

# Arabic–Arabic Courtroom Translation in Lebanon

Social & Legal Studies

19(2) 183–196

© The Author(s) 2010

Reprints and permission:

sagepub.co.uk/journalsPermissions.nav

DOI: 10.1177/0964663909351437

sls.sagepub.com



**Victor A. Khachan**

*Lebanese American University, Lebanon*

## Abstract

In the Arab world, the comprehension gap between Colloquial and Standard Arabic has been recognized as a major force behind illiteracy and its endless negative repercussions. One adverse impact of this comprehension gap manifests itself in the courtroom. Courtroom translation in the Arab world (i.e. consecutive interpreting/reporting from Colloquial into Standard Arabic) occurs systematically and is the only means of documenting courtroom proceedings. Despite its functional importance in the light of language manoeuvrability and translation accuracy, the legal implications of the Colloquial–Standard Arabic proximity in the context of linguistic rights have not been theoretically nor empirically researched. Accordingly, this paper introduces the dynamics of language use in a hierarchical judicial system in one Arab country, Lebanon. This paper is a theoretical first brick in the wall of linguistic rights in the Lebanese courtroom, where – in the absence of a jury system – linguistic discretion in the legal decision-making process rests upon the bench judge. In addition, this paper highlights the vulnerability of illiterate people vis-à-vis the use of Standard Arabic in legal settings at the expense of their preferred first or only language, Lebanese Colloquial.

## Keywords

linguistic rights, courtroom translation, linguistic discretion, courtroom discourse dynamics, Armenian, Lebanese Arabic, diglossia

## Introduction

For nations undergoing democratic transition and change, democracy implementation may not necessarily expand beyond the primary infrastructure of political practice. A healthy embrace of democracy, however, certainly requires the transformation of political ideals into socio-cultural realities maintained by democracy's auto-regulatory dynamics. Aspirations to bridge the philosophical conceptualization and practical manifestation of democracy are central to the daily rights of the individual. The priority to

protect these rights lies in a judicial system that recognizes this proximity. The courtroom, the core of justice, must therefore ensure that individuals have the appropriate means to self-expression and comprehensive linguistic rights. Having pegged democracy to legal justice, this paper highlights the threats to linguistic rights<sup>1</sup> that exist in the Lebanese courtroom manifested in the linguistic shifts which occur in the process of live translation from Lebanese Colloquial Arabic to Standard Arabic. The written transcript of the translation is the only record of court proceedings in the absence of other means of documentation (e.g. audio or video recording).

### *Courtroom contextualization of linguistic rights*

The international community (the UN Development Programme, the World Bank and countries such as France, Spain and the USA) has provided assistance to Lebanon in reforming its legal and judicial system. In the process, priority has been given to the improvement of the reputation and perception of the Lebanese judiciary and to the integration of international norms in the courts. Despite these efforts to reform the judiciary in all its multitudinous and intertwined aspects, until now the use of Arabic in the courtroom has not caught the interest of researchers or reformers. This neglect is especially noticeable in the various literatures involved, for example, legal (e.g. judicial text analysis and judicial methodologies and techniques), forensic, human rights and Arabic linguistics in all its branches (e.g. sociolinguistics and ethno-linguistics). Only recently, an indirect reference to the linguistic situation in the Lebanese courtroom was acknowledged. *Lebanon: Legal and Judicial Sector Assessment*, funded and led by the World Bank's Legal and Judicial Reform Practice Group, clearly stated that:

[g]iven the lack of technology available in the courts, transcripts do not necessarily reflect a verbatim account of court proceedings. Statements made by the parties are restated by the judge in classical [Standard] Arabic and then handwritten by the court recorder. This process requires the judge to constantly stop proceedings, and risks an edit or an omission in the restatement by the judge (2003: 25).

Although this one statement on courtroom language use pinpoints serious concerns (risking 'an edit or an omission') – mainly in relation to judges' memory spans rather than their linguistic competence – it fails to highlight the legal implications of such linguistic gaps in relation to linguistic rights and their rippling effects on fairness and justice. This linguistic neglect, however, is not the sole responsibility of the World Bank. In fact, before the writing-up phase of the final draft of the report, the World Bank, in a series of workshops held in Beirut in 2003, sought the feedback of the Lebanese government, the Ministry of Justice, the civil society, the private sector and the legal profession. In this context, the lack of reference to linguistic rights in the final version of the World Bank report implies that linguistic rights in the courtroom have been unnoticed and ignored since the inception of the Lebanese court system; accordingly, the World Bank's assessment of the Lebanese legal and judicial system simply mirrors a national ignorance of linguistic rights. Nevertheless, the World Bank's responsibility does lie in the methodological standards of its legal and judicial assessment team. Taking into consideration

its international platform and commitment to legal reform in developing countries, many with demanding linguistic contexts (i.e. non-English-speaking countries), linguistic expertise is to be expected from the World Bank. This methodological drawback provides a clear indication as to why its report confused the issue of 'linguistic' (i.e. diglossic) shift with 'restatement'. A close observation of Arabic–Arabic courtroom translation in Lebanon reveals that the process is neither simultaneous nor consecutive; the verbal translation from Lebanese Colloquial Arabic to Standard Arabic, which is the sole responsibility of the presiding judge, does not necessarily match the question-and-answer format of the original exchange. It resembles, to some extent, a synthesis of proceedings rather than a verbatim account. In the context of the World Bank report, it is clear that the authors' stress on 'restatement' is an understatement of what actually happens and an indication of a lack of methodological understanding of the legal weight of courtroom diglossic shifting.

