

Challenges Facing the Accused in the Use of English Only in Criminal Court Proceedings: Experiences from the Vhembe District, Limpopo Province, South Africa

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ABSTRACT The choice of language to use in South African courts is still a subject which gives rise to emotional debates in the public domain. In the Vhembe District Courts of Law, it is found that English is used as a language for case trials at the expense of African languages. Interpreting is a challenging activity because some languages do not always have words that allow a direct interpreting. The present research seeks to investigate interpreting or misinterpreting activities in courts of law in the Vhembe District. The conclusion of the case may completely change the verdict of guilty or not guilty. An interpreter should know both the source and target languages fluently and must make sure that the information is translated correctly and precisely. This research will be accomplished by analyzing interpretation in the courts of law in the Vhembe District.

INTRODUCTION

The use of interpreting is preferred in these courts of law. For many, Africans were made to believe that African languages are not good enough to be used in courts. The undisputable fact is that every accused person has a right to fair trial, which undoubtedly incorporates the right to be tried in a language that the accused person understands, or if that is not practicable, to have the proceedings interpreted in that language. The Constitution of South Africa (1996: 4), Act 108 in Section 6(4) states that “all official languages must enjoy parity of esteem and must be treated equally.” This is supported by Lehae (2013: 42) when he says that there is no language that is superior to the other. Although, the majority of the people in South Africa speak indigenous languages as their mother-tongue,

English remains the language of courts. Translated version of the language may not be the same as the original communication which may lead to the wrong conclusion of some of the cases. A slight difference in context may sometimes change the meaning of a word. The change of words may mean something different from the case. Many interpreters working in African languages do not have professional training which can make them aware of ethics of their role, cultural differences in translation and exigencies of discourse. Such languages are only used when dealing with evidence presented by someone who cannot speak English. Most people standing trial and giving evidence in South Africa are Blacks. It is also a well-known fact that most of the magistrates, judges and public prosecutors are Whites and the majority of them do not have the command over African languages. The interpreting services that are provided are not adequate to solve the problem as the accused, who may be an innocent, may end up being sentenced because the interpreter may have incorrectly interpreted the informational evidences. An accused cannot be regarded as somebody who has contravened a law or an act for law officials have first to make sure that whether a law has in fact been contravened and whether he is guilty (van der Walt et al. 1985:

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33). National Language Policy Framework (2003) indicates that all eleven languages are equal in South Africa.

METHODOLOGY

The research majorly extracts evidences from transcripts of the court proceedings held at the Makhado Magistrates' courts between June 2012 and August 2013. The researchers were kindly provided with Northern Sotho and English transcriptions of the trials. The transcriptions in question provided enough data for the present paper. The data collected from the transcriptions were supplemented with the data obtained by means of personal observations of court proceedings at the Makhado Magistrates' courts. Only important extracts were used as it was not easy to observe the proceedings of all the cases. In this way, data-gathering method, through observations, were used to come up with this analysis. As outsiders, the researchers sat in the background, observing court proceedings. Being the very strict measures in the courtroom, the researchers were not allowed to participate during the court proceedings. However, they managed to get first-hand information. They observed the interlocutors' linguistic behavior in the courtroom.

The interviews were also conducted as a method of data collection. To gain a deeper insight behind the choice of language in the courtroom, the researchers carried out formal face-to-face interviews with court officials (magistrates and public prosecutors) to get clarity. Williamson and Karp (2013: 133) point out that: "By using the face-to-face interview, subjects tend to be more impressed with a seriousness of a study when a researcher conducts them personally than when they receive a questionnaire through the mail." For ethical-cultural reasons, the accused were not interviewed.

