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Sociolinguistic Status of Selected Indigenous Languages in Civil Courts of South Africa: The Past, Present and the Future

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ABSTRACT

This study critically investigates the historical and contemporary sociolinguistic status of Sotho-Tswana and isiNdebele within civil courts in Garankuwa, Soshanguve, and Pretoria CBD, South Africa. The central aim is to examine how these languages function within judicial spaces that remain dominated by English and, to a lesser extent, isiZulu despite constitutional guarantees of multilingualism. The study further seeks to understand how historical policies, language attitudes, and institutional practices collectively shape the diminished functional space of indigenous languages in courtroom discourse. A qualitative research design was employed to explore these issues in depth. Data were generated through semi-structured interviews, focus group discussions, non-participant observation of civil court proceedings, and document analysis of colonial and post-colonial language policies, including the South African Constitution (1996) and local Pretoria linguistic frameworks. The study was theoretically anchored in Critical Discourse Analysis (CDA) and the Ecology of Language Framework, both of which facilitated the examination of how linguistic power, ideology, and policy interact within courtroom practices. Findings revealed a persistent gap between constitutional ideals and courtroom realities. English remains the default language of legal authority, while Sotho-Tswana and isiNdebele occupy peripheral, interpreted roles. Structural limitations such as inadequate corpus development, weak policy enforcement, and insufficient interpreter training compound this marginalisation. The study concludes that sustainable linguistic justice requires functional multilingualism,

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institutional accountability, and corpus planning that recognises indigenous languages as legitimate mediums of legal reasoning and record.

Keywords: Multilingualism; Linguistic Rights; Courtroom Discourse; Language Policy; Indigenous Languages; Sociolinguistic Status

1. Background and Rationale

Pretoria is capital City of South Africa situated in Gauteng with several townships and it has a large population. It is occupied by residents who speak all South African indigenous languages, namely: Tshivenda, Xitsonga, Sotho (Setswana, Northern Sotho, Southern sotho, and Nguni (isiZulu, isiNdebele, and isiXhosa), coming together of all these language speakers situated in Pretoria at some townships has led to the use of a lingua franca language and some indigenous languages (Setswana, Ndebele and Southern Sotho) becoming minority languages in the townships in question.

This study examines the sociolinguistic status of the selected indigenous languages (Sotho-Tswana and isiNdeble) focusing on their role in enabling communication between the accuser and the accused and the judiciary officers (magistrates) in civil court cases in South Africa. The motivation for the research came because of the observation made during the researcher‘s years of interpreting in one of the civil courts in Soshanguve and as one of the residents of Pretoria.

This observation suggests that the accused and accuser whose first languages are Sotho-tswana or isiNdebele convey their messages through interpreters who facilitate communication within the courtroom. As a result, the accuser and accused find it difficult to competently express themselves.

This study examines the sociolinguistic status of the selected indigenous languages Sotho-tswana and isiNdeble focusing on their role in enabling communication between the accuser and the accused and the judiciary officers (magistrates) in civil court cases in South Africa. The study also investigates how the accused and accuser whose first languages are Setswana, Southern Sotho or isiNdebele convey their messages through interpreters who facilitate communication within the courtroom. Examining courtroom verbal exchanges between minority language speakers and interpreters is expected to highlight the communication barriers indigenous language speakers encounter in the courtroom as well as interrogating the level to which courtroom interpreters in South Africa are equipped for them to be able to interpret messages from people of different indigenous linguistic backgrounds. This study takes a historical approach in its analysis by focusing on the development of language planning policies in South Africa specifically Pretoria and the impact they have had on the use of indigenous languages as media of communication in formal domains of life with a bias towards courtroom discourse.

In South African courts, English and isiZulu are the primary languages used to facilitate communication. Court officials, including magistrates, judges, and prosecutors, generally conduct proceedings in English, while accused individuals and complainants may also communicate in English. In instances where parties opt not to use English, isiZulu is permitted, with court interpreters translating the exchanges into English for the benefit of officials. Minority indigenous languages are gradually gaining a functional role in courtroom communication, but they remain secondary to English and isiZulu, even in areas where speakers of these languages are numerically dominant.

Given South Africa’s multilingual context, with twelve official languages, it is essential to examine the linguistic rights of minority language speakers, particularly in formal domains such as civil courts. Understanding the practical experiences of Sotho-Tswana and isiNdebele speakers in courtroom interactions provides insight into the factors shaping their language choices and attitudes. Usadolo[1] emphasises that linguistic human rights in court interpretation are crucial, as they allow accused individuals to express themselves and defend their legal rights. He further underscores the sensitivity of courtroom settings, where proceedings can determine freedom, captivity, or even life and death, highlighting the importance of enabling participants to articulate their issues in their native languages.

