

**COURTROOM DISCOURSE: SOME RECURRENT CHALLENGES IN LANGUAGE
INTERPRETATION OF THE PROCEEDINGS
IN THE HIGH COURT OF MALAWI**

PEARSON B M NAMACHOTSA

Bachelor of Education (Humanities) – University of Malawi

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DECLARATION

I, the undersigned, hereby declare that this thesis is my own original work which has not been submitted to any other institution for similar purposes. Acknowledgements have been duly made where other people's work has been used.

Pearson Brighton Mulenga Namachotsa

Name

Signature

Date

CERTIFICATE OF APPROVAL/CERTIFICATION

The undersigned certify that this thesis represents the student's own work and effort and has been submitted with our approval.

Signature:..... Date:.....

EDRINNIE KAYAMBAZINTHU, PhD (Associate Professor)

MAIN SUPERVISOR

Signature:..... Date:.....

PASCAL KISHINDO, MA (Professor)

CO-SUPERVISOR

Signature:..... Date:.....

EDITH SHAME, MA (Lecturer)

CO-SUPERVISOR

Signature:..... Date:.....

SYNED MTHATIWA, PhD (Lecturer)

COORDINATOR FOR POST-GRADUATE STUDIES

DEDICATION

To my mom and late dad. To my wife Mary and children Chimwemwe, Hope, Charity and Lingaliù. I dedicate this work to all of you.

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ABSTRACT

English is the language of Law in non-traditional courts in Malawi where about forty-five percent of the population are not proficient in English. When a person who is not proficient in the language is involved in a court case being tried in the non-traditional court, an interpreter is required to interpret the proceedings from and into English. Some scholars have contended that court language interpretation is problematic in Malawi.

The study attempted to find out the kinds of misinterpretations and the associated challenges that beset language interpretation of courtroom discourse in the High Court of Malawi, using a mixed methodology that was more qualitative than quantitative. Data collection was done using a questionnaire, interview and observation of real-time courtroom discourse interpretation. The data were computed into tables and figures using SPSS and Microsoft Excel computer applications. Misinterpreted utterances observed during courtroom proceedings were analysed and discussed in light of the Speech Act Theory and Relevance Theory.

The results showed that in many cases the interpreter did not make a faithful rendition of the source language message into the target language. The effect of interpretation in the non-traditional court was that some of the source language messages were changed.

This study argues that courtroom discourse interpreters in Malawi do not always convey the same source language message into the target language. They sometimes misinterpret due to challenges such as lack of fluency in the languages being interpreted into and from and lack of proper training in courtroom discourse interpretation.

To minimise misinterpretation problems, the study suggests that there should be proper training for courtroom discourse interpreters in Malawi.

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ABBREVIATIONS AND ACRONYMS

DFID – Department for International Development

IFID – Illocutionary Force Indicating Device

JC – Junior Certificate

MSCE – Malawi School Certificate of Education

ODA – Overseas Development Agency

RT – Relevance Theory

SADC – Southern Africa Development Committee

SAT – Speech Act Theory

SL – Source Language

SPSS – Statistical Package for Social Sciences

TL – Target Language

USA – United States of America

CHAPTER ONE

INTRODUCTION

1.0 CHAPTER OVERVIEW

This chapter introduces and foregrounds the study. A comparison is made between the traditional and non-traditional courts used to dispense justice in Malawi. The chapter also states the research problem before putting forth the general objective, specific objectives and research questions that help to focus the study. The justification, significance of study and thesis organisation are also laid out in this chapter.

1.1 TRADITIONAL AND NON-TRADITIONAL COURTS IN MALAWI

The dispensation of court justice in Malawi comes in two set-ups: the traditional and the non-traditional courts. On the one hand, the traditional set-up encompasses courts presided over by traditionally groomed and nominated chiefs in the ranks of Village Head, Group Village Head, Sub-Traditional Authority, Traditional Authority, Senior Chief and Paramount Chief. On the other hand, the non-traditional set-up comprises courts presided over by officers in the ranks of Magistrate, Senior Magistrate, Chief Resident Magistrate, High Court Judge, and finally, the Supreme Court of Appeal Judge.

As one might expect, the two court set-ups vary a great deal. In the traditional set-up, the chief learns judicial practices in the village setting, from elders who also constitute his counselling team. The legal proceedings are conducted in the language of the people, according to dictates of tradition. In this court set-up, figurative language is cherished and understood and communicated in a matrix of existing cultural values, ideas and practices (Pierce, 2003). Everybody in the village is conversant with the setting at the traditional court because it forms part of the culture of the villagers. One striking discourse feature of the traditional court is the use of proverbs and wise sayings that are entrenched in the culture of the people of Malawi. In this way, the traditional court carries out its business in a language and setting that is known by the people.

On the contrary, the non-traditional courts are presided over by magistrates and judges who learn the judicial practices during formal education in Law. The non-traditional court set-up presents a lot of challenges to the majority of Malawians, especially those not well versed in Western legal culture. The rule of thumb is for discourse participants to focus on the literal meaning in the non-traditional courts, contrary to the practice in traditional courts. The setting in non-traditional courts is somehow exotic and alien because the court proceedings are carried out in English, a second language not known to the majority of Malawians.

Non-traditional courts in Malawi rely, to a great extent, on interpretation to bring the proceedings closer to people who do not understand the court language. In some instances, especially in the High Court, even in cases where both complainant and defendant are supposedly well conversant with the English language, on-the-spot interpretation is still resorted to for the sake of the courtroom discourse overhearers. Drew (1985) reaffirms this statement as he writes,

In courtroom discourse, utterances¹ are designed partly for the benefit of non-participating overhearers, the jury, and to be responsive to the context of prior as well as anticipating testimony.

The fact that discourse producers have to satisfy the needs of non-participating overhearers as well makes courtroom discourse unique. It is made even more incomparable when interpretation is brought in to allow the prosecuting side and the other discourse participants “to communicate as though there is no language barrier between them” (Moeketsi, 2000:227).

1.2 STATEMENT OF THE RESEARCH PROBLEM

Malawi inherited the British legal system at the time of independence. For this reason, the legal procedures and instruments used in Malawi’s non-traditional courts are largely foreign, an aspect that makes the system alien to the indigenous populace. This problem is further compounded by the fact that English is the language of Law in Malawi – a country where illiteracy levels are

¹ Levinson (1995) defines an utterance as a pairing of a sentence and context in which it occurs.

increasingly high. According to National Statistical Office (2000) figures released for the 1998 Housing and Population Census, forty-two percent of the Malawian Population aged five and over were reported to be illiterate. The literacy picture is more worrisome when one considers the recent Population and Housing Census Results for 2008 (National Statistical Office, 2009), which indicate that about forty-five percent of the population aged five and over are illiterate. Specifically, only 6,831,770 people out of a total population of 10,676,343 aged five and over can read and write English in Malawi. This means 3,844,573 people aged five and over cannot read and write English. The population that cannot read and write English depends on interpretation to understand courtroom discourse in non-traditional courts in Malawi because English is the language of Law in non-traditional courts.

With the low levels of education and literacy of the majority of Malawians, most lay participants in courtroom discourse are overwhelmed by the unfamiliar and overbearing courtroom procedure and language. The situation is more frustrating to the participants when they appear in court for the first time and without any legal representation (Moeketsi, 2000:222).

Even those who understand English, quite often, find themselves grappling with problems of comprehension when they participate in courtroom discourse. The complex rules of linguistic behaviour that participants are expected to follow in the courtroom, coupled with the extraneous unnatural process of interpretation, further mystify the legal proceedings (Kishindo, 2001:4). In the end, the courtroom discourse participant who is not conversant with the language of the non-traditional court is left disoriented.

In a bid to enhance communication during court proceedings, the Malawian non-traditional court uses interpreters to relay the content and form of the proceedings to the plaintiff or defendant who is not proficient in the language of the Law. But courtroom discourse interpretation has been reported to be problematic at some points (Kishindo 2001).

Even in developed countries interpretation of courtroom discourse has been reported to be problematic. Moras (2006) reports that in the United States of America, in a felony drug case involving a native of Dominican Republic who spoke very little English, an interpreter was

called upon to translate for the defendant. At the end of the trial the defendant was convicted. But things turned out that the Dominican citizen was poorly judged because language interpretation during the trial was inaccurate at several crucial points. Moras further reports that court records of that case showed that the interpretation process regularly left the defendant confused about what was going on.

There is need for more linguistic investigation into courtroom language. Drew (1985) decries the apparently insufficient study of interpretation of courtroom discourse and he observes:

Considering the central part that language plays in court proceedings, it is perhaps surprising that there has been rather little empirical research into courtroom discourse. (p133)

Recognising this lack of extensive empirical research in courtroom discourse, Robinson (2003:151), who writes about the linguistic role of translators, incisively declares:

The linguistic study of translators as performers of speech acts is, however, very much in its infancy. Most linguistically oriented scholars of translation, still held fast by the requirement of equivalence, have not been interested in exploring the translator's full range of social action.

Realising that language is central to all human affairs, and specifically, considering the fact that courtroom discourse has an impact on the lives of the feuding parties, this study takes the cue from Drew (1985), Kishindo (2001) and Robinson (2003) to establish what the interpreter actually does with words during courtroom discourse interpretation in Malawi. In accordance with Speech Act and Relevance Theories, this study attempts to find out whether the interpreter conveys the intended messages from the source language to the target language, or not.

1.3 GENERAL OBJECTIVE

The general Objective of the study is to find out challenges besetting courtroom discourse interpretation in the High Court of Malawi.

1.3.1 Specific Objectives

The specific objectives of the study are to:

1. Describe the kind of training that prepares courtroom discourse interpreters in Malawi for their job.
2. Find out if language interpreters find language difficulties in the course of courtroom discourse interpretation.
3. Describe the preparatory steps taken by interpreters before actual court language interpretation.
4. Discuss, if any, discrepancies in discourse meaning between the source text and the target text resulting from the courtroom discourse interpretation.
5. Account for, if any, discrepancies in meaning resulting from courtroom discourse interpretation.
6. Explain the attitude of court users, court language interpreters, and other court officials towards the role of courtroom discourse interpretation.

1.3.2 Research Questions

This study, taking a mixed method approach which is more qualitative than quantitative, has the following specifically formulated research questions to focus the purpose of the study:

1. What kind of training prepares courtroom discourse interpreters in Malawi for their job?
2. Why do the interpreters find language difficulties in the course of courtroom discourse interpretation?
3. Which preparatory steps are taken by interpreters before actual court language interpretation?
4. Are there discrepancies in discourse meaning between the source text and the target text resulting from the courtroom discourse interpretation?
5. What is the attitude of court users, court language interpreters, and other court officials towards the role of courtroom discourse interpretation?

1.4 JUSTIFICATION OF THE STUDY

Kishindo (2001) indicates that in a high profile case of murder involving Malawian politicians, an interpreter had to be withdrawn for clear instances of misinterpretation. This study attempts to move the topic further and find out exactly the kinds of misinterpretations and the associated challenges that courtroom discourse interpretation is faced with in the non-traditional courts in Malawi.

To this date, the nature of courtroom discourse has been extensively discussed and analyzed in non-African contexts (Thetela 2003). This study endeavours to find out the challenges besetting courtroom discourse interpretation in Malawian courts and sequel the report by Kishindo (2001) and add to the literature on courtroom discourse interpretation.

1.5 SIGNIFICANCE OF THE STUDY

The findings of the study may help the Judiciary to appreciate the challenges of courtroom discourse interpretation in Malawi. Most importantly, the study will make a contribution to the on-going discussion on the use of indigenous languages in Malawi by assisting policy makers and training institutions in coming up with appropriate interventions to address the language problems arising from courtroom discourse interpretation in Malawi.

1.6 ORGANISATION OF THE STUDY

The study is presented in five chapters. Chapter One introduces and contextualises the study by looking at the court justice system in Malawi. In this chapter, the statement of the research problem, general objective, research questions, justification and significance of the study have been set. Chapter Two contains the theoretical framework and review of literature that is related to the study. Chapter Three presents and discusses the research methodology used to tackle the topic. Chapter Four presents and discusses the study findings in light of the Speech Act Theory and Relevance Theory. Chapter Five concludes the study and suggests areas of further study.

CHAPTER TWO

THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.0 CHAPTER OVERVIEW

This chapter discusses two theories that complement each other to illuminate the study. The theories that shed light on the study are Speech Act Theory (SAT) and Relevance Theory (RT). The linguistic aspects of the study are illuminated by the SAT whereas the cognitive-communicative aspects are explained using insights from the RT. The review of literature looks at the nature of legal language, defines language interpretation in general before examining how linguistic meaning may be analysed for the purpose of interpretation. This chapter also reviews the effect of culture in interpretation as well as the modes of interpretation used in courtroom discourse interpretation. Furthermore, the chapter examines directionality followed in interpretation as well as the uniqueness of courtroom discourse interpretation. This chapter ends with a review of literature on the current status of courtroom discourse interpretation in Malawi before latching on to accounts of courtroom discourse interpretation carried out in some countries. The review of the current status of courtroom discourse interpretation is meant to assist the study in identifying knowledge gaps in courtroom discourse interpretation, so that the study is well informed and well focused.

2.1 THEORETICAL FRAMEWORK

The study is informed by insights from two theories: Speech Act Theory and Relevance Theory. The two theories, which are pragmatic in their approach, complement each other to guide the study in attempting to explain how interpretation affects courtroom discourse in Malawi.

In Speech Act Theory, words are forceful and people actually do things with words. In this theory, every utterance has three layers of meaning.

The first layer is what Austin (1962) terms locutionary act, which gives the literal meaning. Austin (1962) explains that this act is performed when one makes a series of bodily movements that result in the production of a certain sound. In line with general linguistics, Austin (1962) describes the locutionary act as a ‘phonetic’ act. Any sound or bodily movement made by the courtroom discourse participants can be accorded a literal meaning. The non-traditional courts in Malawi focus on literal meanings of utterances made by courtroom discourse participants.

The second, termed by Austin (1962) as illocutionary act, focuses on the force of the utterance – that is, whether the utterance is meant to be a command, a request or something else. An illocutionary act, according to Austin (1962), is the act of saying something. The illocutionary act is the speech act that most closely captures the nature of the speaker’s intention in producing a particular utterance. In other words, the illocutionary act has to do with whether the courtroom discourse producer wants to ask a question, make a command or affect the hearer in any other way.

The third layer of meaning is the perlocutionary meaning. This layer is the overall effect of the utterance and it is inferred from the context in which the utterance is made. A perlocutionary act has to do with the effect that an utterance has on the hearer. This kind of speech act goes beyond the hearer’s understanding of the utterance.

As we move from the locutionary through illocutionary to the perlocutionary act, meaning becomes more and more difficult to arrive at. The perlocutionary meaning is the most difficult to determine because, as Coulthard (1985:19) puts it, “the perlocutionary act is not governed by any conventions.” It has to do with the response elicited in the listener, an aspect of human behaviour, which is unpredictable. In my opinion, this is all the more reason why the courtroom discourse interpreter may misinterpret.

Hancher (1978), following Austin (1962), classes each interpretation as a speech act. Also, Searle (1969:18) asserts that “...the study of meanings of sentences and the study of speech acts are...one study from two points of view”. In other words, the theory of speech act assumes that the minimal unit of human communication is not a sentence or other expression, but rather the

performance of certain kinds of acts such as making statements, asking questions, describing, explaining, etc (Bierwisch in Searle, Keifer and Bierwisch 1980). The Speech Act Theory guides the study in recognising that every utterance made in the courtroom is a speech act. In light of Speech Act Theory, this study recognises that the speech act is the minimal unit of communication. This study takes the speech act as a unit for analysis of the changes in the interpreted courtroom discourse.

Searle (1969, 1979), expanding on Austin's Speech Act Theory, comes up with a taxonomy of illocutionary acts. His taxonomy is based on the fact that "a classification of illocutionary acts is a classification of the basic things we can do with language" (Edmondson 1981). Searle's illocutionary acts comprise the following categories: assertives; directives; commissives; expressives and declarations.

Assertives² are a class of illocutionary acts whose purpose or point is to commit the speaker to something is being the case, and to the truth of the expressed proposition. The members of this class are assessable on the dimension of assessment that includes *true* and *false*. Interpreting³ would be classified within the assertive class (Hancher 1978), because the interpreter is, in a way, trying to mirror what has been stated in the source language.

Directives are attempts of the speaker to get the hearer to do something. For instance, the sentence 'Defend yourself against these allegations' can be used for a directive speech act. It is possible to issue a directive without the usual imperative expressed by the finite verb. An interrogative sentence may just be as effective in issuing a directive (Coombs 1980). For example, the sentence 'Will you defend yourself against these allegations?' may help one to issue the same illocutionary act.

Commissives commit the speaker to some future course of action. For instance, the sentence 'I promise to say the truth, and nothing but the truth' is a commissive speech act. The difference

² This is a class of illocutionary acts which Searle earlier termed as representatives (Polansky 1988).

³ The study so far holds the view that some of the interpretation carried out in non-traditional courts in Malawi may not be classified as assertive due to the changes in Target Language (TL) text.

between commissives and directives is, according to Searle, that directives direct the hearer, while commissives commit the speaker.

Expressives express the speaker's psychological state. For instance, the sentence 'I thank you for lending me your car' expresses the speaker's gratitude. Expressives are acts of social conventions (Polansky 1988). Greetings, congratulating and thanking all belong to this class of illocutions.

Declarations bring about a correspondence between the speech act's propositional content and the world. For instance, the sentence 'I hereby give you my car' can be used to achieve an illocution of declaration. In the context of courtroom discourse, sentencing can be part of declarations.

Searle (1979) also asserts that a difference in status or position between the speaker and hearer determines the force of the illocutionary act. For example, during court proceedings, if a presiding officer asks a defendant to speak louder, the utterance is likely to have the illocutionary force of a command, whereas if the defendant asks the presiding officer to speak louder, the utterance has a strong likelihood of taking the force of a suggestion, a proposal or even a request. Some utterances actually contain what Searle and Vanderveken (1985) call illocutionary force indicating devices (IFIDs). These are elements that determine the illocutionary force of the speech act in which they are used. There are two main types of IFIDs. The first type consists of an explicit performative formula such as “I request for...” The second type of IFIDs is represented by grammatical moods as shown in the utterance beginning “Could you...” for a request. The utterances beginning with the IFID and the one with the grammatical mood will have the same illocutionary point⁴ being presented with different illocutionary forces. Searle (1979) points out that other IFIDs in English include word order, stress, intonation contour and punctuation. In this study, a faithful interpretation of courtroom discourse will be the one that has the same illocutionary force and the same measure of illocutionary point.

⁴ Searle (1979) clarifies the distinction between illocutionary force and illocutionary point by focusing on the difference between a request and a command, which have the same point – that of attempting to get the hearer to do something – but different illocutionary forces.

From the observed courtroom discourse, every interpreted illocutionary act will be back-translated into the SL to determine whether there are any changes. In cases where there is a change in the illocutionary act, the discrepancy will be attributed to the process of interpretation.

Relevance Theory, whose tenets transcend linguistic units, helps the study to focus on the salient cognitive issues involved in communicating and deciphering meaning in the courtroom. Relevance Theory, postulated by Sperber and Wilson (1986) is based on one of Grice's central claims – that utterances automatically create expectations which guide the hearer towards the speaker's meaning. The theory is hinged on two principles of relevance. These are: a cognitive principle of relevance, which states that human cognition is geared to the maximisation of relevance, and a communicative principle, which stipulates that utterances create expectations of relevance.

The theory is based on an inferential model, where a communicator not only sends a message but also provides evidence of his/her intention to convey a certain meaning (Wilson and Sperber 1986). "Trying to communicate is trying to be relevant" (Kaufer, 1989). When one is speaking, it means one is sending an ostensive stimulus to the hearer who must make an effort to search for relevance in what they hear. Relevance is a matter of degree. That is to say, the greater the effort in processing the speaker's message, the lesser the relevance of the input will be to the hearer. Also, the more worthwhile conclusions are achieved by processing an input, the more relevant the input will be (Sperber and Wilson, 2004). In accordance with Relevance Theory, the interpreter will be processing the message that is more relevant to him/her.

The meaning is arrived at after a cognitive process of inference by the hearer on the bases of the evidence provided and his/her cognitive environment. The meaning recovered by decoding the verbal code vastly underdetermines the speaker's meaning (Sperber and Wilson, 2004). In order to get the full speaker's meaning, the hearer has to supply an appropriate set of contextual assumptions from his/her cognitive environment to be used in processing the speaker's meaning. In Relevance Theory, "a context is the psychological construct, a subset of the hearer's assumptions about the world" (Wilson and Sperber, 1986:15). The courtroom discourse interpreter's contextual assumptions affect the way he/she understands an utterance in the SL

text. A mismatch between the SL text producer's envisaged context and the one actually used by the interpreter may lead to failure by the interpreter to grasp the SL text producer's intended meaning. In trying to arrive at the SL text meaning, the courtroom discourse interpreter may, on the basis of contextual information, sift the explicated and implicated message in some or all of the following cognitive ways: disambiguating the reference, fix the scope of quantifiers, assign appropriate significations to vague expressions, and resolve illocutionary indeterminacies (Sperber and Wilson, 2002).

The fact that relevance is a matter of degree, and the realisation that relevance is determined by the contextual assumptions supplied by individual hearers of messages make it difficult to guarantee that the source language text producer and the interpreter may get exactly the same meaning from the same utterance. In relevance theoretical terms, complete interpretive resemblance is achieved when a courtroom discourse interpretation conveys the unaltered meaning of the original text (Gutt, 1991). Unaltered meaning of the SL text may not always be likely in the courtroom because the message sent by the courtroom discourse participant will sometimes have a relatively different degree of relevance to the court interpreter.

The study has adopted two theories – Speech Act Theory and Relevance Theory. The Speech Act Theory has been used to account for the kind of discourse meaning that is captured and imparted by courtroom discourse interpreters by comparing the SL text with the TL text. Every interpreted speech act has been back-translated into the SL to determine whether there is any change. In this way the Speech Act Theory has helped the study to compare the original SL speech act with the TL speech act. Any change in the speech act has been attributed to the process of interpretation. For example, if the source language text conveys an illocutionary act that is a directive, the expected interpreted target language text should be a directive as well. If the illocutionary point is a command, the interpreted target language text should be a command as well. In this way, the Speech Act Theory helps the study to find out if there are discrepancies in discourse meaning between the source text and the target text, resulting from court language interpretation.

The Speech Act Theory helps the study to compare the SL text and the TL text from a linguistic point of view. But the study also needs to explain how and why there are changes in the

interpreted text. The Speech Act Theory falls short of insights to explain the psychological process that result into the changes in the TL text.

By adopting the Relevance Theory, the study is able to describe the cognitive processes that the interpreter goes through as he/she makes sense of and passes on what the courtroom discourse participant communicates. In this way, the study is able to discuss the reasons for the misinterpretations that occur, thereby complementing the strengths of the Speech Act Theory which is able to make a stark comparison between the ST message and the TL message but cannot describe the reasons for the differences between ST and corresponding TL messages. On its own, the Relevance Theory does not make the clear comparison between ST and TL messages. A combination of the SAT and the RT enables the study to unearth the specific effects of courtroom discourse interpretation and to explain the reasons why those effects arise in courtroom discourse.