RESULTS

The paper investigated that some parties are denied a fair and impartial trial because magistrates or judges are either insensitive to the necessity of a qualified court interpreter to protect the rights of non-English speakers that belong to linguistic minorities or act as if they have no control over the interpreters. It has also worth noticing that in many cases, the accused do not

have legal counsel and as such, they have to represent themselves. Every accused person is supposed to have a legal counsel. The other point is that many police officers, who are not trained as interpreters/translators, wrongly interpret/translate the information of the accused from one language to the other and this brings unfair judgment. Lastly, language barrier really affects the effective delivery of justice because the courtroom language prevents the accused from fully understanding the legal proceedings.

DISCUSSION

Background Information

In South Africa, there is a lack of qualified and competent court interpreters. This has been going on for many years. Most of the people do not use English as their primary language. In this way, the language barrier affects the court system by obstructing effective delivery of justice. The accused who are unable speak English; always find it hard to express themselves during the court proceedings or to explain their feelings at sentencing directly to the magistrate/judge who may equate silence or embarrassment with the lack of remorse. Even for those who can speak English fluently, the technicality of legal English which mostly rely on borrowed Latin terminology and specialized use of ordinary concepts causes great challenges. Legal English that is used in the courtroom is regarded as very unique from an ordinary language used by lay people without formal training in the legal fraternity. It is, therefore, very obvious that court officials and lay people use and understand language differently.

Law in South Africa is still practiced in the language of the former political power, which is English. This law differs in many different ways from customary law that is practiced by the traditional leaders and their communities in indigenous languages. Moeketsi (1991) complains by stating that the loss of meaning in the court translations by court interpreters often create problems to the innocent people. She further argues that the outright falsification of source information by interpreters because of lack of linguistic equivalents between various languages often gives rise to miscarriage of justice.

A court interpreter is regarded merely as a "language mediator" whose participation allows

any person who does not speak or understand English meaningfully to participate in the judicial proceeding. The interpreter is, therefore, not allowed to give any advantage or disadvantage to the accused or witness who is unable to speak or understand English. His/her duty is only to convey the meaning of a word or words from a source language (for example, Northern Sotho) into the target language, which is often English. In this case, an interpreter is not allowed to either omit or add meaning to the word or words uttered. Obscene, cultured or scholarly language must be transferred according to the usage of the speaker. If the concept does not have literal interpretation (for example, a vulgar word), the interpreter should try by all means to give an equally offensive concept in English. Fernandez (1993) also indicates how language policy in the law curriculum affected South African legal system. In his research, Fernandez shows four groups of languages that are used in the South African courts of law, namely; English, Afrikaans, Latin and African languages.

The interpreter should reflect the content of the original word or group of words, including slang words, pause words, hesitations and pauses. Grammatical errors and improper usage by the speaker must not be corrected by the interpreter. The incomplete phrases by the speaker must also not be completed. If an error occurs in the interpretation during the trial and the court interpreter realizes the error, the court interpreter should urgently correct the record. Thetela (2003: 69) explains the term 'cross talk' in courtroom discourse in African context. This term refers to a dialogue between two people operating from different cultural backgrounds. This research demonstrates the complex challenges facing communication in bilingual courtrooms, where English, which is a foreign but official language is used in a bilingual situation in which the majority of participants speak African languages. This situation creates a very serious problem because English, which is not spoken and clearly understood by the majority of the population, is accorded a superior position over indigenous languages like Tshivenda, Xitsonga and Northern Sotho.

Statement

This is a formal written account of facts or events given to the police by the accused. The

accused usually uses his/her mother-tongue to give the statement while the police officer translates it into English. In most cases, the accused does not even know whether the police officer translated the language correctly because he/she does not understand or speak English as he/she is not familiar with it. There will be discrepancies because the police officers are not trained as interpreters/translators. They will obviously have problems with the language. They can be good in English, but the technicality of legal English can give them some problems. During the legal court proceedings, the accused may not remember all that he/she presented in the statement. It is of great significance to note that in the majority of these cases, the accused have no legal counsel. This obviously implies that they have to represent themselves during the trial.

