

# Legal Professionals Perceptions of Court Interpreters Role as Language Rights Practitioners in Kenya

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**Abstract:** The role of the court interpreter stirs controversies anytime it is mentioned especially in legal interpreting. This study sought to examine the perceptions of legal professionals towards court interpreters as language rights practitioners. Language rights in this parlance indicates the interpreter is not merely seen as a conduit but as one who speaks for the persons who do not speak English in court. The study used a total of 68 questionnaires distributed to the lawyers, magistrates and prosecutors in selected subordinate courts in Kisumu County. A frequency and percentage rating were used to determine the perception of the legal professionals towards the court interpreter as language rights practitioners. The parameters used to gauge language rights were language combination proficiency, accuracy, omission, interruptions and impartiality. The study found out that the legal professionals have varied perceptions on the parameters constituting the language rights practitioner role of the interpreter.

**Key words:** Court interpreter, Language rights, Legal professionals, Accuracy, omission, interruptions, Impartiality.

## I. INTRODUCTION

The court interpreter plays a pivotal role in courtroom communication. As a connector between discourse participants of different languages, the court interpreter has to adhere to some practices as demanded by the adversarial system of the Kenyan legal practice. There also tends to be an assumption that users of interpreters are not in a position to evaluate the practice of interpreting, as they understand only one of the languages involved. However, the legal practitioners are bilingual or multilingual participants in interpreter mediated communication in the Kenyan scenario. In the context of courtroom proceedings, they often have a perception of interpreting. The present paper aims to examine the perceptions of legal professionals towards court interpreters, with specific reference to the perceptions as language rights practitioners.

### *Language rights issues*

Language rights issues are aimed at the promotion of linguistic justice and the removal and prevention of linguistic inequalities or injustice that may occur due to language (Phillipson and Skutnabb-Kangas, 1994). The benefits accruing from the implementation of language rights include the right to individual and collective identity. Phillipson and Skutnabb-Kangas (1994) explain linguistic rights as the right to be different, right to identify with one's mother tongue, to learn it and to have education in it and to use it.

Linguistic rights have been eloquently articulated in various charters and declarations (International Covenant on Civil and Political Rights, 1966, Framework Convention for the Protection of National Minorities, 1995). The Universal Declaration of Linguistic Rights of Barcelona (UNESCO, 1996), for example, lists rights that should apply to human languages and communities that speak them. In Article 20, subsections 1 and 2, the Declaration states that:

1. Everyone has the right to use the language historically spoken in a territory, both orally and in writing, in the courts of Justice located within the territory. The Courts of Justice must use the language specific to the territory in their internal actions (hearings) and if on account of the legal system in force within the territory, the proceedings continue elsewhere, the use of the original language must be maintained.
2. Everyone has the right, in all cases, to be tried in the language which they understand and speak and to obtain the services of an interpreter free of charge (UNESCO, 1996: 8).

Subsections 1 and 2 therefore, emphasize the need to observe language rights in courts by providing justice in the language of the accused and an interpreter if need be. The recognition of language rights requires the establishment of the legal status of languages. In general terms, such status take the form of a statement declaring which language(s) out of those used within the territory, is to be categorized as official.

The linguistic rights concept gathers two manifestations: the territorial principle and the personality principle (Wynants, 2001). The territorial principle implies that the linguistic regulation is established on the basis of territory, so that all inhabitants of such territory will be treated equally. The territory referred to can be the whole state or part of it. In any case, the division of the territory into linguistic zones and drawing of borders determining the use of one language or the other, limits the citizen's linguistic freedom, having to use the official language of whatever territory they may be in if their acts are to be officially effective and valid. According to the personality principle, the citizen is entitled to the linguistic rights derived from the language's official status in the whole territory, with no territorial limitations. Thus the right of choice of language use is directly recognized.

The right to linguistic freedom, defined as the right to freely use and choose the mother tongue in all public and private

spheres (Phillipson and Skutnabb-Kangas 1994) is hardly recognized as autonomous right, and, therefore, it is usually made up through other rights. Thus, the right to use one's language is based on the essential role it plays in the development of the human personality. Thus the personality principle implies the establishment of individual rights that accompany individuals regardless of the territory they may be in. Linguistic rights are a consequence of the citizen's right to linguistic choice before public administration. Under no circumstance should this lead to discrimination for linguistic reasons.

