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Witness or Interpreter?

Converting a Litigant Into a Court Interpreter in a Self-Interpreted Testimony Presentation

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ABSTRACT

This study demonstrates that self-interpretation does indeed occur in Kenyan courtroom proceedings, a situation that necessitates the use of a language other than the regular and official languages of Kenyan courts. Such language use rendered mostly in terms of self-interpretation has far-reaching ramifications on the content, facts, style, and meaning predispositions of a witness's testimony. Most studies in courtroom communicative interactions, language, and speech manifestations, have been largely and dominantly sociolinguistic in approach and there is so much that has been asserted in that dimension. However, this study's point of departure is that it seeks to adopt a Translation Studies approach to analyze self-interpreted presentations made by four witnesses in selected criminal cases at Kisii Law Courts in Kenya. Their self-interpreted testimonies which constitute the data used in this discussion were collected between October 2020 and June 2021. The testimonies rendered constituted: one murder case in the high court, one rape case, and two assault cases in the magistrate court. The overarching aim of this study is an attempt to show that, bilingual litigants, who have habitually and for a long time been regarded as persons of limited language competence, can in practical renditions be astute self-interpreting persons in testimony presentation. However, the confrontational experience they undergo throughout has adversarial effects on the facts of the case and the eventual outcomes of such cases, the disadvantages of their competence in L2 (the official language of the court) notwithstanding. Consequently, a translation studies approach, as applied in this paper, offers a framework of reference through which it is possible to analyze the encumbrances of comprehending legal procedures, terminology, and propriety which litigants undergo to accentuate meaning shifts, stem contextual meaning deviations besides the overall factual misrepresentations which emerge during and as a result of self-interpreted renditions as constrained by the contextual imperatives of traditional courtroom language.

KEYWORDS

Angermeyer, Bilingualism, Code-Mixing, Counsel, Court Interpretation, Language Choice, Legal Translation, Self-Translation, Witness

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1. BACKGROUND

Self-interpretation in courtroom contexts is an intriguing area of study which appears rather underexplored. Most studies that have been undertaken in court interpretation, have primarily focused on proceedings involving an interpreter communicating for and on behalf of a litigant. In many of these studies, scholars have mainly concentrated on issues of power asymmetries and disproportionateness as well as pervasive meaning inaccuracies punctuating such legal exchanges. The emotional, legal, or social consequences of such renditions have been highlighted in various studies (Edwards 1995; Hale 2004; González, Vásquez, and Mikkelson 2012; Elsrud 2014; Namakula 2014; Owiti 2016; Berk-Seligson 2017; Mikkelson 2017; Stone 2018). Studies that have relied on insights from sociolinguistics, especially bilingualism and language contact, characteristically create an impression of having swayed most analyses to focus only on sociolinguistic issues to the extent of obscuring (self-)interpretation. Self-interpretation, in this context, entails situations where bilingual persons end up testifying in the second language (L2) (Gumperz 1982; Auer 1998; Heller 2003; Cashman 2005; Fuller 2007; Roberts 2007; Gardner-Chloros 2007), though their verbalized renditions and their intended meanings and/or understandings are always at variance. The intricacies and complexities impacting on meaning rendition in legal and judicial contexts have been an object of study in other studies demonstrating that interpretation, as a strategy of comprehending and expressing meaning, is a challenging task even for trained judicial officers (Farber & Rienmerink, 2019; Mlundi, 2020). Yet judicial officers, at least in the Kenyan context, consciously or otherwise aware of the pitfalls of self-interpretation, encourage lay litigants to self-interpret their testimony.

Self-interpretation, which is analogous to self-translation, is the process and the product of rendering ideas, facts, thoughts, and meanings originally conceptualized in one language—Language 1, and then rendered, especially verbally into another language – Language 2, by the originator of the original conceptualization. It is, as such understood and presumed to be an act of self-interpretation of source—ideas, facts, thoughts, and meanings—herein referred to as "speech", whose trace is implicit and can be recognized through the notion of interference. The conceptualization of speech mapping as such, actually takes place in the self-interpreter's mind, whereby the self-interpreter recalls mentally mapped speech in their preferred or their first language (L1)—Ekegusii or English in this study – and renders it verbally and in an ad hoc manner into the court negotiated and preferred language, L2—Kiswahili – before the court. The twin tasks in a bilingual proceeding are condensed into one as they are carried out simultaneously by one person – the litigant.

It is important to note that in multilingual contexts, such as Kenya, one's sense of self and therefore, manner of expression, is habitually torn between the dynamics of multilingualism or bilingualism. Yet, given that understandings and meanings rendered in self-interpretations may be culturally influenced or constrained, bilingualism cannot be presumed to be the same thing as biculturalism, nor multilingualism is the same thing as multiculturalism. It is equally true that one's first language plays a role in a person's approach to life as well as ways of thinking and conceptualizing things—ideas, facts, thoughts, and meanings—which logically impact how testimony is rendered in courtroom contexts. Testimony as presented in court is ideally derived from observed events, actions, or from recounting things witnessed, testimony is given through a litigant's perception of experiences. It, therefore, follows that culture or to be more precise, cultural predispositions, inform and structure testimony and its presentation.

Cultural predilections represent an important conditioning factor in the construction and presentation of witness testimony. However, when litigants are confronted with the option of using court-sanctioned language, whether out of self-volition or by the request of the court, such an option reverses the advantages afforded a litigant in terms of using their first or preferred language. Consequently, features of the litigant's language of choice spill over into the language of presentation and as such "contaminate" the testimony—usually observable in terms of the inferences which manifest themselves during an interpreter's oral presentation. The wielders of power, notably defense lawyers

capitalize on the fact that a given witness may have limited competence in the language of the court and so when such a litigant testifies in a language in which they have no competence, lawyers have a field day picking gaps, inconsistencies and contradictions in the testimony presented. In effect, testimony predicated on self-interpretation in the framework of courtroom power play becomes a nullity.

In view of the foregoing introductory remarks, it is important to assert that from the onset, this study—predicated on a rigorous translation studies approach, is an attempt that seeks to understand the characteristics and place of self-interpreting persons (SIPs) in courtroom processes. It is a study that deviates from the characteristic sociolinguistics trajectory which has dominated studies in this area and in which SIPs are regarded as persons of limited language competence. Indeed, there is validity in this assertion given that ideally, courtroom interpretation is specialized interpretation in terms of its routine contextual parameters of subject matter, language register, mannerisms, and style of presentation. The consequences of this understanding are that, in order to have a holistic understanding of self-interpretation processes in courtroom contexts, the validity of meaning and factual cogency of SIPs must be viewed within the contextual constraints of courtroom realities. It is our conviction that a translation studies perspective presents one plausible approach in which SIPs' perceptions of legality, factuality, and truth can be incorporated and made to count. This is, in our view, an appropriate dimension that has the capacity to accommodate the ingenuous perceptions of legal reality as understood and presented from the perspective of SIPs, especially considering that court interpretation is a field that has been inordinately populated by diverse views and opinions and partly accentuated by innumerable shades of linguists and legal practitioners.