2.2 LITERATURE REVIEW

The Literature review explores issues of language, meaning and interpretation in relation to courtroom discourse interpretation in Malawi. The review is done in order to help bring a meaningful focus to the study.

2.2.1 Legal Language

As courtroom discourse interpreters work with legal language, it is necessary for the study to examine legal English language. Danet (1985) analyses legal English language and concludes that many characteristic expressions in legal English show a proclivity for high formality, even where choice of other styles is possible. The passive form of sentences is more prominent even where the active one would be natural. Syntactic features are more distinct in legal English than are lexical ones. There are usually long and complex sentences in legal English. Danet (1985) cites a case in which the average sentence was fifty five words long, such that in some cases it was quite problematic to decide what constituted a sentence. As length and complexity of structure tend to go together, such syntactic features are certainly a source of difficulties for laypersons to understand.

Dave (2002), a lawyer practising in India, concurs with Danet (1985) when he observes in Dave (2002) that the common man on the street abhors the vocabulary and expressions used by legal officers in court. I would like to think that the common man in Malawi also abhors English legal language. Dave (2002) advocates the use of plain language in law, which may ease the job of the court language interpreter, by avoiding verbose and pompous expressions and the use of Latin words. He also suggests that lawyers should avoid very long sentences. The average sentence should be fifteen to twenty words long. Dave (2002) makes a catalogue of legal expressions and suggests their substitutes in plain language, as exemplified below:

Problem words and phrases	Suggested substitutes
Bring an action against	Sue
Pursuant to	According to
Until such time as	Until
Party of the first part/Party of the other part	Use client names
Notwithstanding	Even if
Et seq	And those following
In personam	Personally/personal
Ab initio	From the start
To wit	Namely

Dave (2002) also suggests that the use of problem words such as “hereby”, “hereinafter”, “hereunto”, “whatsoever”, and “aforesaid” be omitted by legal officers. This study finds these suggestions by Dave (2002) very interesting. However, I think the suggestions fall short of being the ultimate solution to the problems of courtroom discourse interpretation because it is not sufficient to look at the isolated legal words or phrases and determine their equivalents when presented out of context like the way Dave (2002) does. In Pragmatics, it is common knowledge that words and phrases take on different meanings when used in different contexts, contrary to the rigid substitutes of the legal terms suggested by Dave (2002).

2.2.2 Language Interpretation and Translation Defined

De Jongh (1991) defines language “interpretation” as the transfer of meaning from a source language to a target language to allow oral communication between two or more persons who do not speak the same language. Hornby (1974) defines language interpretation in three different ways. First, as the clarification of meaning of something as expressed in words or artistically, second, as a mentally deciphered meaning of something that is not immediately obvious, and, third, as an immediate oral translation of words spoken in another language. This study ascribes to the definition by de Jongh (1991), which is similar to the third definition by Hornby (1974) cited above, because it is interested in the rendering of the meaning of the court proceedings from one language into another.

The term “translation”⁵ is related to the term “interpretation” because translation refers to the written form of interpretation. According to Munday (2001), translation can mean the general subject field, the text that has come into being as a result of the process of translation or the process of converting a text from a source language into a target language. Robinson (2003), in his turn, defines translation as the process of channelling meaning, influence and connectedness through vast global communicative networks. Translation is said to be one of the oldest occupations in the world (Sofer, 2002:19). It is an important means used by mankind to help him/her to get messages across to communities that do not speak one’s language. In fact, translation began with religion and eventually spread to the secular world (Sofer, 2002).

In my opinion, interpretation is more challenging than translation. In interpretation, all the mental processes involved have to be done in a split moment whereas in translation, the translator has a considerable amount of time to analyse the source text, transfer the message and restructure it into the target or receptor language.

⁵ The study realises that most of the deep-seated linguistic and socio-cultural aspects relating to translation also apply to interpretation. As such, it learns from insights of both translation and interpretation to analyse the process of courtroom discourse interpretation.

In this study, the term translation refers to the process of rendering a text from one language into another in a written form (Robinson, 2003) and interpretation refers to rendering of a text from one language into another in spoken form (de Jongh 1991).

2.3 INTERPRETATION AS A PROCESS

De Jongh (1991) views courtroom interpretation as a process. Concurring with Nida (1969), she states that the interpreter, instead of working directly from one set of linguistic surface structures to another, the competent interpreter actually goes through a seemingly lengthy process of analysis, transfer and restructuring. The interpreter first analyses the message of the source language into its simplest and structurally clearest forms, transfers it at this level, and then restructures it to the level in the receptor language, which is most appropriate for the audience that he intends to reach. Nida's model of interpretation is represented diagrammatically in the figure below:



Nida's theory looks at the purpose and communicative value of the utterance in the source language. What matters is the message derived from the source language rather than the form of the linguistic structures of the source language. The interpreter, in this case, is not bound to match the linguistic forms in the two languages, but the message is the aspect to be maintained.

In the analysis stage, the interpreter must possess adequate linguistic skills in the source language to be able to examine the text. Poor linguistic knowledge of source language may result in poor analysis that will ultimately result in a poor interpretation. Likewise, problems in the analysis stage result in problems in the transfer and restructuring of the text. The analysis will be successful if the interpreter considers not only the syntactic structure, but also the denotative, connotative, and emotive elements of the text.

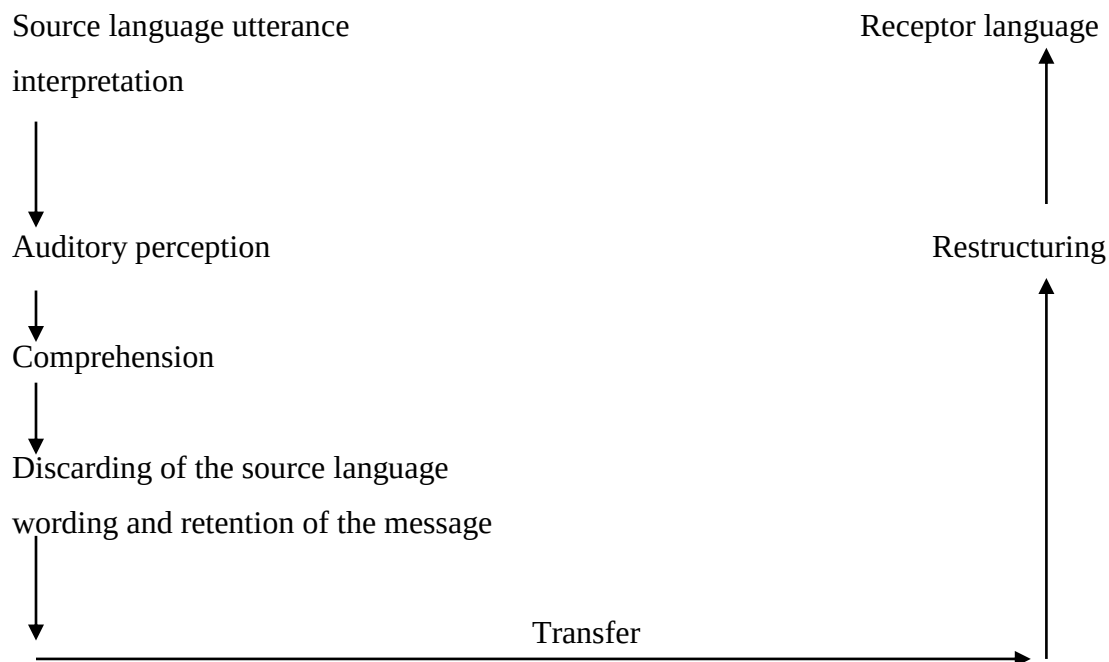
The transfer process is the culmination of the analysis stage. It involves an inevitable modification of the syntactic structure and meaning, generally associated with some loss, especially in the degree of impact of the original communication. Haywood (2005) echoes this view by stating that translation as well as interpretation results into loss or gain of meaning or form. The modifications are dictated by the differences in structures between the source and the receptor language. This happens mostly because in interpretation, the two languages involved exhibit different systems of organizing symbols into meaningful expressions.

Nida also talks about the process of restructuring coming after the transfer stage. The restructuring stage, which has much to do with the kinds of structures in the receptor language, comes in two principal dimensions. The first dimension is termed as formal while the second is known as functional dimension. In the formal dimension, the interpreter determines the stylistic level at which he or she should aim in the process of restructuring. This could be technical, formal or informal level of language structures. The Functional dimension relates to the impact of the structures in the receptor language. Nida explains that interpretation can be judged as adequate only if it produces the intended receptor response. Indeed the meaning of an utterance must be derived much from what the utterance is intended to achieve (Hatim and Mason, 1990:37).

It is also important to note that Nida's model of interpretation as cited by de Jongh (1991) draws us to the peculiarities that differentiate between the two languages that are the subject of interpretation. Malinowski (1923), in his context of situation translation theory, adds that the interpreter should consider the cultural environment of the two languages manifested in both verbal and non-verbal forms.

Nida's theory places the whole responsibility of shaping the final product of interpretation on the interpreter. And this final product of interpretation will have layers of meaning to be deciphered by the listener of courtroom discourse, according to Austin's Speech Act Theory. In Nida's theory, meaning is superior to form of linguistic structures. Much as the interpreter has to attempt to tune the linguistic form and structure to the level of the audience, he or she is constrained to retain the meaning as closely as possible.

De Jongh (1991), following Nida's model, comes up with an illustration which incorporates the stages involved in interpretation. These stages are: auditory perception of an utterance in the source language; comprehension of the message through the process of analysis and exegesis; discarding of the source language wording; retention of the mental representation of the message; and production of a new utterance in the target language which expresses the original source language meaning. De Jongh (1991:289) expounds on Nida's (1969) model as follows:



De Jongh's illustration brings to the fore the intricate stages involved in interpretation. These stages are so closely related that a problem in one of them will be carried through to the final utterance in the target language.

2.4 ANALYSIS OF MEANING FOR INTERPRETATION

One can scarcely talk about interpretation without grappling with the issue of meaning. The ability to analyse a source text linguistically, culturally, and philosophically is of paramount importance to interpretation (Robinson, 2003). According to Riazi and Assar (2001), two main approaches have been developed in Applied Linguistics to deal with the transmission and reception of messages, namely, text analysis and discourse analysis.

A text is not merely a series of words or sentences. Brown and Yule (1983:6) define a text as “a verbal record of a communicative act”. This means that, to them, a text is always in written form. But Hatim and Mason (1990:243) define a text as “a set of mutually relevant communicative functions, structured in such a way as to achieve an overall rhetoric purpose” The definition by Hatim and Mason (1990) implies that a text may be written or spoken. It is structured to fulfil the communicative purpose and it can be analysed for communicative elements. Text analysis approach focuses on structures of written language, as found in such texts as essays, articles, books, and other types of publications. In the sense of the definition by Hatim and Mason, the text analysis approach will be used in the study when back-translating target language messages into the source language.

On the one hand, Connor (1994) states that text analysis dates back to the Prague School of Linguistics. This school of Linguistics was pioneered by Vilem Mathesius. Connor (1994) observes that the Prague School's major contribution to text analysis was the notion of ‘theme’ and ‘rheme’. This notion describes the pattern of information flow in sentences. In many sentences, the theme, which is the bit of information known by both addresser and addressee, precedes and is commented on by a rheme, which is presumed to be the new information (Hatim and Mason, 1990:212). This arrangement of syntactic elements ensures meaningfulness of the utterance because the theme basically serves to provide context for the understanding of the rheme. For example, in a sentence like: *This is my house*, we have *This* as a theme and *is my house* as the rheme. Hatim and Mason (1990) state that thematic elements are less communicative as they are context dependent. On the other hand, rhematic elements are more communicative as they present the new bit of information. The implication of this is that, in courtroom discourse interpretation, the interpreter has to make sure that the rheme is understood in the context of the theme.

On the other hand, Stubbs (1995) indicates that the notion of text analysis was developed by British linguists from the 1930s to the 1990s. The notion of text analysis pervades the writings of many prominent linguists such as Firth (1935, 1957a, 1957b); Halliday (1985, 1992); and Sinclair (1987, 1990). Stubbs notes that the principles underlying these works demand studying the use of real language in written and spoken discourse and performing textual analysis of naturally occurring stretches of written or spoken language.

Halliday (1978), whose theories on systemic linguistics emphasize the ideational or content-bearing functions of discourse as well as the choices people make when they use language to structure their interpersonal communications, has influenced text analysis tremendously. Following Halliday and Hasan's (1976) taxonomy, the notion of cohesion has been one of the popular issues in text analysis. Cohesion is the sticking together of linguistic elements in an utterance. Cook (1989) defines cohesion as the formal links between sentences and between clauses. In linguistic cohesion, one word or phrase is linked to other words or phrases (Brown and Yule, 1983). This notion of cohesion is also widely used in discourse analysis and determines the final analysis of the text in which the cohesive devices are employed.

In the years between 1970s and 1980s many linguists, psychologists, and composition specialists around the world embraced text and discourse analysis (Connor, 1994). Connor believes that this New School of Text Analysis is characterized by an eclectic, interdisciplinary emphasis, placing psychological and educational theories on an equal status with linguistic theories, unlike the Prague and systemic approaches which primarily orient themselves to linguistics.

Bloor and Bloor (1995) contend that by the process of text analysis, linguists build up descriptions of the language, and gradually discover more about how people use language in social communication. The same thing can be considered with the dynamic process of translation in that the discourse and rhetorical structures encoded in the source language can be reconstructed in the target language, and then the translator can go for the appropriate syntax and lexicon. One of the indexes of a "good" interpretation would, therefore, be to see to what extent an interpreter has been able to reconstruct the rhetorical structures of the source text in the target language through text analysis.

It is, however, difficult to draw a line between discourse analysis and textual analysis, because it is difficult to differentiate between discourse and text. Both can be used in a much broader sense to include all language units that have a communicative function, be they spoken or written. In fact, some scholars like Van Dijk (1985) talk about spoken and written discourses. Others like Halliday (1978) talk in terms of spoken and written text. This, to a certain extent, means that the interpreter can do well to embrace concepts of both text analysis and discourse analysis as he/she works from the source language to target language.

Although the terms “textual analysis” and “discourse analysis” can hardly be distinguished, this study uses the discourse analysis approach to analyse and discuss various types of meanings because the theories that guide the study are in the field of Discourse Analysis. The other reason for opting for the discourse analysis approach is that Discourse Analysis looks at both spoken interaction and written texts. As Chimombo and Roseberry (1998:ix) state, it is a methodology for examining texts and the communicative process that gives rise to the texts. The discourse analysis approach is preferred in this study because it enables discourse analysts to gain a deeper understanding and appreciation of texts and the communication process.

2.4.1 Types of Discourse Meaning

According to Brown and Yule (1983), there are four types of discourse meaning that may be interpreted. These are reference, presupposition, implicature and inference.

2.4.1.1 Reference

Reference is the kind of meaning put forward when a speaker uses language to refer to something (Brown and Yule, 1983). In Discourse Analysis, reference is deemed to be an action by the speaker. In the following exchange between A and B, the words *he* and *brother* have the same reference.

A: Your brother is my good friend.

B: I know that you are friends because he always talks good about you.

In a case where an interpreter is working on this piece of language, he/she will be required to maintain the reference meaning in the target language if equivalence is the guiding principle in interpretation. The aim should be to produce the same speech act as the one in the source language.

2.4.1.2 Presupposition

Brown and Yule (1983) citing Stalnaker (1978:321), define presupposition as “what is taken by the speaker to be common ground of the participants in the conversation.” Presupposition meaning is the pragmatic aspect of discourse meaning. In the exchange between A and B above, A treats the information that he has a brother as common ground or presupposed information, and B, in his utterance, indicates that he has accepted this presupposition. Presupposition is the kind of meaning that always comes from the speaker (Brown and Yule, 1983). If the listener fails to grasp this kind of meaning the communication process may not run smoothly. The courtroom discourse interpreter is equally challenged to grasp the presupposition meaning in the course of working from the source to the target language. Vienneman (1975) observes that for any discourse there is a “presupposition pool” comprising “information constituted from general knowledge, from situative context of the discourse, and from the completed part of the discourse itself.” Brown and Yule (1983) indicate that each discourse participant has a presupposition pool which is continuously being added to as the discourse proceeds.

The study posits that perhaps there is a possibility of having relatively different presupposition pools among discourse participants due to their different backgrounds. I think that people with similar backgrounds are likely to have relatively similar presupposition pools. How does the interpreter cope with the fact that he/she has a relatively smaller presupposition pool, owing to the fact that he/she only comes in between the feuding parties only for the courtroom discourse interpretation? This is a question that, perhaps, may make us conjecture that the courtroom interpreter could mistranslate the discourse owing to the lack of being on equal footing with others in terms of presupposed meaning.

2.4.1.3 Implicature

Brown and Yule (1983) indicate that the notion of implicature⁶ was developed by Grice (1975) and it explains how people use language. Through implicature, a speaker can imply, suggest or mean something without saying it literally. Levinson (1983:97) sheds more light on the notion:

An important contribution made by the notion of implicature is that it provides some explicit account of how it is possible to mean (in some general sense) more than what is actually 'said' (i.e. more than what is literally expressed by the conventional sense of the linguistic expressions uttered).

The study realises that it is possible for the speech acts made during courtroom proceedings to have implicature or to mean more than what has actually been said. Brown and Yule (1983) state that the meaning termed as implicature is, however, determined by the conventional meaning of the words. For example, let us examine the following exchange between Y and Z:

Y: Can you tell me the time?

Z: Well, the standard one pupils have just gone back home from school.

By making the above statement in reply to Y's question, Z is implying that the time is nearly the hour at which standard one pupils go back home. But to arrive at such implicature, one has to proceed from the literal conventional meaning of the utterance and move on to apply the context that leads to the pragmatic meaning of the utterance. This context or background knowledge has to be shared by the speaker and hearer if the implicature is to be understood.

Brown and Yule (1983) indicate that the notion of implicature is derived from the cooperative principle presented by Grice (1975:45). The principle states that the speaker in a conversation should make his/her contribution as it is required at the time and place according to the purpose or direction of talk. The principle has four maxims as follows:

⁶ Implicature is the kind of meaning that could be equated to an indirect speech act in speech act theory.

- Quantity – make your contribution as informative as required. Do not give excessive information or understate.
- Quality – be truthful in your contribution.
- Relation – say relevant things only.
- Manner – Avoid being ambiguous. Be clear in your contribution.

With these norms for making contributions in a conversation, Grice says speakers can make implicatures based on what they say. For example, in the exchange between Y and Z, Y takes Z's contribution in light of the maxims, and so the answer must, among other aspects, be relevant, and Y can arrive at the implicature that the time must be a little after the time standard one pupils normally knock off. Brown and Yule (1983) contend that we have to know certain facts of the world⁷ in order to be able to arrive at implicature. Y has to have the knowledge of the time standard one pupils knock off to be able to get the implicature in Z's response. Implicature has relevance in many instances of human communication. Courtroom discourse is bound to have implicature as well. This means that the courtroom discourse interpreter gets implicature as part of the SL meaning and must relay the same in TL text.

2.4.1.4 Inference

Inference is the kind of meaning that people get when they lack direct access to a speaker's intended meaning in producing an utterance. The process of inference helps the interpreter to arrive at meaning of utterances by deriving a specific conclusion from specific premises via deductive reasoning (Brown and Yule, 1983). An example of inferencing can be made in the following example in which a speaker says:

In the lounge there is a big easy chair, and when the children went in, at the end of the day you would find it badly soiled.

In this utterance one may infer that the easy chair was soiled by the children. The speaker did not actually say so, but by inferencing the hearer can get the meaning to the effect that the children made the easy chair dirty.

⁷ The facts of the world may be said to be in two categories – the physical environment and the psychological context discussed by the Relevance Theory.

Drew (1985) indicates that the inference kind of meaning is quite prominent in courtroom discourse. Through counsel's direct examination questions the jury may be made to infer that the witness' testimony, for example, is not to be believed.

2.5 CULTURE AND THE PROCESS OF INTERPRETATION

De Jongh (1991) underscores the importance of culture in the process of courtroom discourse interpretation. She asserts that court interpretation should adequately convey the experiences in both cultures, as language communicates culture. Bilingualism, a requisite for interpretation, should entail biculturalism. On the one hand, De Jongh states that biculturalism plays a significant role in court interpretation because it enables the preservation of the rights of non-English speakers who come in contact with the judicial system (De Jongh 1991). On the other hand, she observes that monoculturalism only makes one bring in an ethnocentric interpretation, which is arrived at regardless of the language or context of the experiences to be covered by the interpretation. Monoculturalism is not ideal for interpreters because "to interpret a speech is to transpose it with its entire semantic, emotional and aesthetic baggage into a language using completely different modes of expression" (de Jongh 1991:288) which also entails a different culture.

According to de Jongh (1991) courtroom interpretation transcends purely linguistic phenomena into cultural aspects. In view of this, de Jongh considers courtroom interpretation as cross-cultural communication. To illustrate this, she gives an example of the Anglo-American gesture of "Ok" sign, made with a forefinger and thumb touching and the other fingers extended. This gesture has different meanings in different cultures. While it means "okay" in America, it is considered obscene in Brazil. A monolingual and monocultural courtroom interpreter in Brazil may erroneously understand the Anglo-American's "Ok" gesture as something obscene and interpret it as such to the jury or presiding officer. Her second example is more interesting. In the United States of America, twirling the index finger around the ear means "crazy", but the same gesture in the Netherlands indicates that someone is wanted on the telephone. Courtroom discourse interpretation then is not gesture-for-gesture or word-for-word equivalence, but rather message equivalence.

Cultural differences do not manifest themselves only in gestures. They are also embedded in words. Some seemingly similar words are termed as “deceptive cognates” or “false friends” in the fields of translation and interpretation. De Jongh (1991) states that such words are possible pitfalls for court interpreters who must be aware of all the usages of the words to avoid making errors in meaning. An example is given of a Spanish verb “ignorar” which can be a “false friend” of the word “ignore” in English. A case in point is the interpretation cited by de Jongh (1991:291):

Attorney: Why didn’t you report the crime?

Witness: *Yo lo ignoraba.* (I didn’t know it or I was unaware of it)

Interpreter: I ignored it.

The interpreter was deceived by the false friendship between “ignoraba” in Spanish and “ignore” in English and failed to grasp any of the contextual meanings. Court interpretation, as de Jongh (1991:293) states, “involves the extremely demanding task of transferring thought and meaning from one linguistic and cultural code to another, which means much more than simply knowing the two languages”. The court language interpreter’s cultural competence is as important as his or her linguistic proficiency.

2.6 MODES OF INTERPRETATION

During court proceedings, interpreters may interpret in three basic modes, which are sight interpretation, consecutive interpretation, and simultaneous interpretation (de Jongh, 1991).