Analysing courtroom discourse in South African civil courts within the historical context of language planning and

policy development reveals the influence of legislation on the sociolinguistic status of Sotho-Tswana and isiNdebele. Such analysis illuminates how language policies have shaped the use of these indigenous languages in public life generally, and in civil courtroom interactions specifically.

People's competence in their mother tongues is decreasing due to these English and power of language. Government has tried to elevate Black South African indigenous languages, but there seems to be no major progress. Many teachers are not equipped or trained to teach those languages, and mother tongue speakers to the indigenous language are giving that little support[2].

Some scholars have researched on the rapid growth of English and how it yields high status and coolness, how it should be accepted and adopted as the language of power and a media of instruction in all formal settings including courtroom. Even though English is rapidly growing the dying of our indigenous Black African languages especially, Setswana and the minority languages in question must not be ignored. Instead of focusing on the rapidly growing of English and isiZulu, more emphasis should be placed on the promoting of indigenous languages use in formal settings and enhance the development of indigenous minority languages in question so that they maintain their official status.

2. Literature Review

A literature review is a critical synthesis of scholarly work that situates a research problem within existing knowledge and theoretical discourse. As Merriam and Simpso[3] explain, it functions not merely as a summary of past studies but as an analytical narrative that identifies gaps, contradictions, and patterns in prior research. The literature review thus establishes the intellectual foundation upon which the current investigation is built. In this study, the review explores scholarship on language rights, courtroom discourse, and the use of indigenous languages in African judicial systems, with particular emphasis on South Africa. interrogating past research, the chapter elucidates how colonial linguistic hierarchies continue to shape contemporary courtroom communication and exposes the limited realisation of linguistic rights within legal institutions. This synthesis lays the groundwork for examining how South Africa's multilingual policy environment accommodates or fails to accommodate minority indigenous language speakers in civil courts.

2.1. Colonial Legacies and the Linguistic Hierarchy in African Courts

A substantial body of scholarship recognises that colonial legacies remain the most enduring influence on language policy and practice across post-independence African states. Usadolo[1] and Trudell[4] observe that the entrenchment of colonial languages such as English, French, and Portuguese institutionalised linguistic inequality by positioning these languages as symbols of power, education, and prestige. Consequently, indigenous languages were relegated to informal and domestic domains, a pattern still visible in the judicial and administrative spheres[5]. This linguistic stratification reinforces what Bamgboṣe[6] terms "linguistic imperialism," whereby the authority of the state is communicated primarily through colonial tongues, marginalising the voices of citizens who are linguistically excluded from formal legal processes. The significance of this literature lies in its demonstration that linguistic hierarchies are not merely historical residues but ongoing structural practices that continue to shape access to justice.

Furthermore, studies such as Kufakunesu and Svongor[7] highlight the practical consequences of these hierarchies, particularly the dependence on interpreters in multilingual courts. Interpreters often operate within colonial-era procedural frameworks that prioritise the dominant language, leaving speakers of minority languages vulnerable to misrepresentation and procedural inequity. Thus, the gap identified here concerns the persistence of colonial linguistic ideologies in the post-independence judicial system and the absence of empirically grounded analyses that explore how such hierarchies manifest in South African civil courts.

2.2. Policy, Practice, and the Paradox of Implementation

Although several African constitutions formally recognise indigenous languages, scholars consistently report a disjuncture between policy and practice. Kamwangamalu[8] documents a Durban case in which a judge denied a Zulu-speaking defendant's request to be tried in isiZulu, citing

administrative inefficiency. This case typifies the broader phenomenon of symbolic recognition without institutional implementation. Magwa[9] and Kamwangamalu[10] both argue that post-apartheid policies have created what they describe as "paper multilingualism," where the constitutional promise of linguistic equality remains unrealised in the operational structures of government. As a result, indigenous languages continue to exist in what Alexander[11] calls a "functional vacuum," excluded from high-status domains despite official endorsement.

The relevance of these findings is that they expose the implementation gap in South African language policy, underscoring the need for empirical research that examines how courts interpret and enact linguistic rights. The present study, therefore, contributes to bridging this gap by analysing whether policy commitments to multilingualism translate into equitable courtroom discourse for minority language speakers.

2.3. Indigenous Languages and the South African Context

Within the South African scholarship, linguistic research has predominantly focused on language-in-education policies rather than the judiciary. Heugh[12] and Probyn[13] provide extensive analyses of how indigenous languages function in schools, yet similar analyses within judicial institutions remain limited. This scholarly imbalance has created a conceptual void in understanding how language rights are operationalised beyond the classroom. Considering that all eleven official languages are constitutionally equal[14], the continued dominance of English in courts raises critical questions about linguistic justice.

This study thus positions itself within a new trajectory of inquiry that extends linguistic-rights debates from educational settings to judicial ones. By investigating how civil court proceedings accommodate or fail to accommodate minority languages, the research advances current understandings of linguistic equity, procedural fairness, and access to justice. It also examines the institutional roles of the Pan South African Language Board (PanSALB) and the African Language Association of South Africa (ALASA) in promoting the practical realisation of multilingualism within the judiciary, thereby linking macro-policy frameworks to micro-level courtroom interactions.

