‘Silence in court!’: Non-verbal communication in a Zimbabwean court of law

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ABSTRACT

A court of law is full of drama and rituals with a lot of perlocutionary effects. This article focuses on non-verbal communication which is an important aspect of semiotics and speech acts in legal discourse. The article first defines semiotics and briefly discusses Ferdinand de Saussure’s contribution to semiotics. It goes on to discuss his description of the relationship between two pairs of important concepts in semiotics, the signifier and the signified as well as Charles Sanders Peirce’s three basic kinds of signs, namely: the icon, the index and the symbol. John Austin’s speech acts will also be discussed from the spectra of discourse analysis given that a court of law provides, among others, the basis for legal discourse. The article further argues that the behaviour and actions of the members of the legal discourse community found in a court of law are ‘culturally’ determined; with different cultures having different ways of expressing and interpreting reality. It then examines some aspects of the non-verbal code in a Zimbabwean court of law such as dress codes, movement, space and how these convey messages that can influence the outcome of a case.

Keywords:

icon, kinesics, non-verbal, semiotics, sign, signified, signifier, symbol

Introduction

Semiotics is a science that studies the life of signs within a society. Semiotics can be traced back to the French linguist Ferdinand de Saussure (1857–1913) and the American philosopher Charles Sanders Peirce (1839–1914).[1] The fusion of semiotics with ‘philosophy’ gives people a better balance to handle semiotics since it originated and developed largely within philosophical and linguistic enquiries.

For Peirce, semiotics is both a subject and a system, while Saussure (1915) called this study ‘semiology’,[2] both of which are connected with signs but differ in formulations. For Saussure (ibid., pp. 66–67), language is a system of signs that ‘expresses ideas’ and is, therefore, comparable to a system of writing, the alphabet of the deaf-mute, symbolic

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rites, polite formulas and military signals to mention but a few and it is the *sign* which is the most important of all these systems. Saussure notes that the 'linguistic sign unites not a thing and a name but a concept and a sound image' (ibid., p. 67) and this combination of a 'concept and a sound-image' is what is called a sign. A sign is, therefore, an inseparable combination of a concept and a sound-image further divided into two equally weighed components, the signifier (or sound-image) and the signified (concept). The semiotic triangular sign diagram captures Saussure's concerns (see Figure 1):

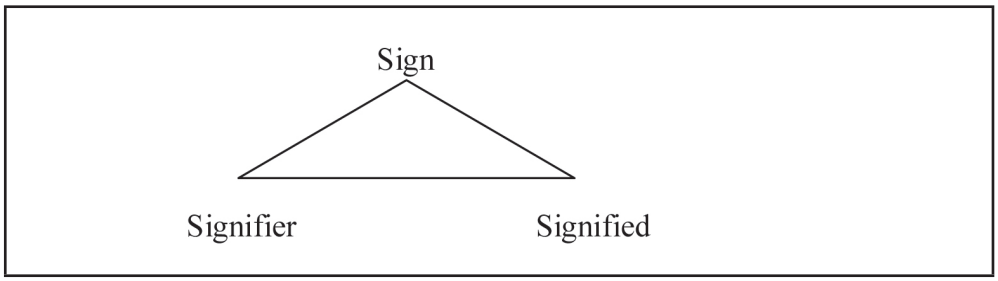

Figure 1: Signs and signifieds

In this triangular relationship, Saussure hastens to point out that the relationship between the signifier and the signified is arbitrary, that is, there is no direct link between words as linguistic units and the objects they represent. The argument is that there is nothing for example, in the word 'tree' or 'cow' which directly produces the objects they represent. In other words, it is a matter of convention for a tree could easily be called a cow, if the idea of a tree was linked to the word 'cow'; thus, the signifier has no natural connection to the signified.

