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STAKEHOLDERS' CONCERNS ABOUT THE STANDARD OF SIGN LANGUAGE INTERPRETING IN ZIMBABWE'S JUSTICE SYSTEM: IMPLICATIONS FOR ACCESS TO JUSTICE

ABSTRACT

This qualitative study explored three issues regarding court interpreting in the justice system of Zimbabwe. First, the article examines various stakeholders' concerns about the quality of interpreting in Zimbabwe's justice system and how it affects the rights of Deaf litigants in legal disputes. Second, the article assesses the application of Zimbabwe's 2013 Constitution and relevant laws applied in courtrooms, as well as the relationship between language and the legal system in Deaf communities. Finally, the article examines the linguistic techniques employed by other participants in the legal system to communicate with Deaf persons and the consequences of inadequate interpreting during legal proceedings. The data used methodological and theoretical triangulation for data collection and analysis; participants for the study were selected using purposeful sampling. First, selected critical personnel representing organisations for people who are deaf, judicial officials and Zimbabwean Sign Language interpreters participated in semistructured interviews. Furthermore, focus group discussions were held with individuals with hearing impairments to establish their perceptions of the standard of court interpreting in Zimbabwe's courts. Finally, the standard of Sign Language interpreting in courtrooms was evaluated by observing open court sessions. The collected data were analysed using critical theory in language policy and ethnography of language policy, to understand the linguistic practices and communication challenges faced by Deaf individuals in Zimbabwe's justice system. The analysis reveals a shortage of proficient Zimbabwean Sign Language interpreters in Zimbabwean courts. Additionally, people who occasionally provided Sign Language interpreting services were unqualified to offer such services, which caused communication challenges during trials and confirmed ordinary citizens' perceptions of the government's commitment to protecting the language rights of people with hearing disabilities. The researchers suggest that the Zimbabwean government and other stakeholders should establish a pool of interpreters and allocate funds to train proficient Zimbabwean Sign Language court interpreters.

Keywords: Sign language court interpreting, interpreting quality, Zimbabwe

1. INTRODUCTION

This study sought to explore issues regarding court interpreting involving Deaf litigants in Zimbabwe's justice system. A criminal case that was heard in the Harare's Rotten Row Magistrates' Court and reported in a local daily newspaper, the *Spiked ZW News*, on 22 March 2016 served as the impetus for this paper. The newspaper article reported about a magistrate who, on several occasions, postponed a trial involving a hard-of-hearing victim of fraud because of the court's inability to provide a Zimbabwean Sign Language (SL) interpreter. As a result, the trial was postponed eight times. The inclusion of people with disabilities in Zimbabwe's legal system is a hotly debated topic, and this news article reignited the discussion by claiming that Deaf individuals found it challenging to engage and participate fully in Zimbabwean society, including in the justice system, and that some of their fundamental rights were violated.

2. OBJECTIVES OF THE STUDY

The study was guided by the following objectives:

- a. To examine various stakeholders' concerns about the quality of interpreting in Zimbabwe's justice system and how it affects the rights of Deaf parties to legal disputes;
- b. To assess the way Zimbabwe's 2013 Constitution and relevant laws are applied in courtrooms as the relationship between language and the legal system in Deaf communities; and
- c. To examine the linguistic techniques employed in Deaf communication and the consequences of inadequate interpreting in legal proceedings involving members of the Deaf community in magistrates' courts located in Harare.

In this study, the term deaf with a "small d" is used in a generic sense and Deaf with a "Big D" means people who identify themselves culturally as deaf and who have their own language. The distinction between the capital D and lowercase d reflects different attitudes and perspectives in the Deaf community; Deaf refers to deaf individuals who identify with the Deaf community, which has its own language (SL) and culture (Pudans-Smith et al. 2019). The focus of this study was on interactions during legal procedures in during trials that involved people who had a hearing disability. The study also investigated communication challenges that occurred because of poor interpreting services in court trials that involve people who were deaf.

A number of statutory documents recognise Zimbabwean SL as one of the country's official languages. For example, SL is officially recognised in Zimbabwe as a medium of instruction by the 1987 Education Act and Secretary Circular Number 3. The Constitution of Zimbabwe, Amendment Number 20 of 2013 (Zimbabwe 2013) mandates that all government institutions and agencies must consider the language preferences of the people who are affected by government measures or communication. This means that the sociolinguistic status of SL in public life and legal settings is equal to that of any other language referred to in the Constitution of Zimbabwe. SL is mandatory for use in all government institutions, including the legal, education and health systems and the media. This research evaluated the implementation of the 2013 Constitution of Zimbabwe, Amendment Number 20 of 2013, and other legal acts in courtrooms during the administration of justice.

This research falls under the subfield of applied linguistics, which includes language and the law, language rights for underprivileged community members and language planning and policy. According to Peniro and Cyntas (2019, 2), applied linguistics is an interdisciplinary field

that identifies, investigates and offers solutions to language related real-life problems. In light of this definition, the current study investigated language-based communication issues that people who are deaf face in participating in Zimbabwe's justice system.