The core issues addressed in this study, primarily seek to interrogate the place, characteristics, criticality, and acceptable limits of unregulated self-interpretation in courtroom contexts generally and in the Kenyan judicial system in particular, where self-interpretation is patently unregularized, haphazard, and bemusing. Yet the critical question must be asked; given the disordered nature in which self-interpretation is actualized in ideal court situations, can litigants obtain a fair trial? How can self-interpretation be made to approximate the rigors of the language of the court, whether it is rendered fluently or otherwise? As language switching is a characteristic of the courts in Kenya, in what practical ways can language switching be made acceptable in courtroom legal renditions, and therefore a plausible approach to language and legal equity? These questions are relevant in enabling an exploration that demonstrates how "language", the official language of the court, perpetuates legal inequity and stymies access to legal equity in judicial systems worldwide generally, and in the judicial system in Kenyan urban settings in particular, where linguistic diversity is a reality.

1.1 Interference

Interference occurs when new elements which do not exist in the TL are introduced in renditions due to literal translations. One of the characteristics that distinguish experienced interpreters is their ability to recognize problems (Kussmaul, 1995). Untrained ad hoc interpreters obviously lack this characteristic, hence, when they appear before a court as interpreters of their own testimony, their renditions introduce elements of the source language into the renditions resulting in blunders, slipups, errors, and mistakes which are sometimes irreparable.

Self-interpretation presupposes the existence of a source utterance. The product of self-interpretation is a mixture of the source language (SL) and the target language, an "interlanguage", which becomes the source of some of the errors which occur in the target utterance. Such errors are a product of interference – the presence of source language features in the target utterance that makes it sound strange, weird, or clumsy. This is a "diagnostic" notion (Kussmaul 1995) borrowed from the behaviorist learning theory which holds that old habits hinder learning new ones. Accordingly, source language traits of SIPs intrude into the renditions, therefore providing traces of the source text. Unlike written texts which can be accessed and compared with their target texts, self-interpreted speech is stored in the speaker's mind. In order to be able to access the implicit original text that has not been presented by the litigants, this study relies on the theory of interference.

Weinreich (1968 [1953]), relying on insights from Sociolinguistics on language contact regards interference as a change in the system of a language after it comes into contact with elements of another language by a bilingual speaker. However, scholars leaning towards the translation studies trajectory note that it is the involuntary transfer of SL features – lexical, syntactic, cultural or structural, idiomatic, metaphorical – into the TT (Newmark 1991; Franco-Aixelá 2009). For Toury interference is one of the two laws of translation. He states the law as follows:

in translation, phenomena pertaining to the make-up of the source text tend to force themselves on the translators and be transferred to the target text. (Toury 2012: 310)

These scholars opine that interference involves the introduction of source language features into the target language. In view of that, interference manifests in self-translating litigants who import source language features into their target language renditions. The features may be phonological (foreign accent, odd intonation), syntactical ("word-for-word" or "literal rendition"), lexical (false cognates), pragmatic (e.g. over-formality or under-formality), and morphological. When the litigant's language of choice impacts the court's preferred second language and can be demonstrated to be reflected in the litigant's verbal renditions, it results in interference. L1 interferes with the litigant's testimony renditions in L2, transferring some of its features into L2 (Ellis, 2015), resulting in clumsy, weird, strange, and unnatural formulations which are clear indicators of interference. These formulations are stimulated by the effects of the first language of choice infiltrating into the ultimate language of presentation adopted by the litigant while in the witness box. Rules and standards of L1 are transferred into L2. The presence of these features of speech in utterances is an indicator of the self-interpreting processes going on when litigants testify in L2. This concept is used in this study to trance the implicit source speech of the litigants.

Whereas the foregoing observations are valid in terms of theoretical postulation, the actual demonstration that such interferences have actually taken place is nonetheless predicated on inference. Inference, as understood and applied in this discussion, is an observation or assumption which is predicated on evidence, thought, and reasoning of available evidence or data. A litigant's traces of interference are observable in terms of experiencing his/her verbal rendition first-hand, inferring their meanings on the basis of what is already known about their language performance. A litigant's traces of interference are also made manifest by inference, the "reading between the lines", ideally the careful observation of language facts, patterns, and overall performance. Interferences are as such characteristics of L1 deduced or entailed in the litigant's use of L2. Conclusions made that a litigant's use of the court-preferred language interfered with aspects of his/her L1 is grounded on logical judgment on the basis of circumstantial evidence and prior observations of such language use. This was overly observable in all four cases excerpts of which are used in this discussion.

1.2 Methodology

This is a qualitative study that analyses audio-recorded self-interpreted court proceedings in which litigants opted to use a language other than the one they initially declared they desired to use. The researcher's physical attendance of court sessions, his observations of testimony renditions in court hearings as well as the researchers' insider knowledge about the litigants' cultural background with regard to language use and meaning investment, were all critical both in informing the discussion and validating the data. With permission from the court, witnesses were interviewed on the language challenges they faced while presenting their testimony, and their observations have intuitively been incorporated into the overall discussion. Collectively, these diverse dimensions have critically enriched the study analyses overall.

The data for this study was collected from selected court proceedings recorded in Kisii Law Courts between October 2020 and June 2021. This is a court in Kisii town within Kisii County where the majority of the population speaks Ekegusii. However, it must be noted that this court is not necessarily

a preserve of Ekegusii speakers but the probability of such speakers being the predominant users of the court services cannot be gainsaid. Consequently, the selection of the court is partly based on this probability and partly on the researcher's insider knowledge, ability, and proficiency in understanding Ekegusii as a language, but more importantly in deciphering culturally nuanced meanings entailed in the litigant's verbal rendition. Besides, the researcher is a competent speaker and user of the courts' official languages—English and Kiswahili. Proceedings in which litigants, especially witnesses, opted to use Kiswahili as opposed to Ekegusii or use Kiswahili in place of English as they may have indicated previously, have been purposively sampled and analyzed. Overall, the data set for this study consists of three proceedings which were audio-recorded and later transcribed. Besides, notes pertaining to L1 interferences and/or entailments were taken by the researcher during the presentations of testimony. The hearings included one expert witness who had prepared his presentation in English but later gave the expert testimony in Kiswahili. The other two witnesses, one for a murder case and one involving a rape case, had indicated their intention to testify in Ekegusii but later testified in Kiswahili.