Semiotics has been based, certainly in the case of language, very much on Saussure's proposition that the sign is arbitrary, conventional, or social (Culler 1994, p. 26). The link between the idea and the sound, or the signified and the signifier, is, therefore, a matter of social convention. If semiotic systems are to be thought of as aggregates of arbitrary signs, then scholars like Holdcroft disagree by noting that:

> Saussure never establishes that signs are radically arbitrary in the sense of being totally unmotivated; ... the conception of a sign that Saussure employs is not a plausible candidate for one of signs in general. (1991, pp. 159–160)

This view exposes the conception of signs as arbitrary; but, probably to account for weaknesses in the notion of arbitrariness, Saussure is quick to present another important pair of terms, namely: the 'syntagm' and the 'paradigm'. To him a sentence can be a *syntagm* and words within that *syntagm* can belong to different *paradigms* such as nouns, verbs, prepositions, etc. Items in a menu (a *syntagm*), therefore, belong to different *paradigms* such as meat, starch, vegetables, pudding and wine. In the legal field, a paradigm is a set of signs that have something in common such as the judge, advocate, prosecutor, accused, witness and clerk of the court. Similarly, it can be argued that the wig, hat and cap belong to the paradigm of headgear. A *syntagm* will be a set of signs that are strung together to convey meaning, for example, a judge will wear a white wig, a black robe and a black

suit to convey and signify authority within the courtroom. The reader may hasten to ask what signals these paradigms and syntagms convey to different participants in a courtroom drama such as the accused, the bench, the jury, the audience, the defence and the plaintiff.

The most important aspect in semiotics which Saussure presents is the negotiation of meaning. Crucial in this is that 'concepts' have meanings because of the relationships and the basic relationship is oppositional. In language, according to Saussure, there are only differences: for instance, 'rich' is meaningless unless there is 'poor', 'happy' unless there is 'sad', and 'guilty' unless there is 'innocent'.

Peirce (1982) sees semiotics as the key to human knowledge and defines it as the relationship that exists between a sign, an object and its meaning. The principle distinction between Peirce and Saussure lies in that Peirce's model is based on theories of logic, philosophy and mathematics, rather than on linguistics alone and his concept broadly conceptualises 'representation' from which he developed his ideas about signs. Like Saussure, Peirce centralises the 'sign' and defines it as

> a vehicle conveying into the mind something from without. That for which it stands is called its *object*; that which it conveys its *meaning*; and the idea to which it gives rise, its *interpretant*. The meaning of a representation can be nothing but a representation. Finally, the interpretant is nothing but another representation and as representation, it has its interpretant again. (1960, p. 171)

There is a dualist approach in Peirce's conception of the sign. He categorises signs into three components, namely: the icon, the symbol and the index. Icons are signs whose signifier bears a close resemblance to the thing they refer to. According to Peirce, icons are 'the only means of directly communicating an idea' (ibid., p. <?>) and a symbol has no natural relationship with other symbols and their meanings. The index for Peirce is what lies between icons and symbols. An index is a sign whose signifier people have learnt to associate with a particular signifier; for example, smoke is seen as an index of 'fire', while a thermometer is an index of 'temperature', and the hammer in a court of law becomes an index of justice.

Berger tables Peirce's three aspects of signs in terms of their iconic, indexical and symbolic dimension thus:

Table 1: Three aspects of signs

	Icon	Index	Symbol
Signify by	Resemblance	Casual connection	Conventions
Examples	Pictures, statues	Fire/smoke	Flags
Process	Can see	Can figure out	Must Learn

Adapted from: Berger (2004, p. 4)

While Saussure's model is appropriate to language and the written text, Peirce's model has a wider application, including not just language but also the signs that go beyond language. Saussure's semiotics is confined to language, while Peirce's studies extend to all signs such as the non-verbal aspects of language. Peirce gave us three basic kinds of signs as has been pointed out above, namely: the icon, the index and the symbol (Hawkes 1977). An icon is a sign that resembles its object and its meaning is based upon similarity or appearance (e.g., similarity in shape). It is a direct representation of its object, for instance, the wig in a courtroom can be an icon that represents a judge. On the other hand, an index is a sign that is physically connected to its object. It conveys meaning based upon some indirect relationship. It 'points' to the object that it represents, for example, the differing colours and designs of the judges' robes signify their seniority.

