PART TWO

Theoretical Considerations

Introduction

Analysing Anglo/Yolngu discourse in the criminal justice context

The result of the endemic miscommunication that dominates Anglo/Aboriginal discourse during the criminal justice process (Chapter 1) was expressed recently by the Hon. Justice Mildren of the NT Supreme Court as an 'imbalance against Aboriginals in the criminal justice system'. Mildren comments (1997:7):

> While many of the worst inequities are gone, there are still many problems which remain to be addressed. There is no shortage of academic writings about what the problems are; suggested solutions are, however, much harder to find.

While there is no doubt that many communication problems have been identified there is not the evidence that they have all been, nor that these problems are adequately understood (surely a necessary basis for informed redress). The literature has not revealed academic writing derived from any extensive empirical linguistic study of Anglo/NESB-Aboriginal communication in the criminal justice context, and a primary goal of this thesis is, through an intensive investigation of Anglo/Yolngu communication in this context, to fill this gap. The methodological challenge faced in this study is to identify an appropriate framework and set of (socio)linguistic tools that can be applied in order to: reveal the extent and nature of these 'problems'; identify where they are actually situated; assess the appropriateness of some of the strategies that have been implemented or suggested to overcome problems; and, to derive appropriate further strategies from resultant findings.

A preliminary task is to clarify terminology that will be used in referring to intercultural communication from here on. Unless otherwise specified:

- *intercultural*[27] *communication* refers to verbal[28] interaction between parties who identify with differing cultural groups[29] and, given this study's focus, the relevant parties here are NESB Yolngu and Australians of European extraction who are native speakers of English and strangers to Yolngu community life.
- *second language* refers to a language that a person is acquiring as a non-native speaker; more definitively, its use here encompasses any natural spoken language that is (being) acquired subsequent to the acquisition of the person's primary childhood language (referred to here as *first language*).
- an *error* is a deviation from a language norm that results from a lack of knowledge of the correct rule (Corder 1967 in Ellis 1994:700); such errors feature in interlanguages (learner languages) where non-native speakers have systematised their incomplete

[27] *Inter*-cultural is preferred to *cross*-cultural which tends to carry pre-emptive connotations of cultural difference and distance as barriers to communication.
[28] Verbal interaction also encompasses: 1) occasional use by courtroom witnesses of Yolngu Sign Language while giving evidence; 2) occasional use of written materials (e.g. a witness statement) in the interaction.
[29] Strictly speaking, communication between, say, Yolngu Aboriginal people and Tiwi Aboriginal people (of the Tiwi Islands, north from Darwin), can be considered as intercultural communication given the differences in territory, kinship systems, languages and customs.

knowledge of a second langua ge, partly under influence from features of their native language.

- a *mistake* occurs when learne s of a second language fail to perform at their level of competence; it is a lapse that r flects processing problems (Ellis 1994:714).
- *miscommunication* is used in a generic sense and subsumes all types of unsuccessful communication, that is, 'w here communicative effect does not correspond to communicative intention' (Cl ne 1991:11). (An error or mistake does not of itself constitute miscommunication without there also being evidence that the hearer misunderstands the speaker's intended message.)
- *communication breakdown* re ers to two-way miscommunication where each party (in a dyad) fails to hear the othe 's intended messages, whether or not the interlocutors recognise that this is the case.
- *communication conflict* (Clyn 1991:11) is where miscommunication results in loss of, or threat to, dignity and trust, or 'face' (as conceived by Brown & Levinson 1978:67).
- *translation* refers to the proce s of changing either writing or speech (generically, *text*) from one language (source lar guage, SL) into another (target language, TL), whereas *interpreting* specifies translati n of the spoken *utterance* (together, sometimes, with any attendant gesture).

The definition of miscommunication given here requires some clarification. On occasion, an interviewer might wish to promote an outward appearance that a particular question is intended to be fully understood by th e interviewee whereas in fact some tactical advantage might accrue from concealing or disguising some proposition within the question in order to have it surreptitiously affirmed or ac dressed. NESB interviewees are particularly prone to such manipulation (as will be seen). However, even if it is the case that an interviewer intends the question to be misunderstood in some way, and is successful in this, the *interviewee's* communicative intent in understanding the question remains unfulfilled. Thus failure on the part of the interviewee to decode the question's ostensible meaning—whether or not the interviewee recognises their failure—remains as a case of miscommunication.

Intercultural communication is comm nly affected by attributions (people's understandings of why they or others do certain things or why certain events occur) and miscommunication can be exacerbated, sometimes to the poi nt of communication conflict, by prejudices or cultural stereotypes that interlocutors bring to their communication (Shi-xu 1994). On the other hand there are occasions where miscomm nication can be repaired and communication conflict averted, in spite of language/culture difference, through a positive and cooperative approach to interaction (Meeuwis 1994:399).

The quality of intercultural communication in criminal justice contexts should be enhanced by the utilisation of an interpreter. Yet it should not be simply assumed that the utilisation of an interpreter extinguishes intercultural communication problems and thus removes the 'imbalance against Aboriginals'. There are issues of intertranslatability between Yolngu Matha and English and of the parameters that define (and confine) the interpreter's role. Additionally, experience elsewhere indicates that the interpreter may introduce a new set of communication problems (Berk-Seligson 1990a).

An investigative approach is required that can account for this range of influences and factors affecting (in this case) Anglo/Yolngu communication. The approach must also be open enough to allow the identification and consideration of communication problems further to those that the researcher anticipates. Sociolinguistics, concerned as it is with the effects of language and society upon each other, provides a suitable umbrella. Yet sociolinguistics is perhaps best conceived as a series of inter-related and often overlapping disciplines rather than a single coherent discipline governed by an overall theory (Fasold 1990:viii).

Sociolinguistic analysis has been successfully applied to the study of intercultural communication, exemplified in the Gumperzian interactional sociolinguistics approach (Gumperz 1982a, 1992) and in cross-cultural pragmatics (e.g. Eades 1982; Thomas 1983; Tannen 1984; Wierzbicka 1991; Sifianou 1992). And another sociolinguistics domain, the ethnography of communication, has found particular favour regarding intra- and inter-cultural interaction in the courtroom (e.g. Conley & O'Barr 1990; Danet et al. 1980; Gumperz 1982b). In this thesis three sociolinguistic traditions—ethnography of communication, pragmatics (linguistic pragmatics and cross-cultural pragmatics), and interactional sociolinguistics—will be drawn upon. And, somewhat separate from the sociolinguistic realm, both translation theory and second language acquisition (SLA) research provide essential additional resources for this study (given that the data involves both interpreted communication and communication conducted with NESB Yolngu in English).

Methodological unification will be achieved by the definition of a number of analytical principles that will together constitute a governing analytical framework. This framework (see section 4.3.2) reflects the position that in the analysis of intercultural communication empirically based and abductive[30] analysis will take precedence over (but not entirely displace) the application of contrastive analyses of linguistic, pragmatic and cultural systems.

This position follows on from mounting evidence (section 4.3.1) of the inadequacy of language-and-culture difference in providing 'the sufficient and necessary explanation for what is going on in intercultural interactions' (Meeuwis & Sarangi 1994:312). It also reflects

[30] Abductive analysis is informed by reasoning which 'accepts a conclusion on the grounds that it explains the available evidence' (Honderich 1995:1).

recognition that interpretation of meaning in discourse must take account of the context in which the text is situated. Context here is not meant in the monolithic and static sense but follows the flexible interactional notion of context as being continually reshaped in time, where context and discourse embody a reflexive and mutually constructing relationship (Gumperz 1982a, 1992; Auer 1992).

This argument that factors other than language/culture difference can either contribute to or ameliorate intercultural communication difficulties does not assert that contrasting language/culture systems do not constitute significant barriers against intercultural understanding nor that a knowledge of these contrasts cannot productively inform analysis. Rather, it asserts that these differences are not reliable in predicting communicative difficulty; nor, often, are they sufficient in themselves as explanation of these difficulties. There must also be account taken of various other possible contextual and situational dynamics including social, political, interpersonal and attributional factors.

The next section (3.1) will begin with a theoretically oriented investigation into how far cultural and linguistic difference can be taken to constitute a barrier to intercultural communication and understanding. This will be followed by a specific (and also theoretical) focus on the meaning of translation (section 3.2.1) and upon the issue of intertranslatability (section 3.2.2), particularly in the context of communication between speakers of widely differing languages reflecting divergent world views.

The focus will then shift towards the identification of approaches to analysing intercultural communication that are appropriate to the research data and goals. First, the meaning of 'analysing intercultural communication' will be defined for the purposes of the present context (section 4.1) after which several disciplines will be discussed in terms of their suitability for this research context (section 4.2). The development of an appropriate analytical framework will be assisted by commentaries that critically examine the more traditional approaches to the analysis of intercultural communication and examine the influence of assumptions about intercultural communication (and miscommunication) in framing its analysis (section 4.3.1). This will then have laid the groundwork for stating a number of uniting methodological principles (section 4.3.2) that will govern and guide the analytic process in the thesis.

CHAPTER 3

INTERCULTURAL AND INTERLINGUAL COMMUNICATION

3.1 Theoretical conceptualisation of intercultural communication

Anglo-Australian and Yolngu societies reflect contrasting cultural systems and many difficulties that Yolngu and other traditionally-oriented Aboriginal people face in communication with Anglo-Australians can be traced to differences in world view and to contrasting sociolinguistic and pragmatic patterns (see section 1.3 above). The concern in this thesis for describing the nature and dynamics of Anglo/Yolngu discourse also extends to determining how the quality of this communication might be enhanced. However, there are theoretical issues to be addressed here. First, if intercultural communication is conducted in a common language (here it is English: the first language of one party and the second language of the other) then successful communication is predicated on access to a common conceptual framework within which meaning can be negotiated. Second, when intercultural communication proceeds through an interpreter, successful communication is predicated on translatability: that whatever is said by one party can be translated into the language of the other. To the extent that these predications are not wholly tenable there is room for the conclusion that miscommunication is inevitable.

Do, then, the sometimes marked differences between cultures and between languages imply profound incompatibility in ways of thinking and of expressing thought? Or, are such differences merely surface features camouflaging universal ways of thinking and of expressing thought that may be attributable to our common gene pool? Or, have the poststructuralists and postmodernists got it right?—that culture is a process, a discursive construction that is negotiated within any given community, and can be renegotiated/ reconstructed when people from different communities conduct their discourse at the intercultural interface. To give it a philosophical slant, is reality constructed by convention or is it already truth? The issue is apparently already at least two and a half thousand years old (Clark 1994:12):

> Really, Democritus [Democritus of Abdera: c.460-357 BC] declared, we know nothing; all that we perceive is 'conventionally true', true by custom. Different customs generate different sense worlds, different stories, but the truth is only 'atoms and the void'.

While no attempt will be made to resolve this venerable debate here, some cognisance of contemporary discussion, particularly in regard to implications for the investigation of Anglo/Yolngu communication (and, moreover, in legal contexts), is warranted. The question of common conceptual ground in intercultural communication will be discussed first, followed by a consideration of the intertranslatability[31] postulate.

[31] Translatability is distinguished from intertranslatability in that the first refers to the possibility of translation

A number of writers describing Yolngu civilisation and society, taken together, present a powerful argument for the case that Anglo/Yolngu miscommunication is attributable to their societies' contrastive organisational schemata; to their having constructed distinct social and cultural worlds. The Yolngu civilisation was described extensively by Warner (1969) as he found it in the late 1920s. His chapters on local organisation, family/kinship structure and totemism make a strong case for the 'otherness' of Yolngu society when placed against a European perspective. Stephen Harris's (1984) sociolinguistic exposition of Yolngu patterns of communication and of Anglo/Yolngu miscommunication explains the latter as a consequence of each side operating according to markedly different rules of interpersonal communication. Christie (1985) shows the power of the contrast between Anglo and Yolngu world views in engendering contrastive perceptions and explanations of common sensory experience. Williams' study of dispute management at the Yolngu community of Yirrkala revealed that 'Yolngu did not see any correspondence between the substantive content of Australian law and their own law'; that they saw 'Australian law as based on values contradictory to their own'; and, that 'the existential propositions that gave validity to their law—beliefs about the nature of man, the relationship of men and women to each other, and to the environment—had few if any points of correspondence with white Australian values' (Williams 1987:149). Cooke (1991b) has developed an argument for placing Yolngu kinship as a total organisational and enculturative schema whose role is as powerful and central in Yolngu society as mathematics is in Western societies.

