

MEANING LOSS IN INTERPRETATION: A JUDGMENT RULING IN NYANDO MAGISTRATE'S COURT KENYA

Beatrice Owiti

Abstract— Research on interpretation in Kenyan Courts is limited and there are none that examine Dholuo-English interpretations. Consequently, there is a pressing need to have a broad and deep understanding of the linguistic issues that occasion meaning loss using Dholuo-English data. This paper, thus investigated meaning loss in courtroom interpretation through the examination of the additions, deletions and misinterpretations with specific reference to the mentioned language combinations. The literature reviewed included literature on courtroom interpreting and literature on meaning shifts in the courtroom. The data analyzed consisted of one courtroom judgment ruling from Nyando Magistrate's court. The data collected was analyzed using both quantitative and qualitative methods of analysis in order to come up with inferences, explanations and conclusions.

Keywords— *Additions, Courtroom Interpretation, Meaning Loss, Misinterpretation and Omissions*

I. INTRODUCTION

In the recent past, studies have been carried out on courtroom interpretation and its characteristics (see Gumperz 1982,[1] Shuy 1993,[2] Gonzalez 1989,[3] Berk-Seligson 1989,[4] Gonzalez et al 1991[3], De Jongh 1992[5], Styler 1993[6] and Moeketsi 1999 [7]). Gumperz, Shuy and Gonzalez carried out the mentioned studies in the United States of America Whereas Styler and Moeketsi's studies were carried out in South Africa. Gonzalez concentrated on describing what courtroom interpretation should entail, while Shuy and Gumperz examined court cases where interpretation was not done well resulting in miscarriage of justice. Styler

on his part examined the difficulty of interpreting from English into the indigenous South African languages. A number of empirical studies have raised important questions about the notion of neutrality (Metzger 1999 [8]), invisibility (Angelleli 2001[9]) and the influence that interpreters have on interactive discourse in interpreted interactions (Metzger 1999[8], Roy 2000[10] and Wandesjo 1995[11])

Few studies have been carried out on the meaning shifts that arise during courtroom interpretation (see Kiguru 2008 and Karton 2008[12, 13] These latter group of studies examine meaning shifts which they show manifest themselves in interpreter errors. Even though these studies help in the classification of the types of errors made during interpretation, they do not provide a clear description of linguistic errors that lead to meaning loss in interpretation. Consequently, there is a pressing need for additional studies to deepen our understanding of these linguistic errors which may be occasioned by addition, deletion and misinterpretation of lexical items, phrases, clauses, ideas, sentence or large chunks of the verbal discourse as well as style.

II. OBJECTIVES OF THE STUDY

The paper aims to achieve the following objectives:

1.To identify and classify the additions, omissions and misinterpretations that occur in courtroom interpretation from Dholuo to English

2.To examine interpretation strategies used by courtroom interpreters when interpreting from Dholuo to English

3.To analyze what has been added, omitted or misinterpreted and determine the effect it has on the meaning of the target text

III. DATA USED IN THE STUDY

The data used in this study was a courtroom judgment reading from the Nyando Magistrate’s Court collected in February 2014. The case was a criminal case involving the alleged theft of some items from a store. Both the complainant and the accused claimed not to speak the English language which is the language of the courtroom in Kenya. As a result, the judgment had to be interpreted by the court clerk for the benefit of the two. The researcher collected the data through audio recording and was physically present in the court to do so as a non- participant observer. The data was then stored on a USB stick for easy retrieval. This also enabled for the data to be listened to over and over again in the process of analysis.

IV. DATA ANALYSIS

First the data was transcribed. The steps involved were that the researcher listened to the audio recording and put down what was being said in the courtroom. This was done in the dialogue format in which it took place. The source text (ST) spoken by the magistrate (Mag) in English was recorded, then the target text (TT) rendered by the interpreter (Int) in Dholuo was also recorded. To analyze the data for additions, omissions and misinterpretations as well as to ensure that the data is understood by all people reading this paper, the TT was then rendered in English by the researcher who speaks both languages involved here fluently. The researcher’s translation (RT) was then compared to the TT and then additions, omissions and misinterpretations were identified. Throughout the judgment, the accused was only required to speak at the end and even then he spoke in English and therefore there was no ST taken from the accused.