2.4. Conceptual Clarifications

2.4.1. Official Language

McArthur[15] defines official languages as those granted explicit legal status to ensure uniform governance and public communication. The designation of certain languages as "official" is not a neutral act; it reflects power relations and ideological choices about which communities gain institutional representation[16]. Hence, in the South African judiciary, the dominance of English as the primary medium of legal proceedings functions both as a pragmatic and political decision that consolidates linguistic inequality.

2.4.2. Courtroom Discourse

Courtroom discourse, as Wagner and Cheng[17] explain, is a specialised communicative event governed by legal conventions and institutional hierarchies. It structures the interaction between judges, lawyers, and witnesses, often privileging those fluent in the dominant legal language. Gibbons[18] notes that linguistic control in the courtroom reflects broader social power dynamics, where access to linguistic resources equates to access to justice. In multilingual contexts, this dynamic becomes more pronounced, reinforcing the need to interrogate how linguistic asymmetry affects procedural fairness.

2.4.3. Linguistic Rights

Ndhlovu[19] conceptualises linguistic rights as collective entitlements of language communities to maintain, develop, and use their languages across public domains. Skutnabb-Ricento[20] extends this definition, arguing that the denial of linguistic rights constitutes a form of linguistic genocide, particularly when language suppression leads to cultural erosion. In the judicial sphere, the absence of linguistic rights undermines the constitutional guarantee of equality before the law. The present study, therefore, adopts a rights-based perspective that evaluates the extent to which the South African judicial system upholds these linguistic entitlements for minority language speakers.

2.4.4. Minority Language

Minority languages are typically those with limited socio-political power and minimal representation in formal institutions. Batibo[21] defines them as languages with restricted functional domains and low social prestige within multilingual societies. In South Africa, despite official recog-

nition, languages such as Setswana, Tshivenda, and Xitsonga remain underrepresented in judicial contexts [22]. The marginalisation of these languages perpetuates structural inequities, reinforcing the need for language planning mechanisms that promote balanced multilingualism.

2.4.5. Language Planning and Policy

Cooper [23] defines language planning as the deliberate, systematic effort to influence the development and use of a language, including standardisation and corpus development. Language policy, as Hornberger and McKay [24] contend, comprises the explicit and implicit decisions that determine which languages receive institutional support. McCarty [25] further conceptualises language policy as a sociocultural process embedded in power relations and ideological contestations. Within the South African judiciary, the effectiveness of language policy depends on its translation into administrative practice, an area that remains empirically under-examined.

2.4.6. Multilingualism and Multiculturalism

Multilingualism denotes the coexistence and functional use of multiple languages within a society [26]. Multiculturalism extends this principle to cultural diversity, advocating for equal respect and representation of all cultural groups. In South Africa's legal system, promoting multilingualism is not only a constitutional requirement but also a moral imperative for inclusive governance. However, as McIlwraith [27] notes, multilingualism without structural support risks becoming rhetorical rather than transformative. This study, therefore, explores how multilingual and multicultural ideals are operationalised in civil court contexts, revealing the gap between constitutional aspiration and institutional reality.

The reviewed literature demonstrates that while the ideological commitment to linguistic equality in South Africa is well established, its practical implementation in judicial settings remains inconsistent and largely symbolic. The dominance of English in the courts reproduces colonial power hierarchies and limits access to justice for speakers of minority languages. By situating the present research within this context, the study aims to contribute a nuanced understanding of how linguistic rights are interpreted, practised, and experienced in civil court proceedings, thereby addressing the theoretical and empirical gaps identified in the existing body of knowledge.

3. Research Design and Methodology

3.1. Research Methodology

This study adopts a qualitative research methodology to explore the sociolinguistic status of indigenous languages in South Africa's civil courts. Qualitative inquiry is especially suitable for studies seeking to understand social meanings, lived experiences, and interpretive realities rather than quantifiable variables [28]. As Maree [29] notes, qualitative research focuses on the exploration and interpretation of non-numerical data to reveal underlying patterns of meaning and contextual nuance. It is therefore designed not merely to describe but to understand how individuals make sense of their social and institutional environments.

In this study, qualitative methodology allows the researcher to investigate how speakers of Setswana, isiNdebele, and Southern Sotho perceive and navigate linguistic inequality within courtroom settings. Such phenomena are embedded in social, political, and historical contexts that cannot be captured through numerical indicators alone [30]. By engaging with participants' narratives, the research uncovers the sociolinguistic power dynamics underpinning language use in legal discourse. This interpretive stance aligns with Hancock, Ockleford, and Windridge's [31] assertion that qualitative methods recognise the multiplicity of human realities, where meaning is co-constructed through interaction and shaped by cultural experience.

