. Why did May not understand that a pelvic exam would be involved. Was it because of the manner in which the reverend translated the information? Or did the reverend fail to translate the information at all? Second are questions of interpreter role. How does the role of the interpreter fit into the established structure of the lawyer/ client relationship. Should he be serving as an advocate for May. Should he be serving as a cultural expert? How do gender, class and social status affect the relationships
between the student lawyers, the interpreter and the client? Did the
reverend fail to translate pelvic exam because he was uncomfortable
doing so?

And third are questions regarding core values of client-
centeredness. Why is it that May speaks so little? How could her
voice be amplified? How does the involvement of the interpreter
affect her own sense of autonomy?

So essentially, I’m going to touch briefly on each of these
tensions; and then what I would like to do is just suggest in some
introductory fashion how community lawyering principles might be
useful in overcoming some of these tensions.

First are the linguistic challenges. In the interest of time, I won’t
go into great depth on these, in part because I think they are among
the more easily identified challenges here. For example, variation and
dialect between the interpreter and client, unfamiliarity with
colloquial expressions and the difficulty of rendering legal jargon or
other technical terminology frequently trip up lawyer/client
communications when an interpreter is involved.

Any of these might account for why May did not understand that
she was to have a pelvic exam. Of course, there could be other
explanations as well.

More broadly, the inherent ambiguity of language, at the level of
individual words, sentences and discourse, render the interpretive
process difficult. It’s largely acceptable—as largely accepted, the
language is not mathematical but rather social, meaning it does not
exist in absolute terms but is, instead, mediated through culture and
through social interactions.

Let me note here that the word “culture,” I think, is one that gets
tossed around rather loosely in the context of interpretation. A lot of
things, I think, get described as a matter of culture difference, and to
try to at least perform a working definition, let me suggest that what
I mean by culture is a common perceptual frame based on shared
experiences. This might be what, in the language of Paul Bergman
this morning, we might refer to as a shared set of representative
heuristics.

I deliberately want to try to denude it of any greater totalizing
meaning than that and suggest that what we’re talking about is some
set of experience or some set of knowledge that lead to a counter perceptual frame.

So this is what permits—both permits and necessitates us to choose among the multiple definitions given for a single word in the dictionary. But the same kind of ambiguity is true of sentences in bodies of discourse, all of which only really acquire a meaning in context.

Thus, the reverend’s repeated admonishments to the students, “let me explain to you about Burmese culture,” was not without basis, even as it was fraught with the dangers of essentialism among others.

Okay. Let me touch now on a second set of tensions that I see, and this I describe as a set of role confusions once the interpreter’s introduced into the lawyer/client relationship.

As traditionally conceived and as expressed in the ethical rules, the lawyer/client relationship is a trust-base dyad consisting of one lawyer and one client. While exceptions to this configuration exists within the ethical rules, such as multiple client representation, a point that was made in the questions earlier this morning, and co-counseling arrangements, these are extrapolations of a set of norms that initially contemplated application to a one lawyer/one client relationship.

It’s undisputed that the ethical rules never contemplated language difference in the lawyer/client relationship. Now, we can understand client-centeredness as an intervention in the discourse on lawyering that brings the lawyer/client relationship the same concern for resolving ambiguity and language that’s reflected in the jurisdiction as a whole.

Here is a client-centeredness recognized that client goals are likely to be misunderstood because of prevailing lawyer tendencies to undervalue or disregard the decision-making abilities of clients; moreover, the community developing a set of analytic and practice-based tools for mitigating this tendency toward lawyerly overbearing and for enhancement of the lawyer’s ability to understand the pragmatic meaning of the client’s speech, including close listening techniques to the deliberate use of open-ended questions, reflective listening, attention to the use of jargon and the structuring of client
interviews and counseling sessions so as to privilege client-goal identification.

These techniques help to make explicit a previously unmarked set of assumptions about lawyers and clients; that lawyers know better than clients what the nature of their problem is. Their client problem should be understood in legal terms alone, and that lawyers alone possess relevant expertise.