Yet this assignment of radical cultural difference to the Yolngu is vulnerable to criticism on the grounds that emphasis on difference is a reflection of the search patterns of researchers, who are often not interested in looking for commonalities. This point is made by Keesing (1994) who challenges 'anthropology's role to provide the exotic alternative culturally constructed universes that are counters to the Western ones' (p3). He is not denying cultural difference but claims that the 'degree of cultural diversity in thought and experience has been seriously and irresponsibly overstated' (p3) and that there is 'mounting evidence regarding the universals of embodied, experientially-based cognition that underlie and constrain variation' (p4).

Keesing presents as evidence for his position examples such as the linear and cyclical conceptions of time, which appear in various forms across different cultures, being manifestations of universal templates for the human experience of temporality. Thus the experience of solar, lunar and seasonal cycles provides a pattern of cyclical temporality while the sequence of birth, maturation, ageing and death provides a linear template, and the articulation of one with the other is also feasible. The result is a commonality underlying 'the wondrously variable local ways [in which] humans have constructed and encoded temporality' (p13).

between specified languages while the second refers to the possibility of translation across all natural languages.

Keesing's arguments clearly do not preclude the notion that propensity for intercultural miscommunication is greater between members of societies where the 'wondrously variable local ways' are particularly so. But they do suggest that miscommunication is not inevitable if the focus is placed more upon the underlying commonalities than the overt and over-emphasised manifestations of difference. Furthermore, his work appears to imply a clear position on the issue of intertranslatability among languages: that, on the basis of common templates of thought and experience which underlie 'supposedly exotic worlds of thought and experience, language and culture', they are intertranslatable.

In taking account of such arguments we must be cautious then in concluding that Yolngu and Anglo-Australians have constructed fundamentally different social and cultural worlds, or even that their social and cultural worlds are fundamentally different at all. And although there is no-one contesting the pervasiveness of miscommunication underlying discourse between Anglo-Australians and Yolngu, or its basis in linguistic and cultural difference, neither is there full agreement of a paucity in common ground. The existence of commonalities underlying the apparent gulf between Yolngu and Anglo-Australian cultural worlds is supported in the research of ARDS (cited in sections 1.1-2 above). They recognise the extensive and sustained occurrence of intercultural (Anglo-Australian and Yolngu) misunderstanding. They see mutual 'mystification' as the primary culprit for it and as primarily responsible for the failure of each to be able to see, acknowledge and operate in, the other's world. Their work is valuable in revealing the existence of some previously overlooked common ground. However, they do not set out to make the strong claim that one culture's entire set of conceptual schemata can be equivalently matched in the other.

The argument is complicated by the interdependence between culture and language. The Sapir-Whorf Hypothesis, in its strong form, holds that the way people perceive sensory input and interpret experience is determined by the languages that they speak, such that the 'real world' is unconsciously constructed out of the language habits of the group. This view is now generally considered extreme, with consensus tending towards the weaker position that 'people's behavior will tend to be guided by the linguistic categories of their languages under certain circumstances' (Fasold 1990:53). A post-structuralist perspective on the language/culture dichotomy—or lack of it—is given by Sherzer (1987:295, quoted in Sarangi 1994:414) who considers the language-culture relationship to be the concrete expression of discourse which 'creates, recreates, focuses, modifies, and transmits both culture and language and their interaction'.

How then are we to conceive intercultural interaction in the case of an English speaking Anglo-Australian barrister and their Yolngu witness who is typically communicating by way of E-YM interlanguage? If one accepts that language and culture are intimately connected and mutually reflecting, then the existence of an interlanguage implies the parallel existence also of

an inter-*culture*, as proposed by Eks rand et al. (1981), referring to an intermediate culture that shares properties of both one's first' and 'second' culture. Thus, also in parallel with interlanguage one would expect to see evidence and instances of *cultural interference* where the Yolngu witness is giving evidence in English. This would occur when cognitive categories and processing that are characteristic of Yolngu world view intrude to disrupt comprehension or otherwise result in disjointed communication during Anglo/Yolngu interaction. (An example, which will be explored in section 10.4.5, occurred at the *Elcho Coronial* when a barrister was seeking to have a Yolngu witness opine concerning the physical health of a person apart from the person's mental illness—a separation denied within the holistic Yolngu conceptualisation of health, and which the witness was unable to accomplish.)

Yolngu who have attained native-like proficiency in English as a second language are exceedingly rare and, even rarer, are the one or two Anglo-Australians who have approached this level of proficiency in Yolngu Matha. Such people are also bicultural in the sense that they are able to interact in a native-like manner within either cultural context in a range of social settings. Yet no assertion is made about how such individuals hold, construct or reconstruct their individual cultural selves. The point is that individuals can and do learn to make sense of the cultural differences that distinguish Yolngu and Anglo-Australian societies, and as language and cultural interpreters they can represent or explain one person's propositions in terms that are meaningful to the (non-bilingual) other. Lakoff (1984) accounts for this capacity on the basis that although different peoples may have different ways of conceptualising, all people share a conceptualising capacity and share at least some basic experiences. It is this capacity and these basic commonalities that make it possible for a speaker of one language to learn another and 'to construct the other conceptual system as he goes along and to understand it via the shared preconceptual experiential structure' (ibid:311-2).

This interpretation acknowledges the presence of cultural universalities (or, more precisely, universal cognitive processes) that may be the result of our common human physiology or sociobiology and that provide a basis for intercultural communication. It also leaves room for the overlay onto this of cultural selves which are socially constructed. And, it allows for the view that intercultural communication creates a dynamic and fluid discursive interface, influenced also by socio-political influences of the situation and roles of participants, where (inter)cultural identities and perceptions are capable of being renegotiated and reforged.

What though of the interaction between Anglo-Australian and Yolngu where each is speaking his or her own first language and are relying on the interpreter to relay their messages to one another? How far is it possible for the interpreter to translate what each side is saying?

3.2 Culture, language and intertranslatability

The issue of intertranslatability is both old and broad. Translators have long recognised the futility of trying to carry over, all at once and without distortion, a text's semantic content, register/style and structures. The Roman, Cicero, articulated the tension between translating words and translating meanings: 'If I render word for word, the result will sound uncouth, and if compelled by necessity I alter anything in the order or wording, I shall seem to have departed from the function of the translator' (quoted from Bassnett-McGuire 1991:43).

The broadness of the intertranslatability issue arises from the different ways of conceiving translation. The idea of equivalence is central; but what kind of equivalence—structural, semantic, pragmatic, or aesthetic? Does equivalence entail one, some, or all of these? The question is also complicated because translation can require working across different semiotic modes as well as languages (e.g. in the case of the *Elcho Coronial* the coroner's written report was translated into Djambarrpuyngu for oral presentation). Finally, views on intertranslatability are variably framed between extreme positions: from the postulate that everything that is expressible in any language can be faithfully given in every other language, to the position that nothing said in any language is translatable into any other.

3.2.1 The meaning of translation

Translation can be conceived as: 'the replacement of a text in one language (SL) by an equivalent text in another language' (Catford 1993:4739). Clearly, in respect of any two languages—let alone languages as different as English and Yolngu Matha—it is difficult to imagine being able to consistently achieve (i.e. apart from isolated examples) equivalence in the sense that the two texts are the same at all levels: structural, semantic, pragmatic and aesthetic. Translation thus becomes a matter of compromise in respect of equivalence—a question of which linguistic domain is to be the focus. On this point Bassnett-McGuire (1991:29-30) speaks of the inevitable 'loss and gain' in the translation process, noting that '(e)quivalence in translation ... should not be approached as a search for sameness, since sameness cannot even exist between two TL [Target Language] versions of the same text, let alone between the SL [Source Language] and TL version.'

The view that equivalence is rendered by literal or word-for-word translation[32] still retains currency in many courtrooms. While the jurisprudential background and implications of this view will be discussed in section 8.1 it is expedient to dispense with it as a linguistic issue here. In fact, it has long been recognised that literal translation is generally an impossibility if the translation is to retain the original meaning. When it is possible it is infrequently so and usually only in closely related languages. An attempt to translate a message by lining up

[32] I note here the distinction drawn by Wilss (1993:4751) between literal translation, which follows the syntactic structures of the SL, and word-for-word translation (or, more accurately, morpheme-for-morpheme substitution), which follows the syntactic rules of the TL.

lexical correlates in the target language (where they exist) of a series of words that form the message in the source language, is largely an exercise in futility since one-to-one equivalents do not always exist. More fundamentally,

> it is erroneous to assume that the meaning of a sentence or text is composed of the sum of the meanings of the individual lexical items, so that any attempt to translate at this level is bound to miss important elements of meaning. (Hatim & Mason 1990:3-4)

The same lack of equivalence often applies at the grammatical level (ibid:27):

> It is beyond dispute that this lack of a one-to-one relationship between grammatical categories [i.e. in different languages], including tense systems, demonstratives and adverbs of time and place creates problems for the translator.

Translation has also been conceived within a narrow linguistic approach as the transfer of 'meaning' contained in one set of language signs into another set of language signs. Implicit in this approach is a sense of meaning existing independently of language. This presumption was uncovered by Catford (1965:32-7 quoted in Basnett-McGuire 1991:6) who countered that, '(i)n translation, there is substitution of TL meanings for SL meanings: not transference of SL meanings into the TL text'. The recognition that 'meanings' can, as cultural products, be language specific rather than language independent is part of the controversy concerning the interrelationships between culture, language and thought.

Linguistic theories of translation have only emerged in the past few decades. The descriptive linguistics (structuralism) that dominated linguistic research until the 1960s had little to contribute to translation theory. Not only was linguistics focused on the detailing of individual grammars rather than their comparison, but it was narrowly confined by the concern with language as structure rather than as communication. The emergent influence of Chomsky, who introduced the idea of deep structure (or grammar) realising core meanings that he proposed as common to all (natural) languages, provided a powerful effect on translation theory. Two influential translation scientists, Nida and Wilss, have incorporated Chomsky's formulation model into their theories, with Nida also adding to the core of universal syntactic structures a core of universal human experience (Gentzler 1993:43-73).

The more recent release of linguistics from the confines of the individual sentence has brought with it a focus on the study of text in context with meaning being a process of negotiation between interlocutors. The study of language as communication has led to the development of sociolinguistics, pragmatics and discourse analysis as essential subdisciplines in fully understanding the way in which meaning is negotiated through text, between its users. The translator can then be seen as (Hatim & Mason 1990:33):

> a special kind of text user, [who] intervenes in this process of negotiation, to relay it across linguistic and cultural boundaries. In doing so the translator is necessarily handling such matters as intended meaning, implied meaning, presupposed meaning, all on the basis of the evidence which the text supplies.

The distinction between original texts (or utterances) and their translations, and the search for the Holy Grail of equivalence between them, is challenged by deconstructionists who question the definition of translation as involving some concept of determinable meaning that can be transferred to another language (or to any other system of signification). Gentzler (1993:144-9) comments that deconstruction reframes the question of meaning by positing that the very definition of a text's meaning can be seen as being determined by the translation, not by the original: 'What if the "original" has no fixed identity that can be aesthetically or scientifically determined but rather changes each time it passed into translation?' (p145). Thus, each reproduction (in whatever form) and each translation variably reconstructs the source texts in concordance with the context (situation, audience, time, occasion etc.).

Candlin (1990:viii) provides a contemporary conceptualisation of translation that retains the concept of an original message requiring relay and accounts for the importance of context; it emphasises the procedural aspect of translation as an act encompassing a range of requirements:

> At least, an understanding of the cultural and experiential worlds that lie behind the original act of speaking or of writing... Secondly, an understanding of the two semiotic systems in terms of their image making. Third, and most obviously, a making intelligible of the linguistic choices expressed in the message. Fourthly, an opportunity to explore the social psychological intention of the originator of the message against one's own. Lastly, a challenge to match all of these with our appropriate response in our semiotic and linguistic system, and our culture.

3.2.2 Intertranslatability

The differences between languages and between ways of communicating in different cultural contexts are widely appreciated; the strong relationship between language and culture is widely accepted; and, interdependence between these two and thought is generally acknowledged (even if the degree of interdependence is disputed). However, the nature of the relationship between one society's language, culture and patterns of thought to another's is highly contested in debate over the intertranslatability of languages.