2. SETTING THE STAGE

2.1 Let Us Make a Litigant in our Tongue

Given the cognizance of the multilingual or bilingual contexts in which Kenyan courts operate, court proceedings involving new cases or the introduction into evidence of new litigants or other interested parties, usually commence with clear language negotiations which seek to accord participants opportunities to negotiate and agree on a mutually acceptable language they will prefer to use in respect of the case under consideration. In the event that a litigant opts to use a language that is not known by all the participants in the court proceedings, such an option usually necessitates a short examination and/or negotiation. However, in actual practice, such negotiations are unequal since litigants with limited language competence unknowingly and unwittingly waive their rights and consent to testify in a language in which they have limited legal and expressive proficiency. There are valid grounds to support the contention that all efforts deployed to persuade litigants to use a language preferred by the court for the rendition of their testimonies, clearly amount to linguistic coercion. Linguistic coercion is a subtle way of "weaponizing" language, to disproportionately afford one speaker the wherewithal to exercise power and authority over and to the disadvantage of another. One such example is noticed in *The Republic v. Omwenga, 2020* quoted in excerpt (1) in which a witness in a murder case involving a husband who is suspected to have killed the wife. The witness, a sister to the deceased, when asked to state the language she wished to use, chose Ekegusii–not a language of the court. The judge, in leading the negotiations on the possibility of using Kiswahili asked:

Judge: *Hata hii Kiswahili rahisi rahisi, ya juu juu huelewi*?

You don't understand even this simple Kiswahili?

Witness: *Najua kidogo*.

I do understand a little

Judge: *Hiyo ndiyo tutatumia; hatutaenda kwa ile ngumu. Tutajaribu kusaidiana. Mahali tutaona umelemewa* (.2) *tutakusaidia*

We will use that one. We won't delve into the complex one. We will try to assist each other. Where we see you have difficulties, we will help you.

After the litigant pointed out to the court that she wished and preferred to proceed in Ekegusii, a negotiation on what mode of interpretation will be used and who actually interprets between the self and the other ensued. Eventually, there was evidence of ceding ground, various concessions made, power dominance demonstrated, and language alternation allowed. Under these circumstances, the litigant unwittingly waives the right to be accorded court services of an interpreter and opts to self-interpret her testimony. The litigant agrees to use the language preferred by the court having been assured of assistance by the court in instances where she would experience linguistic challenges with self-interpretation. Though court systems usually assure litigants of court-provided interpretation services, this offer is often presented as an act that cannot be revoked. Technically, and in rather subtle ways, the court unwittingly sets itself up to co-construct the testimony. The litigant just provides the gist of the events and actions and the court inadvertently or otherwise fills in the gaps. Further, the court compromises its authority and neutrality with respect to accommodating legal oddities and loss of some detailed aspects of the testimony. These are critical issues in which the court losses and are denied a litigant in situations where courts do not benefit from the services of professional court interpreters. Whereas these negotiated concessions may be perceived as accentuating cooperation and obedience, they are nonetheless indicators of legal inequity, inexperience, and naïveté. Inevitably, all aspects of preferred language negotiations in court interpretation contexts, are predicated on privileged power relationships between available languages and between court-user participants. Litigants' limited linguistic and legal knowledge is inequitably exploited to the disadvantage of the litigant, consequently predestines the litigant's factual flaws, testimony foibles, and logical argumentation of the facts of the case.

Though court systems usually assure litigants of court-provided interpretation services, this offer is often presented as a gift to cajole the litigant into accepting that interpretation is a simple task that can be performed by any bilingual. This can be seen in the judge's construction of the request above while opening the negotiations which presupposes that there are several types of Kiswahili language ranging from the simplest to the most complex. Further, the request itself is presented in a manner that makes it sound like one that cannot be revoked, as long as the litigant has demonstrated some knowledge and understanding of L2. This is what can be observed during proceedings in *The Republic v. Ondari, 2019* where a litigant, who had been heard by the presiding magistrate speaking in Kiswahili to the court clerk, was praying to be allowed to speak in Ekegusii (2).

Witness: *Tiga inkwane Ekegusii*
Interpreter: *Allow me to speak in Ekegusii*
Magistrate: *Si nimekusikia ukizungumza Kiswahili hapa*?

But, haven't I heard you speak Kiswahili here?

This exchange demonstrates clear play of power relations resulting in loss of choice for the witness, the unwitting placement of this particular litigant in an underprivileged position, and saddling the litigant with the burden of presenting his testimony in Kiswahili even after all indicators of his suspect competence in the language have been demonstrated. The witness had probably found out that if he went ahead to testify in Kiswahili, he would find the encounter cumbersome and had to request the court to allow him to make his presentation in Ekegusii, the language in which he had mapped his testimony. By his estimation, his competence in Kiswahili would not allow him to present his testimony fluently – a confession he made to the first author in an interview conducted shortly after he left the courtroom. The litigant confessed that his communicative competence in Kiswahili could not match the expectations of the court process. However, the court regards translation and interpretation as a simple linguistic reflex task that can be undertaken by any bilingual. Communicative competence, it has been demonstrated severally, goes beyond mastering grammar to the entailment of cultural norms and language register dynamics (Namakula, 2014).

Language competence, for purposes of participation in a judicial or court proceeding, is the ability to speak and understand not the language per se, but the presentation of facts, the negotiations of issues, and the evocation of meanings in that language as well. The litigant is technically and legally neutered considering that the magistrate exercises her power unilaterally by considering the litigant's Kiswahili skills to be sufficient for the purposes of executing the case under consideration specifically and overall court proceedings generally. This is an attitude that obtains in many legal jurisdictions where court officials make assumptions that disadvantage litigants, for instance, the assumption that courtroom interpreting entails just the linguistic performance without considering how that impinges on legal equity and legal factualism. The peripheralizing of "Other" languages other than official court languages, precludes the cultural dimensions of deciphering meaning which may ultimately impact positively or negatively on legal meaning. High language proficiency in the "Other" language as constrained by its culture, is necessary for ensuring communication even in highly formalized and constrained contexts such as court systems. The "Other" in terms of its culture is critical in structuring concepts, realities, and experiences as well as their representation in language, which is, unfortunately, what litigants who are not proficient in court language bring to court. It follows, therefore, that for litigants to effectively participate in court proceedings in terms of delivering their testimony, it is important for them to express themselves adequately in a language in which they are proficient. Language, as such, is a *sine qua non* for active, equitable, full, and representative participation in court proceedings.