3. PROBLEM STATEMENT

The researchers were prompted to conduct this research by the realisation that people who are deaf are deprived of their right to a fair hearing through the exclusion of SL in Zimbabwean courts. Legal discourse practices in both post-independence and pre-independence Zimbabwe have seen Shona and Ndebele becoming the languages spoken by the majority of people in the country, in addition to English, which is the medium of communication in the administration of justice (Svongoro & Kadenge 2015; Ndlovu 2023). Consequently, legal personnel use spoken and written English to communicate with their clients in their day-to-day professional dealings. The Constitution of Zimbabwe (Amendment Number 20 of 2013), Chapter 1 Section 6 subsection (4), recognises this need and recommends that SL is used for communication with people who are deaf. Several chapters and sections refer to and grant linguistic and legal rights to deaf people, including:

- a. Chapter 1 Section 6 subsection 3 (a) and (b);
- b. Languages, Chapter 4 Part 2;
- c. Section 50 Rights of the arrested and detained persons;
- d. Section 62 Access to information;
- e. Section 63 Language and culture;
- f. Section 69 Right to a fair hearing; and
- g. Section 70 Rights of accused persons.

Therefore, it is relevant to review the way Zimbabwean courts have attempted to adopt SL, in an effort to respect these rights and to accommodate people who are deaf. The type of communication that occurs between speakers and signers in legal contexts, as well as the degree to which the constitutional requirements pertaining to SL in the justice system are applied, have not been specifically addressed by previous studies. Therefore, this study examined the inconsistency between what is reflected by reality and what is stated in statutory instruments, or the significance accorded to the use of SL.

4. LITERATURE REVIEW

To situate the study in its proper context, the literature available on language rights and SL interpreting in legal contexts was reviewed and subdivided into appropriate subheadings, as presented in the following subsections.

4.1 Sign language as a linguistic human right

According to Varennes (2017), linguistic rights can be *described* as a series of obligations on state authorities to either use certain languages in certain contexts, or to refrain from interfering with the linguistic choices and expressions of private parties. These rights might extend to an obligation to recognise or support the use of languages by minorities or indigenous peoples. Human rights involving language are a combination of legal requirements based on international human rights treaties and standards on how to address language or minority issues and linguistic diversity in a state; people who are deprived of linguistic human

rights may thereby be prevented from enjoying other human rights, including fair political representation, fair trials, access to education, access to information and freedom of speech and maintenance of their cultural heritage (Skutnabb-Kangas 2000, 498). When Deaf people, whose natural language(s) are SL(s), are denied the use of SL in interaction with other people or experience discrimination in various areas of life because they use SL, their human rights are not honoured. SL is at the core of Deaf people's lives; SL makes accessibility for Deaf people possible; without accessibility, Deaf people will be isolated (Pethe 2019).

Linguistic human rights are a prerequisite for several human rights and SLs are the key to social integration. Stevens argues,

Instead of solely viewing deafness as a "deficit" or medical condition in need of repair, more attention should be paid to improving access in all spheres of life: education, work, communication among others. In this context, SLs recognition becomes a true question of human rights (2005, 2).

Researchers tend to concur that, just as everyone has the right to speak their native tongue, deaf people have the right to use SL, which makes SL a human right (e.g. Akach 2010; Batterbury 2012). Inadequately written policies have the potential to reinforce unfavourable attitudes towards SL or, at best, push it to the margins. Moreover, the World Federation of the Deaf (2011) concluded at a conference on SL held in Norway in 2011 that national SLs are the home tongues of people with hearing disabilities and the only language they can learn easily, which makes SLs a fundamental right for Deaf children. When discussing language rights for Deaf people, Batterbury (2012) echoes this view and refers to language justice through language access, as opposed to other types of social redistribution.

4.2 Sign language in the global context

According to Napier and Haug (2016), a growing body of literature examines sign language interpreting (SLI) provision and practices in legal contexts in various countries. The common theme in the results of all these studies is the hurdles faced by deaf SL users in gaining access to justice. These hurdles are either as the result of inadequate provision of or poor quality interpreting services, or lack of training, accreditation and standards for SL court interpreters. There are two relevant European directives to consider in relation to legal interpreting: (1) Directive 2012/29/EU establishes minimum standards on the rights, support and protection of victims of crime, and (2) Directive 2010/64/EU sets out the right to interpretation and translation in criminal proceedings (Morgan 2011). According to Directive 2010/64/EU, the member states of the European Union are bound to safeguard quality control for all spoken and SL interpreters in criminal proceedings. Article Five of the same directive states that quality control should be carried out through the establishment of a national register of interpreters; however, no definitions or guidance are provided on how this should be conducted. The provision of legal interpreting, even in many countries in Europe, is inconsistent, as Leung (2003) reports for the United Kingdom. Although they focus on European contexts, the studies by Leung (2003) and Napier and Haug (2016) provided guidance for the conduct of the current study, especially in relation to SLI in courts in Zimbabwe.

In many ways, SLI is still an emerging profession (Napier 2011). Development of the SLI profession across Europe has been staggered, as countries lobby for (and achieve) recognition for SL, after which SLI services and interpreter education programmes are instituted to meet demand. Formal training initially took the form of *ad hoc*, intensive short courses; today many

countries offer undergraduate and postgraduate degrees in SLI (de Wit 2012), although there are still countries that do not yet have formal professional associations and do not offer training in interpreting standards (Napier & Goswell 2013). The profession of SLI has no official status in Europe (de Wit 2012) – there is no standard to determine what it means to be a qualified interpreter, and no quality control of interpreting services through European legislation. Currently there are approximately 7 500 SL interpreters in nearly 40 European countries (de Wit, 2012), though the European Union of the Deaf and the European Forum of Sign Language Interpreters assert that this number is much higher (Wheatley & de Wit 2014).