We can understand the model of lawyering advanced by client-centeredness as supplanting an invisible, unexamined and frequently subordinating code of constructing client meeting with the framework that, in all, is just a silent operation of these barriers to effective client communication and seeks to overcome them.

In this way, the lawyering techniques recommended by client-centered approach are rules of construction of client meeting, not like the rules of construction in other areas of law.

The enriched model of lawyering that client-centeredness offers, itself-assumes a lawyer/client dyad. The introduction of an interpreter inevitably disrupts the client-centered enterprise because of the multiple roles the interpreters play, roles that oftentimes impinge upon what we traditionally would think of as lawyer roles and client roles. The lawyer/client dyad is transformed inescapably into a lawyer/interpreter/client triad. Thus, the lawyer's impulse may be to try to cabin the role of the interpreter, to view her, as Susan described, as a technological mode of transmission, like a telephone or a photocopying machine.

But the culturally-informed, deeply-textured nature of interpretation belies such a mechanical understanding of how interpreters operate. Because interpreters do not merely transmit information but mediate it as well, the personhood of the interpreter, her own subject position and associated biases and interests cannot be removed from the process.

The result, is that even within the enhanced context of a client-centered relationship, the introduction of an interpreter interrupts the prototypical direct bond between lawyer and client and threatens the establishment and maintenance of a trust relationship.

Interposed between the client and lawyer, interpreters often assume characteristics of each. Thus, for example, interpreters such
as the reverend may end up—it may end up answering the lawyer’s question; thereby displacing the client, or asking the client questions of his own; thereby displacing the role of the lawyer.

Such role confusion is unsurprising in light of lack of clear guidance on the use of interpreters in the lawyering context and is especially likely to occur with untrained or community interpreters. The extent of the disruption, however, is greater than that. Because the interpreter brings her own subjectivity to the enterprise, the singular relationship between lawyer and client is transformed into three distinct relationships: Lawyer and interpreter, interpreter and client, and lawyer and client. And as the vignette involving May and the reverend demonstrates, interpreters have power; and the lawyer/interpreter and interpreter/client relationships must be understood as power relationships, just as the lawyer/client relationship is understood as such.

Thus, the interpreter plays multiple conflicting roles, many of which impinge upon our understanding of the respective roles of lawyer and client in the traditionally conformed—traditionally comprised—relationship.

Briefly, let me mention three such potentially disquieting interpreter roles that go beyond the technological function typically ascribed to interpreters.

First, interpreters as experts. This might be viewed as an umbrella category that includes interpreters as cultural brokers. This is to say that the interpreter brings to the lawyering process a specific body of knowledge about the perceptual and experiential frame that the client is likely to have.

As I noted earlier, such a function is fraught with the dangers of essentialism. Nonetheless, we might consider how our screening of interpreters—if we were to think of interpreters as experts, how our screening of interpreters differs from our screening of other experts. Rule 703, experts under the federal rules that we engage in a client’s case. Do we treat them with the same degree of scrutiny?

The second role I want to suggest is interpreters as advocates. And, again, much of this echos the models that Susan’s already laid out for us. This model suggests an agency relationship between interpreter and client that exists independent of the lawyer/client
relationship. In May's case, the reverend assumed a gatekeeper function, only translating questions once a rationale was put forward to him as to why the question was relevant. We can understand that in malevolent terms; but we can also understand a more benevolent terms of the reverend essentially protecting May from the intrusive-ness of the student lawyer's questions. He was, in effect, a broker of client trust. This comported with his role both, I think, chosen and ascribed as a community leader within the Burmese community.

The third role I want to suggest interpreters can play and frequently do play, regardless of whether they are—whether it's acknowledged as such, is interpreters as co-counsel. This may be the most disconcerting formulation; certainly the most threatening to the lawyer's traditional stance of professional identity. But once we accept the insight of client-centeredness, that lawyers must explore both legal and nonlegal solutions to clients' problems.