This neglect of linguistic rights is also evident in the well-established United Nations Development Program's (UNDP) Programme on Governance in the Arab Region (2000–present) which focuses on areas related to the rule of law, participation, human rights and transparency and accountability.

To conclude this part, it is unquestionably clear that those in charge of the legal and judicial system in Lebanon and even those helping with its reform lack knowledge about how Arabic–Arabic translation can jeopardize linguistic rights. Having said this, the intricacy of the concerns about linguistic rights raised in this paper are not with regard to a procedural legitimacy issue (i.e. codes, applications and practices) defined by Lebanon's consociational democracy or a product of the Lebanese civil war (1975–1991). The issue lies, rather, in linguistic legitimacy, the linguistic prestige associated with Standard Arabic and its status as an official language in the Arab World, from which it derives its unquestionable validity as a legal linguistic tool. At a time when the English-speaking world is extensively studying the legal influence of semantic and pragmatic factors in interpreting and translation (O'Connell and Walsh, 2005; Pehar, 2001; Rana, 2001; Scott, 2001; Shuy, 2005), there has been little if any similar work done in the Arab world, especially in the courtroom where the question of linguistic rights arises. Ultimately, this paper hopes to create a socio-legal awareness of linguistic rights that could lead to linguistic reform in courts in the Arab world. Accordingly, the present work attempts to underline the problematics of translation in the Lebanese courtroom as follows: (1) the linguistic denial that engulfs the illiterate party in the courtroom, with zero knowledge of Standard Arabic; (2) the risks of information loss (manipulation) in Colloquial–Standard Arabic translation; (3) colloquial-free, non-verbatim archived proceedings, as the only linguistic evidence for further legal action; and (4) the unquestionable linguistic authority of the bench judge.

## **Illiteracy in the Courtroom: A Diglossic Evaluation**

### *Diglossia*

In its most reductionist definition, diglossia differentiates between two codes of the same language: High (H) and Low (L). Typical examples of diglossic languages are

found in Greece, Switzerland and the Arab world. The High code is a formal one, mainly written, associated with social contexts such as religious rites, parliamentary political speeches, university lectures and poetry. At the other end of the diglossic continuum, the Low code is informal, mostly spoken, and characteristic of daily, verbal interactions (for a comprehensive account on the H–L diglossic continuum, see Ferguson, 1959; and Zughoul and El-Badarien, 2004). Diglossic speech communities, such as Arab states, have consistently adopted language policies defining the High code as the official language. This linguistic schism, known as diglossic de-contextualization, between the state's official language and the language spoken at home, despite harmonious coexistence, has resulted in substantial literacy challenges. Diglossic de-contextualization in Arabic – the comprehension gap between Colloquial Arabic (L code) and Standard Arabic (H code) that contributes negatively to the process of reading and writing acquisition in Standard Arabic – is well documented. Maamouri's (1998) seminal discussion paper for the World Bank was the first international call for literacy authorities in the Arab world to embrace courageously Colloquial Arabic, if not as a national language policy, at least in the fight against illiteracy. Unfortunately, Maamouri's anticipation of diglossic integration in literacy curricula has not reached expected levels of implementation in the field.

### *Diglossic de-contextualization: information loss*

Diglossic information loss will be mainly referred to in this paper in terms of linguistic de-contextualization between Standard Arabic (High code) and Lebanese Arabic (Low code). According to Maamouri (1998), linguistic de-contextualization is due to 'little or no mutual intelligibility' (p. 31) and such linguistic discontinuity is true between written and spoken Arabic which are 'structurally' different (Saiegh-Haddad, 2003; Thonhauser, 2003). For Hudson (1996) and Holmes (1993), diglossic code-mixing (metaphorical switching, referentially motivated switching, 'linguistic cocktail'), unlike code-switching,<sup>2</sup> only takes place in situations when it would be impossible for one code to be substituted for the other while preserving the intended meaning and optimal linguistic accuracy (both cited in Gully, 1997). Courtroom diglossic situations in Lebanon go beyond the limitations and implications of diglossic code-mixing and code-switching. The courtroom in Lebanon exemplifies diglossic *code-shifting* where Standard Arabic and Lebanese Colloquial Arabic do not mix; this diglossic shifting embodies the linguistic scapegoating of Lebanese Colloquial Arabic in favour of the eternal documentation of Standard Arabic. The Lebanese court not only neglects citizens' diglossic (linguistic) rights but also colloquial justice exemplified in the notion that '[a]ttitudes and opinions acquired with first literacy [colloquial] are almost impossible to "unthink" later' (Oslan, 1994, quoted in Thonhauser, 2003:104).