The decision made by the magistrate to compel the litigant to use Kiswahili in this instance is based on the logistical convenience on the part of the court rather than the need to serve justice in an equitable sense. Apart from the naked display of power and authority, the decision demonstrates that the choice of preferred language in court contexts is afforded litigants as a favor rather than a right. Consequently, the provision of appropriate language services is considered peripheral and is hardly fully appreciated by privileged judicial practitioners—notably all cadres of judicial officers. There are pervasive misconceptions about courtroom interpreting as a profession, both on the part of the general public and judicial officers. Many official court users assume that courtroom interpreting can be done by any bilingual, which explains why many bilingual witnesses, as in the selected cases for this study, are routinely cajoled to testify in their L2. A convinced or confused litigant is forced to operate between two languages by interpreting from the language in which the testimony had been mapped into another, usually under the delusion that one is fully and productively participating in the given court proceedings. The tension and suffering that the self-interpreting litigant ultimately endures due to the double duty assigned to him/her upon accepting to self-interpret is aptly captured in a statement by Keaney (2007):

In other words, we are called to make our language put on the stranger's clothes at the same time as we invite the stranger to step into the fabric of our own speech. (p. 151)

The collective import of this court-negotiated language preference is that a litigant is predestined to present testimony that may be secondary; that is testimony that is factually neutered, logically incoherent, and legally moot. The litigant is covertly coerced to frame and structure the testimony in a language in which his/her proficiency is suspect and he/she is simultaneously invited into a legal duel in which the opponent is proficient and privileged. The resultant testimony is characteristically flawed, factually deficient, in a word, auxiliary testimony. Without court interpreter services, the court denies itself the opportunity to access a litigant's "original" testimony. Although in several senses the rendition of interpreted testimony is a presentation of negotiated communication, it is nonetheless more a product of the rendition of facts to a case compared to self-interpretation given that professional interpreters have a better grasp and knowledge of not only the source language and its culture but also the subject matter of the case under consideration.

2.2 The Cost of Linguistic Hospitality: The Masochist Witness

As already indicated in the previous section, self-interpretation is an experience that negatively interferes with the emotions of self-interpreters as 'translators'. It is harrowing and dreadful, especially when actualized within the daunting and overwhelming courtroom contexts. The very acts of grappling with the task of finding target equivalents in the "Other" language can become terrifying acts of mental translation. As it has been rightly described, the translator (who includes the self-interpreter) is often regarded as a linguistic dogsbody (Kussmaul. 1995: 146). This can be seen in the proceedings of the *Republic v. Omwenga, 2020* as quoted in excerpt (3). The Kiswahili testimony that was presented by the litigants was a parody of infusions of Ekegusii culture and speech effects (tone, mood) in a pattern that convolutes comprehension. Consequently, how much testimony remains retained in the litigant's mental repertoire, is a matter of conjecture.

Prosecutor: *Baada ya hapo, nini kilifanyika*?

After that, what happened?

Witness: *Baadaye*

Nikajua tu **kupiga hiyo simu, hakuna**.
Nikapigia mandugu zangu nikawambia S.P.S. **hakosi kupiga simu**
Lakini leo amekosa.
Kwa nini?
Mnamuona?
Ebu mpigie.
Wakampigia, **akakosa**.

Later
I realized that making that phone call, nothing
I called my siblings and told them S.P.S never fails to call
But today (she) has failed
Why?
Do you see her anywhere?
Try to call her.
They called her but she missed
Prosecutor: *Ni mtu mlikuwa mnaongea na yeye kila siku*?

Is she someone you used to talk to everyday?

Witness: *Ee. Ni mtu tulikuwa tunaongea.*

Sasa **simu ye (yake) kama hakuna mtu ata … ataomba, ataomba**. **Mpaka anipigie simu.**

Ee (yes). She is a person I talked to often.
Now her phone if no, a person … she'll … she will borrow, she will borrow. Until (she gets to) calls me.

In this self-interpretation, one loses critical aspects and foundational facts underscoring rendered testimony. The witness's rhetorical question *kwani nini?* (why?) followed by another one as to whether anybody had seen her (the deceased), points to the concern the litigant had about the whereabouts

of the victim – her sister. However, the tone in which these questions are uttered is, heavily nuanced culturally such that, for Ekegusii speakers, the embedded meanings are manifestly discernible. Consequently, she assumes that such meanings and meaning cues are discernible to everybody involved in the proceedings.

Ekegusii, as a language is characteristically tonal and this feature is critical in verbal communication, such that a high, mid, or low tone in the articulation of certain words or expressions, routinely changes meanings very significantly. Tone can, as such, express fear, uncertainty, doubt, or affirmation. This linguistic feature is not transferable to Kiswahili as this litigant naively believes. Indeed, the use of the tone in Kiswahili gives rise to completely unintended meanings, such as insinuating disregard or disdain. Given the dissonance marking the communication relationship between this litigant's renditions and the court officials' perception of the same, the litigant's testimony which is full of interference from Ekegusii prosodic features of tone, is interpreted as an attempt by the litigant, essentially trying to exonerate herself from the murder of the victim. By happenstance, the defense lawyer, an Ekegusii speaker himself, was able to discern the subtly nuanced and embedded meanings, a linguistic feature which he strategically exploited later in the cross-examination to the benefit of his client, the accused (discussed later) hence, took advantage of the linguistic weakness of the litigant. This clearly demonstrates that courtroom interpretation, whether rendered by a professional or self-interpreting lay litigant, is not a simple matter of transposing linguistic utterances from language A to language B.

The litigant's testimony rendition is patchy, incoherent, and outright illogical—the logical rendition to determine who owns the phone, who wants to borrow it, the direction of the phone call, and how all these are tied to the murder is very difficult to discern. The false starts in the second turn are a testament to this struggle in trying to self-interpret her testimony that was originally conceived in Ekegusii. It is evident that she is struggling to find lexical equivalents in Kiswahili. Renditions such as '*Nikajua tu kupiga hiyo simu, hakuna'* is a clear demonstration that the litigant craved to show the futility of continuing to make calls to her, but this message gets convoluted during the transfer process from Ekegusii where the message was probably constructed as *nkamanya ng'a goaka esimi eyio mbosa* (I realized that it was an effort in futility continuing to call her); she provides a literal rendition. The rendition *Wakampigia, akakosa* is more confusing; it could mean different things to different people – their call subsequently led to her disappearance, or she failed to pick up the call, or the call was not going through. As noted by Kussmaul (1995) interferences can produce howlers. In the event the first meaning is selected, then the witness, together with her siblings will be incriminated as being privy to the disappearance and subsequent death of the victim. This rendition has elements of an idiomatic interference. In Ekegusii, it is common to say *bakamoakera akabora* (they called [but] she missed), to imply that they missed the person they were looking for. But a literal rendition of the statement sounds odd in Kiswahili.