A symbol carries meaning in a purely arbitrary way, for example, a word is far removed from the object it represents – the gavel that signifies authority in court is purely symbolic. The colour black symbolises different things for different cultures. Red might symbolise danger to certain cultures, but in a Zimbabwean court of law the red colour of the robe signifies the seniority of the judge; imagine a convict in court of appeal seeing the judge in a red robe on the bench. Hawkes (1977) points out that the icon, the index and the symbol are not mutually exclusive but often operate in combination. Thus, following Hawkes (1977) a traffic signal, for instance, in terms of epistemology, may be said to combine index[3] and symbol.[4]

Modern semioticians such as Morris (1991) have accused Peirce in particular of being vague and ambiguous especially regarding what Peirce says about the sign. Peirce is found to have almost defined 'sign' in such a way that the *interpretant* of a sign is itself a sign, and certainly objectionable as a form of definition of 'sign' itself. For Morris it is even less clear what the canonical definition of 'sign' should be because there is wide disagreement about when 'something' is a sign and 'because of [*this*] vagueness and ambiguity, most scholars have proposed to discontinue the use of the term "sign"' (ibid., p. 249).

Saussure and Peirce's views both focus on the linguistic units such as words and how meanings are mapped on them without considering the role of context. While focusing on distinct linguistic units onomatopoeic words like 'bang' have less attention considering the notion of arbitrariness. Saussure and Peirce's sign systems are also found to be reductionist in perceptive. Firstly, they took a deliberate bias towards linguistic forms such as words as central to the notion of signs. As such, examples and applications of the semiotic theory tended to have this bias as well.

In discourse analysis semiotics can be viewed as a theory which allows people to understand how meaning is transferred. Peirce sees a sign as 'something which stands to somebody for something in some respects or capacity' (in Zeman 1977, p. 24). This differs from the Saussurian sign function. Culler (1976) hence concluded that a linguistic view of semiotics is useful in the study of social and cultural phenomena. These social and cultural phenomena are objects and events with meanings, giving realisations to signs defined by a network of relations. Seen from this perspective semiotics identifies with the logical positivist view of the 1930s which held that statements could be judged and analysed based on their truth conditions. If the arbitrary relationship between signifier

and signified is to be accepted, then the judgment based on truthfulness in generating the ultimate meaning is also accepted. This is the view which Austin rejected in his (1962) speech act theory. Levinson points out that 'it is now declared that all utterances, in addition to meaning whatever they mean, they perform specific actions (or 'do things') through having specific forces' (1983, p. 236).

Signs, irrespective of their nature and how they are realised, do communicate meanings which are culturally and socially constructed; however, they do not exist in a vacuum as they are parasitic in nature and are found in a communication code. As such, signs in their individual existence do not have a communicative purpose. In a courtroom the utterances 'Silence in Court! All rise!' are all used as linguistic signs to perform acts or cause actions to be performed.

In his speech act theory, Austin (1962) isolates three basic senses in which if a person is saying something they are doing something and three kinds of acts are simultaneously performed, that is, a locutionary act.[5] For example, if the bailiff shouts, 'All rise!' the locutionary act is the construction of a sentence that literally orders those in the courtroom to stand up as a sign of respect for the leaving or entering judge. Those participating in a court case are to stand up, through which action the bailiff vocally makes relevant physical sounds, that is, the utterance of a sentence or determinate sense and reference. In an illocutionary act,[6] a person actually utters the sentence 'All rise!' In the same example, the illocutionary act[7] is to order everyone participating in a court case to observe probably the initial and last court procedure which is an act of also observing the court ethics and culture where the non-verbal cue of simply standing up is vital and sends hordes of messages. Imagine if the accused remains seated, this non-verbal perlocutionary act can be interpreted as rudeness or bossiness and showing a lack of respect to the discourse community and, as such, it may be used against the accused or the accused may be charged with contempt of court.

An example like 'Shoot her' could provide multiple meanings which Levinson (1983) found as follows:

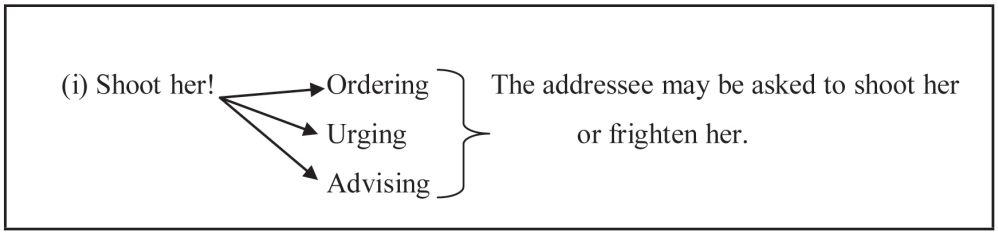

Figure 2(a): < >

It would require context to further refine an utterance like the one above in order to zero in on the actual meaning. In a courtroom which does qualify as a context from which a legal discourse takes place, the problem of the multiple meanings may be eliminated as ambiguities are not characteristic of legalese. Consider the example below which is an illocutionary force brought about after both context of situation and context of culture are observed:

(ii) Silence in court!
Figure 2(b): < >

Lastly, perlocutionary acts[8] are the actual actions, in this case either the actual shooting or the keeping quiet which is a non-verbal cue in a court of law. Thus, for Austin, rather than analysing sentences based on truthful conditions, they should instead fulfill what he calls 'felicity' conditions (1962, p. <?>). Searle (1995) made a few modifications[9] to Austin's speech act theory.

In general, speech acts are viewed as acts of communication and in communicating people express a certain attitude, and the type of speech act being performed corresponds to the type of attitude being expressed. For example, a statement expresses a belief; a request [*May I use your phone?*] expresses a desire; and an apology [*I apologise*] expresses regret. The success of a speech act as an act of communication is determined by the ability of the audience to identify, in accordance with the speaker's intention, the attitude being expressed. However, some speech acts are not primarily acts of communication and do not have the function of communicating but rather of affecting institutional states of affairs. They can do so in either of two ways. Some officially judge something to be the case, and others actually make something the case. Those of the first kind include judges' rulings [*You have been found guilty*] and the latter include sentencing [*I sentence you to ten years ...*], bequeathing and appointing.

It is important to note that acts of both kinds can be performed only in certain ways under certain circumstances by those in certain institutional or social positions. In a courtroom it is neither the defence attorney who pronounces judgment or sentences the accused, nor is it the clerk of the court, bailiff or prosecutor; it is in fact the judge or magistrate who literally has the last say and often bangs a gavel on his/her desk as a sign of authority as well as a sign of 'closing' the case. A court procedure, therefore, can be thought of as a system of signs and meaning in the court system stems from the signs and the system that ties the signs together. Peirce believes that the universe is performed with signs and a large percentage of the world's communication is based on signs, so this naturally makes semiotics and speech acts important.

Saussure and Peirce developed a line of thinking that treats languages as rule governed *sign systems*, where for instance rules take the form of grammar and syntax to mention a few. Cohan and Shires (1996) interestingly observe that the rules of a language system are only applied to real-life contexts through *discourse*. In discourse, the rules of the sign system may be broken, or adapted. In the same breath, if language is the *code*, then discourse represents the real-life *application* of that code. Cohan and Shires (ibid.) further suggest that *meaning* is only developed by the application of language through discourse and that discourse consists not only of the spoken words of a language, but also the nuances of verbal articulation, and of non-verbal communication such as body language.

Semiotics in this regard is now thought to be informing discourse and also being informed by discourse because any communication event is a discourse event. As such, a court case qualifies as a legal discourse communication event which is brought about not only by using linguistic signs through words but by metacommunication[10] as well.

Speech acts and semiotics, therefore, inform how communication events are structured, executed and constructed.

The legal system of Zimbabwe

The legal system of Zimbabwe, whose origins are Anglo Roman-Dutch, owes its modes of communication to the three legal systems that form its basis, namely: English law, Roman law and Dutch law from the Netherlands. Section 89 of the Constitution of Zimbabwe provides that the law applicable in Zimbabwe is the law that was in force at the Cape as of 1 June 1898. This law is Roman-Dutch law which is a combination of Roman law and Dutch law. However, since Zimbabwe was a British colony, traces of English law also infiltrated Roman-Dutch law thus making the applicable law in Zimbabwe more Anglo Roman-Dutch than pure Roman-Dutch law.

Semiotic-discourse and culture

Different cultures have different ways of expressing and interpreting reality (Fiske 1987). Some non-verbal codes are culture specific but others are universal; for example, the sign of an aeroplane is a clear icon indicating an aircraft. There is a complex relationship between the visual text and the verbal text and both points need to be clear. Firstly, the verbal and non-verbal codes are intertwined and together create the message that is relayed to the audience visually, verbally, by touch, by smell or by sound.