Kenya being a heterogeneous country with over 42 indigenous languages has two official languages (Mbaabu, 1996). Language rights are mentioned explicitly in several sections of the Constitution of Kenya of 2010 (the Constitution). General protection is afforded by Article 7, which provides that 'everyone has the right to use the language and participate in the cultural life of their choice. Article 27 (4), Article 44 (1&2), Article 49 (1a, b &c) Article 50(2, 3 &7) are issues that relate to the courts of law which are deemed to be rights of an accused person.

The Kenyan Constitution (2010) bestows official status to English and Kiswahili as follows:

1. Article 7 (1) states that the national language of the Republic is Kiswahili.
2. Article 7(2) states that the official languages of the Republic are Kiswahili and English.

The declaration of English and Kiswahili as the official languages in (b) above is elaborated as follows:

1. Most government business will be conducted in English or Kiswahili.
2. Government records, reports and all forms of correspondence will be in English or Kiswahili.
3. English is the official language of the courts and is predominantly used in Parliament. Kiswahili is used alongside English in Parliament.
4. English is the official language of instruction in primary and secondary schools, as well as in tertiary institutions.

The constitution further elaborates on language use by the accused person's .Article 49. (1) States that an arrested person has the right to be informed promptly, in language that the person understands, of the reasons for the arrest. In article 50, the constitution states that the accused has the right to have the assistance of an interpreter without payment if the accused person cannot understand the language used at the trial. These constitutional provisions form the basis of language rights in the judicial system.

It is clear that, at present in the courts, two languages continue to dominate. This mean for those Kenyans whose language is not English or Kiswahili and are engaged in discourse in court without the provision of competent interpreters, they risk injustice in courts of law.

Besides the constitution, there is also the provision in the Criminal Procedure Code CAP 75 (2010), which picks from the constitution. In Section 198 (1& 4) of the Criminal Procedure Code declares that the language of the High Court shall be English, and the language of a subordinate court shall be English or Swahili, depending on the linguistic setting and the linguistic competence of the judicial officers. In addition, the law provides that the litigants be informed of the charge against them in a language they understand and speak as stated in section 137 E as follows: A plea agreement shall be in writing, and shall –

1. Be reviewed and accepted by the accused person, or explained to the accused person in a language that he understands;
2. If the accused person has negotiated with the prosecutor through an interpreter, contain a certificate by the interpreter to the effect that the interpreter is proficient in that language and that he interpreted accurately during the negotiations and in respect of the contents of the agreement.

This means that Kenyan courts are bilingual or to be exact multilingual. Hence inequality in our courts is created by linguistic diversity that is supposed to reduce inequality and where a dialogue involves persons of unequal linguistic efficiency, injustice is likely to result. Therefore, the litigants who do not speak and understand English are excluded from the discourse in court, even if they have competent representation from a lawyer. They therefore lose the right to participate in a trial, which concerns them directly except in the presence of an interpreter. *Section 197* (3) provides for evidence to be given in the language the accused understands, while section 198. (1) States that whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open court in a language which he understands.

In the legal field, the litigant's right to be promptly and precisely informed of the reasons for their arrest and the nature of the charge in a language they understand is therefore paramount. This correlatively leads to the obligation to provide the litigants with a free interpreter when the litigants do not understand the official language of the court. Language rights issues hence form the platform for language use in courtroom discourse and provision of the interpreter.

## II. THE ROLE OF THE COURT INTERPRETER

The issue of language rights and the provision of court interpreter go hand in hand with the role of the court interpreter. In terms of court interpreting studies different scholars take different positions in terms of the role of the court interpreters. Lebesse (2011) comes up with some roles that courtroom interpreters play. One is that interpreters can play the role of being conduits where their main duty is to convert all speech from one language to another.

Lee (2009) argues that the interpreter in his/her role should be aware of cultural differences and must show cultural sensitivity. The interpreter also has the role of being a language expert. He/she is supposed to know well the two languages involved in the communication event. The interpreter has also been viewed as a bridge or a channel. In this role, he/she is expected to interpret accurately, faithfully and without emotional or personal bias. In real sense, the interpreter forms a connection between the accused/witness and the rest of the people in the court.

The interpreter also plays the role of replicator. The interpreter replicates the original source language message in the target language to have the same effect on listeners (Hale 2004).