Self-interpretation is susceptible to the risk of miscommunication. Speaking another language other than the speaker's first language or the language of habitual use can significantly reduce the set of resources that speakers can select from in their quest to express themselves accurately, and in the case of courtroom contexts, this struggle to express oneself leads the asymmetry of power play. Self-interpretation in court is even more prone to risky communication; the self-interpreter is continually constrained, and his/her rendition is inadequately and weakly expressed, and this collectively affects the litigant's testimony adversely. The choice of language and, therefore, any change of language in courtroom contexts, constrains and constricts a litigant's ability to communicate effectively. It affects a litigant's ability to present a persuasive testimony given that self-interpretation is inherently problematic in the particular cultural context of its rendition (Angermeyer, 2015). Whereas the litigant's use of the original language of choice re-embeds the dispute under adjudication into its original language and social context, the use of L2 on the other hand removes the dispute from that context. In other words, it is either the witness recreates the dispute or the dispute recreates the witness.

In excerpt (3) the dispute has recreated the litigant in the version of the court such that, the litigant (she) is judged as unbelievable, untrustworthy, and incredible because the change of language adversely affects her renditions ultimately leading to distortions and misrepresentations from the core content and material facts of the case. This is evident in the witness's rendition of the Ekegusii *mbaka ang'akere esimi* (she must call me) into Kiswahili as *mpaka anipigie simu.* This Kiswahili rendition is a direct transposition of Ekegusii *mbaka*, a false cognate to the Kiswahili *mpaka*, whose meanings have nothing to do with 'must' which is the intended meaning in this particular exchange. However, these characteristic and potential problems which manifest in self-interpretations, are normally unrecognized or are considered peripheral by the judicial system, which perceives interpreting as a neutral activity that does not alter, change, modify, adjust, amend, bend, revise or vary meanings and consequently impinge on the proceedings overall. These are issues that have been highlighted on this matter in many studies, such as Hale (2004) and Berk-Seligson (2017). Because of being oblivious and perhaps insensitive to these problems, courts routinely allow any bilingual to self-interpret.

One principal observation that can be made in reference to the exchanges in excerpt (3) is that the court in this instance unwittingly encourages linguistic inequity, unconsciously acquiesces to litigant testimony contradictions, and assigns a litigant ambiguous roles – overtly a witness, and covertly an interpreter; roles which unfortunately work against the litigant and undermine the testimony overall. This sense of undermining the material facts of the case under consideration through self-interpretation and therefore language inequity is demonstrated in excerpt (4) during the cross-examination of the same litigant.

Defence Lawyer: *Ni kweli unajua jamaa anaitwa Hassan Bwene*

Is it true that you know someone known as Hassan Bwene

Witness: *Ehe, namjua.*

Yes, I know him

Defence Lawyer: *Huyo Hassan Bwene unamjuaje? Umesikia jina hilo?*

How do you know that Hassan Bwene? Have you (ever) heard that name?

Witness: *Mahali, mahali:* ***msichana wetu*** *wakati alitoka kidogo akakuja kufanya kazi hapa Kisii alikuwa* (.5) ***sijui ule ule mwenye ana: mwenye ana: anakuwa kama bosi ya nyumba****.*

Where … where our girl when she left for a while and went to work here in Kisii, he (.5) I do not know that: that person who: who usually acts/works as the boss of the (rental) house.

In excerpt (4) there is clear evidence of lexical interference. The witness uses the Kiswahili word *msichana* translatable into English as girl. Most likely this arises because the litigant's testimony was most probably and initially mapped in Ekegusii language in which the terms 'sister', 'daughter', and 'girl' are sometimes used interchangeably to refer to *omoisike*. Whereas in courtroom contexts, testimony is supposed to be factual and precise; allowing the litigant to self-interpret, the testimony rendered is bound to be factually flawed given the meaning multiplicity embedded in the term *msichana*. The litigant's testimony is further dented by the overwhelming aura of cross-examination—reflected in the dual struggles—responding adequately to the defense counsel's questions. The struggle to find Kiswahili lexical equivalents for various terms is evident here. The litigant strives to state who Hassan Bwene is by way of describing his occupation – a caretaker of a rental house. She begins with

a hedge *sijui* in a manner suggesting that she is not easily able to find an equivalent in Kiswahili and probably begs to be assisted find one as promised at the onset of her presentation. However, she does not receive the support as earlier promised by the court and the court is curiously contented with her rendition—its flaws and distortions notwithstanding – for instance, where the caretaker is erroneously referred to as ***boss*** *wa nyumba* (a boss of the house). Consequently, the unavailability of interpretation services provided by the court not only emasculates a litigant's material and factual authenticity of her testimony but also unnecessarily privileges and upholds the court's power privileges, its skewed sense of entitlement to define truth, ultimately the court finds no qualms deciding court cases on faulty and patchy premises. In this particular case, the risks, flaws, and inequity of self-interpretation are made manifest in terms of renditions which are basically a circumlocution, hesitations, and eventually, silence as shown in excerpt (5) where the defense lawyer cross-examines her on the issue of the person who has been raising the children.

Defence Lawyer: *Sasa, ni nani alikuwa akilea watoto?*

Nani alikuwa anakaa nao muda huu?
Now, who was taking care of the children?
Who was staying with them at this time?

Witness: *Hawa wadogo walikuwa* ***kwa mama yake***.

Sasa huyu msichana ako kutoka …. mwaka mmoja tu huko
Walikuja. Walikuwa wana … huyu, huyu sister yangu **alikuwa anaenda anakuja, anaenda anakuja**

The younger ones were with his/her mother.
Now, this girl has been since … just one year there (with the father). They came. They were … this, this my sister used to go and come, go and come
Defence Lawyer: *Nilikuwa nataka ujibu tu swali yangu*.

I just wanted you to answer my question.

Witness: *Hawa wadogo ni* ***mama yake*** *alikuwa analea.*

Na mkubwa alikuwa na **babake**

As for the younger ones, it was their mother who was taking care of them. And the older one was with the father.

Self-interpretation is fatally impacted in cross-examination, a situation that presupposes that the litigant has the capacity to anticipate and/or foresee perspectives of questioning and react appropriately to emerging challenges or unexpected questions. The litigant having accepted to testify in Kiswahili, finds herself saddled with the twin roles of mentally interpreting her own testimony and then verbalizing the same in Kiswahili. This dual role unwittingly encumbers the witness with a heavy cognitive load, this is most notable in the uncertainty displayed by the litigant in finding appropriate Kiswahili equivalents to verbalize the tenuous relationship between her sister and the sister's spouse and the continual oscillation of the sister between her matrimonial home and her maternal home.

