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Cultural and Linguistic Prejudices Experienced by African Language Speaking Witnesses and Legal Practitioners at the Hands of Judicial Officers in South African Courtroom Discourse: The Senzo Meyiwa Murder Trial

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Abstract
This article recognizes that linguistic prejudice (with its associated cultural biases) is a reality in any multilingual country, including South Africa. Prejudice is inherently human and the article suggests that it can be both positive and negative. In the case of the Senzo Meyiwa murder trial the article suggests that the linguistic prejudice experienced by witnesses and legal practitioners was largely negative. Even though the South African Constitution suggests an empowering multilingual environment where there are now twelve official languages, in contrast to this, the article takes as a point of departure the monolingual language of record policy that has been in place in the South African legal system since 2017. This is contrary to the constitutional imperatives. It is argued that this policy negatively impacts witnesses and legal practitioners and that the Meyiwa trial is a case in point. It is found that in this trial there is linguistic prejudice (practiced by the presiding judge) where there are linguistic or cultural voids related to communicative inequality and where the speaker does not have sufficient English vocabulary to proceed. It is concluded that the interpretation process also has its challenges and that ideally the use of African languages as languages of record in courts could only aid the delivery of social justice and the implementation of language rights in a multilingual and multicultural country such as South Africa.

Keywords Linguistic prejudice · Cultural prejudice · Courtroom discourse · Language sensitivity · Language rights · Language of record and proceedings · Legal professionals

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1 Introduction

In this article we analyse the legal discourse in the now ongoing sensational Senzo Meyiwa murder trial. Meyiwa was the South Africa goal keeper for the national football team and he was shot dead in Soweto, Johannesburg, South Africa, while visiting his girlfriend, popular South African singer, Kelly Khumalo. The article begins by assessing and critiquing the language of record policy for South African courts (as well as the associated language policy frameworks) in the South African legal system more generally. The article then turns to the linguistic competencies of those that are communicative participants in the context of the Meyiwa case. Issues pertaining to linguistic and cultural insensitivity are also highlighted, while emphasizing the importance of the role of professional interpreters in this context. Within this context the notion of linguistic prejudice is explored. There are three types of linguistic prejudice. These are strictly linguistic inequality, where a participant lack lexical items, communicative inequality, where a participant lacks appropriateness and subjective inequality where value judgements are made based on an interlocutor's statements [7]. The article also presents certain conclusions and makes concrete recommendations pertaining to the use of language in the South African legal system.

2 South Africa's Monolingual Language of Record Policy for Courts

The language of record policy for courts determines and regulates the use of language in courtroom discourse. This includes the language in which evidence is given; the language in which legal practitioners address the court and pose question to witnesses; the language of judgment and sentencing; and the language in which documents are submitted within a trial [4]. The language of record policy dictates the language in which all court documents must be produced. Historically the language of record policy for courts was politically determined [24]. The courts used the official languages at the time as languages of record [24]. This was reflected by the bilingual position enjoyed by Dutch and English, with Afrikaans replacing Dutch [24]. English and Afrikaans remained the languages of record post-Apartheid, despite the South African Constitution conferring official status on nine indigenous African languages, as well as South African Sign Language from 2023. In 2017, however instead of moving towards an inclusive multilingual language of record policy for courts [1], the heads of court adopted English as the sole official language of record in all South African high courts [4]. The decision was taken on grounds of transformation, enhancing access to justice and reversing the past discrimination from Apartheid for all South Africans.