The quantitative data analysis was done by identifying the frequencies of each of the variables. This was done by first classifying the variables into the strategies used by interpreters in the process of interpretation and then describing their frequencies. This enabled the researcher to identify which types of strategies occurred more than others and how they

impacted on meaning loss. Qualitative data analysis was done through examining the additions, omissions and misinterpretations and the researcher was able to explain how and why meaning loss took place in interpretation. From these, inferences and conclusions were drawn.

V. RESULTS

In total, there are 233 omissions, additions and misinterpretations in Judgment 1. Out of these, 122 are omissions, 75 are additions and 36 are misinterpretations. These frequencies mean that omissions are the highest at 52.36%, followed by additions at 32.19% and misinterpretations come last at 15.45%. The results section of this paper examines each of these together with the strategies used for interpretation first quantitatively and then qualitatively.

VI. QUANTITATIVE EXAMINATION OF OMISSIONS

In judgment 1, there were 122 omissions in total. Out of those omissions, 2 were down toning in that the absence of the said words created a down toning of the message. The interpreter omitted 37 legal terminologies and omitted 5 words and phrases for which he could not find ready equivalents. 24 omissions resulted in distortion of facts whereas as a result of rephrasing, there were 15 omissions. Summarizing caused 4 omissions and modifications caused another 4 omissions. Instead of rendering questions, the interpreter rendered statements thus omitting 2 questions and at the same time omitted 22 function words. In judgment 1, only one discourse marker was omitted. This data can be summarized numerically as follows:

TABLE I
OMISSIONS IN JUDGMENT 1

Interpretation Strategies	Frequency	Percentage
Down Toning Omissions	4	3.28%
Omission of legal terminology	37	30.33%
Lack of Equivalent	5	4.09%
Distortion of facts	6	4.92%
Rephrasing	24	19.67%
Summarizing	15	12.30%

Modifications	4	3.28%
Omission of questions	4	3.28%
Omission of function words	22	18.03%
Omission of discourse markers	1	0.82%
Total	122	100.00%

VII. QUALITATIVE EXAMINATION OF OMISSIONS

In Judgment 1, there are 122 omissions. I looked at them and characterized them according to the effects they have in the text as well as the reason as to why they occur. There are omissions of Legal terminologies which are the highest omissions. This can be explained by the fact that unlike English, Dholuo has no known legal register. When an interpreter comes across a legal terminology, sometimes they interpret it by explaining it and at other times they omit it all together. Here are some examples of the legal terminologies omitted in Judgment 1.

Example 1

Mag: PW2; the assistant chief, said that he went to the accused's home upon receiving the information

Int: Janeno mar ariyo; assistant chief ma gwen'g no no dhi e od jadonjo ban'g yudo report

RT: The second witness; the assistant chief of that village, went to the complainant's house after receiving the report

PW2 is a short form for prosecution witness 2; an acronym commonly used in the Kenyan courtrooms. In interpreting this, the interpreter completely ignored it and simply said "the second witness". In so doing, the legal register is completely lost. The words are turned into ordinary lay man language. In this case in as much as the meaning is retained, obviously there is a loss of substance related to courtroom setting where this conversation is taking place. The same can be said for the next example

Example 2

Mag: This therefore means that the complainant's allegation that his store was broken into has not been corroborated

Int: Koro owacho ni kata jadonjo wacho ni dho ot notur, ne ok one adiera

RT: Now he is saying that the complainant says that the door was broken, no one saw for sure

"Has not been corroborated" is a phrase that was left out completely in the interpreter's version. The interpreter must have grappled with making a decision as to what words would be used for this and eventually gave up. I also cannot think of a Dholuo phrase that I can use to mean corroboration.

Example 3

Mag: And the accused is acquitted under section 215 of the CPC

Int: Kendo Court oweyi e buo chik namba mia ariyo gapar gabich

RT: And the court has set you free under the law number two hundred and fifteen

In this example, the CPC stands for the Criminal Penal Code. In order to capture this, the interpreter might have been called upon to use some form of explanation for it as there seems to be no one on one equivalent. In fact in the Siaya court which is one of the sample locations, the interpreter explains this as "the law dealing with theft, robbery and misdemeanor" this particular interpreter decides to ignore it all together. In so doing, his argument is probably that he has captured the relevant part of that utterance anyway. However Mikkelson[14], while discussing on interpretation of legal register says that the interpreter must convey the target language message in the target language legal register.