Physical observation of the witness's rendition of her testimony was quite telling of the intricacies involved in self-interpretation. Apparently, in recounting the events, she appeared to map them in her

first language – Ekegusii, to translate them mentally and then verbalize the same in Kiswahili. This performance did not seem to accord with the realization of what Ricoeur (2006) refers to as the two paradigms of translation—linguistic and ontological. The linguistic paradigm refers to how words relate to meanings within a language or between languages while the ontological paradigm refers to how translation occurs between one human self and another (interpersonal). Consequently, the court, relying on the witness's self-interpretation, manages to access the linguistic rendition of the witness's testimony but fails to access the interpersonal aspects of the self-interpretation in which so much nuanced meanings are embedded.

Whenever a litigant testifies in the court's preferred language rather than in his/her language of choice, the self-interpreted testimony rendition is usually encumbered with two implicit tasks—recreating the events and actions of the scene of the crime in the courtroom while at the same time struggling to explain one's self. Consequently, self-interpretation becomes a process where the litigant translates both the language and the self. Ideally, when a self-interpreting litigant is subjected to strenuous cross-examination, the rendition of testimony is seriously hindered because so many competing interests come into play—the struggle to find appropriate terminological and meaning equivalents in the language of the court, bearing in mind that the facts, acts, and events of the case were initially mapped in a different language. There is also a covert cross-examination not only of the facts of the case but of the validity and relevance of the litigant's language as well. Self-interpreting in a language that a litigant is coerced into is, in the words of Mann, a form of linguistic aggression which unfortunately only serves the interests of the court rather than those of the litigant (Cordingley, 2013). The illusion that the litigant has a mastery of language backfires. Languages 'master' and 'manipulate' their users the same way users do master and manipulate those languages. "Language is not just a tool that we learn to use; it also 'uses' us" as it molds and modifies the thinking of its users (Risku, 2002, p. 527)

Self-interpretation in court contexts is essentially a type of masochism given that the whole exercise evokes anguish, deficiency, deprivation, and submissiveness inflicted on the self-interpreting litigant by the power dynamics which characterize courtroom exchanges. The following example involving the same litigant in *the Republic v. Omwenga* demonstrates all the aspects of masochism alluded to here, notably the anguish, pain, and deprivation which characterize the witness' rendition of the testimony of her sister's murder:

Defense Lawyer: *Na sasa vile alipotea, ulipata kupigia yule simu?*

And now, since she had gone missing, did you attempt calling that one [points to the accused]?

Witness: *Yule, sina namba*.

That one, I do not have his number

Defense Lawyer: *Hamkuongea*?

You didn't communicate?

Witness: *Sikumpigia Hassan Bwene simu*

I didn't call Hassan Bwene

Defense Lawyer: *Hukumpigia Hassan Bwene simu?*

You didn't call Hassan Bwene?

Witness: *Enhe*.

Yah

Defense Lawyer: *Sawasawa. Umesema huna namba yake, ama umesema nini*?

Okay. You have said you do not have his number, or what have you said?

Witness: *Mimi sina namba yake ukweli*.

I do not have his number for sure

Defense Lawyer: *Hivyo, haukuwahi mpigia*?

So, you have never called him?

Witness: *Mimi sina namba yake*.

I do not have his number

Judge: *Haingekuwa muhimu, manaake yeye ndiye alikuwa mtu wa mwisho ambaye dadako amekwambia wako na yeye pamoja. Haingekuwa bora umwambie au kuuliza yeye ako wapi? Mwenye wako naye.*

Wasn't that important, since he was the last person whom your sister told you she was with. Wasn't it prudent that you inform or ask him about her whereabouts? The person who is with her.

Witness: ***Unajua, imekuwa muda mrefu walikuwa wanazozana. Mpaka ikabidi tukasahau hata namba zao. Hata yeye nilifuta namba yake wakati alirudi na mtoto***. *Walikuwa wamepigana kwa muda mrefu.*

You know, it has been a long time since they (have been) quarreling. Until we were forced to forget their (contact) numbers. I even deleted his contact when (she?) came back with the child. They had been fighting for long.

Although the witness' Kiswahili proficiency is obviously inadequate, the anguish and trauma of recounting her sister's murder and the sour relationship the late sister had with her husband, are discernible. The litigant recounts the severing of family ties due to the sour relationship that had existed between them. However, making this point accessible to the participants in the case is greatly hampered by her limited Kiswahili proficiency. Her self-interpreted testimony is hackneyed and logically patchy, hence the court system unwittingly and subtly allows itself to rely on weak and inferior quality testimony, bearing in mind that this testimony has been rendered under coercion and with the most rudimentary interpretation skills and competence. Competence in interpretation is the capability to understand the source utterance and generate a new, meaningful utterance in a situated way. However, since this requires differentiation and creativeness from the litigants (Risku, 2010, p.

100), the whole undertaking is a torturous ordeal, completely unfavorable to her, the possible benefits of testifying in Kiswahili are completely stymied echoing Angermeyer's (2015) assertion that "the option to interpret one's 'original' self means an overwhelming loss."

Self-interpretation ideally and subtly entails the suspension and subversion of a litigant's self-worth and individuality; hence the whole undertaking becomes an exercise entailing distancing oneself – the litigant – from the events, actions, or facts being recounted. Distancing the self from the material circumstance underscoring the facts of any given case constituting the core of self-interpretation in court contexts engenders estranged and sometimes convoluted meanings which work to the advantage of those who exercise power in court. In this particular case, the witness was greatly disadvantaged given her limited knowledge and lack of mastery of linguistic skills in Kiswahili language, the intricacies of its culture in coding and decoding meaning, and above all lack of training as an interpreter. She, therefore, bungles her testimony at the behest and cajoling of the court, as she struggles to take the court to the scene of the crime so that they may witness the facts. In a nutshell, the witness spoofs in her renditions of the original.