A distinction can be drawn between unofficial and official language usage in courtroom discourse [9]. Language used in an official capacity is the language of record [9]. Language used in an unofficial capacity is the language used by accused persons, litigants and witnesses [9]. Unofficial and official usage are

related. With a monolingual language of record policy in place, speakers of the African languages and Afrikaans will be solely reliant on interpretation. Firstly, this is problematic in the South African context, where there is a shortage of qualified court interpreters. This is discussed in the article below. Secondly, Docrat et al. [4] have argued that the enabling legislative authority, the Superior Courts Act, 13 of 2013 [18], which is the statute in South Africa that regulates the high courts' functioning, does not confer power on the Chief Justice nor Heads of Court to determine the language of record policy for courts. Chapter 3 of the Superior Courts Act [18] dealing with Governance and Administration of all Courts, specifically Sect. 8 regulates the judicial management of judicial functions, and does not include the language of record as a function to be determined by the Chief Justice. The historical position must therefore be adopted where the executive branch with input from the judiciary determines the language of record policy. This would be in accordance with the doctrine of Separation of Powers, where the judiciary is separate from the executive and legislative arms of government. It then follows that the judiciary is only subject to the Constitution and Rule of Law, where the constitutional rights, including the language rights are realized [4].

3 Linguistic and Cultural Prejudices Experienced by Witnesses and Legal Practitioners

The language of record policy, unfairly affects the language and related rights contained in Sect. 35 of the South African Constitution [14]. Section 35 applies to arrested, detained and accused persons. The affected provisions relevant to this article are:

(1) Everyone who is arrested for allegedly committing an offence has the right-
(b) To be informed promptly-.

(i) Of the right to remain silent; and.
(ii) Of the consequences of not remaining silent;
(e) At the first court appearance after being arrested, to be charged or to be informed of the reason for the detention to continue, or to be released;

(2) Everyone who is detained, including every sentenced prisoner, has the right-
(a) To be informed promptly of the reason for being detained;
(b) To choose, and to consult with, a legal practitioner, and to be informed of this right promptly;
(c) To have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
(d) Detention is unlawful, to be released.
(3) Every accused person has a right to a fair trial, which includes the right-
(a) To be informed of the charge with sufficient detail to answer it;

(f) To choose, and be represented by, a legal practitioner, and to be informed of this promptly;

(g) To have a legal practitioner assigned to the accused person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this promptly;

(i) To adduce and challenge evidence;

(k) 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;

(4) Whenever this section requires information to be given to a person, that information must be given in a language that the person understands.

When applying the monolingual language of record policy, it implies that all documents be produced in English. Evidence would need to be deduced and challenged in English. An accused person would need to present their case in English. This is problematic in the South African context, where the majority speak one of the nine indigenous languages or Afrikaans at mother tongue proficiency [17]. Given the heightened status within courtroom discourse, it can be stated that English second language speakers are disadvantaged before the law, where the rights listed above are unfairly limited. Gibbons [6] explains the disadvantage faced by second language speakers and their reliance on court interpreters, which in the South African context is of a poor quality:

> A second language speaker who does not speak the language of the court, and who is not provided with interpreting services may receive the same treatment as native speakers, but such a process is clearly unjust, in that s/he can neither understand the proceedings, nor make a case.

The limitation of the language and related rights in Sect. 35, undermine the aspirations of the language provisions in the founding provisions, in Sect. 6 of the Constitution [14], specifically Sect. 6(1) and (2).

(1) The official languages of the Republic are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu.

(2) Recognising the historically diminished use and status of the indigenous languages of our people, the state must take practical and positive measures to elevate the status and advance the use of these languages.

(3) (a) 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 use at least two official languages.

(4) The national government and provincial governments, by legislative and other measures, must regulate and monitor their use of official languages. Without detracting from the provisions of subsection (2), all official languages must enjoy parity of esteem and must be treated equitably.

Lourens [8] explains that when conferring official status on a language, the language must be used in all high-status domains and by government through all their official communication levels. The monolingual language of record policy elevates the status of English and once again marginalises the use of the indigenous languages, in contradiction of Sect. 6(2) of the Constitution [14]. The minimum standard built into Sect. 6(3)(a) is also abandoned where at least two official languages are to be used.

The protective constitutional rights framework is limited further by the legislative and policy frameworks relating to the criminal justice system and the legal profession. The Use of Official Languages Act 12 of 2012 [19], is the national language legislation in South Africa that was enacted in accordance with Sect. 6(4) of the Constitution [14]. The Use of Official Languages Act [19] fails to elevate the status of the indigenous languages. Instead, the minimum standard of two official languages is adopted for government departments and all organs of state. The Use of Official Languages Act [19] instructs all government departments and state entities to enact a language policy in accordance with the provisions of Sect. 6 of the Constitution [14].