### *Language to language translation*

Even in a non-diglossic context, the importance of the accuracy of courtroom proceedings has been emphasized. '[L]egal reality is shaped largely by the printed word' (Ronald et al., 1992, quoted in Shoretz, 1995: 1276) and 'verbatim trial court record has shaped

much of the procedure and substance of judicial administration' (Louisell and Pirsig, 1953, quoted in Shoretz, 1995: 1277). For Heffer (2005), verbatim transcripts lack verbal as well as non-verbal characteristics of speech (i.e. phonetic, prosodic, paralinguistic and body language). In reference to US and British court reporters' flexibility to correct grammatical structures in the speech of lawyers and judges but not of witnesses, Heffer (2005) sees in such grammatical trimming a serious manipulation of data accuracy and margin of freedom beyond literalness.

Although courtroom interpreting is expected to 'convey precisely, accurately, and completely in the target language the information contained in the source language' (De Jongh, 1991: 285), the interpretation process remains vulnerable to ethnic and cultural nuances, ambiguities and speakers' styles, to list but a few, investigated mainly with regard to non-English-speaking parties (e.g. suspects and witnesses) in English-speaking courtrooms. In such a context, pragmatic accuracy is associated with more importance than semantic accuracy and, accordingly, it should be the interpreter's main strength, for errors due to pragmatic failure could be catastrophic in court (Hale, 2004). In a way, court interpreters must satisfy the requirements of 'linguistic flexibility', to be able to 'understand and use formal and colloquial speech, including slang, and regional and dialectal varieties of the source and target language' (De Jongh, 1991: 293). In the same context, Armstrong and Kaplowitz (2001) stress that the lack of 'shared communication system knowledge' leads to impaired communication in intercultural contexts. Same-culture problematic communication may also be observed in interactions where the levels of shared knowledge are not competent (pp. 352, 354). For Armstrong and Kaplowitz (2001), 'competent relational negotiation thus requires that all communicators understand how socially significant linguistic features are used in different well-defined social situations [relational intentions]' (p. 354). Muhawi (2004) indicates that the translation of Arabic 'oral material' engages semiotic systems (i.e. oral vs. written; sound vs. script) in addition to a language-to-language shift. Ong (1982, cited in Muhawi, 2004) highlights the characteristics of oral and written discourse as more contextualized in 'performance' (pragmatics) and fixed grammar (syntactics), respectively. Accordingly, Ong declares written discourse as lacking 'normal full existential contexts . . . which help determine meaning in oral discourse' (1982, quoted in Muhawi, 2004: 76). Muhawi also stresses the importance of vocal behaviour and paralinguistic features (e.g. loudness and tone of voice and pausing) when translating oral materials into written documents (for collective vocal behaviour in Lebanon, see Khachan, 2005).

### *Illiteracy in Lebanon and the Arab world*

The UNESCO definition of literacy/illiteracy entails the following characteristics: a person is literate who can with understanding both read and write a short simple statement on his everyday life. A person is illiterate who cannot with understanding both read and write a short simple statement on his everyday life (Education for All, 2006: 64). Despite this reductionist and minimalist literacy/illiteracy threshold and despite the decrease in the adult illiteracy rate, Lebanon (population approximately 4 million) has an overall illiteracy rate of 11.5% (IRIN, the Humanitarian News and Analysis Service of the UN Office for the Coordination of Humanitarian Affairs, 2006). In the context of adult

illiteracy (above 15 years of age), Arab Human Development Report (2004) estimates of adult illiteracy in Lebanon were 13.5%. More specifically, illiteracy reaches the 15% level in the South and Bekaa Valley, according to the Ministry of Social Affairs (IRIN, 2006). Sabbah et al. (2003) indicate that 48% of their subjects (a total of 534 with a mean age of 38.8 years) had attained primary or lower educational levels in South Lebanon and 13.5% were illiterate.

Assessing diglossia and its ramifications in the Lebanese courtroom also necessitates a mapping of the Lebanese social fabric and related competency in Standard Arabic. Armenians, the biggest ethnic group living in Lebanon, constitute 4% (approximately 150,000) of the Lebanese population; the Armenian community is generally bilingual in Armenian and Standard Arabic and demographically restricted to virtually closed geographic areas. Accurate figures on the Lebanese Colloquial competency of this ethnic group are unfortunately unavailable. The linguistic situation of Armenians in Lebanon means that, in some circumstances, the context of the courtroom is triglossic rather than diglossic.