Sustaining self-interpretation calls for powerful personal motives, knowledge banks, and recall and presentation skills. Language change does not only complicate and obfuscate the litigant's ability to express and give effect to his/her testimony but also threatens his/her personality and autonomy. A case in point that illustrates this quandary is *Republic v. Ondari, 2019* where a litigant was testifying in a rape case. It was alleged that the victim, an elderly woman, had been dragged into a nearby house by the accused and raped. The witness, a neighbor who heard the woman scream, while narrating the events fumbled and therefore dismally rendered the recalling and recounting of the rape victim's actions and efforts of yelling for help. Testifying in Kiswahili the witness said, *mlalamishi akarusha nduru*. This is a direct rendition of a habitual idiomatic expression in the Ekegusii, *nyagosoa akaruta egekuro* (the complainant screamed and yelled). The interpretation availed and reported to the court is "*the complainant threw a yell*." In Ekegusii, "*throwing a yell*" is a perfectly normal expression, ideally meaning a yell is thrown to reach those who are far from the vicinity of the happening. The understanding underpinning this expression is that, whereas the victim of this rape ordeal may be physically hindered from running to seek help, a voice, sound, and ultimately a yell is not so constrained. It is evident that the witness had his testimony mapped in Ekegusii, just as he 'saw' it take place, only for the court to have him switch it to Kiswahili where the rendition becomes convoluted. The court had to interrogate this for a while to understand how a 'yell can be thrown.' Initially, it had been understood that *nduru* was someone. The judge had to seek clarification from the prosecuting counsel if *nduru* was one of the witnesses. The prosecutor, who also belonged to a different language community, had no idea of what this meant. Later it was thought to be an object (a weapon) thrown at the victim to assist her to come out of the danger. In the final analysis, whereas the witness is satisfied with his rendition, the court officials are left confused, the insertion of "*nduru*" actually shortened from "*enduru*" leaves the court officials wondering what this is—another witness, some kind of weapon!

Self-interpretation is even more complex and compounded in the cross-examination stage by the fact that the use of multiple languages ideally engenders a multi-pronged approach—a multifaceted cross-linguistic exchange and a cross-examination of facts of the case. As the witness is cross-examined by the defense counsel, there is also a covert and simultaneous cross-examination sustained at the language level characterized by the linguistic tension between the litigant's first language of choice, the compromise and mediating language, and the official language of the court. The compromise language, Kiswahili in this case, in which the speaker has limited and rudimentary competency, exerts its power on the witness, it challenges the litigant's abilities and demands of him to adequately communicate without the benefit court provided assistance. In the ordeal of cross-examination coupled with language deficiency, the witness' testimony becomes trapped, it is deprived of its revealing power and ultimately the witness ends up being dominated by both the legal process and the language of rendition.

The litigant in the *Republic v. Omwenga, 2020*, who has been referred to above oftentimes got frustrated and baffled, wondering why the defense counsel could not understand that the couple involved in the case had separated. During the cross-examination, the witness testified by asserting that *walikuwa wameachana* (they had parted ways). In her understanding, the fact that the man lived and worked away from the wife who lived in the village could be considered separated. However, this is not separation as understood in legal terms. Consequently, the collapse of interpretation or even the failure of interpretation essentially means the collapse of the testimony rendered overall. Had the witness testified in Ekegusii, her first and preferred language, she may have found it easier and quicker to express herself, recount, and locate the case facts appropriately, though overall, she would still be entangled in making herself clear about the concept of separation—*kuachana* translated from Ekegusii *gotigana*—which does not make a distinction between separation, divorce, abandonment, desertion. This example demonstrates how courts conveniently acquiesce to subnormal interpretation, thus facilitating the exploitation of witnesses' suspect language competence to the advantage of those who control power in the judicial system. Overall, lay litigants who self-interpret are always faced with myriad challenges and hindrances, the level of competence attributable to SIPs notwithstanding, their performance in courtroom renditions is always compromised.

2.3 Expert Witnessing: The Limits of Language and Knowledge Barriers

There is a fallacious assumption that competent speakers of English can actively and functionally participate in court proceedings conducted in Kiswahili to the same extent as they would if the same was conducted in English. Translation requires multiple competencies which makes it challenging not only to lay litigants, but also the legal and expert professional participants (Hu & Cheng 2016). This is demonstrable in cases in which expert witnesses whose language of expertise is English are forced by unforeseen circumstances to present their evidence in Kiswahili in court contexts in Kenya. In circumstances such as these, the rendition of expert witness testimony simply becomes a process of continuously coping and acquainting oneself to an unfamiliar territory while at the same time continuously reexamining the fidelity of one's 'expert and professional testimony. Moreover, such testimony rendition entails wholesale appropriation of sections of the original testimony, becoming somewhat alienated from that expert testimony, longing for the presentation of such testimony within the language of expertise, and displaying exasperation regarding the obvious neutering of superior expert testimony compared to the actually patchy testimony being presented before the court, ultimately, the expert witness is exasperated by the uncertain yet continual search for the 'expert and professional' testimony through an interpretive prism. Accordingly, following Kussmaul (1995), we can say that interference manifests itself in all self-interpreters – novices and expert litigants. The act of self-interpretation that is apparent in such testimony rendition demonstrates a litigant's double entanglement between his/her language of expertise and the actual court language in which testimony is finally rendered. The expert's actual testimony is ultimately characterized by proliferating code-mixing, and usage of neutered professional terminology, for instance, as witnessed in the *Republic v. Nyambane 2019*, a case in which a medical doctor testified as an expert witness in an assault case. Having failed to find equivalents for several medical terms related to the injuries sustained by the victim, the doctor had to transfer them into the Kiswahili testimony verbatim – *deep cut wound and soft tissue injuries*. So the doctor testified:

*Alipata **deep cut wound** katika mkono wa kulia na **soft tissue injury** kwenye **thigh.***
He sustained a deep-cut wound on his right hand and a soft tissue injury on his thigh.

There is no doubt that the doctor had clearly mapped his testimony in English—the language of his expertise, yet the actual circumstances prevailing in the court context compelled him to shift to Kiswahili for the benefit of the accused, who could not follow the proceedings in English. He might have thought that interpreting his own testimony is not difficult since he possesses a good knowledge