Stubbs (2014: 226) indicated that many discourse analyses studied concentrated on face-to-face conversation among human beings, which is the most basic type of social interaction. In the courtroom, there are no face-to-face conversations between the magistrates and the accused, more especially where different language conventions operate. However, the main purpose of the trial is to resolve a dispute between two versions of reality, and language in this case is central. Courtroom language, in most cases, hampers the statement of the accused and prevents him/her from fully understanding the legal proceedings. It also distances the accused from his/her own experiences.

Cultural Differences

There are different attitudes which can be noted between Western and African cultures. Western culture, which has the dominant ideologies is not easily challenged as most of the things are imposed onto the dominated groups to maintain power whereas the African dominated cultures are regarded as old and uncivilized (Green 2013: 93). Sometimes the accused is charged with a crime that is common practice in his/her culture, which is a challenge. It is up to the accused to present his/her case to the court of law about his/her culture. Cultural dependency and hegemony are intimately linked to language. This is pointed out by Gramsci (1995: 183-185), a linguist by training that:

Every time the question of language surfaces, in one way or another, it means that a series of other problems are coming to the fore; the formation and enlargement of the governing class, the need to establish more intimate and secure relationships between the governing groups and the national-popular mass, in other words to reorganize the cultural hegemony.

Legal professionals, notably public prosecutors and magistrates are just like other people from different social classes and language backgrounds and have obtained their degrees in law from local and international universities. Such differences in social classes and educational training pose some linguistic challenges when it comes to interaction during legal proceedings. In such situations, there will always be misunderstandings leading to inevitable impacts on important decisions in other people's lives. The promotion of the students' attitude, knowledge, culture and language at the institutional level plays a very crucial role with respect to their approaches in life (Department of Education 2005: 35-36).

As a result of academic dependency, African students want to adapt Western culture to have a prominent status at the expense of their African culture. Alidou and Mazrui (1999: 113) have discovered that the entire generation of African graduates has grown up undermining its own ancestry and scrambling to imitate others. Dalvit (2009: 112) goes on to state that proficiency in English and other foreign languages is not an additional skill for African academics, but the only way for them to express their knowledge. This is how the academic discourse is carried out in the whole African Continent in such languages. This fact sets the term of discourse in favor of Western culture and prevents the emergence of counter discourses. In this way, culture relates to a 'marginal' comprehension of the world as well as an individualistic and localistic orientation in the social world. Janks (2000: 180) emphasizes that those who do not gain access to their culture have a problem of understanding and mastering the abstract and immutable principles which govern both the natural and the social world.

Kavanagh (2000: 102) accepted that culture can be described in terms of community's traditional beliefs and practices. In Vhembe District, there are a number of cultures that are important due to most of them being official and there are

many things that are unique in those cultures. Few examples below stand evidential that there are some of the things specifically known, for instance, to the Northern Sotho community.

Letlatswa - the circular area in front of the homesteads enclosed by oddly shaped branches of trees placed upright and very close together.

Mothubo - free labor of the girls (which largely consists of fetching water and firewood for the chief, sweeping his courtyards and freshly decorating the floor and walls of his principal wife's courtyard).

Pherwana - a private entrance in the back of the courtyards only for the family.

Sepšarane - porridge cooked using fried pumpkin seeds and maize meal.

Seruthuthu - a special hut built at the cattle post or adjoining the cattle kraal (where boys find a temporary home or may live for quite a number of years).

Thophi - porridge cooked using pumpkin, sugar and maize meal.

Tšhidi - traditional doctors' protective medicine against witchcraft.

This is paraphrasing which takes place when the interpreter gives an explanation of the source language item in the target language using the target language vocabulary. Podolej (2009: 47) illustrated this point by saying that "through this way its meaning is fully conveyed, with the longer form to the original, that is, it is no longer a single word but a multi-word expression". There is a challenge to translate them into English because they do not exist in English language. They are referred to as cultural based terms. Mpofu (2001) says that the problem where functionality relevant feature in a source language does not exist in the target language is called cultural untranslatability. This strategy should be carefully used to ensure their functionality in the target language.