Bauman and Murray (2014), through their book *Deaf Gain*, have helped to shift the narrative around deafness by positioning it as a source of diversity and cultural wealth, rather than a deficit/disability. Their work has influenced education policies and curriculum development and has led to the increased inclusion of Deaf culture and SL in classrooms and learning materials. The work of Cameron, Eliud and Ahmad (2020) on indigenous SLs in Canada has raised awareness on the unique linguistic and cultural needs of SL communities and has led to the development of language documentation and revitalisation initiatives. Research on Senegalese SL by Sall (2022) provides valuable insight into its linguistic structure, usage, patterns and sociolinguistic status and highlights the need for the Senegalese government to officially recognise Senegalese SL and develop policies to support its use in various domains, such as education, healthcare and public services. Scholars such as Cameron et al. (2020) and Sall (2022), along with many others, continue to build on the foundational work of earlier SL advocates, by expanding the scope and depth of research, advocacy and policy initiatives in support of SL rights globally.

4.3 Justification for Sign Language in Zimbabwe

Different SLs are used by Deaf people in different countries throughout the world (Woll, Sutton-Spence & Elton 2001). Deaf SL users are members of a linguistic and cultural minority group and identify with one another on the basis of using the natural SL of their country; they have their own culturally accepted norms of behaviour based on shared experiences (Ladd 2003). Throughout Zimbabwe, there are approximately 300 000 people who are deaf or hard of hearing and who use SL to communicate (Gwarisa 2021). Steadily advancing recognition of the linguistic nature of SLs has led to improvements in their legal status (Timmermans 2005, Wheatley & Pabsch 2012)

Since Zimbabwean SL is a visual language, and the only language in Zimbabwe that is not spoken, it can be considered a unique language that requires unique consideration compared to other spoken languages that are recognised by the 2013 Zimbabwean Constitution. It has experienced what Akach (2010) refers to as double linguistic imperialism, because it is marginalised by English and other widely spoken indigenous languages, such as Ndebele and Shona. According to Mutswanga and Sithole (2012), SL is one of the main ways that Deaf people communicate in Zimbabwe. SL is a manual, visual form of communication that relies on the use of gestures, namely, hand shapes, body orientation, hand, arm or body movements and facial expressions to express the communicator's thoughts in order to convey meaning that involves handshapes, movements and facial expressions (Schow & Nebonne 2013). From the explanation of Mutswanga and Sithole (2012), we can infer that SL is a visual communication method that transmits meaning through the use of gestures, specifically hand shapes, body orientation, hand, arm, or body movements and facial expressions.

Mutswanga and Sithole (2012) explain that people who are truly profoundly deaf employ a visual gestured language as their primary language. SL is also considered to be a real and the most natural language for Deaf people and it has distinct lexical and morphological characteristics, like any other language. Deaf Zimbabwe Trust (2013) states that SL is a complete language with syntax, norms and structure that goes beyond simple motions. Even Vygotsky (1983), who had previously expressed strong opinions against SL, eventually conceded that SL is essential to Deaf children's education. According to Vygotsky, spoken language has very little bearing on the development of Deaf individuals and is not a means by which they can engage in social interactions or gain cultural experience. SL is crucial for Deaf individuals to function and participate fully in society, as it allows them to communicate with the outside world. Without SL, Deaf individuals cannot survive, receive education or communicate effectively, which makes them disabled (Nonna & Kato, 2003). Nonna and Kato (2003), therefore, conclude that SL is an essential communication tool for Deaf people, since it is the most practical symbolic method of overcoming hearing impairment.

Trovato (2013) asks whether the right to SL and the right to a minority language are interchangeable. A minority language is one that is spoken by a small percentage of the population of a country, is not officially recognised by the government or has little legal protection. According to Krausneker (2003), SLs are minorised minority languages; they are minority languages in terms of numbers and influence, and institutions, policies and research often downplay or exclude them outright, which makes them appear even less significant. Trovato (2013) explains that the right to a second language is a right to social and cognitive development; however, this right is not merely as powerful as the right to a minority language – it is even stronger. These observations, with an emphasis on the use of SL in the legal sphere, provide scholars with insight into how language rules exacerbate the violation of Deaf people's linguistic rights.

4.4 The importance of court interpreting

Napier and Barker (2004, 17) posit that interpreting is the act of expressing ideas from one language into another while maintaining the same meaning and style as a person who speaks the language fluently. In the context of SL, interpreting is the process of translating a message from spoken to written form, or vice versa (Mikkelson 2000). There is a growing body of research on spoken language legal interpreting in the courtroom (e.g. Berk-Seligson 1990; Hale 2004; Jacobsen 2008; Lee 2009, 2011); in asylum hearings (e.g. Pöllabaeur 2004); and in police interviews (e.g. Berk-Seligson 1990; Nakane 2014). All these studies confirm the intercultural communication challenges faced in legal settings, in terms of what interpreters need to do to ensure that minority language users have access to justice. These challenges include issues such as court interpreters' (lack of) understanding of legal terminology or legal procedures, lack of equivalence between languages for communicating key legal concepts and subsequent issues concerning the translation choices that can be made, struggles with how to interrupt, clarify, repair or manage communication, and how interpreters present themselves and their role to legal personnel. Thus, Perez and Wilson (2007) suggest that any training of legal interpreters should be "interlinked" with training of legal personnel, in order to maximise the knowledge and experience of both professional groups and to promote cross-cultural awareness. With respect to Deaf SL users' involvement in the legal system, studies report similar findings to those cited above (Brennan & Brown 1997; Russell 2021).