Secondly, the meanings that people develop from the different codes are mostly influenced by the culture of the sender of the message (Fiske 1979; Kwaramba 2000) and the context from which the code is generated. This non-verbal message can be in the form of an icon, an index, a symbol or some combination of the three (Fiske 1979). For example, standing up in a courtroom is a show of respect for the judge but traditionally in many African communities standing up is a sign of disrespect to elders. Swearing on the Bible is another important ritual in a court of law which has a long history far removed from some of the communities where it is practised today.

A sign (including linguistic signs) is best interpreted either by someone from the same culture as the person who sends it or is familiar with that culture. In other words, members of the same discourse community share the same culture and can thus best interpret messages in a communicative event. Simply put, any sign is most effectively interpreted either by discourse community members who, according to Swales (1990), are individual members of the society and who become members by birth, training or apprenticeship and cease to be members mostly by death.

Taken out of a cultural context or discourse community, images and signs can mean very different things. Signs will not mean much if they are taken out of their cultural context or context of situation. A visual image of a dog can mean different things to different people, for example, it may signify danger for a burglar, it may mean a pet for a child, or it may mean that animals are allowed for a dog owner. The image of an owl may suggest wisdom in most of the western world, but in most African social and discourse communities it is

associated with witchcraft, while for an ornithologist it is just another bird. According to Stubbs (1996), there are difficulties in discussing discourses without reference to context. For him, 'meanings' and interpretations are mediated by social institutions. This explains why Van Dijk is quick to note that 'discourse is not simply an isolated textual or dialogic structure' (1988, p. 2) but a complex communicative event embodying, within a given context, production and reception processes.

Some aspects of semiotics and speech acts in a court of law

The semiology of the court is an aggregate of icons, indices and symbols that interact in a complex manner and relay a range of denotations and connotations that help in determining the outcome of a trial. Non-verbal communication is a full text on its own or a legal discourse 'version' and it carries a full repertoire of connotations and denotations as the courtroom drama unfolds. Non-verbal codes can be in the form of gestures; forms of dress or hairstyles; for example, facial expressions are complementary to the verbal code and can give away a witness.

There are some questions in semiotics that emerge from the study of language and communication: who sends the message, how is it conveyed, to whom is the message conveyed, how does the receiver interpret the message? When the judge hands down his/her judgement, does it necessarily make sense to the accused or does his/her 'blank face' send more signals than any verbal statement? In the process of cross-examination are all aspects of non-verbal communication taken into account? Can a witness who has gone through the trauma of violence ever be balanced in giving evidence especially when the alleged perpetrator is in the same court? All these questions become important in a court of law and does it take into account cultural differences that might influence interpretations of signals associated with certain rituals in a court of law? Few people, especially women, can ever be fully explicit about the intimate details of a relationship even if it is required as evidence. Is a court of law culturally gender sensitive? All these issues are important in the semiotic process in a court of law even before a word is uttered.

Much of the action in a court of law is essentially solemn and ritualistic like at a church service or a funeral where many activities are full of dramatic imitation of some deity or age-old traditions that are often out of touch with reality. The action is full of icons and indices that convey certain meanings to different people in the courtroom. Probably the greatest problem is that most of these rituals are handed down from European traditions that have little connection with the African communities who are subjected to these symbols.

In terms of Roman law, it was characteristic to utilise a combination of verbal and non-verbal features of communicating legal perspectives. A good example is the ancient Roman transaction of transfer called *mancipatio*. The transaction required the presence of the immediate parties, at least five Roman citizens of legal age, a bronze ingot, a set of scales, and a person (*librapens*) to carry the objects. *Mancipatio* officially began when the transferee grasped the object of transfer and performed a locutionary and an illocutionary act (in the case of a slave): 'I declare that this slave is mine according to *Quiritary* right, and be he purchased to me with this bronze ingot and bronze scale'. At this point the

transferee struck the scales with the bronze ingot, and then passed the bronze ingot to the transferor and henceforth a perlocutionary effect would be observed. Even though verbal communication dominated this transaction, the event was multi-sensory: a synthesis of aural communication (the words and the sound of the bronze ingot striking the scale), visual communication (the grasping of the claimed object in the view of the parties and of witnesses).

In terms of criminal procedure, when a police officer is effecting an arrest, he is supposed to touch the accused and address him or her by name and then appraise the person of the charge being preferred against him or her. This is meant to enable the law enforcement officer to effectively communicate the charge to the suspect before effecting the arrest. It is not clear how many offenders are actually touched and addressed in this manner in practice.