It goes without saying that culture can be read in language. Human beings make culture on a continuous basis. Kaschula (2007: 51-52) stresses this point by stating that:

Languages are markers of identity and culture and different languages subtly reveal much about their speakers. The loss of a language is thus not only an enormous cultural loss, but it signifies the eternal loss of a huge amount of indigenous knowledge.

Clark (2009: 1) is of the opinion that all cultures are unique and will never be the same. She goes on to say that they started as oral cultures and shifted to highly literate cultures. Any person who is not acquainted with the culture, understanding the spoken word will never be easy. Cultural expressions show how perceptions, experiences and problems help people in an open, never-ending process. Makgopa (2009: 53) indicates that “every South African group is encouraged to learn more about another’s cultural belief systems, values and ethics structure and refrain from criticizing and using denigrating statements”. There is absolutely no doubt that South African cultures are unique and divergent as reflected in the different ethnic groups. This originates from the existence of people of various races, languages and traditions.

Translations

In history, translation has always functioned as a tool for people who do not know foreign languages to understand the source language. The translator must take both linguistic and cultural factors into account when translating text. Translators and translation theorists worldwide have long realized the principle of translation as a source of communication. In reality, the essential requirement of any kind of communication is to make sure that the information is adequately transferred from the source language to the receptor. In this case, the translator should try by all means to reproduce the closest equivalent message of the original text so that the target text listener can understand the source message satisfactorily.

Having inadequate training, there is, sometimes a communicative embarrassment which refers to failure to communicate properly or transfer information adequately from the source language to the receptor. Mphahlele (2014: 6) says that communicative embarrassment is mostly caused by both culture-bound words and items which have a very long degree of translatability. The culture-bound lexical items are those that are known only by speakers of the source language. It is important to note that translators mostly opt for the use of borrowing words from one language to the other as one of the strategies of dealing with zero equivalents. As a matter of fact, languages are different and will never be the same, and as such, they cannot always match in terms of meaning.

In most countries, including South Africa, English still appears as the language which is often used as a means of communication between two people who are not sharing a mother-tongue. Some words in English are strange to foreign speakers of the language, for instance, the Northern Sotho speaker will find it difficult to understand English culture-bound words. This is stressed by Roets (2001: 9) when she states that even though English is the most popular language in South Africa for scientific, technical and legal courses, it is very limited in terms of usage for African people. It is true that adoptives and borrowed words do not have equivalents, and as such, foreign language users neither know the terms nor understand them.

Functional Equivalence

Many African languages are faced with a very serious problem of finding terminology in areas such as law. This is, mostly observed, when the words are translated from English into African languages. Some of the words that are used in English may not be known in African languages. The translator should, therefore, ensure that before translating anything, the text (message) that is translated is going to be understood by the court officials and also be in a position to get a communicative and comprehensible functional translation. Some words in the legal field have, to a large extent, affected African languages like Northern Sotho and this leads to meaning of particular terms shifting. Such terms end up not being used at all. The following examples bear testimony:

Firearm-Sethunya

The word *sethunya* is the correct equivalent for the word *firearm* and it is a standardized concept which is acceptable in speaking and writing. The equivalent is provided, looking at the function of the *firearm*, which refers to a weapon that is handled in the hand with a trigger that is pulled by a finger to propel a bullet that causes small explosion. In Northern Sotho, *sethunya* is also a device that fires shots which make noise. This shows that the word *sethunya* is the correct equivalent for the word *firearm* but the Northern Sotho speakers do not often use the term as an equivalent for the *firearm*. They use the term *fayaamo* instead, which is borrowed

from English. This makes the word *sethunya* redundant and this will result in the term losing the meaning and its function. The use of this concept is not accepted in the standard language. Another relevant example in this regard is as follows:

Court-kgoro

The example stated above confirms the correct equivalent of the concept *court* but the challenge is that the Northern Sotho speakers do not use the concept *kgoro* as an equivalent for concept *court*. They instead prefer using the term *khotho* which does not; in anyway, serve as the correct meaning of the concept. This actually implies that the concept *kgoro* does not serve its purpose and does not have much use as it is only used in written language. The written language is the one that is used in formal functions while the spoken language is the one that is frequently used. This kills the use of our African languages in court as the speakers sometimes use borrowed words instead of using correct equivalents that are accepted and used as standardized language. This will also fail the interpreters to come up with the correct and understandable translation equivalents.