Kondo (2003) elaborates on the aspect of interpreter interaction, including the effects of pragmatic leading, modality hedging, asides and seating position on the three parties- and thus the outcome of the communicative situation. Kondo expresses the notion that the interpreter influences the interactive/interpreting situation by his communicative aspects and ability

Tate and Turner (2002) studied how the perception of interpreters influences their role in interpreting practice and through this, the interpreted event. The study illustrates how conscious the interpreters are of the ethical dilemma and boundaries of their role. They state that the role and code can become a protection against making decisions, thus inducing passivity in situations where an active engagement would be needed.

Mikkelsen (2000) discusses the role of interpreters in court interpreting, which she sees as a subspecialty of community interpreting. She points out the fact that there are different opinions regarding how far the interpreter should go in bridging cultural and social gaps in the court environment.

Gonzalez et al( 1991) propose some standards that the interpreter should adhere to as:

1. The interpreter shall convey a complete and accurate interpretation.
2. The interpreter shall remain neutral.
3. The interpreter shall maintain confidentiality.
4. The interpreter shall confine himself to the role of interpreting.
5. The interpreter shall be prepared for any type of proceeding or case.
6. The interpreter shall ensure that the duties of his or her office are carried out, under working conditions that are in the best interest of the court.
7. The interpreter shall be familiar with and adhere to all the ethical standards and shall maintain high standards of personal and professional conduct to promote public confidence in the administration of justice (Gonzalez et al, 1991, P.475).

Linnell (1997) is convinced that interpreters are inevitably forced to act as chairpersons and gatekeepers monitoring the social and discursive situation and also that the primary parties are influenced by the situation where they have to work via the interpreter. He stresses that primary parties accommodate the conditions of communicating via an interpreter, and they contribute to discourse in a different way than non-interpreted (direct) interaction. Their cooperation and implicit interaction becomes central in communicating messages and understanding means creating coherence and making sense in and through discourse in particular contexts, by connecting discourse with the context and various kinds of background knowledge while discourse and context emerge together.

Australian Institute of Interpreters and Translators (AUSIT) (2008) code of ethics states that there are eight principles governing interpreting in all disciplines: professional conduct, confidentiality, competence, accuracy, impartiality, employment, professional development and professional solidarity

### III. METHODOLOGY

The aim of this paper is to present the perception of the legal professionals towards the court interpreters as language rights practitioners in the subordinate courts in Kisumu County. The paper adopted a survey design to collect data. The research areas of this study are the subordinate courts in Kisumu County. Kisumu County has subordinate courts in Nyando, Maseno, Munara (Muhoroni) and Winam. These courts were chosen because they handle cases that require the use of interpreters. The courts in this region was chosen because the residents of this region are functionally bilinguals; can speak Dholuo (Mother tongue), English and Kiswahili but with a strong affinity to their mother tongue in communication.

Simple random sampling was use to get the participants which comprised 68 respondents. The legal professionals were classified as lawyers, magistrates and prosecutors who, because of their constant engagement in courtroom discourse with litigants via the interpreters, are able to provide a reliable evaluation of the interpreters' role in courtroom discourse. A total of 68 questionnaires were distributed to the lawyers, magistrates and prosecutors and a total of 57 were returned answered which translated to a return rate of about 83%.

The information required from the legal professionals related to their perception of the interpreters in terms of a variety of issues concerning the interpreter that will be handled in the results section. A frequency and percentage rating were used to determine the perception of the legal professionals towards the court interpreter as language rights practitioners.

### IV. RESULTS AND DISCUSSION

This section present the results obtained from the respondents in the legal profession on their evaluation of the court interpreters' role as language rights practitioners in courtroom communication. This is done through an analysis of

quantitative data drawn from the questionnaires administered to the legal professionals.

Table 1: Languages legal professionals mostly use in court

| Language  | Rating    |            |           |            |           |            |
|-----------|-----------|------------|-----------|------------|-----------|------------|
|           | Always    |            | Rarely    |            | Never     |            |
|           | Frequency | Percentage | Frequency | Percentage | Frequency | Percentage |
| English   | 54        | 94.73%     | 3         | 5.26%      | 0         | 0%         |
| Dholuo    | 11        | 19.30%     | 7         | 12.28%     | 39        | 68.42%     |
| Kiswahili | 22        | 37.59%     | 34        | 59.65%     | 1         | 1.75%      |

In the case of English, ALWAYS was rated 94.73%, and RARELY was rated 5.27%. This indicates that English is the mostly used language by the legal professionals. That English was cited as the mostly used language by the legal professionals is also supported by that English is the language of training of lawyers in Kenya and it is also the official language of Kenya.