The active involvement of the interpreter in facilitating trust, providing information and perhaps even strategizing with the lawyer and client may seem more palatable and, in some instances, even desirable.

Well, in light of both the linguistic complexity of interpretation and the role complexity of the lawyer/interpreter/client relationship, certain values of client-centeredness, such as the enhancement of client voice, autonomy and empowerment, are rendered more difficult.

If, as I'm suggesting, community interpreters start to take a role in answering lawyer questions, whether as cultural brokers or more broadly, or framing strategy, this leaves little room for clients like May. The already lopsided power of disparity between lawyer and client may be multiplied if refracted by the power of disparity between interpreter and client as well.

As I've already suggested, the student lawyers pleas for the interpreter to, "just translate what we're saying" are futile, not because—or at least not only because of interpreter disobedience, but because of the social linguistic complexity of the interpretive process.

At the same time, it must be acknowledged that the interpreter's mere presence, the interpreter's independent relationship with a client, and perhaps an independent agenda.
... as well as the interpreter’s experiences of our clients. We may think that’s the most important relationship in the world; our students may think it’s the most important relationship in the world; but it may not actually be the most important relationship in the lives of our clients.

And so by acquiring information about our clients’ lives, not merely in the interview room, but through broader—participation in the broader social matrix in which individual client experiences are situated, lawyers can improve the integrity of their client communications and the quality of their representation of LEP clients. This is, essentially, as I see it, the vision of community lawyering. As applied in the context of LEP clients, it’s an argument for greater lawyer engagement in immigrant communities.

Through participation in civic organizations, social service groups and other social and political structures in immigrant communities, lawyers could supplement their presumptively authoritative voice of the interpreter with a chorus of additional community voices.

The danger, of course, is that so many voices would merely drown out that of the client. The aspiration, however, is that the additional qualitative information they would provide the lawyer about the lives of LEP clients would help to amplify the voices of individual clients.

This would free the lawyer from total reliance on the interpreter for cultural brokering, expand the lawyer’s understanding of the context in which her immediate legal needs reside and increase the opportunity for a more meaningful interaction with the client.

YOLI REDERO: I would like to open it up for questions or comments and address them to either one of the speakers. Would you identify yourself, please?

VOICE: Did your students or did you approach him up front and then you could say we’re really interested in your help on the cultural issues, but we try to separate that out from the question and answer? Did you try that and, obviously, you did.
MUNEER AHMAD: Sure. Well, the wonderful thing about answering this question is that my—a dear friend and former colleague, who was actually the supervisor in this case, is sitting in the back of the room; that’s Elizabeth Bruch, who’s teaching at Valparaiso now. And I may—so defer to her as well because I had a number of conversations with her students about this case; in part, it came up in our case rounds discussions, and so I have some information about this but was not the direct supervisor.

My understanding, based on those conversations, is that the students struggled mightily with this and that they recognized that what the reverend had to offer was not all bad; that there was a lot of gap-filling that was going on that was actually quite useful.

I think this—and so to the extent, you know, did they specifically seek to separate that out? I don’t know if they did or not; so I’ll defer to Elizabeth on that.

I guess a question that one could raise in response to your question is, “Is it possible to separate that out?” I mean, for example, when—to go to maybe some of the examples that Susan was giving, when specific diction is used, it doesn’t actually translate over neatly and mathematically into the other language. That oftentimes is the moment when some kind of intervention by the interpreter is necessary.

And so I don’t know. I haven’t thought about this, but I wonder to what extent the aspiration of separating out cultural brokering or cultural knowledge from the interpretive process is possible.

ELIZABETH BRUCH: Well, a couple of things I wanted to say. We have the advantage of contacting our students in this case for the entire year; and so that gave them a lot of time to experiment in different ways on this. And so I think that the time was an advantage in building those relationships.