Apart from these examples used here, other words are phrases related to legal terminology left out in Judgment 1 include:

- i. Be charged with an offence
- ii. Handling stolen property
- iii. In the alternative charge
- iv. In count one
- v. Been in custody
- vi. The crime scene
- vii. Has given evidence

Another scholar Garces [15] also says that although the interpreter is not the author of the message, he/she must capture the meaning and style of the discourse, search for an equivalent in the other language and be able to express it. In

my findings, there are words that even though expressible in Dholuo, simply do not have equivalents per se. In such a case, the interpreter should try and incorporate the meaning and not leave it out altogether. When these types of omissions take place, the entire meaning of the word, phrase or sentence is lost.

Secondly, omissions that occurred due to rephrasing what was said were 24. In these types of omissions, the exact words were not used but an attempt was made to rephrase the utterance to cover the meaning of the omitted sections for example:

Example 4

Mag:... And items stolen. These were: A metal bed, windows and other small things had been taken

Int: Dirisa gi gige moko noyudo kokaw kanyo

RT: He found that windows and some of his things had been taken

Even though the judge includes a metal bed as one of the things that had gone missing, in the interpreter's version, there is no mention of a metal bed. However, the missing bed is included in the next part of the sentence when the interpreter says "and some of his things". The difference is that the judge had thought of the missing bed as something quite substantial and this is shown in two ways. First the metal bed is isolated in a list, and secondly, when other missing things are mentioned, the judge qualifies them by referring to them as other small things which the bed is not. The omission of "the metal bed" has the effect of belittling the loss the complainant is alleged to have incurred.

Example 5

Mag: The complainant has not produced any ownership documents of the items

Int: Jadonjo onge gima ogolo mawacho ni mago gige kata anything mogolo

RT: The complainant has not produced anything that shows these are his things or anything he has produced

In place of "any ownership documents," the interpreter uses "anything that shows these are his things" in rephrasing, the original phrase has vanished but has been taken care of in a round and about way. The phrase "any ownership documents"

is a NP that consists of a determiner (any), a noun that acts as a modifier hence an adjectival (ownership) and the head noun (documents). In rephrasing, the interpreter replaces this with another NP though it is a longer NP as it has a relative clause embedded in it. The gist of the message has been captured but not using the exact same structure as was used in the ST. This seems to partly agree with an observation by Benmaman[16] who on her part argues that the interpreter must render an accurate, unbiased, comprehensive version, true to the speaker's style, level of usage and perceived intent. The interpreted utterance however lacks the style and the level of usage present in the ST. One can argue therefore that constraints of time, cause the interpreter to fail to adhere to legal equivalence as prescribed by Gonzalez[3]

Another finding in this study is that interpreters often omit function words. In judgment 1, 22 function words are omitted. Function words are also known as grammatical words. These are words with little lexical meaning and mainly serve to show grammatical relationships with other words in a sentence. They are a set of closed words and one cannot easily add new words to these sets. Functional words are: prepositions, pronouns, determiners, conjunctions, auxiliary verbs and particles.

Mainly, the function words omitted are connectors of sequence. These include: now, further on, further to this, since, in addition to, then, as follows, and also connectors of contrast such as: however and whereas. In a judgment, the magistrate has already written out his/her ruling and just reads it out to the court. Because it is written speech, it has the hall marks of writing that are not normally present in spoken utterances. For example, the sentences are well arranged and more formal than they would otherwise be if it was spontaneous speech. This explains the large number of connectors to be found in Judgment 1. Also, because the speaker is one person i.e. the magistrate, he has a particular style of speaking/ writing and will therefore tend to use some words and phrases more than others. In this particular judgment, the magistrate has the tendency of saying "in regard to" and "so from the on-going". This is part of his personal style. It is evident from the data that every time the magistrate

used these function words, the interpreter ignored them all together or substituted them with other function words. The magistrate who is the speaker here has a personal way of talking peculiar to him, whereas the interpreter has his own style too. These two styles are both evident. The interpreter omits what according to his style of speech is not very relevant which is also dictated by his lexical entry i.e. his knowledge of Dholuo words.