Moeketsi (2000), however, stipulates that there are four modes of interpretation that may be applied in a courtroom situation. These include the three stated by de Jongh (1991) as well as summary interpretation. The modes of interpretation are discussed below:

2.6.1 Simultaneous Interpretation

In the simultaneous mode of courtroom discourse interpretation, the interpreter starts interpreting before the source language text is completely uttered. The simultaneous interpreter lags behind the speaker by only a few seconds (Wallmach, 2000). The target language text is almost

juxtaposed with that of the source language. It is a complex kind of interpretation because the interpreter has to anticipate the next word or phrase in the source text before it is actually uttered so that he/she may be quick enough to start and end production of the target text almost simultaneously with the source text producer. Moeketsi (2000), citing Cartellieri (1983:218), reaffirms that there is a loss of quality of the target message because of the need for rapid reproduction of the message in the target language. Wallmach (2000:207) echoes this sentiment as he writes

in simultaneous interpretation in particular, the interpretation is constrained by factors such as the pace at which the original text is produced, by the technicality of the topic under discussion and by text preparedness.

To minimise the effects of such constraints, the interpreter needs to have the text before hand, especially in cases of written speech, if the interpretation is to be a true representation of the source text, or, the interpreter has to be very well versed in the subject field at hand.

According to Ramler (2007), the Nuremberg trials in Germany, held between 1945 and 1949 to prosecute war criminals and similar offenders, are one of the early experiences in simultaneous interpretation. To enable all defendants and the international judges to follow the court proceedings, the charter of the International Military Tribunal ordered to have the proceedings interpreted in all the languages of the courtroom discourse participants. IBM, an American company, developed a machine which provided translation channels. One channel was used for the verbatim transmission of the speaker and the other channels were used for transmissions simultaneously interpreted in the other languages. If a person were speaking in German on one channel, three interpreters would get this voice and interpret it simultaneously into English, Russian and French languages. If English were being spoken, it would be translated into German, French, and Russian, and if Russian were being spoken, it would be translated into the other three languages, and so on. A control switch was used in the monitoring room to regulate the pace of speaking to enable interpreters work comfortably. A flash of yellow light signified that the speaker was speaking too quickly, and a red light indicated to the speaker that he or she should stop and repeat what they had just said. Because of these complex interpretation needs,

the trial was unable to proceed at a pace faster than sixty words per minute. My impression at this point is that the Nuremberg trials provide an insight into the time impediment which interpretation brings to the courtroom discourse. Simultaneous interpretation is very challenging because the interpreter must listen and relay the message into TL text at the same time in the course of interpretation.

Moeketsi (2000) explains that in modern times simultaneous interpretation is preferred mostly in interpreting long stretches of legal discourse during the verdict and sentencing phases. But even in such phases, simultaneous interpretation may not be the best option. As Gaiba (1998:37) observes, simultaneous interpretation is ‘a task beyond human capabilities [requiring one] to hear and speak at the same time in different languages’. The expected results of simultaneous interpretation are bound to be beset by irregularities and many sorts of court interpreter mistakes.

2.6.2 Sight Interpretation

Sight interpretation is the transfer of a message from the written text to the oral medium (Moeketsi, 2000). To do sight interpretation, the court language interpreter has to be an intelligent reader and a good public speaker as this demands the ability to recognise where to pause, stress and look up to the audience, to ensure a natural flow of the text in its oral medium. According to Moeketsi (2000), sight interpretation is used in the courtroom to verbalize documents such as charge sheet, scientific reports, affidavits and birth or death certificates when they are brought up in the court as evidence. The interpreter must convert the documents into spoken words because the court record depends on the spoken word.

2.6.3 Summary Interpretation

In the summary mode, the interpreter listens to a long source text, takes notes where necessary, analyses it for meaning, goes through all the necessary mental activities, and then informs the addressees in the target language of the crux of the source message (Moeketsi, 2000). This mode of interpretation is not recommended in legal setting because the interpreter may misuse his/her powers by omitting significant parts of the message. This may not be acceptable to many participants in the courtroom discourse.

2.6.4 Consecutive Interpretation

The nature of courtroom discourse interpretation demands that it should be interpreted in the consecutive mode – where the target language text comes immediately after the source language text. This mode has the advantage of allowing the interpreter to some reasonable time to analyse the source language utterance and provide the verbatim interpretation demanded by Law. This mode of interpretation is regarded as the most suitable of all in the courtroom situation because it strives for perfection, although it is perceived as an interruptive and cumbersome type of interpretation (Moeketsi, 2000).

2.7 DIRECTIONALITY IN INTERPRETATION

Directionality in interpretation is a matter of whether the interpreter is interpreting from a foreign language into their mother tongue or vice-versa. As linguistic competence in the two languages (mother tongue and foreign language) is rarely of the same level, most interpreters find it easier to interpret into their mother tongue than from the mother tongue into foreign language (Baker, 2004). Baker (2004) indicates that in English, the unmarked use of ‘translation’ to mean translation into mother tongue is so common that there is no other specific term for translation into the foreign language. It is almost inconceivable to translate or interpret into the foreign language. In French, translating into the foreign language was only done as an academic exercise, and this was considered more difficult than translating into the mother tongue.

But translators and interpreters are not restricted to translating or interpreting into mother tongue only. They may very well work into any language of habitual use – a language in which they have mastery equal to that of their mother tongue. In agreement with this assertion, Baker (2004), citing Kelly (1979) states that the first Christian translators into Latin were Greek, and even famous Latin speaking translators like Saint Hilary and Saint Jerome did not have Latin as their mother tongue. Baker (2004) adds that in specialised fields, it is more suitable to use a subject specialist with knowledge of the source language than a mother tongue translator. In Malawi, it would be better, I think, to have lawyers or other legal officers to be trained in language interpretation so that they work as interpreters of courtroom discourse, because only they can equal to the challenges posed by legal terms and expressions.

2.8 THE NATURE OF COURTROOM INTERPRETATION

According to de Jongh (1991:75) courtroom interpretation and indeed all kinds of interpretation require “a deep familiarity both with the languages involved (bilingualism) and with their respective cultures (biculturalism)”. Courtroom interpretation is a process that takes place in a live judicial setting. The aim of the interpretation process is to facilitate communication in such a way that the presiding officer in the non-traditional court is able to adjudicate in the matter between the prosecution and defence, or any other conflicting parties (Moeketsi, 2000). The process is meant to allow the defendant, complainant or witness, who does not speak English, to participate effectively in the case that concerns them. It is also meant to allow the prosecuting side to conduct the court proceedings in the language of the non-traditional court as if no language barrier existed between the accused and other participants in the courtroom discourse. The interpreter is obliged to speak in the first person. Speaking in the first person has the advantage of conveying the message in the way the source language speaker intended it to be heard and creating a clear court record. A stretch of courtroom discourse that includes the courtroom interpreter may be graphically represented as follows:

S1 → [R1 → S2] → R2, where S1 represents the source language speaker and [R1 → S2] represents the court interpreter as the recipient of the source language message. R2 is the recipient of S1 conveyed as S2 by the court interpreter (Moeketsi, 2000:231).

2.9 COURTROOM DISCOURSE INTERPRETATION: SOME CASE STUDIES IN SOME COUNTRIES

This study draws insight from literature on courtroom discourse interpretation in Malawi as well as in other countries which, like Malawi, were British colonies and adapted the British Legal System. The study also looks at courtroom discourse interpretation in the United Kingdom where Malawi inherited its legal system from. Japan also provides insight into courtroom discourse interpretation because it is a country which developed its own legal system unlike the British colonies. If the problems of courtroom discourse interpretation appear only in countries that follow the British system, then they can be attributed to the legal system. But if they feature in non-British legal system as well then we can say it is a linguistic problem.

Specifically, the review first covers courtroom discourse interpretation in Malawi, the country in which the study is carried out. After looking at courtroom discourse interpretation in Malawi, the review looks at courtroom discourse interpretation in Scotland. Thereafter, the focus moves to Republic of South Africa, a country within Southern Africa Development Community (SADC) which was a British colony. Next, the study focuses on literature on courtroom discourse interpretation in India before moving on to the United States of America. Finally, literature is reviewed to examine how courtroom discourse interpretation is carried out in Japan.

2.9.1 Courtroom Discourse Interpretation in Malawi

In Malawi, in order to alleviate some of the syntactic and lexical difficulties that courtroom discourse interpreters encounter when they interpret legal English, the Malawi Judiciary came up with a *Glossary of Legal Terms* compiled in May 2007. The book catalogues various English legal words and terms with their equivalents in four local languages. These are Chichewa, Chitumbuka, Chiyao and Chilomwe. This is a welcome development in the work of court language interpreters, and in a way, it is a kind of acknowledgement of the interpretation problems that are rife in courtroom discourse in Malawi. This compilation of legal terms and their equivalents in local languages should be a helpful resource to the court language interpreters, but the interpreter who has to work with local languages other than the four (Chichewa, Chitumbuka, Chilomwe and Chiyao) is left out in the cold. It would be better if the *Glossary of Legal Terms* took care of all local languages in Malawi.

Sometimes the interpretation made by the official court interpreter in Malawian courts is deemed to be unsatisfactory. When this happens, one of the feuding sides may object to the interpretation. In such circumstances, the presiding officer attempts to mediate and help the two to arrive at an interpretation that is acceptable by all (Tambala, 1995).

2.9.2 Courtroom Discourse Interpretation in Scotland

According to 'The Translation People Website' <http://www.thetranslationpeople.com>, Scottish Interpreting Agencies were criticised for registering poorly trained or untrained courtroom discourse interpreters who were not qualified to assist in trials. A specific example is given of a case in which a trial was halted on its second day after it was discovered that an interpreter did not have the required qualifications.

According to the Scottish Government Publication (1998), a research was commissioned in response to concerns about the standards of the provision of foreign language interpretation in Scottish Courts. The research came up with several important findings and below are the most notable ones in relation to the study.

Firstly, it was revealed that there were disparities in the competence of interpreters who worked on criminal court assignments as they had no formal interpreting qualifications. Moreover, twenty-nine percent of the interpreters had received no induction or briefing prior to their first assignment.

Secondly, the research observed that most interpreters who had no instruction prior to their first court interpretation assignment felt that they had made mistakes which they might not have committed had they received some training.

Thirdly, it was found out that the group of interpreters that were used had difficulties associated with quality and language skills. The problem hindered the smooth running of the criminal proceedings because the accused or witnesses who did not understand English could not understand the charges and the criminal proceedings in court. Consequently, the feuding parties could not participate in the proceedings on equal linguistic footing.

2.9.3 Courtroom Discourse Interpretation in South Africa

In South Africa, “speakers of the indigenous African languages have always had to be interpreted for in court, despite the fact that they constitute a majority of seventy seven percent of the population” (Moeketsi, 2000:223). But observations of some trials reveal inconsistencies, irregularities and other kinds of court interpreter problems. According to Moeketsi (2000), some court language interpreters in South Africa make inaccurate interpretations and show general incompetence in their work. The general observation is that some of the problems besetting the work of court interpreters arise due to a misunderstanding of the role of the court interpreters by the law practitioners and other court personnel, the accused persons as well as witnesses. This has been reported against the background of having fully fledged university level education in courtroom discourse interpretation.

The Department of Corporate Communication and Marketing in South Africa reports, in its e-news dated 14 February 2006, of problems relating to courtroom discourse interpretation in that country. Dr Kim Wallmach of University of South Africa, who made an address at a graduation ceremony of sign language interpreters at the university, touched on the power of court interpreters. He indicated that interpreters can cross linguistic boundaries and exploit their unique access to information from either side of the feuding parties in a court of law, to the advantage or disadvantage of one party or the other.

In South Africa, defendants or complainants can hire interpreters to help them participate fully in court proceedings if they are not fluent in English, the language of the law. Wallmach (2000) cites an example involving an interpreter who was imprisoned for deliberately misinterpreting to put his clients in a favourable position during court proceedings. Whenever his clients said something incriminating in court, the interpreter would conveniently misinterpret so that the accused got off scot-free. Being a privately hired interpreter, he would be paid handsomely by the client when the case ended in the client’s favour. This means the original speech acts by the client were being changed into different speech acts in the process of interpretation, and this is not a minor influence on courtroom discourse by an interpreter.

2.9.4 Courtroom Discourse Interpretation in India

Thirumalai (2003) writes about the importance of having some perceptive understanding and mastery of the language or dialect used by the accused in a court of law for one to be able to interpret it into another language. He cites a report of misinterpretation in “The Hindu” Newspaper in a case involving a lecturer at Delhi University and two others accused in a parliament attack case. In that case, the university lecturer was wrongly accused following the incorrect interpretation of the telephone conversation that he had with the other two.

A second interpreter who was called to verify the interpretation concluded that a false case had been slapped on the lecturer because the translations made by the police were incorrect.

In the recorded message, when the university lecturer’s brother asked him in Kashmiri language: "Delhi kyah korva?" it was wrongly interpreted into English as “What has happened in Delhi?”, and the prosecution had cited this as evidence of the lecturer’s involvement in the conspiracy.

Thirumalai states that the syntactical pattern in the Kashmiri language was radically different from that of English. He argues that, in Kashmiri, the thematic communication of a sentence gets altered with the pitch. It is obvious that the change in pitch in Kashmiri brings with it a change in speech act. He observes that an assertive sentence changes into an interrogative one by a change in the pitch. This means that, in Kashmiri, ‘Ye kyah korva? Dilli kya korva?’ does not connote any kind of inquiry. According to Thirumalai, the utterance connotes wonder at a happening. The inadvertent misinterpretation or change in speech act by the first interpreter occurred because the interpreter did not have a full command of the suprasegmental aspect of the Kashmiri language.

2.9.5 Courtroom Discourse Interpretation in The United States of America

The United States of America (U.S.A.) is one of the countries that have established a system of certifying and regulating the work of courtroom interpreters. Interpreters get university qualifications and they have laid down rules to guide the courtroom discourse interpretation to minimise problems of misinterpretation. U.S.A.’s Court Interpreter’s Act of 1978, which was

subsequently amended in 1988, mandated that a national certification examination be developed to certify interpreters to interpret in federal courts. By 2003, there were federal certification programmes in Spanish, Navajo and Haitian Creole.

In the U.S.A. courtroom discourse interpreters are expected to remain detached from the content of their interpretation and not alter or modify the meaning or tone of what is said. A court interpreter should not tone down, expound or edit any statements. The interpreter must always strive to maintain the same register and style of the speaker. The interpreters are also expected to be thoroughly familiar with the language and functions of the U.S. judicial system, as well as other countries' legal systems.

This gives one the impression that court interpreters in the U.S.A. must be good bilinguals as well as good paralegals. But as social beings, the interpreters have their own socio-psychological inclinations and can, therefore, deliberately jeopardize the proceedings by letting their own prejudices set in to influence the interpretation. Being a good bilingual and a good paralegal is not a guarantee for a fair court language interpretation.

In the U.S.A. court interpreters work in a variety of legal settings, such as attorney-client meetings, preliminary hearings, depositions, trials, and arraignments. For a court interpreter in the U.S.A. to be successful, he or she has to have an understanding of both legal terminology and colloquial language. In addition to interpreting what is said, court interpreters in the United States of America may also be required to translate written documents and read them aloud. This process is known as sight translation.

In New Jersey, for example, the judiciary assigns an interpreter to interpret all phases of court proceedings for any party with limited proficiency in English. Also in California, an interpreter is needed, if upon examination by the court, a person cannot understand and speak English well enough to participate fully in the court proceedings. In Virginia, court interpreters are expected to interpret every spoken statement, even if it appears to be a misstatement, irrelevant, obscene, rambling, or incoherent.

Some states in the United States of America have specific guidelines to be followed by the courtroom discourse interpreters. Below are the guidelines for court interpreters in the state of Virginia as canons 1 to 10 reproduced verbatim from Virginia State's Judicial System website: <http://www.courts.state.va.us/interpreters/usage>:

CANON 1: ACCURACY AND COMPLETENESS

Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting or adding anything to what is stated or written, and without explanation.

CANON 2: REPRESENTATION OF QUALIFICATIONS

Interpreters shall accurately and completely represent their certifications, training and pertinent experience.

CANON 3: IMPARTIALITY AND AVOIDANCE OF CONFLICT OF INTEREST

Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias. Interpreters shall disclose any real or perceived conflict of interest.

CANON 4: PROFESSIONAL DEMEANOR

Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.

CANON 5: CONFIDENTIALITY Interpreters shall protect the confidentiality of all privileged and other confidential information.

CANON 6: RESTRICTION OF PUBLIC COMMENT

Interpreters shall not publicly discuss report or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

CANON 7: SCOPE OF PRACTICE

Interpreters shall limit themselves to interpreting or translating and shall not give legal advice, express personal opinions to individuals for whom they are interpreting or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

CANON 8: ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the appropriate judicial authority.

CANON 9: DUTY TO REPORT ETHICAL VIOLATIONS

Interpreters shall report to the proper judicial authority any effort to impede their compliance with any law, any provision of this code or any other official policy governing court interpreting and legal translating.

CANON 10: PROFESSIONAL DEVELOPMENT

Interpreters shall continually improve their skills and knowledge and advance the profession through activities such as professional training and education, and interaction with colleagues and specialists in related fields.

These rules, termed as canons, are laid down to ensure that the court interpreters convey precisely what has been said in order to place the non-English speaking person on an equal footing with those who understand English. The interpreters must apply their best skills to preserve faithfully the meaning of what is said in court, including the tone and register of speech. According to Ivanichvili (2003), the canons may be adopted by different states in America to ensure quality in the work of court interpreters. I argue that these canons may be applied well only if the interpreter is well trained to do the job of the court interpretation. Otherwise the canons may be violated out of incompetence or sheer impudence of the interpreter.

Before providing services in a matter, the court interpreters must disclose to all parties and presiding officials if they have any prior involvement with any of the feuding parties. If they do, they are considered to have a conflict of interest and are withdrawn from interpretation of the case.

The following are circumstances that are presumed to create conflict of interest for interpreters, and they should not serve. The conditions are reproduced here verbatim from <http://www.courts.state.va.us/interpreters/code.html>:

1. the interpreter is a friend, associate or relative of a party or counsel for a party involved in the proceedings;
2. the interpreter has served in an investigative capacity for any party involved in the case;
3. the interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue;
4. the interpreter or the interpreter's spouse or child has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that would be affected by the outcome of the case; and
5. the interpreter has been involved in the choice of counsel or law firm for that case.

I would like to think that, in Malawi, it is difficult to have an ideal situation in which the interpreter always deals with people with whom he or she has no connection whatsoever. It is common knowledge that the employees of the non-traditional court are inadequate in many districts, and it is difficult to conceive of a situation in which there would be an interpreter on standby to come in when the one on duty has a perceived connection with the defendant or complainant. This implies that the courtroom discourse interpreter in Malawi still has to interpret even if the interpreter has connections with the defendant of complainant.

2.9.5.1 Role of the Presiding Officer in the Court of Law in U.S.A.

In order to ensure successful interpretation by the court interpreter, the presiding officer is requested, at the outset of a trial, to allow the interpreter to converse briefly with the non-English speaker to ensure understanding of accents, dialect, or pronunciation differences. The presiding officer is also required to allow the interpreter to view court files relating to the case prior to the proceedings to become familiar with names, parties and technical vocabulary regarding the case. The presiding officer is also advised to speak directly to the defendant, complainant or witness, but not to the interpreter. Apart from that, the presiding officer is advised not to ask the interpreter to explain or restate anything said by the party. He or she should always direct the interpreter to interpret in the first person in order for the record to be accurate.

If need be, the presiding officer should also remind the interpreter to convey all questions, answers and courtroom dialogue without any omissions. This means that, the interpreter should constantly be working during the court proceedings. The presiding officer is also required to advise the interpreter to notify the court when he or she needs breaks.

The presiding officer also advises the person who requires interpretation to always indicate to him or her if the interpretation is incomprehensible. The non-English speaking party is also made free to ask if they need a question or answer repeated.

My little experience with a few Malawian non-traditional courts reveals that, in Malawi, the presiding officer does not accord the interpreter such opportunities so that the interpreter is familiar with the dialect and accent of the defendant or complainant. The non-traditional courts in Malawi should make a deliberate effort to ease the job of the interpreter, just as their counterparts do in the U. S. A.

2.9.5.2 Courtroom Discourse Misinterpretation in U.S.A.

In the face of such a system of certification and regulation of the work of a courtroom discourse interpreter, the courts of law in America are, however, faced with problems arising from misinterpretation.

One case of courtroom discourse influenced by an interpreter in America is reported by Dr Elias Gutiérrez of University of Puerto Rico. In his article, Gutiérrez cites a Puerto Rican ‘Star’ Newspaper’s editorial as commenting on Federal Government officials’ worry about misinterpretation during court proceedings. In view of the misinterpretations, Gutiérrez suggests that the proceedings in courts of Puerto Rico be carried out in Spanish, the language of the United States citizens living in Puerto Rico, than have them carried out in what he calls the “poor English” of the lawyers and court officials. According to Gutiérrez, the court officials’ and lawyers’ poor level of command of the English language lends itself to a greater degree of error and misinterpretation than what would ensue if they were speaking in correct Spanish and their statements were being interpreted into English.

A second case to be discussed is the one reported by Framer (2001). The report tells of a court-appointed interpreter who misinterpreted as well as omitted interpreting some sections of the court proceedings in the state of Ohio. The case involved a Honduran citizen who was charged with murder. The Honduran man was illiterate in Spanish and did not speak English. At the end of the trial, the Honduran man was sentenced to forty years’ imprisonment.

The Honduran made an appeal for a court review of the case and the appellate attorney in the case asked Framer, a trainer and assessor of court interpreters in Ohio, to initially review the court record of the case by examining the videotapes of the defendant’s arraignment, suppression hearing and trial. Framer (2001) observed that during the arraignment, the interpreter, who was hired by the court, did not interpret until the judge gave the next hearing date and directed the interpreter to inform the defendant accordingly.

During the suppression hearing, the same interpreter was observed to speak only sporadically throughout the entire hearing, which lasted approximately an hour. Framer further reports that sometimes the interpreter only sat, with his back to the defendant and his hand on his chin, listening to the testimony. When queried why he was not interpreting, the interpreter told the court that he had asked the defendant if he understood and the defendant had said he did. But this verbal exchange between the interpreter and the trial judge, according to Framer, was not interpreted to the defendant, nor did the judge ask the defendant whether such a conversation with the interpreter had taken place.

Framer (2001) also reports that the videotape of trial proceedings showed the interpreter saying a few words every now and then. It was found out that the interpreter failed to do sight interpretation of some documents, and only pointed to pictures, because she did not know certain medical terminology. At times, within the trial, the interpretation was nonsensical, composed of words that sounded like Spanish but which are not part of the Spanish lexicon. Framer gives examples of misinterpretation, such as that of the word “vida” which means “life” in Spanish but was interpreted as “libra” which means “scale” in Spanish. Apart from making these mistakes, the interpreter carried out independent conversations with the defendant and did not interpret them back to the judge or counsel.

Framer (2001) concludes by stating that the interpretation was flawed in many aspects, despite there being a professional code of ethics and practice for all interpreters that is essentially the same in all state and federal courts of the U.S.A. Framer (2001) asserts that some interpreters act as advocates for one or other party; others disclose privileged information to the adversary; others give legal advice; others summarize or explain in their own words; and yet other interpreters use wrong terminology, which leads to wrong impressions by judges and juries. As a result of such kind of problems, some cases end up being dismissed or the defendant is wrongly judged.