Lebese (2013, 12) explains that an interpreter's job is to help parties communicate when one of them is unfamiliar with the language used in the court record. Interpreters for the court must be knowledgeable about the legal system they work in. To present a case effectively in court, interpreters must be aware of the significance of language, must know how to use it strategically and know the rules of evidence and other essential legal procedures (Hale 2004).

In Zimbabwe, English is taught formally in schools and is considered a second language (Svongoro et al. 2012). Despite this linguistic situation, criminal law courts continue to use English as their primary language. The intricacy of legal English, such as its reliance on borrowed Latin terminology and specialised use of common phrases, poses significant difficulties, even for English speakers. As a result, the legal English used in courtrooms is different from everyday language used by non-legal professionals. While pre-service college training for court interpreters has become more common in other parts of the world (Hale 2004), it is still not mandatory in Zimbabwe. According to Hale (2004), interpreting tasks require a very high level of bilingualism, biculturalism, as well as appropriate training and practice. However, the bulk of interpreters in Zimbabwe are still unskilled bilinguals.

Svongoro and Kadenge (2015) state that one of the most hotly debated topics in community interpreting is the question of interpreting quality and the rights of the accused and witness during court interpreting. Despite Zimbabwe's full adherence to numerous human rights conventions that mandate the protection of accused persons' linguistic rights through the provision of interpreters for those who do not understand the language of the court, not much has been done to provide meaningful interventions, such as the development of interdisciplinary guidelines for best practices in legal services and the improvement of court interpreter training (Svongoro & Kadenge 2015). It is well known that even highly qualified interpreters can make mistakes that could compromise a person's right to a fair trial. When inexperienced interpreters are used, the outcomes could be even worse (Hale 2004). These findings established a framework for the investigation and inspired the researcher to learn more about the application of SLs in Zimbabwean courts.

5. METHODOLOGY

A qualitative research methodology comprising semistructured interviews, focus groups, documentary analysis and observations was applied in this ethnographic case study. The target population comprised 10 court officials: six SL interpreters, two public prosecutors and two lawyers; five heads of Deaf and disability groups and 10 Deaf individuals who were involved in court trials during the period of the study. This means that a total sample of 25 respondents was used for the study. The researchers assumed the sample was representative enough for the findings to be generalised to the whole study population. Data sources were chosen using purposeful sampling, in order to fulfil the objectives of the study (Gentles et al. 2015). Including organisations for Deaf and disabled people in the selection process enabled the views of Deaf individuals to be included in matters relating to justice.

The research utilised semistructured interviews to gather data on SL court interpreting in Zimbabwe. In the interviews the researchers interacted with SL court interpreters and organisations for Deaf people to gain insights into the development trajectory of SL in legal settings, to identify communication challenges and discover ways to promote SL use. The interview questions the researchers asked participants covered four major thematic areas:

- a. Participants' perceptions regarding the quality of interpreting in Zimbabwe's justice system and their views on how the quality of interpreting affected the rights of Deaf parties to legal disputes;
- b. Participants' perceptions concerning the sociolinguistic status of Zimbabwean SL;
- c. Participants' perceptions on whether Zimbabwe's laws safeguarded the rights of Deaf persons in the justice system; and
- d. Participants' views regarding barriers to communication between the actors in Zimbabwe's legal system who were deaf and those who were not deaf.

Complementary data were obtained from court officials and focus group discussions with Deaf participants. The study also collected data on linguistic practices involving Deaf people in legal settings and communication challenges faced by Deaf litigants, SL court interpreters and legal professionals in court cases involving people who were deaf. Informed consent was obtained from all participants, and document analysis was also used to obtain data. Documents are a useful source of data for augmenting and corroborating evidence from other sources. Among other documents, the researcher examined the Criminal Procedure and Evidence Act, the 2013 Zimbabwean Constitution, Amendment 20, and legislative acts and statutes pertaining to people who were deaf. Critical theory in language policy (CLP) and ethnography of language policy (LPE) were used to analyse the findings.

5.1 Ethical considerations

The researchers were aware of the ethical considerations required by the research. Consequently, a set of guidelines helped direct the researchers in their research design and activities. First of all, it must be clarified that this research is part of the work conducted for an MA degree in Applied Linguistics at the University of Zimbabwe in 2018. The researchers requested permission from the Chief Magistrate's Office in the Judicial Service Commission, the Law Society of Zimbabwe, Deaf Zimbabwe Trust, and Leonard Cheshire Disability to gather data from various stakeholders (i.e., magistrates, court interpreters, Deaf individuals, legal practitioners and senior staff representing organisations for the Deaf).

During the data gathering process, the goal and procedures of the study were explained to the participants in a language of their choice. Participants then voluntarily consented to take part in the study by completing consent forms. Participants' right to privacy and their desire to not be audio-recorded were honoured by the researchers. Lastly, participants were guaranteed anonymity, and no names that could be used to identify participants are mentioned in this paper.