The result of Dholuo presented a different picture. The NEVER category was rated highest with 68.42% followed by ALWAYS at 19.30% with RARELY at 12.28%. This is the case as it would be unprofessional to have the legal professionals engage in courtroom discourse in languages other than the official languages.

The result of Kiswahili was also striking. The highest frequency was RARELY at 59.65% followed by ALWAYS at 37.59% and NEVER with 1.75%.

The results in Table 1 indicate that the language the legal professionals mostly use in court is English with 94.73%. This could be accounted for by their level of training and also because English is the official language of instruction in schools and also during their professional training as lawyers.

The legal professionals were asked to rate the languages interpreters mostly use in interpretation in court. This item sought to assess the frequency of use of a single language in court by the interpreter. The scale for this assessment was OFTEN, RARELY and NOT AT ALL. In this case the legal professionals were assessing the languages used by the interpreters because they always engage in discourse in court via the interpreters.

As illustrated in Table 2, the case of English OFTEN category had the highest percentage with 66.57% reporting that the interpreters used English. The RARELY category had 29.82% while NOT AT ALL category had 3.51%. In the case of Dholuo the OFTEN category scored 75.44%, RARELY had 19.30% and the NOT AT ALL category had 3.51%. When the value of Kiswahili was worked out, the OFTEN category had the highest percentage of 64.91%, the RARELY category had 31.68% while the NOT AT ALL category scored 3.51%

Table 2, therefore, depicts Dholuo as the language the interpreters mostly use in court. This could not have been far

from the truth as the courts where the research was undertaken were in regions predominantly inhabited by the Dholuo speakers. This by extension means that most of the litigants who attend these courts speak Dholuo. Table 2 below is a summary of the language mostly used by the interpreters to interpret.

Table 2: Languages in which the interpreters mostly interpret

| Language  | Rating    |            |           |            |            |            |
|-----------|-----------|------------|-----------|------------|------------|------------|
|           | Often     |            | Rarely    |            | Not at all |            |
|           | Frequency | Percentage | Frequency | Percentage | Frequency  | Percentage |
| English   | 38        | 66.57%     | 17        | 29.82%     | 2          | 3.51%      |
| Dholuo    | 43        | 75.44%     | 11        | 19.30%     | 3          | 5.26%      |
| Kiswahili | 37        | 64.91%     | 18        | 31.68%     | 2          | 3.51%      |

The next item in language use in court was the interpreters' proficiency in terms of language proficiency. The respondents were asked to evaluate the proficiency of the interpreters in terms of language combination. This was a very important item in this study as the interpreters alternate between two languages. The legal professionals were well placed to undertake this assessment as they are always engaged in conversation in court via the interpreters. The respondents were also reliable as they had indicated that they had high proficiency in the languages used in courtroom communication. The rating for the language combination proficiency was coded as VERY PROFICIENT, PROFICIENT, AVERAGE and POOR.

As the evaluation in Table 3 shows, the rate of English – Kiswahili scored as follows. VERY PROFICIENT had 7.02% PROFICIENT 22.61% AVERAGE 59.65% and POOR had a score of 10.53%. This score indicates that the legal professionals did not favourably rate the English – Kiswahili language combination. In the case of Dholuo – English language combination, the category VERY PROFICIENT achieved a rating of 24.56%, PROFICIENT achieved a rating of 36.60%, while 33.33% was AVERAGE and a paltry 3.51% was rated POOR. The Dholuo – English language combination language proficiency is important as the language most litigants use in court is Dholuo. This is an indication that the interpreters are doing a good job in alternating between Dholuo and English. With a combined proficiency rate of 71.16% the legal professionals who engage in discourse in court via the interpreters have given a positive rating to Dholuo – English language combination.

The rating of the legal professionals for Kiswahili – Dholuo language combination stands as follows: the highest percentage was AVERAGE which attained 57.89% followed by PROFICIENT which had 19.30%. VERY PROFICIENT scored 11.28% while POOR had 10.53%. Table 28 provides a summary of the language combination proficiency.