They also had a number of different interpreters that they used, primarily two; the one that I believe he was talking about, and then another person who they found to be less satisfactory. So I think that gave them some perspective on what this man could offer as an interpreter as well.
And we did struggle over the course of the year with various issues. One is this power question that I think came up earlier, which is, you know, at the beginning when you’re telling your students of representation, they feel like they have no power because they don’t know anything, and they’re terrified when they go in. Then, over the course of representation, they start to feel like they have a lot of power and exercise it that way.

And so the introduction of this man and with his important role in the community and his relationship with the client forced them to, again, kind of reexamine where they fit in the power structure. And so that was an interesting part of it.

In the end, actually what happened is, they found it advantageous to develop a relationship with him; and so that really there was this triad to having a relationship with the client that they felt they were comfortable with; but they also had a relationship with this interpreter and that they couldn’t just use him as the photocopy machine.

DR. BERK-SELIGSON: Yeah. Referring to this issue of power. In these empirical studies that Sandra Hale in Australia carried out and I’ve done and Sasina Rigley did here in California, looking at the O.J. Simpson trial, what we found is that even in the courtroom itself, certified court interpreters/ professionals take away power from lawyers who are questioning witnesses on the stand by making their leading questions less leading, for one thing. They systematically make leading questions less leading than they were in the original English. And we found this out by empirically analyzing every sort of leading question in terms of its entatic type—again, the whole typology, and we looked at every time they came out, and the equivalent form in Spanish when they didn’t, and what happened in that change; and the change was always from more leading to less leading or not leading at all.

So there is a tremendous power in the—even professional interpreters who know what to do theoretically and yet do that in open court.
VANESSA MERTON: Vanessa Merton, Pace Law School. I’ve just started teaching in the immigration area. I’m really not—at the immigration clinic at Pace. And to follow up on your—just that observation—by the way, I found both your presentations extremely useful, because I want to teach a whole section class on this very subject, and I want to get all your references and your codes and everything.

In the hearings we’ve done so far with the interpreters at the—well, I want to call it the IMSINS, whatever that was called—they’re impossible. I mean, they’re awful, and they’re even worse than the interpreters I was used to in criminal court, which is really saying something. And we had a critical issue, for example, of one hearing, a silent hearing, where the issue was whether or not the applicant had testified that she knew a fact that she was being confronted by the judge in an inconsistency about, or whether she’d say (speaking Spanish), “I think.” And the interpreter had not translated (Spanish), and I happened to know enough to pick that up, but I didn’t know what to do.

My question really is, how do you object to this trend of turning nonleading questions—leading questions into nonleading questions in the courtroom context when—obviously, if it were in Burmese, I would have totally missed it. As it happened, we lucked out, and the interpreter herself stopped, interrupted, and just—they told the judge, oops, I made a mistake. She actually said, you know, she stated what had happened, and she clarified. It’s completely stepping out of her role.

But, you know, I was prepared, and certainly my students who were conducting the hearing were not prepared; and for this particular case, I realized it was my fault. I was in the back of the room thinking about lunging bodily for the interpreter or whatever to interrupt this or trying to—running through, what are my—what are the options here, because this was—there’d been several misinterpretations; but this was turning out to be a critical one.

And I really would invite other people with experience to comment on, what do you do.
VOICE: There’s two things I’d do. The first thing I’d do, since this has been accepted at times, because I don’t want him to think that it’s a personal thing, you’re talking human beings, and they get upset, they’re going to start mistranslating on purpose and not on purpose.

The second thing is, I try to, first, before I correct the record, is have the person reask the question in a different way to try to capture the correct answer, instead of pointing it to the translator. If that doesn’t work and I don’t get the language I need out of my client, then I say, your honor, if we may have a conversation about the translation that was missed when (indecipherable) in this statement; and I don’t know whether my client just didn’t speak strong enough, but the translator—try to not put the translator in a very defensive position.