5.2 Theoretical framework

This study used Tollefson's CLP (Tollefson 2006) for data analysis and ELP to address disparities. CLP and ELP, which are both committed to social justice, were combined to explain linguistic practices and communication difficulties faced by Deaf persons in legal settings. This approach provided a fair perspective for the critical conceptualisation of language policy.

According to CLP, the discipline of critical linguistics involves social activism: Linguists are thought to be accountable for both researching strategies to challenge established social hierarchies and comprehending how dominant social groups use language to create and uphold the hierarchies (Tollefson 2006). Because of this, this study applied the CLP to provide

solutions for the communication issues that Deaf people encounter in the legal field. Research and practice in the discipline of critical linguistics are closely linked to the significant social and political roles that linguists and their work play.

In critical linguistics, the term “critical” also refers to the ability of scholars and students who are studying language policies to “read” language policies critically, that is, to comprehend the social and political ramifications of specific policies that have been adopted in particular historical contexts (Tollefson 2006). As a result, this study adopted a critical perspective on data analysis by assessing how the 2013 Constitution of Zimbabwe and other laws that are applied in courtrooms when justice is being administered are being implemented. A critical viewpoint investigates the connections between linguistic regulations and regional, class and ethnic/national disparities.

However, critics argue that the CLP is too deterministic and underestimates the power of agency and that it fails to capture the process of language planning. Johnson (2013) advocates for a balanced critical conceptualisation of language policy by arguing that, while language policies can marginalise minority and indigenous languages and their users, they can also form an essential part of the promotion, maintenance and revitalisation of these languages. This role of policy calls for a balance between structure and agency as a mechanism of power and for understanding the power of language policy to interact with policy processes. The current study focused on the positive and negative effects of language policy.

De Meulder (2016) suggests combining critical approaches with other ways that address language policy agency, such as the ELP, which is likewise dedicated to a social justice objective. Johnson (2013) asserts that the ELP aims to achieve a critical understanding of how imbalances of power hegemonically perpetuate and normalise linguistic and cultural hierarchies that lead to deficit approaches and to challenge such practices for social justice, rather than providing an objective description of a culture. Together, these methods offer an important balance between agency and structure, between an ethnographic understanding of language policy actors' agency and a critical focus on the power of language policies. There is a critical requirement for balance in the field (Johnson 2013).

Briefly, this study is a classic illustration of a combined strategy for planning and language policy research. It examines the impact of language policies on the linguistic practices of Deaf people in the courts and the communication difficulties they encounter when integrating with their speaking counterparts (who represent the legal profession) in the legal community; to do this, the study used the CLP and ELP as analytical techniques.

6. FINDINGS

According to data from interviews with executive directors of non-governmental organisations for people who are deaf, the findings of this study include that Zimbabwe faces a critical shortage of SL court interpreters. At the time of the study, only a handful of SL court interpreters were employed by the government through the Judicial Service Commission. These interpreters provided interpreting services in court cases involving Deaf people across the country, but also provided services to native speakers of local languages (Shona and Ndebele). To address the shortage of SL interpreters, courts employed SL experts from Leonard Cheshire Disability Zimbabwe for minor cases, while other organisations for the Deaf provided interpreters for other cases.

Regarding the few SL court interpreters who were employed by the Judicial Service Commission in Zimbabwe, it was established that most of the interpreters lacked the necessary training required to perform optimally. In addition, when court interpreters are recruited, no proficiency measurement examination is administered. This means that the interpreters' ability, competency and proficiency in SL is not tested. This finding emphasises the need to investigate the recruitment and testing of SL interpreters, to ensure that only competent interpreters are employed to work in Zimbabwe's courts.

The following responses illustrate how difficult it is for Deaf people in Zimbabwe to access their legal rights in court settings as a result of the shortage of professionally trained SL court interpreters.

I had roughly 12 postponements in my case. In an attempt to prevent bias in the administration of justice, I attempted to bring the interpreter I know, but the court stated it was still waiting for one from Bulawayo. (3(a) Deaf interviewee)

Police officers struggle to conduct investigations and take cases involving the Deaf to court due to a lack of professional SL interpreters. These matters are postponed as the court seeks interpreters, potentially forgotten, and the task of interpreting in deaf court cases is a significant challenge due to insufficient time and knowledge of the legal language. (3(b) executive director of an organisation for the Deaf)

The court denied a request for a second SL interpreter, stating that the interpreter's lack of understanding of Deaf culture and numerous mistakes hindered the free flow of communication during the court process, indicating a lack of fairness in the administration of justice. (3(c) Deaf interviewee)

Because there was no SL interpreter present during my trial, I was unable to communicate with the police in a clear and concise manner. I told them one thing through my guardian, and they recorded something else in the recorded statement. (3(d) Deaf interviewee)

Due to time constraints and my ignorance of legalese, I find it extremely difficult to decipher court documents involving Deaf parties. My knowledge of the judicial system is inadequate; all I know is sign language. (3(e) SL interpreter)

The Deaf participant in example 3(a) explained that the absence of an SL interpreter caused their case to be postponed more than 10 times. One of the biggest issues facing the judicial system in Zimbabwe is the dearth of professional SL court interpreters for cases involving people who are deaf, and skilled SL interpreters at police stations. Consequently, Zimbabwe's courts fail to uphold the language and legal rights of Deaf people, as mandated by the constitution.