Table 3: Language Combination Proficiency

| Language combination | Rating          |       |            |       |         |       |       |       |
|----------------------|-----------------|-------|------------|-------|---------|-------|-------|-------|
|                      | Very Proficient |       | Proficient |       | Average |       | Poor  |       |
|                      | Fre q           | Per   | Fre q      | Per   | Fre q   | Per   | Fre q | Per   |
| English-Kiswahili    | 4               | 7.02  | 13         | 22.61 | 34      | 59.65 | 6     | 10.53 |
| Dholuo-English       | 14              | 24.56 | 22         | 36.60 | 19      | 33.33 | 2     | 3.51  |
| Kiswahili-Dholuo     | 7               | 11.28 | 11         | 19.30 | 33      | 57.89 | 6     | 10.53 |

In order to establish the language that the litigants frequently use in court, the legal professionals were asked the language frequently used by the litigants in courtroom communication. Like the interpreters the rating given to the legal professionals was pre-coded as OFETN, RARELY and NOT AT ALL.

The responses from the legal professionals indicated that in the case of Dholuo, the OFTEN category was rated the highest with 75.44%, RARELY followed with 21.05% and NOT AT ALL with 3.51%. This result is consistent with the fact that the study took place in a predominantly Dholuo speaking region. As regards the case of English, the RARELY category attained the highest percentage of 57.89%, followed by OFTEN with 40.35% and NOT AT ALL with 1.75%. In the case of Kiswahili, the legal professionals rated their clients' frequency of language use as follows: the RARELY category was rated highest. 54.38% of the legal professionals indicated that the litigants rarely used Kiswahili, 43.86% indicated that the litigants OFTEN use Kiswahili while 1.75% reported a NOT AT ALL category in the use of Kiswahili. This is shown in Table 4 below.

Table 4: Language frequently used by litigants

| Language  | Rating    |            |           |            |            |            |
|-----------|-----------|------------|-----------|------------|------------|------------|
|           | Rarely    |            | Often     |            | Not at all |            |
|           | Frequency | Percentage | Frequency | Percentage | Frequency  | Percentage |
| Dholuo    | 12        | 21.05%     | 43        | 75.44%     | 2          | 3.51%      |
| English   | 33        | 57.89%     | 23        | 40.35%     | 1          | 1.75%      |
| Kiswahili | 31        | 54.38%     | 25        | 43.86%     | 1          | 1.75%      |

The language use in court profile as rated by the legal professionals is divided into four sub-sections : the legal professionals rate of proficiency in Dholuo, English and Kiswahili, the language the legal professionals mostly use in court, language which the interpreters mostly use in court, language combination proficiency of the interpreter and language frequently used by litigants.

From the data collected it can be revealed that in terms of the language the interpreters mostly use in court, 75% of the legal

professionals stated that the interpreters mostly use Dholuo while 66% reported that the interpreters often use English.

The rating of the language combination proficiency was also rated by the legal professionals. This analysis points to the fact that the interpreters are proficient and very proficient in Dholuo-English language combination at 61%. This pattern is similar to the interpreters self-reported language combination proficiency in which 80% of the interpreters rated themselves as very proficient and proficient. This implies that the interpreters are proficient bilinguals. Several scholars (Jones, 1998; Gonzalez et al, 1991; Frishberg, 1986) recognize the fact that interpreters need to have a good command of their working languages to interpret accurately. Further, the same scholars emphasize the breadth and depth of linguistic proficiency required by the interpreter. They are also unanimous in the point that language is one of the prerequisites for mastering the technique of interpretation.

The results from this section serve as a demonstration of the language use by the litigants as Dholuo. This finding raises the question of the use of interpreters as the courts are frequented by mainly Dholuo speaking litigants. This rating also implies that there is no language disparity that exists between language need of the interpreters and the litigants. Even though most of the litigants are only capable of speaking Dholuo, and have little or no knowledge of English as reported by the legal professionals, the interpreters bridge this gap as they are proficient in Dholuo-English language combination.

The language use in court profile has demonstrated that the interpreters can largely be relied on to negotiate between the official languages of the court and Dholuo-speaking litigants (Gonzalez et al, 1991). One could therefore extrapolate from the data in this section and make the assumption that interpretation in court can be handled competently by the interpreters given their rate of proficiency in English and Dholuo.