The interpreter also in an effort to summarize the judgment reading ends up omitting some units and this type of omissions amount to 15 in Judgment 1. The interpreter decides to omit what he considers as given information forgetting that it might have been given information in the ST but is not necessarily given information in the TT. When this kind of omission takes place, we have to recollect that the accused and complainant in this case have stated that they do not understand English and therefore need to be made linguistically present through interpretation. Whatever the interpreter omits therefore has the potential to create missing links in the TT. An example is:

Example 6

Mag: In respect to count one, in respect to count two and in respect to the alternative count

Int: Count mar achiel, count mar ariyo gi count mar adek be

RT: The first count, the second count and the third count

The magistrate deliberately repeats the phrase prepositional phrase “in respect to” three times. This has the effect of emphasis and also of enumerating the charges one by one. In the utterances that follow this one, the accused is acquitted of all the charges and the magistrate seemed to want to make it clearer that the accused was cleared of all the charges and not just some. Even though the interpreter also enumerated the charges in his Dholuo rendition, the force of his utterance is much less than that of the magistrate due to the omission of the prepositional phrase used in the ST. The missing prepositional phrase also turned the utterance into just another ordinary utterance and yet the magistrate’s version made it more technical and gave it a “courtroom sound”. The legal interpreter is essential for the non-English speaker. He/she

must be able to comprehend and manipulate dialect and geographical variation in the working languages. They must possess a wide range of knowledge, understand both the legal process and related terminology, and understand the various discourse styles used in the courtroom[16]. This particular example shows how the interpreter failed to take into account the courtroom discourse style where even repetition serves a particular legal purpose; in this instance of including all the charges into the utterance.

Example 7

In another example, the use of summary also causes an omission

Mag: The complainant told the court that on the twenty first of July twenty thirteen

Int: Tarik. Jadonjo wacho ni tarik prariyo gachiel

RT: The date. The complainant says that on the twenty first

The interpreter stated the date as mentioned by the magistrate but failed to indicate the month and the year both of which are mentioned in the ST. It is true that the courtroom interpreter is faced with the constraints of time but these types of omissions can cause problems. There is no month of the calendar that does not have a twenty first date. The interpreter’s utterance could therefore mean the twenty first date of any month in any year. The interpreter omitted this because he assumed that the mention of July and the figures twenty thirteen should be understood by everybody including those who do not speak English at all. He therefore treated this as given information and ignored it in his rendition. The only good thing about this particular example is that this is a reading of the ruling which takes place after all evidence has been scrutinized and is therefore not part of the scrutinization process. However it is not lost on this researcher that if it had been part of the evidence to be scrutinized, a clever lawyer could have used this as a loophole to show that the facts of the case were grossly inaccurate.

There were omissions in Judgment 1 that caused distortion of facts. These were six in total.

Example 8

Mag: Who was categorical that when they searched the accused’s house, the accused was not present.

Int: Sama ne gi sachu odi nionge

RT: When they were searching your house you were not present.

When the magistrate made this statement, it was in a bid to show the contradictions that were evident in the witness statements made for this case. One witness on the one hand had said that the accused person was present in his house when it was searched whereas the other witness had come to court and stated that without a shadow of doubt, the accused had been absent when his house was searched. The key point therefore in the magistrate's utterance is "who was categorical" to create emphasis of the certainty with which one witness had contradicted another. In omitting this relative clause therefore, the interpreter failed to capture the truth of the statement and in fact distorted it by making it about simply the absence of the accused in his house at the time of the search. This was not what the magistrate's utterance was about.

The example identified here goes to show that the meaning of an utterance in context is very important. If an interpreter is to be successful, they must be able to capture both the semantics and the pragmatics of an utterance as highlighted by Hale[17] who discovered that most of the problems interpreters face in the courtroom are completely unrelated to the specialized terminology but relate mainly to the pragmatic aspects of the discourse such as being able to achieve equivalence of illocutionary force, levels of politeness or equivalence of register of register of the testimony, etc.

VIII. QUANTITATIVE EXAMINATION OF ADDITIONS

In Judgment 1, there were 75 additions. Out of these, additions that offered explanations were 29 at a percentage of 38.67%. Then there were additions that created emphasis and those were 8 or 10.67%. The interpreter in this judgment also added legal terminology where previously there were none and those were 4 at 5.33% same as speech tags that were also 4 at 5.33%. There was also the addition of the sentence subject and this was only one at 1.33%. Some additions brought in new information; these were 8 at 10.67% whereas others that distorted facts were 18 at 24%. The connectors that were

added were 2 contributing to 2.67% and the addition of colloquial terms contributed to 1.33% at a frequency of 1. These facts are presented in table II.