Framer’s write-up, in my opinion, is a stark example of a disservice which interpretation renders to courtroom discourse. With this kind of interpretation, it is not surprising that the defendant in the case reported by Framer felt unjustly judged and sought to have an appeal case.

Next, the study discusses a case reported by Schmitt and Shanker in *The New York Times* of October 7, 2003. This is a case in which Arabic language interpreters at the military prison at Guantanamo Bay, in Cuba, are being suspected of sabotaging interviews with Al Qaeda and Taliban detainees by inaccurately interpreting interrogators’ questions and prisoners’ answers. Military investigators reviewed taped interrogations in which the Arabic language interpreters worked to interpret into and from English. Schmitt and Shanker report that there were enough reasons to suspect that there were deliberate mistranslations in the interrogations, although the

military officials did not reveal the specific instances of mistranslation. Schmitt and Shanker further report that even pentagon officials were tight lipped on the issue, due to the sensitivity of the matter, which also involved the military, law enforcers and intelligent agencies. However, Schmitt and Shanker state that serious charges relating to misinterpretation were brought against one Air Force interpreter, who had links with Syria.

This newspaper article shows how misinterpretation of court related matters might transcend issues of justice to affect even issues of national security.

The study now turns to issues of court language interpretation in Missouri. Yassundharakul (2007), writing about the shortage of court language interpreters in Missouri, indicates that in some counties, courtroom staff have little experience with interpreters and it is difficult to tell whether an interpreter is doing a good job or not. The goal for interpretation, according to her, is to attain an ideal of word-for-word translation by using the method of simultaneous interpretation. She, however, states that the quest for accuracy in interpretation is sometimes futile because the fusion of legal terminology with foreign language leaves room for misunderstanding. To illustrate this futility, she alludes to a comment made by one courtroom discourse interpreter who stated that it is often hard to interpret without adding anything or changing the meaning because, in the course of interpreting, one adds one's own filters without realising it. Yassundharakul (2007) states that for many interpreters, especially those with less experience, finding the right words can be a challenge.

The other problem with courtroom discourse interpretation in Missouri is that in some counties, judges and lawyers are not always used to working with interpreters. The role of the interpreter is not clear to all court officials. Judges who are not fully aware of the role of the interpreter present a challenge to the work of the interpreter. For example, Yassundharakul (2007) states that in Pettis County, a lawyer did not know that a non-English speaking defendant needed to understand everything that was said in court. If court officials are ignorant of the need for all parties to a case to understand the proceedings, then interpretation of courtroom discourse may be regarded as superfluous.

2.9.6 Courtroom Discourse Interpretation in Japan

The Japan Times of October 25, 2005 carries an issue that decries the poor courtroom discourse interpretation in Japan. This was in respect of a British national living in that country who was reportedly misjudged and sentenced to a fourteen year prison sentence following a drug smuggling trial. The paper reports of Mizuno, associate professor at Senri Kinran University, who regrets the poor interpretation in Japanese courts of law in reference to the British national's case. Mizuno goes on to point out why the British national had his discourse poorly interpreted. One of the reasons was that the British national had a heavy Cockney accent, which was a challenge to the interpreter. Due to his accent, the British national dropped his h's and t's and the "th" sounded like "p". For instance, "bottle" sounded like "bo'le" and "water" could be heard like "wa'er". This challenge was fully unearthed when the court asked the defendant whether the bag containing drugs was his and he answered, "It ain't mine", and the interpreter rendered this in Japanese as "I don't mind." Again, when the defendant said that he had antibiotics, the interpreter relayed this as he "had drugs banned by Japan." Mizuno's evaluation was that the interpreter's speech acts differed significantly from those of the defendant, and recommended an appeal of the case in a high court. The role of the interpreter in the case had been to the detriment of the defendant.

The paper also reports that the interpretation conducted during police interrogations was also bound to be flawed and could not be checked as no tape or video recordings were made available. The written confession, Mizuno argues, should not be depended upon as it does not always contain the truth.

The paper concludes the article with a recommendation to have what was termed a "check interpreter system" to help prevent cases of misinterpretation and false accusations. The case reported by the "*The Japan Times*", in my opinion, is a clear testimony of how the interpreter can drastically influence court proceedings by changing the speech act made by a courtroom discourse participant.

2.10 CHAPTER SUMMARY

The Speech Act Theory will assist the study to view speech acts as units of communication and hence units of analysis. By considering each utterance as a speech act, and by looking at the various cognitive processes that take place to understand and interpret the speech acts, the study will be able to unearth and explain the effects of interpretation in courtroom discourse.

The Relevance Theory has been adopted in order to help the study to examine the psychological process that might lead to some of the differences in meaning between SL and TL text. The Relevance Theory may help the study to examine the transference of explicit and implicit contextually dependent information embedded in the speech acts in finer details than the Speech Act Theory may afford the study. The theory may help the study to determine if the interpreter would locate relevance in a given direction, when in fact, the intended relevance by the discourse producer was in the other direction. This may be revealed by examining practical procedures and cognitive subtasks followed by the interpreter in quest of the speaker's meaning.

The literature review has revealed that legal language is highly formal and not easily understood by laypersons. The different types of meaning deciphered in courtroom discourse have been unearthed by the literature review. The review has also helped the study to appreciate that there is a close relationship between culture and court language interpretation. A good interpreter should not only be bilingual, but also bicultural in order to adequately relay the message from the SL to TL text. The review has also shown that the most common mode of courtroom discourse interpretation is consecutive interpretation done from a second or foreign language into one's first language.

The review has underscored that in all countries where literature has been reviewed, as the courtroom discourse interpreter interprets there arise a lot of problems. Among the problems are issues of language, misinterpretation, mismatch of speech acts in SL and TL texts and omission of some chunks of defendant's or complainant's message thereby creating some information gap between the feuding parties. The poor interpretation or misinterpretation is motivated by either

some form of incompetence or by deliberate intentions of the court interpreters to influence the outcome of the proceedings. However, the specific problems facing courtroom discourse interpretation in Malawi have not been documented. The literature review has also enlightened the study on how some of the countries alleviate problems that crop up during interpretation of courtroom discourse. In the United States of America and South Africa, for example, courtroom discourse interpreters are trained up to university degree level and are certified to carry out their job.

But in some countries, there is no proper system of training and certifying courtroom discourse interpreters. In Malawi, for example, there is no specialised training for court interpreters. Compared to more developed countries, less attention is paid to issues of courtroom discourse interpretation in Malawi. That is why the specific problems arising in courtroom discourse interpretation in Malawi have not been documented. It is the purpose of this study to attempt to shed light on the specific challenges courtroom discourse interpretation faces during courtroom proceedings in Malawi.

CHAPTER THREE

RESEARCH METHODOLOGY

3.0 CHAPTER OVERVIEW

This chapter presents the methodology employed in the research. It specifically describes the sampling techniques, sources of data, data collection and analysis methods used in the study. The chapter ends with an account of factors that limited the study followed by an explanation of how the limitations were mitigated.

3.1 RESEARCH APPROACH

The research used mixed methodology approach by combining qualitative and quantitative methods of collecting and analyzing data. Qualitative methodology collects data based on the participants' own categories of meaning. The data in a qualitative approach are collected in a naturalistic setting (Rossman and Rallis, 2003). Quantitative approaches are based on gathering and analysing data, with a belief that a single objective reality exists, whereas qualitative researchers believe that there are multiple realities represented by participants' perspectives (Creswell 2003). The study took a mixed methodology approach because, according to Miles and Huberman (1994), mixed methodology has two advantages. Firstly, the methodology enables corroboration of data, thereby providing richer details for analysis. Secondly, when qualitative and quantitative data are linked, the study is able to have superior evidence for the result. Being a case study research that has a purpose of describing some aspects of courtroom discourse interpretation, the study has been more qualitative than quantitative (Rossman and Rallis, 2003).

The study was a case study type of research. A case study is a form of qualitative descriptive research, which collects and presents detailed information, using a variety of data collection procedures, about a particular participant or small group, frequently including the accounts of subjects themselves (Creswell, 2003). The case study looks intensely at an individual or small participant pool, drawing conclusions about that participant or group and only in that specific context (Rossman and Rallis, 2003). In a case study, emphasis is placed on exploration and description of an event or a situation, with the least possible influence or constraint forced on the researcher or the setting (Graziano and Raulin, 1980).

Case studies focus on particularities of the specific case and are context-dependent (Raulin, 1989). By analogy, lessons learned from one case study can be applied to other cases that have similar characteristics to it. This assertion is underscored by Rossman and Rallis (2003) in the following text:

...another logic – that of reasoning by analogy – allows the application of lessons learned in one case to another population or set of circumstances believed or assumed to be sufficiently similar to the study sample that findings apply there as well (p105).

The results of the study can be applied to all non-traditional courts in Malawi because they all interpret into and from English. The conditions regarding courtroom discourse interpretation are the same in all the non-traditional courts in Malawi. In fact, the situation in many districts in Malawi is that most of the discourse interpreters who interpret in the High Court also interpret in the Magistrate Court (Personal Communication with the High Court Assistant Registrar in Lilongwe).

3.2 SAMPLING

The population for this study comprised all non-traditional courts in Malawi, as they all use language interpretation during court proceedings. But being a case study, the study did purposive sampling. Specifically, the study opted for stratified purposeful sampling (Rossman and Rallis, 2003). The population was divided into three strata, comprising the Northern, Central and Southern Regions of Malawi. The study purposefully chose one region – the Central Region, because the researcher resides and works in the Central Region.

Among the non-traditional courts of the Central Region, the study further purposefully targeted the High Court of Malawi. There is one High Court in Malawi, comprised of four registries located in various districts. These are: Blantyre Principal Registry; Zomba District Registry; Lilongwe District Registry and Mzuzu District Registry. The High Court was sampled because it strictly interprets from and into English, as a rule, unlike the Magistrate Court which sometimes

omits interpretation into English. In the Magistrate Courts, interpretation is done mainly from English into vernacular. Only in special cases do the interpreters in the Magistrate Court interpret both ways – from and into English.

The study arranged to follow and record interpreted proceedings of one case from the Lilongwe Registry of the High Court of Malawi. The study purposefully sampled the Lilongwe Registry of the High Court because it was close to the researcher's place of residence. The proximity of the Registry was an advantage to the researcher because it would not tax his pocket much. The study followed a case which started a day after the researcher had obtained permission to do his research at the Lilongwe registry of the High Court. As a way of doing random sampling of the cases, the study targeted the earliest case that was to start after permission was granted to carry out the observation.

The researcher interviewed staff who are not interpreters at the Lilongwe Registry of the High Court. These were: one Assistant High Court Registrar, one High Court Judge, one High Court Reporter and two High Court Marshals. All these cadres of staff were interviewed, as people who experienced courtroom discourse interpretation, in order to find out if their responses concerning courtroom discourse interpretation would corroborate one another. The study also interviewed one complainant and a witness to get the attitude of court users towards courtroom discourse interpretation. The language interpreters at the court were asked to respond to a questionnaire to see if their responses corroborated with what the other court officers said.

An availability sample of court interpreters being trained at Chancellor College was also asked to respond to the questionnaire. An availability sample is one where elements are sampled on the basis that they are easily accessible to the researcher (Walizer and Weiner, 1978). For this study, the group of interpreters being trained at Chancellor College comprised an availability sample because the researcher was also a student at the same institution. Twelve of them returned the completed questionnaires which have been used as sources of data for this study.

3.3 DATA COLLECTION TOOLS

Three tools were used to collect data. These were audio-recording, questionnaire⁸ semi-structured interview⁹. Audio-recording and semi-structured interviews fell under the qualitative approach whereas the questionnaire fell under quantitative approach.

The research planned to collect data during court proceedings using an mp3 sound recorder because audio-recordings are a source of highly reliable bulk of data, as they present naturally occurring data (Rossman and Rallis, 2003). As a back-up measure, a note book and pen were to be kept handy for note-taking, in case the mp3 recorder would break down or run out of power in the process (Drew, 1980).

Realising that highly structured interviews yield little insight into how people feel about the issues involved, the study used a semi-structured interview to solicit more deep-seated information. The semi-structured interview was also used as a way of triangulating one form of data with another in order to achieve validity of data collected on court officers' and courtroom discourse participants' attitude towards court language interpretation. The semi-structured interview tool is a good way of catching the point of view of the people, and getting inside information because it provides greater scope for discussion and learning about the problem, opinions and views of respondents (Drew, 1980). While there were some fairly specific questions (closed questions) in the interview schedule, each of which were probed or prompted, there were a lot more questions which were completely open-ended. The latter questions mainly served to explore different facets of the particular issue. The information thus collected was both qualitative and quantitative. The structured items of the interview tackled aspects of interviewee's biographical data, training, and language that the interpreters interpret from and into. The semi-structured items focused on interpreters' preparatory steps before courtroom discourse interpretation, attitude of interpreters and court staff towards courtroom discourse interpretation and discourse meaning captured and imparted in courtroom discourse interpretation.

⁸ A copy of the questionnaire is attached as Appendix I

⁹ A copy of the interview is attached as Appendix II

While the semi-structured interview may be deemed one of the best ways of collecting data, Nachmias and Nachmias (1987:228) warns that there are many possibilities for bias in an interview situation that may arise because of the nature of personal interaction between the interviewer and the interviewee. But this was countered by the use of the questionnaire which was part of the data collection tools for the study.

Quantitatively, data collection was done using a questionnaire, which had more closed-ended items than open-ended ones. The questionnaire was used to solicit information from court language interpreters, regarding their own and other courtroom discourse participants' attitude towards courtroom discourse interpretation. The questionnaire also sought to solicit information regarding training of the interpreters. Both descriptive and attitudinal questions were included on the questionnaire. As Drew (1980) puts it, it is important to consider in advance where the questionnaire will be administered. The questionnaire was administered to court interpreters right at the High Court premises. The same questionnaire was also administered to the availability sample of interpreters undergoing a short training at Chancellor College in Zomba.

Nachmias and Nachmias (1987) contend that the questionnaire has some disadvantages. They state that the questionnaire provides no opportunity for probing beyond the given answer to help the researcher get a deeper insight into the problem under investigation. The responses are to be accepted as final. According to Nachmias and Nachmias (1987), the questionnaire also affords the researcher no control over who fills the questionnaire and it often has a low response rate. But with the current study, this fear was minimised because, at Lilongwe Registry of the High Court, the questionnaires were returned at different times. This gave the researcher confidence that the particular interpreters were the ones who actually filled the questionnaires. The problems of lack of probing questions and that of low response rate was alleviated by the semi-structured interview, which gave the researcher the opportunity to probe and had a relatively much higher response rate. This was one of the advantages of triangulating data collection tools.

Copies of the questionnaire were given to the respondents so that each of them could respond to it at their own convenience. The respondents were each asked to state a date and time within a week they were going to return the completed questionnaires to the researcher. Through their personal promises, the researcher was able to follow up on the respondents to obtain a reasonably high response rate.

3.4 DATA ANALYSIS

The utterances in courtroom discourse were classified into speech acts, and this classification guided the study in identifying the changes in messages brought in by interpretation. In other words, misinterpretations of utterances in court were viewed as a change in speech acts. The changes were at the level of locutionary, illocutionary, or perlocutionary act.

The Relevance Theory offered a complete analysis of those speech acts by disentangling communication and code, and therefore helped the study to reveal the cognitive issues that might be attributed to differences between the courtroom interpreter's received and communicated meaning.

Computational analysis was the other kind of data analysis used in the study. The data collected from the courts and officers from the High Court was coded, edited and analysed using Statistical Package for Social Sciences (SPSS) and Microsoft Excel computer programmes to generate frequencies, graphs and pie charts. The statistics, graphs and charts represented summary and analysis procedures that permitted the researcher to determine interpreters' performance characteristics in a manner that was far more precise and convenient than visual inspection of raw data (Drew, 1980). As a means of validating the study findings, the different data collected were compared to see if they corroborate one another, in a process called triangulation (Silverman 1993:156). The results were also viewed in light of what other scholars have documented.

3.5 ETHICAL CONSIDERATIONS

The study followed a High Court case in order to compare the SL messages with the corresponding TL messages. The details of the complainant and the defendant have been left undisclosed in order to respect their privacy. Details of the case followed have also been left undisclosed in order to achieve anonymity because each case is conducted by one team comprising one particular interpreter, one particular court reporter and counsel. The Assistant

Registrar advised that mentioning a case number is tantamount to revealing the officers involved in the proceedings of a particular case. So the case number has been left undisclosed in order to maintain anonymity of the participants in the case followed for research purposes for ethical reasons.

3.6 LIMITATIONS OF THE STUDY

Like many research projects, the study experienced some limitations. Firstly, some interpreters felt uncomfortable to have the researcher observe the court proceedings in which they did language interpretation. They felt intimidated to be observed by the researcher who was a language specialist. They thought that the researcher was going to judge or ridicule them for any language misinterpretations that they may commit in court. As a result the interpreter who was assigned to interpret in the case that was followed once attempted to deceive the researcher that the case was adjourned, when in fact, it was not. However, when the researcher verified with the assistant registrar, he learnt that the case was on and observation of the case went on that day as planned.

Secondly, the case that the researcher chose to follow to the end kept being adjourned. This prolonged the data gathering process. The researcher was forced to adjust to the new dates which would, for one reason or another, be adjourned again to another date. This was a huge set-back because every adjournment meant a new request for a day off from work.

Thirdly, the researcher planned to use a tape recorder to capture the verbal proceedings in court. But, according to rules and regulations of the High Court, no one is allowed to make a voice recording of court proceedings. This posed a serious threat to the data gathering process, especially with the observation part of the data gathering process.

Lastly, five out of twenty-five interpreters in the sample did not return the completed copies of the questionnaire given at the first instance.

3.7 MITIGATION OF THE LIMITATIONS OF THE STUDY

To mitigate the challenges, the researcher undertook a few remedial measures. Firstly, the researcher realised that the interpreters needed to be assured of confidentiality and good will in the research. To win confidence of the interpreters the researcher assured the interpreters that he was there not to judge them, but to learn about the interpretation process that went on in courts during proceedings as part of an academic research. They were further assured that their names or any form of their identity were not going to be recorded at any point during the research. To avoid being deceived about the dates of hearing of the case, the researcher obtained an official schedule of the cases to be heard at the High Court. With the schedule secured, the researcher was able to come to court every day that the case was to be heard.

Secondly, the unforeseen adjournments meant that the time-off that the researcher was allowed at work would not suffice to attend the court hearing. The researcher asked for a holiday. Fortunately an annual holiday was granted. Arrangements were made that each day the researcher went to observe the court proceedings was to be deducted from the total days of the granted annual holiday. In that way the researcher was able to attend the proceedings even when they were rescheduled.

Thirdly, the effects of the problem of not being allowed to do a voice recording of the proceedings were circumvented by the use of a pen and paper to capture the exchanges and the interpreted message. The researcher used his note-taking skills to competently capture the source text message and the target text message. This sufficed as the researcher only picked those utterances deemed to be problematic, and not a verbatim account of the proceedings.

Lastly, the five court interpreters who did not return the filled in questionnaires at the first instance were given new ones to fill in and two complied while three still did not return the filled questionnaires. This meant that out of the twenty-five sampled interpreters only three did not return the questionnaire. This being a negligible number, the researcher proceeded to analyse the data collected from the twenty-two questionnaires.

3.8 CHAPTER SUMMARY

Chapter Three has described the mixed methodology used in the research. The tools and methods for data collection and analysis used in the study are consistent with the mixed methodology. The methodology was preferred because it allows quantitative and qualitative data to corroborate and therefore help the research make a stronger claim for the result than if the methodology was quantitative alone or qualitative. Lastly, the chapter has stated the limitations of the study and how the limitations were mitigated.

CHAPTER FOUR

RESULTS AND DISCUSSION

4.0 CHAPTER OVERVIEW

This chapter presents and discusses the research findings in an attempt to answer the research questions. Firstly, the chapter presents the demographic characteristics of the courtroom discourse interpreters before discussing the kind of training that prepares the interpreters for their job. Secondly, the chapter discusses preparatory steps taken by court language interpreters before embarking on actual court language interpretation. Thirdly, the chapter presents and discusses some of the language related difficulties that are encountered by interpreters in the course of courtroom discourse interpretation. Fourthly, the chapter looks at discrepancies observed in discourse meaning when the source text is compared with the target text in courtroom discourse interpretation. Lastly, the chapter discusses the attitude of court users, court language interpreters and other court officials towards the role of courtroom discourse interpretation.

4.1 TRAINING ATTAINED BY THE COURTROOM DISCOURSE INTERPRETERS

The study sought to collect details regarding the demographic characteristics and kind of training attained by the interpreters. The chapter presents and discusses the demographic characteristics of the interpreters cross-tabbed with the level of training attained by the interpreters. Table 1 presents and analyses three elements of the demographic characteristics of the respondents. These are sex, age and academic qualifications.

Table 1: Age and Academic Qualifications of Interpreters

Sex	Age	Qualifications		Total
		JC	MSCE	
Male	Below 20 yrs	1		1
	20 to 25 yrs		1	1
	26 to 30 yrs	1	1	2
	31 to 35 yrs	3	2	5
Total		5	4	9
Female	Below 20 yrs		1	1
	20 to 25 yrs	1	3	4
	26 to 30 yrs		3	3
	31 to 35 yrs	1	1	2
	36 to 40 yrs		2	2
	41 to 45 yrs		1	1
Total		2	11	13

According to the data from the questionnaire, of the 22 respondents who work as court interpreters, a total of 9, (less than half) were male and 13 were female. All the 9 male interpreters in the sample had the age of less than 36. This may mean that most of the male interpreters are within a trainable age. The Government of Malawi has a policy which stipulates that training cannot be accorded to its employees that are above fifty years of age. Looking at academic qualifications, 4 male interpreters (44.4%) had Malawi School Certificate of Education (MSCE) while 5 of them (55.5%) had Junior Certificate (JC). This implies that more male interpreters have low academic qualifications.

Among the thirteen female interpreters who responded to the questionnaire, there is a wide range of age groups. In fact, all groups demarcated in the questionnaire (from below 20 to 45 years) have been represented. However, the majority of the female interpreters were aged between 20 to 25 years and between 26 to 30 years (with 4 respondents and 3 respondents respectively, while the other age groups registered less than 3 in each case). These two age ranges are trainable. It is easy to make this conjecture, seeing that 100% (all 3) of the female interpreters aged between 26 and 30 had MSCE and 75% (3) of the female interpreters aged between twenty and twenty-five had MSCE. The overall academic outlook of the female interpreters was that of the 13 interpreters, 11 of them (84.6%) had MSCE and only 2 (15.4%) had JC. This may be deemed to imply that most of the female interpreters have shown evidence of some academic aptitude and can successfully undergo an in-service training to address training gaps in their career.