The language policy of the Department of Justice and Constitutional Development [15] provides no further guidelines on the use of indigenous languages in the legal system. The policy, through Sect. 14, fails to determine the language of proceedings for courts and delegates the decision to the rules of court and other existing legislation. The English status quo for court proceedings is therefore reaffirmed, as the rules of court fail to address the language of proceedings and record.

The linguistic challenges faced by witnesses in court proceedings is compounded further by cultural taboos and the use of geographically determined terminology. According to Mbangi, the monolingual language of record policy has far reaching implications for both an interpreter and witness in a criminal trial, where the witness uses euphemisms to avoid cultural taboos and the interpreter is obligated to interpret simultaneously without changing the evidence provided. Factual inaccuracies arise between police statements and the oral evidence provided in court proceedings, affecting the witnesses' credibility [5]. According to Van Wyk and Esterhuyse [25] the language of record has had grave implications for African language and Afrikaans speaking child witnesses in sexual offences and related matters cases. Child witnesses are classified as vulnerable witnesses and provide evidence through an intermediary regardless of their language competencies. In the South African context, the intermediary is not required to have any formal linguistic qualifications or training. Van Wyk and Esterhuyse [25] explain that intermediaries are however placed in courts where they are able to directly communicate in the official language(s) spoken by the majority of the people where the court is seated. Regardless of this fact, sworn interpreters are used. The language of record policy resulted in both intermediaries and interpreters being employed in a majority of court proceedings and creates further complications for a child witness. Van Wyk and Esterhuyse [25] provided an extensive list of examples where child witnesses used euphemisms for sexual acts and organs. The terminology used was also specific to certain communities where the court is seated. The community's cultural, social and political landscapes influenced the child witness's terminology. In a gang-ridden

area in the Western Cape Province of South Africa, Afrikaans speaking child witnesses' terminology was influenced by the violence in the area [25]. Van Wyk and Esterhuyse [25] explained further that no English equivalence existed that could be sought by interpreters when euphemisms and other locally developed terminology was used by witnesses. The lines become blurred between discharging an onus in a rape trial as opposed to the crime of sexual assault, when the elements of the crime require evidence of penetration to be deduced. In this regard Kaschula [7] concludes that 'There seems to be no question that languages are as much are as much culturally based as they are innate… The close link between language and culture explains why we assume that any communicative competence in a language involves both linguistic and cultural competence.'

Legal practitioners are also faced with several linguistic disadvantages where the language of record obligates them to formulate and pose their questions for examination in chief and cross- examination in English. They are also required to address the court and make all oral and written submissions in English. These parts of the proceedings are not interpreted for complainants and accused persons. De Vries and Docrat [2] conducted a voluntary survey in which legal practitioners said that they would prefer to communicate with clients in their mother tongue where they shared the same language; however, they said that they would still need to prepare their client for examination and cross-examination and all documents needed to be in English. They therefore said that they proceeded through the medium of English from the onset.

The legal education legislative framework supports the monolingual language of record policy by failing to entrench the use of the African languages and Afrikaans, to ensure the languages are placed equally alongside English. Historically Afrikaans, English and Latin were university language requirements and when the Attorneys Amendment Act 115 of 1993 [13] and Admission of Advocates Amendment Act 55 of 1994 [12] removed these requirements they were not replaced with African language requirements.