The use of a qualitative approach is thus not incidental but epistemologically grounded in constructivism the understanding that knowledge emerges from the meanings individuals ascribe to their experiences [28]. In this context, it enables the researcher to analyse the subjective yet institutionally patterned experiences of courtroom participants, offering insights into how language policies, ideology, and practice converge. Moreover, qualitative research, as Flick [32] explains, privileges depth over breadth; it uncovers the complexities and contradictions of lived experience. This is particularly crucial when examining linguistic marginalisation in judicial contexts where official equality often masks entrenched inequalities.

Therefore, the qualitative approach in this paper is not merely descriptive but diagnostic and interpretive it seeks to expose how institutional discourses sustain or challenge linguistic hierarchies. By integrating interviews, document

analysis, and observations, the methodology captures a triangulated view of courtroom communication that combines experiential, textual, and behavioural evidence. This design enhances the credibility, transferability, and dependability of the findings[33], ensuring that interpretations are not based on isolated anecdotes but on multiple, corroborated sources of meaning.

3.1.1. Document Analysis

Document analysis forms a core component of the data collection strategy for this study. Bowen[34] defines document analysis as a systematic procedure for reviewing or evaluating documents, both printed and electronic, through coding, thematic analysis and critical interpretation. This method was selected because it allows the researcher to interrogate historical and legislative records, thereby situating the empirical data within broader policy and ideological frameworks.

In this study, document analysis is applied to a corpus of colonial and postcolonial constitutional texts, judicial policies, and legislative acts concerning language use in South African courts. These include the South Africa Act (1909)[35], the Official Languages Act (1925)[36], and the Constitution of the Republic of South Africa (1996)[14], among others. The analysis specifically examines how these documents construct the linguistic hierarchy of the legal system, particularly the tension between English dominance and the symbolic recognition of indigenous languages. As Rapley[37] notes, document analysis enables the researcher to treat texts as social artefacts that reveal institutional ideologies, historical continuities, and policy contradictions.

Within this study, document analysis serves two critical functions: firstly, it traces the historical evolution of linguistic inequality in the judiciary; secondly, it contextualises participants' experiences within the legislative framework that defines their linguistic rights. The process involves coding the textual material into analytical categories such as "linguistic rights," "language policy implementation," and "symbolic multilingualism." Following Braun and Clarke's[38] approach to thematic analysis, these categories are then examined for recurrent patterns, inconsistencies and silences. This approach enables the researcher to uncover not only what the documents state explicitly but also what they omit or imply, thus revealing the ideological underpinnings of judicial language practice.

3.1.2. Interviews

The study employs semi-structured interviews and focus group discussions as primary tools for eliciting participants' lived experiences and perceptions. Kvale[39] defines the qualitative interview as a conversation with a purpose, aimed at obtaining descriptions of the interviewee's world in order to interpret the meaning of the described phenomena. This method allows the researcher to ask open-ended questions while retaining the flexibility to probe emerging ideas.

Specifically, the study conducts three focus group interviews, each consisting of five community members representing Setswana, Southern Sotho, and isiNdebele speakers, and five individual semi-structured interviews with native speakers of indigenous minority languages. This dual structure group and individual enhances both breadth and depth. Focus groups encourage interaction and collective reflection, generating diverse perspectives[40], while individual interviews permit the exploration of personal narratives in detail[41].

The interviews are designed to investigate participants' awareness of language policy, perceptions of linguistic status, and experiences within courtroom proceedings. This technique is directly relevant to the study's aim because it facilitates access to emic perspectives, the insider viewpoints of those most affected by linguistic marginalisation[42]. Allowing participants to speak in their preferred language and elaborate on their experiences, the method foregrounds indigenous epistemologies and challenges researcher-imposed categories. In line with Seidman[43], this approach positions the interview as both a site of data collection and a space of co-construction of meaning, reflecting the study's interpretivist stance.

3.1.3. Observation

Observation is employed as a supplementary method to complement interviews and document analysis. As Cohen, Manion, and Morrison[44] explain, observational research allows the direct recording of naturally occurring behaviour and contextual interactions, thereby providing empirical grounding to participants' accounts. In this study, non-participant observation was conducted during selected courtroom sessions involving Setswana, isiNdebele and Southern Sotho speakers. The researcher assumed an observer's role to record instances of misinterpretation, code-switching or

visible discomfort among participants.

The value of this method lies in its ability to capture communicative events as they unfold in real time, something interviews alone cannot achieve [45]. Observation helps verify the consistency between participants' reported experiences and actual courtroom practices, enhancing methodological triangulation. This aligns with Flick's [32] argument that triangulation strengthens qualitative research by converging evidence from multiple methods to validate interpretations. Observation data were systematically recorded in field notes and later thematically analysed alongside interview transcripts and document content.

In this context, observation not only complements other methods but also functions as a critical reflexive tool, allowing the researcher to interrogate how institutional language ideologies manifest materially in courtroom interactions. This contributes to the reliability of the study by grounding interpretive claims in observed practice rather than solely in subjective testimony.