The aspect of the academic qualifications was also investigated using interviews. Five High Court officers were interviewed. All the 5 interviewees stated that the highest required academic qualification for the court language interpreters was Malawi School Certificate of Education (MSCE). But there were interpreters who had JC as their highest academic qualification. This was because, previously, the required academic qualification for the interpreters was JC. The data obtained through the questionnaire also showed that the lowest academic qualification was JC and the highest academic qualification attained by the interpreters was MSCE. This means that the data obtained using the two tools corroborated one another in terms of the highest and lowest academic qualifications of interpreters.

The interview data also showed that both Junior Certificate (JC) holders and MSCE holders were working as interpreters. One interviewee stated that some court workers started as messengers but were then working as interpreters. Sometimes, when a particular interpreter was absent, a serving messenger would be requested to interpret to avoid failing the case. A messenger, by job description, is very different from a discourse interpreter and the two cannot be substituted for one another. This shows that court authorities assume that court language interpretation can be done by anyone, irrespective of profession and training.¹⁰

¹⁰ In many cases, the messenger would be asked to do the job of the interpreter without any orientation as to how to go about the courtroom discourse interpretation.

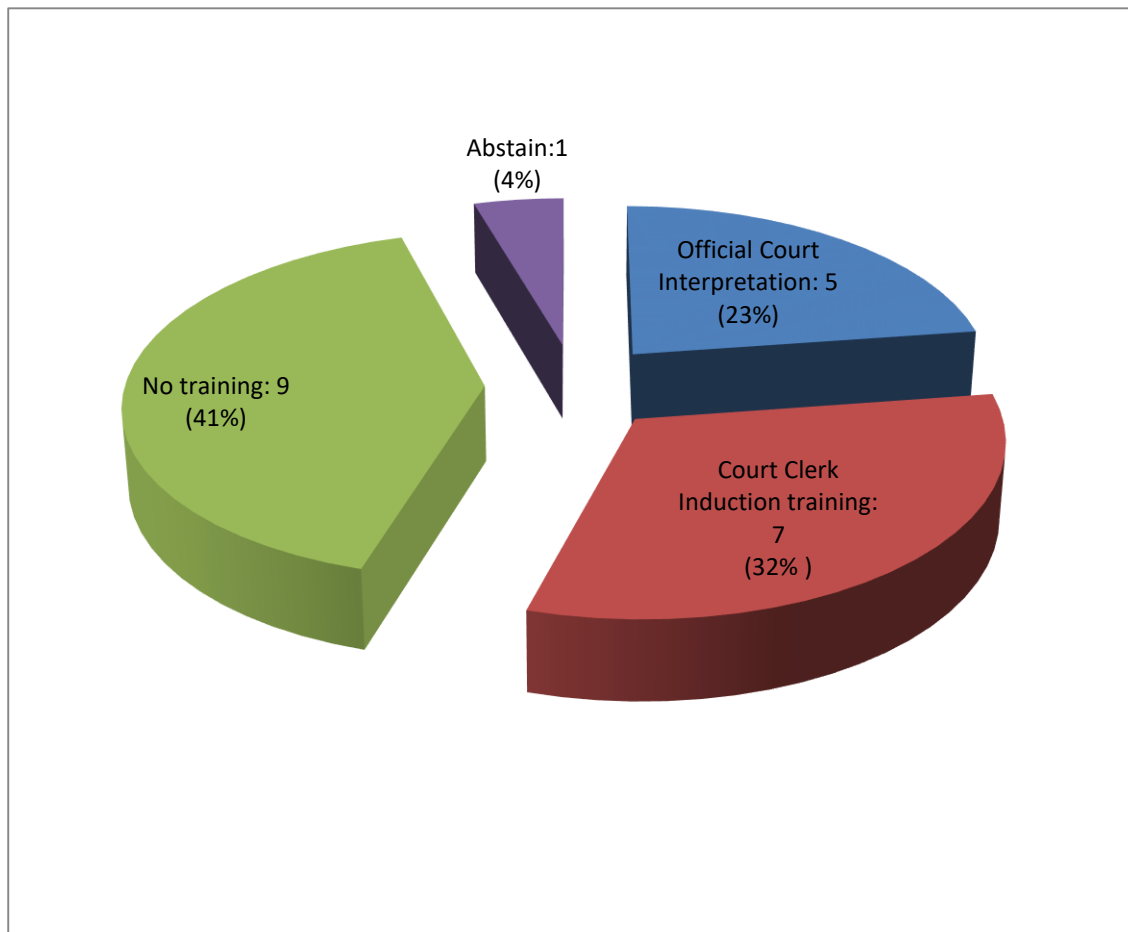


Figure 1: Other Qualifications of Interpreters

Every career has a way of preparing its recruits in order to ensure that they perform their duties to the expected standards and norms. The study also sought to find out if the interpreters in the sample had attended other trainings to prepare them for the job of interpreting courtroom discourse from and into English.

The data obtained through the questionnaire showed that apart from academic qualifications, some of the respondents, both male and female, indicated that they had attended other trainings related to their job (Figure 1). 7 (32%) had attended Court Clerk Induction Training while 5 (23%) had attended Official Court Interpretation Training. These trainings may be classified as short courses. The Court Clerk Induction Training took three weeks at most and the Official Court Interpretation Training lasted three months only. The Induction Training is an in-house

one offered by the courts themselves. The official Court Interpreter Training used to be run at Mpemba Staff Training College and it is no longer being offered. The course at Mpemba was organized in mid 90s by the Ministry of Justice with support from Department for International Development (DFID) then known as Overseas Development Agency (ODA). The course was being run as an in-service training for the court interpreters who were working for the Ministry and was discontinued in 1998.¹¹

A bigger number of 9 interpreters (41%), indicated that they had not attended any training after getting employed as interpreters while only 1 interpreter (4%) abstained to indicate whether they had any training. All 5 interviewees said that most interpreters had not received any competitive professional training. This remark corroborates what most of the interpreters indicated in response to the questionnaire, the results of which are in Figure 1.

As regards professional training, the study concludes that most courtroom discourse interpreters in Malawi do not undergo any professional training, seeing that a large proportion of the interpreters in the sample (41%) had not undergone any professional training at all, yet they had been employed as courtroom discourse interpreters for years. Those that had some training only received induction or official court interpretation training that lasted from three weeks to three months. This means many interpreters in the non-traditional courts in Malawi are inadequately trained and prepared for the job. Similarly, Scottish Interpreting Agencies were criticized for registering poorly trained or untrained courtroom discourse interpreters (<http://www.thetranslationpeople.com>). It appears the problem of training for interpreters is somewhat common as some of the interpreters in Scotland as well are not adequately trained.

The interpreters who responded to the questionnaire indicated that the induction training or official court interpretation training was too short to be helpful. They felt they needed a much longer and fully-fledged training that would better equip them to address the challenges in courtroom discourse interpretation. The court officers who were interviewed also indicated that the induction and orientation courses were too short to be of much help. The aim of such training

¹¹ This information was obtained on 15th March 2011 through my personal communication with Mr Phiri of Mpemba Staff Development Institute.

was to orient new recruits to the courtroom discourse interpretation job. Such courses were not credited. At the end of the training, the recruits were given certificates of attendance. This implies that courtroom discourse interpretation in Malawian non-traditional courts is not regarded as a serious profession which requires adequate training.

4.2 PREPARATORY STEPS TOWARDS DISCOURSE INTERPRETATION

The study endeavoured to find out if the interpreters make any sort of preparation just hours before they start interpreting on daily basis. Figure 2 presents an analysis of the results obtained from the questionnaire that was administered on the sample of interpreters in the study.

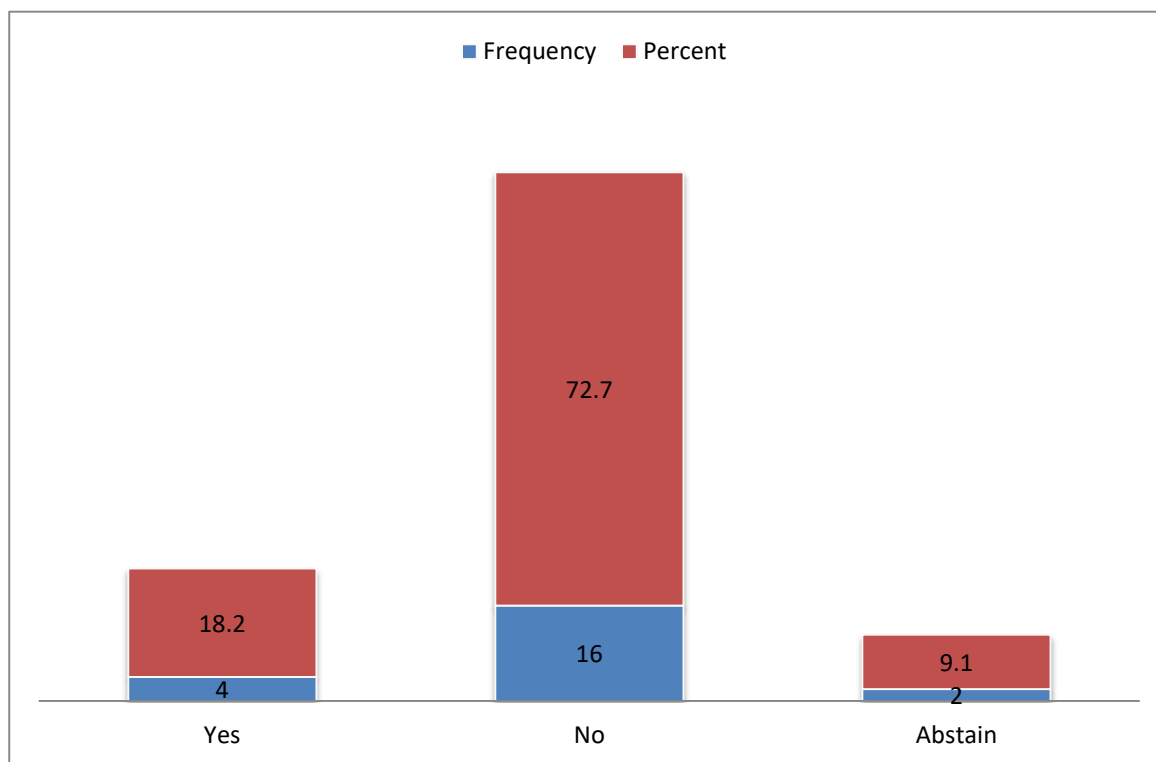


Figure 2: Do Interpreters Prepare Before Interpreting?

As Figure 2 shows, although interpreters are not always working with languages that they are fluent in, most of them do not prepare in any way for the interpretation process. Figure 2 shows that a large group of the interpreters, 16 (72.7%) of the respondents, indicated that they do not prepare for the interpretation. Only 4, (18.2%) of the respondents indicated that they prepare for the interpretation. Those who prepare said they do so by reading completed case files or judgements of previous cases.

But my interview with one senior court officer revealed that interpreters do not need to prepare for the interpretation because the interpreters are the custodians of case files and other items to be tendered in court. The interviews revealed that the work of interpreters also involves preparing case files; registering cases; bringing case files to the presiding officer; calling files in court and also bringing exhibits if they are brought in by police. These activities, in a way, make the interpreter have an idea of the type of case to be heard in court. This is a kind of preparation for the interpretation process. In terms of Relevance Theory, the interpreter psychologically builds up some contextual assumptions about the case that is soon to come up for language interpretation.

This implies that court interpreters have full knowledge of what discourse should be expected on daily basis. Hence no need for preparation. This is in line with the 16 (72.7%) of interpreters who, in response to the questionnaire, indicated that they do not prepare for the interpretation job in court. The court officers who were interviewed indicated that they hardly see any interpreter preparing for the interpretation by reading any document. This comment corroborates what the 16 interviewees said when they contended that they do not prepare for their work. However, I think lack of preparations, at any level, may contribute to misinterpretation of the courtroom discourse. Interpreters can still improve their accuracy in interpretation by looking at files or documents of other related cases before the court proceedings start. The implication is that the interpreters do not take their job seriously and that the interpreters do not realise the need for preparation before the task of courtroom discourse interpretation. Anybody working as an interpreter should take some time to read files and records of previous similar cases. This professional requirement, which they skip, makes interpreters appear not to be serious.

4.3 DO INTERPRETERS ENCOUNTER LANGUAGE PROBLEMS?

The study sought to find out whether the interpreters encountered language problems as they went about their tasks. The study also attempted to find out the reasons why the interpreters would encounter any language problems in relaying the SL message into TL. All the 22 (100%) court language interpreters who responded to the questionnaire said that they had some

difficulties in interpreting courtroom discourse into and from English. My observation of real-time interpretation in court also showed that interpreters encounter problems as they go about their duties. The problems were evident through the misinterpretations that they made. Again, one interviewee stated that sometimes the presiding officer adjourns the case due to inaccurate interpretation by the courtroom discourse interpreter. This shows that some of the misinterpretations that are made by courtroom discourse interpreters in Malawian non-traditional courts are grave. The fact that all the three data collection tools have captured data indicating that the interpreters find difficulties in interpreting shows how evident the problems of misinterpretations are.

4.3.1 Why Interpreters Encounter Language Difficulties

Both the questionnaire and interview data revealed many reasons why interpreters faced difficulties in interpreting courtroom discourse. For instance, the interpreters who responded to the questionnaire indicated that judges use legal jargons during judgment which posed challenges for the interpreter. The questionnaire data revealed that legal language was difficult for the interpreters to understand because it involves words derived from Latin, a language that is foreign to the interpreters. One would expect the interpreters to be familiar with the foreign words and phrases that were part of the SL utterances after interpreting courtroom discourse for some years. But it appeared not to be the case because foreign words and phrases carry with them cultural aspects and contexts that cannot be understood without proper training like that of the legal professionals. “Because they are not trained in those medical terms and legal jargons, as they are neither lawyers nor doctors, the interpreters find difficulties in understanding legal terms,” one court officer remarked during an interview. The remark revealed the predicament that interpreters find themselves in as they go about their daily duties of courtroom discourse interpretation. The other reason given for facing difficulties was that some cases called for diction that sounded unusual because such offences or cases did not come to court often or they were rarely committed. This implies that misinterpretations will remain a problem besetting the interpretation process in the non-traditional courts as long as the interpreters are not trained adequately.

4.3.2 Other Reasons for Finding Language Difficulties

The study attempted to find out whether the languages that discourse interpreters were fluent¹² in were the ones they interpreted from and into English. The findings are presented in Table 2.

Table 2: Language Fluent in and Language Interpreting into and from English

		Language Most Fluent In					Total
		Chichewa	Chiyao	Chitumbuka	Chinkhonde	Chitonga	
Language interpreting into and from English	Chichewa	7					7
	Sign Language	2					2
	Chitumbuka	1		3		1	5
	Chitonga			2			2
	Chiyao	1	2				3
	Chinkhonde			1	1		2
	Chishona		1				1
Total		11	3	6	1	1	22

The data obtained through the questionnaire revealed that the interpreters in the sample were fluent in such local languages as Chichewa, Chitumbuka, Chitonga, Chiyao and Chinkhonde. The languages they interpreted from and into English are Chichewa, Chitumbuka, Chiyao, Chinkhonde, Sign Language, Chitonga and Chishona.

According to Table 2, most interpreters find themselves interpreting from and into more than one Malawian languages, although none of the interpreters in the sample indicated that they were bilingual. They interpret into and from other languages they did not indicate as being fluent in. Among the respondents who work as interpreters, 50% (11) cited Chichewa as the language in which they were fluent. 13.6% (3) were fluent in Chiyao and 27.3% (6) said were fluent in Chitumbuka. Only 4.5% (1) was fluent in Chinkhonde and another 4.5% (1) also said was fluent in Chitonga. None of the 22 interpreters cited English language as a language they were fluent in,

¹² Fluency in this study is understood as the individual's ability to demonstrate linguistic competence that would enable them understand and speak the language in question smoothly and without hesitations.

yet they were all obliged to interpret from and into English. This lack of fluency in languages interpreted into and from implies that the interpreted utterances are bound to be deficient in SL messages.

The study also conducted interviews with court officers to find out their views about the languages they interpreted into and from English. The respondents indicated that interpreters work with all languages spoken in Malawi, including the ones indicated in Table 2 above, as well as other African languages from outside Malawi. One interviewee remarked that attempts are made to help courtroom discourse participants participate fully in the discourse. An example was given of a previous case that involved a Burundian who spoke a language called Kirundi. The court also looked for a Burundian to interpret so that the accused could understand and participate in the proceedings. This information corroborates and extends what one interviewee indicated when he said that anyone can be asked to interpret in the courtroom as long as they can speak the language in question. The determining factor is not the kind of training a person has attained, but the languages that one speaks.

Table 2 shows that the interpreters find themselves working with languages they are not fluent in. For example, although no respondent indicated that they were fluent in Sign Language or Chishona, there are reported instances of interpretation in Sign Language (2) and in Chishona (1). Table 2 also shows interpreters who were fluent in Chichewa and Chitonga but found themselves interpreting into and from Chitumbuka. Again, an interpreter who was fluent in Chitumbuka interpreted into and from Chitonga. Interpreting from and into a language that one is not fluent in is a possible source of problems of misinterpretation. Very high likelihood of misinterpretation means very high likelihood of there being a discrepancy between the ST message and the TL message. The interpreters felt that they were being asked to do the impossible, as they lacked fluency, yet one of the pre-requisites for language interpretation is fluency in the languages that one is interpreting into and from.

The lack of fluency in languages that interpreters work with could be one of the reasons why interpreters find challenges when discharging their duties. In fact, all 22 respondents, accounting for 100% of the court language interpreters who responded to the questionnaire, said that they

had some difficulties in interpreting courtroom discourse into and from English. The fact that all respondents find difficulties in court language interpretation points to the possibility of misinterpretations and misrepresentations of discourse by interpreters in the courtroom.

The cited reasons for facing the difficulties were many. For instance, the respondents indicated that judges use legal jargons during judgment which posed challenges for the interpreter. The legal language was difficult for the interpreters to understand because it involves words derived from Latin, a language that is unknown to the interpreters. Asked how they benefited from the *Glossary of Legal Terms*, the interpreters maintained that they still had difficulties because the terms were words and phrases whose usage could not be exhausted within the pages of the handbook. As such, there were always times when the terms were used in situations that were difficult for the interpreters to understand clearly. Moreover, they said, the handbook did not exhaust all legal terms used in the legal courts in Malawi. The other observation made by the language interpreters was that the *Glossary of Legal Terms* did not include all the local languages used in Malawi.

The other reason given was that some cases called for diction that sounded unusual because such offences or cases did not come to court often or they were rarely committed. One interpreter commented that ruling and judgement sections are difficult because of legal words. These comments are in line with the sentiments expressed by Dave, a lawyer practising in India, who concurs with Danet (1985) when he observes in Dave (2002) that the common man on the street abhors the vocabulary and expressions used by legal officers in court. This implies that the interpreters, expected to be language experts without any legal training, are jolted by the legal language that they have to interpret into Malawian languages.

4.3.3 Difficult Cases and Sections to Interpret

The study also attempted to find out the types of cases and sections of cases that were challenging to the interpreters. Table 3 presents data obtained through a questionnaire responded to by interpreters.

Table 3: Cases and Sections Difficult to Interpret

		Difficult Sections to Interpret			Total
		Judgement	Ruling	Cross Examination	
Difficult Cases to Interpret	Rape Cases	6		1	7
	Murder Cases	7			7
	Civil Cases	3	1		4
	Unusual Cases	1			1
	Matrimonial Cases	3			3
Total		20	1	1	22

Table 3 shows that the interpreters in the sample singled out rape (6) and murder (7) cases as particularly difficult to interpret. According to data collected from interviewees, rape cases were said to be difficult because the court requires that everything be mentioned, whether it is perceived by society to be taboo or not. The interviewees said that interpreters face problems when interpreting rape, incest, defilement and all other sex offence cases because of the language used. As they interpret in such cases, interpreters are supposed to mention reproductive parts of the body such as vagina and penis. Interpreters find difficulties mentioning such body parts, because, culturally, Malawians are not comfortable to mention human sexual reproductive parts in Malawian languages in public. Rape cases happen to have a lot of such taboo words mentioned in English to be interpreted into Malawian languages. Most Malawians find it is easier to mention the body parts in English because the words are considered part of terminology in Biology. In local languages, Malawians would be comfortable to mention the taboo words using euphemism.

All the 7 (100%) who cited murder cases as being difficult to interpret said that the section they found difficult to interpret was judgement, accounting for another 31.8% of all respondents. The legal jargons that are used in judgement pose linguistic difficulties to the interpreters. Among the 4 who cited civil cases as difficult to interpret, 3 (75%) of those who cited civil cases as difficult indicated that judgement was a difficult section to interpret. This accounts for 13.6% of those who cited judgement as a difficult section to interpret. Only 1 respondent (4.5% of all 22 respondents) cited unusual cases as difficult to interpret and 3 (13.6% of all 22) respondents cited matrimonial cases as difficult cases to interpret. Interestingly, the 1 respondent who cited unusual cases as difficult and the 3 who cited matrimonial cases as difficult to interpret also contended that judgement was a difficult section to interpret. In total, 20 out of 22 interpreters (90.9% of the respondents) cited judgement as a difficult section to interpret while 1 (4.5% of all respondents) and another 1 (4.5% of all respondents) cited ruling and cross-examination respectively, as difficult sections to interpret. The interview data corroborated the findings from the questionnaire. Most interviewees commented that most interpreters had problems interpreting utterances made by the presiding officer during judgement. The reasons given were that in judgement, the judge uses a lot of legal or technical jargons that are not familiar to the interpreters. This means that judgement is far more difficult to interpret than any other section of the cases tried in Malawian courts.