The university LLB degrees are only offered in English. In 2017, the previous Parliamentary Justice and Corrections Oversight Committee proposed that all LLB students pass one of the indigenous languages before being awarded a law degree [11]. The proposal lost momentum and was not implemented. Instead, the transformational agenda of the legal system focusses wholly on race and gender in order to address the past discrimination. The Legal Practice Act 12 of 2014 [16], tasked with the transformation of the legal profession and system, does not include language qualifications or training as part of the transformational agenda and instead focusses only on racial and gender transformation. The Legal Practice Council is tasked with the implementation and oversight of the Legal Practice Act [16] and further cements the exclusion of language within the process of the transformation of the legal profession. The Legal Practice Council fails to implement language training programmes for current legal practitioners and new LLB graduates, pursuing a career in legal practice. The Legal Practice Council goes a step further in undermining the provisions of Sect. 6 of the Constitution as well as the important right to interpretation where one is unable to communicate directly, by explicitly stating that professional interpreters will not be employed for complaints relating to alleged

misconduct of a legal practitioner. The Legal Practice Council will in place of qualified interpreters use "Provincial Council employees who are multilingual…" to act as an interpreter.

In the Meyiwa case, Advocate Malesela Teffo, advocate for four of the five accused persons, was linguistically prejudiced several times when he was at a loss for English vocabulary. Teffo struggled in certain aspects of the cross-examination of forensic detective, Sergeant Thabo Mosia, as he failed to remember English terminology. He used vulgar language to express his frustration before repeating the sentence in his mother tongue, isiZulu, which he was able to do with ease. Unfortunately presiding officer Maumela J. immediately corrected him. Maumela insensitively laughed at Teffo, before instructing him to address the court in English, the language of record and proceedings. English non-mother tongue speaking legal practitioners are often required to first think of vocabulary before even posing a question to the witness. During examination in chief and cross-examination the phrasing and use of language is important for a witness and could result in an alternative answer being provided. In the Meyiwa case the cross-examination was further complicated by Mosia's limited competency of English and his need to use a Sesotho interpreter. The cross-examination highlighted the multilingual contexts that exist in courtroom discourse where a monolingual policy for courts is unjust and inflexible.

4 Limited Language Competencies of South African Police Officers

Mosia is another example, that police officers similar to legal practitioners are marginalised by the criminal justice system which they all seek to uphold and ensure efficacy of. In addition to providing information to accused, arrested and detained persons in accordance with Sect. 35 above, the police are complainants first port of call when accessing the criminal justice system. Prospective police undergo three phases of training, induction, basic training and probation phase. Although parts of the training phase are spent in a police station and at a police academy, no language and cultural sensitivity training is provided. During the 8-month training period, police are not taught how to accurately record statements and how to navigate the language and cultural barriers that may exist in police stations. The requirements listed for potential police include being "proficient in at least English and one other official language". The level of proficiency is not provided, nor is there an indication of whether the proficiency extends to reading, writing and speaking English.

As a result of the monolingual language of record policy all police statements must be produced in English. In the South African context, linguistically untrained police officers with varying levels of English proficiency are required to understand a complainant and factually record what the complainant reported in English in the handwritten statement [5]. Docrat et al. [5] explain that in many instances the complainants do not speak or read English and are often unable to verify what a police officer has recorded. As explained above this version of facts is challenged in court and the oral evidence discrepancies pose credibility challenges. The police are essentially transpreters (both translators and interpreters) [5].

Qualified interpreters are not provided in police stations. According to the South African Police (SAPS) Language Policy, interpreters can be used in a police station to assist with interpretation, subject to the availability of financial resources. The process outlined in the SAPS Language Policy does not provide for interpreters to be permanently housed in police stations.

While providing evidence, Sergeant Mosia struggled to articulate himself in English and was eventually encouraged by the presiding officer to use a Sesotho interpreter. As a Forensic detective Sergeant Thabo Mosia was the first state witness and police officer on the scene, capturing the forensic evidence. Sergeant Mosia was responsible for formulating the parts of the docket (in English- statement taking). The shortcomings of the police training programme were evident as well as the impact of the monolingual language of record policy during Mosia's testimony.