And one of the advantages of the students is that, the way that we work the hearings is that we do it in a—it’s a team of three of us, basically. There’s one student who will take the lead of handling the case, with the second one being the second chair; and I’m there, and I’m listening to the translation. I also have the advantage that I am fluent in Spanish and pretty good in French. So those are the two things that we have.

But when we do not have someone who’s of that language, we try to bring our own translator to make sure that if they see anything, they’d let us know; because it is so critical to make sure that the translation gets in there in the proper fashion.

VOICE: And the translator you bring with you is a volunteer or paid?

VOICE: They’re paid undergraduate students who we have, you know, in the back of their heads of how important it is to translate properly. I agree that a lot of the information we got is wonderful, especially with the examples, because that will be a great thing to give our translators as examples of where the mistakes happen so they become more conscious of them.

SPEAKER: To respond to that. Unfortunately, to save the face of the interpreters who make mistakes, some people in the courtroom
who do understand the language and speaks the foreign language don’t want to say anything during the proceedings, and they may tell the interpreter on the side afterwards; afterwards, the wrong interpretation has already gone on the record.

I saw this in a murder trial on the U.S./Mexico border where the judge was Mexican-American, 10 of the 12 jurors were Mexican-Americans, and the defendant was a Mexican who had been caught on the U.S. side of the border for murder of a rancher—and nothing to do with drugs. Anyway, the interpreter in this case was a bailiff and a probation officer. He had three hats to wear in this courthouse; it was a little courthouse, a little town. And so the judge—I saw this with my own—the judge said after the morning session was over, “By the way, you know, when you interpreted this, you were wrong; it should’ve been that, and these are the mistakes you made.” But he didn’t say it in the middle of the proceeding of the trial.

VOICE: (Indecipherable) But I do say is that the translation was incorrect. Instead of being the person, “you made a mistake in translating.” You stand up and say—

VOICE: If I can’t get the corrected, in the reasking the question, then I said, your honor, there was a mistake in the translation; instead of telling the translator, you made a mistake. It’s kind of like when they talk about marriage counseling. You don’t attack the individual; you work with what the language that happened was.

SPEAKER: But that’s very useful in terms of appeals cases later, because on appeal, what they look for is evidence of bad interpreting is whether someone objected to the interpretation—

VOICE: Correct.

VOICE: —as it was going on.

VOICE: You have to make the record.
SPEAKER: Right. And if there is no objection, they say, well, no one objected, so she must have interpreted correctly. So you’re doing the right thing.

VOICE: You know, I think there’s a difference between situations like immigration judges who are routinely dealing with language issues and ending up with a judge who’s dealing with—the first time we had a very long wage-claim trial that was in Cantonese; and we had the unusual situation of one pro per defendant who was asking his questions in Cantonese, and the owner was representing himself and chose to answer the questions; and such as we had Cantonese to English to Mandarin and back and forth.

I think that—I don’t—I share most of your comments, but the last person just mentioned in terms of needing to correct the record and doing it as gracefully as possible. But an additional thing to think about is, and particularly when you’re working with students, is identifying things in prep, in witness prep; but you’re going to anticipate that they’re going to come up, because you very often run into this. If you have a decent translator doing the prep for you who’s letting you know when there are problems, you catch a lot of things.

We have all this language around, Cash (sp) and Czechs and Vista, the distant translating, and we knew it ahead of time, and we sat down with the interpreters ahead of time, because we were there a few months, and—

VOICE: You mean the court interpreters?

VOICE: No, the court interpreter. We met—we knew them ahead of time. There were a couple who did it over the course of the whole thing, and we had a lot of time sitting around, and we said, listen, we know we’ve got the following issues that are going to come up that are not going to translate, and let’s talk to you about them ahead of time so we know how to ask the question with the words that are going to translate properly.

And we, fortunately, had a student, former student and graduate fellow working with us who was actually extremely fluent verbally;
and she developed a really good relationship with the judge, and he was quite open to her corrections because he loved her. So it got—he was pretty gracious.