4.3.4 Why Some Sections are Difficult to Interpret

The study attempted to find out why sections such as Ruling, Cross examination and Judgement were difficult for the courtroom discourse interpreters to interpret. Figure 3 presents the findings:

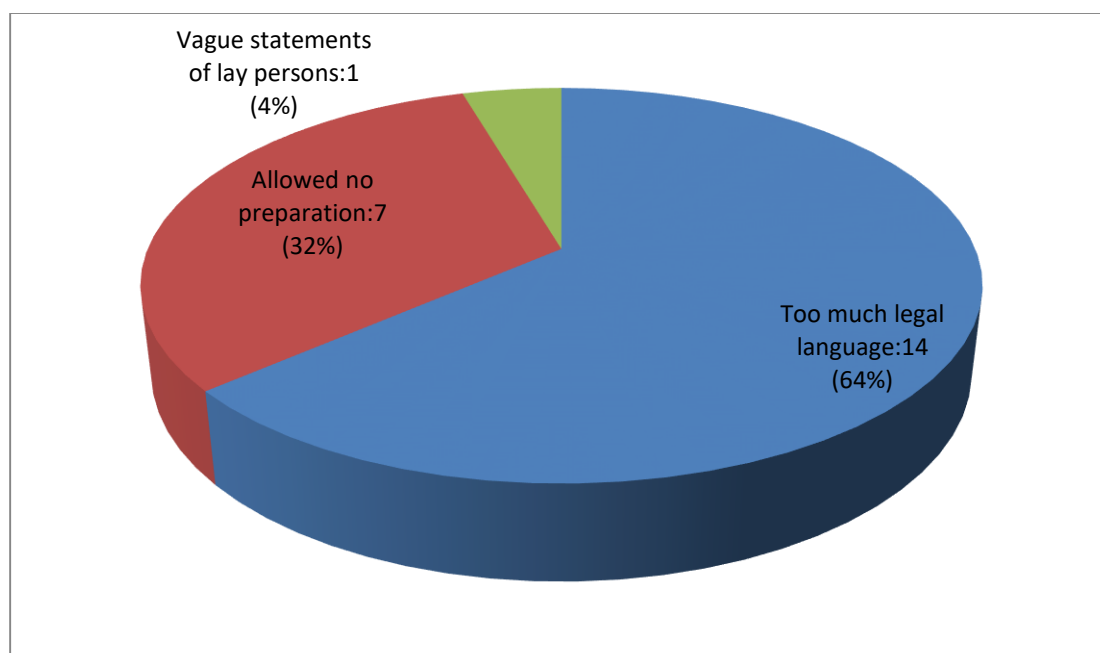


Figure 3: Why Sections are Difficult to Interpret

Asked why they found some sections of the court proceedings difficult, the questionnaire respondents cited ‘too much legal language’ as the biggest reason for the difficulty. Figure 3 shows that 14 out of 22 respondents (64%) blamed the difficulty on too much legal language. Among the 14, some respondents indicated that they would often ask the presiding officer or lawyer to simplify the sentence for them before they attempted to interpret it. A smaller number (7 respondents) accounting for 32% of the total number of interpreters in the sample said they had challenges interpreting the sections because they are not allowed to prepare by looking at the written judgement before they enter the courtroom for the actual interpretation. Realising that the judge prepares the judgement before hand, the interpreters’ wish was to be allowed to see the written judgement before it was delivered in court so that they could equally consult and ensure flawless delivery of the SL message into TL. There are two possible ways of preparing for the interpretation task. The first is to read the case files and all other documents relating to the case. The second might be for the judge to show the interpreter the judgement he/she has written before it is delivered in court. It seems that, to the interpreters, reading the prepared judgement before it is delivered is the only viable kind of preparation. Only 1 respondent (4%) indicated that they had difficulties interpreting difficult sections because of vague statements of laypersons who are involved in courtroom discourse.

I would like to comment that vague statements can be a formidable frustration to interpreters because it is difficult for the interpreters to do something about it. Interpreters can perhaps do something to alleviate problems emanating from their ‘lack of preparation’ and ‘too much legal language’. With lack of preparation, the interpreters can start preparing before the actual interpretation in courtroom. As for the issue of too much legal language, the interpreters can acquaint themselves with legal language through study or training. But the vague statements of laypersons are difficult to circumvent. It requires the ingenuity of the interpreter to carve out something plausible from the vague statements. As Lee (2009) explains, inexplicit language used by laypersons during courtroom proceedings is partly a result of their lack of familiarity with courtroom discourse. Lee (2009:93), citing Hale (2004, 2007) contends that such vague and incoherent speech is regarded by court interpreters as the greatest challenge in courtroom discourse interpretation. This implies that whenever the lay-person makes a vague statement in courtroom discourse, the corresponding interpreted message is hardly a faithful rendition of the SL message. In this case the interpretation process fails to remove the language barrier between the layperson and the other discourse participants who do not understand the language spoken by the layperson.

4.4 DISCREPANCIES BETWEEN SOURCE LANGUAGE AND TARGET LANGUAGE TEXT

A case was followed by the researcher at Lilongwe Registry of the High Court to be able to determine the meaning captured for interpretation and to establish if there is any discrepancy in meaning between the source text and target text messages. The observation of the court case revealed that the mode of interpretation done in the High Court is consecutive interpretation which is regarded as the most suitable in courtroom discourse interpretation, as it is the mode that is deemed to strive for perfection in comparison to the other modes of interpretation (Moeketsi, 2000) .

The observation was carried out in order to isolate utterances that were mistranslated by the courtroom discourse interpreter. Only those target language utterances whose related interpretations were deemed to be problematic have been documented below together with their source text utterances.

The utterances by the Presiding officer, Prosecutor or Counsel go with the label ‘Source Language’ (SL) because they require to be interpreted by the Interpreter. The interpreted utterance is labelled Target Language (TL) to show that it has been derived from the source language. For the particular observed case, interpretation was only from English to Chichewa. The utterances in Chichewa were not being interpreted into English. Therefore, all the SL utterances are in English and all the TL utterances are in Chichewa.

In the course of discussion, the utterances are categorised into speech acts. According to Searle (1969), the minimal unit of human communication is not a sentence or other expression, but rather the performance of certain kinds of acts known as speech acts. A total of seventeen misinterpreted excerpts are presented and discussed below:

SL1: *The petitioner has asked you to give evidence.*

TL1: *Odandaula apempha kotho kuti inu muwathandize popereka umboni.*

Back translation 1: *The petitioner has asked the court that you should help him by giving evidence.*

Through the back translation of TL1, it can be noted that the interpreter introduced new propositional content ‘the court’ into the interpreted utterance. Secondly, the interpreter also introduced the propositional content ‘you [the witness] should help him [the petitioner]’ by giving evidence. This is tantamount to asking the witness to infringe court rules to give evidence which is not true and focus on saying things that would be in favour of the petitioner. In this instance, the interpreter could be viewed as inciting the witness to give evidence not as it stands, but in a way that would favour the petitioner. But as Penman (1987) explains in Luchjenbroers (2004), giving false evidence in court will invariably elicit sanctions. If the witness fabricated evidence in compliance with the request conveyed by the interpreter, he would then be giving false evidence.

The comparison between SL1 and TL1 brings to mind similar findings by Framer (2001) who documents about interpreters who summarize or explain in their own words or use wrong terminology which in the end leads to wrong impressions by judges and juries. Berk-Seligson

(2000:2) asserts that the problems of poor interpretation are caused by “fundamental contradiction between how the interpreter defines her role and how other court clients and personnel perceive it.” Most interpreters believe that they have a duty to explicate the SL text to the lay-person, which is a mistaken role.

The drastic change observable in TL1 may be explained in terms of Relevance Theory. The utterance SL1 was an ostensive stimulus that conveyed the intention to communicate to the witness. At the same time the utterance created expectations of relevance to the witness. As the witness could not understand the language of the court, the interpreter processed the input SL1 on behalf of the witness. In processing the input, the interpreter went through several cognitive sub-tasks. The following are the probable cognitive sub-tasks that the interpreter went through:

The reference *you* in SL1 stands for the witness. The utterance SL1 provides access to the interpreter’s contextual assumption that witnesses come to testify in favour of particular individuals who ask for their indulgence to vindicate them in one way or another. The contextual assumption was the implicit premise on which, combined with the explicit premise SL1, the interpreter arrived at the implicit conclusion represented by Backtranslation1. The interpreter arrived at this conclusion because it satisfied his expectations of relevance. The changes have crept in during a normal psychological processing of SL1.

A comparison of the SL1 text message with the TL1 text message (backtranslation 1) leads to the realisation of the extent to which the interpreter can influence the contribution of non-English speaking courtroom discourse participant. It is likely that, following the message in TL1, the non-English speaking witness changed his original narrative to conjure up some story to ‘help out’ the defendant.

SL2: *The right to bail is not absolute.*

TL2: *Belo siyiperekedwa wamba*

Back translation 2: *Bail is not given arbitrarily*

The back translation reveals a discrepancy between SL2 and TL2. Although both have the assertive illocutionary force, the propositional content represented by the phrase ‘the right’ found

in SL2 is missing in TL2. The interpreter has omitted the propositional content represented by ‘the right’. To the interpreter, the issue of rights is not paramount and can be dispensed with. The presiding officer included it in SL2 because it is the centre of his argument. This omission of the phrase in TL2 is similar to what Framer (2001) reports of a case in which a Honduran citizen was being tried in a murder case in the State of Ohio in the U.S.A. As the Honduran was illiterate and did not speak English, he was dependent of the incomplete interpretations which, in the end, were blamed for the forty year imprisonment of the Honduran. This shows that some courtroom discourse interpreters in the USA do omit sections of SL messages just like some interpreters in Malawian non-traditional courts.

According to Relevance Theory, the interpreter had to go through a series of sub-tasks in the overall comprehension process of the utterance SL2 made by the presiding officer. To arrive at the utterance TL2 (Backtranslation 2) the interpreter psychologically constructed hypotheses about the explicit content and its intended contextual assumptions. Firstly, the interpreter made the assumption that the utterance SL2 was optimally relevant to the defendant. Secondly, the interpreter unpacked the explicit content of the word *right* in SL2 by selecting one of the semantic representations assigned to it by grammar. The word *right* was assigned the legal meaning as opposed to meaning that is the opposite of left as in *right hand*. Also, the interpreter had come up with assumptions regarding the implicated premises before coming up with the implicated conclusion manifested through TL2 (Backtranslation 2). As the interpreter was processing the utterance, the issue of ‘rights’ required a lot of processing effort and was less relevant to him. That is why it was left out in the implicated conclusion (Backtranslation 2). The interpreter, in this case, relays ‘Backtranslation 2’ containing a kind of implicature as part of discourse meaning in the interpretation.

SL3: *Thank you, sit down.*

TL3: *Khalani pansi.*

Backtranslation 3: *Sit down.*

In SL3 the utterance carries two speech acts. The first part is an expressive and the second is a directive. On the other hand, the back translated utterance carries only one speech act – a

directive. There is an omission of the expressive speech act. The expressive speech act conveys the speaker's psychological state of showing appreciation to the layperson. This appreciation has not been conveyed in the interpreter's utterance. Although the verb in the interpreted TL3 *khalani* has a polite form *ni* which portrays some respect for the layperson, the omission of the expressive speech act that accompanies the directive speech act in SL3 makes the directive in Backtranslation 3 take on a more heavy-handed illocutionary force, which may unnecessarily overwhelm the layperson participating in the courtroom discourse.

It may be argued that the polite form very well replaces the omitted expression of appreciation in TL3, but politeness and appreciation are different. The omission of the expressive speech act in TL3 works to the detriment of the layperson in court because the courtroom setting already emphasizes discourse power imbalances that work against laypersons in the court of Law. The problem of omission of some parts of the SL message in courtroom discourse is not unique to Malawi. In the United States of America, Yassundharakul (2007) reports of a courtroom discourse interpreter who confessed that interpreters often add something or change the meaning of the message in the course of interpretation. This explains why we see differences between the messages of SL3 and TL3. As Chimombo and Roseberry (1998) state, power relations can be shown mostly in subtle ways by discourse producers who intend to manipulate and exploit a particular situation. In this instance, the interpreter wields some power in his interpretation of discourse to remove some content in the target language. The layperson participating in courtroom discourse is left at the mercy of the interpreter who, in some instances, gives an inaccurate rendition of the court proceedings.

The omission of the expressive speech act can be explained in terms of Relevance Theory. The interpreter had to process the utterance SL3 by going through mental subtasks to assign meaning to the utterance in the context it was made. Before arriving at the meaning of SL3 the interpreter assumed that the utterance was optimally relevant to him and to the defendant. He then went through the process of disambiguation, reference assignment and enrichment as follows:

- a) The presiding officer has said thank you, sit down.
- b) The presiding officer believes that the defendant should be thanked and allowed to sit down.

- c) The defendant should be thanked and allowed to sit down now.
- d) The presiding officer has allowed the defendant to take a seat.

In the end the interpreter chose implicated assumption d) and communicated its informative intention to the defendant because it was the solution involving the least effort in processing, and hence consistent with the principle of relevance. To the interpreter, the notion of thanking the defendant was not easily retrievable in his encyclopaedic memory. According to the theory, an individual's encyclopaedic memory limits the class of potential contexts, because not all chunks are equally accessible at any given time. The interpreter was not able to easily retrieve the information on 'thanking' the defendant because, according to the practice in court, the presiding officer does not have to show appreciation of what one side has said to avoid to be seen to be taking sides.

SL 4: *The State has failed to provide evidence.*

TL 4: *Apolisi alephera kupereka umboni.*

Back translation 4: *The police have failed to provide evidence.*

It can be observed, through Back translation 4, that SL4 and TL4 match in type of speech act, illocutionary force. The interpreter changed the propositional content to come up with 'the police' instead of 'the state' as indicated in the source language utterance. Probably, the interpreter changed the propositional content in that way because, in cases involving the state, the state is represented in court by a police officer. But the two are not one and the same entity. So substituting one for the other will always result in a change in the nuance ultimately communicated. This is a misinterpretation. In this particular case, the layperson must have understood that the source language text meant that 'the police', and not 'the state', had failed to provide evidence. This is contrary to what the source language utterance purported to convey. Similar misinterpretations are rampant even in the U.S.A. Framer (2001) reports that in the state of Ohio, a court-appointed language interpreter misinterpreted parts of the court proceedings. The interpreter misinterpreted the Spanish word "vida" which means "life" as "scale". It is unexpected to have such misinterpretation in a country like U.S.A. where rules termed as 'canons' for interpreters are formulated to ensure flawless discourse interpretation. This brings to

mind the assumption that courtroom discourse interpretation can sometimes be an impediment to accurate understanding of contributions between the feuding parties in court.

This replacement of the propositional content ‘the police’ as opposed to ‘the state’ may be explained by the Relevance Theory. The interpreter made the choice to replace the content on the basis of the principle of relevance. Having assumed that the utterance (SL4) is optimally relevant to the defendant, the interpreter processed it for comprehension before interpreting it. The processing involved, among others, enrichment of the logical forms in the utterance. At the enrichment stage, the interpreter substituted ‘the state’ for ‘the police’. The non-English speaking discourse participant got the modified message (Backtranslation 4) with the police as the subject and not the state as intended by the presiding officer. The propositional content ‘police’ may make the layperson more petrified than that of ‘the state’.

SL5: *Your name?*

TL5: *Maina anu onse.*

Back translation 5: *All your names.*

Back translation 5 reveals three major changes in the original source language text (SL5). Firstly, the speech act in the source language text is a directive. The tone used when asking a question in SL5 is an illocutionary force indicating device (IFID) that gives SL5 a strong illocutionary force of a question. Questions form one category of directives. But the interpreted utterance (TL5) is an assertive owing to the omission of the IFID and has an indirect speech act of a directive. In other words, SL5 is an assertive with an indirect speech act that has a weaker illocutionary force of a directive. This means that the interpreter had not communicated all the original aspects of the utterance in SL5. Not all the message that is contained in SL5 is in TL5 and not all the message that is in TL5 originates from ST5. As evidenced from the comparison between SL5 and TL5, the courtroom discourse interpreters in Malawi do not always make a faithful rendition of the message from the source language into the target language. This finding is similar to what Moeketsi (2000) states about problems of misinterpretation in the Republic of South Africa where court language interpreters make inaccurate interpretations and show general incompetence in their work. It is a common observation to have inaccurate courtroom discourse interpretations in Malawi as well as in the Republic of South Africa.

Secondly, the propositional content has been changed from singular ‘your name?’ to plural ‘your names’. This is a drastic change in the original SL message. It may be argued that the interpreter made the change because it is understood that when someone asks your name in official settings, they want to know your first name and surname. While that is true, it is not the duty of the interpreter to change the propositional content of the SL message. The presiding officer could have made another utterance to solicit the surname if, in response to SL5, the layperson had mentioned only his first name. The addition of the propositional content brings into question the actual role of interpreters in the courtroom discourse.

Thirdly, the interpreter has added the epithet ‘all’ to the utterance to come up with the utterance ‘all your names’ from the source text ‘your name’. This is another clear case of added elements into the target language by the interpreter.

The three changes made by the interpreter have resulted in watering down of the illocutionary force of the directive that is meant for the layperson in courtroom discourse.

In Relevance Theory terms, the presiding officer provided evidence of an intention to know the identity of the witness in terms of his names. The presiding officer was as economical as possible in asking for the identity of the witness. Instead of asking “What is your name?” the presiding officer simply asked, “Your name?” by which the interpreter understood the presiding officer’s intention in making the utterance. The interpreter’s hypothesis about the implicated premise or contextual assumption that the presiding officer always asks for the names of the witness at the onset of the testimony giving. The implicated premise together with the explicit premise (SL5) made the interpreter arrive at the conclusion that the presiding officer wanted to know all the names of the interpreter. That being the case, the interpreter conveyed the message to ask the witness to say all his names (TL5 and backtranslation 5). In the end, the non-English speaking courtroom discourse participant got a modified message, not the original one which simply asked for the name of the non-English speaking discourse participant.

SL6: *The lawyer from Legal Aid hasn't come.*

TL6: *Loya wochokera ku 'Legal Aid'¹³, wa boma, sanabwere.*

Back translation 6: *The lawyer from Legal Aid, a government lawyer, hasn't come.*

The utterance by the prosecutor (SL6) is an assertive. The interpreted discourse is also an assertive. But TL6 is not a fair representation of SL6. As revealed by Backtranslation 6, the interpreter added a new propositional content to qualify the lawyer by introducing 'a government lawyer'. The interpreter took it upon himself to qualify the lawyer in question. In this way the interpreter is overstepping his mandate of rendering the SL message into TL. The interpreter should have either borrowed the English words 'legal aid' or use a description '*loya wa boma*' (a government lawyer) instead of using both borrowing and description. Usually, when a word is borrowed from one language into another, it is assumed that the word is familiar to the audience. For example, in Chichewa, a borrowed word from English such as 'table' does not need explication when used in Chichewa. By producing TL6, the interpreter, once again, is contravening the rule of courtroom interpretation which stipulates that the SL message should not be explicated. This kind of problem is attributed to general lack of awareness of the role of the courtroom discourse interpreter by participants in the courtroom discourse which is also observed in Missouri, U.S.A. by Yassundharakul (2007). Interpreters of courtroom discourse the world over are not supposed to explicate the SL message.

According to Relevance Theory, the interpreter had to go through psychological subtasks before arriving at the meaning represented by Back translation 6 which differs somewhat from the source language utterance (SL6). The interpreter made assumptions along the following lines:

- a) The utterance made by the presiding officer is optimally relevant to the defendant and to the interpreter.
- b) The presiding officer has said that the lawyer from Legal Aid hasn't come
- c) The presiding officer believes that the lawyer from the Legal Aid hasn't come.
- d) The Government lawyer from Legal Aid hasn't come.
- e) The presiding officer wants the defendant to know that the Government Lawyer hasn't come.

¹³ The term 'legal aid' has been borrowed from English into Chichewa. The interpreter retained the English pronunciation in the utterance TL6.

The implicit assumption e) is the one that the interpreter works on to convey to the defendant. In it there is an added content ‘Government Lawyer’ which has cropped up as the interpreter embarked on enrichment of the logical forms in the utterance in the source language. The interpreter effectively added some content in the TL message in order to explicate the SL message.

SL7: *Now it's time for the state to respond to what the accused has said.*

TL7: *Tsopano yakwana nthawi yoti mumve zomwe apolisi anganene zokhuzana ndi mlandu wanu.*

Back translation 7: *Now it's time for you to hear what the police may say regarding your case.*

SL7 and Back translation 7 are the same only insofar as they are both assertive. But the illocutionary point has been changed. The illocutionary point of SL7 is to draw the non-English speaking discourse participant's attention to what the state has to do, whereas the illocutionary point in Back translation 7 draws the participant's attention to what the participant has to do. In other words, the interpreter has changed the point of view of the TL7 from being the state to being the non-English speaking discourse participant. Again, the fact that the state will be ‘responding’ has been watered down to merely ‘saying’. Sometimes, as Yassundharakul (2007) states, in Missouri, U.S.A. many courtroom discourse interpreters misinterpret due to failure to find the right words to be used in the TL message. This, apparently, is the problem faced by the interpreter in relaying the message of SL7 into TL7. It is often hard for many courtroom discourse interpreters to find the right words on the spot in consecutive interpretation. One interpreter, in fact, complained that the High Court officials expect them to do the impossible – to make an accurate spontaneous interpretation – when the judge took days or even weeks to prepare his/her judgement in the convenience of his/her office.

Looking at the interpretation of the SL7 in terms of Relevance Theory, one may observe that the changes brought about in TL7 are as a result of the cognitive processes carried out by the interpreter as he endeavoured to comprehend the utterance. The interpreter deciphered the

explicit assumption 7 a) below and considered it together with the implicit assumption 7 b) to come up with the understanding represented by Backtranslation 7.

7a) The presiding officer said that now it's time for the state to respond to what the accused has said.

7b) When the state responds to what the accused said it is time for the accused to listen attentively.

Through the sub-task of disambiguation, the interpreter arrived at the decision that the state stood for the police and through enrichment, the interpreter deduced that the police were going to say things regarding the case in which the accused was implicated. After processing utterance SL7 for comprehension, the interpreter selected the most relevant contextual conclusion deducible from input and context together (Back translation 7).

It is also interesting to note that the interpreter consistently substitutes 'the state' for 'the police'. This kind of substitution has also been made in interpretation of SL4.

SL8: I wonder if the petitioner has brought any witness.

TL8: Sindikudziwa ngati amayi inu mwabweretsa mboni.

Back translation 8: I wonder if you, madam, have brought a witness.

The interpreter has changed the point of view from third person 'the petitioner' to second person 'you madam' in rendering the utterance from SL to TL. In so doing, the interpreter has introduced new propositional content into the utterance. This change in propositional content and point of view makes one wonder what the exact role of the interpreter is in courtroom discourse in Malawi. Does the language interpreter have the power to introduce new elements in courtroom discourse? It appears courtroom discourse interpretation will always have instances of inaccuracy like what is observed between SL8 and TL8. Yassundharakul (2007) gives the reason as she sums up a comment by one courtroom discourse interpreter who confessed that it was often difficult to interpret without adding anything or changing the meaning because, in the course of interpreting, one adds one's own filters without realising it. May be the difference

between the messages of SL8 and TL8 are due to the filters added by the interpreter. Whatever the cause for the difference, the final message in the target language is a departure from the source language message. Changing the message is not part of the objectives of interpretation.

The change in the point of view may be explained in terms of Relevance Theory. The theory states that people engage themselves in cognitive sub-tasks to comprehend any piece of communication. This means that to understand the utterance SL8, the interpreter had to go through, among other sub-tasks, the sub-tasks of reference resolution and disambiguation and other pragmatic enrichment processes. In disambiguation, ‘the petitioner’ was substituted for ‘you madam’. This brings about a change in the point of view from third person in the SL message to the second person in the TL message.

SL9: *We heard evidence from the complainant.*

TL9: *Tidamva umboni wa abambowo.*

Back translation 9: *We heard evidence from that man.*

In SL9, the utterance is assertive, just like the translated version in Chichewa (TL9). But on closer look one observes that despite the two being assertive, TL9 has propositional content that is alien to SL9. The propositional content represented by ‘the complainant’ in the source language has been replaced by ‘that man’ in the target language. In absence of illocutionary force indicating devices such as a finger pointer, the propositional content ‘that man’ could, in the understanding of the layperson, refer to any other man present in the courtroom on the day. The two propositional elements are crucial to the understanding of the whole utterance. This change in propositional content may change the direction of the narrative of the layperson participating in courtroom discourse. Since all proficient language users have the ability to use the context in order to speak and understand discourse that is unfolding (Chimombo and Roseberry 1998), the understanding of the interpreted message would be determined by the context in the courtroom at the time of making the utterance SL9.