5 Linguistic and Cultural Insensitivity of Judicial Officers

The monolingual language of record policy coupled with the lack of linguistic and cultural training has resulted in judicial officers, applying the policy without any regard for the multilingual context of the courtroom. Judicial officers are disregarding the importance of using languages other than English and having quality interpretation from competent and qualified interpreters in courtroom discourse. Language and cultural insensitivity appear to be apparent from many judicial officers, displayed through high profiled cases such as the case of Meyiwa. The alarming fact is that the insensitivity displayed and the support for the monolingual language of record policy emanates from African language and Afrikaans mother tongue judges as well. Judges have adopted a narrowed and skewed interpretation, with the false belief that the monolingual language of record policy is transformative and improves access to justice. An example is the case of *State* v *Gordon* [22], where Thulare AJ (as he was then) advocated for the application of the monolingual language of record policy, going beyond the mere enforcement of the policy but providing contradictory reasoning. According to Thulare AJ using languages other than English to hear cases, would mean shopping for judges on the basis of race. The racialization of the African languages adopts the Apartheid era thinking. According to Thulare AJ by adopting a monolingual approach, the heads of court were "cutting the cloth" according the demographics of the country. Budgetary constraints were also raised in the judgment, stating it would be cost effective for interpreters to be used in court proceedings rather than having to incur costs and translate the entire record as this would also create time delays. Thulare AJ ignored the research presented by Docrat, stating the following:

> Academics have the intellectual integrity and moral courage to argue about what the language of record should be in our courts. [The Role of African Languages in the South African Legal System: Towards a Transformative Agenda; A thesis submitted in fulfilment of the requirements for the degree of Master of Arts, Rhodes University by Zakeera Docrat, November 2017]. They can afford to argue about the law. Judges do not have the luxury to argue about

> what the law should be. They have a constitutional obligation to apply the law. The nation expects judges to resolve disputes expeditiously in a manner that is user-friendly, practical and cost-effective.

The constitutional obligation in our opinion would be the purposive interpretation and implementation of the rights contained in Sect. 35 and the provisions of Sect. 6(2), where the indigenous languages and Afrikaans are used equally alongside English. Magistrates in the lower court cases of *State* v *Damoyi* [21]; *State* v *Matomela* [23]; *State* v *Damani* [20]; and *State* v *Gordon* [22] have adopted this practical reasoning. In these cases, the trials proceeded in one of the African languages and Afrikaans as a result of non- availability or delays of interpreters. It was practical in each of the cases where all parties before court spoke the African language and Afrikaans. The languages were also provincial official languages. The Magistrates provided extensive and similar reasons as to why they proceeded in a language other than English, explaining it was constitutionally sound to do so; they were upholding the provisions of Sect. 6 of the Constitution; it was practical to do so; and everyone before court understood the proceedings. Delays were avoided and the accused in matters were afforded a speedy and expeditious trial without delay.

The practical application of the constitutional provisions appears to be fully implemented by the Magistrates who have recognised the need to use Afrikaans and the African languages equally alongside English as well as for purposes of practicality and enhancing access to justice. There are judicial officers who are sensitized to the fact that they exist in a multilingual courtroom and despite adhering to the monolingual language of record policy, they have found constructive means in which to use and develop the African languages and advocate for the use of these languages in the legal education curriculum. Deputy Chief Justice Mandisa Maya identified six points of action to address the marginalisation of African languages and Afrikaans in the legal system and profession, namely: writing judgments bilingually, which she has begun doing; encouraging other judges to use their mother tongue in court through bilingual judgment writing; the need for lexical development of the African languages to assist judges; commitment of resources from all relevant stakeholders; a new language policy informed by all stakeholders, taking into account the history and marginalisation of the indigenous languages; and a review of the LLB curriculum. Judges presently seated on the bench need to be vocal of the language and cultural challenges and prejudices they face and how and if they are able to mitigate these. The ability to understand proceedings and ensure interpretation is of a high quality contributes to the process of ensuring justice is attainable for all. According to Judge Hartle [4], bilingualism and the ability to understand and converse is essential; and where that is not possible to be sensitive to speakers of other languages where the monolingual language of record policy imposes barriers to justice. Her sentiments are captured in the extract below:

> The proposal that law students should be expected to have a language qualification in an African language at the time of graduating is, to my mind, most practicable. I suspect that the official African languages of our country are already offered as courses in most universities. They should also be more easily assimilated by South Africans, hearing them being more spoken than Latin was by the

> graduates of yesteryear…become sensitive to, and understand, the stark language barrier that a monolingual court imposes upon a speaker of another language. My bilingualism was a definite plus and came in exceptionally handy when I needed to consult with Afrikaans speaking clients or witnesses, or interpret documentation framed in the language. It also meant that I could attract more clients because of my dual language proficiency.