The example in 3(b), from a semistructured interview with a Deaf executive director, demonstrates that police personnel have not received any training on SL and are therefore ill-prepared to handle instances involving Deaf people. Executive directors of organisations for the Deaf who were interviewed made it clear in their responses that Deaf persons are denied their legal and linguistic rights in court settings. They also reported that it took a great deal of time to investigate instances involving the Deaf people, because law enforcement officials are not fluent in SL.

Document analysis showed that Zimbabwean judicial language practices concerning Deaf parties are at odds with the Civil Evidence Act Sections 17 and 55 (Chapter 8: 01). For instance, Section 55 (1–3) of the Civil and Criminal Evidence Act provides information about the Zimbabwean government's policy position with regard to court interpretation:

(1) Where a witness is unable to give evidence in the language in which the proceedings are being held, the party calling him as a witness shall cause him to be provided with the services of a properly qualified interpreter approved by the court to translate his evidence into that language.

(2) Subject to rules of court, the court shall cause to be administered to an interpreter provided in terms of subsection (1) such oath as the court considers suitable for the occasion.

(3) Subject to rules of court, the reasonable costs of an interpreter provided in terms of subsection (1) shall be allowed in the taxation of any costs that are awarded by the court.

In spite of these provisions, SL is still largely under-researched because of the absence of a dynamic implementation matrix, which continues to hinder its use and research. Focus group discussions with individuals who were deaf exposed the serious consequences of denying them their language rights in court, as exemplified by examples 3(a), 3(c), and 3(d). Examples 3(a) and 3(c) provide evidence that the absence of SL court interpreters, while there were interpreters in court for other indigenous languages, such as Shona and Ndebele, has an impact on the administration of justice for cases involving people who are deaf. As a result, Zimbabwe's courts are inaccessible to people with linguistic disabilities, and the languages of English, Shona and Ndebele are dominant.

Document analysis also revealed written discussion around SL, even though it was not confirmed by data from focus groups, interviews and observations about practice. In Zimbabwe, the Deaf community's linguistic rights are denied in court, and the use of SL in legal settings has developed gradually. If litigants are expected to use a language in court that they are not conversant with, it breaches section 69 of the right to a fair trial, which states that: "(i) Every person accused of an offence has the right to a fair and public trial within a reasonable time before an independent and impartial court and rights of accused persons" and section 70 (j), which states that "any person accused of an offence has the right to have the proceedings of the trial interpreted into a language that they understand". Section 70 (j) is particularly clear about the policy provisions in Zimbabwe relating to court interpreting, but it is incomplete without a guarantee that the accused person can use a language of their choice.

The responses of respondents who were deaf, as seen in examples 3(a), 3(c), and 3(b), make it clear that Zimbabwe still lags behind in the provision of qualified SL court interpreters during trials. In the absence of training for SL court interpreters, court interpreting services are provided by members of organisations for the Deaf and religious communities and children of Deaf parents. This presents significant obstacles for Deaf people to receive justice. Du Plessis (1997) dispels the myth that anyone who speaks two or more languages can, by default, serve as an interpreter, by pointing out that becoming a good interpreter requires more than just knowing at least two languages; it requires additional specialised abilities and methods. He believes that no mother tongue speaker should be selected off the street and expected to interpret (Du Plessis 1997).

Data obtained from document analysis also revealed that some government legislation is not yet aligned with the constitution, which is another reason why SL court interpreting is inadequate, as evidenced by examples 3(a), 3(c) and 3(d). The use and promotion of Zimbabwe's officially recognised languages, including SL, is not emphasised at the same level as English in clauses relating to court interpreting in Zimbabwe. Sections related to court interpreting include the Magistrates Court Act (Chapter 7: 10) sections 5 and 7, High Court Act (Chapter 7: 06) sections 49 and 50, Supreme Court Act (Chapter 7: 13) sections 29, 30 and 31 and the Small Claims Court Act (Chapter 7: 12). Section 5 (2(a) and (b) of the Magistrates Court Act, for instance, specifies that:

(a) The proceedings in all cases shall be in the English language and shall be carried on in open court...

(b) The records of the proceedings of the court shall be kept in English language and shall be accessible to the public under the supervision of the clerk of the court at all convenient times and upon payment of such fees as may be prescribed in rules (Zimbabwe, 1989).

All judicial procedures must take place in public settings with unrestricted physical access, even at the expense of linguistic access, and must be conducted in English. These rules make it quite evident that court communications in magistrates' courts must take place in English. The declaration illustrates how policy texts construct and sustain power relations; the ideological standpoint and the values articulated in policy texts are of particular interest in CLP research (Taylor 2004). Thus, the perspective of CLP researchers is that they wish to learn how to "read" language policies critically, that is, to comprehend the social and political ramifications of certain policies that have been implemented in particular historical contexts.

The use of the modal verb "shall" in subsection 2 (a) suggests the utterance of a forceful declaration, which implies an obligatory order to ensure that the English language is the only language of courtroom speech in magistrates' courts. This order, ultimately, results in a violation of the linguistic human rights of people who are deaf; this violation includes their access to administrative justice and their right to a fair trial. This violation blatantly illustrates that the government lacks the political will to support the linguistic human rights of people who are deaf. The lack of clarity and enforceability in some constitutional provisions regarding court interpreting allows Deaf people's legal rights to be violated when they seek justice in Zimbabwe's judicial system.