4. Significance of the Study

The significance of this study lies in its potential to advance both academic and policy discourses concerning linguistic justice in South Africa. The research offers empirical evidence to the Department of Justice and Constitutional Development and other stakeholders on the systemic challenges confronting speakers of minority indigenous languages, specifically Setswana, isiNdebele, and Southern Sotho, in civil court proceedings. By exposing the sociolinguistic barriers that hinder equitable participation, the study contributes to policy debates on how linguistic rights can be operationalised rather than merely proclaimed.

From a theoretical perspective, the study reinforces the argument that language is not simply a communicative medium but a mechanism of social inclusion or exclusion [46,47]. It demonstrates how institutional language choices shape citizens' access to justice and how linguistic hierarchies reproduce broader patterns of inequality. In doing so, it adds to the growing body of decolonial and sociolinguistic scholarship advocating for the transformation of postcolonial institutions [10,48].

Practically, the findings are expected to inform judicial training programmes, interpreter development frameworks, and language policy revisions. Promoting the active use of minority languages in courtroom proceedings, the study contributes to improving their sociolinguistic status, fostering cultural inclusivity and strengthening linguistic human rights in South Africa. Ultimately, the study underscores the importance of aligning constitutional ideals with institutional practice, ensuring that the linguistic rights of minority communities are respected, implemented, and sustained within the justice system.

5. Discussion of Results

This section presents an expanded critical interpretation of the findings drawn from interviews, documentary review and constitutional analysis. It builds upon the thematic analysis to reveal how English dominance, interpreter challenges and policy practice inconsistencies shape the sociolinguistic status of indigenous languages in South Africa's civil courts. The discussion does not merely describe occurrences but interrogates their ideological, historical and institutional significance within the broader context of linguistic justice and postcolonial transformation. The findings are presented through interlinked themes that emerged from the data and are supported by relevant scholarship to demonstrate how constitutional ideals of linguistic equality remain constrained by systemic and cultural hierarchies.

5.1. Linguistic Hierarchy and Ideology in Courtroom Communication

The data reveal English as the uncontested language of judicial power, shaping not only courtroom procedures but also perceptions of credibility, authority, and intellect (see **Table 1**). Participants associated English with legal seriousness, while indigenous languages were described as informal and peripheral. This aligns with Bourdieu's [47] notion of linguistic capital, in which mastery of the dominant code becomes synonymous with legitimate participation in institutional domains. Ngũgĩ wa Thiong'o [48] similarly contends that colonial linguistic hierarchies persist as instruments of epistemic control. Within the courtroom, this hierarchy translates into differential access to justice, where the ability to articulate in English is conflated with competence, while indigenous languages are tolerated through interpretation but not empowered as languages of law.

Table 1. Summary of Participants' Responses by Theme and Group.

Theme	Participant Group	Representative Findings	Frequency	Interpretive Insight
English Dominance	Native Speakers (N = 8)	English functions as the unquestioned medium of authority.	100%	English as linguistic capital [47].
Interpreter Challenges	Interpreters (N = 4)	Terminological gaps hinder accurate legal translation.	100%	Weak corpus planning [23].
Unequal Language Status	Native Speakers, JSC, PanSALB	Indigenous languages perceived as secondary.	93%	Paper multilingualism [10].
Policy Practice Gap	JSC, PanSALB	Weak enforcement of linguistic equality.	100%	Constitutional ideals unimplemented.
Psychological Impact	Native Speakers	Feelings of alienation and misrepresentation.	100%	Linguistic human rights violations [20].
Proposed Reforms	All Groups	Desire for direct indigenous language use.	100%	Functional multilingualism [11].

Interestingly, gendered linguistic patterns further reinforced ideological boundaries. Female Sotho-Tswana speakers tended toward formal linguistic registers, seeking respectability through adherence to standard language norms, whereas male speakers relied more on urban vernaculars such as Sepitori or Tsotsitaal. This echoes Finlayson and Slabbert's [49] findings that language variation often indexes gendered social identities. Yet, despite these stylistic differences, both groups experienced symbolic subordination under English. The courtroom thus emerges as a microcosm of South Africa's broader linguistic economy, where language choice reflects and reproduces power relations.

5.2. Policy Practice Disjunction, Multilingualism on Paper, Monolingualism in Practice

Despite progressive constitutional provisions guaranteeing the right to use any official language in legal proceedings, the courtroom remains predominantly monolingual. English is not merely the language of record but also the arbiter of rationality and justice. Judicial Services Commission members acknowledged that the system lacks structured mechanisms to monitor or enforce multilingual practice, echoing Kamwangamalu's [10] concept of 'paper multilingualism'. PanSALB's own representative described the existing language policy as adequate in theory yet fragile in execution a finding consistent with Hornberger and McKay's [24] observation that language policy without institutional accountability results in symbolic rather than functional inclusion.