Hartle [4] went further to critique the monolingual language of record policy explaining that it had gravely impacted the constitutional ideal of a multilingual courtroom.

> By settling for English as the sole official language of record in our courts, we have sacrificed our country's African languages and kyboshed multilingualism, even bilingualism, in our courts.

The insensitivity displayed by Judge Tshifhiwa Maumela in the Meyiwa case was clearly visible when he giggled and laughed at Advocate Teffo who was unable to pose his question in English. Teffo was unable to continue with his submissions and questions in his mother tongue, isiZulu, when Maumela J immediately instructed him to address the court in English and pose all questions in English. Maumela J's reaction relates to subjective and strictly linguistic inequality: how we judge people based on their lack of vocabulary and on the basis of how they speak and their level of speech. It is a human condition that we judge each other based on the use of language vocabulary, accent, tone and language sensitivity. It is however inappropriate and linguistically insensitive for a judicial officer to laugh at counsel during a trial.

6 Importance of Court Interpreters

As illustrated thus far, court interpreters play an important role ensuring the criminal justice system provides fair access to justice for speakers of the African languages and Afrikaans. Given the effect of the monolingual language of record policy on the constitutional language and related rights, sole reliance is placed of interpretation. This is problematic given that there is a shortage of skilled and qualified interpreters in South African courts and the broader criminal justice system. A further shortcoming of the monolingual language of record policy, is that interpretation is not provided for the entire trial, only when a witness is providing evidence in a language other than English. Mission critical parts of the trial are not interpreted such as counsel's arguments and submissions to court nor is sentencing or judgment interpreted in some cases. This in our opinion places an unfair limitation on the constitutional rights of African language and Afrikaans speaking witnesses.

7 Court Interpreter Qualifications

As explained above interpreters have an important function within courtroom discourse, however only competent interpreters can produce quality interpretation [10]. According to Namakula [10] interpreters must have a proficiency in both the source

and target languages; a basic understanding of the legal process at the least; impartiality and professional conduct including operating within the boundaries of neutrality. Namakula [10] advanced further that competence relates to quality of interpretation, where "interpreting of good quality is correct and comprehensible; it is simultaneous and conducted by a competent and sworn interpreter" [10].

In the South African context, court interpretation is unregulated. A university degree or qualification in interpretation or translation studies is not a prerequisite for appointment as an interpreter in either the Magistrates' or High Courts. The South African Translators Institute (SATI), trains interpreters and translators and provides the contact details of members who have registered as court interpreters however the Department of Justice and Constitutional Development does not recruit interpreters from SATI. According to Mbangi [4], there are various levels of court interpreters within the legal system. These interpreters are only available for interpretation in criminal cases in courtroom discourse. Interpreters commence at entry level 5 in the Magistrates' Courts; Senior court interpreter, level 7; Principal interpreter, level 8; Cluster manager, level 9; and Provincial manager, level 10.

8 Challenges Plaguing the Court Interpreters' Profession

Docrat et al. [4] have highlighted the challenges of interpreters and the poor quality of interpretation rendered in South African courts through various case law examples. De Vries and Docrat [3] conducted a survey with court interpreters in order to understand the internal challenges they face within courtroom discourse that ultimately affects their ability to render competent and qualified interpretation. Seven challenges were highlighted:

1. "The inability to hear the speaker: when s/he speaks very soft and I have to plead with him for several times.
2. Cultural differences: I have the responsibility to not only understand and to fluently speak the target language, I must also have a deep-rooted sense of cultural awareness, regional slang and idioms.
3. Social evolution: provides new words and phrases on a continuous basis. So an interpreter should be able to deliver any given word or phrase accurately.
4. No pre-prep or sight interpretation materials: very long judgment delivered without seeing it first or given to look while interpreting.
5. There is no adequate sound system, microphone, headsets for interpreters, briefings to inform us about the case, no respectful interpreting fees.
6. Simultaneous interpreting is more effective and less time-consuming but with the recording machines this is not possible confining us to consecutive interpreting.
7. I find that sometimes even the magistrate/judge speaks such bad English that it is difficult to understand. This applies to prosecutors and lawyers, too." [3].