#### *Evaluation Of Interpreters' Role In Courtroom Discourse*

This section contains statements on the interpreters' role in courtroom discourse. The responses to these statements in the questionnaire were used to evaluate the interpreters' role in courtroom discourse in this study. Frequency tables were used to rank the degree to which the respondents specified the strength of their agreement or disagreement with all the statements. Ranking the evaluation scores in this way was a method to establish, which evaluation statements elicited the highest level of agreement or disagreement from the respondents. These statements were ranked according to the categories of uniformity in order to distinguish roles: additions, omissions, interruptions and impartiality. The ratings used were STRONGLY AGREE, AGREE, STRONGLY DISAGREE and DISAGREE. Tables 5 to 9 show how the responses were ranked according to the scales given.

*Accuracy:*

Three statements on accuracy appeared in Table 5. The first statement that *interpreters should clarify issues for the participants in courtroom communication* elicited 31.59% STRONGLY AGREE and 29.82% AGREE. It also elicited 21.05% STRONGLY DISAGREE and 17.54% DISAGREE. This finding of 61.41% of strongly agree and agree indicates that the legal professionals strongly feel that the interpreters should clarify issues. Bearing in mind that the interpreters are supposed to be intermediaries and aid understanding one could speculate that clarification would aid the legal professionals in determining the direction of the examination and cross-examination of the litigants in the legal proceedings, and the litigants in responding to the examination and cross-examination appropriately.

The second statement to establish the notion of accuracy was that *interpreters should interpret only what the speaker says*. This statement elicited an even more interesting result. 78.94% STRONGLY AGREE with this statement, 15.79% AGREE with this statement, while 5.26% indicated that they STRONGLY DISAGREE.

The third statement on accuracy was that *the interpreters should explain the context of the speakers' utterance*. While 24.60% STRONGLY AGREE with this statement, 12.30% AGREE with it. 28.10% STRONGLY DISAGREE and 35.10% DISAGREE. This finding indicates that 63.20% of the legal professionals would rather that the interpreter does not explain the context of the utterance.

The legal professionals' assessment of additions by the interpreters tends to support earlier research findings. Laster and Taylor (1995) report that in terms of additions, the legal professionals conceptualize the role of the interpreter as a mechanical service and not as a complex human interaction. Rather than treat the interpreter as a third party, the legal professionals construct the exchange between parties in court as if the interpreter had not been present.

Table 5: Accuracy

| Discourse strategy                              | Rating         |        |       |        |                   |        |          |        |
|---|----------------|--------|-------|--------|-------------------|--------|----------|--------|
|   | Strongly agree |        | Agree |        | Strongly disagree |        | Disagree |        |
|   | Freq           | Per    | Freq  | Per    | Freq              | Per    | Freq     | Per    |
| Should clarify issues for participants in court | 18             | 31.59% | 17    | 29.82% | 12                | 21.05% | 10       | 17.54% |
| Interpret only what the speaker says            | 45             | 78.94% | 9     | 15.79% | 3                 | 5.26%  | -        | -      |
| Explain the context of speakers utterance       | 14             | 24.60% | 7     | 12.30% | 16                | 28.10% | 20       | 35.10% |

*Omission*

Only one statement on omission appeared in Table 6. This statement was to find out if the legal professionals would agree or disagree with the interpreters when they omit some utterances from the source language to the target language. The statement that *the interpreters should not omit some of the speakers' utterances* elicited varied responses. 70% of the respondents STRONGLY AGREE with this statement while 8.77% AGREE. Conversely 7.02% STRONGLY DISAGREE and 3.51% DISAGREE. This result, that 89.47% STRONGLY AGREE and AGREE that the interpreter should not omit some of the speaker utterances reveals a strong evaluation that interpreters should just be conduits of what the speaker says.

Table 6: Omissions

| Discourse strategy                             | Rating         |        |       |       |                   |       |          |       |
|--|----------------|--------|-------|-------|-------------------|-------|----------|-------|
|  | Strongly agree |        | Agree |       | Strongly disagree |       | Disagree |       |
|  | Freq           | Per    | Freq  | Per   | Freq              | Per   | Freq     | Per   |
| Should not omit some of the speakers utterance | 46             | 80.70% | 5     | 8.77% | 4                 | 7.02% | 2        | 3.51% |

*Interruptions*

The legal professionals were supposed to assess whether the interpreters were supposed to interrupt the proceedings during interpretation or not. At the level of interruptions, two statements appeared in Table 7. The first statement was that *interpreters should not interrupt the speaker on the floor*. This statement received favorable ranking from the respondents. 66.67% of STRONGLY AGREE with the statement and 22.81% AGREE with the statement. 7.02% of the legal professionals STRONGLY DISAGREE with the statement while 3.51% DISAGREED. This result provides support for the non-interruption of courtroom discourse by the interpreters as a total of 89.48% of the legal professionals support the statement.