of Kiswahili. However, following Kussmaul (1995), we note that on one hand understanding one's own testimony in L2 may work smoothly, on the other hand, there can still be problems with reverbalization. When interpreting into L2, the doctor demonstrates challenges because of his inadequate lexical repository and semantic knowledge. This is what has been referred to as the illusion of naturalness by Risku (2002). She says that since translation skills are not innate hence it is not automatic that since a person possesses a command of two languages that person can interpret but it requires the knowledge of an expert, which the medical doctor obviously lacked. Professional translators and interpreters, unlike lay expert litigants, develop different strategies for each and every particular case and do not attempt to offer any ready-made solutions. When SIPs experience challenges in expressing their ideas and thoughts or recalling an equivalent in the target language in real-time due to either unpreparedness or deficiency in necessary target language resources, they resort to their first language in which the matter under adjudication was cognized so as to compensate for the insufficiency (Ellis 2015). Ideally, the medical doctor was circumstantially encumbered with an unfamiliar task of transferring medical terminology and its attendant jargon into testimony rendition in Kiswahili without expounding their meaning. This simply placed the expert witness himself in his familiar world of medical professionalism, a world alienated and totally unfamiliar to the accused person. What this kind of testimony portends to the case at hand is not difficult to comprehend, it has the fingerprints of adverse impacts. The obvious linguistic disorientation experienced by this expert witness due to unpremeditated language change is clearly discernible, and it is not made any easier by the numerous choices necessitated by several instances of self-repair in the unfamiliar language, a reality which is accounted for by frequent code-mixing. This basically exposes his inability to self-interpret in Kiswahili, particularly given the tensions and proliferation of legal parlance and its attendant legal processes and procedures, medical phraseology, and its lack of terminological equivalents in Kiswahili. The witness's inability to free himself from the fetters of the source language greatly hampers communication. Instead of using language as a tool for service, the language turns out to be a 'weapon' and instrument of torture. Overall, the doctor's testimony rendition is materially ineffective, it is self-serving and it ultimately adversely affects the unrepresented accused person.

To shift from one language to another, as is normally the case in self-interpretation, is to move across a diversity of narratives and gradually venture into new frames of expression. Language, no matter how it is conceptualized, is a conveyor of memory, which in essence means that when witnesses indicate the language they wish to testify in, they do so because what they want to present is already structured and framed in familiar language, it is easy to retrieve from their memory. However, when circumstances compel them to switch to using another language preferred by the court, the retrieval of what is already structured and stored in memory is hampered, thus occasioning frequent code mixing as an escape route. This demonstrates the convoluted strife self-interpreting litigants undergo in an attempt to reanimate and reinstate the language and the world in which the testimony was initially cognized.

Regardless of the level of competence attributable to SIPs, their performance in courtroom renditions of testimony is always compromised. Usually, in many instances, self-interpretation is a first-time experience, it is incompetently rendered and this is done under a very intimidating and overwhelming aura of the court. It, therefore, follows that the logical accuracy and coherence of the testimony, are severely neutered. Any disregard for a self-interpreting litigant's rendition proficiency in terms of the command of specific linguistic demands imposed on speakers in courtroom proceedings, such as the orderly and logical presentation of facts and information alongside the affirmation of such information in cross-examination, is not only daunting but also disastrous to the fidelity cogency of the testimony overall. Although a litigant may have the capacity to follow court proceedings in L2, as is the case of the medical doctor, there may arise a compelling need for interpretation of the proceedings into the litigant's preferred language (Mendez 1997). The fact that SIPs may be able to interpret their testimony, does not necessarily mean that they have the capacity to comprehend legal terminology, its logic, and most importantly its variously nuanced meanings. This is even more so given that language

use in courtroom contexts is strategic—word choice, lexical organization, sentence structure, phrase choice, and other linguistic choices, are not happenstance. The reverse of these calculated language strategies is unfortunately the hallmark of self-interpreted testimony.

3. CONCLUSION

It has been argued in this paper that self-interpretation in the Kenyan court and judicial system is a reality that manifests itself in various ways. Self-interpretation does indeed take place in Kenyan courts and it is used on the presumption of serving various functions, notably to enable communication and facilitate the expeditious dispensation of justice. Though these are ideal and noble objectives, self-interpretation is a severely circumscribed strategy whether it is thought of as enabling a linguistically disadvantaged litigant to participate in legal proceedings or considered as enabling a legal system to function optimally. Attempts to save resources and time through encouraging self-interpretation disadvantage the litigant's presentation causing differences between the untestified original and the ultimate verbalized rendition causing lengthy contentions, debates, and arguments during examination-in-chief and cross-examination, and judicial adjudicators struggle to follow interpreted proceedings, leading to delays in delivering judicial decisions. These limitations usually manifest themselves in terms of continual and convoluted strenuous attempts to establish equivalence and relevance in testimony rendition, unmitigated shifts in terms of facts, actions, and meanings underpinning a given legal proceeding, persistent meaning, and factual deviations and purpose misrepresentations which in the final analysis have an adverse bearing on cases being dispensed. It has been averred that when litigants self-interpret, they assume double roles where their roles as interpreters and witnesses are severely blurred. The overall effect of such blurry roles on the eventual rendition of testimony is a serious obstruction to a fair hearing, and full and functional participation in a court case. It constrains examination and cross-examination leading to exclusion of vital evidence, and this is most noticeable when self-interpreting litigants actively and visibly struggle to interpret their testimony. Given the inconsistent testimony that is enabled by self-interpretation, it is obvious that it is not such patchy testimony that goes into the record, the recorded versions of such renditions are usually "reconstructed" by neutralizing the original though implicit rendition and replacing it with the "edited" versions which go into the record, the original testimony suffers serious blows and flaws as has been demonstrated.

Without competent interpretation skills, any bilingual rendition of testimony in courtroom contexts predicated on the use of court-sanctioned language proficiency is very limiting and destructive to the material facts of any case relying on self-interpretation. The litigants, as has been demonstrated in the excerpts provided herein, lack the ability to competently testify in the language of the court, and whenever either lay litigants or expert witnesses are cajoled into using unfamiliar language, they both get disadvantaged and frustrated. The litigants generally are forced to unlearn their original testimony in their quest to communicate, though mostly unsuccessfully. In a way this suggests that the litigants are communicatively absent from their own case, a large portion of material evidence, as rendered through self-interpretation, is unfocused and generally distorted. Ultimately, self-interpretation compromises the fact-finding process stems the factual accuracy of the evidence, and taints the overall outcome of the case, thus leading to a violation of the fundamental rights of the litigants, and the effectiveness of the court in dispensing justice.

Witnesses rely on their first language of habitual usage to offer true, accurate, and reliable testimony. It is within one's language of expression that justice is realized or seen to be realized. When self-interpreting litigants testify in a language in which they have limited competence, they become linguistically vulnerable to confessing, incriminating, and undermining both their evidence and their validity as witnesses. Accordingly, the litigant has two testimonies – the covert original and the overt rendition – which clash from time to time, leading to contradictions that may compromise witness credibility. Deficient language competence is usually acquiescent to making witnesses contradict themselves or fatally damage their own evidence. It is important to note that a person's

native language as the true home of [the] self, invokes the bond, the intimate fusion, and the comfort of being at home with one's testimony. To self-interpret is to (in)voluntarily submit to the 'torture' and tedium of testimony reconstruction, where ideally a litigant had already mapped out how to present his/her testimony. The use of another language other than the litigant's preferred language basically entails re-mapping the whole testimony and reconstructing a new one.

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