This policy practice disjunction mirrors Heugh's [12] critique that South Africa's linguistic transformation has stagnated at the level of discourse rather than implementation. The constitutional aspiration of parity among eleven official languages is thus undermined by structural inertia and economic constraints. The findings confirm that English dominance is not simply a linguistic issue but a sociopolitical condition rooted in the continued valorisation of colonial modernity.

5.3. Interpreter Mediation and the Paradox of Linguistic Justice

Interpreters occupy a paradoxical position in courtroom communication. While they are meant to facilitate access to justice, they also perpetuate systemic inequality through the very act of mediation. The data reveal persistent terminological gaps, forcing interpreters to approximate or reframe concepts that lack equivalents in indigenous lexicons. Gibbons [18] argues that legal translation inherently privileges dominant legal discourses, while Ndhlovu [19] describes this process as epistemic domestication the reduction of indigenous meaning to fit within the conceptual grammar of English law. Consequently, interpreters, despite their cultural competence, inadvertently reinforce English as the default legal language.

This paradox is exacerbated by limited training, resource scarcity, and the absence of standardised legal terminology in African languages. The interpreters' struggle, therefore, reflects not individual inadequacy but institutional neglect in corpus planning and terminological development [23]. The findings point to the need for systematic investment in interpreter education and the creation of legal dictionaries in indigenous languages to ensure epistemic fidelity and communicative equity.

Figure 1 shows layered structures of ideology, policy, interpreter mediation, and lived experience.

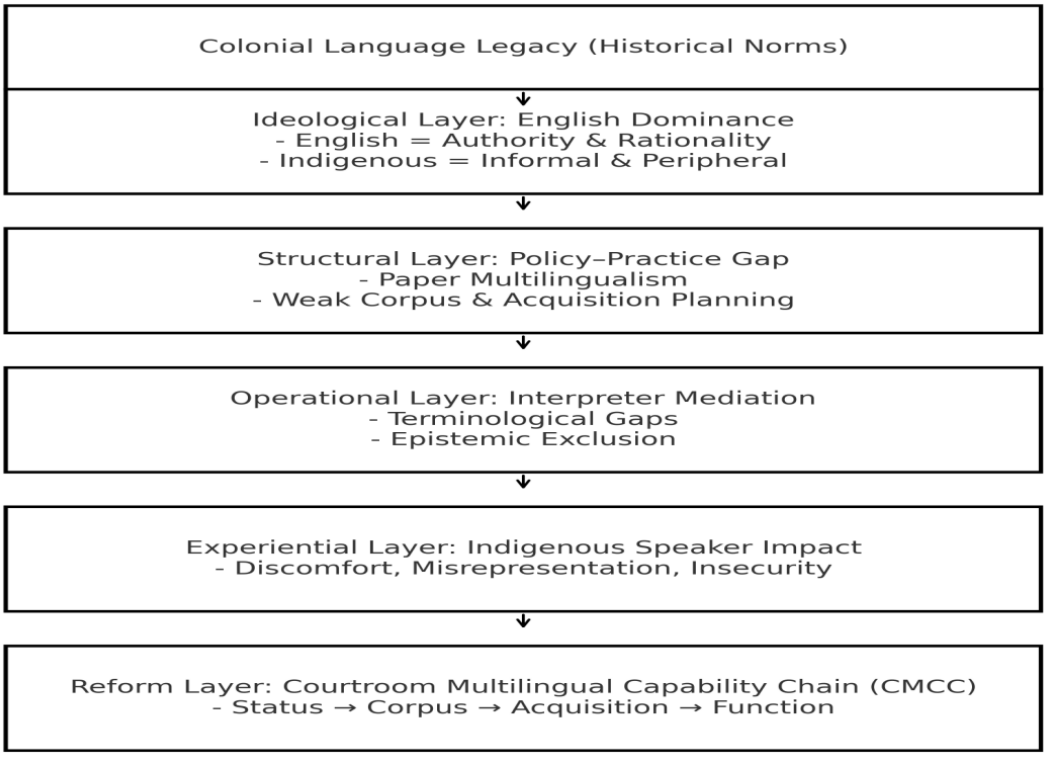

Figure 1. Courtroom Linguistic Reality Model.

5.4. Lived Experience, Linguistic Marginalisation, and Identity

The narratives of indigenous participants expose the lived consequences of linguistic inequality. Many recounted feelings of discomfort, misinterpretation, or even ridicule when using their languages in court. IsiNdebele speakers particularly noted misclassification of their language as isiZulu, a phenomenon that symbolises the systemic erasure of minority linguistic identities. Ricento [20] identifies such experiences as forms of linguistic human rights violations. The findings demonstrate that language-based marginalisation operates not only at the procedural level but also at the psychological and symbolic level, diminishing speakers' sense of dignity and belonging in legal institutions.