MUNEER AHMAD: I think that it's a really important point, and I think the strategies you're talking about are really useful ones, and something that—some of our students have done with their clients in the past, some of whom speak, you know, a little bit of English, is, over the course of the representation, they developed vocabulary lists and so that the students and the clients both start to, you know, come to some shared understanding; and then you could think about how those lists could get used and giving them to other interpreters and so forth.

VOICE: If you know who those interpreters are.

MUNEER AHMAD: If you know them.

VOICE: (Indecipherable).

MUNEER AHMAD: Another thing that I think has happened, I think that maybe we've been less thoughtful and conscientious about this, maybe this has just been more haphazard, is that oftentimes there are multiple interpreters that get used in the course of representation.

I think there's a lot of value to that, precisely because it starts to expose the differences in interpretive style, the differences in linguistic or semantic integrity of an interpretation and so forth.

And, you know, this question, I guess maybe to bring to back to what I see as my stealth agenda in this project about community lawyering, I think a lot of one's knowledge about how language gets used, you can't acquire in the interview room. You just don't know enough to know it.

And one of the examples that I think about in this context is when I was working in Los Angeles representing garment workers, we did a lot that was just in the nature of community education and a lot of times spent with garment workers even if they weren't actually
involved in litigation. And so we all picked up, in a certain manner, the lingual lingo that was used in the industry and used specifically by the workers in the industry.

And so when we ended up in a deposition, one of our clients was being deposed, and there was a professional interpreter, the client was Latina, and there's a professional interpreter who, in many ways, was the most amazing interpreter I've ever seen. He was so simultaneous in the translation from English to Spanish, Spanish to English, I was just sitting back and kind of marveling at it.

But one of the questions from the lawyer for the garment manufacturer, who we were suing, to the worker was, "What labels were on the clothes that you sewed?" And so the interpreter kept asking the question simultaneously, and the word he used for a label was (Spanish). Now, he assured us in a conversation that ensued that that is, in fact, the proper term. I have no doubt that it is, but that's not the word that's used by the workers in Los Angeles. The word that's used by the workers in Los Angeles is "los labels"; right? So I had a good time sitting—sitting back and watching all this unfold, because the other lawyer's time was, you know, winding down as she dealt with this confusion of los labels versus . . .

And finally I clarified it. I said, I think you may want to ask her what she understands those words to mean.

So, you know, I think that that knowledge is oftentimes very difficult to come by within the strict confines of a traditionally conceived lawyer/client relationship.

VOICE: I have one brief question if you could at any point address, how to deal with telephonic translation and how to be very prominent with Asiatic translators only.

DR. BERK-SELIGSON: Well, people are using it when they're in little towns where there are not too many people speaking many different kinds of languages. I mean, usually if you're in a university town, people go to the foreign language department first, and they'll look for a professor who speaks, you know, "x" language.

But aside—yeah, telephonic interpreting is a big business today. I don't know how good it is; I can't tell, although I think that the
people who do the interpreting have to show their qualifications. This is one of the things. You have the right to ask the person for his or her qualifications. Do you have state certification. Do you have any kind of certification. Did you pass any kind of test. Did you—you know, what do you have to show for yourself. Because now there are state exams in about 30 states in the United States. There's a consortium, a certification consortium that's supervised by the National Center for State Courts. So you can get a certain quality of interpreting by hiring people that's state-certified.

Federal certification is something that only six percent of test-takers ever pass, ever get, because it's so rigorous.

So when you find a federally-certified interpreter, you have an excellent interpreter, you know, because they're rare; they're very few in number.

MUNEER AHMAD: Your question raises, I think, another interesting point. You know, so much more work has been done on these interpreters in the context of healthcare, in the context of legal services. And one of the things that is interesting to me is that one of the models that often is touted for use of interpreters in the healthcare context is one in which the interpreters are not in the room at all. There is a kind of, you know, sophisticated technological system that's put into place so that this disembodied voice enters the room to provide the interpretation, but the personhood of the interpreter is not present except, I guess, by, you know, the timbre and tone of the voice and so forth.