TABLE II
ADDITIONS IN JUDGMENT 1

Strategies	Frequency	Percentage
Addition of Explanations	29	38.67%
Addition of Emphasis	8	10.67%
Addition of Legal Terminologies	4	5.33%
Addition of Speech Tags	4	5.33%
Addition of Subject	1	1.33%
Addition of New Information	8	10.67%
Distortion of Facts	18	24%
Addition of Connectors	2	2.67%
Addition of Colloquial Terms	1	1.33%
Total	75	100%

IX. QUALITATIVE EXAMINATION OF ADDITIONS

In judgment 1, there are additions that the interpreter introduced into the TT which were not present in the ST. I examined those under the interpretation strategies employed which were: Additions of explanations, additions of emphasis, additions of legal terminology, additions of speech tags, additions of the sentence subject, additions of new information, additions that distorted facts, additions of connectors and additions of colloquial terms.

The additions that were made in an attempt to explain a point from the ST were 29 in total. In line with the Relevance Theory (Sperber and Wilson [18], the listener tries to make sense from what the speaker has said by deciding what is relevant in that utterance. Within the act of interpretation from one language to another, the courtroom interpreter was able to show what he considered relevant by rendering it into the target language. In the data for Judgment 1, the interpreter chose words in the target language that explained further what had been rendered in the source language. For example, the magistrate says

Example 9

Mag: He said that the accused named the items as family items

Int: Niwacho gik mowacho ni ikwalo go mago ne meku mag familia

RT: You said that those things he is saying that you stole belong to your family

In this example, the magistrate was referring to items that the accused is alleged to have stolen from a store but because at the beginning of the case, he had already identified the items as a spring bed, two wooden windows and a wooden tray, he saw no need to repeat that. He treated this as given information which the interpreter knew as well as anybody else in the courtroom who understands English. However, the interpreter on his part decided to explain further what the magistrate meant by the “items” and rendered this as “those things he is saying that you stole”. Looking keenly at this addition, the speech act changed. “The items” was quite a neutral phrase and was a mere statement as opposed to saying “those things he saying that you stole” which became an accusation. This is contributed to by the use of the phrase “you stole” which goes contrary to what Gonzalez [3] referred to as rendering a legal equivalent. Also according to DeJongh [5], in the courtroom, the interpretation should reflect the tone, intonation, register and educational level of every source language speaker.

A second example of this type of addition relates to the difficulty faced by Dholuo interpreters in rendering the legal terminology from English as shown here:

Example 10

Mag: This therefore means that the complainant’s allegation that his store was broken into has not been corroborated

Int: Koro owacho ni kata jadonjo wacho ni dho ot notur ne ok one adiera

RT: Now he is saying that even though the complainant says that the door was broken, no one saw for sure

Corroboration is a term mostly used by members of the legal fraternity to show that something has been verified, supported or validated. When the interpreter decides to say “no one saw for sure” he is only introducing an aspect of

corroboration where it is expected that for a fact to be verified, another person has to stand as witness of that action. This brings us to encyclopaedic knowledge as expounded by the Relevance Theory. The encyclopaedic entry contains information about the extension or denotation of the concept. It is in fact an entry that varies from one individual to another. In an attempt to understand the meaning of the source text, the interpreter drew from his encyclopaedic knowledge and chose the most relevant information from that. One cannot therefore say that this interpretation was irrelevant as there are aspects of corroboration to be found in there being a witness to an event.

There were also additions that were made to show emphasis which were 8 in number. In most instances, the interpreter added something that had already been mentioned but in a different way thus drawing more attention to it as a repeated concept. For example

Example 11

Mag: The accused had stated that he inherited the items from his grandparents

Int: Gigo nikao ir kwaru mane osetho

RT: You took those things from your grandfather who had died.

There is no mention in the ST of whether the grandparents in question had died or not. When the interpreter adds that the grand father had died, he is simply using his encyclopaedic as well as his logical entry to create relevance. He is probably aware that what is normal is for people to inherit things from other people upon their death. It is however not unheard of for people to inherit things from others who are still alive but the former is more common. And in this case, the fact that it is the grand parents involved then logically it would be considered “normal” for them to have passed on.

Example 12

Mag: And they went to your house and found the stolen items

Int: Gi dhi e odi to giyudo gik mokwal e odi no

RT: They went to your house and found the stolen items in that house of yours

The interpreter in adding “in that house of yours” created a repetition of the house. This is because in the first part of the sentence, the magistrate had already talked about the accused’s house.