Euphemistic Expressions

These are the expressions which people use instead of more direct ones to avoid upsetting or shocking other people. Watson (1976: 358) asserts that "euphemism is the use of a pleasant, polite or harmless-sounding word or expression to mask harsh rude or infamous truths, for example, 'to pass away' for 'to die.'" The different ways in which people use language demonstrate cultural constraints on the use obscene language, vulgar words or insults. Some lexical choices which people make are aimed at the avoidance of harsh explicitness in communication. The following examples bear a testimony:

Extract 2 of Case 1

(1a) Public Prosecutor: Tell the court everything that took place when you arrived in the house.

Interpreter: *Botša kgoro se sengwe le se sengwe seo se diregilego ge o tsena ka ntlong.*

Accused: Ke rile go tsena ka ntlong ka tsentšha peipi ya ka lešobeng la ka fase ga mosadi yoo. Yena o be a eya kgwedding.

Interpreter: When I entered in the house I inserted my pipe in the opening of the woman underneath. She was going to the moon.

The two sentences of the accused have been translated in a wrong way. The interpreter has used literal translation instead of taking into account dynamic equivalence that could have assisted him or her to realize that the examples given above are idioms. The interpreter definitely thinks that *peipi* and *kgwedi* which have been used in the idioms above refer to the *pipe* and *moon* respectively. A *pipe* refers to a tube that is used to carry water, gas or oil. It can also be a device for smoking tobacco, consisting of a narrow tube that opens into a small bowl in which a tobacco is burned. The idiom that consists of the word *moon* refers to the process whereby female see their menstrual cycle which is referred to as *kgwedi*. The correct translation should have been as follows:

When I entered the house I raped the woman. She was on her menstrual cycle.

This causes confusion in that there is a shift of meaning. The interpreter should have been in a position to clarify to the court officials when translating by making them understand the terms and what the idiomatic expressions entail. The examples above show that the accused tries by all means to avoid sexually explicit register by means of euphemistic references to human sexuality. The accused refers to his penis as *peipi* (which literally means pipe) and the woman's vagina as *lešoba* (which literally means an opening). The interpreter should have also been able to let the court know that the word *insert* (which means to fit something into something else without any force) is different from the word *rape* (which means when a person forces another person to have sex with him/her). In this context, the man forced the woman to have sex with him against her will. It is a taboo to mention all private parts in African languages in public but it is easy in English as they fall under human anatomy. The euphemistic expressions extend the maintenance of cultural identities. The accused choice of lexical items clearly shows that the interpreter failed the court to understand context of a given translation. The court proved beyond doubt, by means of scientific semen test, that the man is the one who raped the woman.

His trouser also had many blood stains from the woman's menstruation.

The court found the man guilty of rape and pressed another charge of perjury against him. Perjury is the crime of swearing on oath that something is true which one knows is false. Soanes, Hawker and Elliot (2006: 668) describe perjury as:

The offence of deliberately telling a lie in a court of law after swearing to tell the truth.

This shows that the many ordinary people, more especially in the lower social classes lack proper legal presentation. It also demonstrates from this research that the courtroom for most people is a very strange and alien setting.

Extract 3 of Case 1

(1b) Public prosecutor: You lied to this court of law after swearing to tell the truth. This court charges you with perjury. What do you say about this charge?

Interpreter: *O akeditše kgoro ye ya molao ka morago ga go ikana go bolela nnete. Kgoro ye e go latofatša ka kenomaaka. Wena o reng ka tatofatšo ye?*

Accused: *Ke iša magetla godimo ka tatofatšo yeo.*

Interpreter: I take the shoulders up about that charge.