Although this work is mainly concerned with the Lebanese courtroom, diglossia manifests itself in courts all over the Arab World, with a Colloquial Arabic variety characteristic to each of the 22 Arab countries. Illiteracy in the Arab world is pandemic. According to Yousif (2009), illiteracy affects one third of the adult population (aged 15–45), and there are 10 million children (aged 6–15) who do not attend school (with a projected 40% increase by 2015).

### *Illiteracy in Lebanese prisons*

To illustrate the seriousness of the legal implications of courtroom Arabic–Arabic translation, this section now shifts away from a social context to an examination of illiteracy in a legal one. Due to the unfortunate absence of official illiteracy data on Lebanese prisons, illiteracy rates will be approximated in light of available research. The only relatively recent studies on illiteracy in Lebanese prisons were conducted in female prisons (Khalaf, 2002; Sinno, 2002). Although female prisoners make up only 4.7% of the total prison population in Lebanon, their socio-economic conditions may be generalized in an attempt to define the literacy profile of males who have experienced linguistic rights challenges both before and during their trials. According to Sinno (2001), female adult illiteracy in Lebanese prisons reaches 31.9%. Taking into consideration the sophisticated nature of the language accompanying the courtroom journey, the ‘basic’ education claimed by 27.7% of female prisoners can be comfortably added to the ranks of illiteracy, thus making a total of 59.6%. This brief summary of illiteracy levels in Lebanese prisons is witness to the linguistic hardships these prisoners have undergone.

Under these circumstances, individuals with minimal competence in Standard Arabic, then, will only understand the Colloquial Arabic interactions in court and thus miss out on the legally binding Standard Arabic, which alone finds its way into the records of courtroom proceedings (for the socio-psychological importance of Colloquial Arabic, i.e. modernity and urban cultural models, see Miller, 2004). Adult illiteracy in the Arab world must therefore emerge as a major concern for human rights movements to defend the diglossic rights of the Arab illiterate, especially within the courtroom walls.

Undoubtedly, these literacy figures imply a disastrous court scenario, transforming the courtroom linguistically and strongly indicating linguistic obliteration of illiterate people and their diglossic rights.

## Empirical and Theoretical Methodology Limitations

At the outset, it is of utmost importance to frame the empirical as well as the theoretical limitations of the present work. One major field-methodology restriction lies in the fact that this work cannot incorporate any empirical analysis of the Colloquial–Standard Arabic interaction in the courtroom (e.g. audio, video or stenographic), because all means of public recording are banned in the Lebanese courtroom and thus illegal. In his study of the notion of the person in an Egyptian judicial context, Dupret (2003) expresses similar methodological shortcomings. Despite the possible use of written archived proceedings documented in Standard Arabic in his study, Dupret (2003) highlights a methodology compromised when denied permission to tape-record court proceedings. Dupret had no other choice than to ‘deal with statements that have already been partly re-shaped by the prosecution for all practical legal purposes’ (2003: 20). Contrary to Dupret’s (2003) study, the ability to access courtroom archives in the present work defeats its purpose due to the absence of the Colloquial Arabic element from the documented cases. In other words, archival data can only highlight what is recorded in Standard Arabic with no trace or evidence of the Lebanese Colloquial Arabic elements. On the theoretical front, limitations are defined in terms of the unavailability of similar research findings concerned with Colloquial and Standard Arabic translation in the courtroom and the legal and judicial implications of this.

## A Courtroom Scenario

Having demonstrated the impossibility of conducting empirical research legally in Lebanese courts, this paper – in an attempt to pinpoint the legal implications of one<sup>3</sup> aspect of courtroom translation – presents the following courtroom scenario.<sup>4</sup>

**Judge** (in Lebanese Colloquial Arabic): Was the victim alive when you left his apartment?

**Suspect** (in Lebanese Colloquial Arabic): Hell yes! He was snoring.

**Judge** (dictating to the court reporter/writer in Standard Arabic): The suspect was asked whether the victim was alive when he left the apartment and the suspect answered that he heard the snores.

This courtroom dialogue is characteristic of courtroom proceedings in Lebanon where only Standard Arabic is recorded and, hence, linguistic rights are jeopardized by means of information loss. Although this example is an authentic illustration of the linguistic reality of courtrooms in Lebanon, it is impossible to present this evidence as solid proof due to the absence of Lebanese Colloquial Arabic from the archival proceedings. This snapshot of courtroom proceedings is the author’s recollection of a court case that involved the trial of a suspect who, while visiting the victim, managed to make him

inhale a dose of chloroform (anaesthetic). According to his own testimony, the suspect decided voluntarily to turn himself in to the authorities after he heard about the murder on TV. Although the suspect pleaded guilty to theft, he pleaded strongly not guilty to murder. It is worth noting that the coroner established strangling as the cause of death rather than chloroform.