These lived experiences affirm Bourdieu's [47] assertion that linguistic hierarchies reproduce social inequality. Furthermore, Bourdieu's [47] avers that indigenous speakers constrained expression leads to 'orders of indexicality' where certain languages are institutionally ranked as more legitimate. The court thus functions as a site of symbolic violence, where linguistic capital dictates one's epistemic and moral legitimacy.

5.5. Emerging Trajectories for Linguistic Transformation

While the data highlight systemic barriers, they also suggest emerging pathways for transformation. Across all participant groups, there was consensus that meaningful change requires linguistic empowerment at both institutional and ideological levels. Proposed reforms include appointing multilingual magistrates, expanding interpreter training, and developing indigenous legal lexicons. These recommendations echo Alexander's [11] call for functional multilingualism a shift from symbolic recognition to practical implementation. The proposed Courtroom Multilingual Capability Chain (CMCC) model offers a framework for sustainable reform, integrating status, corpus, acquisition, and functional planning into a coherent system of linguistic empowerment.

This study thus extends existing scholarship by conceptualising the courtroom not merely as a site of communication but as a sociolinguistic ecosystem in which ideology, policy, and lived experience intersect. The findings underscore that linguistic justice cannot be achieved through interpretation alone but through the systemic revaluation of indigenous languages as full instruments of law and justice.

The findings demonstrate that the constitutional vision of linguistic equality remains aspirational within South Africa's civil courts. English continues to operate as the language of authority, while indigenous languages function within constrained and mediated spaces. The gap between policy and practice persists because of historical, structural, and ideological inertia. Yet, by integrating linguistic planning with judicial reform, South Africa can move toward genuine multilingual justice. This chapter contributes novel insight by framing courtroom language not merely as a communicative medium but as an arena of power, identity, and postcolonial negotiation.

6. Conclusions

This study set out to interrogate, with empirical precision and theoretical rigour, the sociolinguistic status of selected indigenous languages in the civil courts of South Africa. Across interview data (native speakers, interpreters, JSC members, PanSALB) and documentary analysis (constitutional and historical instruments), the evidence coheres around a central finding: a structural contradiction persists between constitutional multilingualism and monolingual judicial practice. English remains the entrenched language of legal authority and record, functioning not only as a communicative resource but as an ideological filter that confers credibility, rationality and institutional legitimacy. Indigenous languages, despite formal recognition, operate largely as translated codes rather than autonomous vehicles of legal reasoning. Interpreters, though indispensable, work within a deficit infrastructure marked by terminological gaps, limited corpus resources and procedural expectations that normalise alignment to English. The result is a courtroom ecology that safeguards procedural access but falls short of epistemic equality.

Theoretical synthesis helps clarify the stakes of these findings. In Bourdieu's terms, linguistic capital is unevenly distributed: mastery of English accrues institutional value, while indigenous codes are constrained to subordinate functions. Postcolonial scholarship further illuminates how the colonial language order is reproduced not simply by policy lapses but by taken-for-granted norms that equate English with legal rationality. Within courts, this ideology is operationalised through routine practices, language of record rules, document templates, case management habits and professional training that collectively instantiate what can be termed judicial linguistic inertia. Such inertia is not benign: it shapes who feels fully intelligible, how testimony is framed, how credibility is perceived and how dignity is experienced.

Methodologically, the study achieved its aims in three ways. First, it documented with specificity how English dominance is perceived and enacted in hearings, how interpreters experience terminological strain and how indigenous speakers negotiate discomfort, misinterpretation, or misclassification. Second, it interpreted these experiences through an integrated theoretical lens (status/corpus/acquisition planning; linguistic capital and ideology; courtroom discourse), moving beyond surface description to causal explanation. Third, it contributed an actionable conceptual instrument, the Courtroom Multilingual Capability Chain (CMCC), to diagnose where multilingual rights falter in practice (status $\rightarrow$ corpus $\rightarrow$ acquisition $\rightarrow$ function) and to guide systemic interventions. In doing so, the study addresses the research problem directly: it demonstrates that the gap between constitutional ideals and courtroom realities is sustained by interlocking ideological, infrastructural, and procedural factors and it specifies how those factors can be reconfigured.

The implications are significant. Normatively, linguistic justice is not a matter of cultural accommodation at the margins; it is intrinsic to due process, fairness and the substantive equality that the Constitution promises. Practically, outcomes in civil litigation hinge on comprehension, narrative detail and felt legitimacy, each mediated by language. Without corpus development acquisition, capacity and functional multilingualism remain aspirational. The implications also extend beyond the courtroom: a legal system that publicly affirms linguistic equality yet privately defaults to a single language risks reproducing historical hierarchies under democratic auspices, thereby weakening trust, participation, and democratic legitimacy.