Performance properly describes the modern trial, which is considered as a work of legal theatre. The modern trial simultaneously implicates and relies on verbal *and* non-verbal forms of expression. Non-verbal communication in court operates at several levels: terms are borrowed from communication theory and placed in a court of law, for example silence, dress code and appearance, use of space, movement and gesture.

Court regalia

It is often said that members of the legal profession such as lawyers and judicial officers communicate legal perspectives in a non-verbal way because of the mixture of legalese, formalities or rituals, and weird regalia such as black gowns and wigs, which make the courtroom more of a theatre than a forum where justice ought to be delivered. Court regalia could be considered more like costumes which every player must put on in order to play their part. It thus becomes necessary to take a look at the way legal professionals communicate legal perspectives amongst themselves and with the public and how this promotes or hinders the realisation of justice. The wigs that the judges wear are white in colour in line with the Zimbabwean legal tradition. They are iconic symbols of hairstyles that were in vogue in Europe in the 16th and 17th centuries. Maybe in some cases they were used as hair pieces to cover bald heads. The size of the wig varies with that of a Supreme Court judge being the biggest. In a Supreme Court five judges compose a bench while in a High Court three judges compose a bench.

These wigs are probably totally alien to most cultures outside Europe and North America and yet they carry a historical significance that has been handed down to all countries that practise Roman-Dutch law. The point is what does the wig symbolise and what meanings does it convey to an accused old man in the witness box in a court in Zimbabwe or in Zululand? Sometimes people may wonder why Zimbabwean judges continue to wear wigs and whether the dissemination of justice will be hindered without wearing them. Or perhaps this is simply an adherence to the colonial legal ethics which do not represent the indigenous people's culture but rather a colonial one in a court of law. Interestingly, when magistrates in Zimbabwe complained that the wigs made them uncomfortable as they were largely hot especially in summer, they were reserved for judges only.

All judicial officers, the judges, lawyers, clerk of court wear some kind of gown usually black. Senior judges might wear other colours such as red or green. Senior judges especially those who sit and preside in the High and Supreme Court wear red and gray with different stripes demarcating their seniority/hierarchy. For a black Zimbabwean person with little knowledge of the court of law or who has never been in a court of law, the black robes might be *machira emudzimu* (ancestral regalia). This might suggest that the people wearing them are some kind of spirit medium or people with some mystic force associated with the spirits and spiritual world. This might have a strong bearing especially for an African whose philosophy of life regards the 'spiritual' as highly sacred.

For those who do not wear gowns, dark suits are mandatory and for the audience or other participants dress is strictly formal. The colour of all the clothes is dark pointing perhaps to the seriousness of the courtroom. This explains why the courtroom is gloomy and this very atmosphere may contribute to the 'unsettling' of the accused who may not be used to the environment or atmosphere of the courtroom as compared to the judges, lawyers, prosecutors and clerks of court.

Kinesics

Swearing in of the witnesses or accused at the commencement of legal proceedings is done using the Bible, Koran or any other religious or traditional symbol to emphasise the solemnity of the whole process. The question of the oath is culturally bound and is often complex. In the administration of oaths, the deponent or person wishing to make a sworn statement is made to lift their right hand and swear before a Commissioner of Oaths that the statement is nothing but the truth, may God help them. Usually this process is done without communicating its purpose, relevance and consequences. Due to time constraints, most commissioners of oaths no longer administer the oaths but just sign the documents presented to them. This often creates problems especially in the case of affidavits where the bearer of the document has had it written for them by another person while they dictated the contents or explained what they wanted to be communicated. If the Commissioner of Oaths does not ask whether the contents of the affidavit are understood and simply commissions the document, then the deponent might be legally bound to what they did not anticipate.

Hand movements are usually kept under strong watch. Finger pointing is not allowed in court for it is considered a sign of disrespect. This explains why in a criminal trial, for example, the accused tries as far as possible to keep his/her hands close to his/her chest or behind his/her back, thus emphasising a point by using the hands is tricky and is likely to be a sign of disrespect for the court.

Space and power in court

Not only does space affect the way people communicate, but they also use space to communicate (Stanton 1996, p. 35). How space is allocated and used by different players in court defines power and authority even before a single word is uttered. It can be examined

at two levels, namely, the setting of the court (the stage) and the gallery.