Diglossically, this example pinpoints the transformation of the verb 'to snore' in the past continuous tense ('was snoring') into a plural noun ('the snores'). This grammatical transformation, whether intentional or not, could have drastic legal implications leading to the incrimination of the suspect. The use of the past continuous tense ('was snoring') in the suspect's Lebanese Colloquial statement is a direct indication that the victim was still alive (i.e. was snoring) when the suspect left the apartment. However, the judge's Standard Arabic translation includes a grammatical shift from a continuous, non-stop activity to a non-continuous state, eliminating the continuity of snores and thus raising doubts about the presence of life. This shift denotes a linguistic manipulation of the suspect's statement: the judge's translation opens linguistic possibilities, one of which is a scenario where the suspect could have witnessed 'the last snores' of the victim. If that were actually a matter of fact, then the suspect status of the individual would be changed into criminal status. By translating the suspect's words in this way, the judge has therefore ruled out any possible doubt that the victim may have been murdered by someone else. The possibility that the suspect left the apartment while the victim was snoring (i.e. still alive) is a concrete indication that the murder had not yet taken place and, if combined with the coroner's statement about the cause of death, it becomes evident that someone else could have visited the victim and strangled him because a number of acquaintances had easy access to the victim's apartment. This linguistic framework, therefore, regardless of how the victim was murdered, is now skewed toward guilt and tends to eliminate innocence. Legally, the linguistic discontinuity between the past continuous verb tense in Lebanese Colloquial to a noun in Standard Arabic has great potential to shift the victim from a state of unconsciousness (alive) to another state of unconsciousness (strangled). Such linguistic inconsistencies between what is said in Lebanese Colloquial and what is documented in Standard Arabic raise concerns of judicial and linguistic rights abuse. The judge's linguistic manipulation of the trial proceedings, intentional or unintentional, sends a clear signal about the judge's perception of the legal standing of the suspect. On the linguistic rights front, a suspect with poor linguistic competence in Standard Arabic will by no means detect this manipulation since his/her comprehension of Standard Arabic could well be almost nil and, thus, in terms of the defendant's comprehension of the proceedings, the linguistic circumstances of the trial may resemble those of a non-Arabic-speaking country rather than those of a native one.

## Diglossic Legal System

The scenario illustrated above demonstrates only one linguistic possibility resulting from courtroom translation in Lebanon. To account for more linguistic factors endangering linguistic rights, this section introduces diglossic applicability and dynamics in the hierarchical judicial system in Lebanon.



### *Pre-trial and trial diglossic framework*

This section provides a brief account of the judicial system in Lebanon, concentrating mainly on the linguistic variables present in pre-trial and courtroom reporting of judicial proceedings. The first step in pre-trial proceedings is handled by the Preliminary Investigation Authority (i.e. Judicial Police). Preliminary investigations, including the collection and assessment of evidence, lead to the provisional arrest of a suspect. Arrests, authorised by the judicial body, the *niyaba*, are issued according to statements given by the suspect in Lebanese Colloquial Arabic but written down in Standard Arabic by the detective(s) in charge and then signed by the suspect. The second step in pre-trial proceedings involves the General Public Prosecutor's Office. In light of the written statements/confessions of the suspects compiled by the investigation authority, the General Public Prosecutor's Office reviews the documents and cross-examines the suspect's testimony in Lebanese Colloquial Arabic, this time, in the presence of the suspect's lawyer. Subsequently, the General Prosecutor (or any judge assigned this duty) issues an additional written statement, again in Standard Arabic. Both the Preliminary Investigation Authority's and the General Public Prosecutor's statements will be pivotal in the courtroom, which constitutes the third step in the judicial system. The courtroom procedures lead to a third documented statement, written down by the court writer and dictated by the presiding judge who translates the suspect's answers in Lebanese Colloquial Arabic into Standard Arabic. It is important to mention that the judge first listens to the suspect and then restates whatever he/she remembers of what the suspect said.

This accumulation and processing of statements by different judicial bodies involves two linguistic factors: the first is constant whereas the second is variable. The constant linguistic factor is conditional upon the suspect's account and its consistency. If the suspect is telling the truth, his/her recollections in Lebanese Colloquial Arabic will be the same over and over again. The variable linguistic factor is diglossic and involves three judicial bodies (a three-step reporting process) and thus three statements recorded in Standard Arabic written by different 'writers' – a minimum of one detective, a pre-trial judge and a presiding judge. Accordingly, the diglossic shifting which a suspect's testimony undergoes, due to legal proceedings, may potentially lead to information loss (manipulation). Thus, this multi-level diglossic legal authority is sorely in need of language manoeuvrability (i.e. flexibility and accuracy) and socio-psycholinguistic awareness in order to protect suspects' linguistic rights.