Another category of additions used by the interpreter was the addition of legal terminology. These were only 4 in number in this particular judgment. Out of those, three are of the same phrase i.e. “as alleged”

Example 13

Mag: Or whether he also saw the door broken

Int: Bende ne ok oneno ka dho ot otur kaka iwacho no

RT: And he did not see the door broken as alleged

In this example, it was possible for the interpreter to add legal terminology because the communication event was taking place in a legal setting. But by adding this particular phrase, the interpreter was showing his attitude. He seemed to want the accused to be aware that he as the interpreter knows that the accused is innocent until proven guilty and wanted to pass across this information. This is a form of showing solidarity that I found to be common in Dholuo- English interpretations in Kenyan courtrooms. This goes to prove Angelelli’s[9] assertion that

The interpreter is present with all his/her deeply held views on power, status, solidarity, gender age, race, ethnicity, nationality, socio-economic status, plus the cultural norms and blue prints of those social factors that are used by him/her to construct and interpret reality (2003:16)

In terms of syntax, I also found that there were additions of speech tags, the sentence subject as well as connectors. In this Judgment, 4 speech tags were added, the subject was added 1 time and there was an addition of 1 connector. An example of a speech tag added is:

Example 14

Mag: Since the complainant is also his step father

Int: Iwacho ni jadonjo be en wuonu mar ariyo

RT: It is being said that the complainant is your uncle

There is a lot to be said for this addition. First, the interpreter seemed to be distancing himself from the utterance. By saying it is being said, he also implies “these are not my words”. In order to understand why the interpreter would

distance himself from this utterance, one has to first of all understand that there is no term for step father in Dholuo. In fact, there is no term for any step relationship. Someone is either your brother, sister, father, mother etc. or not, never step. It does not mean that step fathers do not exist but the cultural norms insist that your father is your father, your father’s daughter is your sister irrespective of whether they come from the same mother or not. Distinguishing one as a step sibling or parent is greatly frowned upon. So apart from the addition of the speech tag, the word step-father is also rendered as uncle to minimize the damage done by the magistrate in speaking of a step-father an unknown concept in the Luo culture. If I was to translate literally the word for uncle from this utterance, it would be “your second father”. That goes to show that even an uncle is ranked as a father.

Example 15

There is also an addition of a connector as shown here:

Mag: In the alternative count, you were charged with handling stolen property

Int: Mar ariyo, noyudi gi gig kuo

RT: Secondly, you were found with stolen property

The interpreter added a connector but in the process lost an entire phrase i.e. “in the alternative count”. The reason for this may be that he was unable to quickly find the exact equivalent for “alternative count”: a legal term. It is worth noting that whereas Dholuo has words that can be used to talk about legal concepts, there is no specific legal register in Dholuo thus the difficulty with legal terminology.

The interpreter also adds the sentence subject as shown:

Example 16

Mag: He said that the accused had named the items as family items

Int: Niwacho i gik mowacho ni ikwalo go mago ne meku mag familia

RT: You said that the things he is saying you stole belong to your family

Whatever the interpreter’s reason for adding the subject, it comes out as a stronger assertion than made by the magistrate as it changes the ST utterance from a passive sentence to an active sentence in the TT.

In the same Judgment there is also an addition of a colloquial term

Example 17

Mag: The chief and the youth found the bhang

Int: Chief gi yudhe noyudo gino

RT: The chief and the youth found that thing

“That thing” is used to refer to bhang: cannabis sativa. This is a very informal way of referring to things one does not want to mention within the Dholuo context. I can only speculate that the interpreter did not want to mention bhang directly due to disapproval.

Furthermore, there are additions in this judgment that were regarded as being significant to meaning as they brought in new information that was not in the ST. Most of the new information added was information that the interpreter by virtue of having dealt with this case for a longer period than just the judgment day was privy to. These were 8 additions and mostly did not distort facts. But, there were 18 additions that distorted facts. Some examples of additions that distorted facts are:

Example 18

Mag: They then found the accused who was suspected on the way

Int: Noyudi kiwuotho to gi chich kodi ma gimaki

RT: They found you walking; they suspected you and then arrested you

Mag: The assistant chief was with the complainant and two other youths

Int: Assistant chief ne ni gi jadonjo gi jodong gwen'g ariyo

RT: The assistant chief was with the complainant and two village elders

In the first instance, the interpreter added that the accused person was arrested whereas the magistrate did not say so. In listening to the whole judgment, the arrest took place much later than this. In the second instance, the interpreter added that the assistant chief was with two elders whereas it was two youths. That distorts fact and the only good thing about this was that the magistrate was reading his judgment so he did not have to make a decision based on what the interpreter was saying. But this brings to mind the importance of interpreter

competence. As Berk-Seligson[19] puts it

Interpreters generally do the best they can, and are sincere in their effort to be precise and faithful to the foreign language testimony. Yet if they are not highly qualified to do their job, the product of their efforts is bound to be faulty. No amount of oath-swearing can guarantee high quality interpreting from an interpreter who does not have the necessary competency” ([19]: 204).

Lastly still on additions, there are those that do not distort facts an example of which is:

Example 19

Mag: The third witness who was the investigating office

Int: N'gat mar adek mane en investigating officer matimo nonro

RT: The third person who was the investigating officer who was doing the investigations

Even though there is an addition, it is a relative clause that identifies the investigating officer. As with all relative clauses, it can be removed without affecting the meaning of the utterance.

In conclusion, the data shows that there are different types of additions to be found in courtroom interpretations. Some of these are additions that express explanations, those that emphasize those of legal terminology, addition of speech tags, subjects, connectors and colloquial terms as well as additions that give new information and those that distort the facts. Out of these, the additions that seek to give explanations are the most. This is as a result of the differences in the two languages involved. When the interpreter fails to quickly find an equivalent word in the TT, they resort to giving an explanation. However, there are 18 instances where the interpreter, in the process of using additions, distorts the facts of the case.

X. QUANTITATIVE EXAMINATION OF MISINTERPRETATIONS

In judgment 1, there were a total of 36 misinterpretations. Misinterpretations that distorted facts were the most as they occurred 15 times at 41.67% and these were followed by misinterpretations that occurred as a result of rephrasing that were 9 at 25%. Next were misinterpretations that happened

because the interpreter could not find ready equivalents that had a frequency of 4 at 11.11%. Distortions that occurred due to explanations, emphasis and slips of the tongue had a frequency of 2 each at 5.56%. In the process of creating emphasis and down toning, there was 1 for each at 2.77%. These are represented in Table III.

TABLE III
MISINTERPRETATIONS IN JUDGMENT 1

Interpretation Strategies	Frequency	Percentage
Explanations	2	5.56%
Emphasis	1	2.77%
Down Toning	1	2.77%
Misinterpretation of Legal Terminology	2	5.56%
Slips of the Tongue	2	5.56%
Rephrasing	9	25%
Distortion of Facts	15	41.67%
Lack of Equivalent	4	11.11%
Total	36	100%

XI. QUALITATIVE EXAMINATION OF MISINTERPRETATIONS

There are thirty six misinterpretations in judgment 1. These were further classified into: Misinterpretations that occurred due to an attempt at explanation, misinterpretations that took place due to emphasis, those that resulted in down-toning, misinterpretation of legal terminology, slips of the tongue, those that occurred as a result of rephrasing, those that distorted facts and those that occurred due to lack of Dholuo equivalents.

Example 20

Mag: since the complainant is also his step-father

Int: iwacho ni jadonjo be en wuonu mar ariyo

RT: It is being said that the complainant is also your uncle

In this example, the interpreter renders step-father as uncle. This may look to a non Dholuo speaker as a misinterpretation. However, the interpreter here is faced with a dilemma. Dholuo does not encourage the reference to “step-relatives”. If one was polygamous (and this was very common), the siblings looked at themselves as real sisters and brothers. To refer to

such a sibling in a way that showed mixed different parentage was taboo and highly looked down upon. Also kinship amongst the Luo is a close knit affair where uncles are called fathers; aunties are called mothers, etc. so the term step-father does not exist even though there actually are step-fathers. In Dholuo language, a step- father is simply a father. Therefore, the interpreter, knowing this complication, decides to use the word uncle. This is because he knows had he used the word father, which is the correct interpretation form Dholuo, he would have caused confusion in the English language where father can only mean biological father.

