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Abstract

It would be wrong to argue that the dominance of English over Bahasa Malaysia in the Malaysian legal domain exclusively expresses a tendency towards being Angloized and reading in competing lingua francas. The use of English goes beyond dealing with this challenge of competing lingua francas. In actuality, promoting or defending the national language in the legal system does not obviate the mastering of English as a lingua franca for the legal profession in Malaysia. In this paper, we critically examine the language issue by providing a systematic account of the ways in which both Bahasa Malaysia and English are used in the Malaysian courtroom. Adopting a comparative approach with reference to actual court proceedings evidence of language use are gathered from both the subordinate and superior courts in Kuala Lumpur. Findings suggest that English continues to be the major language franca in the Malaysian legal domain. Bahasa Malaysia, at times, is subjugated in the national and official language in Malaysia. While there is this underlying 'competition' between languages, it would be inaccurate to stereotype the dominant use of English as an Angloized phenomenon. More to it is to realize the competing forces as a pragmatic approach to language use.

Keywords: communication, language choice, language in the courtroom, court proceedings,
Introduction

Language choice decisions are never made in a vacuum. They are, instead, influenced consciously or unconsciously by a number of factors among which some are social and others economic. According to Gumperz,

Choice of styles or languages is seen as a strategy on the part of speakers trying, for instance, to present themselves as individuals with particular socially defined qualities, or, as another example, trying to convey a particular attitude or impression concerning a topic of conversation (Gumperz in Gal, 1979:91)

The fundamental uses of a language are also important for understanding why a person chooses one language over another in a specific situation. According to Fishman (2000: 2), multilingualism - where each language is assigned its own distinctive societal functions - may be the wave of the future. He pointed out that as long as two languages compete for the same functions, a linguistic division of labour between the languages may emerge and that this may be both amicable and long-standing. Thus in a language contact situation, when choosing one language over another, a speaker makes a tacit statement about his interpretation of the situation. Since language may be used to express one's identity, the identity derived from group membership may be a crucial factor in explaining language choice.

Effective communication is also not the only mitigating factor for language choice. As stated by Cargile, Ryan, Giles and Bradac (1994:211):

Language is a powerful social force that does more than convey intended referential information. Our views of others, their supposed capabilities, beliefs and attributes are determined, in part by inferences we make from the language features they adopt.

In fact, more than twenty years earlier, Fishman (1971:1) noted that:

Language is not merely a carrier of content, whether latent or manifest. Language itself is content, a referent for loyalties and animosities, an indicator of social statuses and personal relationships, a marker of situations and topics as well as of the societal goals and the large-scale value-laden arenas of interaction that typify every speech community.

In other words, language is an important social marker. The language in which the communication takes place is as important as the verbal content. Certain social factors (who you are talking to, the social context of the talk, the function and topic of discussion) become important in accounting for language choice. Research in this area focusing on this functional view has been undertaken in Malaysia (Ahmad Mohd Yusof, et al., 1992; Asmah Omar, 1992; Morais, 1994; NarayananVenugopal, 2000; Ting, 2001).
Competing Languages in the Malaysian Courtroom

The situation in Malaysia shows that Bahasa Malaysia (hereafter referred to as BM) is the official language and English, its second most important language. According to Asmah (1994), English as the second most important language is still very much in use in various professions such as the medical, dental and legal professions. The Chief Justice of Malaya noted that members of the legal profession should remain bilingual in accordance with our national language policy (New Straits Times, 1990). In other words, they are expected to be fluent in both BM and English. The use of English goes way beyond dealing with this challenge of competing lingua franca in actuality, promoting or defending the national language should not obviate the mastering of BM. However, the dominant-subordinate relationship that exists between BM and English engenders conflict and is often perceived as being in competition with one another. This notion of competition is not a new one and it manifests itself in the desire to establish a ‘true’ Malaysian identity through the mode of communication being BM. The present study will investigate the existence of competition while attempting to explain it, as little is known about the distribution of BM and English within the legal profession.

There are policies to maintain and promote allegiance to BM. Even though the need for the population to be proficient in English is apparent, the government does not plan to accord English the same status as BM. The use of English is regarded as complementary to the national language. BM is to be used consistently at all levels of government transactions. As manifest in the Federal Constitution, Article 152(1):

The national language shall be the Malay language and shall be in such script as Parliament may by law provide:

Provided that: (a) no person shall be prohibited or prevented from using (otherwise than for official purposes), or from teaching or learning, any other language; and (b) nothing in this clause shall prejudice the right of the Federal Government or of any State Government to preserve and sustain the use and study of the language of any other community in the Federation.

(Omar, 1992; Morais, 2000:133)
Currently, the dominance of English for professional, educational and business uses is unprecedented in the history of Asia. This growth in use has been ushered in by the pre-eminence of English in a globalized world. Given this scenario, how are Asian languages and cultures facing challenges and seeking accommodation? This book, based on papers written for the Conference English and Asia, explores some of the synergies and turbulence that are thronging Asia in the educational and cultural arena. Among the major themes, one is that of how emerging societies are surging ahead in developing their own resources for teaching and learning English. Many of the papers are in response to this central theme. The meeting of literatures offers another area of scrutiny. Conflicts and turbulence is also explored in some of the papers, especially those concerned with discourse and identity.

The book is significant as it presents work on a region that has the largest population of English speakers in the world. Although the speakers are mainly second language speakers of English, with the language becoming the lingua franca of the world, issues on English in Asia have become an important field of enquiry. Research in this area is also growing due to the vastness in region and differences in cultures. Therefore, the book would be a valuable sourcebook for those interested in English language issues in Asia and efforts should be made to produce more work in this field.

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