The change that has come about in the course of interpretation of SL9 may be difficult to explain in ordinary terms. But in terms of Relevance Theory, the change can be explained as a result of

cognitive processes that the interpreter went through in trying to understand the utterance SL9. The interpreter, among other sub-tasks, enriched the explicit content of the logical forms of the utterance and came to the conclusion that ‘the complainant’ was ‘the man’ who had just resumed his seat after giving evidence in the court. The most relevant interpretation of the utterance was therefore the one represented by Back translation 9. In this case there is also a change in the point of view of the interpreted message.

SL10: *Have you got any comment on what the prosecutor has said?*

TL10: *Muli ndi zokambapo pa zomwe oimira boma anena? Mwina akukumbutsani zina zake.*

Back translation 10: *Have you got any comment on what the prosecutor has said?
Perhaps he has reminded you of some things.*

Drastic changes have been made to the utterance (SL10) in the course of language interpretation. The utterance in the source language is a directive that has come in a form of a question. The utterance in the target language (TL10) is in two segments – a directive which is also a question and an assertive. The assertive bit is the interpreter’s own creation. The interpreter has created new discourse meant for the layperson who does not understand the language of the Law in Malawi. The presiding officer let the interpreter go scot-free after making this addition. One may think that it is mutually understood between interpreters and presiding officers that interpreters can introduce new propositional content to explain the SL utterance during the interpretation. But the main problem is summarised by Moeketsi’s (2000) observation that most of the problems of misinterpretation arise due to a misunderstanding of the role of the interpreter by the law practitioners, other court personnel, the accused persons as well as witnesses. There is need to redefine the role of the interpreter in non-traditional court in Malawi.

The interpreter may be seen as subtly pressurising the defendant to say something in his defence. But this can, perhaps, be seen differently if considered in terms of Relevance Theory. The utterance (SL10) by the presiding officer may be considered as an input which was relevant to the interpreter. An input is relevant to an individual when it connects with background information the individual has to yield conclusions that matter to him. The utterance (SL10)

connected with the interpreter's earlier experience that defendants often get reminded about important aspects of their cases after the prosecutor has made his submission in court. Seeing that the defendant had apparently not said much, the interpreter took it upon himself to hint that what the prosecutor had said had the possibility of reminding him of something to say in court. The hint was manifested in the interpreter's addition to the utterance in source language. This means that, to the interpreter, the SL utterance meant more than what was actually said (Levinson 1983). In other words, the interpreter deciphered the implicature kind of meaning in SL10 to come up with the additional segment in TL10.

SL11: *Is that all?*

TL11: *Basi ndi zomwezo? Mfundo zomwe mumafuna kunena ndi zomwezo?*

Back translation 11: *Is that all? Are these the only points you wanted to make?*

On face value, the interpretation represented by Back translation 11 shows that there is an addition made by the interpreter which does not originate from the source text. The SL has one stretch of discourse whereas the interpretation has two. This shows that the interpreter has added a stretch of discourse of his/her own. It is interesting to note that the additional stretch of discourse has even more content than the one originally uttered in SL. The propositional content of the utterance added by the interpreter is an explanation of the first utterance. From this interpretation one may think that the interpreter is mandated to explicate the source language utterance.

Looking at the interpretation from the point of view of Relevance Theory, the interpreter had to go through cognitive sub-tasks to understand SL11 before interpreting it for the defendant. One of the sub-tasks was to assign a referent to the reference 'that'. The reference stood for what the defendant had just said. The other sub-task was to enrich the logical form 'all'. In enriching the logical form, the interpreter arrived at the conclusion that the logical form 'all' be enriched to 'all the points that the defendant wanted to make'. And so in his interpretation of SL11, the interpreter added a chunk of the enrichment of the logical form. This corroborates Framer (2001) who asserts that some courtroom discourse interpreters act as advocates for one or other party and explain in their own words the SL text and yet other interpreters use wrong terminology,

which leads to wrong impressions by judges and juries. In this case, the interpreter was acting as an advocate by expounding the message in SL11 instead of just interpreting it.

SL12: *You are being tried in a case of burglary.*

TL12: *Mukuimbidwa mulandu wothyola nyumba usiku.*

Back translation 12: *You are being tried in a case of night burglary.*

In this utterance, it is evident that the interpreter added a propositional content alien to the utterance in source text. The propositional content ‘night’ is not part of the SL utterance. This addition of content by the interpreter is crucial. This may change the narrative of the defendant in a crucial way. Apart from that, the additional content may make the defendant think that the court is not sincere as it can add bits of information to frame the defendant. Surprisingly, the presiding officer did not make any attempt to alert the interpreter of his mistake. This addition of the ‘night’ in the interpreted message disoriented the defendant as he presented his narrative as it was a new element in the story. As it is reported by Schmitt and Shanker in “The New York Times” of October 7, 2003, the Arabic interpreters at a military prison at Guantanamo Bay in Cuba deliberately misinterpreted interrogators’ questions and prisoners’ answers when Al Qaeda and Taliban prisoners were being interrogated. Similarly, the interpreter in the High Court of Malawi may have deliberately misinterpreted the utterance SL12 to disorient the defendant. A similar incident of deliberate misinterpretation is reported in South Africa by Wallmach (2000) who cites an example involving an interpreter who was imprisoned for deliberately misinterpreting to put his clients in a favourable position.

The interpretation of SL12 considered in terms of Relevance Theory would perhaps be explained differently. The interpreter regarded SL12 as a clue to the prosecutor’s meaning. Guided by his expectations of relevance, and using contextual assumptions made accessible by the encyclopaedic entry of the linguistically encoded concept cases of burglary, the interpreter starts deriving cognitive effects. The cognitive effect that satisfies his expectations of relevance is that of ‘night burglary’. The interpreter’s processing of the meaning of SL12 stops at this and he then proceeds to render the meaning into the target language to yield TL12. It can perhaps be explained that the added concept of ‘night burglary’ has come out in TL12 as part of the

retrievable encyclopaedic assumptions about burglaries. All the same, if the defendant carried out the burglary during day, then the utterance would have conveyed a different impression and attitude unlike if the interpreter had not introduced the issue of ‘night burglary’.

SL13: *Do you appreciate the charges levelled against you?*

TL13: *Mukukhutitsidwa ndi mulandu womwe mukuimbidwa?*

Back translation 13: *Are you satisfied with the charges levelled against you?*

The interpreter has changed the first part of the utterance in SL13. The propositional content of the first part of the utterance has to do with whether the defendant ‘understands’ the charges being levelled against him. But the interpreter misunderstood the meaning and interpreted it as ‘being satisfied’ with the charges, which is nowhere near the original meaning in SL text. This twist in the interpreted meaning may bring about the change in the narrative presented by the defendant, to whom the utterance was being addressed. This misinterpretation may have come about as a result of linguistic incompetence on the part of the interpreter. A related incident of misinterpretation due to linguistic incompetence is reported by Thirumalai (2003). This was a case involving a lecturer at Delhi University and two others accused in a parliament attack case. In that case, the university lecturer was wrongly accused following the incorrect interpretation of the telephone conversation that he had with other two people. He was wrongly accused because the interpreter did not have a full command of the suprasegmental aspect of the Kashmiri language used by the accused when he was speaking with the two people. This means that some court interpreters make mistakes due to linguistic incompetence.

The reasons for the change observed in TL13 may be clarified in terms of Relevance Theory. The interpreter may be seen as using the relevance theoretical comprehension procedure to construct hypotheses about the meaning of TL13. One of the sub-tasks that the interpreter went through was to disambiguate the logical form uttered by the presiding officer. In disambiguating the form ‘appreciate’ the interpreter had to consider the following meanings, among others:

- (a) realise
- (b) be satisfied with
- (c) be conscious of

Finally, the meaning that satisfied the interpreter's expectation of relevance was (b). Therefore, in rendering the utterance in Chichewa, the interpreter imparted the meaning that had to do with being satisfied with the charges (Back translation 13). Yet this is not exactly what is contained in the SL message. The interpreter changed the message that was finally delivered to the non-English speaking discourse participant.

SL14: *That's all from the court.*

TL14: *Basi. Zomwe bwalo limafuna ndi zomwezi. Mutha kukhala.*

Back translation 14: *That's all the court wanted. You may sit.*

A comparison between SL14 and Back translation 14 reveals a stark difference between the two. In Speech Act Theory, SL14 is exclusively an assertive. The Back translation contains both an assertive and a directive. The directive is an addition of the interpreter's own making. The added directive shows that the interpreter usurps some power to create some discourse in the courtroom. The addition of a speech act by the interpreter reveals a certain kind of power relations existing in the courtroom between the interpreter and the presiding officer and between the interpreter and the lay-person being addressed. Being the one who calls the shots in the courtroom the presiding officer is the most powerful in the courtroom. The interpreter is less powerful than the presiding officer but certainly more powerful than the layperson. In usurping powers in courtroom, the interpreter produces the additional piece of discourse, to give a directive. The directive given is of the weakest illocutionary force – a request – to make the layperson resume their seat. A command would perhaps be too presumptuous and could attract some admonishment from the presiding officer. The layperson is the most vulnerable in this situation. He/she is the ultimate object of all the speech acts made by the presiding officer as well as the usurped ones by the interpreter.

This shows that the role of the interpreter is not very clear in the High Court of Malawi. If the interpreter has the power to make the courtroom discourse participant resume their seat, it means the interpreter does more than interpret and oversteps his boundary to embark on legal procedures. Yet the interpreter is assumed to be a language expert and not a legal expert. The presiding officer allowed the interpreter to act like a discourse producer by letting him add to the

SL message to tell the layperson to resume their seat. One may argue that it is an expected norm that after a particular section of the court proceedings, a witness is expected to resume their seat. While that may be true, it should be the presiding officer producing the discourse that should be interpreted to ask the witness to resume their seat, not the interpreter jumping in to produce propositional content which is not present in SL. This means the role of the interpreter is not very clear. Yassundharakul (2007) also observes that the role of the courtroom discourse interpreter in Missouri, U.S.A. is not clear to all court officials. If the role of the interpreter is not clear, and he is allowed to usurp some powers during courtroom proceedings, then the justice system is not in safe hands.

In terms of Relevance Theory, the ostensive communication produced by the presiding officer in the utterance SL14 was processed by the interpreter to arrive at the following assumptions:

- a) The presiding officer's utterance is optimally relevant to the defendant
- b) The presiding officer has said that that is all from the court.
- c) The presiding officer believes that the court is through with questions put to the defendant.
- d) The court has no more questions to ask the defendant.
- e) The presiding officer wants the defendant to know that the court has no more questions to ask and the defendant can resume his seat.

The interpreter has finally inferred the assumption e) and makes an ostensive communication of it in Chichewa in TL14 (Backtranslation 14) to relay the information to the defendant. The ultimate propositional form conveyed by the interpreter is different from the one produced in the source language. On comparing the utterance SL14 with the Backtranslation 14, one cannot fail to notice that SL14 is much shorter than its backtranslation. This is not unexpected, because, according to Relevance Theory, people tend to be as economical as they possibly can be in communicating to others. The interpreter wanted to clarify the short message in SL14. Yet, in trying to clarify the SL message, the interpreter is guilty of adding content that is not present in SL message.

SL15: *Sorry that I have not brought the new charge sheet.*

TL15: *Pepani kuti sindinabweretse mwansanga chi pepala chotsegulira mulandu.*

Back translation 15: *Sorry that I have not brought the charge sheet quickly.*

In Speech Act Theory, the utterance SL15 is an expressive. The derived Chichewa version TL 15 is also an expressive. On the basis of speech acts, the interpreter has been faithful in rendering the illocutionary act. But in terms of propositional content, it is evident, through back translation 15, that the content has changed. The propositional content represented by ‘new’ is omitted in TL15. Instead, a new propositional content ‘quickly’ is introduced in TL15. Although the utterance has remained an expressive, the contents of SL15 have been altered in TL15. The message has not been conveyed faithfully from SL15 to TL15. It appears difficult to always have a faithful rendition of the message of the SL into the TL. As reported by Framer (2001), omissions of sections of the message in TL may lead to having the layperson unjustly sentenced to a jail term.¹⁴

In Relevance Theory, by producing the utterance SL15, the presiding officer had produced a case of ostensive communication. The interpreter engaged in inferential subtasks to uncover the informative intention which might have included the following assumptions:

- a) The presiding officer’s utterance is optimally relevant to the defendant
- b) The presiding officer has said that he is sorry that he has not brought the new charge sheet.
- c) The interpreter believes that the presiding officer is sorry that he has not brought quickly the charge sheet.
- d) The presiding officer is sorry for not bringing the charge sheet quickly.
- e) The presiding officer wants the defendant to know that he (the presiding officer) is sorry for not bringing the charge sheet quickly.

The assumption e) which is the one relayed to the defendant, is not a development of one of the logical forms encoded by the utterance SL15. It is constructed on the basis of contextual

¹⁴ See the issue of a Hunduran man on page 40.

information, and in particular, by developing assumption schemas retrieved from the interpreter's encyclopaedic memory.

According to Relevance Theory, the interpreter chose the solution that involved the least effort in processing and abandoned the qualifier 'new' because, according to the interpreter it failed to yield meaning consistent with the principle of relevance. In so doing, the interpreter missed the right informative intention of the presiding officer in the course of enrichment of the qualifier for 'charge sheet'.

The issue of the 'new' charge sheet is vital in SL15, but unfortunately it drops by the wayside in the course of interpretation. If the defendant was looking forward to being tried based on the new charge sheet he/she would feel disappointed thinking that he/she was being tried using the old charge sheet. This would, consequently, influence his/her thinking and his/her participation in the courtroom discourse. The interpreter is, in this way, responsible for any departure from the original thinking of the layperson in his/her subsequent contributions to the court narrative.

SL16: *The accused has pleaded guilty*

TL16: *Inu oimbidwa mulandu mwavomera kuti ndinu olakwa pa mulandu umene inu muli kuzengedwa*

Back translation 16: *You, the accused, have pleaded guilty to the charge levelled against you*

The utterance by the presiding officer, SL16, is third person. But Back translation 16 reveals that the interpreted utterance is in second person. There is a blatant change in point of view, although, in Speech Act Theory, both utterances have an assertive illocutionary force. Apart from the change in point of view, the interpreter has added new propositional content to the utterance conveyed in his interpretation. The content 'to the charges levelled against you' is left out in the source language utterance, perhaps because it is an obvious bit. But still, we are left wondering why there is the change in point of view. This is a crude departure from the source language message. It is not an isolated case of misinterpretation. Framer (2001) reports that in the United States of America, instances of misinterpretation are rampant in many courts of law, despite

there being a professional code of ethics and practice for all interpreters in all state and federal courts.

In Relevance Theory, the ostensive communication made by the presiding officer in the utterance SL16 was processed by engaging in inferential sub-tasks that made the interpreter change the point of view as well as add some content.

The informative intention of the utterance may include the following assumptions:

- a) The utterance SL16 is optimally relevant to the accused person.
- b) The presiding officer has said that the accused person has pleaded guilty.
- c) The presiding officer believes that the accused, person standing in this court now, has pleaded guilty to the charge levelled against him.
- d) The presiding officer wants the accused person, standing in this court now, to know that he, the presiding officer, has known that the accused person has pleaded guilty to the charges levelled against him.

The interpreter, having gone through the inferential sub-tasks, and, realising that the addressee was right in front of him, worked out an interpretation (TL16) to address the accused person in a more economical way by using the second person point of view, as opposed to the third person point of view in SL16. This removes the formulaic use of the third person used by the presiding officer. The Back translation also reveals another difference in the addition of the content 'to the charges levelled against you'. This content has been added in the process of enrichment of one the logical forms encoded by utterance SL16. Obviously, the impact of the message of SL16 would be different from that solicited by the TL16.

The analysis and discussion of some observed real-time courtroom discourse interpretation has revealed that there are a lot of changes made to the SL messages. The implication is that the interpreter may be seen to be influencing the court proceedings in his own way.

4.4.1 How Misinterpretations are Remedied

The issue of accuracy in meaning is paramount in courtroom discourse. The message in source text has to be accurately rendered into target language text. With this perspective in focus, the study attempted to establish what is done as remedy for the misinterpretations. Table 4 presents the responses of interpreters in the sample regarding the corrective measures taken against courtroom discourse misinterpretations.

Table 4: Remedy for Misinterpretation

		Remedy for Misinterpretation					Total
		Ask speaker to repeat utterance	Consult after proceedings	I remind myself for future proceedings	I just proceed	I repeat differently to correct mistake	
Sometimes Interpreter misinterprets?	Yes	6	7	1	4	2	20
	No	1	1				2
Total		7	8	1	4	2	22

Table 4 shows that a total of 20 (90.9%) interpreters who responded to the questionnaire conceded that they sometimes make mistakes as they interpret courtroom discourse. Only 2 (9.1%) indicated that they do not make mistakes when interpreting courtroom discourse. This implies that, because a large percentage of respondents indicate that they make mistakes in interpretation, mistakes abound in courtroom discourse interpretation in Malawian non-traditional courts. Mistakes in interpretation mean that there are bound to be discrepancies in meaning between the SL text and the TL text.

Among the 20 who indicated that they make mistakes, 6 (30%) said that they ask the one speaking to repeat the utterance so that they can recollect themselves and come up with a better interpretation. The actions of the 6 are similar to the 2 who repeat differently to correct the mistake. But the repetition can be done only when the interpreter has realised his/her mistake. Otherwise there is a chance that the mistake would go uncorrected. 7 interpreters (35% of the 20) said they consult others after the court proceedings are over. Only 1 (5% of the 20) said that they remind themselves so that they do not repeat the mistake in future. Their aim is to learn from the

mistake and avoid committing the same mistake in future. But for the case at hand it means there is no remedy. The misinterpretation is bound to go into the report book and would be used to make judgement of the case. Interestingly, another 4 interpreters (accounting for 20% of the 20) indicated that they just proceed as if nothing wrong had happened. This group of 4 interpreters accounts for 18% of the whole group of 22 and this is a significant portion of the interpreters in the sample. This calls for action to put a stop to this indifference. Moreover, there are 7 others who consult after the proceedings and 1 who reminds him/herself of the mistake to avoid repeating it in future. In total the 7 plus 1 account for another 36.3% of the total number of the respondents in the sample (31.8% plus 4.5%). The effects of consulting after the proceedings and reminding oneself about the mistake in future are the same as just proceeding with the interpretation as if no mistake had been made. Effectively, those who do nothing about the mistake comprise 18.2% plus the 36.3% making a total of 54.5% of the total number of respondents in the sample. This adds weight to the call for action by those in authority to minimise mistakes in interpretation.

According to all interviewees in the sample, interpreters make mistakes as they render the courtroom message from the SL to the TL. This corroborates the findings made through the questionnaire presented in table 4 above. One interviewee remarked that the interpreters' difficulties were evident through the interpreters' hesitations when they interpreted some sections of the courtroom discourse. He went on to say that in some instances, the interpreter would evidently impart the wrong meaning of the discourse, leading to observable discrepancies between the SL text and the TL text. He continued that such were some of the instances in which the presiding officer would correct the interpreter. He, however, lamented that sometimes the mistakes in interpretation go uncorrected.

My observation of real-time courtroom discourse interpretation gave me the impression that presiding officers let the interpreters do more than interpret. The presiding officers allow the interpreters to explicate the source language message or even explain the court procedures to the lay-person. I think this is why, in most cases, the presiding officers do not attempt to correct the interpreter when he acts or speaks in a way that would exert his extraneous influence on the court proceedings.

Another interviewee contended that sometimes it is the lawyer representing someone in court, not the presiding officer, who corrects the interpreters. They correct the wrong interpretation right away in court so that the wrong meaning should not be recorded by the court reporter. The interviewee also remarked that sometimes the presiding officer would adjourn the case in order to help the interpreter with interpretation of the case.

Yet another interviewee indicated that one major source of misinterpretation is the use of proverbs. He said interpretation of proverbs becomes problematic because the sense in proverbs is obscure. The interpreter is also discouraged from using proverbs for the same reason. My observation is that the banning of proverbs and other figures of speech in the High Court runs counter to the usual discourse practice of most Malawians. This may add to the confusion among lay-persons who, for the first time, find themselves contributing to courtroom discourse in pursuit of justice.¹⁵

4.5 Attitude towards Courtroom Discourse Interpretation

The study was also interested in finding out the attitude of interpreters and court officers towards the role of interpretation in the courtroom proceedings. The study used a questionnaire and interviews to find out the attitude of courtroom presiding officers, court reporters and interpreters themselves towards the process of courtroom discourse interpretation. Table 5 and Table 6 present the questionnaire findings regarding attitude towards courtroom discourse interpretation.

Table 5 has documented responses from 20 interpreters in the sample. It presents a cross-tabulation of whether interpreters get corrected as they interpret against how they feel when they are corrected.

¹⁵ The banning of figures of speech is in sharp contrast with the practice in traditional court settings, where the participants prepare to out-do one another using figures of speech.

Table 5: Presiding Officer Correct Interpreters and How Interpreters Feel

		How they feel when corrected		Total
		I feel humiliated	It's okay	
Do they get corrected in the process?	Always		4	4
	Sometimes	6	3	9
	Rarely	2	5	7
Total		8	12	20

2 out of the 22 interpreters in the sample abstained from indicating their responses on whether they are corrected in the course of interpreting and their attitude towards their being corrected. The table depicts an analysis of how often interpreters are corrected and how the interpreters feel when they are corrected by others in the course of doing their job.

According to Table 5, 12 (60%) interpreters of the 20 interpreters who indicated that they get corrected, indicated that they do not mind being corrected by anyone in the course of doing their work. Only 8 (40% of the 20) said that they feel humiliated to be corrected in the course of doing their work.

Among the 12 who do not mind being corrected, 4 (33.3%) said they are always corrected when they make mistakes in the course of interpretation. 3 of them (25%) said they are sometimes corrected when they make interpretation mistakes while 5 (41.7%) said they are rarely corrected when they make mistakes. To these 12 interpreters (60%), being corrected in front of other people is not an issue. One may wonder why interpreters should not be concerned that their incompetence is being exposed in public. The majority of interpreters are resigned to their fate of incompetence and they just accept whatever befalls them as a result of such incompetence. They have accepted their shortcomings and do not mind to have their pride hurt in public as they are being corrected in their own area of specialty by the presiding judge who is a lawyer by profession.

As for the 8 (40% of the 20) who feel humiliated to be corrected, 6 (75%) said they are sometimes corrected while only 2 (25%) said they are rarely corrected. A bigger proportion of this group concedes that they are sometimes corrected. With being corrected comes humiliation. This implies that there is a high likelihood of the interpreters being humiliated in the course of doing their job and this is not good for their self-esteem. From a group of interpreters that have a low self-esteem the judiciary cannot get the best interpretation services. To correct matters, interpreters need to have confidence in themselves. The confidence can be instilled in the interpreters if they are trained appropriately and adequately for their job.

Table 6 presents the findings on whether the interpreters feel interpretation helps positively or negatively.