### *Judge's diglossic proficiency and responsibility*

Having emphasized the linguistic dimension of diglossic courtrooms, it becomes necessary to highlight the linguistic requirements, qualifications and training that judges must have. According to Nasr et al. (2004), the appointment and training criteria of public prosecutors and judges in Egypt and Lebanon requires a 'fluency' in Standard Arabic, fluency that no legal text has defined or shaped. Nasr et al.'s (2004) work on criminal justice and prosecution in the Arab world, prepared for the United Nations Development Programme, includes no acknowledgement of diglossic courtroom interaction and its impact on justice. Similarly, in his Iraqi judicial reform plan, Bassioui (2004) proposes

standard Arabic as the only legal language in the courtroom. On the other hand, Arab countries such as Jordan, Yemen and Morocco do not make reference to any language skills (Nasr et al., 2004). This marginalization of the implications of Standard Arabic fluency levels is also reflected in a disregard of Colloquial Arabic(s) as an equal linguistic dimension counterbalancing diglossic fluency. If considered in the context of Article 491 of the Lebanese Criminal Procedure Code that contains a definitive job description of the court reporter specifically in relation to court proceedings, this diglossic challenge (i.e. judges' diglossic proficiency) implies another linguistic rights abuse. As stated in Article 491, the sole responsibility for the preparation of the record of court proceedings lies with the court reporter without the accompanying linguistic feedback of any of the involved parties in the court. Accordingly, at the end of each court session, the presiding judge's signature on the proceedings is required along with the signature of the court reporter. However, in this matter, the court reporter's diglossic responsibility is routinely downsized to a mere writing task dictated by the presiding judge, an illegal shift in diglossic responsibility that may undergo power manipulations. Power hierarchy in the courtroom may lead to over- or under-interpretation. (Domination patterns and political power are well-established concepts in the sociology of state formation: see Curtis, 1995; Ewick and Silbey, 1998; Foucault, 1979; Latour, 2005; Rose and Miller, 1992). Acknowledging Fowler et al. (1972) and Bourdieu (1991), Hale (2004) highlights the institutionalized social positioning of language and its resulting semantic systems defining 'power differential'. In other words, the widest spectrum of discourse choices is the determinant of power hierarchy. In the same vein, Goodwin (1996) warns of the impact of the 'professional vision' on one's language manipulation and formulation (overinterpretation). Goodwin's three profession-related criteria shaping our linguistic level are '(1) coding, which transforms phenomena into the objects of knowledge that animate the discourse; (2) highlighting, which makes specific phenomena salient; and (3) producing and articulating a material representation' (Goodwin, 1996, cited in Shuy, 2005: x). Similarly, Cameron (2001) cautions about the observations reported by an insider, because insider-observers tend to take for granted important but 'used-to' events that go unnoticed. Shuy (1998) indicates that everyday language is 'less than precise' and thus leads to different interpretations by different listeners (p. 3). Shuy (1998) warns of legal 'linguistic damage' when written statements do not mirror suspects' daily language. Accordingly, Shuy (1998) suggests that law enforcement officers, including prosecutors, should record (audio and video) court-related material in order to achieve justice beyond the challenges and abuse of language manipulation.

## Conclusion

As this study's ultimate goal is to call for diglossic rights protection in the courtroom and for an acknowledgement of the importance of Lebanese Colloquial Arabic in safeguarding the truth, on both legal and linguistic levels, this paper urges law schools and the Institute of Judicial Training in Lebanon to implement socio- and psycholinguistic training, mainly in diglossic literacy. For this call to reap its anticipated effect, it must be coupled with a reform of courtroom procedural documentation. In the wake of the Special Tribunal for Lebanon (Hariri Tribunal) and its 'Rules of Procedure and Evidence', participating

Lebanese Judges (4 out of 11) will be experimenting for the first time with international standards on human rights that grant both suspects and judges an assessment tool that transcends linguistic intricacies, paper, ink, time and circumstances. Rule 66(iv) of the Special Tribunal for Lebanon necessitates that pre-trial 'questioning shall be video-recorded or, if that is not practicable, audio-recorded'. What is even more important in the context of linguistic rights is the fact that a suspect has the right to obtain 'a copy of the recorded tape or digital recording or, if multiple recording apparatus were used, one of the original recorded tapes or memory cards shall be supplied to the suspect or his counsel' (Special Tribunal for Lebanon, 2009). Linguistic rights, in the context of this paper, through video-recording of trial courtroom proceedings, are also protected under rule 139(A) that concretely states that the 'Registrar shall make and preserve a full and accurate record of all proceedings, including audio recordings, transcripts and, unless the Chamber otherwise directs, video recordings' (Special Tribunal for Lebanon, 2009). This exposes Lebanese judges to international judicial standards that will certainly affect legal and judicial reform in Lebanon, as hoped by Antonio Cassese and Ralph Riachi, President and Deputy President respectively of the Hariri Tribunal. In the light of unsuccessful legal and judicial reform attempts in Lebanon and their association with a lack of consensus and political will for change, the courtroom procedural linguistic reform this paper calls for may, however, be opposed by judges rather than politicians, for it exposes them publicly and makes their sentences vulnerable to direct legal assessment, accountability and scrutiny – the pillars of democratic legitimacy. In conclusion, this paper echoes Dupret's (2003) approximation between language, rules and procedures: 'language cannot be studied in the abstract. It must be linked to its practice, in a frame of background understandings that take their significance in the context of their utterance' (pp. 42–43).