Much of the polarisation between opposing positions can be traced to opposing views on the nature of 'meaning', which can be seen either as a cultural construction that is language specific or as a universal system that is common to all humanity with the elements of this system expressible in all (natural) languages. Put another way, language, as the linguistic encoding of meaning, can be viewed as a model of a reality which is either constructed or discovered by human society. The question thus emerges: do the differences in languages represent different realities or different realisations of the one reality?

If reality is a social construction mediated through a society's language which then stands as the embodiment and expression of this reality, then one society's language could not be expected to be able to directly encode another society's different reality. In other words, one would not assume the possibility of translation between languages. Alternatively, if there is

one reality mapped (variably) by each society then all humans experience this one reality, and since language is the vehicle for the expression of consciousness then translatability between all languages is to be expected.

A contemporary exposition of the relativist stance is expounded by Grace (1987) who speaks of 'the *linguistic* construction of reality' (p3). Grace argues that 'we do not have direct access to the real world itself, but only to the data about it provided by our senses. And these senses provide very incomplete information' so that 'all we can do is to theorise about reality, or to put it more precisely still, to construct models of it ... which are reflected in the language that we speak' (p4). Different societies therefore construct different models through their different languages so it can be assumed 'that it is *not* the case that anything which can be said in one language can also be said in any other language' (p11).

The universalist position is discussed in Gentzler (1993:43-73) who reveals that it is largely underpinned by Chomsky's theory of generative grammar, espousing the commonality of fundamental syntactic and semantic properties across all languages. This influence is seen in Nida (1964), Wilss (1982) and Will (1984) who claim the limits of intertranslatability to be transcendable. Nida, for example, combined Chomsky's hypothesis that universals in syntactic structures exist at the core level, together with his own assertion that there exists a common core of human experience, to conclude that interlingual communication is always possible (Gentzler 1993:66-7).

Wilss built on Nida's position in constructing a strong claim that 'everything can be expressed in every language' (Wilss 1982:48-9 in Gentzler 1993:63):

> The translatability of a text is .. guaranteed by the existence of universal categories in syntax, semantics and the (natural) logic of experience. Should a translation nevertheless fail to measure up to the original in terms of quality, the reason will (normally) be not an insufficiency in that particular TL, but rather the limited ability of the translator in regard to text analysis.

Gentzler has pointed out that the appropriation of Chomsky's theory for this purpose has not only required some distortion and modification but that Chomsky himself warned against taking his theory to imply the presence of point-to-point equivalence across languages (Chomsky 1965:30 quoted in Gentzler 1993:51):

> The existence of deep-seated formal universals ... implies that all languages are cut to the same pattern, but does not imply that there is any point by point correspondence between particular languages. It does not, for example, imply that there must be some reasonable procedure for translating between languages.

Gentzler's own criticism of these claims includes: their excess in distorting Chomsky's theory of generative grammar; that they 'tend to be theoretically founded on an assumption about the nature of language that cannot be empirically verified'; and, that methodologically they tend to

proceed by universalising and generalising to such a degree that any freshness in the expression of new ideas in a language becomes obliterated in the translation.

A weaker version of the intertranslatability postulate (i.e. the assumption that anything said in one language can be said in any other language) is given in Wierzbicka (1980) who hypothesised (p53) that 'any sentence in any natural language can be translated into any other natural language to produce a text which, whatever its stylistic shortcomings, will nonetheless be basically understandable'. While acknowledging that 'utterances in different languages differ in their deep structures, not only in their surface structures' she maintains that 'those different deep structures are always expressible in languages which are mutually isomorphic because all are isomorphic with respect to the universal *lingua mentalis*, that is, to the language of semantic primitives' (p67).

Wierzbicka (1996) categorises her position as 'radically universalist' in that she subscribes to the strongest 'semantic universalism' hypothesis that 'there is a fixed set of semantic components, which are universal in that they are lexicalized in all languages' (pp14-5). An original list of 14 hypothesised semantic primitives proposed in Wierzbicka (1972) has since been tested and extended after research across a wide range of languages to yield a current claim of some 55 semantic primes[33], ten of which are claimed to have been largely verified (Wierzbicka 1996:35). Also posited, are 'certain innate rules of syntax' in the sense of 'intuitively verifiable patterns determining possible combinations of primitive concepts' (ibid:19). Finally, Wierzbicka extends this language of semantic primitives, 'the natural semantic metalanguage based on lexical universals', to also permit 'a language independent "culture notation", suitable for representing the "cultural unconscious"' (Wierzbicka 1994:71).

Wierzbicka's radical universalism is combined with 'thoroughgoing relativism' in that it also accepts 'the uniqueness of all language-and-culture systems' (Wierzbicka 1996:16). Comments on the intertranslatability issue in Wierzbicka (1992:20-1) show that her claim is really that anything said in one language can be *expressed* in a 'standardised and non-idiomatic metalanguage rather than a natural language in all its richness and variety'. They also reveal that, as in Wierzbicka (1980), she uses the term *translate* in the sense of *explicate* or *paraphrase* rather than *replicate* (and after all, an erudite utterance in one language that is

[33] The 1997 version of the lexicon of this metalanguage is given in Goddard (1997:4):

substantives:	I, YOU, SOMEONE, SOMETHING/THING, PEOPLE/PERSON
determiners; similarity:	THIS, THE SAME, OTHER/ELSE; LIKE
quantifiers:	ONE, TWO, ALL, MANY/MUCH, SOME
mental predicates; speech:	WANT, FEEL, THINK, KNOW, SEE, HEAR; SAY, WORD
actions, events, movement:	DO, HAPPEN, MOVE
existence and life:	THERE IS, LIVE
descriptors; evaluators:	BIG, SMALL; GOOD, BAD
time:	WHEN/TIME, NOW, AFTER, BEFORE, A LONG TIME, A SHORT TIME
space:	WHERE/PLACE, HERE, ABOVE, BELOW, FAR, NEAR, SIDE, INSIDE
logical concepts:	NOT, MAYBE, IF, CAN, BECAUSE, IF...WOULD
intensifier, augmentor:	VERY, MORE
taxonomy, partonymy:	KIND OF, PART OF

rendered in the transformation to another as merely 'basically understandable' and suffering from 'stylistic shortcomings', is deficient as a translation):

> the lexicons of different languages do indeed suggest different conceptual universes, and that not everything that can be said in one language can be said (without additions and subtractions) in another ... On the other hand, there are good reasons to believe that every language has words for the basic human concepts, and that everything that can be expressed at all can be expressed by combining those basic concepts in the right way. In this sense—but only in this sense—anything that can be said in one language can be translated, without a change of meaning, into other languages. (Wierzbicka 1992:20)

A poststructuralist view on the matter of intertranslatability is given by Joseph (1995:14) who dispenses with the notion of determinacy: 'enterprises founded in language are fundamentally *indeterminate*. Translation always falls short of its goal of a text that reads like an original composition in the second language' Poststructuralism holds with a 'cannibalistic' view of translation that is linked to the view of Jacques Derrida who 'argues that the translation process creates an "original" text, the opposite of the traditional position where the "original" is the starting point' (Bassnett-McGuire 1991:xv). Within the 'cannibalistic' view (involving a post-colonial reconstruction of the conventional meaning of the term) translation becomes 'an empowering act, a nourishing act'—'absorbing the virtues of a body [the 'textual relations' of the original text] through a transfusion of blood' (Gentzler 1993:192). By this metaphor intertranslatability is a fruitless quest since the absorption of a body (text) can hardly be seen to result in (translate into) the same body (text) in another form (language).

While the above perspectives on intertranslatability reveal quite disparate theoretical and philosophical positions on language and communication they can also be deconstructed to reveal common ground. Grace, Wierzbicka, Wilss and Joseph all permit that anything said in one language can be paraphrased, or at least explained, in another language. But while Wilss supports the intertranslatability postulate it is nevertheless readily apparent that his approach to translation (by way of intralingual paraphrase) generally renders the intertranslatability postulate improbable—that is, if one confines the meaning of true translation to the production of equivalence or sameness in structure, semantics, pragmatics and aesthetics, all at once. Wierzbicka (1992:6-7) explicitly acknowledges this: 'it is almost ... a truism to say that a translator is necessarily a betrayer: *traduttore traditore'*. In fact, the differences in their arguments can be partly resolved by examining how they view translation and how far the concept is taken to include explication (through paraphrase) or even explanation.

3.2.2.1 Translation and (paraphrastic) explication

Firstly, following on from the discussion of translation in section 3.2.1, and upon Hatim and Mason's (1990) conceptualisation in particular, we can specify the meaning of translation in the following (albeit quite general) terms: If the translator can account for a message's intended meaning, implied meaning, presupposed meaning, all *on the basis of the evidence which the text supplies*, and at the same time can create a text which tends to *engender the original perlocutionary effect* (i.e. a funny joke should also be funny in the translation), then

this may be reasonably seen as an effective translation. Translation at this level obviously requires the translator to understand the original message and to take account of different ways of saying things in the languages concerned (differing grammatical arrangements, idioms, metaphors and the like). This is in contrast with the attempt at translation through mechanical lexical substitution of terms, maintaining an equivalent grammatical relationship sentence by sentence, as occurs in machine translation.

Grace (1987) distinguishes these categories by referring to the restrictive meaning of translation as *isomorphic* translation, based upon lexical substitution from SL to TL under the governance of the syntax of the TL. He refers to the more comprehensive accounting of meaning in translation as *paraphrastic* translation, which must take account not only of the semantic content of an utterance but the pragmatic meaning and force as well since these combine to constitute the content of a linguistic expression. (Grace's own terms for these components of meaning indicate approximately parallel concepts to those I am using: He refers (ibid:25-40) to the content of a linguistic expression as comprising: the *conceptual event* (i.e. semantic content), *contextualisation clues* (i.e. pragmatic content) and *modality* (i.e. the pragmatic force).

In a similar fashion and deploying similar categories, Wilss acknowledges the need to account for meaning beyond the semantic propositional level. He proposes that '(t)ranslation research must develop a frame of reference which views a text as a communicatively-oriented configuration with a thematic, a functional, a text-pragmatic dimension; these three dimensions can be derived from the respective text surface structure' (Wilss 1982:116 quoted in Gentzler 1993:65). Wilss' research methodology also deploys paraphrase, as Gentzler (1993:64-5) explains, by way of 'intralingual' back-transformation, to eliminate differences, specific word plays, and implications of texts as they applied to the time of writing (rather, texts are classified ahistorically and archetypically).

Grace's difficulty with paraphrastic translation in relation to the intertranslatability postulate lies with the problem of determining a basis for comparing the SL and TL texts: 'paraphrastic translation ... [is] translation in which the translation equivalents are not isomorphic. On what basis, then, can they be said to be equivalent? ... How is the identity of content to be determined—by some kind of logical calculations?' In the absence of 'any language-independent conception of meaning' (other than truth conditions—which are insufficient to deal with the pragmatic realm) Grace can identify no means for establishing this identity of content (Grace 1987:62).

This of course is the very issue that has been addressed in Wierzbicka's Natural Semantic Metalanguage (NSM). Wierzbicka's methodology involves first explicating all meaning in an utterance using the semantic primitives as they are lexicalised and grammaticalised in the

source language and then by way of somorphic substitution re-render this NSM expression using the corresponding target language equivalents (incidentally, there is no reason why this step could not be done by machine). However, by taking an example from Wierzbicka (1991:410) it becomes clear that the 'flatness' of the NSM paraphrase of an English exclamation entirely dissipates any perlocutionary effect that may have been intended and evoked by the original utterance. She gives the semantic representation (using NSM) of the English tautology *Enough is enough!* (in the sense of *Stop it at once!*) as:

(a) everyone knows:
sometimes people want to feel something good
because of this they want to do some things
they wouldn't do these things at other times

(b) I know: someone (you?) was doing something
like this for some time

(c) I know: someone can think: this is not bad

(d) I think: one should not think this

(e) one should know:
one can do it for some time
one should not do it for a long time

(f) I want this person not to do it any more now

It is difficult to imagine that a misbehaving child might recognise this as a parent's command to *Stop it at once!* This example makes clear an essential difference between paraphrase (or explication) and translation: while paraphrase may explicate all meaning it may also lose all force: any humour, anger or pun carried directly in the expressing would be lost in explication (telling a joke and explicating a joke is not the same). As Wierzbicka acknowledges, '(s)uch semantically faithful translations may of course be stylistically perfidious to the point of being wholly unacceptable for most normal purposes' (1980:53).