And it's interesting, I mean, maybe only in symbolic terms, it seems to really capture the conduit model that you talked about; right?

DR. BERK-SELIGSON: Yeah.

MUNEER AHMAD: This is purely a piece of technology, so much so that, you know, we don't even see any manifestation of it.

What troubles me, I guess, is that that is held up as a model, as an exemplar. The Department of Health & Human Services was using it, referring to it as a best practice. And, you know, obviously there
are differences between the health context and the legal context where the physical presence of another person, when you’re doing a physical exam, for example, you know, changes the dynamic in the room; but it does seem to subscribe to a lot of the, I think, the fictions about our ability to reduce translation or interpretation to a purely technological matter.

And I suppose your question about telephone, you know, interpreters raises the same issue. I’m not quite sure how to compare that in the context of day-to-day practice.

VOICE: Last question. Okay. Just to follow up on that. Am I right, I believe that there are now significant federal regulatory requirements for interpretation in the healthcare context, which strikes me as particularly interesting to try to work into the law.

But I guess my question about that is embodied—I mean, do you see any value, though—I am thinking of the lawyer/client relationship, I guess, still as a fairly intimate one. And I’m thinking of the clinical conference where there’s often, you know, three students, a supervisor, somebody else who’s interested. I mean, it can be a cast of thousands involved in any interaction with the client already. And while we have some success in—I mean—and the other interesting question to me is the lawyer often, and in our case the student attorney, serving as interpreter and lawyer simultaneously, which encompasses a lot, because we don’t have, although I’m going to get, a budget that will support the use of undergraduates or in some manner than what we’re doing right now. But, I guess—and that’s sort of the—all the way to the other extreme of the spectrum would be the various bodies in the room, and you’ve got totally embodied in the process. And I guess what I’m thinking, listening to this, is that one has to teach the students to be self-critical of themselves in the role as interpreter, as themselves in the role of lawyer. And we already looked at all these risks.

I was just wondering if anybody has any comments.

DR. BERK-SELIGSON: The disembodied voice of the interpreter is the model of the United Nations and in the world court.
The interpreter, not seen, you have your earphones on, headphones on, and you hear the sentence. So that’s—and, in fact, not so much in the United States, but I have seen it in a trial I watched in Dusseldorf, Germany where the interpreters are in a booth, and you can see the interpreters in the booth behind the glass, you know, and you can see what they’re doing. But the people on the witness stand don’t see them, actually. The people in the audience see them but not the people who are testifying.

But I was thinking that this thing of the disembodied voice in the health profession, that really would make it difficult to be a cultural interpreter, because how can you, when you’re not there, physically say, by the way, doctor, when she said this, she meant. How can you enter into that kind of dialogue when you’re not there physically. I think you probably couldn’t.

VOICE: Well, my question was with respect (indecipherable) veteran was how do you know that that person is a good or an adequate cultural interpreter and in that culture, because there’s so many varieties, and that’s another cultural dilemma.

MUNEER AHMAD: Right. That’s what, you know, I use as a shorthand; the dangers of essentialism in that context.

But I think that one way that you combat that danger is to, essentially, make sure you aren’t sole-sourcing the job, right, that your only source of cultural information about your client’s life is not the interpreter.

And I think that until we foreground the fact that that is, in fact, a role that interpreters play all the time, in fact, it’s constitutive of interpretation, that we are implicitly sole-sourcing that work, and we’re doing it in this invisible way. We end up, then—I think it tends to feed into our notions of other people’s cultures being monolithic; right? And it kind of—you know, I think that there’s a desire to want to be able to label certain things as cultural difference, right, so that some one person can, in fact, then provide us with the cultural explanation.

And I think that we all—you know, our experience shows us that it’s a much messier enterprise than that. And I think that, you know,
we need to kind of get our hands dirtier; and that means being outside of the issue in order to do it.

**YOLI REDERO:** Thank you very much.