## Notes

1. Embodying the spirit of the linguistic human rights defined by Skutnabb-Kangas and adopted by the 1987 UNESCO-sponsored International Seminar on Human Rights and Cultural Rights in Brazil (see Ducher (2004)).
2. Code-switching instances of 'lexical gap' due to the lack of diglossic equivalents are non-pragmatic and thus lack psycholinguistic motivation for their selection, as reasoned by Chan (2004).
3. That is linguistic signaling, metaphors, ambiguity and Colloquial–Standard Arabic non-translatibility that are beyond the scope of this work. 4. The author refrains from referencing this case, for the archived proceedings do not include the Lebanese Colloquial elements and thus this example loses its legal weight. It is recommended that this example be considered as an illustration of possible courtroom linguistic rights abuse.

## References

- Armstrong G, and Kaplowitz S (2001) Sociolinguistic inferences and intercultural coorientation: a Bayesian model of communicative competence in inferential interaction. *Human Communication Research* 27(3): 350–381.

- Bassioui C (2004) Iraq post-conflict justice: a proposed comprehensive plan. DePaul University College of Law, International Human Rights Law Institute. [http://www.law.depaul.edu/institutes\\_centers/ihri/\\_downloads/Iraq\\_proposal\\_04.pdf](http://www.law.depaul.edu/institutes_centers/ihri/_downloads/Iraq_proposal_04.pdf).
- Bourdieu P. (1991). *Language and Symbolic Power*. Cambridge: Polity Press.
- Cameron D (2001) *Working with Spoken Discourse*. London: Sage.
- Cassese A and Riachi R (2009) Special tribunal for Lebanon: an interview. *Future News TV*, April 22, 2009.
- Chan BH-S (2004) Beyond 'contextualization' code-switching as a 'textualization cue'. *Journal of Language and Social Psychology* 23(1): 7–27.
- Criminal Procedure Code in Lebanon (2001) Tripoli: Book Popular Propriety.
- Curtis B (1995) Taking the state back out: Rose and Miller on political power. *The British Journal of Sociology* 46(4): 575–589.
- De Jongh E (1991) Foreign language interpreters in the courtroom: the case for linguistic and cultural proficiency. *The Modern Language Journal* 75(3): 285–295.
- Dutcher N. (2004). *Expanding Educational Opportunity in Linguistically Diverse Societies*. Washington: Center for Applied Linguistics.
- Education for All (EFA) (2006) *Monitoring Report 2006*. UNESCO. Available at: <http://unesdoc.unesco.org/images/0014/001416/141639e.pdf>
- Dupret B (2003) The person in an Egyptian judicial context: an ethno methodological analysis of courtroom proceedings. *International Journal for the Semiotics of Law* 16: 15–44.
- Ewick P and Silbey S (1998) *The Common Place of Law: Stories from Everyday Life*. Chicago: University of Chicago Press.
- Ferguson C (1959) Diglossia. *Word* 15: 325–340.
- Foucault M (1979) Governmentality. *Ideology and Consciousness* 6: 5–21.
- Fowler R, Hodge B, Kress G and Trew, T. (1979). *Language and Context*. London, Boston and Henley: Routledge and Kegan Paul.
- Gully A (1997) The Discourse of Arabic Advertising: Preliminary investigations. *Journal of Arabic and Islamic Studies* 1: 1–49.
- Hale S (2004) *The Discourse of Court Interpreting: Discourse Practices of the Law, the Witness and the Interpreter*. Philadelphia: John Benjamins Publishing Company.
- Heffer C (2005) *The Language of Jury Trial: A Corpus-Aided Analysis of Legal-Lay Discourse*. New York: Palgrave Macmillan.
- IRIN (April 2006) Lebanon: Fight Against Illiteracy Begins Yielding Results. The Humanitarian News and Analysis Service of the UN Office for the Coordination of Humanitarian Affairs. Available at: <http://www.irinnews.org/report.aspx?reportid=26296>
- Khachan VA (2005) Vocal behavior as a group characteristic: a socio-acoustic study across four villages in north Lebanon. Unpublished doctoral dissertation, Macquarie University, Sydney, Australia.
- Khalaf M (2002) Women in Lebanese prisons: facts and perspectives. *Al-Raida*, xix (95–96), pp.27–34.
- Latour B (2005) *Reassembling the Social: An Introduction to Actor-Network Theory*. Oxford: Oxford University Press.
- Maamouri M (1998) Language Education and Human Development Arabic diglossia and its impact on the quality of education in the Arab region. Discussion paper prepared for The World