The second statement was that *the interpreters should not become active participants in courtroom discourse*. The majority of the respondents supported this statement. 59.65% STRONGLY AGREE with this statement and 21.05% AGREE with it. The minority who STRONGLY DISAGREE with the statement were 12.28% while 7.02% DISAGREE with the statement.

Table 7: Interruptions

| Discourse strategy   | Rating         |         |       |         |                   |        |          |        |
|--|----------------|---------|-------|---------|-------------------|--------|----------|--------|
|  | Strongly agree |         | Agree |         | Strongly disagree |        | Disagree |        |
|  | Fre q          | Per     | Fre q | Per     | Fre q             | Per    | Fre q    | Per    |
| Should not interrupt speaker on the floor                  | 38             | 66.67 % | 13    | 22.81 % | 4                 | 7.02 % | 2        | 3.51 % |
| Should not become an active participant in court discourse | 34             | 59.65 % | 12    | 21.05 % | 7                 | 12.28  | 4        | 7.02 % |

**Impartiality**

The legal professionals were meant to assess whether the interpreters were supposed to be impartial during interpretation. Five statements appear on Table 8 on impartiality. The first statement was *that the interpreters should make Dholuo-speaking litigants understand every utterance*. This statement elicited the following responses: 87.71% of the legal professionals STRONGLY AGREE while 10.53% AGREE. This rating is a strong level of agreement with the statement that interpreters *should make Dholuo speaking litigants understand every utterance*. Only 1.75% DISAGREES with this statement. It would appear odd that some members of the legal professionals would want the litigants not to understand every utterance.

The respondents were largely certain about whether the *interpreters should mediate verbal information only*. A significant percentage (61.40%) STRONGLY AGREE with the statement while 21.05% AGREE. An insignificant percentage (7.02%) STRONGLY DISAGREE while 10.53% DISAGREE.

The third statement on impartiality elicited a very unfavourable response. The respondents did not favour the statement that *interpreters should mediate the message in a broader sense*, with only 7.02% STRONGLY AGREE and 19.30% AGREE, while 35.09% STRONGLY DISAGREE and 38.60% DISAGREE with the statement. With a total of 26.32% AGREE and 73.69% DISAGREE, the legal professionals are in disagreement with the idea that the interpreters should mediate the message in a broader sense.

The next statement on impartiality that the *interpreters should have a closer relationship with Dholuo-speaking litigants* elicited a polarized response. That 22.80% STRONGLY AGREE and 26.33% AGREE with the statement sums up to a total of 49.13% AGREE with the statement. 17.54% STRONGLY DISAGREE and 33.33% DISAGREE with the statement. This sums up to a total of 50.87% DISAGREE. So

far this is one of the strategies that the legal professionals do not have a clear evaluation of either agreeing or disagreeing with the statement.

The final statement elicited a strong support from the respondents. This is shown by the high level of agreement to the statement *interpreters should intervene where there is miscommunication in courtroom discourse*. A total of 22.80% STRONGLY AGREE and 45.61% AGREE. 14.04% STRONGLY DISAGREE and 17.54% DISAGREE. This split in response indicates the support that the legal professionals have for intervention in miscommunication. A total of 68.41% agreement with the statement is significant.