The bench (Judge or magistrate's desk) can be very intimidating for someone who has never been in court. The judge will sit in the highest place as if he/she were some deity looking down gravely like a monarch sitting on a throne some distance from the subjects. Some litigants have indicated that the scenario appears more like the biblical final judgment where a man or woman seated in a very high chair, in a gown and perhaps wearing a wig, mumbles unclear and incomprehensible statements which appear to be only understandable by their colleagues seated in front who comfortably respond and pass on the message to the mesmerised litigant.

At the bar the defence lawyer and the prosecutor are also given much space to play out their legal dramatic skills while the defendant or the witness is confined to a box that is actually called the witness box or the dock. The dock is also very constricting and the accused can feel hemmed in and already condemned. The defendant is often put in a place where he/she appears vulnerable and under the scrutiny of all and sundry.

This uneven distribution of space is a silent statement on where the power lies and who has space to move around. Naturally, any witness or defendant will feel cornered even if he/she is familiar with courtroom procedure. It becomes more intimidating when the defendant or the witness has a culture and language that is different from that of the bench and the bar. A man or woman from the rural areas or the ghetto who is in search of justice may find him/herself in this setup and cannot help being overwhelmed. The feeling of exclusion makes such a litigant lose the battle even before it is fought and innocent people have been found guilty and sentenced because of this physical setting which the layperson will find awesome.

The manner in which the prosecutor or defending lawyer bears down upon a witness can be very intimidating. Sometimes it is not the words that matter but the manner in which the witness or the accused responds to the question. Judges and magistrates alike often concentrate on what they call '*demina*' or otherwise metacommunication in weighing up what the accused is saying. Without the protection of their lawyer, witnesses or the accused can break down or misrepresent themselves under the ruthless process of cross-examination. This is one point in the theatre where the drama is played out.

The gallery (the space where the audience sits in court) is similar to the terraces in a sports arena. They are like spectators watching some sport, with the only exception being that they have to be silent even when emotionally moved. There is a sense of drama because every act or gesture by the accused or the witnesses, whether voluntary or involuntary, is under close scrutiny from this audience and from the judge who looks down upon every act like some deity.

When the court adjourns, the court rises and the judge goes out first. In most Zimbabwean communities standing up before elders is extremely discourteous and this can be bewildering to someone not familiar with court proceedings. Furthermore, while all the other actors and the audience leave through normal doorways, the accused makes an exit downwards through some staircase symbolically descending into hell. In such a case it is very possible that the accused might feel condemned even before the sentence is handed down.

Conclusion

This article has briefly explored non-verbal communication in a court of law in Zimbabwe. Drawing from semiotics and discourse analysis the article explored the Zimbabwean legal system and how non-verbal communication operates in a court of law. The article also discussed how non-verbal communication operates at several levels in a court of law, with reference to dress and appearance, use of space, movement and gesture. Each of these aspects serves as an example of how, for example, court cases are determined not only by written or spoken language, but the whole non-verbal code that accompanies every statement. The article should be seen as a starting point for the studies of non-verbal communication in legal discourse, an area that has not been sufficiently researched in Southern Africa.

Notes (Endnotes)

1 Although interest in 'signs' and their communicating endeavour can be traced back to the medieval philosophers like John Locke.

2 A term derived from the Greek term 'semion' which means 'signs'.

3 Pointing to a situation and calling for an immediate, causally related action

4 Red in our society signals 'danger', and in this context it signals 'stop'; while green signals the opposite.

5 An act of constructing an utterance by following grammar and vocalising the sentence.

6 The actual making of the statement.

7 Levinson (1983, p. 237) says of an illocutionary act that it is that which is directly achieved by conventional forces associated with the issuance of a certain kind of utterance in accord with a conventional procedure. This is however in response to the problem Austin had in handling the illocutionary force.

8 According to Austin (1962), this is the bringing about of the effect(s) in the audience by means of uttering a

sentence.

9 These modifications will not be discussed in this article as they do not change the theory for Searle's contributions are simply intrinsic.

10 In a court of law this is called '*demina*' and Stanton (1996, p. 30) finds this as 'all things which we take into account in interpreting what someone is saying (in generating meaning and acting appropriately), over and above the actual words.

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