- Bank. The Mediterranean Development Forum, Marrakech, 3–6 September. Available at: <http://www.worldbank.org/wbi/mdf/mdf2/papers/humandev/education/maamouri.pdf>
- Miller C (2004) Variation and change in Arabic urban vernaculars. In: Haak M, Versteegh K and Dejong R (eds) *Approaches to Arabic Dialects: Collection of Articles presented to Manfred Woidich on the Occasion of his Sixtieth Birthday*. Amsterdam: Brill, 177–206.
- Muhawi I (2004) On translating oral style in Palestinian folktales. In: Said F (ed.) *Cultural Encounters in Translation from Arabic*. Clevedon, UK: Multilingual Matters, 75–116.
- Nasr H, Crystal J and Brown N (October 2004) Criminal justice and prosecution in the Arab world: A study prepared for the United Nations Development Program. Program on governance in the Arab region. Available at: <http://www.pogar.org/publications/judiciary/criminaljustice-brown-e.pdf>.
- O’Connell E and Walsh J (2005) Translation and language planning in Ireland: Challenges and opportunities. Available at: <http://www.aber.ac.uk/~merwww/Papers/OConnellWalsh.doc>
- Pehar D (2001) Use of ambiguities in peace agreements. In: Kurbalija J and Slavik H (eds) *Language and Diplomacy*. DiplpProjects, 163–200.
- Rana K (2001) Language, signaling and diplomacy. In: Kurbalija J and Slavik H (eds) *Language and Diplomacy*. DiplpProjects, 107–115. Available at: [http://www.diplomacy.edu/Books/langauge\\_and\\_diplomacy/default.htm](http://www.diplomacy.edu/Books/langauge_and_diplomacy/default.htm)
- Rose N and Miller P (1992) Political power beyond the state: problematic of government. *British Journal of Sociology* 43(2): 173–205.
- Sabbah I, Drouby N, Sabbah S, Retel-Rude N and Mercier M (2003) Quality of life in rural and urban populations in Lebanon using SF-36 health survey. Published online 2003 August 6.
- Saiegh-Haddad E (2003) Linguistic distance and initial reading acquisition: the case of Arabic diglossic. *Applied Psycholinguistics* 24: 431–451.
- Scott N (2001) Ambiguities versus precision: the changing role of terminology in conference diplomacy. In: Kurbalija J and Slavik H (eds) *Language and Diplomacy*. DiplpProjects, 153–162.
- Shoretz R (1995) Let the record show: modifying appellate review procedures for errors of prejudicial non-verbal communication by trial judges. *Columbia Law Review* 95(5): 1273–1300.
- Shuy RW (2005) *Creating Language Crimes: How Law Enforcement Uses (and Misuses) Language*. Cary, NC: Oxford University Press.
- Shuy R (1998) *The Language of Confession, Interrogation, and Deception*. Sage.
- Sinno D (2002) Attributes and determinants of female criminality. *Al-Raida*, xix (95–96), pp.47–50.
- Skuntnabb-Kangas T (1994). *Mother tongue maintenance: the debate, linguistic human rights, and minority education*. TESOL Quartely, 28, pp. 624–628.
- Special Tribunal for Lebanon (2009) *Rules of Procedure and Evidence*. Available at: [http://www.stl-tsl.org/X/file/TheRegistry/Library/backgroundDocuments/RulesRegulations/STL\\_Rules\\_of\\_Procedure\\_and\\_Evidence-En.pdf](http://www.stl-tsl.org/X/file/TheRegistry/Library/backgroundDocuments/RulesRegulations/STL_Rules_of_Procedure_and_Evidence-En.pdf) [http://www.stl-tsl.org/x/file/TheRegistry/Library/backgroundDocuments/RulesRegulations/STL\\_Rules\\_of\\_Procedure\\_and\\_Evidence-En.pdf](http://www.stl-tsl.org/x/file/TheRegistry/Library/backgroundDocuments/RulesRegulations/STL_Rules_of_Procedure_and_Evidence-En.pdf)
- UNDP/RBAS (2005) Arab Human Development Report 2004.
- UNDP Programme on Governance in the Arab Region (2000) Available at: <http://www.pogar.org>.
- World Bank Legal Vice Presidency (2003) *Lebanon: Legal and Judicial Sector Assessment*. <http://www.cejamerica.org/doc/documentos/lebanon-legal-assessment.pdf>

- Yousif A (2009) *The State and Development of Adult Learning and Education in the Arab States: Regional Synthesis Report*. UNESCO Institute for Lifelong Learning.
- Zughoul M and El-Badarien M (2004) Diglossia in literary translation: accommodation into translation theory. *META* 49(2): 447–456.