Furthermore, the constitutional obligations to treat all officially recognised languages equally and to take into account the language preferences of people who are affected by government measures and communication, as enshrined in Section 3 (b) of Chapter 1 of the Constitution, are not upheld by these legal provisions (e.g. provisions of the Magistrates Court Act (Chapter 7: 10) sections 5 and 7, High Court Act (Chapter 7: 06) sections 49 and 50, Supreme Court Act (Chapter 7: 13) sections 29, 30 and 31 and Small Claims Court Act (Chapter 7: 12) section 5). It usually takes a long time to align these laws with the ambiguous provisions of the constitution, and it is not a given that something significant will happen to affect how the provisions of the constitution are implemented.

According to one of the SL interpreters who participated in the study's interviews, as seen in example 3(e), legal jargon and a lack of time to fully explain the legal process to Deaf people are the main obstacles faced by SL interpreters when they interpret in court cases involving Deaf people. The interpreter observed that SL interpreters consistently fall behind

when interpreting during the courtroom's administration of justice, because they need more time than prosecutors, magistrates and attorneys to impart material. SL interpreters who were interviewed revealed that they had not undergone the specialised training needed to interpret court jargon and procedures. Most people enter the courtroom knowing very little or nothing about the terminology or procedures used there; therefore, for the average person, it can be intimidating to deal with the criminal justice system (Odhiambo, Kavulani & Matu 2013). When professionally trained SL court interpreters are not available to close the communication gap in situations involving people who are deaf, the situation is even worse. How this could be accomplished is not spelled out in the constitutional requirements on judicial interpreting in Zimbabwean courts.

The researchers noted that Zimbabwe's courts are not accessible to people with disabilities. Regarding the administration of justice, Deaf clients do not receive extra time or specific accommodations. If SL interpreters are not professionally trained to interpret in court, they may find it difficult to capture all the linguistic and cultural nuances of source text messages. Wallmach (2000) observed that, because of time constraints in court, legislators speak quickly and employ legislative rhetoric. This means that, generally speaking, interpreters may face significant challenges caused by elements such as intricacy and tempo. The researchers observed, furthermore, that interpreting procedure used by SL interpreters in the courtroom were deficient because they did not follow all the guidelines for court interpreters provided by Hoffman (1994). This lack of adherence to guidelines negatively impacts the right to a free and fair trial for people who were deaf.

An elderly Deaf woman who was interviewed (example 3(c)), disclosed that the frequent occurrence of communication breakdowns between her and the SL interpreter during the judicial process prevented her case from being handled fairly. Data gathered from SL interpreters also indicated that they were not aware of Hoffman's ethical recommendations about interpretation. Interpreters are directed by the Hoffman standards to translate original statements verbatim, "using the same words and phrases, whenever this is possible ... [t]he interpreter must interpret faithfully – without addition or omission – everything said in court" (Hoffman 1994, 14).

Deaf participants in focus groups also revealed that, in Zimbabwe, court interpreting is taken for granted; however, many SL interpreters in the courtroom provide an inadequate service. This inadequacy may be the result of Zimbabwean magistrates and civil courts relying on representatives of organisations for people with disabilities to provide SLI services. These representatives lack expertise regarding specific legal terminology and are untrained in the technical vocabulary of legal English, which can lead to misunderstandings. Furthermore, court procedures are often postponed, either because court interpreters are not available, or because the courts do not have adequate interpreting equipment.

Studies have exposed the false belief that interpreting is a low-skill activity that does not require professional training – a belief that is the main cause of low-quality interpreting (Dickinson & Turner 2009; Hetherington 2009; Ndlovu 2020). According to Svongoro and Kadenge (2015), and further attested to by Svongoro and Ralarala (2023), there is still no university or college course in Zimbabwe to prepare students for working as professional SL court interpreters.

As seen in example 3(d), a Deaf woman who participated in the study bemoaned the misunderstandings that resulted when the police took it upon themselves to record Deaf persons' statements. The only language Deaf people speak is SL, yet the police officers wrote

their report in English. It is inappropriate to record statements or conduct investigations in English, on paper, instead of using an SL interpreter for video-recording statements – this issue is particularly problematic for people who are illiterate in addition to being deaf, which is not uncommon. However, the problem recounted in 3(d) is not only related to the fact that the statement by the Deaf person was written down on paper in English, but that the message was not recorded accurately. When someone who is deaf reports to the police, they are unable to communicate without the assistance of an interpreter – in the majority of cases, only those who can hear partially are able to use lip reading and write in English. This implies that the only forms of communication and self-expression available to people who are profoundly deaf are through SL and SL interpreters (Schow & Nebonne 2013).

Example 3(b) is a comment made by a participant who represented an organisation for the Deaf. This participant had experience of providing legal aid to people who were deaf. In the response, the participant indicates that the absence of SL interpreters at police stations makes it difficult for the police to enforce the law in the Deaf community. Because of a lack of SL interpreters or a dedicated unit at police stations in Zimbabwe to handle cases involving members of the Deaf community, police officers who have to compile initial reports and dockets and gather evidence that will form the basis of the court stage, struggle to handle cases involving people who are deaf. Public prosecutors also acknowledged this difficulty and agreed that the shortage of SL interpreters made their job very challenging, because they had to deal with Deaf litigants even though they did not have the necessary expertise. Ultimately, the majority of cases faced unwarranted delays, until the courts could offer interpreters in SL.