The interpreter here has given the direct translation of the expression. A word-for-word translation has been applied as the interpreter wanted to include each and every word that is found in the target language. The correct translation that the interpreter should have given was supposed to be in the following way:

I do not accept the charge of perjury leveled against me.

The interpreter should be in a position to understand what the source language idiom entails and be able to use it in the correct context. This is one of the problems that arise during the presentation of evidence in the courtroom.

It is quite true to state that many people are charged with crimes that are common practice in their culture. One example is that of forcing children to go to initiations schools. It is the culture of young Black South Africans to go to the initiation schools so as to acquire new status and names. They should also perform new roles which accompany their new status. Initiation school has cultural importance because after

attending it, they can assume the position of adults in the political and social organization of a community. Anybody, who has never gone to initiation school, is undermined by the community. These days, media indicate that there are some senior members of the community who force children to go to initiation schools. One member was arrested and charged with a case of abduction as it is indicated in the following case:

Extract 5 of Case 3

(1c) Public prosecutor: You are charged with a case of abduction. You took Matome Mphaka to initiation school without his consent. Do you accept this charge?

Interpreter: *O latofatšwa ka molato wa go tšhabiša. O tšere Matome Mpaka wa mo iša komeng ntle le tumelelo ya gagwe. O ipona molato?*

Accused: *Ga ke ipone molato.*

Interpreter: I do not accept the charge.

Public prosecutor: Why do you say so?

Interpreter: *Nka o realo?*

Accused: *Ka setšo bana ba swanetše go wela.*

Interpreter: Culturally children should fall into.

The interpreter also used the literal translation in the last sentence uttered by the accused. The sentence consists of an idiom *go wela* meaning *to go to initiation school*. The interpreter was supposed to interpret the sentence in the following way:

Culturally children should go to initiation school.

According to the accused, this is the issue of identity. It is one of the characteristics of Africanness. These expressions are shared through oral communication system from one generation to the next.

The Constitution of the Republic Of South Africa, 1996 (Act No. 108)

Some of the accused do not know about their rights in the Constitution of the country. It brought about the total emancipation of the country of the previously marginalized people. It never focused only on political liberation, but other aspects like the rights of the accused persons received attention. Clause 6(1) (1996: 4) categorically states that "the official languages

of the Republic are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu". In Clause 4(2), the Constitution further asserts that "...all official languages must enjoy parity of esteem and must be treated equitably".

The fact of the matter is that the dominance of English in the legal system leaves out the usage of African languages in the legal practice. This is also emphasized by Kaschula (2007: 47) when he says that most scholars acknowledge that the language of power is English and that the use of indigenous languages in business gives access to economic opportunities by allowing a more effective transfer to English. Nine African languages that were previously disadvantaged were granted formal equality with Afrikaans and English at the national level. It is the duty of the state to ensure that practical and positive measures are taken to elevate the status of these indigenous languages and also to regulate and monitor their use. The issue of language is perceived to be so fundamentally important to human rights. This explosive issue was an attempt to avoid possible future conflicts. People who were involved in the transitional negotiations did not want to see the events like the ones in the Soweto uprising, in 16 June 1976, when Blacks rejected the use of Afrikaans as the medium of instruction. In this regard, Prah (2006: 10) says the following:

African school children and their parents had developed the impression that English is the language of advancement and, therefore, whereas they had rejected Afrikaans this disavowal was done in favor of English, and not the indigenous languages. This impression has more or less persisted to the present period.

This is the reason why *The Constitution of the Republic of South Africa* (2006: 4) makes a cautionary provision that "the national government and provincial governments may use any particular official languages for the purposes of government, taking into account usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population as a whole or in the province concerned; but the national government and each provincial government must at least use two official languages.