Table 6: Importance of Interpretation

		How Interpretation Helps			Total
		Positively	Negatively	Sometimes positively sometimes negatively	
Interpretation Confuses Court Users	Agree strongly			6	6
	Agree Slightly	4		7	11
	Neither agree nor disagree	1	1		2
	Disagree strongly	2			2
Total		7	1	13	21

1 interpreter from the sample of 22 interpreters abstained from giving his/her responses on whether interpretation confuses court users and how, in general, interpretation helps.

On the one hand, according to Table 6, a few interpreters totaling 7 (33.3%) indicated that interpretation contributes positively to the courtroom discourse. This was echoed by one interviewee who said that interpretation helps the layperson who is not conversant with the language of the non-traditional courts to follow and participate in the courtroom discourse. Only 1 (4.8%) respondent of the questionnaire declared categorically that the interpretation affects the courtroom discourse negatively. But 13, (61.9%) of the respondents contended that interpretation affects court users both positively and negatively. Interpretation was said to affect laypersons positively when it conveyed faithfully the SL message into TL and it was seen as affecting the laypersons negatively when it failed to convey correctly the SL message into TL.

On the other hand, all the respondents that were interviewed reiterated that interpretation is a necessary intervention in courtroom discourse. They also said interpretation helps people who are not conversant with the language of the court to know what is going on in the courtroom during trial. However, the views of some of the interviewees were that interpretation affects non-English speaking participating in courtroom discourse positively as well as negatively, corroborating the sentiments of interpreters themselves presented in Table 6.

One interviewee remarked that interpretation affects the non-English speaking court users negatively if the interpreter is incompetent. Another respondent remarked that interpretation affects non-English speaking court users in a big way that affects their fate by changing the direction of the narrative in the courtroom. Yet another interviewee said that sometimes court users resort to appealing when they are not satisfied with the judgement that is arrived at due to poor interpretation. One respondent recalled that some interpreters were moved out of the court because they were failing to interpret. This comment corroborates Kishindo (2001) who observes that in a high profile case of murder involving Malawian politicians, an interpreter had to be withdrawn for clear instances of misinterpretation. Yet, oblivious of this fact, the non-traditional courts sometimes use anyone on sight to interpret. This statement is being made in the light of the comment by one interviewee who said that any person working or available at the court can and do interpret, including administrators. This comment shows that, contrary to the findings of the study, interpretation is taken as a simple task that does not require any training at all. The courtroom discourse interpretation process and the interpreter are regarded with too much

simplicity by different stakeholders. The underlying attitude towards the interpreter is summed up correctly by Berk-Seligson (2002:2):

...court personnel assume that the interpreter is nothing short of a machine that converts the English speech of attorneys, judges and English-speaking witnesses into mother-tongue of the non-English speaking defendant or witness, and the foreign language testimony of non-English speaking witnesses into English for the benefit of the court...

But contrary to that assumption, the interpreter in non-traditional courts in Malawi is not as infallible as it is generally assumed by most court users and court officials.

In fact, this study has revealed that interpretation confuses court users as evidenced in Table 6 above. Asked whether interpretation confuses the laypersons in court, a total of 6 making 28.6% of the respondents who responded to the questionnaire strongly agreed that interpretation confuses court users during courtroom discourse. Also 11 (52.4%), agreed slightly that interpretation confuses court users. Cumulatively, 17 (81%) of the respondents, agreed that interpretation confuses court users. Naturally, one speaks continuously until one comes to the end of their argument. But with interpretation, the speaker has to make pauses when they are itching to push home a point to support their case. To many, participating in courtroom discourse is confusing or challenging, especially when they take part in such discourse for the first time. They have to learn how to make calculated pauses as they speak and resist the urge to say out their side of the story in one complete chunk. The pauses just work against normal flow of discourse.

Only 1 (4.8%) respondent neither agreed nor disagreed to the statement that interpretation confuses court users. But 2 (9.5%) respondents of the questionnaire disagreed categorically to the statement. However, this 2 (9.5%) is a smaller portion of the total number of the respondents compared to the 6 (28.6%) who agreed strongly to the statement that interpretation confuses court users. Moreover, there is a group of 11 respondents who agree slightly to the statement that

interpretation confuses court users, thereby adding substance to the conclusion that interpretation confuses court users.

One court user who came to tender evidence in court was interviewed after court proceedings. The interviewee indicated that court language interpretation is a necessary process insofar as it helps the people who do not understand English to follow court proceedings. But he said that personally, he felt that the lay people's speeches were artificially broken into chunks when one would normally make a continuous speech. He said that the pauses made one lose their train of thought. Another court user who was the complainant remarked that courtroom discourse interpretation is a useful process. He said that without interpretation it would be impossible to understand what the presiding officer said in court as many Malawians are not able to understand the language of the Law.

This was echoed by another interviewee who remarked that interpretation can contribute negatively to the court proceedings if the interpreter is bad at his/her job. It can contribute positively if the interpreter is doing a good job. It can be said that interpretation can be a blessing or a curse to courtroom proceedings depending on the efficiency and accuracy of the interpreter.

4.6 CHAPTER SUMMARY

This chapter has presented and discussed the data collected by using three complementary tools: the questionnaire, an interview schedule and observation of real time courtroom discourse.

The findings revealed that the High Court of Malawi has more female than male interpreters. Most of the interpreters are aged below 35 years and the majority have attained Malawi School Certificate of Education. Despite having MSCE, they have no professional training to make them work efficiently as courtroom discourse interpreters. What a few of them boast of is an orientation or official court interpreter induction which lasted between three weeks and three months only.

Although the interpreters are not adequately trained, the results have shown that they do not prepare for their work, increasing chances of errors in their rendition of the SL message. In fact, all the interpreters encounter language problems as they interpret the source language message into the TL. This is due to lack of proper training, coupled with the fact that some interpreters find themselves working in languages that they are not fluent in.

The chapter also discussed the discrepancies observed in the target language messages as compared to the SL messages. In many cases, the interpreter changed the SL message through additions and omissions of some propositional content, resulting in change of the original speech act. In other cases, the interpreter changed the point of view of the message. The chapter has also attempted to explain the reasons for the changes in the source language messages. In most cases, the interpreter conveyed the message that had more relevance to him.

Interestingly, most of the findings discussed in this chapter have corroborated findings of other researchers outside Malawi.

CHAPTER FIVE

CONCLUSION AND AREAS OF FURTHER STUDY

5.0 CHAPTER OVERVIEW

This chapter concludes the study by stating the findings made using the questionnaire, interviews and observation of real-time courtroom discourse. The findings are presented in terms of how interpreters in Malawi prepare for their job; the discourse meaning captured and imparted by the interpreters; and the attitude of court users and court officials towards discourse interpretation in the courtroom. The chapter also makes suggestions for areas of further study.

5.1 CONCLUSION

The study set out to find out some recurrent challenges besetting courtroom discourse interpretation in Malawi. The analysis of the findings obtained through questionnaire, interview and observation of courtroom discourse has revealed some interesting aspects of courtroom discourse interpretation in the Malawian non-traditional courts of Law.

The demographic characteristics of respondents show that the majority (68%) of the interpreters in the sample had MSCE as highest academic qualification. As for professional qualifications, the majority (55%) had only received orientation training of a period ranging from three weeks to three months. Worse still, another big group (41%) had received no professional training or induction of any sort. The study recommends that the non-traditional courts in Malawi should stop using untrained staff including messengers to work as discourse interpreters.

In terms of age, the interpreters in the sample ranged from below 20 to 45 years. The interpreters are of trainable age since none of them is aged above 50 years which is the cut off point for training government employees in the public service. The academic qualification of MSCE, which the majority has, is also the threshold qualification for most professional trainings in Malawi. The study recommends that the Judiciary should mount an appropriate in-service

training for the courtroom discourse interpreters working in non-traditional courts in Malawi. The study also recommends that the University of Malawi should institute a degree programme for courtroom discourse interpretation. This is the level of training which discourse interpreters undergo in developed countries like United States of America (Ivanichvili, 2003).

The study has established that most of the interpreters (72.7%) do not make a deliberate effort to prepare for the discourse interpretation in court, although some find themselves interpreting in languages that they are not very fluent in. This problem, coupled with poor training, increases the likelihood of misinterpretation of the courtroom proceedings.

The study has also established that, with the given circumstances, the interpreters sometimes have problems interpreting the ST messages during court proceedings. All interpreters who responded to the questionnaire indicated, unequivocally, that they find problems as they interpret courtroom discourse. The court officers who were interviewed corroborated with the interpreters in saying that the interpreters face challenges in interpreting courtroom discourse. The interview with court officers also divulged that some interpreters had been redeployed away from discourse interpretation duties because they were failing to interpret accurately.

The most difficult cases to interpret were cases in which a lot of legal terms were used and those that involved sexual offences. Legal terms posed a lot of difficulties to the interpreters because they were not familiar with the legal language. On the other hand, sexual offence cases were difficult for the interpreters because the court requires that every word be mentioned in the local language, including words referring to human sexual organs and the sexual act itself. Mentioning human sexual reproductive organs is taboo in many Malawian societies.

Instead of helping the layperson who does not understand English participate in courtroom discourse as if there is no language barrier between him and the presiding officer, the interpreter sometimes distorts the SL message. Just like a referee's mistakes influence the rhythm and final result of a football game, the court language interpreter's mistakes can influence the direction of the narrative of the layperson who requires discourse interpretation and, ultimately, the judgement of the case at hand. It is high time Malawi, as a nation, realised such effects of language interpretation during courtroom proceedings. Considering the implications of the

current situation of using untrained interpreters who are not always fluent in the languages that they interpret into and from, this study recommends that authorities in the Judiciary Department and institutions of higher learning should plan and implement a strategy that will curb the misinterpretations in the non-traditional courts.

5.2 AREAS OF FURTHER STUDY

The study observed that Presiding Officers somehow allowed the interpreters to go out of the bounds of interpretation and explicate the SL message. This freedom was sometimes usurped to introduce new content in the TL message. This is tantamount to altering the courtroom proceedings. In view of this, the study speculates that the interpreters do a little more than what they should in the course of interpreting courtroom discourse because of the way presiding officers respond to the interpreters on duty. It would be interesting to come up with a study that would explore the working relationship between the courtroom discourse interpreters and the presiding officers in the non-traditional courts in Malawi.

Alternatively, to circumvent the problems that come with courtroom discourse interpretation, a study exploring the viability of adopting the use of Malawian languages in all the Courts of Law in Malawi should be conducted. If the option to use Malawian languages proves to be viable, it will entail a complete paradigm shift in that the law itself will have to be written in Malawian languages. This is an idea that, for now, seems far-fetched, but it is worth exploring. The onus is on the legal fraternity in Malawi to appreciate the gravity of the misinterpretations and move to collaborate with language experts to address the situation.

Most of the interpretation problems emanate from lack of training for the interpreters. This implies that there is a knowledge and skills gap to be addressed in order to improve the performance of courtroom discourse interpreters in Malawi. It might be worthwhile to conduct a study to establish the viability of instituting university degree level training for court interpreters at the University of Malawi like what happens in countries such as South Africa and United States of America. Otherwise the dispensation of justice will continue to be impeded in cases where the defendant or the complainant does not speak and understand English which is the

language of Law in Malawi. The University of Malawi, particularly Chancellor College, is probably the best institution to come up with the degree training programme for court language interpreters. This suggestion is being made in view of the substantive work already pioneered by the Faculty of Humanities at Chancellor College such as the ground breaking write-up on courtroom discourse undertaken and published by Professor Pascal Kishindo as well as his involvement in training court language interpreters at Staff Development Institute in Mpemba. The certificate course for interpreters mounted by the Faculty of Humanities spearheaded by Sydney Kankuzi also adds to the reasons why the degree course can easily be run at Chancellor College¹⁶. The experiences and knowledge derived from these important initiatives can inform subsequent processes such as curriculum development for the degree programme.

The other implication is that court interpretation should be taken as a profession in its own right and the non-traditional courts in Malawi should employ interpreters with at least a university degree.

5.3 CHAPTER SUMMARY

The chapter has asserted that courtroom discourse interpretation in the non-traditional courts of Malawi is problematic in many ways. Some notable challenges faced by interpreters of courtroom discourse come about due to inadequate appropriate training for their job. The chapter has also reiterated some notable findings made by other scholars on courtroom discourse interpretation.

The study recognises that the role of the interpreter may be improved if a lot of attention is paid to courtroom discourse interpretation by the Judiciary as well as the institutions of higher learning in Malawi. In view of this, the chapter has made suggestions for further studies on the subject of courtroom discourse interpretation.

¹⁶ Chancellor College has other very well qualified staff in the Faculties of Humanities and Law who may be part of the team that can support the initiative to start the degree programme in court language interpretation.

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APPENDIX I

QUESTIONNAIRE FOR INTERPRETERS

My name is Pearson Namachotsa. I am a student pursuing a Master's Degree Course in Applied Linguistics at Chancellor College. As part of the requirements for my course, I am expected to do research. My research focuses on *Courtroom Language Interpretation* in Malawi. I shall, therefore, be very grateful if you took a few minutes to fill in this short questionnaire.

Through this questionnaire, I wish to find out how *Courtroom Language Interpretation* is carried out in Malawi. Please answer each question truthfully by following the instructions given. I assure you that the information you provide will be confidential. You are not required to give your name. **Thank you for your cooperation.**

Please fill in details as requested below:

A. Personal Details

1. Sex:.....

2. Tribe

3. Age: (Please tick below)

- a) below 20 years; b) 20 – 25 years, b) 26 – 30years; c) 31 – 35years;
d) 36 – 40years; e) 41 – 45years; f) 46 – 50 years; g) above 50 years

B. Training/Education

4. What is your highest academic qualification? (Please tick)

- a) JCE b) MSCE c) Diploma d) Bachelor's Degree
e) Other (Please specify).....

5. Did you undergo any professional training for your job as a court language interpreter?

(Please tick one)

- a) Yes b) No

6. If your answer to question 5 above is “yes”, indicate:

- a) Year of training.....
- b) Training Institution
- c) Duration of the training
- d) Name of certificate awarded, if any.....

7. If your answer to question 5 above is “yes”, was the training adequate to prepare you for your job?

- a) Yes
- b) No

Explain

.....

.....

C. Language Fluent in and Language Interpreting into and from English

8. Language fluent in 9. Other languages fluent in, if any:

- a)..... b) c) d).....

10. Your level of fluency in Languages in 4 above: a)... b)... c)... d)...

(On a scale of 1 to 5, write 5 for most fluent and 1 for least fluent)

11. Please list all languages that you interpret from and into {E.g. a) From English into Chilomwe; b) from Chilomwe into English ; etc}.

- a).....
- b).....
- c).....
- d).....
- e).....

D. Preparatory steps before interpretation

12. How do you prepare for courtroom language interpretation?

.....

13. Are you allowed any chance to talk to the complainant or defendant before the court proceedings commence? (Please tick one)

a) Yes

b) No

14. Are you allowed to read the case files to have an idea of the kind of legal language likely to be used in the case before the proceedings commence? (Please tick one)

a) Yes

b) No

15. Does the presiding officer brief you on the nature of case to be heard in court?
(Please tick one)

a) Yes

b) No

16. Do you use any kind of dictionary to help you understand some difficult words?
(Please tick one)

a) Yes

b) No

17. Do you ask the complainant or defendant or court official to repeat themselves when you are not clear about what they said?

a) Yes

b) No

18. What do you do in order to ascertain the meaning of utterances that have more than one meaning?

.....

.....

.....

E. Attitude of court language interpreters and views of interpreters on other court officials and court users.

19. Interpretation is a useful process in the court proceedings. (Please tick one)

- a) I agree strongly
- b) I agree slightly
- c) I neither agree nor disagree
- d) I disagree slightly
- e) I disagree strongly

20. The process of interpretation confuses some complainants and defendants who take part in courtroom proceedings. (Please tick one)

- a) I agree strongly
- b) I agree slightly
- c) I neither agree nor disagree
- d) I disagree slightly
- e) I disagree strongly

21. The process of interpretation limits some complainants and defendants who take part in courtroom proceedings. (Please tick one)

- a) I agree strongly
- b) I agree slightly
- c) I neither agree nor disagree
- d) I disagree slightly
- e) I disagree strongly

22. The process of interpretation upsets some complainants and defendants who take part in courtroom proceedings. (Please tick one)

- a) I agree strongly
- b) I agree slightly
- c) I neither agree nor disagree
- d) I disagree slightly
- e) I disagree strongly

23. According to you, does the Assistant Registrar of the High Court consider language interpretation to be necessary? (Please tick one)

a) Yes

b) No

24. Why do you think so?

.....

25. According to the way you see things, does the High Court Judge consider court language interpretation to be helpful? (Please tick one)

a) Yes

b) No

26. Why do you think so? (Please write your answer on these dotted lines)

.....

.....

.....

27. In your opinion, does the Court Reporter consider court language interpretation to be necessary? (Please tick one)

a) Yes

b) No

28. Why do you think so? (Please write your answer on these dotted lines).....

.....

.....

29. Do you think the complainants and defendants consider court language interpretation to be important? (Please tick one)

a) Yes

b) No

30. Why do you think so? (Please write your answer on these dotted lines).....

.....

.....

31. In general, how does language interpretation affect the participation of Malawians involved in the court proceedings? (please tick one).

a) Positively b) Negatively c) Sometimes positively, sometimes negatively.

32. Why do you think language interpretation affects them in that way? (Write your answer on this dotted line).....

.....

F. Difficult Cases and Sections to Interpret

33. Do you sometimes find difficulties in interpreting some words or sentences? (Please tick).

a) Yes b) No

34. If your answer to question 34 above is 'yes', in which section or sections do you find the challenges?

(For example: a) cross-examination, b) Ruling, c) Judgement, d) examination in chief, etc.):

- a).....
- b).....
- c).....
- d).....
- e).....
- f).....

35. If your answer to question 34 above is 'yes', in which type of cases do you find the challenges?

(For example: a) murder cases, b) rape cases, etc.

- a)
- b)
- c)
- d)
- e)

36. Why do you find each section challenging? (write your answers on this dotted line).....

.....

.....

.....

.....

.....

37. What do you do to understand what the complainant or defendant is saying? (Write your answer on this dotted lines).....

.....

.....

.....

G. Discrepancies in discourse meaning between the source text and the target text

38. Do you sometimes feel that you have misinterpreted what has been said in court? (Please tick one)

a) Yes

b) No

If yes, how do you remedy the situation?

.....

.....

39. Does the Presiding officer correct you or indicate in any way when you have interpreted wrongly? (Please tick one)

a) Always

b) Sometimes

c) Rarely

d) Not at all

40. How do you feel when the presiding officer corrects your mistakes in interpretation? (Please write your answer on these dotted lines)

.....

.....

END OF QUESTIONNAIRE

APPENDIX II

INTERVIEW SCHEDULE FOR HIGH COURT OFFICERS

My name is Pearson Namachotsa. I am a student pursuing a Master's Degree Course in Applied Linguistics at Chancellor College. As part of the requirements for my course, I am expected to do research. My research focuses on *Courtroom Language Interpretation* in Malawi. I shall, therefore, be very grateful if you took a few minutes answer the questions which I am going to ask you.

Through this interview, I wish to find out how *Courtroom Language Interpretation* is carried out in Malawi. Your honest answers will help me to come up with a report that will mirror the situation regarding court language interpretation in Malawi. In order to be able to use the valuable information which you will provide, please allow me to take down notes during the interview. I assure you that the information you offer will be treated with strict confidentiality. I will not take down your name. **Thank you for your cooperation.**

Now I shall ask you a few questions:

Date:

A. Background information

1. Your Portfolio:..... Age:..... Sex:.....

2. How many court language interpreters work at this High Court?

3. How many interpreters are:

a) Female.....

b) Male.....

4. Mention languages that court language interpreters at this court interpret from and into.

Prompt: From English into Chilomwe? or from Chilomwe into English ; etc.

a).....

- b).....
- c).....
- d).....

B. Training/Education

5. What is the highest required academic qualification for the court language interpreters?
.....
6. What is the general trend currently?
7. What is the highest academic qualification for a court interpreter?
.....
8. What is the lowest academic qualification for the court language interpreters?
.....
9. What is the longest period served by the interpreters?
.....
10. What is the shortest period served by the interpreters?.....
11. Did any interpreter undergo any professional training? (tick one, according to answer given)
 - a) Yes
 - b) No
12. If the answer to question 11 above is yes, indicate:
 - a) Year of training.....
 - b) Training Institution
 - c) Duration of the training
 - d) Name of award attained.....
13. How many language interpreters have been trained professionally?

C. Preparatory steps before interpretation

14. How are court interpreters prepared for courtroom interpretation before the trial commences?
.....
15. Are interpreters allowed any chance to talk to the complainant or defendant before the court proceedings commence? (tick one, according to answer given)
 - a) Yes
 - b) No
 If yes, for about how long are they allowed to converse?

16. Are the interpreters allowed to read the case files to have an idea of the kind of legal language likely to be used in the case before the proceedings commence? (tick one, according to answer given)

a) Yes

b) No

If yes, how often?

.....

If no, why no?.....

17. Does the presiding officer brief language interpreters on the nature of case to be heard in court? (tick one, according to answer given)

a) Yes

b) No

If, yes, how often? (Ask for specific times)

.....

18. Do interpreters consult anyone or any book to help them understand some difficult words? (tick one, according to answer given)

a) Yes

b) No

(If yes,) who or what do they consult?.....

19. What other preparatory steps are taken by the interpreters?.....

.....

.

D. Attitude of court users, court language interpreters, and other court officials

20. Do you think language interpretation is necessary during court proceedings?

Prompt: Does it achieve its purpose? Is it just an extraneous process?

.....

21. How necessary is court language interpretation?

Prompt: Can the courts do without it, say, by using Malawian languages all through?

.....

22. According to you, is there any court officer who thinks that court language interpretation is unnecessary?

a) Yes

b) No

If yes, why do they think it is not necessary?.....

.....

23. In your opinion, do the complainants and/or defendants consider language interpretation to be necessary?.....

Why?.....
.....

24. In your opinion, how does language interpretation affect the participation of Malawians involved in the court proceedings?

Prompt: Does it affect them: a) Positively b) Negatively c) Sometimes positively, sometimes negatively?

25. Why do you think language interpretation affects them in that way?
.....
.....

E. Discourse meaning captured and imparted

26. Do interpreters sometimes find difficulties in interpreting some words or sentences?
.....

(If 'yes',) in which section or sections do they find the challenges?

Prompt: Is it in a) cross-examination, b) judgement, etc.):

.....
.....
.....

And in which types of cases do they find such difficulties? (Prompt: Is it in rape, or in murder cases?)

.....
.....

27. In your opinion, why do they find each of the sections challenging?
.....
.....
.....

28. Do you sometimes feel that interpreters have misinterpreted what has been said in court?

b) No

misinterpretation?.....

.....

Prompt: Is it: a) Always b) Sometimes c) Rarely d) Not at all

b) No

.....

.....

.....

Our interview ends here. Once again, thank you (Justice ...,JudgeMr..., Mrs... or Miss.....)
for your time and cooperation.