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Foreword

This book undertakes a linguistic analysis of the discourse of court proceedings in order to determine communication problems in the process of interaction between legal experts (judges, state counsels, and lawyers) and non-legal experts (plaintiff, accused, and witness), as a verification of the efficacy of the implementation of Cameron's language policy of official English-French bilingualism over a background of a de facto national language multilingualism. The book is a landmark endeavour in the use of Discourse Analysis and ideas from Forensic Linguistics to mirror the language problems of courtroom drama in a multilingual setting and their real or potential negative impact on the justice system.

The *Qualitative Method* is motivated, rationalised, and used for the research along with an eclectic combination of two data elicitation procedures (*non-participant observation* of court sessions and *semi-structured interview* of legal experts). The 'Discourse Analysis' framework is chosen as the most appropriate theory for the type of data to be analysed in the research; more specifically, the model of the *Speech Act Theory* of Austin (1962) amplified, inter alia, by Searle (1969) and others is used along with an occasional recourse to the interactional sociolinguistic model of Gumperz (1982).

The presentation and analysis of discourse from courtroom sessions of magistrate courts show that with respect to norms of the speech act theory, non-legal expert participants in the court sessions exhibit enormous communication difficulties evident in the violation of Austin's Felicity Conditions (conventionality and actuality conditions). On the other hand, legal experts seek to rectify these violations through illocutionary acts

(exercitives, verdictives, behabitives, and receptive). Specifically, most lay-litigants have two categories of language problems: those resulting from the use of the official languages (English and French) for which they have inadequate competence and those emanating from the use of the legal jargon.

Professional Court interpreters are needed for the vast majority of participants (accused, plaintiffs, and witnesses) who speak essentially or only a Cameroon national language (including Pidgin English) and those whose knowledge of the official languages is functionally inadequate. In the absence of legal provision for a corps of court interpreters, discretional use of untrained amateur (unsworn) interpreters further aggravate and compromise the validity of *due process* in the courtroom drama. The work further reveals that legal experts may be knowledgeable with respect to the law, but their legal training does not prepare them to face the complex language-related and language-dependent problems of court sessions in a multilingual judiciary system.

In addition to advocacy for the formal use of neglected indigenous languages in partnership with the official languages of English and French and a corps of trained interpreters, some suggestions are provided with respect to the use of Forensic Linguistic considerations to solve the identified legal language-related problems. The findings lend credence to our advocacy for a comprehensive language law or language charters for multilingual nations of Africa and beyond (Chumbow 2013 "Towards a legal framework for language Charters in Africa"). Such a language law makes legal provisions for planned, efficient, and effective use of all languages of the nation in the service of education, social integration, social inclusion, and social justice in the enterprise of pluralism and participatory sustainable development.

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The data presented and analysed were collected in Cameroon Courts of First Instances for three years. I wish to thank all those court participants, both legal and non-legal practitioners, who provided rich data for this work. Particular thanks go to those legal practitioners (judges, state counsels, lawyers, and interpreters) who received me and answered my questions.

Contents

Abbreviations and Conventions

Court Participants

AC	Accused person
CK/GR	Clerk
DL/AD	Defence lawyer
IN	Interpreter
J	Judge
O	Other participant
PL	Plaintiff
PRW/AP	Prosecution witness
PW/TP	Plaintiff-witness
SC/PR	State council

Concepts and Institutions

ASM	American Sign Language
CSL	Cameroon Sign Language
DA	Discourse Analysis
EJTN	Electro-Static Detection Apparatus
ESDA	European Judicial Training Network
FL	Forensic Linguistics
FLS	Forensic Linguistic Studies
IS	Interactional Sociolinguistics
JD	Jurist Degree
L1	First Language

L2	Second Language
LADO	Language Analysis and Determination of Origin
PACE	Police and Criminal Evidence Art
SAT	Speech Act Theory
UE	European Union
UN	United Nation
UNESCO	United Nations Educational, Scientific and Cultural Organization

Transcription Conventions

(…)	Non-ethical utterances
↑	Tone rising
↓	Tone lowering
[…]	Irrelevant utterances
(.)	Silence
(^^^)	Laughter
< >	English translation
/ /	Author explanations
// //	Words said at the same time
…	Utterance interrupted
{}	Signed utterances

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CHAPTER 1

Introduction

The central argument in this book is that the implementation of a non-inclusive language policy in courtrooms brings in serious legal language-related problems. Indeed, languages barrier in courtrooms hinders fair hearings and trials. The language problems of Cameroon courtrooms call for linguistic solutions (Forensic linguistics). But before getting into the solutions, we need to (1) understand the legal system and the language policy of Cameroon, (2) review relevant literature on Forensic Linguistic studies, (3) describe and analyse Cameroon courtroom discourse, and (4) examine legal authorities' attitude towards Cameroon legal language-related problems.

Chapter 2 provides a detailed description of the legal system and the language policy of Cameroon. Cameroon has a bijural system of law (Common and Civil law) and a bilingual language policy (English and French). It is generally said that Cameroon owes its legal and linguistics status to its ancient colonial masters; thus, the current legal system and language policy of Cameroon are vestiges of the colonial past. Actually, Cameroon went through two colonial experiences: the German protectorate period, from 1884 to 1916, and the combined British and French mandatory agreement, from 1916 to 1961. After Cameroon got its independence, in 1961, two major decisions were taken. First, it was decided that English and French will be the official languages of the 'Federal Republic of Cameroon' today known as the 'Republic of Cameroon'. Second, two legal systems will be implemented in Cameroon, the Common

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and the Civil laws. Therefore, Cameroon will have a bijural legal system. However, from the early 1970s till today, the legal system of Cameroon has transformed. The bijural legal system has changed in such a way that we can neither identify the Common or Civil law systems. In fact, the translocation of the Common law and the Civil law to Cameroon earlier last century has created differences between the legal traditions of England and France where they originated. Today, modern Cameroon legal system is a hybrid, a modified version of the received laws, peculiarly adapted to its environment, that is, local (customary laws) and imported laws, and international treaties, harmonised and integrated.

There are eight court systems in Cameroon, but I limited the research scope to the Court of First Instance. Courts of First Instance are governed by sections 13, 14, and 15 of *law No 2006/015 of 29 December 2006* on Judicial organisation. According to section 13 of this law, the Court of First Instance is found in every sub-division. Section 14 lays down the composition of the Court of First Instance; at the bench, there is a president, one or more magistrates, one registrar in chief, and one or more registrars. At the preliminary inquiry, there are one or more examining magistrates, one or more registrars. At the legal department, a judicial officer hearing and determining all cases brought to the court. Section 15 lays down the court's jurisdiction to hear civil, criminal, and labour matters and also tries simple offences and related misdemeanours with damages of fine charged not more than 10,000,000 frs.

The language policy and the legal system of Cameroon have two things in common: English and French. These languages are the official languages of Cameroon. All legal documents are written in English and French, and courtrooms discourse are conducted either in English or in French, depending on the legal district. Yet, apart from English and French, Cameroon has more than 250 national languages. Indeed, Cameroon is a multilingual nation having two official languages and many national languages. Cameroon national languages belong to three of the four language phyla of Africa (the Afro-Asiatic, Nilo-Saharan, and Niger-Kordofanian phyla). The exclusion of Cameroon national languages from the legal scene has given birth to serious communication problems during court proceedings. The exchange between lay-litigants and legal authorities is effortful. Even if, the law prescribes the presence of interpreters to assist lay-litigants who cannot communicate in English or in French, those interpreters are rarely present in courtrooms because the litigants cannot afford one, and the court authorities hardly provide one. And when