The study's heuristic value lies in its capacity to orient future reforms and scholarship. It demonstrates how to evaluate courts not only on the presence of interpreters or policy statements but on the capability chain that turns rights into practice. It also identifies a fertile research agenda around regional variation, longitudinal reform trajectories and the interface between language, technology and legal pedagogy. In short, the research answers the core question posed at the outset and advances a structured path forward to move

from symbolic recognition to functional multilingualism that treats indigenous languages as languages of law, languages of argument, reason and record rather than as perpetually translated appendices to English.

7. Recommendations

7.1. For Improved Practice

Immediate practice should pivot from treating indigenous languages as secondary, translated mediums to recognising them as primary instruments of legal communication wherever feasible. Courts should implement a presumption in favour of conducting proceedings in the language shared by the parties, with interpretation used as a supportive, not default, mechanism. This requires procedural redesign: early language of proceedings determinations, multilingual cause lists, and scheduling protocols that match cases to the linguistic competencies available on a given day. It also necessitates bilingual/multilingual record systems so that the language of hearing is not lost at the point of transcription, where English typically reasserts control as the language of record.

Interpreter professionalisation must be elevated from individual effort to institutional architecture. Accredited continuing professional development should systematically cover legal discourse structures, evidentiary pragmatics, ethics, and domain-specific terminology. This is only viable if paired with corpus development: coordinated terminology projects (PanSALB, ALASA, universities, judicial officers, and lexicographers) should produce open, standardised multilingual legal lexicons, style guides and translation memories that are updated, versioned and embedded in court practice. In parallel, the judiciary should embed linguistic competence in recruitment and promotion: magistrates, clerks, registrars and legal aid officers with verified proficiency in one or more indigenous languages should be incentivised and distributed strategically across high-demand regions.

Accountability must move from aspiration to measurement. A simple but powerful dashboard could track, per court and per quarter, proportion of cases conducted directly in an indigenous language; interpreter reliance rates; availability and utilisation of standardised terminology; and user satisfaction/understanding indicators. Such data should be reviewed by the Judicial Services Commission and fed back into staffing, training, and budgeting decisions. Public-facing rights notices in multiple languages should be visible at registry and courtroom entrances, explaining language options and procedural implications. Finally, a public pedagogy component is crucial: targeted outreach and campaigns can reshape the cultural script that equates English with intelligence and authority, affirming indigenous languages as precise, expressive, and fully capable of legal reasoning. Taken together, these actions operationalise the CMCC: status (rights asserted), corpus (terminology built), acquisition (people trained and placed), and function (used in hearings and records), closing the status practice gap that currently sustains inequality.

7.2. For Future Research

Future scholarship should extend this study's explanatory power along four trajectories. First, comparative regional and tiered-court analyses can reveal how linguistic ecologies and administrative cultures differ across provinces and court levels (district, regional, high court), identifying context-sensitive levers that general policy cannot see. Second, longitudinal implementation studies should track reform pilots (e.g., regional language-of-record experiments, terminology deployments) with mixed methods observational ethnography inside courtrooms, docket-level quantitative indicators, and litigant/interpreter surveys to test whether interventions produce durable functional change or merely symbolic adjustments.

Third, the interface of language, law, and technology warrants systematic inquiry. Carefully designed AI-assisted terminology tools, speech-to-text engines trained on indigenous language corpora, and secure multilingual e-filing templates could materially lower the operational costs of multilingualism, provided they are evaluated for accuracy, cultural pragmatics, and bias. Research here must be interdisciplinary, pairing computational linguistics with forensic pragmatics and legal process design. Fourth, the sociopsychological dimensions of linguistic marginalisation deserve deeper analysis: how do language choices and corrections in court shape self-advocacy, perceived fairness, and trust in institutions over time? Studies of identity work, testimonial credibility, and narrative coherence anchored in lived experience can illuminate mechanisms that aggregate into outcome disparities.

Finally, concept and measure-building are needed.

A Linguistic Access Index for courts combining (a) language-of-hearing proportions, (b) interpreter reliance and turnaround, (c) terminology coverage and uptake and (d) comprehension/experience scores would give researchers and policymakers a robust, comparable metric of progress. Aligning such metrics with the CMCC, future work can move the field beyond anecdote and policy rhetoric to evidence-based multilingual justice. In so doing, research will not only monitor change but actively co-design it, ensuring that constitutional promises migrate from the text to the lived architecture of South African civil justice.

Author Contributions

All authors contributed equally to the conception, design, data collection, analysis, and writing of this study. All authors have read and agreed to the published version of the manuscript.

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Institutional Review Board Statement

The study was reviewed and approved by the relevant Institutional Review Board/Research Ethics Committee prior to data collection. All research procedures complied with established ethical guidelines for studies involving human participants.

Informed Consent Statement

Informed consent was obtained from all participants involved in the study. Participants signed consent forms indicating their voluntary and full participation in this project. No minors were included as participants in the study.

Data Availability Statement

The data used in this study are available from the corresponding author upon reasonable request.

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Conflicts of Interest

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