Thus even if it is possible that a NSM paraphrase of a SL text could yield a semantically equivalent TL version of this paraphrase, it is not true that this would necessarily constitute a translation of the original SL text in the TL; apart from any mistake in identifying metalanguage with a natural language, a NSM paraphrase is so stylistically marked that its use would carry its own message. Wierzbicka, citing Apresjan (1974), concurs that intralinguistic translation (which was incorporated into the methodology of Wilss) can similarly be clumsy, awkward, and impossibly long:

> An explication of an expression in natural language with a fairly complex meaning rendered directly in terms of elementary meanings would be so cumbersome as to be very difficult to work with in practice. (Apresjan 1974:77 quoted in Wierzbicka 1980:74)

When even paraphrastic explication is unable to get the point across one has to consider resorting to explanation. This can be required in semantic domains where two cultures are so much at variance that one language doesn't have the conceptual framework (or perhaps even the conceptual building blocks) available to reconstruct the other's meaning.

3.2.2.2 Translation of Yolngu kinship concepts entails explanation

Yolngu utterances involving Yolngu kinship categories demonstrate the occasional apparent impossibility to satisfactorily express, either by isomorphic substitution or by paraphrase, their meaning in English. This is not perhaps surprising given that Aboriginal kinship systems have been recognised by anthropologists as more complex than for any other human societies (Fox 1967). For the Yolngu, as indicated in section 2.6, the kinship system provides a total organising schema for social, political, economic and religious activity. One of its key terms is *ŋändi* which is most commonly glossed in English as *mother*, for the good reason that this is the kinship category that Yolngu use in referring to their natural mothers. Nevertheless, this is something like translating the mathematical concept of π into Yolngu Matha as *lurrkun'* (which glosses as *a few* or *3*). Sure it is roughly right, but it also misses the mark.

Wierzbicka (1980) makes the attempt with respect to the term *ngardi* (a near cognate of the Yolngu Matha *ŋändi*) in the Aboriginal language Njamal. She rejects that sentences containing the word *ngardi* cannot be translated into English simply because there is no English equivalent to *ngardi,* since 'what is relevant is whether or not ... these words can be broken down into simpler components which would have equivalents in the other language'. She hypothesises the following paraphrase for *ngardi* (p48):

> X is Y's *ngardi*. = X is related to Y in the way someone's "birth-giver" is related to someone.

In Wierzbicka (1992:356) the *ngardi* concept was refined, this time in the case of the equivalent Pitjantjatjara word *ngunytju*, by proposing polysemy—where the meaning of $ngunytju_1$ is 'roughly' the same as the English word *mother,* and $ngunytju_2$ is paraphrased to account for the social (as well as biological) relationship. It was given 'roughly' in the following way:

> she is his $ngunytju_2$ = she is thought of as related to him like one's mother ($ngunytju_1$) is related to one.

In Aboriginal languages generally these terms (*ngardi, ngunytju, ŋändi* etc.) at least encompass mother's sisters. In Yolngu Matha a woman also refers to her great-grand-daughter as *ŋändi*; one refers to the daughter of one's maternal uncle's son as *ŋändi*; and, as well, one can have classificatory 'mothers' where there may be only an indirect or absent 'blood' link. When Yolngu say in Djambarrpuyngu *ŋarraku ŋändi* (glossed as *my 'mother'*) this does not necessarily specify birthgiver.

If one does wish to be specific and unambiguous about referring to someone's 'birth-giver' in Djambarrpuyngu then, rather than using *ŋändi*, one uses the Oblique Stem *-kalaŋa-* as a word-final suffix. This directly and unambiguously specifies a parent in the biological

sense—although not which one[34]. The suffix is joined to a person's name, personal pronoun or some other personal referent, and is uttered *in conjunction with a hand sign* should it be necessary to explicitly specify whether one is referring to the male parent (signalled by touching one's shoulder) or female parent (signalled by touching one's breast[35]) (Munyarryun, J. G. 1994, pers. comm., May). Touching one's breast or shoulder *without* any specifying utterance removes this specific reference to a biological parent: one can be indicating any of a number of human, or even non-human, referents that are in a *ŋändi* ('mother') or *bäpa* ('father') relationship. This '*-kalaŋa* plus hand sign' construction may be frequently heard (and seen) when an adult asks a child as to the whereabouts of his/her mother or father. It is everyday language. (It also provides a clear example of the utilisation of signing and speaking concurrently and complementarily as the ordinary natural language of Yolngu.) One specifies one's own mother by saying *ŋarra-kalaŋa* (*ŋarra* is first person singular pronoun) and at the same time touch either of one's breasts (on the other hand, *my father* can be specified by saying *ŋarra-kalaŋa* while touching one's shoulder).

Problems with *mother* as a gloss for *ŋändi*, or of paraphrases of the type Wierzbicka suggests, also emerge when one hears a Yolngu person referring to a rock, a language, a clan, a star or a fish as *ŋändi*. If one thinks that the essence of the term is the quality of giving birth (in the biological sense) or of personal nurture then a European is pushed to see this relationship between human and fish.

Difficulty in translating *ŋändi* in a 'birth-giver' sense is further exacerbated by the semantic encroachment in Yolngu Matha of the term *galay* which is usually glossed as *wife* or *cousin*, or in the anthropologist's conceptual system as *mother's brother's child* (as with *ŋändi* this category is complicated by extending to incorporate other genealogically specifiable relationships). It is in a sense both 'wife' and cousin: a man ideally marries a woman from this cousin category. Yet I have seen one woman affectionately touch the stomach of another woman, her *galay*, and say:

> *'Nhe ŋarraku galay. Ŋarra maḻŋ'ithurr nhokal gulunŋur.'*
> You are my 'wife-cousin'. I appeared from your womb.

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[34] This use of the Oblique Stem (Wilkinson 1991:137) as a word final suffix is unique. It can be used on names: X-*kalaŋa* = X's mother or father. This is the construction used by a brother wanting to refer to a specific sister (he is not permitted to use her name nor to identify her by reference to any aspect of her appearance). If a man wished to identify a particular sister, X, then so long as she has a child, Y, he can specify X as Y-*kalaŋa* (i.e. Y's *birth-giver*). The normal use of the Oblique Stem (with forms: *walaŋa/galaŋa/kalaŋa*) is to form an augment for other suffixes, as for example:

X-kalaŋa-wuy	*dhäwu*
X-OBLIQUE-ASSOCIATIVE	story
story about X	

This suffix is reserved for human use. A story about a dog would simply be:

wuŋgan-buy	*dhäwu*
dog-ASSOCIATIVE	story

[35] Could this not signify that the primary meaning for *ŋändi* may be more closely associated with nurturing than child bearing? Also the coexistence and concurrent use of sign language and spoken language in natural, everyday discourse raises the possibility that one or two of NSM's (claimed) lexical universals may, for Yolngu Matha, reside within Yolngu Sign Language, rather than the spoken one.

How can this be interpreted? Surely the speaker emerged from the womb of someone in a *ŋändi* relationship rather than *galay* (how can one be born of one's mother's brother's daughter[36])? The sense of the second sentence (*'I appeared from your womb'*), given the first, can only be determined by reference to Yolngu cultural knowledge, much of which is not carried directly (i.e. neither semantically encoded nor pragmatically derivable) within the utterance. One has to know that for Yolngu:

- brother and sister belong to the same clan (therefore one's mother and her brother belong to the same clan);
- clan identity is patrilineally determined (therefore one's maternal-uncle's daughter (*galay*) is also in one's mother's clan);
- at another level, one calls one's mother's entire clan *ŋändi* (and therefore, on this level, one's *galay*, as a member of that clan, is also one's *ŋändi*);
- this mother-child relationship that exists between particular *clans* is a consequence of the ancient activities of *Waŋarr* (Creation Beings) who not only created clans, languages, and natural elements, but also defined their kinship relationships;
- furthermore, Yolngu marriage rules not only direct a man to marry into his *ŋändipulu* (*mother clan*: the clan which is in a mother relationship to his own) but specify the ideal partner to be in a specific 'niece' relationship to his own mother (such as her brother's daughter) who is thus his *galay* (and the man's sister follows her brother in calling these cousins *galay*).

Thus for Yolngu it can be sensible to say that one has emerged from one's mother's brother's daughter's womb. However, making this same meaning clear in English entails recourse to explanation. While it remains conceivable that (sufficiently tortuous) explications of individual Yolngu concepts like *ŋändi* and *galay* are possible, the meaning of utterances which interconnect these concepts is only accessible by recourse to knowledge of the *conceptual system*. This meaning that is afforded by knowledge of the conceptual framework holds the key to understanding how individual components can behave and interrelate in combination.

3.2.2.3 Explanation and translation

The recovery of meaning by way of *explanation* is expressed by Grace as *perlocutionary translation* whereby no matter what one might need to communicate in any language, it is always possible to find a way *by means of language* to get it across (Grace 1987:63). Grace points out that framing the intertranslatability postulate in this (weakest) manner inheres no particular claim about linguistic form and exceeds the bounds of what constitutes translation. Jakobson (1971:263) explicates this excess in his rendition of this weakest version of the intertranslatability postulate, where the option to explain is also clearly entailed:

> All cognitive experience and its classification is conveyable in any existing language. Whenever there is a deficiency, terminology can be qualified and amplified by loanwords or loan-translations, by neologisms or semantic shifts, and, finally, by circumlocutions.

[36] This could be achieved through incest, which, for Yolngu, is out of the question.

Lakoff (1984:311-2) is explicit in differentiating the issues of translation and understanding: 'The difference between translation and understanding is this: translation requires mapping from one language to another language. Understanding is something internal to a person'. While accepting that translation (in the sense that it requires the preservation of truth conditions) is not always possible unless there is close correspondences across both languages' conceptual systems, he refutes the idea that impossibility of understanding follows. Thus someone from one language background learning another radically different language 'may be able to understand the other language even if he cannot translate it into his own'.

3.2.2.4 A limited role for explanation (in translation) in legal contexts

The active intervention of the translator in texts is a necessary and inevitable aspect of the translation process for Joseph (1995) who writes from a postmodernist perspective about legal translation. For the postmodernist, the indeterminism of meaning in a text renders translation as problematic to the point that the possibility of faithful translation is seen as a myth. And yet, while determinism is a myth, 'a still emerging *post-postmodernist* approach' recognises that 'we need to live with myths of our own construction' and Joseph offers a ('partly mythical') model for dealing with the fact of indeterminacy in the practice of legal translation (ibid:33-4). This model involves three practices: '*(i)nterpreting* rather than merely translating ... actively disrupting translation with an informed commentary'; *(i)ntervening* in texts, semantically, stylistically, intellectually, to the extent called for ...'; and, not attempting to achieve 'the ease of original composition' ('the desire to provide easy reading should not sacrifice fully interpretative translation'). Clearly, Joseph's practices imply the necessity for paraphrase and explanation to be incorporated as necessary components of legal translation.

Joseph claims (p34) that '(t)hese three practices together stake out an authentic, theoretically grounded postmodern strategy for legal translators who believe in the indeterminacy of language, law, and translation, and want to practice their craft in a way consistent with this belief'. He also recognises that they do not constitute a viable strategy 'if practiced to an extreme degree, for one's efforts would be unlikely to find publication and dissemination within the (ever conservative) legal establishment'.

The brief of the interpreter/translator in a legal environment is often constrained to direct and mechanical linguistic transduction and legal objection can result in the case of courtroom proceedings when an interpreter ceases translating in order to *explain,* and 'many judges still insist that interpreters do no more than interpret the strictly literal words of the witness' (*Access Report*[37] 1991, para 3.3.8). Laster and Taylor (1994:xv) assess narrow views upon interpreting, reflected in an insistence upon literal translations, as being 'predicated on an

[37]*Access Report* is an abbreviated title for the 1991 report of the Commonwealth Attorney-General's Department: *Access to Interpreters in the Australian Legal System.*

assumption that language is simply a compilation of vocabulary and syntax and that the law is a fixed body of knowledge based on rational procedures which are self-evident if explained properly'.

The assumption of intertranslatability within the (American) legal system is exposed by Grace (1987) in pointing out that courtroom proceedings place the role of an interpreter as 'that of an other-language surrogate of the lawyer, not that of an intermediary' and that this perspective is confirmed by the transcript which shows only the lawyer's question in English and the witness's reply in English. The presumption is thus that (ibid:67-8),

> the question which the witness heard and attempted to answer is the same question as the English-language question which appears in the court transcript and that the English reply shown in the transcript says the same thing as the witness's original reply.

