

論文題目: 刑事裁判における法廷通訳の判例研究-日本の法廷が直面する課題

英文題目: Legal Case Analysis on Court Interpreting in Criminal Trials: Challenges Faced by Japanese Courtrooms Post-World War

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#### 英文要旨

With the changes in Japan's demographics, the long-entrenched belief that Japan is a homogeneous society has gradually become challenged. Japan's growing cultural and linguistic diversity has made its way into Japanese courtrooms through the role of court interpreters. The objective of this study was to identify the current state and issues arising in Japan's court interpreting system, examine the legal, ethical, and practical rationales for bolstering the quality of interpreting services through an analysis of preceding interpreter-mediated trials, and propose policy recommendations to rectify current issues.

Historically, Japan has implemented language assistance for non-Japanese speakers by providing court interpreters in compliance with Japanese legal provisions after the Second World War. However, due to the limited number of interpreter-mediated trials until the late 1980s, there was little spotlight and awareness towards the role of interpreting services in Japan and the necessity of developing practical mechanisms to improve court interpreting in a more systemic way. On the other hand, an increasing prevalence of interpreter-mediated trials in Japanese courts over the last two decades has highlighted the role of court interpreters in both academia and amongst legal professionals. Nonetheless, the limitations and challenges of current practices in Japan's court interpreting system has hindered equal language access to courts for foreign defendants and witnesses, resulting in error-strewn trials and additional motions to appellate courts claiming unsatisfactory interpreting systems.

This thesis aimed to answer the following three research questions:

- 1) What is the historical significance of the International Military Tribunals' towards the development of modern court interpreting in Japan?
- 2) What are the legal, ethical, and practical rationales for implementing court interpreting services in criminal proceedings?
- 3) Why has court interpreting implemented in Japanese criminal trials struggled to ensure equal language access to courts in Japan?

To answer the research questions, the first chapter of this study examined the historical origins of court interpreting in criminal trials such as the International Military Tribunals (IMTs) that were convened in Nuremberg (1945-46) and in Tokyo (1946-48). A close examination of the IMTs illustrates how these two trials significantly contributed to the development of modern court interpreting. In chapter two, the study investigated the legal, ethical, and practical rationales of providing court interpreting through a literature review of legal instruments (e.g. Article 37 of the Japanese Constitution, Articles 175 and 177 of the Japanese Code of Criminal Procedure) and the opinions of judicial participants regarding the role of interpreting services in criminal proceedings (excerpted from the Japanese scholarly books and academic articles). Chapter three analyzed four modern interpreter-mediated legal cases in Japanese courts: *1989 Hyogo Case*; *Lindsay Hawker Case* (2011); *Somali Pirates Case* (2013); and the *Jakarta Case of 1986* (2016), based on official Japanese trial records and verbatim records of witnesses from journal and news articles.

The necessity to improve court interpreting practices was observed from a range of interpreter-mediated cases throughout this study. These trials encountered common challenges such as maintaining impartiality and ensuring procedural fairness as a result of frequent inaccurate interpreting performance. More importantly, the case analyses showed that interpreting errors in criminal trials create additional issues such as procedural inefficiencies and the necessity to allocate additional resources to correct the aforementioned errors, harming the overall integrity of the Japanese criminal justice system. Although legal and ethical rationales have become increasingly emphasized due to growing use of non-Japanese languages in courtrooms, the study illustrated that court interpreting also serves a practical rationale of allowing smooth and efficient procedures, demonstrating the need to reform Japan's current court interpreting system to reduce procedural inefficiencies.

While this thesis focused on language services in Japanese courtrooms, it should be noted that the courtroom is not the only place where comprehensive linguistic support should be provided. Language diversity needs to be better understood and respected not only in the Japanese legal context, but also in other social, educational and healthcare sectors.

\*Key Words: Japanese Court Interpreting System, Language Access to Courts, Foreign Defendants, Foreign Witnesses, Interpreting Services in Japanese Criminal Trials

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