Table 8: Impartiality

| Discourse strategy   | Rating         |       |       |       |                   |       |          |       |
|--|----------------|-------|-------|-------|-------------------|-------|----------|-------|
|  | Strongly agree |       | Agree |       | Strongly disagree |       | Disagree |       |
|  | Fre q          | Per   | Fre q | Per   | Fre q             | Per   | Fre q    | Per   |
| Should make Dholuo-speaking litigants understand every utterance | 50             | 87.71 | 6     | 10.53 | -                 | -     | 1        | 1.75  |
| Mediate verbal information only                                  | 35             | 61.40 | 12    | 21.05 | 4                 | 7.02  | 6        | 10.53 |
| Mediate message in a broader sense                               | 4              | 7.02  | 11    | 19.30 | 20                | 35.09 | 22       | 38.60 |
| Should have a closer relationship with dholuo-speaking litigants | 13             | 22.80 | 15    | 26.32 | 10                | 17.54 | 19       | 33.33 |
| Should intervene where there is miscommunication                 | 13             | 22.80 | 26    | 45.61 | 8                 | 14.04 | 10       | 17.54 |

**V. CONCLUSION**

This study focused on the analysis of the results on the response of the questionnaires for legal professionals. The legal professionals' views are that the interpreters are proficient in Dholuo-English language combination. They are also of the view that most litigants speak Dholuo in courts. The legal professionals also agreed with some of the standards of practice in terms of the discourse strategies in court. These standards of practice include additions, omissions, interruptions and impartiality.

**REFERENCES**

[1] Arjona-Tseng, E. (1985). The Court Interpreters Certification Test Design. In Lucia Elias-Olivares, Elizabeth A. Leone, Rene Cisneros, and John Gutierrez (Eds), Spanish Language Use and Public Life in the U.S.A. Berlin: Mouton

- [2] Australian Institute of Interpreters and Translators (AUSIT) (2008). AUSIT Code of Ethics < <http://www.ausit.org/eng/showpage.php?id=650> on 3<sup>rd</sup> june 2020.
- [3] Frishberg, N. (1986). *Interpreting: An Introduction*. Silver Spring MD: Registry of Interpreters for the Deaf.
- [4] Gonzalez, R., Vasquez, V., and Mikkelson, H. (1991). *Fundamentals of court Interpretation: Theory, Policy and Practice*. Durham, North Carolina: Carolina Academic Press.
- [5] Government of Kenya. (2010) *Criminal Procedure Code*. Nairobi: National Council for Law Reporting
- [6] Government of Kenya. (2010) *the Constitution of Kenya*. Nairobi: National Council for Law Reporting
- [7] Hale, S.B (2004). *The Discourse of Court Interpreting: Discourse Practices of the Law, the Witness, and the Interpreter*. Amsterdam/ Philadelphia: John Benjamins.
- [8] Jones, R. (1998). *Conference Interpreting Explained*. Manchester. St Jerome Publishing.
- [9] Kondo, M. (2003) "3-Party 2-Language Model of Interpreting Revised". *International Journal of Interpreting and Translation* 1: 77-95
- [10] Kymlicka, W (2002) Multiculturalism and Minority rights, journal of Ethnopolitics and minority issues in Europe, Issue 4
- [11] Lastor, K and Taylor, V. (1995) The compromised conduit: Conflicting Perception of Legal Interpreters. *Criminology Australia* 6 (4) 10, 10.
- [12] Lebesse, S. (2011) A pilot Study on the Undefined Role of Court Interpreters in South Africa *Southern African Linguistics and Applied Language Studies* 29(3) 343-357
- [13] Lee J. (2009) Interpreting Inexplicit Language during Courtroom Examination. *Applied Linguistics* 30/1:93-114 Oxford: Oxford University Press.
- [14] Linell, P. (1997). *Interpreting as Communication in Conference Interpreting: Current Trends in Research*. Amsterdam and Philadelphia: John Benjamins Publishing Company.
- [15] Mbaabu, I. (1996) *Language Policy in East Africa: A Dependency Theory Perspective*. Nairobi. Educational Research Publications
- [16] Mikkelson, H. (2000). *Introduction to Court Interpreting*. Manchester & Northampton: St Jerome Publishing.
- [17] Phillipson, R (1992) *Linguistic Imperialism*. Oxford University Press: Oxford.
- [18] Phillipson, R. and Skutnabb-Kangas, T. (1994). Language Rights in Postcolonial Africa. In R. Phillipson, M. Rannut and T. Skutnabb-Kangas (ed) *Linguistic Human Rights: Overcoming Linguistic Discrimination*. Berlin: Morton de Gruyter
- [19] UNESCO (1996) *Universal Declaration of Linguistic Rights*. Barcelona. At [www.linguistic-declaration.org/Index-gb.htm](http://www.linguistic-declaration.org/Index-gb.htm) downloaded on 22- 7- 2020.