The intertranslatability postulate will be examined as an issue of legal relevance in Chapter 11 in the light of translated English/Djambarrpuyngu texts taken from the *Elcho Coronial* in particular. It will be established there whether or not there are some things that were said (or written) at the *Elcho Coronial* that simply could not (and cannot) be transposed directly in the other language, that is, without need for paraphrase, explanation or other forms of intervention (such as the re-ordering of messages).

CHAPTER 4

ANALYSING INTERCULTURAL COMMUNICATION

4.1 Defining 'analysing intercultural communication'

Some of the complexities inherent in intercultural communication between people from widely differing cultural and linguistic backgrounds were explored in the previous section and in Chapter 1. Of course problems in intercultural communication are not restricted to cases where cultural and linguistic divergence is so pronounced. The work of Eades, for example (see section 1.3 above), has shown that the communication between people speaking different varieties of English (SAE and Aboriginal English) can be marred by sometimes unrecognised differences in cultural assumptions and understandings that underlie differences in the use of language. However, in the case of Anglo/Yolngu interaction as is considered here, all the data involves NESB Yolngu who are situated in a formal and relatively alien communicative environment. Taking this into account, an appropriate conceptualisation of 'analysing intercultural communication' is given by Knapp and Knapp-Potthoff (1987:1-14).

Knapp and Knapp-Potthoff observe that definitions of culture that focus on 'abstract shared knowledge of social communities' result in abstractions and idealisations that are difficult to maintain in practice. This is largely because societies are rarely homogenous and, in the case of many contemporary communities (such as Australia), high social and physical mobility and a prevalence of inter-group interaction often render categorisation at the individual level problematic. In regard to communication they point out that problems resulting from a lack of shared knowledge are not specific to interaction among members of different cultures since they also occur among members of the one culture, such as when a person is faced with a new or unfamiliar communicative domain (a courtroom, for example). Knapp and Knapp-Potthoff therefore introduce the analogy of communication 'among strangers' in assisting the characterisation of intercultural communication. This conception is given credence by observations such as those made by Elwell (1979:107-8, see section 2.8.3 above) concerning Anglo-Australian/Yolngu communication when the Anglo-Australian is a 'new arrival' to the Yolngu community. They 'will often feel baffled after a conversation'. Even for those Yolngu with comparatively good English, their 'choice of vocabulary, use of verb morphology and ellipsis, and certain features of their discourse structure, will often leave the new arrival wondering exactly what has just been said or meant'.

Knapp and Knapp-Potthoff discern a 'crucial difference between intra- and inter-cultural communication, and that is one related to language: typically in intercultural communication at least one of the strangers does not speak the language of the interaction as his or her mother-tongue, but is a learner of that language at whatever level of proficiency'. (This criterion could also be extrapolated in consideration of the interaction between speakers of differing

varieties of a single language, when the language of interaction is confined to one of these, as is the case when speakers of Aboriginal English appear in Australian courtrooms as witnesses.)

This view of intercultural communication is held as useful and appropriate for the consideration of Anglo/Yolngu communication in criminal justice contexts. The communication difficulties faced by lawyers and police in their interaction with Yolngu derive partly from language differences, partly from the strangeness to Yolngu of police interviews and courtroom examinations as communicative contexts, and partly from the fact that police and lawyers are (usually) strangers to Yolngu community life. (Anglo-Australians who *have* been long-term residents of Yolngu communities, and who have in some cases married Yolngu, are far more adept at communication with Yolngu even when they do so in English.)

Knapp and Knapp-Potthoff (ibid:8) justify the constitution of 'intercultural communication' as a research area of its own on the basis that:

> The specific problem here is that interactants not only do not share the relevant knowledge, but neither do they share the linguistic means that cue this knowledge in the interaction. In addition, as a result of the language problem, there are typical forms of communication, such as the use of interpreters.

Approaches to the analysis of intercultural communication are however not consistent. Knapp and Knapp-Potthoff observe that analysing 'can mean many different ways of describing, defining, and explaining problems that may arise from cultural differences in communication' and that this research area is presently characterised by 'a multiplicity of theoretical approaches rooted in linguistics and supplemented by techniques used in the social sciences' (ibid:2). They are concerned that the 'internal structure of the social situation and its specific determinants ... can be neglected' and their suggestion, which will be followed here, is that 'an approach to intercultural communication should be comprehensive in nature, embedding detailed analyses of communication processes in their socio-political and socio-cultural contexts' (ibid:3-4).

4.2 Approaches to the analysis of intercultural communication

4.2.1 Introduction: a multiplicity of approaches

The 'multiplicity of theoretical approaches' to the study of intercultural communication, and more generally to the study of sociolinguistics, is variously grouped according to perceived commonalities—such as in underlying assumptions, encompassing perspectives or research goals—by theorists discussing their merits and demerits, evaluating their validity or proposing alternative research paradigms (e.g. Levinson 1983; Coulthard 1985; Taylor & Cameron 1987; Bilmes 1993; Sarangi 1994; Fasold 1990; Wierzbicka 1991). However, while there are useful distinctions that can be made between approaches, forcing separation between research domains is often problematic and can become somewhat contrived.

Fasold, for instance, allows that his textbook on sociolinguistics 'might be seen as a book about pragmatics in the broad-scope tradition that Levinson (1983) calls the "continental approach"' (Fasold 1990:ix) while Levinson, in his textbook on pragmatics, sees that 'drawing a boundary between socio linguistic and pragmatic phenomena is likely to be an exceedingly difficult enterprise' (Levinson 1983:29). And, while Levinson differentiates discourse analysis from conversation analysis as 'two major approaches to the analysis of conversation' (ibid:286), Coulthard's textbook on discourse analysis (1985:3) subsumes conversational analysis under discourse analysis, restricts the meaning of discourse to spoken language, and sees that '"pragmatics" as defined by Levinson (1983) overlaps substantially with discourse analysis'. In respect to intercultural communication, while Sarangi (1994) sees a clear division between the approaches of cultural anthropology, interactional sociolinguistics and cross-cultural pragmatics, Bilmes (1993) proposes drawing out of cultural anthropology, conversational analysis and linguistic pragmatics, an 'empirical pragmatics'.

There are, however, requirements and features of this research that enable grouping to be performed within this multiplicity and that form a basis for selecting individual approaches for particular analytical or methodological tools that they may offer. One requirement is for compatibility with the research focus and scope (focus and scope were discussed in section 0.1 in terms of the aims of the thesis; they are revisited here in the context of methodology). This means that approaches must be applicable to the communicative features or structures that are being investigated (the focus) and to the aspects of context that must also be considered in the analytical process (the scope). A second requirement is for research methodology to be compatible with the type of data that is available and to permit a theoretically sound and effective analysis. Preliminary issues are provided by circumstantial considerations arising from constraints inherent in the current field of investigation (i.e. criminal justice proceedings); from the researcher's role as a participant in the proceedings under investigation; and, from his experience of Yolngu contexts.

Following discussion reveals the value of drawing upon a number of research paradigms in constructing an analytical framework compatible with these issues of: research focus and scope, theoretical considerations, the field of inquiry, and of the knowledge base of the analyst.

4.2.2 The field of inquiry: methodological implications

Researchers analysing communication within criminal justice proceedings are subject to certain obvious restrictions. Although proceedings are essentially already in the public domain and transcriptions of these proceedings can be obtained, it is rarely appropriate for researchers to seek to inform their analysis of courtroom discourse by the strategy of interviewing participants in proceedings such as these.

In the cases under consideration here these restrictions are partly offset due to the present researcher having been a participant in the proceedings himself, either as the interpreter or as an expert witness. In addition to the insights that this participation has afforded in respect of the individual cases, six years of regular involvement in court work of this kind has bred some familiarity with criminal and judicial proceedings. Furthermore, substantial periods of residency in a Yolngu community (totalling five years) have resulted in the development of local knowledge approaching insider levels in some domains, and in already knowing personally some of the Yolngu who had become participants in the proceedings that are being investigated here. Access to this considerable amount of linguistic, social, and cultural information about interlocutors is valuable in informing analysis that proceeds under the paradigms of interactional sociolinguistics and the ethnography of communication. Both these paradigms emphasise a contextual approach to the analysis of utterances where discourse cannot be understood separate from the social and cultural framework within which it is constituted and which it helps constitute (Schiffrin 1994:408-11).

The research data itself consists primarily of official transcripts of police interviews and courtroom testimony as well as witness statements, where what was said and what was meant is clarifiable in some cases by recourse to audiorecordings (and, in one case, to a videorecording). These voice records are also crucial in knowing what was said in Yolngu Matha in the case of interpreted evidence since official transcripts only record what is spoken in English[38].

The Q/A (question/answer) structure that typifies both PRIs and evidentiary discourse gives candidacy to Q/A exchanges as appropriate units of analysis. However, rather than isolating individual Q/A adjacency pairs for attention, *clusters* of Q/A adjacency pairs, where each cluster is defined functionally in dealing with a single point (topic), will form, for most purposes, the principle base unit. The interview as a whole can then be seen as a series of Q/A exchanges moving from topic to topic. These divisions readily conform to the ethnography of communication framework (Saville-Troike 1982; Schiffrin 1994:137-89). The police or courtroom interview can be seen as a *speech event* within the police inquiry or court case as the *speech situation.* Individual questions or answers become discrete *communicative* (or speech) *acts* that are grouped into *act sequences*, and transition points may be discernible as utterances that close one sequence and/or open the next (e.g. *Right. Now I want to ask you about ...*).

In court proceedings there is a heavy reliance on establishing the facts of a case by way of courtroom examination of witnesses who generally *must* complete the proposition provided by the lawyer (subject to concordance with rules of evidence), so that courtroom Q/A

[38] Exceptionally however, the coroner's findings in the matter of the *Elcho Coronial* exist in two versions: English and Djambarrpuyngu.

exchanges are eminently suitable for quite precisely determining any points of failure, and often the basis of failure as well. Interaction at the Q/A level in the courtroom thus provides particular illumination in the description of Anglo/Yolngu miscommunication, a specific focus of Part Five. This is not though to the exclusion of other informative text types—such as witness statements, narrative testimony, counsel objections, legal arguments, judicial findings and, of course, the PRI.

In Parts Three and Four the investigative emphasis is upon the features and dynamics of Anglo/Yolngu interaction in PRIs and evidentiary discourse respectively. Here, Q/A exchanges play a role in exposing a range of interactional phenomena, such as tactical issues in the conduct of PRIs and evidentiary discourse, which must be accounted for in the characterisation of Anglo/Yolngu communication in the criminal justice system. The emphasis upon communication as interaction also requires that attention be given to sociopolitical factors (e.g. relevant legislation; establishment of interpreter services) and judicial precedent (e.g. judicial authorities addressing the conduct of PRIs with Aboriginal people) that influence the nature and course of communication between Anglo officials and NESB Aboriginal people in the criminal justice system. In fact, any substantial description of the quality and features of this communication must be informed by addressing these and other contextual issues that influence the interactions that are under analysis.

4.2.3 The place of context

An important principle within the ethnography of communication framework is that the interpretation of utterances proceeds together with analysis of their context and, as Schiffrin (1994:146) observes in the case of questions, this entails an analysis of the interview itself. This emphasis upon context in the investigation of meaning is also central to the paradigms of interactional sociolinguistics and linguistic pragmatics. Furthermore, as noted by Goodwin and Duranti (1992:1), there is a trend across these approaches 'toward increasingly more interactive and dialogically conceived notions of contextually situated talk'. An interactive conceptualisation of dialogue and context, where each is seen as constructive of the other, requires the investigation of dialogue to encompass this interaction between context and dialogue (ibid:31):

> Instead of viewing context as a set of variables that statically surround strips of talk, context and talk are now argued to stand in a mutually reflexive relationship to each other, with talk, and the interpretive work that it generates, shaping context as much as context shapes talk.