Another example of misinterpretation is

Example 21

Mag: However further on, the complainant said that the accused remained at the chief’s place

Int: kata kamano janeno wacho ni jadonjo noparo ne chief

RT: However, the witness says that the complainant reminded the chief

In this example, there is misinterpretation which came about as a result of the interpreter confusing between two English words: remained and reminded. It appears because the two words almost sound the same; the interpreter did not hear clearly what the magistrate had said. In my analysis I treated this as a slip of the tongue on the part of the interpreter. However, the resultant interpretation has got two problems. One, it produces a different meaning from the one given by the magistrate and it also results in an incomplete sentence.

The interpreter’s in Kenya are not trained in interpretation. They are given the job on the basis that they can speak the two languages involved. If the interpreter would have had some qualifications in linguistics, he would have been able to tell from the context of the magistrate’s speech that the word “reminded” would not fit into the slot. At the same time, he would have noted the incompleteness of his version. That way, he would probably have made an effort to repair his speech. Therefore from the mentioned examples, interpreter competency is a factor to be considered if courtroom interpretation is to be efficiently done.

XII. CONCLUSION

From the data gathered additions are the most common. Most additions happen in an attempt to explain words for which the interpreter cannot quickly find an equivalent. The differences in the lexicon of the two languages contribute to additions, omissions and misinterpretations. Also, the legal register is a problem to translate into Dholuo which has no known legal register. Finally, due to lack of training on the part of the interpreters, much is lost in the process of interpretation in the Kenyan courtroom.

ACKNOWLEDGMENT

I would like to thank my academic supervisors Prof. Lesley Jeffries and Prof. Daniel Kadar for the positive criticisms they have given me throughout the research period. Without their positive contributions, this research would not have been possible.

REFERENCES

- [1] J. Gumperz. (1982). *Discourse Strategies*.
- [2] W. R. Shuy. (1993). *Language Crimes*.
- [3] F. V. R.D. Gonzalez, and H. Mikkelson. (1991). *Fundamentals of Court Interpretation*.
- [4] S. Berk-Seligson, "The Intersection of Testimony Styles in Interpreted Judicial Proceeding: Pragmatic Alterations in Spanish Testimony" *Linguistics* vol. 25 pp. 1087-1125, 1987.
- [5] E. M. D. Jongh. (1992). *An Introduction to Court Interpreting*
- [6] N. C. Stytler, "Implementing Language Rights in Court: The Role of the Court Interpreter in South Africa," *The South Africa Journal on Human Rights*, vol. 9 pp. 205-222 1993.
- [7] R. H. Moeketsi, "Redefining the Role of the South African Court Interpreter," *National Association of Judiciary Interpreters and Translators*, vol. 8 1999.
- [8] C. Metzger. (1999). *Sign Language Interpretation*.
- [9] C. Angelelli, "Deconstruction the Invisible Interpreter: A Critical Study of the Interpersonal Role of the Interpreter in a Cross-Cultural/ Linguistic Communication Event," Doctoral Thesis, Stanford: Stanford University Press, 2001.
- [10] C. Roy. (2000). *Interpreting as a Discourse Process*.
- [11] C. Wadensjö. (1998). *Interpreting as Interaction*.
- [12] E. G. Kiguru, "Strategies Employed by Court Interpreters and Categories of Interpreter Error in Selected Kenyan Courts," Master's Unpublished Masters' Thesis, Kenyatta University 2008.
- [13] J. Karton, "Lost in Translation: International Criminal Courts and Legal Implications of Interpreted testimony," *Vanderbilt Journal of Transnational Law*, vol. 41, pp. 1-57, 2008.
- [14] H. Mikkelson. (1999). Verbatim Interpretation: An Oxymoron. .
- [15] V. C. Garcés, "Linguistic and Paralinguistic Aspects in Legal Interpretation: Some strategies and Programs," *In Revista Alicantina de Estudios Ingleses*, vol. 9, pp. 133-142, 1996.
- [16] V. Benmaman, "Legal Interpreting: An Emerging Profession. ," *The Modern Language Journal* vol. 76 pp. 445-454, 1992.
- [17] S. Hale, "Interpreters' Treatment of Discourse Markers in Courtroom Questions," *Forensic Linguistics* vol. 6, pp. 1350-1771, 1999.
- [18] a. D. W. D. Sperber. (1995). *Relevance (2nd Edition ed.)*.
- [19] S. Berk-Seligson, Ed., *The Bilingual Courtroom: Court Interpreters in the Judicial Process*
Chicago: University of Chicago Press, 2002, p.^pp. Pages.