Language is a key to inclusion. It is the centre of human activity, self-expression and identity. The municipalities should take into account

the usage of African languages and the preferences of the speakers of these languages. The loss of language is also the loss of culture which is usually accompanied by large human and social costs, including poor health and family violence. In *The Constitution of the Republic of South Africa* (2006: 15), Clause 30 clearly points out that "everyone has the right to use the language and to participate in the cultural life of their choice, but no one exercising these rights may do so in a manner inconsistent with any provision of the Bill of Rights." This clause is very important because it accommodates the different cultural belief systems of the whole nation. In addition to this, Clause 31 says that "persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community (a) to enjoy their culture, practice their religion and use their language; and (b) to form, join and maintain cultural, religious and linguistic associations and other organs of civil society". The clause goes further by saying that the rights mentioned above "may not be exercised in a manner inconsistent with any provision of the Bill of Rights."

Partial public usage of African indigenous languages, in formal and informal capacities was restricted to usage in the "Bantustans/Homelands". Cultural visibility was only tolerated and confined in the "Bantustans". This confirmed that Black South Africans and their languages and cultures were officially denied their citizenship within the Republic of South Africa. This means that the Black South Africans that formed and still form a clear majority were treated as foreigners. In addition to their own indigenous languages, they were expected to learn and be educated in both English and Afrikaans. It is very important to note that Chapter 9 of the Constitution has listed six state institutions that are expected to strengthen constitutional democracy in the Republic. These institutions are the following:

- (a) The Public Protector.
- (b) The South African Human Rights Commission.
- (c) The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.
- (d) The Commission of Gender Equality.
- (e) The Auditor-General.
- (f) The Electoral Commission.

According to the Constitution, the institutions mentioned above “are independent, and subject only to the Constitution and the law, and they must be impartial and must exercise their powers and perform their functions without fear, favor and prejudice” (Section 181(2)). As they are fully dependent institutions, no individual or state organ may interfere with their duties (subsection 4). They are only accountable to the National Assembly (subsection 5).

Although the Constitution provided for the cultivation of multilingualism, the government has not done enough to elevate the African languages. English is still dominating in South African courts of law. Prah (2006: 16) confirmed this by stating that “in the decade after apartheid, what has in fact happened is that the public dominance of English, one of the smallest languages in the country, spoken as a home language by only 8% of the population, has been strengthened at the expense of all other languages.” All the languages should be used in all the public sectors, including courts of law. The cultural deprivation of the languages spoken by the majorities cannot serve as a viable basis of social and economic development.

CONCLUSION

Through the facts presented in the present research paper, it is evident that the correct equivalents can only take place if the interpreter takes both linguistic and cultural factors into account while interpreting texts. For every language to develop, the daily growth of human knowledge concerning science, technology and law of developed countries should be shared with the developing countries and so far be expressed in the mother-tongue terminology. The aspect of culture plays a very important part in the lives of the people. One needs to understand it for effective communication. One of the major reasons for excluding black South Africans from participating and leading development initiatives in their indigenous languages is that development aid is usually conducted in English.

The image of a ‘rainbow nation’ is commonly supported so as to promote multicultural unity, but very little attention has been paid to the country’s language policy. National unity does not require that all people speak one language, but they should all be able to communicate with each other in a variety of languages and dialects. The courts must not disadvantage other

participants by virtue of cultural differences as well as a lack of certain language skills. Those who are not familiar with the courtroom situation find it very difficult to understand the legal language and certain procedures. The courts are seen as the institutions where decisions which affect the lives of thousands of ordinary people are taken. For the courts to arrive at just decisions, African languages should be used.

RECOMMENDATIONS

The services of court interpreters should be used to protect the rights of the parties in all the cases. The court interpreters/translators should know the cultural background of the communities they are serving, more especially their figurative expressions. People should be tried in their African languages so that they can wholly participate in the judicial proceedings. Statement of the accused should be translated by a trained translator, not by a police officer. Courts should use trained interpreters and the court interpreters should attend workshops on a regular basis.

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