Context can be considered as a frame that surrounds the event being examined (the focal event) and be conceived as 'involving a fundamental juxtaposition of two entities: (1) a focal event; and, (2) a field of action within which that event is embedded' (ibid:3). The decision as to what constitutes the 'field of action' does not appear a straightforward one in the case of Anglo/Yolngu police and courtroom interviews. For example, the Yolngu witness and Anglo lawyer will have a quite different conceptualisation of the proceedings, people and events

which contextualise a courtroom examination. In some respects, the form and content of each party's utterances are affected by specific contextual factors that the other is ignorant of. For example, lawyers are constrained from leading their own witnesses with the result that some of their questions are bafflingly circumspect to a Yolngu witnesses who knows nothing of leading questions. On the other hand Yolngu witnesses may, in the course of questioning, be asked to identify a particular relative by name. Yet if that relative is in an avoidance relationship with the witness then the witness is constrained by a taboo preventing the use of personal names and may reply in a manner that appears bafflingly circumspect to the barrister who knows nothing of this taboo.

Goodwin and Duranti (1992) resolve that, in any given communicative environment and at any given moment, the decision as to what constitutes context should proceed from the perspective of the participant(s) whose behaviour is being analysed. The analyst must consider 'how the subject himself attends to and organises his perception of the events and situations that he is navigating through' (p4). This requirement is complicated since participants also constitute environments for each other and may even 'rapidly invoke within the talk of the moment alternative contextual frames' (p5). This last factor—the capacity of participants to invoke rapid switches from one discourse pattern to another through the deployment of linguistic contextualisation cues (i.e. elements such as back-channeling devices, conversational opening and closing conventions, formulaic expressions and intonation contours)—is a key insight provided by Gumperz (1982a) within the framework of interactional sociolinguistics.

Analysis of dialogue within interactional sociolinguistics emphasises the situational aspect of context with interlocutors making inferences about what the other is meaning in response to often subtle cues or signals which enter the dialogue (for example, sarcasm in a courtroom question may be signalled by a linguistic cue like '*So I suppose you think ...*', or even by a particular look, a pause or the tone of voice). Gumperz takes account of the specificity of verbal contextualisation cues to individual communities in his definition of a speech community as: 'any human aggregate characterised by regular and frequent interaction by means of a shared body of verbal signs and set off from similar aggregates by significant differences in language use' (given in Dil 1971:114 quoted in Schiffrin 1994:98). This perspective introduces the possibility of identifying and explaining intercultural miscommunication where it can be attributed to cross-cultural differences in contextualisation practices, even where interlocutors may share the same language. Gumperz (1982b) applied this understanding to the analysis of courtroom questioning. He showed that negative judgements about a Filipino witness's truthfulness in giving evidence were flawed by failure to take into account the linguistic features—at the level of discourse—of his Filipino style of English (whereas his grammatical knowledge of English showed little deviation from the American English norm) leading to probable misinterpretation of his messages.

Both ethnography of communication and interactional sociolinguistics inform the analysis of Anglo/Yolngu police and courtroom nteraction in drawing attention to the need for factoring in the local situational factors pertain ng to the dialogue under examination. The nature of the case, the gender and age of the suspect or witness, the presence of an interpreter, the nature of the venue, the topic under discussion, are among many variables that may affect the structure of an interview and the negotiation of meaning. At the level of contextual presupposition (the influence of contextualisation cues in framing expectations of what is about to occur and thus in affecting inferencing) the interactional sociolinguistics focus on situation in the 'here and now' level can be augmented by understandings based in the ethnography of communication. The analysis of Anglo/Yolngu communication in police and courtroom interviews is assisted by understandings about matters such as criminal proceedings, ways of talking, norms of behaviour, and rules for politeness in the two societies, whenever these factors feature situationally in the 'field of action'.

4.2.4 On using official transcripts

With respect to court proceedings, one critical feature in the situational landscape from the court's perspective is the transcript of proceedings. This is illustrated on the courtroom floor whenever a lawyer, magistrate or judge makes an intersemiotic translation 'for the transcript' on occasions when a witness may have incorporated a gesture in answering a question. The transcript is the official record of evidence given during proceedings and a basis upon which decisions are made. Also, transcripts may be used as evidence in any appeal.

The fact that transcripts stand as the official record of Anglo/Yolngu verbal interaction and that lawyers can often be seen to be conscious of the transcript during their questioning of witnesses, are reason enough for them to warrant investigative attention. Yet they are suited to limited forms of (socio)linguistic analysis. Eades (1996) has noted (in the Australian context) that court transcripts do not represent prosodic features of speech, nor facial expressions, periods of silence, overlapped speech, and many other aspects of communication that complement the fully formed words that pass between lawyer and witness in their negotiation of meaning. Eades has also observed that, in the case of Aboriginal witnesses, answers given in Aboriginal English or in colloquial English are sometimes standardised in the transcription. Fortunately, in this study, the researcher is assisted in many cases by access to audiorecordings that permit the transcript to be adjusted or 'corrected' where needed, to reveal details of the English (or, strictly speaking, the E-YM interlanguage) that Yolngu witnesses are using, and in the case of interpreted speech, to show what transpires between witness and nterpreter in Yolngu Matha.

Assistance in analysing courtroom communication on the basis of official transcripts is also permitted by the very nature of courtroom discourse. In their examination of witnesses lawyers often clarify ambiguities that may arise from the form, tone or content of a witness's

response and ensure (subject to tactical considerations) that implicit meanings, where they concern issues at hand, are explicated. This involves strategies such as repeating the question, restating the witness's answer, asking a clarifying question or paraphrasing the witness's response in a way that explicates implicit messages and then asking for confirmation of this interpretation[39]. This means that the transcript displays in explicit sentential form much meaning that, in ordinary conversation, might be recoverable only with the assistance of data that records details of discourse features (including prosody, overlap, timing, and perhaps even proxemics).

As a record of proceedings, official transcripts are also useful in providing much of the contextual information that is required in support of the analysis of Anglo/Yolngu evidentiary discourse. Furthermore, because lawyers frequently clarify or paraphrase witness responses that are ambiguous or insufficiently explicit, transcripts generally provide a satisfactory documentation of what the court understands Yolngu witnesses to be *meaning*, both in terms of *conventional meaning* (i.e. semantic meaning) and in terms of *speaker meaning* (i.e. pragmatic meaning).

4.2.5 Pragmatics in the analysis of Anglo/Yolngu interaction

The Gricean distinction between what a person actually says and what they *mean* by what they say will be frequently made in the course of this thesis. For Grice, what a person *says* is 'closely related to the conventional meaning of the words (the sentence) he has uttered' (Grice 1991 (1968):307). On the other hand, what someone means or *implicates* (intends to be understood) may be relatively free from conventional meaning. This pragmatic meaning or implicature is able to be calculated by the hearer (and by the analyst) through a process described in Grice (ibid.). His framework is built upon an understanding of conversation whereby participants recognise 'a common purpose or set of purposes, or at least a mutually accepted direction' (p307) and construct their contributions to the conversation in accordance with of a set of implicit shared conversational rules (i.e. his four Maxims of 'Quantity, Quality, Relation, and Manner' flowing from and under the governance of his proposed Co-operative Principle).

While Grice's work has been influential in the development of understandings about conversation, the assumptions underlying his model have been shown to be less reliable, and

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[39] An illustration of the consciousness by courts in ensuring that meaning is made explicit is revealed in an American (USA) case where a lawyer failed to ensure that an implied message (a denial) was explicated. This was the relevant courtroom exchange (Sinclair 1985: 373):

> Q. Do you have any bank accounts in Swiss Banks, Mr. Bronston?
> A. No, sir.
> Q. Have you ever?
> A. The company had an account there for about six months, in Zurich.

The truth later emerged that Bronston had had a personal Swiss account for five years, and he was convicted of perjury. He appealed to the Supreme Court (after failing in the Court of Appeals) who reversed the perjury conviction. This court agreed that Bronston had implied that he had never had a personal Swiss bank account, but interpreted that it is not perjury to imply something that is *not* true by saying something else that *is* true. The court criticised the lawyer for not recognising and challenging an evasive answer.

sometimes unreliable, outside of English speaking 'Anglo-Saxon' societies (cf. Keenan 1976; Tannen 1981; Eades 1982; Varonis & Gass 1985; Wierzbicka 1991; Sifianou 1992). That people from different cultural backgrounds approach conversation in (at least somewhat) different ways is illustrated when they come together by the comparative frequency of miscommunication. Varonis and Gass comment that (1985:327):

> the more interlocutors know about each other, in other words, the more shared background they have, the more likely it is that a conversation between them will proceed smoothly. The inverse is also true: The less interlocutors know about each other, the more likely they are to misunderstand each other ... Such misunderstandings are particularly pronounced between native and nonnative speakers of a language; they may have radically different customs, modes of interacting, notions of appropriateness, and, of course linguistic systems. Despite Grice's (1975) assumptions of cooperative interlocutors, such differences may easily lead to misunderstandings.

On occasion a Gricean approach will be utilised here in the analysis of Anglo/Yolngu dialogue precisely to expose some of these intercultural differences in the conduct of conversation and to expose mismatch in implicature. At the same time, the validity of Gricean assumptions are not taken for granted with respect to their application to dialogue within this intercultural communicative environment.[40] That lawyers frequently explicate their understanding of what they believe (or would like to have the court believe) Yolngu witnesses are saying and implicating enables added insight into the way that lawyers are processing their dialogue with them. Eades (1995b:11) provides a clear example of a lawyer behaving in this way; that is, explicating his (proposed) interpretation of an Aboriginal witness's response to a question. The response in question was silence which, in Aboriginal English, is a 'positive and normal part of conversation':

> In Aboriginal English silence is an acceptable way to begin an answer to a question. The misinterpretation of this use of silence ... is highlighted by this comment from one of the counsel during cross-examination: 'We have to take your silence as "no" don't we?'

The pragmatics of intercultural communication is now of course a field in itself, encompassing a number of approaches within the rubric of cross-cultural pragmatics. Contrastive analysis will supplement the Gricean approach in facilitating the analysis of Anglo/Yolngu miscommunication at the pragmatic level here, and interlanguage pragmatics will inform comment upon the 'pragmatic competence' of Yolngu witnesses in SAE in respect of the communicative demands placed upon them in police and courtroom situations.

The notion of *pragmatic competence* has been defined by Thomas (1983:92) as 'the ability to use language effectively in order to achieve a specific purpose and to understand language in context'. Deficiencies in this competence are prevalent among non-native speakers, even for those with an otherwise developed linguistic competence. It thus makes sense to speak of *pragmatic failure*, defined by Thomas as 'the inability to understand what is said'. This is

[40] Sinclair (1985:383-4) has already shown in respect to the USA how the 'Cooperative Principle applied to courtroom cross-examination does not generate the maxim of quantity'.

common when the non-native speaker successfully decodes the surface meaning of a speaker utterance but fails to 'hear' what the speaker has meant.

Thomas has taken Leech's (1983:10) distinction between pragmalinguistics and socio-pragmatics as a means of subcategorising 'pragmatic failure' into 'pragmalinguistic failure' and 'sociopragmatic failure'. Thomas draws the distinction in this way (p99):

> while pragmalinguistic failure is basically a linguistic problem, caused by differences in linguistic encoding of pragmatic force, sociopragmatic failure stems from cross-culturally different perceptions of what constitutes appropriate linguistic behaviour.

Thomas's distinction is useful in the analysis of Anglo/Yolngu courtroom miscommunication. Pragmalinguistic failure would be demonstrated, for example, by a witness answering merely, *Yes*, to *Can you tell me his name?*, since this question encodes an implied instruction to supply the name if it is known. Sociopragmatic failure would be constituted by a lawyer asking a Yolngu male to inform a court of his sister's name. The male Yolngu would be embarrassed by such a question since he is not permitted to say his sister's name. It is not an allowable question in Yolngu discourse.

Pragmatic failure can be conceived within *interlanguage pragmatics* as proposed by Blum-Kulka, House and Kasper (1993) where the concept of interlanguage is extended from the purely linguistic realm to include learners' pragmatic and discourse knowledge so that pragmalinguistic and sociopragmatic failure can be seen as two types of transfer (ibid:10):

> *sociopragmatic failure*, in which learners assess the relevant situational factors on the basis of their native sociopragmatic norms, and *pragmalinguistic transfer*, in which native procedures and linguistic means of speech act performances are transferred to interlanguage communication.

It is noteworthy here that a second language learner's competence at the level of discourse is particularly susceptible to interfering effects from their native culture's influences (Fine 1988:2).