The interpreters' comments overlap with the discussions above of Van Wyk and Esterhuyse [25] regarding the cultural, social gaps and developments that an

interpreter has to address without altering the evidence. The lack of technical and other resources is an indication that a monolingual language of record policy for courts is impractical given that there is not sufficient infrastructure or expertise to support this system that excludes the majority. There is also the indication from interpreters of the linguistic shortcomings of the legal education system which is premised on English. It illustrates that competency in a language varies and that legal practitioners and judicial officers are disadvantaged by a policy that prescribes they address the court in English. These sentiments correlate with the linguistic prejudice suffered by Teffo as well as Mosia. The Meyiwa case further highlighted the shortage of interpreters when the trial was postponed for an entire day due to the shortage of interpreters. There have also been several issues regarding the quality of interpretation during proceedings where disputes have arisen between witnesses, counsel and interpreters.

9 Conclusions and Recommendations

While this article recognizes the importance of court interpreters and the fact that the witness or accused should be represented in a language they understand best, ordinarily their mother tongue, it is also clear that much work needs to be done when it comes to training interpreters in an appropriate manner. It is recommended that court interpreters receive mandatory training through postgraduate diplomas at South African universities and institutions of higher learning. The training of both current and future court interpreters is required. The challenges from within the system highlighted by De Vries and Docrat [3] provide a clear indication of the policy and training initiatives that need to be implemented. As with the Language of Record Policy, the training initiatives must be undertaken with the support of all stakeholders including the Department of Justice and Constitutional Development and the Judiciary. The primary challenge in our opinion will hinge on whether or not a regulatory framework or policy is adopted in the short term to ensure the employment of qualified, competent and skilled court interpreters.

In the article it is also noted that police officers themselves are not trained in translation techniques, yet they are required to render affidavits and sworn statements through the medium of English which may not be their mother tongue, translating anything that was said in an African language to English. It is suggested therefore that not only should translation studies from part of police training, but that official and well-trained interpreters and translators be stationed in every police station. Similar to the recommendations relating to the training of court interpreters there needs to be a revisal of the policy framework where language sensitivity training is included for current and future police officers. The language requirements for police officers will need to be clearly articulated in accordance with an extensive and inclusive language policy that builds on the language skills and competencies of potential applicants.

Furthermore, it should be mandatory for all students of law to pass a vocation-specific legal course in an African language, thereby encouraging both oral and written proficiency in an African language which is taught at an institution. For a

linguistically inclusive and transformative legal system, all legal professionals need to be trained. The linguistic competencies and capabilities of law students should be maximized as a means to achieve linguistic inclusion and equality. The Legal Practice Council through its education programme must work in partnership with universities in an effort to linguistically transform the curriculum while also assessing how the language training of current legal practitioners can effectively be implemented.

Finally, it is also recommended that all judicial officers undergo training in linguistic and cultural awareness in order to avoid the unfortunate scenarios that played themselves out in the Senzo Meyiwa trial. There cannot only be one aspect of the legal profession and system that transforms, that would render all recommendations and efforts futile. The judiciary needs to take positive steps at ensuring language training sensitivity takes place. In addition, other measures, such as bilingual judgment writing can be used as means by judicial officers to ensure languages other than English are used and developed. Long-term policy changes can be included as part of the judicial interviewing process where language qualifications and competencies are included as pre-requisites before appointment. This recommendation would correlate with the recommendation that all law students possess a language qualification or undergo language training.

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