

Court Interpreters View of Language Use in Subordinate Courts in Nyanza Province, Kenya

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Abstract—This paper presents the views of the court interpreters about language use in courts in Kenya. Kenya is a multilingual country with over 42 languages. In such a heterogeneous society, language issues in official communication become intricate as those who do not understand the languages designated as official are discriminated against. In the legal sphere, the policy is that English and Kiswahili are the official languages of courtroom communication while interpreters are provided for those who do not understand English. Hence the courts are multilingual in nature and it is against this background of the use of various languages that this paper examines the views of the court interpreter on the various languages used in courtroom communication. A survey design was used in this study. The study population comprised court interpreters from selected subordinate courts in Nyanza province, Kenya. Purposive sampling was used to select the court interpreters. Data for the study was generated through questionnaire administered to the court interpreters.

Index Terms—subordinate courts, court interpreters, language use, Dholuo, Kenya

I. INTRODUCTION

Kenya is a multilingual country with over 42 languages with two official languages (Mbaabu, 1996). In the legal sphere, to entrench the use of English, the Criminal Procedure Code CAP 75 (1987) declares English as the official language of the High Court and a provision for interpreters for litigants who do not speak and understand English. The language of the Lower Court is either English or Kiswahili, depending on the linguistic setting and the linguistic competence of the judicial officers. In addition, the law provides that the litigants be informed of the charge against them in a language they understand and speak. This means that Kenyan courts are bilingual or to be exact multilingual. Hence inequality in our courts is created by linguistic diversity that is supposed to reduce inequality and where a dialogue involves persons of unequal linguistic efficiency, injustice is likely to result. Therefore, the litigants who do not speak and understand English are excluded from the discourse in court, even if they have competent representation from a lawyer. They therefore lose the right to participate in a trial, which concerns them directly except in the presence of an interpreter.

This means that when an advocate or prosecutor communicates with a non-English speaking litigant, it must be by means of an interpreter which implies that the interpreter must be able to communicate adequately in both English, when speaking to an English speaking litigant and in the other language, when speaking to a non-English speaking litigant. In the legal setting, linguistic competence of the interpreter in both languages must therefore include a strong command of legal vocabulary and the equivalence (or non-equivalence) of terms and concepts across languages (Gonzalez, Vasquez and Mikkelson, 1991). Otherwise the aim of providing unimpeded access to legal services will be compromised.

For an average person, confrontation with the criminal justice system is a frightening experience as most people enter the courtroom with little or no knowledge of courtroom procedure or language. The situation is exacerbated when the court actors are speaking in a language that the litigants do not understand totally or do not understand well. This is often the case for people who stand accused in Kenyan courts where the majority of the litigants do not speak the language of the courts (Kinyanjui, 2000).

Research conducted on bilingual discourse suggests that language barriers are often identified as the most frequent impediment to legal discourse (Berk-Seligson, 1990; Gonzalez, Vasquez and Mikkelson, 2000; Mikkelson, 1998). This is in addition to the various strategies that the advocates employ in questioning (Penman, 1990). A legal discourse encounter relies primarily on verbal communication and various strategies may be employed to achieve this. The use of interpreters is therefore recommended when the advocate-litigant communication is limited by language difficulties.

Language Use in Courts in Kenya