The conceptualisation of E-YM interlanguage (section 2.8.3) places the variety of English that Yolngu are using into theoretical perspective as a rule-governed language system and, similarly, the concept of the interlanguage pragmatics extends the system into the discursive realm. Anglo/Yolngu verbal interaction thus becomes a communication where both parties are appropriately seen as users of rule-governed language systems with the interaction being analysable at grammatical, semantic and pragmatic a levels. Furthermore, this model explains how the analyst who is familiar with the linguistic features of the E-YM interlanguage continuum, can understand (and in fact translate into SAE) many Yolngu utterances which, to the lawyer or police officer, may have seemed incoherent, idiosyncratic, or inappropriate. Elwell's (1979) study of the features of this interlanguage gives foundation for such interpretive work.

However, while interlanguage pragmatics provides a framework for characterising the pragmatic competence of Yolngu participants speaking in English, limitations of the framework in fully accounting for pragmatic failure should also be recognised. It presents a one-sided perspective upon pragmatic failure emphasising the role of the party operating within a second language context (in this case the Yolngu) at the risk of ignoring the contribution of the native speaker. Anglo/Yolngu courtroom interaction also shows examples of counsel attempting to accommodate Yolngu linguistic and sociolinguistic norms. One of these norms is to refer to a recently dead person in terms other than their name (Yolngu often refer to a recently dead person with the third person plural pronoun) or to refer circumspectly to the person's death (e.g. in terms of *the time when the land became bad*). However, by speaking in SAE terms and in ignorance of Yolngu euphemistic form, counsels' attempts at accommodation will obviously meet with varying success. It would become unnecessarily complicated to consider their communicative success and failure within an interlanguage paradigm. This is because they are speaking in SAE (not an interlanguage) and yet, in attempting to observe Yolngu sociopragmatic norms (and misconceiving them), they exhibit characteristics of a second language learner of Yolngu Matha; that is, of Yolngu-Matha/English interlanguage.

The analysis of pragmatic failure in intercultural communication would seem to more easily accommodated within *contrastive pragmatics*, based in the contrastive analysis of language use across different speech communities at discourse levels. Contrastive pragmatics is based on the observation that interlocutors coming from different cultural backgrounds frequently exhibit different ways of speaking within different communicative styles. These differences can be described systematically and this information can help explain miscommunication or misunderstanding that arises where an interlocutor misinterprets the intent or meaning of the other's utterances by inappropriately framing or evaluating them within their own system of conversational behaviour and cultural values. As Wierzbicka (1991) and Blum-Kulka, House and Kasper (1993) observe, this contrastive analysis approach underlies a considerable body of cross-cultural pragmatics research.

4.2.6 On using contrastive analysis

Contrastive analysis derives from the comparison and contrast of equivalently ranked systems in order to predict and/or explain what happens in their interaction. The approach was developed by Lado in the 1950s (Lado 1957) to aid the preparation of effective language teaching materials. It was based in the assumption that a contrastive analysis of a learner's first and second languages would be sufficient to identify mistakes and hurdles the learner would face. Points of contrast would identify where to expect interference between the systems, and thus learning difficulties, and points of similarity would predict where the acquisition of the second language would be facilitated by the first. Within this scheme

interference results from the transfer of linguistic features pertaining to the learner's first language (i.e. *language transfer*) resulting in errors while learning the second.

By the 1980s contrastive analysis was largely discredited as a tool for predicting second language learner difficulties after empirical testing revealed that learners do not always transfer what is in their native language into their interlanguage. Other factors were also found to contribute to second language acquisition, including knowledge of universal grammar, knowledge from a third language and cognitive abilities (see Selinker 1992:12-5). More recently the relevance of contrastive analysis has been again established with the phenomenon of language transfer having again been acknowledged with '(e)vidence for transfer in all aspects of language—phonology, syntax, semantics and pragmatic' (Ellis 1994:29).

Language transfer is now recognised as only one of a number of sources of learner errors, and it can be manifest in other ways as well—such as in overuse or avoidance of certain forms, in the facilitation of learning in certain areas, and in comprehension as well as production (Ellis 1994:29, 337). Consensus as to the extent of its importance remains elusive (Selinker 1992:207-14). Ellis (1994:61-2) provides a summary of the main findings in relation to the role of transfer in explaining (but not predicting) learner errors. These include that: 'transfer errors are more common in adult learners than in child learners'; 'learners at an elementary level produce more transfer errors than learners at an intermediate or advanced level'; and, that 'transfer errors are more common in the phonological and lexical levels of language than at the grammatical level'.

The resurgence of contrastive studies at the pragmatic and discourse level ('without extravagant predictive claims') has been noted by Clyne (1994) who himself argues for stronger recognition for the importance of transfer of cultural behaviour in intercultural discourse (p6):

> the discourse level of language is inseparable form cultural behaviour and ... except in individuals with a high degree of biculturalism as well as bilingualism, this will determine a great deal of inter-lingual transfer at the discourse level.

Here the role of contrastive analysis will be restricted to explanation of interactional phenomena in conjunction with (and usually subservient to) other relevant contextual factors since, as will be seen below, considerations beyond first language and cultural background are essential in understanding intercultural communication and its breakdown at the discourse level, particularly as seen from post-structuralist perspectives.

4.2.7 Combining analytical approaches

The discussion in this section has so far seen the consideration of a number of approaches within the fields of intercultural communication and sociolinguistics that have helped, from a methodological and theoretical perspective, to define the focus and scope of this research.

Combining forces from the ethnography of communication, interactional sociolinguistics and pragmatics enables a broad meaning-oriented analysis of utterances of interlocutors engaged, not in ordinary conversation (not to pass the time of day), but in quite intense struggles over meaning following or referring to extraordinarily traumatic events. Anglo/Yolngu police and courtroom interviews reveal a struggle by interlocutors—of different linguistic and cultural backgrounds and with different conversational aims—to understand (with or without an interpreter) each other's stated or intended meaning. Furthermore, where a courtroom witness is being cross-examined about a statement to police or about what was said previously in examination-in-chief, this difficulty with understanding present meaning may be exacerbated by contest over what was said and meant before.

While pragmatics affords a focus upon individual intention-based meaning, interactional sociolinguistics can extend the analysis of utterances to include the social, cultural and personal meanings created during interaction. Inclusion of the dynamics of interaction and the interconstituency of dialogue and context, strengthens the analysis of Anglo/Yolngu dialogue and, at the same time, these processes become worthy of attention themselves.

These issues of dynamics and context are particularly important in the consideration of police and courtroom interviews where basic assumptions about cooperativeness in the construction of conversation are questionable—for example, one cannot even assume that apparent attempts by interlocutors to understand each other are sincere (there may sometimes be strategic advantage in the judicious elicitation of confusion). And while the assumption of cooperation is fundamental to Gricean pragmatics and to Gumperzian interactional sociolinguistics, its operation in the courtroom context can be problematic since (sometimes unwilling or terrified) witnesses generally have no choice but to answer questions and are legally constrained in the kinds of answer that they may give.

How then is cooperation manifest in these situations? These interviews must be analysed with reference to systemic factors pertaining to criminal and judicial proceedings as well as in reference to the facts of the particular case itself. There are also elements and aspects of Yolngu testimony that can only be understood in reference to the broader Yolngu sociocultural context. These needs can be served from an ethnography of communication framework where what people say and how they talk is seen as directly connected to the larger social and cultural reality within which utterances and their meanings are constituted.

4.3 Identifying an analytical framework

It is now necessary to move towards defining an appropriate unifying analytical framework within which these approaches to the analysis of discourse can be amalgamated and which will enable the principle aims of this research (as given in section 0.1) to be fulfilled in

consideration of the data at hand. What, though, are some of the analytical frames that underlie different approaches to (intercultural) discourse?

Empirical analysis (confined to the analysis of real-life or experimentally derived data) constitutes an analytical frame prominent in: interactional sociolinguistics; ethnography of communication (Saville-Troike 1982); conversational analysis (particularly the ethno-methodology and social psychology branches as described in Taylor & Cameron 1987); and, poststructuralist approaches to intercultural communication based in critical linguistics (Day 1994; Shi-xu 1994; Shea 1994; Meeuwis 1994; Sarangi 1994). Empirically based analysis contrasts with that based in contrived utterances which was prominent in linguistic pragmatics, particularly in its earlier development (Searle 1965; Grice 1968; Brown & Levinson 1978; Levinson 1983; Leech 1983; Carston 1988).

Contrastive analysis (as described earlier) is a framework that can be seen to run through a number of approaches to intercultural analysis; strongly so in cross-cultural pragmatics (Blum-Kulka, House & Kasper 1993:6-9), but also visible in: interactional sociolinguistics (as with the contrasting of ethnically specific contextualisation cues by Gumperz 1982a); and, in the application of contrasting ethnographies of speaking to explaining intercultural miscommunication (e.g. Basso 1979; Wolfson 1981; Tannen 1981).

Contrastive analysis inheres a particular type of inferencing which is another dimension of analysis that must be considered. Contrastive analysis reasons deductively that, from knowledge of the nature and behaviour of two entities as they exist in isolation from one another, one can deduce how they will interact together on the basis of similarities and differences in their properties.

Yet this method also incorporates a prior inductive methodology since those who are interacting (in the intercultural context) may never have been studied in themselves. Their linguistic and cultural characteristics are inferred from prior research into other members of their respective language or cultural groups. An inductive analytical frame can be thus be seen in the ethnography of communication when researchers characterise and typify speech situations, events and acts on the basis of observation and description of a sample (this forming of generic beliefs from known data is distinguished by some as one form of abductive inferencing (Honderich 1995:407)).

A more distinctively deductive approach is found in the analysis of meaning in conversation through the philosophically rooted Gricean pragmatics where the exposition of implicature in conversation proceeds by the application of logic.

Interactional sociolinguistics entails an openness to the interactive nature of conversation with the realisation that a plethora of possible contextual factors differently combine in making each conversation unique. It is therefore not enough to analyse a particular conversation by categorising it (e.g. as a particular type of speech event) and then to inductively reason its characteristics. Neither can the multiple and interactive variables and processes that uniquely construct each conversation be abstracted for logical (deductive) processing. Rather, the approach seems to display a synthesis of analytical inferencing. Perhaps interactional sociolinguistics is best seen as following an *abductive* approach, in the sense of this as reasoning which 'accepts a conclusion on the grounds that it explains the available evidence' (Honderich 1995:1). There is a common-sense strength in this approach to inferencing in the analysis of intercultural communication—an approach that would seem apt given the diffuse array of interactive contextual factors that must be considered in the study of Anglo/Yolngu discourse here.

4.3.1 Critical perspectives on traditional approaches

Ethnographic, interactional and pragmatic approaches to intercultural communication research are under challenge from a critical linguistics perspective. Before finally specifying the analytical framework that will deployed in this work it will be useful to review these approaches in the light of this focussed criticism upon theoretical and analytical issues.

Writing from a *critical linguistics* perspective, Meeuwis and Sarangi (1994:309-13) endorse 'a confrontation with the field of intercultural communication research' to challenge a range of existing models and theories for their inadequacy in disclosing the extent to which dimensions of social inequality and power relations are present in intercultural encounters. A common accusation is that intercultural communication research commonly and inaccurately posits culture as the necessary and sufficient explanation for what is going on in intercultural interactions (p312).

This criticism is broadly applied across a range of approaches by Day (1994), Shi-xu (1994), Shea (1994), Meeuwis (1994) and Sarangi (1994) and is welcome here as a reminder that study of intercultural communication requires more than the consideration of interfering effects of the different 'cultural minds' of interlocutors as they engage in their discourse. The personhood and social roles of interlocutors also hold keys to understanding their interaction, not to mention Knapp and Knapp-Potthoff's concern (see section 4.1 above) that the socio-political dynamics of the situation and discourse be incorporated.

However, the ascription of behavioural, attitudinal, and linguistic attributes as culturally based patterns, and the comparison of different patterning in the analysis of intercultural interaction, are not the exclusive preserve of traditional perspectives (which Sarangi (1994) categorises as cultural anthropology, interactional sociolinguistics and cross-cultural

pragmatics). Analysts representing critical approaches to discourse and linguistics object to 'the essentially conformist character of a discipline which predominantly refers to "involuntary" processes such as interference from cultural or linguistic background as the cause of interactive trouble' (Meeuwis & Sarangi 1994:312). Yet they can also be shown to utilise knowledge about common characteristics of particular human groups to assist in the interpretation of intercultural discourse.