Due to a dearth of qualified SL interpreters in courtrooms and at police stations, the Deaf community in Zimbabwe is marginalised by the judicial system and is deprived of its legal and linguistic rights. This finding supports the observation of Dziva, Shoko and Zvobgo (2018) that there is a critical shortage of professional interpreters in Zimbabwe, particularly those with specialised legal and judicial knowledge. Consequently, there is a heavy reliance on *ad hoc*, untrained interpreters, which compromises the quality and accuracy of interpretations. Lane, Hoffmeister and Bahan (1996) argue that, when it comes to signed language minorities, internationally recognised language rights are violated universally. Similarly, De Meulder (2016) points out that, most of the time, if not always, the interpretation and application of language rights and the right to receive services in a particular language, as articulated by SL recognition laws, are understood and applied as the right to use SL and receive services via an SL interpreter.

This study found that the quality of decisions was affected by the absence of qualified SL court interpreters who are familiar with the fundamental linguistic principles that guide language choice and usage in courtrooms. As seen in examples 3(a), 3(c) and 3(d), the responses in focus groups of participants who were deaf indicate that matters relating to people who are deaf are slow to be resolved and delivery of justice is often delayed. Similar findings are reported by Dziva et al. (2018), namely that Deaf victims struggle to report crimes because there are no SL interpreters at police stations, and that police officers often dismiss or misunderstand victims' accounts because of communication breakdowns. This results in cases being poorly investigated or not pursued at all.

Information obtained from court case files also demonstrates that one of the main issues impeding the Deaf community's ability to access justice in Zimbabwe is the shortage of SL court interpreters. A hard-of-hearing fraud victim's case at Harare Magistrate Court (case No. 11703-4/15) was postponed eight times because no interpreter for SL was available (Mutingwende & Kudya, 2016).

Public prosecutors and attorneys who took part in the study verified the answers provided by Deaf participants and representatives of organisations for the Deaf as given in responses 3(a) to (3(d)) presented above. One public prosecutor stated that, "the deaf and those hard of hearing especially those not well-educated – who happen to be the majority – face greater legal challenges and are at risk of serious injustices when they enter the country's criminal justice system".

Additionally, a lawyer stated that,

the challenges faced by the Deaf in Zimbabwe's justice system is a serious injustice – especially in encounters with police – due to communication barriers that are typically sometimes, if not always, not also recognised or appreciated by lawyers in the courts.

During the study's interviews, public prosecutors and magistrates responded by suggesting that the government and other relevant parties should establish a pool of interpreters and start providing appropriate training for SL court interpreters.

Given that court interpreters who are already employed are already familiar with legal terms, court procedures and processes, one of the public prosecutors who was interviewed proposed that court interpreters receive SL training. Other court employees and police officers could also be trained to assist and enhance the services provided by SL court interpreters. However, one of the executive directors of an organisation for the Deaf stated that simply teaching police officers and attorneys SL would not be enough, as they would quickly forget the language in the absence of regular interactions with Deaf people.

As explained above, in Zimbabwe's legal system, people who are deaf or hard of hearing frequently struggle to communicate effectively, which causes case delays and injustice. Adequate court interpreters who are fluent in all 16 official languages, including SL, and who put SL on a same footing as all other languages, are essential for ensuring successful communication. This involves being able to communicate in sign language and having at least one official person who is versed in it.

Finally, every police station, magistrates' court, and prosecutor's office should make every attempt to have at least one person who is conversant in SL. The first step in guaranteeing efficient communication in the justice delivery system would be to put current legislation into force. The Judicial Services Commission, the police and other government agencies should establish regulations that require staff members to be proficient in SL, in order to bridge the communication gap.

7. CONCLUSION

The study's conclusion is that inadequacies in the SL interpreting process increases the possibility of misunderstandings in Zimbabwean courts, which could have serious consequences for the legal and linguistic rights of people who are deaf – whether accused or witnesses – to free and fair trials. Civil and magistrates' courts rely on SL interpreters who are representatives of organisations for the Deaf and religious groups and Deaf family members because the courts face a shortage of competent SL court interpreters. It is possible to conclude that SL is still marginalised in legal discourse in Zimbabwe. Because of language practices in the legal system, Deaf individuals in Zimbabwe are denied their legal and linguistic rights.

The researchers recommend that the government of Zimbabwe and its partners develop language policies that could increase social inclusion by fostering language access and the Deaf community's linguistic heritage. With the assistance of organisations for the Deaf, the Zimbabwean Judicial Service Commission should establish a pool of interpreters and provide adequate training for SL court interpreters. We urge, furthermore, that specialised research is undertaken on the quality of SLI and the rights of the Deaf, with a particular focus on the use of SL by the Zimbabwe Republic Police.

The researchers also propose the establishment of an SLI board to oversee the registration and monitoring of SL court interpreters, and to evaluate the proficiency of SLI, based on observations of courtroom proceedings involving Deaf people and interviews with magistrates. In addition to serving as a hub for SL evaluation, this SL interpreting board could aid in preventing the employment of fraudulent SL court interpreters, such as Thamsanqa Jantjie of South Africa, who was charged with fabricating SLI during Nelson Mandela's funeral (Lieberman 2013).

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