Shea's (1994) criticism of the Gumperzian approach derives from its view on the development of racial stereotyping. Shea explains the Gumperzian model as holding that misunderstandings between native speakers (NSs) and nonnative speakers (NNSs) are generated by the mismatch of culturally specific interpretive processes and discourse conventions. Misunderstandings about the NNS's communicative intent lead to the drawing of conclusions in terms of personal characteristics and attributes. If, over time, the NS experiences repetitions of the same type of miscommunication with NNSs of the same cultural/racial group, then these personal characterisations become generalised to the whole group. Misunderstanding can also become compounded to the point of acrimony and serve to reinforce ethnic/cultural negative stereotypes and exacerbate racial discrimination against minorities.

Shea sees serious problems with this paradigm of racial stereotyping on the basis that it does not give weight to the 'mediated character of interaction' and because it 'tends to obscure discriminatory social attitudes and practices which unfairly marginalize NNSs' (ibid:357). He objects to a contrastive approach to culturally based communicative styles where interlocutors are seen to 'carry' their own culturally specific values and communicative styles to their interaction. Instead he proposes that interlocutors' interpretations of the communicative intent of each other's utterances are jointly constructed within the social character of the interaction. Thus the character of the discursive activity and the dynamics of power with respect to the interlocutors must be incorporated in the analysis.

Shea's (1994) analysis of NS/NNS communication attends to the 'quality of the social activity and how speakers interactively structure participation in their talk' (p364). He focuses on two axes: the power symmetry of the NS and NNS interlocutors, reflected in such indices as access to the floor and patterns of assertion and solicitation; and, their regard for each other's perspectives, indicated by the degree to which they affirm (or contradict) and take up (or disregard) each other's propositions and positions in the construction of their conversation. He found that 'the NS interlocutor can extend the nonnative speaker's competence not only upward, amplifying performance, but also downward, serving to impede the NNS's talk and reduce his or her discursive position'. It emerged that sharing in control and a mutual engagement in constructing the discourse act synergistically in enhancing

the quality of the participation, critically influencing 'the character (and success) of the talk, shaping the coherence, force, and even fluency with which the NNS can speak'.

A close reading of Shea's position or Gumperzian contextualisation theory reveals (ibid:360) that his 'challenge [to] its value arises if it is considered as the *exclusive* explanation of the interactional dynamics of conversation (including the success or failure of communication) in intercultural and interethnic contexts' (emphasis added). He does not refrain from incorporating information about contrastive communicative styles in his own analysis, but emphasises that such factors are subject to mediation during discourse. Thus, an inappropriate behaviour on the part of the NNS, attributable to the carry-over of a behaviour that is appropriate in their native language discourse, is subject to mediation: its affect can be attenuated or aggravated depending on the social dynamics of the conversation. Shea gives examples of differing responses by English NSs to Japanese NNSs' laughs during conversation (in English), differently altering their communicative effect. (In accordance with a discursive norm in the NNSs' own language they had laughed to signal embarrassment, whereas as in the context of the English conversation laughter situated in this way constitutes a gaffe, conveying derision or flippancy (p379).)

Mediative effects (upon contextualisation and inferencing conventions) of the societal positions of interactants and their regard for each other's contributions are an important consideration in Anglo/Yolngu discourse, particularly in the courtroom where lawyers often exhibit contrasting demeanours towards witnesses depending upon whether they are conducting the examination-in-chief or cross-examination. Following Shea's argument, it seems reasonable to hypothesise that the controlling and confrontational style of questioning that is typical in cross-examination would markedly decrease the fluency of Yolngu witnesses speaking in English.

Meeuwis's (1994) concern is also that adequate attention must be paid to the communicative context of intercultural interaction, but with the difference that he addresses the *extra*-situational affective and attributive factors that can militate for, or protect against, intercultural communication breakdown (context encompasses more than situational factors and power relationships between interlocutors). He is speaking here of the historically rooted ethnic prejudices and stereotypes that can evoke a 'testiness' in conversation or, equally, of positive attitudes and preconceptions that allow failures or divergences in the speech of NNSs to be tolerated or excused. He defines this latter outcome as 'communicative leniency' (p398) where interactants give mutual recognition to the fact that one party must rely on a non-standard interlanguage form and then proceed, through explicit and silent repair, to continually negotiate and renegotiate meaning in preventing instances of communication breakdown from developing into communication conflict.

Meeuwis discusses the common failure of the interactional sociolinguistics tradition to adequately account for these 'pre-textual' (i.e. pre-existing) attitudes. Concurring with Auer (1991), he criticises the tradition for having 'modelled its methodology along the strong version of conversational analysis which grounds all statements in the "hard facts" that derive from what is materially "visible" in discursive surface phenomena', since this 'methodological restriction to what materializes in interaction can leave rather large provinces of knowledge inaccessible' (pp404-5). This is evident as a problem with the Gumperzian approach (highly influential in the field of interactional sociolinguistics) since it situates the construction and affirmation of negative stereotyping within conversation as though they are processes totally independent of the speakers' will. The active role of historical and institutional racism, power imbalance and social hierarchy is commonly disregarded in this approach, rendering it vulnerable to criticism for its political naivety. This aside, there is the flaw that it fails to take account of the capacity for interlocutors to negotiate their way through communication breakdown to yield communicative success. Meeuwis proposes that the 'dominant micro-oriented trend' that marks interactional sociolinguistics must be supplemented by 'considerations of the mechanisms through which the stereotypes can themselves impinge on the situated conversation' (p403).

Meeuwis's identification of the contrastive roles of leniency and testiness in mediating intercultural communication provides for this. His (1994) report on study of NS/NNS interaction involving African and Asian NNSs (Western European engineers were training groups of Tanzanian and South Korean students, where English was the medium of instruction) showed how 'leniency' was commonly displayed with one group of students and 'testiness' towards the other: negotiation of meaning and repair were frequently deployed in the case of the South Koreans while interaction with the Tanzanians was marked by unresponsiveness—even to Tanzanian comments about the difficulty they were experiencing with communication. Not surprisingly, interviews with the instructors following the training indicated that they viewed the South Koreans more positively as more interested, motivated and intelligent, and the Tanzanians more negatively as uncooperative and indifferent.

Interestingly, Meeuwis's explanations of instances of miscommunication included citation of mother-tongue transfer—as when a South Korean answered 'Yes', meaning *Yes, I don't know*, to the question 'What happened to the other group, you don't know?'; and cultural interference—in explaining why South Koreans may have been reluctant to provide more than *yes/no* answers to their instructors' classroom questions, given that 'lessons in a South Korean classroom or lecture hall usually consist of a monologic speech by the professor'. This reveals that, for Meeuwis, the criticism he and Sarangi expressed (above) concerning 'the essentially conformist character of a discipline [i.e. intercultural communication] which *predominantly* refers to 'involuntary' processes such as interference from cultural or linguistic background as the cause of interactive trouble' (Meeuwis & Sarangi 1994:312; emphasis

added), becomes a matter of emphas s and degree. In other words, in the case of interactional sociolinguistics a balanced approa:h is required that gives due weight to: empirical determination from situated intercultural discourse while also considering contextual factors such as situation and power relatic nships; and, to the explanatory powers derived from applying knowledge relating to th: cultural and linguistic backgrounds and historical experiences of interlocutors.

Sarangi (1994) directs his concern: about the deficiencies of traditional perspectives on intercultural communication and miscommunication towards both theory formation and research practice. While Meeuwis' ; (1994) focus was on interactional sociolinguistics, Sarangi's extends also to the cu tural-anthropological and pragmatic perspectives on intercultural analysis. Sarangi credit: the interactional sociolinguistic perspective for shifting the focus to linguistic and interac ional data itself (as with Gumperz 1982a), locating communicative problems there rath:r than inferring potential problems on the basis of intercultural differences. However, together with Meeuwis (Meeuwis & Sarangi 1994) and Shea (1994), he perceives an overst: tement of the cultural basis for discourse strategies and communicative styles (including c ntextualisation strategies) that come into conflict in intercultural communication. He poir ts out that 'inferences and contextualisation strategies are also mediated by situational and soc:etal structures, and this makes it particularly difficult to isolate the 'cultural' in contextualisat ions' (Sarangi 1994:412).

The cultural-anthropological perspec tive is criticised by Sarangi for presenting cultures as 'unified and homogenous entities' where 'by extension, communicative difficulties are invariably explained in terms of cross-cultural differences' (ibid:410). This misses the shifting nature of culture in intercultural discourse according to the situation, participants and complex institutional processes in w ich discourse may be embedded. Thus Sarangi sees a basic methodological flaw in an anal:tical process which imbues individual participants with the 'cultures' that they bring to their interaction (such that are seen more as representatives of their cultures rather than individuals n their own right) and then analyses their interaction in terms of these ascribed qualities. This process runs 'the risk of giving rise to cultural stereotypes by overlooking individual differences and other situational variables surrounding the intercultural communication even:' (p411).

The cross-cultural pragmatic perspec tive, as exemplified by Brown and Levinson's (1978) comparative account of politeness str ategies across cultures, is criticised on similar grounds. The common fault that Sarangi perce ives is a 'risk of circularity' in that a prior definition of cultural attributes of participants in volved in intercultural communication makes it 'very likely' that occurrences of miscomm unication are identified and explained on the basis of cultural differences (p414). Sarangi c oncludes (p424) that:

> intercultural analysis should not only aim at explicating the role which cultural differences play in intercultu al miscommunication, but also at tackling the shifting

nature of "culture" in contemporary cultures and what people actually do with cultural differences in real-life encounters.

These contemporary and critical perspectives upon intercultural communication research serve to clarify some of the methodological priorities here. They highlight the need to situate analysis in real data and yet to take into account pretextual (prior) political and attributional factors that can ameliorate or aggravate miscommunication. They support a limited but valuable role for contrastive analysis in explaining aspects of intercultural interaction and, specifically, miscommunication. Collectively, they also emphasise the need for a research methodology that can address the complexity of interactive dynamics and factors that are operant across a number of behavioural dimensions. In order to account for this, methodology should accommodate quite extensive cross-referencing between sociolinguistic domains (and subdomains) and across to other disciplines as necessary.

4.3.2 Statement of analytical framework

Here, a certain amount of methodological cross-fertilisation and conflation of research traditions will enable Anglo/Yolngu communication in the criminal justice system to be examined in the light of a range of contextual and polemic factors and issues that impact upon it. A certain degree of (unashamed) eclecticism necessarily governs methodological direction at various points, taking account of the type of data, the issue at hand, and the contextual knowledge that is accessible. In terms of methodological orientation, the essence of this study is the application of linguistic analysis to a social issue rather than the analysis of social data towards supporting a particular theoretical position. In view of this I am guided by Deng Xiaoping's dictum on methodology (quoted in Honderich 1995:28): 'it does not matter whether a cat is black or white so long as it catches mice'.

The overall analytical frame that guides this research can now be appropriately summed:

- research is empirically oriented in the sense that it is based on natural data coming from 'real life' activity. Furthermore, no data has been contrived for research purposes;
- analysis is empirically oriented in the sense that priority in the identification of communicative phenomena (e.g. miscommunication, communicative intention, utterance meaning) will be given to evidence that is demonstrable in the data;
- utterances (and any other texts) will be analysed in reference to their discursive and situational contexts (where, following Goodwin and Duranti (1992), the decision as to what constitutes context, in any given communicative environment and at any given moment, should proceed from the perspective of the respective participant(s));

- the principle of parsimony (preferring an economical explanation over an elaborate one) in tandem with abductive reasoning ('inference to the best explanation' (Honderich 1995:1)) will be applied in explaining communicative phenomena;[41]
- while the use of direct evidence (located within the relevant text) for the categorisation and explication of identified miscommunication or other communication phenomena will be emphasised, this evidence will be augmented or enhanced, where appropriate, by applying other relevant knowledge (e.g. (socio)linguistic, ethnographic) pertaining to the situation, to the interlocutors or to other aspects of the context. Similarly, where it is illuminating to do so, information about contrasts and similarities between English and Yolngu Matha (at linguistic and discourse levels) and between Anglo-Australian and Yolngu cultural systems, will be utilised in explaining miscommunication that has been already identified (i.e. contrastive analysis will be used in discussing rather than predicting miscommunication).

[41] Thus, if an utterance is clearly ungrammatical then explanation for any miscommunication that results from the utterance will be sought at the grammatical level ahead of invoking, say, pragmatic or cultural factors. If, on the other hand, the ungrammaticality is of a nature that does not appear to render the utterance uninterpretable for a person of similar background to the given listener, then other discursive and contextual factors would be examined for possible relevance. An explanation would then be sought on the basis of being most demonstrably reasonable given the text and the context.